



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Central Region  
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Fresno, California 93710  
www.wildlife.ca.gov

**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



July 28, 2020

Governor's Office of Planning & Research

**Jul 28 2020**

## **STATE CLEARINGHOUSE**

Patrick M. Dobbins  
Public Works Director/City Engineer  
City of Gonzales  
147 Fourth Street  
Gonzales, California 93926

**Subject: Industrial Wastewater Treatment Plan  
Notice of Preparation  
SCH# 2020069049**

Dear Mr. Dobbins:

The California Department of Fish and Wildlife (CDFW) received a Notice of Preparation (NOP) from City of Gonzales for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

### **CDFW ROLE**

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (*Id.*, § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

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<sup>1</sup> CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

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CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code may be required.

**Nesting Birds:** CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include, sections 3503 (regarding unlawful take, possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

**Water Pollution:** Pursuant to Fish and Game Code section 5650, it is unlawful to deposit in, permit to pass into, or place where it can pass into "Waters of the State" any substance or material deleterious to fish, plant life, or bird life, including non-native species. It is possible that without mitigation measures, activities associated with the Project could result in pollution of Waters of the State from storm water runoff or construction-related erosion. Potential impacts to the wildlife resources that utilize these watercourses include the following: increased sediment input from road or structure runoff; toxic runoff associated with development activities and implementation; and/or impairment of wildlife movement along riparian corridors. The Regional Water Quality Control Board and United States Army Corps of Engineers also has jurisdiction regarding discharge and pollution to Waters of the State.

## **PROJECT DESCRIPTION SUMMARY**

**Proponent:** City of Gonzales

**Objective:** The objective of the Project is to construct an Industrial Wastewater Treatment Plant (IWTP) and a wastewater collection line. The new IWTP will be located adjacent to the existing Wastewater Treatment Plant (WWTP), where it will direct wastewater from Gonzales Agricultural Business Park to reduce workload for the WWTP. The 78-acre IWTP will include a headworks with influent screening to remove trash and debris and an influent flow meter; an influent lift station to pump water to the equalization basin; a 2-stage flow equalization basin to buffer flow to the ponds system; a deep-operated aerated pond systems to introduce oxygen into wastewater; and effluent percolation beds to dispose of treated effluent. A solids management area would be set aside for accumulated biosolids, sludge, and debris from the influent

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screening. A portion of the IWTP site is zoned as F/40 (Farmlands with minimum building site of 40 acres) while the remaining portion within the City boundary is designated as Pubic/Quasi Public but is not zoned. The wastewater collection line will be 11,100 linear feet of new gravity sewer pipe located within the right-of-way from Del Monte Ave to Gonzales River Road and Short Road which will end at the IWTP.

**Location:** Latitude: 36°29'32.98"N, Longitude: 121°28'37.94"W. At the end of Short Road, near Gonzales River Road in the city of Gonzales. The proposed IWTP would comprise of the entire Assessor's Parcel Numbers (APNs) 223061017000, 223061020000, 223061019000, 223061014000, and partially of APNs 223061023000 and 223011032000.

**Timeframe:** Construction of the IWTP will start in 2021 and will take 8-12 months to complete. Construction of the wastewater collection line will start in 2020 and will take 3-6 months.

## COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist City of Gonzales in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document.

There are many special-status resources present in and adjacent to the Project area. These resources may need to be evaluated and addressed prior to any approvals that would allow ground-disturbing activities or land use changes. The NOP indicates there is potentially significant impact unless mitigation measures are taken but there are no mitigation measures listed. CDFW is concerned regarding potential impacts to special-status species including, but not limited to: the State endangered Southwest/South Coast Clade of foothill yellow-legged frog (*Rana boylei*), the federally threatened California red-legged frog (*Rana draytonii*), the State and federally threatened California tiger salamander (*Ambystoma californiense*), the State species of special concern burrowing owl (*Athene cunicularia*), western spadefoot (*Spea hammondi*), and western pond turtle (*Emys marmorata*). In order to adequately assess any potential impacts to biological resources, focused biological surveys should be conducted by a qualified wildlife biologist during the appropriate survey period(s) in order to determine whether any special-status species and/or suitable habitat features may be present within the Project area. Properly conducted biological surveys, and the information assembled from them, are essential to identify any mitigation, minimization, and avoidance measures and/or the need for additional or protocol-level surveys, especially in the areas not in irrigated agriculture, and to identify any Project-related impacts under CESA and other species of concern.

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## **I. Project Description and Related Impact Shortcoming**

### **COMMENT 1: Foothill Yellow-Legged Frog (FYLF) and California Red-Legged Frog (CRLF)**

**Issue:** FYLF are primarily stream dwelling and requires shallow, flowing water in streams and rivers with at least some cobble-sized substrate; CRLF primarily inhabit ponds but can also be found in other waterways including marshes, streams, and lagoons, and the species will also breed in ephemeral waters (Thomson et al. 2016). FYLF and CRLF have been documented to occur near the vicinity of the Project site (CDFW 2020). The Project site is near the Salinas River which contains habitat that may support both species. Avoidance and minimization measures are necessary to reduce impacts to FYLF and CRLF to a level that is less than significant.

**Specific impact:** Without appropriate avoidance and minimization measures for FYLF and CRLF, potentially significant impacts associated with the Project's activities include burrow collapse, inadvertent entrapment, reduced reproductive success, reduction in health and vigor of eggs, larvae and/or young, and direct mortality of individuals.

**Evidence impact would be significant:** FYLF and CRLF populations throughout the State have experienced ongoing and drastic declines and many have been extirpated; historically, FYLF occurred in mountain streams from the San Gabriel River in Los Angeles County to southern Oregon west of the Sierra-Cascade crest (Thomson et al. 2016). Habitat loss from growth of cities and suburbs, invasion of nonnative plants, impoundments, water diversions, stream maintenance for flood control, degraded water quality, and introduced predators, such as bullfrogs are the primary threats to FYLF and CRLF (Thomson et al. 2016, USFWS 2017). Project activities have the potential to significantly impact both species.

#### **Recommended Potentially Feasible Mitigation Measure(s)**

To evaluate potential impacts to FYLF and CRLF, CDFW recommends conducting the following evaluation of the Project site, incorporating the following mitigation measures into the CEQA document prepared for this Project, and that these measures be made conditions of approval for the Project.

#### **Recommended Mitigation Measure 1: FYLF and CRLF Surveys**

CDFW recommends that a qualified wildlife biologist conduct surveys for FYLF and CRLF in accordance with the USFWS "Revised Guidance on Site Assessment and Field Surveys for the California Red-legged Frog" (USFWS 2005) to determine if FYLF and CRLF are within or adjacent to the Project area; while this survey is

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designed for CRLF, the survey may be used for FYLF focusing on stream/river habitat.

### **Recommended Mitigation Measure 2: FYLF and CRLF Avoidance**

If any FYLF or/and CRLF are found during pre-construction surveys or at any time during construction, consultation with CDFW is warranted to determine if the Project can avoid take. CDFW recommends that initial ground-disturbing activities be timed to avoid the period when FYLF and CRLF are most likely to be moving through upland areas (November 1 and March 31). When ground-disturbing activities must take place between November 1 and March 31, CDFW recommends a qualified biologist monitor construction activity daily for FYLF and CRLF.

### **Recommended Mitigation Measure 3: FYLF Take Authorization**

The Southwest/South Coast Clade of FYLF is State endangered. If through surveys it is determined that FYLF are occupying or have the potential to occupy the Project site and take cannot be avoided, take authorization would be warranted prior to initiating ground-disturbing activities to comply with CESA. Take authorization would occur through issuance of a State Incidental Take Permit (ITP) by CDFW, pursuant to Fish and Game Code section 2081(b). In the absence of surveys, the applicant can assume presence of FYLF within the Project site and obtain an ITP from CDFW.

### **COMMENT 2: California Tiger Salamander (CTS)**

**Issue:** CTS have been documented to occur near the vicinity of the Project site (CDFW 2020). Aerial imagery shows that the Project site is near of upland habitat which likely serve as refugia for CTS that are dispersing from and into the area. CTS have the potential to occur in the Project site.

**Specific Impacts:** Potential ground- and vegetation-disturbing activities associated with Project activities include: water inundation as a result of the proposed new pond systems and percolation beds, collapse of small mammal burrows, inadvertent entrapment, loss of upland refugia, water quality impacts to breeding sites, reduced reproductive success, reduction in health and vigor of eggs and/or young, and direct mortality of individuals.

**Evidence impact would be significant:** Up to 75% of historic CTS habitat has been lost to urban and agricultural development (Searcy et al. 2013). Loss, degradation, and fragmentation of habitat are the primary threats to CTS in both the Central and San Joaquin valleys. Contaminants and vehicle strikes are also sources of mortality for the species (CDFW 2015, USFWS 2017a). The Project site is within the range of CTS and may have suitable habitat (i.e., grasslands interspersed with

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burrows). CTS have been determined to be physiologically capable of dispersing up to approximately 1.5 miles from seasonally flooded wetlands (Searcy and Shaffer 2011) and have been documented within a mile of the Project site (CDFW 2020). Given the presence of suitable habitat within the Project site, ground-disturbing activities have the potential to significantly impact local populations of CTS.

#### **Recommended Potentially Feasible Mitigation Measure(s)**

CDFW recommends conducting the following evaluation of the Project site, incorporating the following mitigation measures into the CEQA document for this Project, and that these measures be made conditions of approval for the Project.

#### **Recommended Mitigation Measure 4: Focused CTS Protocol-level Surveys**

CDFW recommends that a qualified biologist conduct protocol-level surveys in accordance with the USFWS “Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander” (USFWS 2003) at the appropriate time of year to determine the existence and extent of CTS breeding and refugia habitat. The protocol-level surveys for CTS require more than one survey season and are dependent upon sufficient rainfall to complete. As a result, consultation with CDFW and the USFWS is recommended well in advance of beginning the surveys and prior to any planned vegetation- or ground-disturbing activities. CDFW advises that the protocol-level survey include a 100-foot buffer around the Project area in all areas of wetland and upland habitat that could support CTS. Please be advised that protocol-level survey results are viable for two years after the results are reviewed by CDFW.

#### **Recommended Mitigation Measure 5: CTS Avoidance**

CDFW advises that a minimum 50-foot no-disturbance buffer be delineated around all small mammal burrows in suitable upland refugia habitat within and/or adjacent to the Project site. Further, CDFW recommends potential or known breeding habitat within and/or adjacent to the Project site be delineated with a minimum 250-foot no-disturbance buffer. Both upland burrow and wetland breeding no-disturbance buffers are intended to minimize impacts to CTS habitat and avoid take of individuals.

#### **Recommended Mitigation Measure 6: CTS Take Authorization**

If through surveys it is determined that CTS are occupying or have the potential to occupy the Project site, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided, take authorization would be warranted prior to initiating ground-disturbing activities to comply with CESA. Take authorization would occur through issuance of an ITP by CDFW, pursuant to Fish

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and Game Code section 2081(b). In the absence of protocol surveys, the applicant can assume presence of CTS within the Project site and obtain an ITP from CDFW.

### **COMMENT 3: Burrowing Owl (BUOW)**

**Issue:** BUOW may occur near the Project site (CDFW 2020). BUOW inhabit open grassland or adjacent canal banks, ROWs, vacant lots, etc. containing small mammal burrows, a requisite habitat feature used by BUOW for nesting and cover. Review of aerial imagery indicates that some of the Project site is bordered by potential fallow agricultural fields and may be present within the Project site.

**Specific impact:** Potentially significant direct impacts associated with subsequent activities include burrow collapse, inadvertent entrapment, nest abandonment, reduced reproductive success, reduction in health and vigor of eggs and/or young, and direct mortality of individuals.

**Evidence impact is potentially significant:** BUOW rely on burrow habitat year-round for their survival and reproduction. Habitat loss and degradation are considered the greatest threats to BUOW in California's Central Valley (Gervais et al. 2008). The Project site is bordered by some of the only remaining undeveloped land in the vicinity, which is otherwise intensively managed for agriculture. Therefore, subsequent ground-disturbing activities associated with the Project have the potential to significantly impact local BUOW populations. In addition, and as described in CDFW's "Staff Report on Burrowing Owl Mitigation" (CDFG 2012), excluding and/or evicting BUOW from their burrows is considered a potentially significant impact under CEQA.

#### **Recommended Potentially Feasible Mitigation Measure(s)**

To evaluate potential impacts to BUOW, CDFW recommends conducting the following evaluation of the Project site, incorporating the following mitigation measures into the CEQA document prepared for this Project, and that these measures be made conditions of approval for the Project.

#### **Recommended Mitigation Measure 7: BUOW Surveys**

CDFW recommends that a qualified biologist assess if suitable BUOW habitat features are present within or adjacent to the Project site (e.g., burrows). If suitable habitat features are present, CDFW recommends assessing presence/absence of BUOW by having a qualified biologist conduct surveys following the California Burrowing Owl Consortium's "Burrowing Owl Survey Protocol and Mitigation Guidelines" (CBOC 1993) and CDFW's Staff Report on Burrowing Owl Mitigation" (CDFG 2012). Specifically, CBOC and CDFW's Staff Report suggest three or more surveillance surveys conducted during daylight with each visit occurring at least

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three weeks apart during the peak breeding season (April 15 to July 15), when BUOW are most detectable.

### **Recommended Mitigation Measure 8: BUOW Avoidance**

CDFW recommends no-disturbance buffers, as outlined in the “Staff Report on Burrowing Owl Mitigation” (CDFG 2012), be implemented prior to and during any ground-disturbing activities. Specifically, CDFW’s Staff Report recommends that impacts to occupied burrows be avoided in accordance with the following table unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.

Location	Time of Year	Level of Disturbance		
		Low	Med	High
Nesting sites	April 1-Aug 15	200 m*	500 m	500 m
Nesting sites	Aug 16-Oct 15	200 m	200 m	500 m
Nesting sites	Oct 16-Mar 31	50 m	100 m	500 m

\* meters (m)

### **Recommended Mitigation Measure 9: BUOW Passive Relocation and Mitigation**

If BUOW are found within these recommended buffers and avoidance is not possible, it is important to note that according to the Staff Report (CDFG 2012), exclusion is not a take avoidance, minimization, or mitigation method and is considered a potentially significant impact under CEQA. However, if necessary, CDFW recommends that burrow exclusion be conducted by qualified biologists and only during the non-breeding season, before breeding behavior is exhibited and after the burrow is confirmed empty through non-invasive methods, such as surveillance. CDFW recommends replacement of occupied burrows with artificial burrows at a ratio of 1 burrow collapsed to 1 artificial burrow constructed (1:1) as mitigation for the potentially significant impact of evicting BUOW. BUOW may attempt to colonize or re-colonize an area that will be impacted; thus, CDFW recommends ongoing surveillance, at a rate that is sufficient to detect BUOW if they return.

### **COMMENT 4: Western spadefoot**

**Issue:** Western spadefoot inhabit grassland habitats, breed in seasonal wetlands, and seek refuge in upland habitat where they occupy burrows outside of the

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breeding season (Thomson et al. 2016). Review of aerial imagery indicates that the Project may contain these requisite habitat elements.

**Specific impact:** Aerial imagery shows that the proposed Project site has upland habitat. Without appropriate avoidance and minimization measures for western spadefoot, potentially significant impacts associated with ground disturbance include; collapse of small mammal burrows, inadvertent entrapment, loss of upland refugia, water quality impacts to breeding sites, reduced reproductive success, reduction in health and vigor of eggs and/or young, and direct mortality of individuals.

**Evidence impact is potentially significant:** Habitat loss and fragmentation resulting from agricultural and urban development is the primary threat to western spadefoot (Thomson et al. 2016). The Project area is within the range of western spadefoot, could contain suitable upland habitat (i.e., grasslands interspersed with burrows) and breeding habitat (i.e., vernal pools and swales). As a result, ground-disturbing activities associated with development of the Project site have the potential to significantly impact local populations of this species.

**Recommended Potentially Feasible Mitigation Measure(s)**

To evaluate potential impacts to western spadefoot associated with the Project, CDFW recommends conducting the following evaluation of the Project site, incorporating the following mitigation measures into the CEQA document prepared for this Project, and that these measures be made conditions of approval for the Project.

**Recommended Mitigation Measure 10: Western Spadefoot Surveys**

CDFW recommends that a qualified biologist conduct focused surveys for western spadefoot and their requisite habitat features to evaluate potential impacts resulting from ground- and vegetation-disturbance.

**Recommended Mitigation Measure 11: Western Spadefoot Avoidance**

Avoidance whenever possible is encouraged via delineation and observance of a 50-foot no-disturbance buffer around burrows. If western spadefoot are observed on the Project site, CDFW recommends that Project activities in their immediate vicinity cease and individuals be allowed to leave the Project site on their own accord. Alternatively, a qualified biologist with appropriate authorization can move them out of harm's way and to a suitable location.

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#### **COMMENT 5: Western pond turtle (WPT)**

**Issue:** The Project area is near Salinas River where WPT could have the potential to occur. WPT are known to nest in the spring or early summer within 100 meters of a water body, although nest sites as far away as 500 meters have also been reported (Thomson et al. 2016).

**Specific impact:** Without appropriate avoidance and minimization measures for WPT, potentially significant impacts associated with Project activities could include nest reduction, inadvertent entrapment, reduced reproductive success, reduction in health or vigor of eggs and/or young, and direct mortality.

**Evidence impact is potentially significant:** The Project site is in close proximity of potential WPT habitat. Additionally, noise, vegetation removal, movement of workers, and ground disturbance as a result of Project activities have the potential to significantly impact WPT populations.

#### **Recommended Potentially Feasible Mitigation Measure(s)**

To evaluate potential impacts to WPT, CDFW recommends conducting the following evaluation of the Project site, editing the MND to include the following measures specific to WPT, and that these measures be made conditions of approval for the Project.

#### **Recommended Mitigation Measure 12: WPT Surveys**

CDFW recommends that a qualified biologist conduct focused surveys for WPT ten days prior to Project implementation. In addition, CDFW recommends that focused surveys for nests occur during the egg-laying season (March through August) and that any nests discovered remain undisturbed until the eggs have hatched.

#### **Recommended Mitigation Measure 13: WPT Relocation**

CDFW recommends that if any WPT are discovered at the site immediately prior to or during Project activities, they be allowed to move out of the area on their own.

**Would the Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by CDFW or USFWS?**

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## **COMMENT 6: Wetland and Riparian Habitats**

**Issue:** The Project area is adjacent to the Salinas River which contains riparian and wetland habitat. Development within the Project has the potential to involve temporary and permanent impacts to these features.

**Specific impact:** Project activities have the potential to result in the loss of riparian and wetland vegetation, in addition to the degradation of wetland and riparian areas through grading, fill, and related development.

**Evidence impact is potentially significant:** Riparian and associated floodplain and wetland areas are valuable for their ecosystem processes such as protecting water quality by filtering pollutants and transforming nutrients; stabilizing stream banks to prevent erosion and sedimentation/siltation; and dissipating flow energy during flood conditions, thereby spreading the volume of surface water, reducing peak flows downstream, and increasing the duration of low flows by slowly releasing stored water into the channel through subsurface flow. Modifications of streams to accommodate human uses has resulted in damming, canalizing, and channelizing of many streams, though some natural stream channels and small wetland or wetted areas remain (Edminster 2002). The Fish and Game Commission policy regarding wetland resources discourages development or conversion of wetlands that results in any net loss of wetland acreage or habitat value. Construction activities within these features also has the potential to impact downstream waters as a result of Project site impacts leading to erosion, scour, and changes in stream morphology.

### **Recommended Mitigation Measure 14: Stream and Wetland Habitat Mitigation**

CDFW recommends that the potential direct and indirect impacts to stream/riparian and wetland habitat be analyzed according to each Project activity. Based on those potential impacts, CDFW recommends that the CEQA document includes measures to avoid, minimize, and/or mitigate those impacts. CDFW recommends that impacts to riparian habitat (i.e., biotic and abiotic features) take into account the effects to stream function and hydrology from riparian habitat loss or damage, as well as potential effects from the loss of riparian habitat to special-status species already identified herein. CDFW recommends that losses to stream and wetland habitats be offset with corresponding riparian and wetland habitat restoration incorporating native vegetation to replace the value to fish and wildlife provided by the habitats lost from Project implementation. If on-site restoration to replace habitats is not feasible, CDFW recommends offsite mitigation by restoring or enhancing in-kind riparian or wetland habitat and providing for the long-term management and protection of the mitigation area, to ensure its persistence.

## **II. Editorial Comments and/or Suggestions**

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**Lake and Streambed Alteration:** The Project contains activities that may result in the Project site being subject to CDFW's regulatory authority pursuant Fish and Game Code section 1600 et seq. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake; or (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral or intermittent, such as the unnamed stream within the Project site, as well as those that are perennial in nature.

For additional information on notification requirements, please contact our staff in the Lake and Streambed Alteration Program at (559) 243-4593. It is important to note, CDFW is required to comply with CEQA, as a Responsible Agency, when issuing a Lake or Streambed Alteration Agreement (LSAA). If inadequate, or no environmental review, has occurred, for the Project activities that are subject to notification under Fish and Game Code section 1602, CDFW will not be able to issue the Final LSAA until CEQA analysis for the project is complete. V This may lead to considerable Project delays.

**Nesting birds:** CDFW encourages that Project implementation occur during the bird non-nesting season; however, if ground-disturbing or vegetation-disturbing activities must occur during the breeding season (February through mid-September), the Project applicant is responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Code sections referenced above.

To evaluate Project-related impacts on nesting birds, CDFW recommends that a qualified wildlife biologist conduct pre-activity surveys for active nests no more than 10 days prior to the start of ground or vegetation disturbance to maximize the probability that nests that could potentially be impacted are detected. CDFW also recommends that surveys cover a sufficient area around the Project site to identify nests and determine their status. A sufficient area means any area potentially affected by the Project. In addition to direct impacts (i.e. nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. Prior to initiation of construction activities, CDFW recommends that a qualified biologist conduct a survey to establish a behavioral baseline of all identified nests. Once construction begins, CDFW recommends having a qualified biologist continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends halting the work causing that change and consulting with CDFW for additional avoidance and minimization measures.

If continuous monitoring of identified nests by a qualified wildlife biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests

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of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or on-site parental care for survival. Variance from these no-disturbance buffers is possible when there is compelling biological or ecological reason to do so, such as when the construction area would be concealed from a nest site by topography. CDFW recommends that a qualified wildlife biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

**Federally Listed Species:** CDFW recommends consulting with the USFWS on potential impacts to federally listed species including, but not limited to, CTS. Take under FESA is more broadly defined than CESA; take under FESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS in order to comply with FESA is advised well in advance of any ground-disturbing activities.

## **ENVIRONMENTAL DATA**

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a data base which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link: [http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB\\_FieldSurveyForm.pdf](http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB_FieldSurveyForm.pdf). The completed form can be mailed electronically to CNDDDB at the following email address: [CNDDDB@wildlife.ca.gov](mailto:CNDDDB@wildlife.ca.gov). The types of information reported to CNDDDB can be found at the following link: [http://www.dfg.ca.gov/biogeodata/cnddb/plants\\_and\\_animals.asp](http://www.dfg.ca.gov/biogeodata/cnddb/plants_and_animals.asp).

## **FILING FEES**

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

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## CONCLUSION

CDFW appreciates the opportunity to comment on the NOP to assist City of Gonzales in identifying and mitigating Project impacts on biological resources.

More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>). Please see the enclosed Mitigation Monitoring (MMRP) table which corresponds with recommended mitigation measures in this comment letter. Questions regarding this letter or further coordination should be directed to Aimee Braddock, Environmental Scientist at [aimee.braddock@wildlife.ca.gov](mailto:aimee.braddock@wildlife.ca.gov).

Sincerely,

DocuSigned by:

*Bob Stafford*

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Bob Stafford for Julie A. Vance  
Regional Manager

Attachment 1

cc: Office of Planning and Research, State Clearinghouse, Sacramento

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## REFERENCES

- California Burrowing Owl Consortium (CBOC). 1993. Burrowing owl survey protocol and mitigation guidelines. April 1993.
- California Department of Fish and Game (CDFG). 2012. Staff Report on Burrowing Owl Mitigation. California Department of Fish and Game.
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**Attachment 1**

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE  
RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM  
(MMRP)**

**PROJECT: Industrial Wastewater Treatment Plan  
Notice of Preparation**

**SCH No.: 2020069049**

<b>RECOMMENDED MITIGATION MEASURE</b>	<b>STATUS/DATE/INITIALS</b>
<i>Before Disturbing Soil or Vegetation</i>	
Mitigation Measure 1: FYLF and CRLF Surveys	
Mitigation Measure 3: FYLF Take Authorization	
Mitigation Measure 4: Focused CTS Protocol-level Surveys	
Mitigation Measure 6: CTS Take Authorization	
Mitigation Measure 7: BUOW Surveys	
Mitigation Measure 9: BUOW Passive Relocation and Mitigation	
Mitigation Measure 10: Western Spadefoot Surveys	
Mitigation Measure 12: WPT Surveys	
Mitigation Measure 13: WPT Relocation	
Mitigation Measure 14: Stream and Wetland Habitat Mitigation	
<i>During Construction</i>	
Mitigation Measure 2: FYLF and CRLF Avoidance	
Mitigation Measure 5: CTS Avoidance	
Mitigation Measure 8: BUOW Avoidance	
Mitigation Measure 11: Western Spadefoot Avoidance	