



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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GAVIN NEWSOM, Governor
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September 4, 2024

Jessie Hernandez
City of Fairfield, Associate Planner
1000 Webster Street
Fairfield, CA 94533
JHernandez@fairfield.ca.gov

Subject: Fairfield Forward 2050: City of Fairfield Comprehensive General Plan Update and Climate Action Plan, Program Environmental Impact Report, SCH No. 2021080289, Solano County

Dear Ms. Hernandez

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a Program Environmental Impact Report (EIR) from the City of Fairfield (City) for the Fairfield Forward 2050: City of Fairfield Comprehensive General Plan Update and Climate Action Plan (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹ CDFW previously provided comments in response to the Notice of Preparation (NOP) of the EIR in a letter dated September 9, 2021.

CDFW is submitting comments on the EIR to inform the City, as the Lead Agency, of potentially significant impacts to biological resources associated with the Project.

CDFW ROLE

CDFW is a **Trustee Agency** with responsibility under CEQA pursuant to CEQA Guidelines section 15386 for commenting on projects that could impact fish, plant, and wildlife resources. CDFW is also considered a **Responsible Agency** if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA) or Native Plant Protection Act (NPPA), the Lake and Streambed Alteration Program, or other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources.

PROJECT DESCRIPTION SUMMARY

Proponent: City of Fairfield

Objective: The Project would adopt and implement the Fairfield Forward 2050: City of Fairfield General Plan update (GPU) per California Government Code section 65300 and the Climate Action Plan. The GPU includes buildout estimates of 13,500 residential units and 9,784,730 square feet of nonresidential development. However, the EIR states that these “estimates should not be considered a prediction for growth, as the actual amount of development that will occur through 2050 is based on many factors outside of the City's control, including changes in regional real estate and labor markets and the decisions of individual property owners” (EIR page ES-3). The GPU prioritizes development in eight infill focus areas, three growth focus areas, and one special study area (EIR Figure 2.6 and page 3.4-34).

Location: The approximately 278-square-mile planning area, which includes the City of Fairfield, its Sphere of Influence, the Suisun Marsh Protection Plan area, much of unincorporated Solano County northwest of the City to the Napa County line, and other adjacent unincorporated areas, with an approximate center at 38.230586°N, -122.066318°W (NAD 83).

¹ 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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REGULATORY REQUIREMENTS

California Endangered Species Act and Native Plant Protection Act

Please be advised that a CESA Incidental Take Permit (ITP) must be obtained if the Project has the potential to result in “take” of plants or animals listed under CESA or NPPA either during construction or over the life of the Project. **As described in CDFW’s letter response to the NOP, the Project is within potential upland and breeding habitat of the California tiger salamander (*Ambystoma californiense*), a CESA listed as threatened species; the Central California Distinct Population Segment is listed as threatened pursuant to the federal Endangered Species Act (ESA). Ground disturbing activities have the potential for take of California tiger salamander. In addition, tricolored blackbird (*Agelaius tricolor*) and Swainson’s hawk (*Buteo swainsoni*), both CESA listed as threatened species, are known to nest in and near the Project area. Noise-generating or vegetation-disturbing activities, or activities resulting in visual disturbances, could result in take of nesting tricolored blackbird or Swainson’s hawk. Plant species such as soft bird’s-beak (*Chloropyron molle* ssp. *molle*), NPPA listed as rare and federal ESA listed as endangered, may also occur in or near the Project and ground-disturbing activities could result in take of individuals. Due to the large potential Project area, additional species listed under CESA and NPPA may be impacted, as further described below.** Issuance of an ITP is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the Project will impact CESA or NPPA listed species including, but not limited to those described above, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain an ITP.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially restrict the range or reduce the population of a threatened or endangered species. (Pub. Resources Code, §§ 21001, subd. (c) & 21083; CEQA Guidelines, §§ 15380, 15064, & 15065.). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency’s FOC does not eliminate the Project proponent’s obligation to comply with CESA.

Lake and Streambed Alteration

An LSA Notification, pursuant to Fish and Game Code section 1600 et seq., is required for project activities affecting lakes or streams and associated riparian habitat. Notification is required for any activity that may substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland resources; or deposit or dispose of material where it may pass into a river, lake, or stream. **Sites where Project activities would occur may contain streams, therefore an LSA Notification may be warranted, as further described below.** Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to LSA Notification requirements. CDFW would consider the CEQA document for the Project and may issue an LSA Agreement. CDFW may not execute the final LSA Agreement until it has complied with CEQA as a Responsible Agency.

Raptors and Other Nesting Birds

CDFW has jurisdiction over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nests or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and

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3513 (regarding unlawful take of any migratory nongame bird). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

California Fully Protected Species

Fully Protected species may not be taken or possessed at any time and no licenses or permits may be issued for their take except as follows:

- Take is for necessary scientific research,
- Efforts to recover a fully protected, endangered, or threatened species, live capture and relocation of a bird species for the protection of livestock, or
- They are a covered species whose conservation and management is provided for in a Natural Community Conservation Plan (Fish & G. Code, §§ 3511, 4700, 5050, & 5515).

Specified types of infrastructure projects may be eligible for an ITP for unavoidable impacts to fully protected species if certain conditions are met (Fish & G. Code, § 2081.15). Project proponents should consult with CDFW early in the project planning process. **The Project has the potential to impact the following California Fully Protected species: salt marsh harvest mouse (*Reithrodontomys raviventris*), also CESA and federal ESA listed as endangered, California Ridgway's rail (*Rallus obsoletus obsoletus*), also CESA and federal ESA listed as endangered, and California black rail (*Laterallus jamaicensis coturniculus*), also CESA listed as threatened.**

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below and in **Attachment 1** to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

I. Project Description and Related Impact Shortcoming

COMMENT 1: Program EIR Subsequent Project Review

The EIR is a Program EIR but does not include a checklist for subsequent project review. As described in CDFW's letter response to the NOP, while Program EIRs have a necessarily broad scope, CDFW recommends providing as much information related to anticipated future activities as possible. CDFW recognizes that, pursuant to CEQA Guidelines section 15152, subdivision (c), if a Lead Agency is using the tiering process in connection with an EIR or large-scale planning approval, the development of detailed, site-specific information may not be feasible and can be deferred, in many instances, until such time as the Lead Agency prepares a future environmental document. This future environmental document would cover a project of a more limited geographical scale and is appropriate if the deferred information does not prevent adequate identification of significant effects of the planning approval at hand. The CEQA Guidelines section 15168, subdivision (c)(4) states, "Where the later activities involve site specific operations, the agency should use a written checklist or similar device to document the evaluation of the site and the activity to determine whether the environmental effects of the operation were within the scope of the program EIR." Based on CEQA Guidelines section 15183.3 and associated Appendix N Checklist, and consistent with other program EIRs, CDFW recommends creating a procedure or checklist for evaluating subsequent Project impacts on biological resources to determine if they are within the scope of the Program EIR or if an additional environmental document is warranted. This checklist should be included as an attachment to the EIR. Future analysis should include all special-status species and sensitive habitat including, but not limited to species considered rare, threatened, or endangered species pursuant to CEQA Guidelines, section 15380.

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When used appropriately, the checklist should be accompanied by enough relevant information and reasonable inferences to support a “within the scope” of the EIR conclusion. For subsequent Project activities that may affect sensitive biological resources, a site-specific analysis should be prepared by a Qualified Biologist to provide the necessary supporting information. In addition, the checklist should cite the specific portions of the EIR, including page and section references, containing the analysis of the subsequent Project activities’ significant effects and indicate whether it incorporates all applicable mitigation measures from the EIR.

II. Environmental Setting and Related Impact Shortcomings

Mandatory Findings of Significance: Does the Project have the potential to substantially reduce the number or restrict the range of an endangered, rare, or threatened species?

And,

Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or U.S. Fish and Wildlife Service (USFWS)?

COMMENT 2: Deferred Mitigation

Issue, specific impacts, why they may occur and be potentially significant: If the Project may result in physical changes in the environment, such as facilitating development, then the Project could: 1) reduce the number or restrict the range of an endangered, rare, or threatened species, or 2) have a substantial adverse effect, either directly or through habitat modifications, on candidate, sensitive, or special-status species. The EIR documents 42 special-status plant species and 40 special-status animal species either within or in the vicinity of the City of Fairfield (3.4-8 and 3.4-13). The Project area has potential to support special-status species including, but not limited to Swainson’s hawk and California tiger salamander, both CESA listed as threatened species, and burrowing owl (*Athene cunicularia*), a California Species of Special Concern. There are approximately 43 occurrences of Swainson’s hawk, 58 occurrences of California tiger salamander, and 51 occurrences of burrowing owl in the California Natural Diversity Database (CNDDDB) within five miles of the Project area (CNDDDB 2024). The EIR also states that special-status species have been observed in eight of the focal development areas, including the Cordelia Commercial Center, the Cordelia-Suisun Valley Gateway, Linear Trail Park Improvements, the Enhanced Use Lease Area, New Cordelia Neighborhood, Nelson Hill, the Hale Ranch Study Area, and the Cement Hill and Peabody Study Area (EIR pages 3.4-34 to 3.4-38).

If the work associated with the Project occurs during nesting season, any nesting Swainson’s hawk within 0.5 miles of the Project site could be disturbed by Project activities resulting in nest abandonment or reduced health and vigor of young, take of the species pursuant to CESA, and a substantial reduction in the species’ population, which would be a mandatory finding of significant impact (CEQA Guidelines, § 15065).

The Project could result in the removal of potential foraging habitat for Swainson’s hawk, however no compensatory habitat mitigation is proposed. The breeding population of Swainson’s hawk in California has declined by an estimated 91 percent since 1900 and the species continues to be threatened by on-going and cumulative loss of foraging habitat (CDFW 2016). Therefore, reduction of Swainson’s hawk foraging habitat would be a potentially significant impact.

Earthmoving work associated with the Project could result in direct injury to or mortality of California tiger salamanders, which spend the dry period of the year in underground burrows (USFWS 2017). Conversion of habitat to high intensity development could

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destroy California tiger salamander upland and breeding habitat (USFWS 2017). Urbanization also creates and widens roads, which are both a cause of direct mortality to California tiger salamander and a cause of habitat fragmentation, which results in isolation of metapopulations and makes populations more vulnerable to stochastic extinctions (USFWS 2017).

The Project could result in burrowing owl nest abandonment, loss of young, reduced health and vigor of owlets, injury or mortality of adults, and permanent wintering (i.e., non-nesting) or nesting habitat loss. Additionally, the Project may result in a permanent reduction of burrowing owl foraging habitat in Solano County. Burrowing owl is a special-status species and was recently proposed for listing under CESA because the species' population viability and survival are adversely affected by risk factors such as precipitous declines from habitat loss, fragmentation, and degradation; evictions from nesting sites without habitat mitigation; wind turbine mortality; human disturbance; and eradication of California ground squirrels (*Otospermophilus beecheyi*) resulting in a loss of suitable burrows required by burrowing owl for nesting, protection from predators, and shelter (Shuford and Gardali 2008; *Department of Fish and Game Staff Report on Burrowing Owl Mitigation* (2012); personal communication, CDFW Statewide Burrowing Owl Coordinator Esther Burkett, May 13, 2022). Preliminary analyses of regional patterns for breeding populations of burrowing owl have detected declines both locally in their central and southern coastal breeding areas, and statewide where the species has experienced breeding range retraction (*Department of Fish and Game Staff Report on Burrowing Owl Mitigation* (2012); personal communication, Esther Burkett, May 13, 2022). Based on the foregoing, if burrowing owl are wintering or nesting on or within 500 meters (1,640 feet) of the Project site, or if burrowing owl foraging habitat is removed, Project impacts to burrowing owl would be potentially significant.

The EIR states that projects facilitated by the EIR will follow existing local government policies and applicable protective measures in the draft Solano Habitat Conservation Plan² (HCP) (EIR pages 3.4-39 to 3.4-43). However, as further discussed in Comment 4 below, the draft Solano HCP is a draft document that was developed several years ago and conditions for some species, such as burrowing owl, have likely deteriorated since it was developed, therefore the Solano HCP's conservation measures may not adequately mitigate impacts to special-status species to less-than-significant. Additionally, the draft Solano HCP does not necessarily cover all special-status species in the Project area. Therefore, while the Solano HCP is a useful reference, the EIR should not rely on the Solano HCP's measures to mitigate impacts to less-than-significant and should instead conduct a current evaluation of impacts and appropriate mitigation measures. The EIR also states that projects facilitated by the EIR "would be required to undergo CEQA review to identify potential impacts on protected biological resources and develop appropriate mitigation measures to reduce those impacts to a less-than-significant level" (EIR pages 3.4-39 to 3.4-43). As such, the EIR does not include any mitigation measures for impacts to biological resources.

CEQA Guidelines section 15126.4, subdivision (b) states: "Formulation of mitigation measures shall not be deferred until some future time. The specific details of a mitigation measure, however, may be developed after project approval when it is impractical or infeasible to include those details during the project's environmental review provided that the agency (1) commits itself to the mitigation, (2) adopts specific performance standards the mitigation will achieve, and (3) identifies the type(s) of potential action(s) that can feasibly achieve that performance standard and that will be considered, analyzed, and potentially incorporated in the mitigation measure. Compliance with a regulatory permit or other similar process may be identified as mitigation if compliance would result in implementation of measures that would be

² Solano County Water Agency. 2014. <https://www.scwa2.com/solano-multispecies-habitat-conservation-plan/>

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reasonably expected, based on substantial evidence in the record, to reduce the significant impact to the specified performance standards.”

No mitigation measures are included in the biological resources section of the EIR. The Lead Agency (the City) has therefore not committed itself to mitigation, nor does the EIR adopt specific performance standards for mitigation goals, nor does it identify types of actions³ that could meet these standards.

It is conceivable based on the lack of mitigation measures that Swainson’s hawk, California tiger salamander, burrowing owl, and other special-status species would: 1) not be appropriately evaluated in subsequent biological surveys, or 2) that future environmental review pursuant to CEQA would not require appropriate mitigation measures to reduce impacts to less-than-significant.

Therefore, if special-status species occur on or adjacent to Project sites, impacts to special-status species would be potentially significant, and impacts to species considered threatened, endangered, or rare may be considered a *mandatory finding of significance* (CEQA Guidelines, §§ 15065 & 15380).

Recommended Mitigation Measures: If impacts to special-status species may occur, to reduce potential impacts to less-than-significant and comply with CESA and NPPA, CDFW recommends including mitigation measures in the EIR which evaluate such foreseeable potentially significant impacts. Where future site-specific impacts may not be presently foreseeable based on the Project’s broad scope, the checklist discussed in Comment 1 above should be used to determine if a future CEQA environmental document is required. CDFW would appreciate the opportunity to review a revised EIR and may have further comments once more specific species information is provided.

For example, CDFW recommends including the below mitigation measures in this EIR:

Mitigation Measure MM-BIO-1 (Swainson’s Hawk Surveys and Avoidance Buffer): If Project activities are scheduled during the nesting season for Swainson’s hawk (March 1 to September 15), prior to beginning work on the Project, a qualified biologist shall conduct surveys according to the *Recommended Timing and Methodology for Swainson’s Hawk Nesting Surveys in California’s Central Valley*.⁴ Survey methods shall be closely followed by starting early in the nesting season (late March to early April) to maximize the likelihood of detecting an active nest (nests, adults, and chicks are more difficult to detect later in the growing season because trees become less transparent as vegetation increases). Surveys shall be conducted: 1) within a minimum 0.5-mile radius of the Project site or a larger area if needed to identify potentially impacted active nests, and 2) for at least the two survey periods immediately prior to initiating Project-related construction activities. Surveys shall occur annually for the duration of the Project. The qualified biologist shall have a minimum of two years of experience implementing the survey methodology resulting in detections. If active Swainson’s hawk nests are detected, the Project shall immediately inform CDFW and implement a 0.5-mile construction avoidance buffer around the nest until the nest is no longer active as determined by a qualified biologist. If take of Swainson’s hawk cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP. CDFW Bay Delta Region staff is available to provide guidance on the ITP application process.

Mitigation Measure MM-BIO-2 (Swainson’s Hawk Foraging Habitat Mitigation): Impacts to Swainson’s hawk foraging habitat shall be quantified by a qualified biologist based on the final Project design plans, and the Project shall obtain written acceptance of the acreage of habitat impacts from CDFW. Consistent with the draft Solano HCP, prior to Project construction, the Project shall provide Swainson’s hawk foraging habitat

³ Actions that could meet performance standards include, for example, conducting work outside of nesting seasons, avoiding special-status plants or requiring compensatory mitigation for habitat loss.

⁴ Swainson’s Hawk Technical Advisory Committee, 2000.
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83990&inline>

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mitigation at a 1:1 ratio which shall include: 1) permanent preservation of the species' foraging habitat through a conservation easement and implementing and funding a long-term management plan in perpetuity, or 2) purchase of Swainson's hawk foraging habitat credits at a CDFW-approved mitigation bank in Solano County.

Mitigation Measure MM-BIO-3 (California Tiger Salamander): In areas where California tiger salamander habitat would be impacted, the Project shall consult with CDFW pursuant to CESA and obtain an ITP, and shall also consult with USFWS pursuant to the federal ESA and obtain take authorization.

Mitigation Measure MM-BIO-4 (Burrowing Owl Surveys): A qualified biologist shall conduct a habitat assessment and surveys, if warranted based on the habitat assessment, following the *Department of Fish and Game Staff Report on Burrowing Owl Mitigation* (2012) methodology.⁵ The habitat assessment and surveys shall encompass the Project area and a sufficient buffer zone to detect owls nearby that may be impacted. Habitat assessments and surveys shall occur each year of Project construction, as conditions may change annually and suitable refugia for burrowing owl, such as small mammal burrows, can be created within a few hours or days. Time lapses between surveys or Project activities shall trigger subsequent surveys including, but not limited to a final survey within 24 hours prior to ground disturbance. The qualified biologist should have a minimum of two years of experience implementing the above methodology. Any detected burrowing owl shall be avoided pursuant to the buffer distances outlined in the *Department of Fish and Game Staff Report on Burrowing Owl Mitigation* (2012), unless otherwise approved in writing by CDFW. Impacts to nesting burrowing owl shall be fully avoided.

Mitigation Measure MM-BIO-5 (Burrowing Owl Foraging Habitat Mitigation): Impacts to burrowing owl foraging habitat shall be mitigated as described in *Mitigation Measure MM-BIO-2* above, except habitat shall be for burrowing owl.

Mitigation Measure MM-BIO-6 (Burrowing Owl Burrow Mitigation): If the Project would impact an unoccupied nesting burrowing owl burrow or burrow surrogate (i.e., a burrow known to have been used in the past three years for nesting), or an occupied burrow (where a non-nesting owl would be evicted as described below), the following habitat mitigation shall be implemented prior to Project construction.

Impacts to each unoccupied nesting site shall be mitigated by permanent preservation of two occupied nesting sites with appropriate foraging habitat within Solano County, unless otherwise approved by CDFW, through a conservation easement and implementing and funding a long-term management plan in perpetuity. The same requirements shall apply for impacts to non-nesting evicted owl sites.

The Project may implement alternative methods for preserving habitat with written acceptance from CDFW.

Please be advised that CDFW does not consider exclusion of burrowing owl (i.e., passive removal of an owl from its burrow or other shelter) as a "take" avoidance, minimization, or mitigation measure for the reasons outlined below. Therefore, to mitigate the impacts of potentially evicting burrowing owl to less-than-significant, habitat compensation shall be included with the acreage amount identified in any eviction plan. The long-term demographic consequences of exclusion techniques have not been thoroughly evaluated, and the survival rate of excluded owls is unknown. Burrowing owl are dependent on burrows at all times of the year for survival or reproduction, therefore eviction from nesting, roosting, overwintering, and satellite burrows or other sheltering features may lead to indirect impacts or "take" which is prohibited under Fish and Game Code section 3503.5. All possible avoidance and minimization measures should be

⁵ CDFW, 2012. <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline>

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considered before temporary or permanent exclusion and closure of burrows is implemented to avoid “take.”

III. 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 the USFWS?

COMMENT 3: Riparian Habitat, Wetlands, and LSA Notification

Issue, specific impacts, why they may occur and be potentially significant: If the Project may result in physical changes in the environment, then the Project could result in potentially significant impacts to riparian habitat, wetlands, or other sensitive natural communities.

Recommended Mitigation Measures: If impacts to riparian habitat, wetlands, or other sensitive natural communities may occur, to reduce potential impacts to less-than-significant, CDFW recommends including the below mitigation measures.

Mitigation Measure MM-BIO-7 (Habitat Restoration and Compensation): The Project shall implement restoration onsite or offsite to mitigate temporary or permanent impacts to sensitive natural communities, riparian habitat, and wetlands at a minimum 1:1 (restore on-site temporary impacts) or 3:1 (permanent impacts) mitigation to impact ratio for acres and linear feet of impacts, or provide habitat compensation including permanent protection of habitat at the same ratio through a conservation easement and preparing and funding implementation of a long term management plan, unless otherwise approved in writing by CDFW.

Mitigation Measure MM-BIO-8 (Applicable Permits): The Project shall notify CDFW pursuant to Fish and Game Code section 1600 et seq. for Project activities affecting lakes or streams and associated riparian habitat, and shall comply with the LSA Agreement, if issued. Projects shall also obtain permits from the Regional Water Quality Control Board (RWQCB) and U.S. Army Corps of Engineers (USACE) pursuant to the Clean Water Act if applicable.

IV. Other Comments

COMMENT 4: Draft Solano HCP

Please note that a final version of the draft Solano County HCP, which is being developed for compliance with federal ESA (and not CESA), has not been adopted by plan participants or regulatory agencies. CDFW appreciates that the EIR proposes to use species-specific mitigation measures from the draft HCP. However, CDFW and other stakeholders may propose changes to these measures before implementation of the final HCP.

Additionally, note that as the draft Solano HCP has not been adopted, there are currently no associated permits allowing take of species pursuant to ESA. As a federal document, the draft Solano HCP also does not authorize take of threatened, endangered, or candidate species listed under CESA. Obtaining a CESA ITP would be necessary to comply with CESA for any impacts to CESA-listed species, as mentioned above.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database 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 CNDDDB. The CNDDDB field survey form can be filled out and submitted online at the following link:

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<https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link:
<https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

ENVIRONMENTAL DOCUMENT FILING FEES


The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document 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 environmental document filing fee is required in order for the underlying project approval to be operative, vested, and final. (See Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

CONCLUSION

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

Questions regarding this letter or further coordination should be directed to Melanie Day, Senior Environmental Scientist (Supervisory), at Melanie.Day@wildlife.ca.gov or (707) 210-4415.

Sincerely,

DocuSigned by:

Erin Chappell
Regional Manager
Bay Delta Region

Attachment 1: Draft Mitigation and Monitoring Reporting Plan

ec: Office of Planning and Research, State Clearinghouse (SCH No. 2021080289)

REFERENCES

CDFW. 2024. California Natural Diversity Database (CNDDDB) Management Framework. California Department of Fish and Wildlife. Sacramento, CA. Website <https://wildlife.ca.gov/Data/BIOS> [accessed August 7, 2024].

CDFW. 2016. Status Review: Swainson's Hawk (*Buteo swainsoni*) in California, reported to the California Fish and Game Commission, five-year status report. State of California Natural Resources Agency, Sacramento, CA. <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=133622&inline>

CDFW. 2012. Department of Fish and Game Staff Report on Burrowing Owl Mitigation. State of California Natural Resources Agency, Sacramento, CA.

Shuford, W. D., and Gardali, T., editors. 2008. California Bird Species of Special Concern: A ranked assessment of species, subspecies, and distinct populations of birds of immediate conservation concern in California. Studies of Western Birds 1. Western Field Ornithologists, Camarillo, California, and California Department of Fish and Game, Sacramento.

Solano County Water Agency. 2014. Draft Solano Multispecies Habitat Conservation Plan. <https://www.scwa2.com/solano-multispecies-habitat-conservation-plan/>

USFWS. 2017. Recovery Plan for the Central California Distinct Population Segment of the California Tiger Salamander (*Ambystoma californiense*), USFWS, Sacramento, CA.

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ATTACHMENT 1

Draft Mitigation and Monitoring Reporting Plan

CDFW provides the following language to be incorporated into the Mitigation and Monitoring Program for the Project as examples of mitigation measures. As stated in the enclosed letter, CDFW recommends that the EIR should evaluate potential Project impacts to special-status species and include additional specific mitigation measures for foreseeable potentially significant impacts.

Biological Resources (BIO)			
Mitigation Measures	Description	Timing	Responsible Party
MM-BIO-1	<p><i>Swainson’s Hawk Surveys and Avoidance Buffer:</i> If Project activities are scheduled during the nesting season for Swainson’s hawk (March 1 to September 15), prior to beginning work on the Project, a qualified biologist shall conduct surveys according to the Recommended Timing and Methodology for Swainson’s Hawk Nesting Surveys in California’s Central Valley. Survey methods shall be closely followed by starting early in the nesting season (late March to early April) to maximize the likelihood of detecting an active nest (nests, adults, and chicks are more difficult to detect later in the growing season because trees become less transparent as vegetation increases). Surveys shall be conducted: 1) within a minimum 0.5-mile radius of the Project site or a larger area if needed to identify potentially impacted active nests, and 2) for at least the two survey periods immediately prior to initiating Project-related construction activities. Surveys shall occur annually for the duration of the Project. The qualified biologist shall have a minimum of two years of experience implementing the survey methodology resulting in detections. If active Swainson’s hawk nests are detected, the Project shall immediately inform CDFW and implement a 0.5-mile construction avoidance buffer around the nest until the nest is no longer active as determined by a qualified biologist. If take of Swainson’s hawk cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP. CDFW Bay Delta Region staff is available to provide guidance on the ITP application process.</p>	<p>Prior to the Lead Agency issuing construction related permits and ground disturbance</p>	<p>Project Applicant</p>
MM-BIO-2	<p><i>Swainson’s Hawk Foraging Habitat Mitigation:</i> Impacts to Swainson’s hawk foraging habitat shall be quantified by a qualified biologist based on the final Project design plans, and the Project shall obtain written acceptance of the acreage of habitat impacts from CDFW. Consistent with the draft Solano HCP, prior to Project construction, the Project shall provide Swainson’s hawk foraging habitat mitigation at a 1:1 ratio which shall include: 1) permanent preservation of the species’ foraging habitat through a conservation easement and implementing and funding a long-term management plan in perpetuity, or 2) purchase of Swainson’s hawk foraging habitat</p>	<p>Prior to the Lead Agency issuing construction related permits and ground disturbance</p>	<p>Project Applicant</p>

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	credits at a CDFW-approved mitigation bank in Solano County.		
MM-BIO-3	<i>California Tiger Salamander:</i> In areas where California tiger salamander habitat would be impacted, the Project shall obtain CESA take authorization for this species through an ITP from CDFW and ESA take authorization from USFWS.	Prior to the Lead Agency issuing construction related permits and ground disturbance	Project Applicant
MM-BIO-4	<i>Burrowing Owl Surveys:</i> A qualified biologist shall conduct a habitat assessment and surveys, if warranted based on the habitat assessment, following the <i>Department of Fish and Game Staff Report on Burrowing Owl Mitigation (2012)</i> methodology. The habitat assessment and surveys shall encompass the Project area and a sufficient buffer zone to detect owls nearby that may be impacted. <u>Habitat assessments and surveys shall occur each year of Project construction</u> , as conditions may change annually and suitable refugia for burrowing owl, such as small mammal burrows, can be created within a few hours or days. Time lapses between surveys or Project activities shall trigger subsequent surveys including, but not limited to a final survey within 24 hours prior to ground disturbance. The qualified biologist should have a minimum of two years of experience implementing the above methodology. Any detected burrowing owls shall be avoided pursuant to the buffer distances outlined in the <i>Department of Fish and Game Staff Report on Burrowing Owl Mitigation (2012)</i> , unless otherwise approved in writing by CDFW. Impacts to nesting burrowing owls shall be fully avoided.	Prior to the Lead Agency issuing construction related permits and ground disturbance	Project Applicant
MM-BIO-5	<i>Burrowing Owl Foraging Habitat Mitigation:</i> Impacts to burrowing owl foraging habitat shall be mitigated as described in <i>Mitigation Measure MM-BIO-2</i> above.	Prior to the Lead Agency issuing construction related permits and ground disturbance	Project Applicant
MM-BIO-6	<i>Burrowing Owl Burrow Mitigation:</i> If the Project would impact an unoccupied nesting burrowing owl burrow or burrow surrogate (i.e., a burrow known to have been used in the past three years for nesting), or an occupied burrow (where a non-nesting owl would be evicted as described below), the following habitat mitigation shall be implemented prior to Project construction. Impacts to each nesting site shall be mitigated by permanent preservation of two occupied nesting sites with appropriate foraging habitat within Solano County, unless otherwise approved by CDFW, through a conservation easement and implementing and funding a long-term management plan in perpetuity. The same requirements shall apply for impacts to non-nesting evicted owl sites.	Prior to the Lead Agency issuing construction related permits and ground disturbance	Project Applicant

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	<p>The Project may implement alternative methods for preserving habitat with written acceptance from CDFW.</p> <p>Please be advised that CDFW does not consider exclusion of burrowing owl (i.e., passive removal of an owl from its burrow or other shelter) as a “take” avoidance, minimization, or mitigation measure for the reasons outlined below. Therefore, to mitigate the impacts of potentially evicting burrowing owl to less-than-significant, habitat compensation shall be included with the acreage amount identified in any eviction plan. The long-term demographic consequences of exclusion techniques have not been thoroughly evaluated, and the survival rate of excluded owls is unknown. Burrowing owl are dependent on burrows at all times of the year for survival or reproduction, therefore eviction from nesting, roosting, overwintering, and satellite burrows or other sheltering features may lead to indirect impacts or “take” which is prohibited under Fish and Game Code section 3503.5. All possible avoidance and minimization measures should be considered before temporary or permanent exclusion and closure of burrows is implemented to avoid “take.”</p>		
<p>MM-BIO-7</p>	<p><i>Habitat Restoration and Compensation:</i> The Project shall implement restoration onsite or offsite to mitigate temporary or permanent impacts to sensitive natural communities, riparian habitat, and wetlands at a minimum 1:1 (restore onsite temporary impacts) or 3:1 (permanent impacts) mitigation to impact ratio for acres and linear feet of impacts, or habitat compensation including permanent protection of habitat at the same ratio through a conservation easement and preparing and funding implementation of a long term management plan, unless otherwise approved in writing by CDFW.</p>	<p>Prior to the Lead Agency issuing construction related permits and ground disturbance</p>	<p>Project Applicant</p>
<p>MM-BIO-8</p>	<p><i>Applicable Permits:</i> The Project shall notify CDFW pursuant to Fish and Game Code section 1600 et seq. for Project activities affecting lakes or streams and associated riparian habitat, and shall comply with the Streambed Alteration Agreement, if issued. Projects shall also obtain permits from the RWQCB and USACE pursuant to the Clean Water Act if applicable.</p>	<p>Prior to the Lead Agency issuing construction related permits and ground disturbance</p>	<p>Project Applicant</p>