



State of California – Natural Resources Agency
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GAVIN NEWSOM, Governor
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Governor's Office of Planning & Research

Oct 29 2021

STATE CLEARINGHOUSE

October 29, 2021

Lee Torres
City of El Monte
11333 Valley Boulevard
El Monte, CA 91731
LTorres@elmonteca.gov

Subject: Garvey Avenue Grade Separation Drainage Improvement Project, CIP884, Mitigated Negative Declaration, SCH #2021090491, Los Angeles County

Dear Mr. Torres:

The California Department of Fish and Wildlife (CDFW) has reviewed the Initial Study/Mitigated Negative Declaration (MND) for the Garvey Avenue Grade Separation Drainage Improvement Project (Project) proposed by the City of El Monte (City/Lead Agency). 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's 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, subdivision (a) & 1802; Public Resources Code, § 21070; California Environmental Quality Act (CEQA) Guidelines, § 15386, subdivision (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 state fish and wildlife resources.

CDFW is also submitting comments as a Responsible Agency under CEQA (Public Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code, including 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.), or state-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & G. Code, §1900 et seq.) authorization as provided by the applicable Fish and Game Code will be required.

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Project Description and Summary

Objective: The proposed Project includes storm drain improvements that are intended to meet current design standards for a 50-year storm and reduce the occurrence of flooding at the Garvey Avenue Grade Separation. The design objective is to reduce the potential flooding hazards to the general public from multiple times a year to approximately once every 50 years. An additional design objective is to improve the water quality of the San Gabriel River by capturing pollutants from dry-weather flows and stormwater from rain events less than or equal to the water quality storm event, defined as the 85th percentile, 24-hour rainfall event. The proposed improvements include the following key elements:

- New catch basins on Maxson Place will capture the additional flow from roadway runoff, the outflow from the triple 24-inch culvert crossing under the freeway, and runoff captured from the nearby mobile home park and two commercial lots. A proposed 6-foot wide by 2-foot high Reinforced Concrete Box (RCB) storm drain will convey the intercepted flow from these catch basins underground to the intersection of Maxson Place and Garvey Avenue.
- Catch basins on Garvey Avenue will capture flows from areas east of Maxson Place. The catch basins will connect to the proposed storm drain in Garvey Avenue.
- New underground infiltration basins will be constructed. The stormwater captured in the two infiltration basins will recharge the local aquifer.
- A diversion system and a hydrodynamic separator will be installed in Garvey Avenue to route runoff to the proposed Infiltration Basin 1. The hydrodynamic separator will provide pretreatment for improved water quality. It will screen, separate, and trap gross solids to remove floatables and neutrally buoyant materials.
- Storm drain and appurtenance will be constructed to convey runoff from the existing Garvey Avenue Underpass storm drain system that is unable to be pumped out by the existing pump system or captured by the proposed Maxson Place Storm Drain. Flows greater than the pump's capacity will be pretreated and then routed via a proposed 36-inch RCP to the proposed Infiltration Basin 2.
- A 30-inch pump discharge line may be installed conveying the storm water from the existing pump discharge sump to the Basins. The storm drain may be constructed in the existing easement or may require additional easements from Metrolink.

Location: The Project will be located just south of the I-10 freeway, and along the Garvey Avenue underpass, which separates vehicular traffic on Garvey Avenue from the Southern Pacific Railroad and Metrolink Railroad.

Comments and Recommendations

CDFW offers the comments and recommendations below to assist the City in adequately identifying, avoiding, and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. CDFW recommends the measures or revisions below be included in a science-based monitoring program that contains adaptive management strategies as part of the Project's CEQA mitigation, monitoring and reporting program (Public Resources Code, § 21081.6 and CEQA Guidelines, § 15097).

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Specific Comments

Comment #1: Impacts to Rivers

Issue: The MND indicates that new catch basins will be installed to capture flows during 85th percentile 24-hour rain fall events from areas east of Maxson Place. In addition, a diversion system will be installed to route runoff to one of the two new infiltration basins. Therefore, the Project may be subject to notification under Fish and Game code section 1600 *et seq.*

Specific impacts: The Project has potential to result in the permanent impacts to stream function and biological diversity downstream of the Project.

Why impacts would occur: Project activities will potentially permanently alter the stormwater flow into the Rio Hondo and San Gabriel River, potentially impacting fish and wildlife resources downstream. According to the [County of Los Angeles Department of Public Works Analysis of 85th Percentile 24-hour Rainfall Depth Analysis Within the County of Los Angeles](#) (2004), the majority of rainfall events in the Project area fall into the 85th percentile category, meaning the majority of stormwater resulting from precipitation will be diverted from streams. This could potentially alter (i.e. reduce) water availability in streams, which could be considered a significant impact to biological resources. Flow reductions, especially dry season flow, could impact beneficial uses directly or indirectly through habitat modifications. Diverting water from streams, such as the Rio Hondo and San Gabriel River, during the dry season could reduce the availability and extent of shallow water sheet flow. The resulting sheet flows allow phytoplankton (algae and cyanobacteria), microorganisms, and herbaceous vegetation to establish. The algae provide habitat and a food source for benthic invertebrates, a vital food source for wading birds. The diversion of water could potentially impact algae and benthic invertebrates, and eventually birds.

Seasonality: The MND does not analyze the potential significance of water diversion depending on the season. During the dry season, typically April through September in southern California, the many concrete-lined channels are largely maintained by urban runoff and discharge from wastewater reclamation plants. Diverting water could be significant during the dry season and could either significantly reduce water flow or result in complete loss of water flow.

Drought: The MND does not analyze the potential significance of water diversion during a below-normal water year. Since 2000, the longest duration of drought in California lasted between 2011 and 2019 (USGS 2021) and in southern California, between 2012 through 2016 (Los Angeles Almanac 2021). The 2017-2018 rainfall season was below normal and the driest for Los Angeles since 2006-2007 (Los Angeles Almanac 2021). Diverting water during a below-normal rainfall year may significantly reduce water flow or result in complete loss of water flow.

Downstream and associated biological resources beyond the Project development footprint may also be impacted by Project-related releases of sediment or debris and altered watershed effects resulting from Project activities.

Evidence impacts would be significant: Changes to hydrology and channel morphology, both within the Project area and downstream, are reasonable potential direct and indirect physical changes in the environment. Said changes and their potential impacts on biological resources should be analyzed and disclosed in an environmental document. Adequate disclosure is

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necessary for CDFW to assist a lead agency in adequately identifying, avoiding, and/or mitigating a project's significant, or potentially significant, direct, and indirect impacts on biological resources.

Fish and Game Code section 1602 requires any person, State or local governmental agency, or public utility to notify CDFW prior to beginning any activity that may do one or more of the following:

- Divert or obstruct the natural flow of any river, stream, or lake;
- Change the bed, channel, or bank of any river, stream, or lake;
- Use material from any river, stream, or lake; or,
- Deposit or dispose of material into any river, stream, or lake.

The Project may adversely affect the existing hydrology pattern of the Project site as well as downstream. This may occur through the alteration of flows to streams. In addition, impacts to biological resources off site, such as the Whittier Narrows, may occur. The Project may substantially adversely affect the existing stormwater flows into streams through the alteration of drainages on site. It is unclear if these stormwater diversions would impact biological resources offsite because an investigation has not been made to determine so. Therefore, appropriate avoidance, minimization, and mitigations have not been determined. Inadequate investigation may result in the Project continuing to have a substantial adverse direct and cumulative 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.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: The Project may result in the alteration of streams. For any such activities, the Project applicant (or "entity") must provide written notification to CDFW pursuant to section 1600 *et seq.* of the Fish and Game Code. Based on this notification and other information, CDFW determines whether a Lake and Streambed Alteration (LSA) Agreement with the applicant is required prior to conducting the proposed activities. Please visit CDFW's [Lake and Streambed Alteration Program](#) webpage for information about LSA Notification and online submittal through the Environmental Permit Information Management System (EPIMS) Permitting Portal (CDFW 2021a).

Mitigation Measure #2: CDFW recommends the LSA Notification include a hydrology report to evaluate whether altering streams within the Project site may impact hydrologic activity within and downstream of the Project site. The hydrology report should also include an analysis to determine if Project activities will impact the current hydrologic regime or change the velocity of flows on site and downstream. The hydrology report should also determine if the Project will result in substantial changes to water availability downstream for biological resources in the Whittier Narrows. CDFW also requests a hydrological evaluation of any potential scour or erosion at the Project site and downstream due to a 100, 50, 25, 10, 5, and 2-year frequency storm event for existing and proposed conditions to determine how the Project activities may change the hydrology on site.

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Mitigation Measure #3: CDFW recommends the Project implement Best Management Practices (BMPs) to prevent erosion and the discharge of sediment and pollutants into drainages during Project activities. CDFW recommends BMPs be monitored and repaired, if necessary, to ensure maximum erosion, sediment, and pollution control. The Project proponent should prohibit the use of erosion control materials potentially harmful to fish and wildlife species, such as mono-filament netting (erosion control matting) or similar material, within stream areas. All fiber rolls, straw wattles, and/or hay bales utilized within and adjacent to the Project site should be free of nonnative plant materials. Fiber rolls or erosion control mesh should be made of loose-weave mesh that is not fused at the intersections of the weave, such as jute, or coconut (coir) fiber, or other products without welded weaves. Non-welded weaves reduce entanglement risks to wildlife by allowing animals to push through the weave, which expands when spread.

Recommendation #1: CDFW recommends the MND include an analysis of potential impacts on biological resources resulting from the proposed water diversion. At a minimum, the analysis should evaluate a study reach that includes the channel downstream from the Project site. The study reach should extend a minimum of one mile downstream or an appropriate distance determined by both a qualified biologist and hydrologist, whichever is greater. The analysis of the study reach should discuss changes in hydrology and hydraulics, including the following:

1. Under pre-project (i.e., baseline) conditions, the volume of water flow from both the Project area and study reach during a) the wet (November through March); b) the dry season (April through October); and c) above-average and below-average water year (i.e., wet season/above-average water year, wet season/below-average water year, dry season/above-average water year, and dry season/below-average water year). The analysis should clearly define above-average or below-average rainfall year.
2. Under proposed Project conditions, the percent reduction in flow from both the Project area and study reach for a wet season/above-average water year, wet season/below-average water year, dry season/above-average water year, and dry season/below-average water year.
3. A quantitative analysis comparing the flow from the Project area and other tributaries into the study reach, and their relative contribution to the hydrograph of the study reach.
4. An analysis of potential Project-related changes to river hydraulics in both concrete-lined and soft-bottom reaches. This includes water depth (percent change), wetted perimeter (acres gained/lost), and velocity (percent change).

Recommendation #2: CDFW's issuance of an LSA Agreement for a Project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document from the County for the Project. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 et seq. and/or under CEQA, the CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement.

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To compensate for any on- and off-site impacts to wetlands or riparian resources, additional mitigation conditioned in any LSA Agreement may include the following: erosion and pollution control measures, avoidance of resources, protective measures for downstream resources, on- and/or off-site habitat creation, enhancement or restoration, and/or protection, and management of mitigation lands in perpetuity

Comment #2: Impacts to Nesting Birds

Issue: Aerial photography indicates ornamental trees around the Project site that may provide habitat for nesting birds.

Specific impacts: Construction during the breeding season of nesting birds could result in the incidental loss of fertile eggs or nestlings or otherwise lead to nest abandonment in trees directly adjacent to the Project boundary. The Project could also lead to the loss of foraging habitat for sensitive bird species.

Why impact would occur: The MND does not provide any avoidance or minimization measures for nesting birds. Without any protective measures, impacts to nesting birds could result from ground disturbing activities related to storm drain and infiltration basin installation. Impacts could result from noise disturbances, increased human activity, increased lighting, dust, vegetation clearing, ground disturbing activities (e.g., staging, access, excavation, grading), and vibrations caused by heavy equipment. Project disturbance activities could result in mortality or injury to nestlings, as well temporary or long-term loss of suitable foraging habitats. Construction during the breeding season of nesting birds could result in the incidental loss of breeding success or otherwise lead to nest abandonment.

Evidence impact would be significant: The loss of occupied habitat or reductions in the number of rare bird species, either directly or indirectly through nest abandonment or reproductive suppression, would constitute a significant impact absent appropriate mitigation. Furthermore, nests of all native bird species are protected under state laws and regulations, including Fish and Game Code sections 3503 and 3503.5.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure: To protect nesting birds that may occur on site or adjacent to the Project boundary, CDFW recommends that no construction shall occur from February 1 through September 15, as early as January 1 for some raptors, unless a qualified biologist completes a survey for nesting bird activity within a 500-foot radius of the construction site. The nesting bird surveys should be conducted at appropriate nesting times and concentrate on potential roosting or perch sites. CDFW recommends the Lead Agency require surveys be conducted by a qualified biologist no more than 7 days prior to the beginning of any Project-related activity likely to impact raptors and migratory songbirds, for the entire Project site. If Project activities are delayed or suspended for more than 7 days during the breeding season, repeat the surveys. If nesting raptors and migratory songbirds are identified, CDFW recommends the following minimum no-disturbance buffers be implemented: 300 feet around active passerine (perching birds and songbirds) nests, 500 feet around active non-listed raptor nests and 0.5 mile around active listed bird nests.

These buffers should be maintained until the breeding season has ended or until a qualified

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biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival.

Additional Recommendations

Data. CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database [i.e., California Natural Diversity Database (CNDDDB)] which may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Accordingly, CDFW recommends that the subsequent CEQA document include measures where lead agencies of individual projects tiering from the subsequent CEQA document report any special status species detected during preparation of project-level environmental impact analyses/environmental documents. Special status species information should be submitted to the CNDDDB by completing the [Online Field Survey Form](#) (CDFW 2021b). The lead agency should ensure all pertinent data has been properly submitted, with all applicable data fields filled out, prior to finalizing/adopting an environmental document. The lead agency should provide CDFW with confirmation of data submittal.

Mitigation and Monitoring Reporting Plan. CDFW recommends the City update the Project's proposed Biological Mitigation Measures and condition the environmental document to include mitigation measures recommended in this letter. CDFW provides comments to assist project proponents in developing mitigation measures that are specific, detailed (i.e., responsible party, timing, specific actions, location), and clear in order for a measure to be fully enforceable and implemented successfully via a mitigation monitoring and/or reporting program (CEQA Guidelines, § 15097; Pub. Resources Code, § 21081.6). The City is welcome to coordinate with CDFW to further review and refine the Project's mitigation measures. Per Public Resources Code section 21081.6(a)(1), CDFW has provided the City with a summary of our suggested mitigation measures and recommendations in the form of an attached Draft Mitigation and Monitoring Reporting Plan (MMRP; Attachment A).

Filing Fees

The Project, as proposed, could 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).

Conclusion

We appreciate the opportunity to comment on the Project to assist the City in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that the City has to our comments and to receive notification of any forthcoming hearing date(s) for the Project. Questions regarding this letter and further coordination on these issues should be directed to Felicia Silva, Environmental Scientist, at Felicia.Silva@wildlife.ca.gov or (562) 292-8105.

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Sincerely,

DocuSigned by:

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Erinn Wilson-Olgin
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ec: CDFW

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References:

- [CDFWa] California Department of Fish and Wildlife. 2021. Lake and Streambed Alteration Program. Available from: <https://wildlife.ca.gov/Conservation/LSA>.
- [CDFW 2021b] California Department of Fish and Wildlife. 2021. Submitting Data to the CNDDDB. Available from: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>
- County of Los Angeles Department of Public Works. 2004. Analysis of 85th Percentile 24-hour Rainfall Depth Analysis Within the County of Los Angeles. Accessed at: https://ladpw.org/wrd/publication/engineering/Final_Report-Probability_Analysis_of_85th_Percentile_24-hr_Rainfall1.pdf
- Los Angeles Almanac. 2021. Total Seasonal Rainfall (Precipitation) Downtown Los Angeles (USC Campus) 1877-2020. Available from: <http://www.laalmanac.com/weather/we13.php>
- [USGS] United States Geological Survey. 2021. California Drought. Available from: <https://ca.water.usgs.gov/california-drought/california-drought-comparisons.html>



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CDFW recommends the following language to be incorporated into a future environmental document for the Project.

Biological Resources			
	Mitigation Measure	Timing	Responsible Party
MM-BIO-1-LSA	The Project may result in the alteration of streams. For any such activities, the Project applicant (or “entity”) must provide written notification to CDFW pursuant to section 1600 <i>et seq.</i> of the Fish and Game Code. Based on this notification and other information, CDFW determines whether a Lake and Streambed Alteration (LSA) Agreement with the applicant is required prior to conducting the proposed activities. Please visit CDFW’s Lake and Streambed Alteration Program webpage for information about LSA Notification and online submittal through the Environmental Permit Information Management System (EPIMS) Permitting Portal (CDFW 2021a).	Prior to Construction	Project Proponent
MM-BIO-2-Hydrology Report	The LSA Notification shall include a hydrology report to evaluate whether altering streams within the Project site may impact hydrologic activity within and downstream of the Project site. The hydrology report shall also include an analysis to determine if Project activities will impact the current hydrologic regime or change the velocity of flows on site and downstream. The hydrology report shall also determine if the Project will result in substantial changes to water availability downstream for biological resources in the Whittier Narrows. CDFW also requests a hydrological evaluation of any potential scour or erosion at the Project site and downstream due to a 100, 50, 25, 10, 5, and 2-year frequency storm event for existing and proposed conditions to determine how the Project activities may change the hydrology on site.	Prior to Construction	Project Proponent

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MM-BIO-3-BMPs	<p>The Project shall implement Best Management Practices (BMPs) to prevent erosion and the discharge of sediment and pollutants into drainages during Project activities. BMPs shall be monitored and repaired, if necessary, to ensure maximum erosion, sediment, and pollution control. The Project proponent shall prohibit the use of erosion control materials potentially harmful to fish and wildlife species, such as mono-filament netting (erosion control matting) or similar material, within stream areas. All fiber rolls, straw wattles, and/or hay bales utilized within and adjacent to the Project site shall be free of nonnative plant materials. Fiber rolls or erosion control mesh shall be made of loose-weave mesh that is not fused at the intersections of the weave, such as jute, or coconut (coir) fiber, or other products without welded weaves. Non-welded weaves reduce entanglement risks to wildlife by allowing animals to push through the weave, which expands when spread.</p>	Prior to Construction	Project Proponent
REC-1-Diversion Analysis	<p>CDFW recommends the MND include an analysis of potential impacts on biological resources resulting from the proposed water diversion. At a minimum, the analysis should evaluate a study reach that includes the channel downstream from the Project site. The study reach should extend a minimum of one mile downstream or an appropriate distance determined by both a qualified biologist and hydrologist, whichever is greater. The analysis of the study reach should discuss changes in hydrology and hydraulics, including the following:</p> <ol style="list-style-type: none"> 1. Under pre-project (i.e., baseline) conditions, the volume of water flow from both the Project area and study reach during a) the wet (November through March); b) the dry season (April through October); and c) above-average and below-average water year (i.e., wet season/above-average water year, wet 	Prior to Construction	Project Proponent

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	<p>season/below-average water year, dry season/above-average water year, and dry season/below-average water year). The analysis should clearly define above-average or below-average rainfall year.</p> <ol style="list-style-type: none"> 2. Under proposed Project conditions, the percent reduction in flow from both the Project area and study reach for a wet season/above-average water year, wet season/below-average water year, dry season/above-average water year, and dry season/below-average water year. 3. A quantitative analysis comparing the flow from the Project area and other tributaries into the study reach, and their relative contribution to the hydrograph of the study reach. 4. An analysis of potential Project-related changes to river hydraulics in both concrete-lined and soft-bottom reaches. This includes water depth (percent change), wetted perimeter (acres gained/lost), and velocity (percent change). 		
REC-2-LSA	<p>CDFW's issuance of an LSA Agreement for a Project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document from the County for the Project. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 et seq. and/or under CEQA, the CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement.</p>	Prior to Construction	Project Proponent
MM-BIO-4-Nesting Birds	<p>To protect nesting birds that may occur on site or adjacent to the Project boundary, no construction shall occur from February 1 through September 15, as early</p>	Prior to Construction	Project Proponent

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	<p>as January 1 for some raptors, unless a qualified biologist completes a survey for nesting bird activity within a 500-foot radius of the construction site. The nesting bird surveys shall be conducted at appropriate nesting times and concentrate on potential roosting or perch sites. The Lead Agency require surveys be conducted by a qualified biologist no more than 7 days prior to the beginning of any Project-related activity likely to impact raptors and migratory songbirds, for the entire Project site. If Project activities are delayed or suspended for more than 7 days during the breeding season, repeat the surveys. If nesting raptors and migratory songbirds are identified, the following minimum no-disturbance buffers shall be implemented: 300 feet around active passerine (perching birds and songbirds) nests, 500 feet around active non-listed raptor nests and 0.5 mile around active listed bird nests.</p> <p>These buffers shall be maintained 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 parental care for survival.</p>		
REC-2-Data	<p>Project-level lead agencies shall ensure sensitive and special status species data has been properly submitted to the California Natural Diversity Database with all data fields applicable filled out. Confirmation of data submittal shall be provided to CDFW.</p>	Prior to Construction	Project Proponent
REC-3- Mitigation and Monitoring Reporting Plan	<p>The City should update the Project's proposed Biological Resources Mitigation Measures and condition the environmental document to include mitigation measures recommended in this letter. the City is welcome to coordinate with CDFW to further review and refine the Project's mitigation measures.</p>	Prior to finalizing MND	Project Proponent