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DEPARTMENT OF FISH AND WILDLIFE  
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**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



November 20, 2024

Brent Cooper  
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Subject: American Canyon 2040 General Plan Update, Program Environmental Impact Report, SCH No. 2022070038, Napa County

Dear Mr. Cooper:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a Draft Program Environmental Impact Report (EIR) from the City of American Canyon (City) for the American Canyon 2040 General Plan Update (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup> CDFW previously provided comments in response to the Notice of Preparation (NOP) of the EIR in a letter dated July 28, 2022.

After receiving a two-week extension from the City, 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 American Canyon

**Objective:** The Project would adopt and implement the American Canyon 2040 General Plan update per California Government Code section 65300 and the City's Climate Action Plan. The General Plan Update will reflect recent development decisions and changes in State law. Major components will include the following elements: Land Use, Circulation, Community Services, Open Space and Recreation, Conservation, Safety, Noise, and Housing. The General Plan Update includes buildout estimates of 3,379 residential units and 5,704,000 square feet of nonresidential development. It will serve as the City's primary guide for future land use and development decisions.

**Location:** The general planning area includes approximately 6.1 square miles of the City, the urban limit line, historic water service area, and sphere of influence. The City is in southern Napa County, approximately 5 miles south of the City of Napa, 25 miles northeast of the City of San Francisco, and approximately 20 miles north of the City of Oakland. The City is bordered by unincorporated Napa County and the Napa County Airport to the north, Sulphur Spring Mountains to the east, Solano County and the City of Vallejo to the south, and a salt marsh and wetland area including the Napa River to

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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.

Brent Cooper  
City of American Canyon, Community Development Director  
November 20, 2024  
Page 2

the west. The GPU planning area is centered at approximately 38.17941°N, -122.25472°W (NAD 83).

## 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 or candidates for listing under CESA or NPPA either during construction or over the life of the Project. **As described in CDFW’s response letter to the NOP, the Project has the potential to impact the CESA listed as endangered species Delta smelt (*Hypomesus transpacificus*), and CESA listed as threatened species including Longfin smelt (*Spirinchus thaleichthys*), tricolored blackbird (*Agelaius tricolor*), and Swainson’s hawk (*Buteo swainsoni*), the latter two of which are documented to nest in and near the Project area. Additionally, the Project has the potential to impact winter-run Chinook salmon (*Oncorhynchus tshawytscha*) and spring-run Chinook salmon (*Oncorhynchus tshawytscha*), which are CESA listed as endangered and threatened, respectively, and white sturgeon (*Acipenser transmontanus*) and burrowing owl (*Athene cunicularia*), which were recently approved as CESA candidate species (CDFW 2024). In addition to habitat removal and direct impacts, noise-generating or vegetation-disturbing activities, or activities resulting in visual disturbances, could result in take of nesting tricolored blackbird or Swainson’s hawk and nesting or wintering burrowing owl. Plant species such as Mason’s lilaeopsis (*Lilaeopsis masonii*), which is NPPA listed as rare, and Tiburon paintbrush (*Castilleja affinis* var. *neglecta*), which is CESA 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 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. **Project sites 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.

Brent Cooper  
City of American Canyon, Community Development Director  
November 20, 2024  
Page 3

## 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 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 listed as endangered; California Ridgway's rail (*Rallus obsoletus obsoletus*), also CESA listed as endangered; California black rail (*Laterallus jamaicensis coturniculus*), also CESA listed as threatened; golden eagle (*Aquila chrysaetos*), American peregrine falcon (*Falco peregrinus anatum*), and white-tailed kite (*Elanus leucurus*).**

### 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 Environmental Impact Report 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, as described in CDFW's NOP response letter, 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

Brent Cooper  
 City of American Canyon, Community Development Director  
 November 20, 2024  
 Page 4

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. Also see an example in the Board of Forestry and Fire Protection’s Appendix PD-3 - Project-Specific Analysis, available at <https://bof.fire.ca.gov/projects-and-programs/calvtp-homepage-and-storymap/#:~:text=The%20CalVTP%20Program%20Environmental%20Impact,with%20the%20CalVTP%20Program%20EIR> and template-psa-checklist-508-compliant.dotx <https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fbof.fire.ca.gov%2Fmedia%2Fuqbpmcuq%2Ftemplate-psa-checklist-508-compliant.dotx&wdOrigin=BROWSELINK>. 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.

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 Mitigation Measures 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: Listed and other Special-Status Species Unmitigated Impacts**

**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 General Plan Area (EIR, page 2-4) has potential to support special-status species described in this letter. These species are documented to occur within 5 miles of the General Plan Area according to the California Natural Diversity Database (CNDDDB). The EIR does not include specific and detailed mitigation measures for these species.

#### ***California Ridgeway’s Rail and California Black Rail***

The Project has the potential to impact nesting California Ridgeway’s rail and California black rail through auditory or visual disturbances above ambient levels, or habitat removal. Disturbances from Project activities on or within 700 feet of suitable nesting habitat may result in California black rail and California Ridgeway’s rail nest abandonment and loss of eggs or reduced health and vigor and loss of young. These species are CESA listed as threatened or endangered and are therefore considered to

Brent Cooper  
City of American Canyon, Community Development Director  
November 20, 2024  
Page 5

be a threatened or endangered species pursuant to CEQA Guidelines section 15380. Therefore, if an active nest is disturbed by the Project, the Project could result in a substantial reduction in the species' population, which would be a mandatory finding of significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1). Suitable marsh habitat for both species is present along the western side of the General Plan Area, including areas near Fagan Marsh Ecological Reserve and the Napa-Sonoma Marshes Wildlife Area.

### ***Salt Marsh Harvest Mouse***

The Project has the potential to impact salt marsh harvest mouse through direct salt marsh habitat removal and injury or mortality of the species. Salt marsh harvest mouse is CESA listed as endangered and is therefore considered to be an endangered species pursuant to CEQA Guidelines section 15380. Therefore, if salt marsh harvest mouse is impacted by the Project, the Project could result in a substantial reduction in the species' population, which would be a mandatory finding of significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

### ***Swainson's Hawk***

If the work associated with the Project occurs during nesting season, any nesting Swainson's hawks 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, and take of the species pursuant to CESA. Swainson's hawks is CESA listed as threatened and therefore is considered to be a threatened species pursuant to CEQA Guidelines section 15380. Therefore, if an active nest is disturbed by the Project, the Project could result in a substantial reduction in the species' population, which would be a mandatory finding of significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

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 hawks 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. **Napa County recently recognized the need to conserve Swainson's hawk foraging habitat to reduce impacts to less-than-significant and included Swainson's hawk foraging habitat compensation in their Mitigated Negative Declaration for E&P Technology Way - Building A & B Use Permit, State Clearinghouse No. 2024100855 (see MND at, <https://ceganet.opr.ca.gov/2024100855> specifically Mitigation Measure BIO-5 on page 12).**

### ***Tricolored Blackbird***

The Project may impact tricolored blackbird, which occurs in Napa County. The Project area encompasses the range and sections of predicted habitat for tricolored blackbird. If active tricolored blackbird nests are not detected by the proposed surveys or appropriate buffer zones are not established, tricolored blackbird could be disturbed by Project activities resulting in nest abandonment and loss of eggs or reduced health and vigor and loss of young. Tricolored blackbird is CESA listed as a threatened species and therefore is considered to be a threatened species pursuant to CEQA Guidelines section 15380. Therefore, if an active tricolored blackbird nest is disturbed by the Project, the Project may result in a substantial reduction in the number of a threatened species, which is considered a mandatory finding of significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

Brent Cooper  
City of American Canyon, Community Development Director  
November 20, 2024  
Page 6

### ***Burrowing Owl***

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 Napa County. Burrowing owl is a CESA candidate species and Species of Special Concern (SSC) 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). Burrowing owl have been extirpated from 16 percent of their former range and are at risk of being extirpated from another 13 percent of their range in the State (CDFW 2024). Information indicates a decline in burrowing owl range over time, burrowing owl has experienced population declines in regions of California and threats to burrowing owl, coupled with long-term population declines, suggest a high degree and immediacy of threat to burrowing owl in California (CDFW 2024). Burrowing owl is CESA candidate species and therefore is considered to be a threatened species pursuant to CEQA Guidelines section 15380. Therefore, if an active nest or wintering owl is disturbed by the Project, the Project could result in a substantial reduction in the species' population, which would be a mandatory finding of significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

### ***Special-Status Plants***

The EIR includes mitigation measures BIO-2 and BIO-3 for special-status plants, however these measures do not require the Project to obtain a CESA ITP for impacts to CESA or NPPA listed plants, and therefore impacts to listed plants may not be mitigated to less-than-significant.

### ***Special-Status Fishes and Aquatic Life***

The General Plan Area covers or is adjacent to estuarine, riverine, and pelagic habitats that support special-status fishes including Delta smelt, CESA listed as endangered and federally listed as threatened; longfin smelt, CESA listed as threatened and federally listed as endangered; winter- and spring-run Chinook salmon, CESA listed as endangered and threatened, respectively, and white sturgeon, CESA candidate species. Note that Project activities can remotely impact special-status fishes (e.g. pollutants introduced upstream from fish habitat). The above fish species are CESA and federal Endangered Species Act (ESA) listed or candidate species and therefore are considered to be threatened or endangered species pursuant to CEQA Guidelines section 15380. Therefore, if these fish would be impacted by the Project, the Project could result in a substantial reduction in the species' population, which would be a mandatory finding of significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1). CDFW recommends revising the EIR to include an assessment of special-status fishes and aquatic life including, but not limited to the above fish species, as well as an assessment of overall Project impacts regarding aquatic resources, streams, riparian areas, and in-water work (see Comments 3 and 4 below).

**Recommended Mitigation Measures:** To reduce potential impacts to listed and special-status species to less-than-significant and comply with CESA and NPPA, CDFW

Brent Cooper  
City of American Canyon, Community Development Director  
November 20, 2024  
Page 7

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 mitigation measures below in this EIR:

*Mitigation Measure BIO-10 (Fully Protected Species).* A qualified biologist or biological monitor shall be present on site to survey and monitor for Fully Protected species, including salt marsh harvest mouse, California Ridgway's (formerly California Clapper) rail, and California black rail, during: a) all vegetation removal, b) the construction of exclusion fencing, and c) all work within 300 feet of tidal or pickleweed habitats. The qualified biologist or biological monitor shall have the authority to stop work if deemed necessary for any reason to protect these species, or any other special-status species. Take or possession of these Fully Protected species is prohibited and no permits may be issued for such, except in limited circumstances (Fish & G. Code, §§ 3511 & 4700).

*Mitigation Measure BIO-11 (California Ridgeway's Rail/Black Rail Avoidance and Surveys).* A qualified biologist shall assess if suitable habitat for California Ridgway's rail or California black rail habitat occurs on or within 700 feet of the Project area and shall obtain CDFW's written acceptance of the assessment prior to the start of Project construction. Project activities within tidal marsh or suitable California Ridgway's rail or California black rail habitat, and within 700 feet of such habitat, shall be avoided during rail breeding season (January 15 – August 31 for California Ridgway's rail, February 1 – August 31 for California black rail) each year unless appropriately timed, yearly protocol level surveys are conducted, and survey methodology and results are submitted to and accepted by CDFW in writing. Surveys shall focus on suitable habitat that may be disturbed by Project activities during the breeding season to ensure that these species are not nesting in these locations.

If breeding rails are determined to be present, no activities, visual disturbance (direct line of sight) and/or an increase in the ambient noise level shall occur within 700 feet of areas where California Ridgway's rail and/or California black rail have been detected during the breeding season, unless otherwise approved in writing by CDFW. If surveys have not been conducted, all work shall be conducted 700 feet from California Ridgway's rail and/or California black rail habitat during nesting

*Mitigation Measure BIO-12 (Salt Marsh Harvest Mouse – High Tide Restrictions).* No Project activities shall occur within 50 feet of suitable tidal marsh habitat for the salt marsh harvest mouse within two hours before and after an extreme high tide event (6.5 feet or higher measured at the Golden Gate Bridge and adjusted to the timing of local high tides) or when adjacent marsh is flooded unless salt marsh harvest mouse proof exclusion fencing has been installed around the work area.

*Mitigation Measure BIO-13 (Salt Marsh Harvest Mouse – Vegetation).* Prior to impacting salt marsh habitat, a qualified biologist or biological monitor, familiar with salt marsh harvest mouse, shall walk through and inspect suitable habitat prior to vegetation removal and search for signs of harvest mice or other sensitive wildlife and plants. Following inspection, personnel, under the supervision of the qualified biologist, will disturb (e.g., flush) vegetation to force movement of salt marsh harvest mouse into adjacent marsh areas. Flushing of vegetation will first occur in the center of the site then progress toward the two sides away from the open water areas or in this case, away from impacted habitat. Immediately following vegetation flushing, personnel, under the supervision of the qualified biologist or biological monitor, will remove vegetation with hand tools (e.g., weed-eater, hoe, rake, trowel, shovel, grazing) so that vegetation is no taller than two inches.

Brent Cooper  
City of American Canyon, Community Development Director  
November 20, 2024  
Page 8

*Mitigation Measure BIO-14 (Salt Marsh Harvest Mouse – Exclusion Fencing).* After vegetation removal, a mouse proof barrier shall be placed along the edge of the area removed of vegetation to further reduce the likelihood of salt marsh harvest mouse returning to the area prior to construction. The fence shall be made of a heavy plastic sheeting material that does not allow salt marsh harvest mice to pass through or climb, and the bottom shall be buried to a depth of four inches so that salt marsh harvest mouse cannot crawl under the fence. Fence height shall be at least 12 inches higher than the highest adjacent vegetation with a maximum height of 4 feet. All supports for the exclusion fencing shall be placed on the inside of the work area. An approximately two-foot wide de-vegetated buffer shall be created along the habitat side of the exclusion fence.

*Mitigation Measure BIO-15 (Salt Marsh Harvest Mouse – Inspections).* The salt marsh harvest mouse exclusion fencing shall remain in operating condition throughout the duration of all project activities in salt marsh habitat. The qualified biologist or biological monitor shall daily inspect the integrity of the exclusion fencing to ensure there are no gaps, tears or damage. Maintenance of the fencing shall be conducted as needed. Any necessary repairs to the fencing shall be completed within 24 hours of the initial observance of the damage. Any mice found along or outside the fence shall be closely monitored until they move away from the project area.

*Mitigation Measure MM-BIO-16 (Swainson's Hawk Surveys and Avoidance Buffer):* If Project activities are scheduled during the nesting season for Swainson's hawks (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*, unless otherwise approved by CDFW in writing<sup>2</sup> 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, unless otherwise approved by CDFW in writing, 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, unless otherwise approved by CDFW in writing. 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-17 (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. Prior to Project construction, the Project shall provide Swainson's hawk foraging habitat mitigation at a minimum 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, unless otherwise required by an ITP issued for Swainson's hawk.

*Mitigation Measure MM-BIO-18 (Tricolored Blackbird Avoidance):* If nesting tricolored blackbird or evidence of their presence is found during nesting bird surveys within 500

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<sup>2</sup> Swainson's Hawk Technical Advisory Committee, 2000.  
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83990&inline>



Brent Cooper  
City of American Canyon, Community Development Director  
November 20, 2024  
Page 9

feet of Project activities, CDFW shall be notified immediately and work shall not occur without written approval from CDFW allowing the Project to proceed. Project activities shall not occur within 500 feet of an active nest unless otherwise approved in writing by CDFW. If take of tricolored blackbird cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP.

*Mitigation Measure MM-BIO-19 (Burrowing Owl Surveys):* A qualified biologist shall conduct a burrowing owl habitat assessment within 1,640 feet of the Project area pursuant to the California Department of Fish and Game (now CDFW) 2012 Staff Report on Burrowing Owl Mitigation (CDFW 2012 Staff Report, available here: <https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds>), unless otherwise approved in writing by CDFW. The qualified biologist shall have a minimum of two years of experience implementing the CDFW 2012 Staff Report survey methodology resulting in detections. The habitat assessment shall focus on searching the CNDDDB and potentially other sources for any burrowing owl records on or within one mile of the Project area, vegetation type and height, suitable burrows (with an opening greater than 11 centimeters [cm] in diameter and a depth of greater than 150 cm), burrow surrogates (culverts, piles of concrete rubble, piles of soil, burrows created along soft banks of ditches and canals, pipes, and similar structures), and presence of burrowing owl sign (tracks, molted feathers, cast pellets, prey remains, egg shell fragments, owl white wash, and nest burrow decoration material), and the presence of burrowing owl individuals or pairs. If the habitat assessment does not identify suitable habitat and surveys are not conducted as described below, an additional habitat assessment shall be conducted within 14 days prior to construction and if new potentially suitable burrowing owl refugia are present surveys shall be conducted as described below, unless otherwise approved in writing by CDFW. The results of the habitat assessment shall be emailed to the CDFW contact below, or if unavailable another CDFW representative, and the Project shall obtain CDFW's written approval of the habitat assessment prior to starting Project activities.

If suitable burrowing owl habitat is observed, four surveys shall be conducted to detect the presence of burrowing owl pursuant to the CDFW 2012 Staff Report. The site visits shall be spread evenly throughout the breeding or non-breeding season. The Project shall obtain CDFW's written approval of the survey results prior to starting Project activities. In addition, a take avoidance survey shall be completed within 14 days prior to the start of construction, as described in the CDFW 2012 Staff Report.

If burrowing owl is detected, the Project shall immediately notify CDFW. The Project shall avoid impacts to the burrowing owl and implement a 1,640-foot buffer area around the owl site in which no Project activities shall occur, unless otherwise approved in writing by CDFW. A Qualified Biologist shall monitor any detected owl to ensure it is not disturbed.

If the Project cannot ensure burrowing owl and their burrows are fully avoided, the Project shall consult with CDFW and obtain a take authorization or otherwise demonstrate compliance with CESA. Take is likely to occur and the Project shall obtain an ITP if: 1) burrowing owl surveys of the Project site detect burrowing owl occupancy of burrows or burrow surrogates, or 2) there is sign of burrowing owl occupancy on the Project site within the past three years and habitat has not had any substantial change that would make it no longer suitable within the past three years. Occupancy means a site that is assumed occupied if at least one burrowing owl has been observed occupying a burrow or burrow surrogate within the last three years. Occupancy of suitable burrowing owl habitat may also be indicated by burrowing owl sign including its molted feathers, cast pellets, prey remains, eggshell fragments, or excrement at or near a burrow entrance or perch site. If burrowing owl, or their burrows or burrow surrogates, are detected within 500 meters (1,640 feet) of the Project site during burrowing owl surveys, but not on the Project site, the Project shall consult with CDFW to determine if avoidance is feasible or an ITP is warranted and shall obtain an ITP if deemed necessary by CDFW.

Brent Cooper  
City of American Canyon, Community Development Director  
November 20, 2024  
Page 10

*Mitigation Measure MM-BIO-20 (Burrowing Owl Foraging Habitat Mitigation):* Impacts to burrowing owl foraging habitat shall be mitigated as described in *Mitigation Measure MM-BIO-17* above, except habitat shall be for burrowing owl, unless otherwise required by an ITP for burrowing owl.

*Mitigation Measure MM-BIO-21 (Listed Plant Species Permitting):* If the Project may result in impacts to CESA or NPPA listed plants, the Project shall obtain an ITP from CDFW prior to Project construction and shall comply with the ITP.

*Mitigation Measure MM-BIO-22 (Special Status Fish Protection):* In water work shall be avoided where special-status fish such as Delta smelt, longfin smelt, winter- and spring-run Chinook salmon and white sturgeon may occur, as determined by a qualified biologist based on a review of CNDDDB and consultation with CDFW. If take of the above fish species or any CESA listed or candidate aquatic listed species cannot be avoided, the Project shall obtain a CESA ITP from CDFW prior to commencing Project activities and shall comply with the ITP.

**COMMENT 3:** Biological Setting, EIR Section 4.3.1 and Appendix B

**Issue, specific impacts, why they may occur and be potentially significant:**

Section 4.3.1 of the EIR describes the biological setting of the Project area to be used for assessing impacts to land cover, special-status species, nesting birds, sensitive vegetation communities and critical habitat, and wildlife movement corridors.

Appendix B - Supporting Biological Resources Information, is referenced in this section of the EIR (page 4.3 -3): "There are 51 plant species and 44 animal species with potential to occur within the Planning Area which meet at least one of the criteria for a special-status species, described above (Appendix B)." However, Appendix B does not reflect recent status updates of several species with potential to occur and be impacted by the Project and thus does accurately characterize the most current biological setting of the Project with respect to special-status species such as burrowing owl and white sturgeon which are both CESA candidate species.

**Recommended mitigation measure:**

*Mitigation Measure MM-BIO-23 (Biological Setting):* CDFW recommends revising Appendix B and associated sections of the EIR to ensure an accurate biological setting and assessment of potential impacts to special-status species.

**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 USFWS?**

**COMMENT 4:** Riparian Habitat, Wetlands, and Lake and Streambed Alteration Notification

**Issue, specific impacts, why they may occur and be potentially significant:** 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-24 (Habitat Restoration and Compensation, and Impacts to Streams and Riparian Areas):* The Project shall implement restoration onsite or offsite to mitigate temporary or permanent impacts to sensitive natural communities 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 provide habitat compensation including permanent protection of habitat at the same ratio through a

Brent Cooper  
 City of American Canyon, Community Development Director  
 November 20, 2024  
 Page 11

conservation easement and preparing and funding implementation of a long-term management plan, unless otherwise approved in writing by CDFW.

Prior to the commencement of Project activities, the Project shall conduct a thorough assessment for potential impacts to streams and riparian habitat including, but not limited to impacts resulting trail clearing, earth moving, and vegetation removal. If impacts to the bed, bank, channel, or riparian area of the streams cannot be avoided, the Project shall notify CDFW for potential Project impacts to the streams pursuant to Fish and Game Code section 1600 et seq., and shall comply with the LSA Agreement, if issued. More information for the Notification process is available at <https://wildlife.ca.gov/Conservation/Environmental-Review/LSA>. The Project shall not commence activities with potential to impact the stream until the LSA process has been completed. Impacts to the streams and riparian habitat shall be mitigated by restoring riparian habitat at a minimum 3:1 mitigation to impact ratio in area and linear feet for permanent impacts, all temporary impact areas shall be restored, and trees shall be replaced at an appropriate ratio based on size and species, unless otherwise approved in writing by CDFW. An LSA, if issued, may include additional avoidance and minimize measures to protect fish and wildlife resources. 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.

**COMMENT 5: CDFW Napa-Sonoma Marshes Wildlife Area**

**Issue, specific impacts, why they may occur and be potentially significant:** The General Plan Area overlaps with CDFW's Napa-Sonoma Marshes Wildlife Area, which is a highly sensitive habitat area supporting several listed and special-status species. Any Project impacts to this area would be potentially significant.

**Recommended Mitigation Measure:**

*Mitigation Measure MM-BIO-25 (CDFW Napa-Sonoma Marshes Wildlife Area):* Prior to any Project activities within or adjacent to the CDFW Napa-Sonoma Marshes Wildlife Area, the Project shall coordinate with CDFW and obtain CDFW's approval to access the Wildlife Area and implement any fish and wildlife protection measures required by CDFW.

**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: <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.)

Brent Cooper  
City of American Canyon, Community Development Director  
November 20, 2024  
Page 12

## 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 Nicholas Magnuson, Environmental Scientist, at [Nicholas.Magnuson@wildlife.ca.gov](mailto:Nicholas.Magnuson@wildlife.ca.gov) or (707) 815-4166; or Melanie Day, Senior Environmental Scientist (Supervisory), at [Melanie.Day@wildlife.ca.gov](mailto:Melanie.Day@wildlife.ca.gov) or (707) 210-4415.

Sincerely,

DocuSigned by:  
*Erin Chappell*  
B77E9A6211EF486  
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. 2022070038)  
Lauren Thompson, CDFW Bay Delta Region, [Lauren.Thompson@wildlife.ca.gov](mailto:Lauren.Thompson@wildlife.ca.gov)

Brent Cooper  
City of American Canyon, Community Development Director  
November 20, 2024  
Page 13

## 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].
- California Department of Fish and Wildlife (CDFW). 2024. Petition Evaluation for Western Burrowing Owl (*Athene cunicularia hypugaea*). Report to the Fish and Game Commission. California Department of Fish and Wildlife, P.O. Box 944209, Sacramento, CA.
- 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.

Brent Cooper  
 City of American Canyon, Community Development Director  
 November 20, 2024  
 Page 14

**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.

| <b>Biological Resources (BIO)</b> |  |  |                          |
|-----------------------------------|--|--|--------------------------|
| <b>Mitigation Measures</b>        | <b>Description</b>   | <b>Timing</b>                          | <b>Responsible Party</b> |
| <b>MM-BIO-10</b>                  | <i>(Fully Protected Species)</i> . A qualified biologist or biological monitor shall be present on site to survey and monitor for Fully Protected species, including salt marsh harvest mouse, California Ridgway’s (formerly California Clapper) rail, and California black rail, during: a) all vegetation removal, b) the construction of exclusion fencing, and c) all work within 300 feet of tidal or pickleweed habitats. The qualified biologist or biological monitor shall have the authority to stop work if deemed necessary for any reason to protect these species, or any other special-status species. Take or possession of these Fully Protected species is prohibited and no permits may be issued for such, except in limited circumstances (Fish & G. Code, §§ 3511 & 4700).  | Prior to and during ground disturbance | Project Applicant        |
| <b>MM-BIO-11</b>                  | <i>(California Ridgeway’s Rail/Black Rail Avoidance and Surveys)</i> . A qualified biologist shall assess if suitable habitat for California Ridgway’s rail or California black rail habitat occurs on or within 700 feet of the Project area and shall obtain CDFW’s written acceptance of the assessment prior to the start of Project construction. Project activities within tidal marsh or suitable California Ridgway’s rail or California black rail habitat, and within 700 feet of such habitat, shall be avoided during rail breeding season (January 15 – August 31 for California Ridgway’s rail, February 1 – August 31 for California black rail) each year unless appropriately timed, yearly protocol level surveys are conducted, and survey methodology and results are submitted to and accepted by CDFW in writing. Surveys shall focus on suitable habitat that may be disturbed by Project activities during the breeding season to ensure that these species are not nesting in these locations.<br><br>If breeding rails are determined to be present, no activities, visual disturbance (direct line of sight) and/or an increase in the ambient noise level shall occur within 700 feet of areas where California Ridgway’s rail and/or California black rail have been detected during the breeding season, unless otherwise approved in writing by CDFW. If surveys have not been conducted, all work shall be conducted 700 feet from California Ridgway’s rail and/or California black rail habitat during nesting | Prior to and during ground disturbance | Project Applicant        |
| <b>MM-BIO-12</b>                  | <i>(Salt Marsh Harvest Mouse – High Tide Restrictions)</i> . No project activities shall occur within 50 feet of suitable tidal marsh habitat for the salt marsh harvest mouse within two (2) hours before and after an extreme high tide event (6.5 feet or higher measured at the Golden Gate Bridge and adjusted to the timing of local high tides) or when adjacent marsh is flooded unless salt marsh harvest   | Prior to and during ground disturbance | Project Applicant        |

Brent Cooper  
 City of American Canyon, Community Development Director  
 November 20, 2024  
 Page 15

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|                  | mouse proof exclusion fencing has been installed around the work area.  |  |                   |
| <b>MM-BIO-13</b> | <i>(Salt Marsh Harvest Mouse – Vegetation)</i> . Prior to impacting salt marsh habitat, a qualified biologist or biological monitor, familiar with salt marsh harvest mouse, shall walk through and inspect suitable habitat prior to vegetation removal and search for signs of harvest mice or other sensitive wildlife and plants. Following inspection, personnel, under the supervision of the qualified biologist, will disturb (e.g., flush) vegetation to force movement of salt marsh harvest mouse into adjacent marsh areas. Flushing of vegetation will first occur in the center of the site then progress toward the two sides away from the open water areas or in this case, away from impacted habitat. Immediately following vegetation flushing, personnel, under the supervision of the qualified biologist or biological monitor, will remove vegetation with hand tools (e.g., weed-eater, hoe, rake, trowel, shovel, grazing) so that vegetation is no taller than 2 inches. | Prior to and during ground disturbance | Project Applicant |
| <b>MM-BIO-14</b> | <i>(Salt Marsh Harvest Mouse – Exclusion Fencing)</i> . After vegetation removal, a mouse proof barrier shall be placed along the edge of the area removed of vegetation to further reduce the likelihood of salt marsh harvest mouse returning to the area prior to construction. The fence shall be made of a heavy plastic sheeting material that does not allow salt marsh harvest mice to pass through or climb, and the bottom shall be buried to a depth of 4 inches so that salt marsh harvest mouse cannot crawl under the fence. Fence height shall be at least 12 inches higher than the highest adjacent vegetation with a maximum height of 4 feet. All supports for the exclusion fencing shall be placed on the inside of the work area. An approximately 2-foot wide de-vegetated buffer shall be created along the habitat side of the exclusion fence.  | Prior to and during ground disturbance | Project Applicant |
| <b>MM-BIO-15</b> | <i>(Salt Marsh Harvest Mouse – Inspections)</i> . The salt marsh harvest mouse exclusion fencing shall remain in operating condition throughout the duration of all project activities in salt marsh habitat. The qualified biologist or biological monitor shall daily inspect the integrity of the exclusion fencing to ensure there are no gaps, tears or damage. Maintenance of the fencing shall be conducted as needed. Any necessary repairs to the fencing shall be completed within 24 hours of the initial observance of the damage. Any mice found along or outside the fence shall be closely monitored until they move away from the project area.   | Prior to and during ground disturbance | Project Applicant |
| <b>MM-BIO-16</b> | <i>(Swainson's Hawk Surveys and Avoidance Buffer)</i> : If Project activities are scheduled during the nesting season for Swainson's hawks (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, unless otherwise approved by CDFW in writing. 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   | Prior to and during ground disturbance | Project Applicant |

Brent Cooper  
 City of American Canyon, Community Development Director  
 November 20, 2024  
 Page 16

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|           | <p>active nests, unless otherwise approved by CDFW in writing, 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, unless otherwise approved by CDFW in writing. 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>   |  |                   |
| MM-BIO-17 | <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. Prior to Project construction, the Project shall provide Swainson's hawk foraging habitat mitigation at a minimum 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, unless otherwise required by an ITP issued for Swainson's hawk.</p>   | Prior to ground disturbance            | Project Applicant |
| MM-BIO-18 | <p><i>(Tricolored Blackbird Avoidance)</i>: If nesting tricolored blackbird or evidence of their presence is found during nesting bird surveys within 500 feet of Project activities, CDFW shall be notified immediately and work shall not occur without written approval from CDFW allowing the Project to proceed. Project activities shall not occur within 500 feet of an active nest unless otherwise approved in writing by CDFW. If take of tricolored blackbird cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP.</p>  | Prior to and during ground disturbance | Project Applicant |
| MM-BIO-19 | <p><i>(Burrowing Owl Surveys)</i>: A qualified biologist shall conduct a burrowing owl habitat assessment within 1,640 feet of the Project area pursuant to the California Department of Fish and Game (now CDFW) 2012 Staff Report on Burrowing Owl Mitigation (CDFW 2012 Staff Report, available here: <a href="https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds">https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds</a>), unless otherwise approved in writing by CDFW. The qualified biologist shall have a minimum of two years of experience implementing the CDFW 2012 Staff Report survey methodology resulting in detections. The habitat assessment shall focus on searching the CNDDDB and potentially other sources for any burrowing owl records on or within one mile of the Project area, vegetation type and height, suitable burrows (with an opening of &gt;11 cm in diameter and a depth of &gt;150 cm), burrow surrogates (culverts, piles of concrete rubble, piles of soil, burrows created along soft banks of ditches and canals, pipes, and similar structures), and presence of burrowing owl sign (tracks, molted feathers, cast pellets, prey remains, egg shell fragments, owl white wash, and nest burrow decoration material), and the presence of burrowing owl individuals or pairs. If the habitat assessment does not identify suitable habitat and surveys are not conducted as described below, an additional habitat assessment shall be conducted within 14 days prior to construction and if</p> | Prior to and during ground disturbance | Project Applicant |



Brent Cooper  
 City of American Canyon, Community Development Director  
 November 20, 2024  
 Page 17

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|                         | <p>new potentially suitable burrowing owl refugia are present surveys shall be conducted as described below, unless otherwise approved in writing by CDFW. The results of the habitat assessment shall be emailed to the CDFW contact below, or if unavailable another CDFW representative, and the Project shall obtain CDFW's written approval of the habitat assessment prior to starting Project activities.</p> <p>If suitable burrowing owl habitat is observed, four surveys shall be conducted to detect the presence of burrowing owl pursuant to the CDFW 2012 Staff Report. The site visits shall be spread evenly throughout the breeding or non-breeding season. The Project shall obtain CDFW's written approval of the survey results prior to starting Project activities. In addition, a take avoidance survey shall be completed within 14 days prior to the start of construction, as described in the CDFW 2012 Staff Report.</p> <p>If burrowing owl is detected, the Project shall immediately notify CDFW. The Project shall avoid impacts to the burrowing owl and implement a 1,640-foot buffer area around the owl site in which no Project activities shall occur, unless otherwise approved in writing by CDFW. A Qualified Biologist shall monitor any detected owl to ensure it is not disturbed.</p> <p>If the Project cannot ensure burrowing owl and their burrows are fully avoided, the Project shall consult with CDFW and obtain a take authorization or otherwise demonstrate compliance with CESA. Take is likely to occur and the Project shall obtain an ITP if: 1) burrowing owl surveys of the Project site detect burrowing owl occupancy of burrows or burrow surrogates, or 2) there is sign of burrowing owl occupancy on the Project site within the past three years and habitat has not had any substantial change that would make it no longer suitable within the past three years. Occupancy means a site that is assumed occupied if at least one burrowing owl has been observed occupying a burrow or burrow surrogate within the last three years. Occupancy of suitable burrowing owl habitat may also be indicated by burrowing owl sign including its molted feathers, cast pellets, prey remains, eggshell fragments, or excrement at or near a burrow entrance or perch site. If burrowing owl, or their burrows or burrow surrogates, are detected within 500 meters (1,640 feet) of the Project site during burrowing owl surveys, but not on the Project site, the Project shall consult with CDFW to determine if avoidance is feasible or an ITP is warranted and shall obtain an ITP if deemed necessary by CDFW.</p> |   |                          |
| <p><b>MM-BIO-20</b></p> | <p><i>(Burrowing Owl Foraging Habitat Mitigation)</i>: Impacts to burrowing owl foraging habitat shall be mitigated as described in Mitigation Measure MM-BIO-17 above, except habitat shall be for burrowing owl, unless otherwise required by an ITP for burrowing owl.</p>   | <p>Prior to ground disturbance</p>            | <p>Project Applicant</p> |
| <p><b>MM-BIO-21</b></p> | <p><i>(Listed Plant Species Permitting)</i>. If the Project may result in impacts to CESA or NPPA listed plants, the Project shall obtain an ITP from CDFW prior to Project construction and shall comply with the ITP.</p>   | <p>Prior to and during ground disturbance</p> | <p>Project Applicant</p> |
| <p><b>MM-BIO-22</b></p> | <p><i>(Special Status Fish Protection)</i>: In water work shall be avoided where special-status fish such as Delta smelt, longfin smelt, winter- and spring-run Chinook salmon, and white sturgeon may occur, as determined by a qualified biologist based on a review of CNDDDB and consultation with CDFW. If take of the above fish species or any CESA listed or candidate aquatic listed species</p>   | <p>Prior to and during ground disturbance</p> | <p>Project Applicant</p> |

Brent Cooper  
 City of American Canyon, Community Development Director  
 November 20, 2024  
 Page 18

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|                  | cannot be avoided, the Project shall obtain a CESA ITP from CDFW prior to commencing Project activities and shall comply with the ITP.  |  |                   |
| <b>MM-BIO-23</b> | <i>(Biological Setting)</i> . CDFW recommends revising Appendix B and associated sections of the EIR to ensure an accurate biological setting and assessment of potential impacts to special-status species.  | Prior to adopting the Final EIR        | Lead Agency       |
| <b>MM-BIO-24</b> | <i>(Habitat Restoration and Compensation, and Impacts to Streams and Riparian Areas)</i> : The Project shall implement restoration onsite or offsite to mitigate temporary or permanent impacts to sensitive natural communities 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 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.<br><br>Prior to the commencement of Project activities, the Project shall conduct a thorough assessment for potential impacts to streams and riparian habitat including, but not limited to impacts resulting trail clearing, earth moving, and vegetation removal. If impacts to the bed, bank, channel, or riparian area of the streams cannot be avoided, the Project shall notify CDFW for potential Project impacts to the streams pursuant to Fish and Game Code section 1600 et seq., and shall comply with the LSA Agreement, if issued. More information for the Notification process is available at <a href="https://wildlife.ca.gov/Conservation/Environmental-Review/LSA">https://wildlife.ca.gov/Conservation/Environmental-Review/LSA</a> . The Project shall not commence activities with potential to impact the stream until the LSA process has been completed. Impacts to the streams and riparian habitat shall be mitigated by restoring riparian habitat at a minimum 3:1 mitigation to impact ratio in area and linear feet for permanent impacts, all temporary impact areas shall be restored, and trees shall be replaced at an appropriate ratio based on size and species, unless otherwise approved in writing by CDFW. An LSA, if issued, may include additional avoidance and minimize measures to protect fish and wildlife resources. Projects shall also obtain permits from the RWQCB and USACE pursuant to the Clean Water Act if applicable. | Prior to and during ground disturbance | Project Applicant |
| <b>MM-BIO-25</b> | <i>(CDFW Napa-Sonoma Marshes Wildlife Area)</i> : Prior to any Project activities within or adjacent to the CDFW Napa-Sonoma Marshes Wildlife Area, the Project shall coordinate with CDFW and obtain CDFW's approval to access the Wildlife Area and implement any fish and wildlife protection measures required by CDFW.   | Prior to and during ground disturbance | Project Applicant |