



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
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**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



April 26, 2023

Sean Kennings  
City of American Canyon  
Post Office Box 7043  
Corte Madera, CA 94976  
[Sean@lakassociates.com](mailto:Sean@lakassociates.com)

Subject: Paoli/Watson Lane Annexation Project, Draft Environmental Impact Report, SCH No. 2022090097, City of American Canyon, Napa County

Dear Mr. Kennings:

The California Department of Fish and Wildlife (CDFW) received a draft Environmental Impact Report (EIR) from the City of American Canyon (City) for the Paoli/Watson Lane Annexation Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup> CDFW provided comments in response to the EIR's Notice of Preparation (NOP) in a letter dated October 4, 2022.

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), 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:** Annex 83 acres of an unincorporated area in Napa County into American Canyon city limits. Several parcels would be rezoned to urban land use, including 47 acres currently designated as Agricultural land to be changed to Industrial and Residential Estate land. The Project would promote development and extend Newell

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

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Drive approximately one mile from State Route 29, southeast along the northern boundary of the annexation area, to its planned terminus at the northern limits of Watson Ranch.

**Location:** The annexation site is within unincorporated Napa County within the Sphere of Influence of the City of American Canyon and is surrounded by City limits to the east, west, and south centered at approximate Latitude 38.191004°N, Longitude 122.252360°W. Immediately west of the annexation area is Paoli Loop Road and State Route 29. The northern boundary of the annexation area parallels the terminus of Paoli Loop Road. The Union Pacific Railroad (UPRR) runs through the east side of the annexation area and the annexation area is bounded to the south by the UPRR and vacant land and mixed residential/commercial uses further south.

## REGULATORY REQUIREMENTS

### California Endangered Species Act

Please be advised that a CESA Incidental Take Permit (ITP) must be obtained if the Project has the potential to result in “take” of plants or animals listed under CESA, either during construction or over the life of the Project. **The Project may impact Swainson’s hawk (*Buteo swainsoni*) and tricolored blackbird (*Agelaius tricolor*), which are CESA listed as threatened species.** 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 listed species, 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

Notification, pursuant to Fish and Game Code sections 1600 et. seq. is required for any activity that will 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. Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. **Thank you for including Mitigation Measure BIO-5 which requires the Project to obtain an LSA Agreement prior to impacting**

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**any streams or lakes.** CDFW, as a Responsible Agency under CEQA, will consider the CEQA document for the Project. CDFW may not execute the final LSA Agreement until it has complied with CEQA as a Responsible Agency.

## **COMMENTS AND RECOMMENDATIONS**

CDFW offers the comments and recommendations below 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. Based on the Project's avoidance of significant impacts on biological resources with implementation of mitigation measures, including those CDFW recommends in **Attachment A**, CDFW concludes that an EIR is appropriate for the Project.

### **I. Subsequent Project CEQA Evaluation**

**COMMENT 1:** For future development within the Project site, Mitigation Measure (MM) BIO-1 requires a "preliminary biological resource screening" to determine if a biological resources assessment is necessary; however, it is unclear how adequate mitigation measures would be identified to reduce impacts to biological resources to less-than-significant. CEQA Guidelines section 15168, subdivision (c)(4) states, "Where the later activities involve site-specific operations, the agency should use a written checklist or similar device to document the evaluation of the site and the activity to determine whether the environmental effects of the operation were within the scope of the program EIR" and CEQA Guidelines section 15126.4, subdivision (a)(2) requires that "Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments. In the case of the adoption of a plan, policy, regulation, or other public project, mitigation measures can be incorporated into the plan, policy, regulation, or project design" (also see Pub. Resources Code, § 21081.6, subd. (b)). MM BIO-1 does not require a written checklist to outline fully enforceable mitigation measures of future development projects.

**Recommended Mitigation Measure:** Pursuant to our response letter to the EIR's NOP, based on CEQA Guidelines section 15183.3 and associated Appendix N Checklist, and consistent with other program EIRs, CDFW recommends creating a procedure or checklist for evaluating subsequent Project impacts on biological resources to determine if they are within the scope of the Program EIR or if an additional environmental document is warranted. This checklist should be included as an attachment to the EIR. Future analysis shall include all special-status species and sensitive habitats 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

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conclusion. For subsequent Project activities that may affect sensitive biological resources, a site-specific analysis shall 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. MANDATORY FINDINGS OF SIGNIFICANCE: Does the Project have the potential to threaten to eliminate a plant or animal community, or substantially reduce the number or restrict range of a rare or endangered plant or animal?**

**COMMENT 2: Swainson's Hawk – Environmental Setting and Mitigation Measure Shortcoming**

**Issue:** The Project may impact nesting Swainson's hawk, which occurs in Napa County. MM BIO-2 is insufficient to reduce potential impacts to Swainson's hawk to less-than-significant. BIO-2 only requires surveys for Swainson's hawk be conducted between January 1 and March 20 and recommends, but does not require, that the Project follow the Swainson's Hawk Technical Advisory Committee's Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley.

**Specific impacts and why they may occur and be significant:** There are potentially suitable Swainson's hawk nest trees on and adjacent to the Project site, and open areas potentially suitable for foraging. If active Swainson's hawk nests are not detected by surveys or appropriate buffer zones are not established, Swainson's hawk could be directly impacted by the removal of nest trees or experience indirect impacts from noise and visual disturbance from Project activities resulting in nest abandonment and loss of eggs or reduced health and vigor and loss of young, thereby, substantially reducing the number of the species.

Swainson's hawk is CESA listed as a threatened species and therefore, is considered to be a threatened species pursuant to CEQA Guidelines section 15380. The estimated historical population of Swainson's hawk was nearly 17,000 pairs; however, in the late 20<sup>th</sup> century, Bloom (1980) estimated a population of only 375 pairs. The decline was primarily a result of habitat loss from development (CDFW 2016). The most recent survey conducted in 2009 estimated the population at 941 breeding pairs. The species is currently threatened by loss of nesting and foraging habitat (e.g., from agricultural shifts to less crops that provide less suitable habitat), urban development, environmental contaminants (e.g., pesticides), and climate change (CDFW 2016).

Therefore, if an active Swainson's hawk nest is disturbed by the Project, the Project may result in a substantial reduction in the number of a threatened species, which is

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considered a Mandatory Finding of Significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

**Recommended Mitigation Measure:** For an accurate environmental setting, to reduce impacts to Swainson's hawk to less-than-significant, and to comply with CESA, CDFW recommends adding the following mitigation measure:

Swainson's Hawk Surveys and Avoidance: If Project activities are scheduled during the nesting season for Swainson's hawks (March 1 to August 31), prior to beginning work on this Project, Swainson's hawk surveys shall be conducted by a qualified biologist with experience surveying for and detecting the species pursuant to the *Recommended timing and methodology for Swainson's Hawk Nesting Surveys in California's Central Valley Swainson's Hawk* (2000)<sup>2</sup> survey protocol, within 0.5-mile of the Project site each year that Project activities occur. Pursuant to the above survey protocol, surveys shall be completed for at least the two survey periods immediately prior to a project's initiation. If the qualified biologist identifies nesting Swainson's hawks, the Project shall implement a 0.5-mile no-disturbance buffer zone around the nest. Project activities shall be prohibited within the buffer zone between March 1 and August 31, unless otherwise approved in writing by CDFW. If take of Swainson's hawk cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP.

### **COMMENT 3: Tricolored Blackbird – Environmental Setting and Mitigation Measure Shortcoming**

**Issue:** There are several documented occurrences of tricolored blackbird occurring in the vicinity of the Project, including approximately 1 mile north of the annexation area. The Project site is within the range of and appears to contain suitable habitat for tricolored blackbird. MM BIO-2 requires a 150-foot buffer for passerines may not be sufficient to avoid impacts to tricolored blackbird.

**Specific impacts and why they may occur and be significant:** 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, thereby substantially reducing the number of the species. 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).

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

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**Recommended Mitigation Measure:** For an accurate environmental setting, to comply with CESA, and to reduce impacts to tricolored blackbird to less-than-significant, CDFW recommends including the following mitigation measure.

Tricolored Blackbird Avoidance. 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. Presence of nesting tricolored blackbird may require a CESA ITP before Project activities may commence.

#### **COMMENT 4: Special-Status Plants – Environmental Setting and Mitigation Measure Shortcoming**

**Issue:** The Project site has potentially suitable habitat for several special-status plants, including, but not limited to, two-fork clover (*Trifolium amoenum*), which is federally listed as endangered, has a California Rare Plant Rank (CRPR)<sup>3</sup> 1B.1, and has historically been observed at the Project site. Protocol level surveys for plants were not conducted to determine whether or not special-status plants occur within the annexation area.

**Specific impacts, why they may occur and be potentially significant:** If special-status plants are present and not detected by the appropriate surveys, the Project may result in potential significant impacts through crushing and killing plants and impacting viable seeds in the soil.

**Recommended Mitigation Measure:** For an accurate environmental setting and to reduce impacts to plants to less-than-significant, CDFW recommends including the following mitigation measure.

Pre-Project Special-Status Plant Surveys. A Qualified Biologist shall conduct a habitat assessment for special-status plants, and if habitat is present, shall conduct a botanical survey during the appropriate blooming period and conditions for all special-status plants that have the potential to occur, prior to the start of construction. More than one year of surveys may be necessary. Surveys shall be conducted following CDFW's Protocol for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities (<https://wildlife.ca.gov/Conservation/Survey-Protocols#377281280-plants>). Survey reports shall be submitted to CDFW for written approval prior to the start of construction.

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<sup>3</sup> CRPR rank definitions are available in CDFW's *Special Vascular Plants, Bryophytes, and Lichens List* (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109383&inline>) and on the California Native Plant Society website (<https://www.cnps.org/rare-plants/cnps-rare-plant-ranks>).

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If any special-status plant species are observed, the Project shall fully avoid direct and indirect impacts to all individuals and prepare and implement a CDFW-approved avoidance plan prior to Project activities. If impacts cannot be avoided, the Project shall provide compensatory habitat at a minimum 3:1 ratio including preparing, implementing, and funding in perpetuity a long-term management plan, unless otherwise approved in writing by CDFW.

**III. 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?**

**COMMENT 5: Burrowing Owl – Mitigation Measure Shortcoming**

**Issue:** If the Project cannot avoid wintering western burrowing owl (*Athene cunicularia*), MM BIO-3 states that the Project will utilize “additional measures such as passive relocation during the nonbreeding season and construction buffers of 200 feet during the breeding season.” CDFW does not consider eviction of burrowing owls (i.e., passive removal of an owl from its burrow or other shelter) as a “take” avoidance, minimization, or mitigation measure, and a 200-foot buffer may be insufficient to reduce impacts to this species to less-than-significant.

Additionally, MM BIO-3 indicates that surveys for burrowing owl would be conducted 30 days prior to Project activities; however, this is inconsistent with the survey requirements in the *Department of Fish and Game Staff Report on Burrowing Owl Mitigation* (2012) referenced in MM BIO-3.

**Specific impacts and why they may occur and be significant:** The Project could result in injury or mortality of adult burrowing owl, and a permanent reduction of burrowing owl habitat in Napa County.

Burrowing owl is a 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 (*Spermophilus beecheyi*) resulting in a loss of suitable burrows required by burrowing owls for nesting, protection from predators, and shelter (Shuford and Gardali 2008; CDFW 2012 Staff Report; personal communication, CDFW Statewide Burrowing Owl Coordinator Esther Burkett, May 13, 2022). Preliminary analyses of regional patterns for breeding populations of burrowing owls have detected declines both locally in their central and southern coastal breeding areas, and statewide where the species has experienced breeding range retraction (CDFW 2012 Staff Report; personal communication, Esther Burkett, May 13, 2022).

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Historically, burrowing owl populations were locally abundant within portions of Solano County. Burrowing owls are no longer abundant and habitat loss caused by development is the most immediate threat to burrowing owls in high growth areas of the San Francisco Bay Area, and loss of burrowing owl habitat will likely continue well into the future (Townsend and Lenihan 2007). As urbanization increases and local burrowing owl populations decline, they become vulnerable to stochastic events (demographic, genetic, and environmental) associated with small population size, creating the potential for an extinction “vortex” (Gilpin and Soulé 1986 as cited in Townsend and Lenihan 2007).

The *Department of Fish and Game Staff Report on Burrowing Owl Mitigation* (2012) states, “current scientific literature supports the conclusion that mitigation for permanent habitat loss necessitates replacement with an equivalent or greater habitat area for breeding, foraging, wintering, dispersal...”

Based on the above, if the Project would result in impacts to burrowing owl, Project impacts to burrowing owls would be potentially significant.

**Recommended Mitigation Measure:** To reduce impacts to burrowing owl to less-than-significant, CDFW recommends including the below mitigation measure.

**Burrowing Owl Surveys.** To protect wintering burrowing owl, a Qualified Biologist shall conduct a habitat assessment, and surveys if warranted based on the habitat assessment, pursuant to the *Department of Fish and Game Staff Report on Burrowing Owl Mitigation* (2012) survey methodology prior to Project activities beginning during the non-breeding wintering season (September 1 to January 31), unless otherwise approved in writing by CDFW. Any deviations from the survey methodology must be approved in writing by CDFW. If burrowing owl is detected, CDFW shall be immediately notified and a Qualified Biologist shall establish suitable buffers pursuant to the above survey methodology which shall be a minimum of 500 meters (1,640 feet) to ensure the owl is not disturbed by Project activities, unless otherwise approved in writing by CDFW. To prevent encroachment, the established buffers shall be clearly marked by high visibility material. Detected burrowing owls shall be avoided pursuant to the buffer zone prescribed in the *Department of Fish and Game Staff Report on Burrowing Owl Mitigation* (2012), unless otherwise approved in writing by CDFW, and any eviction plan shall be subject to CDFW review. Please be advised that CDFW does not consider eviction of burrowing owls (i.e., passive removal of an owl from its burrow or other shelter) as a “take” avoidance, minimization, or mitigation measure; therefore, off-site habitat compensation shall be included in the eviction plan. Habitat compensation acreages shall be approved by CDFW, as the amount depends on site-specific conditions and completed before Project construction unless otherwise approved in writing by CDFW. It shall also include placement of a conservation easement and



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preparation, implementation, and funding of a long-term management plan prior to Project construction.

### **COMMENT 6: American Badger – Environmental Setting and Mitigation Measure Shortcoming**

**Issue:** The Project is within the range<sup>4</sup> of the American badger (*Taxidea taxus*). The Project is located within grassland habitat that may be suitable for American badger. Badgers range throughout most of California and can dig burrows in a single day; therefore, the species may occupy the Project site and adjacent habitat prior to Project construction (Ministry of Environment Ecosystems 2007 as cited in Brehme et al. 2015). Additionally, the California Wildlife Habitat Relationships Predicted Habitat Suitability for most of the site is mapped as Medium Suitability.

**Specific impacts and why they may occur and be significant:** American badger is an SSC. The Project may result in injury or mortality to adult or young badgers, or burrow abandonment. Therefore, if American badgers are present on or adjacent to the Project area, Project impacts to American badger would be potentially significant.

**Recommended Mitigation Measure:** For an adequate environmental setting and to reduce impacts to American badger to less-than-significant, CDFW recommends that the EIR include the following mitigation measure.

American Badger Avoidance. A Qualified Biologist shall survey the Project site and adjacent habitat for signs of American badger and suitable burrows. If occupied burrows are detected, the Project shall avoid occupied burrows and establish a sufficient buffer as determined by a qualified biologist and approved by CDFW. If badgers are found on or adjacent to the Project site and cannot be avoided the Project shall prepare and implement a CDFW-approved relocation plan.

### **COMMENT 7: Pallid Bat – Environmental Setting and Mitigation Measure Shortcoming**

**Issue:** The annexation area includes buildings and trees which may provide suitable habitat for roosting bats, including pallid bat (*Antrozous pallidus*), an SSC which is known to roost in tree bark, hollows, or foliage, as well as, man-made structures (Johnston 2004). The EIR does not include any measures to avoid or minimize impacts to special-status bats.

**Specific impacts and why they may occur and be significant:** Mature trees and buildings scheduled for removal could provide suitable roosting habitat for pallid bat.

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<sup>4</sup> The American badger range map is available at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=2598&inline=1>

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These bats are experiencing population declines in California (Brylski et al. 1998). Bats are long-lived and have a low reproductive rate (Johnston 2004); therefore, each mortality can have a protracted effect on the reproductive rate of the population. Removal of habitat could result in injury or mortality of these special-status bats, which would be a potentially significant impact.

**Recommended Mitigation Measure:** For an adequate environmental setting and to reduce impacts to pallid bat to less-than-significant, CDFW recommends that the EIR include the following mitigation measure.

**Bat Habitat Assessment and Surveys.** Prior to Project activities that would remove trees or modify buildings or bridges, a Qualified Biologist shall conduct a habitat assessment for bats. The habitat assessment shall be conducted a minimum of 30 to 90 days prior to the beginning of Project activities.

For tree removal, the habitat assessment shall include a visual inspection of potential roosting features (e.g., cavities, crevices in wood and bark, exfoliating bark for colonial species, suitable canopy for foliage roosting species, and anthropogenic structures such as buildings, bridges, and culverts). If suitable habitat is found, it shall be flagged or otherwise clearly marked. Trees shall be removed only if: a) presence of bats is presumed, or documented during the surveys described below, in trees with suitable habitat, and removal using the two-step removal process detailed below occurs only during seasonal periods of bat activity, from approximately March 1 through April 15 and September 1 through October 15, or b) after a qualified biologist conducts night emergence surveys or completes visual examination of roost features that establish absence of roosting bats. Two-step tree removal shall be conducted over two consecutive days, as follows: 1) the first day (in the afternoon), under the direct supervision and instruction by a qualified biologist with experience conducting two-step tree removal, limbs and branches shall be removed by a tree cutter using chainsaws only. Limbs with cavities, crevices, or deep bark fissures shall be avoided, and 2) the second day the entire tree shall be removed.

If roosting bats are detected in anthropogenic structures that will be impacted by Project activities, a bat avoidance and exclusion plan shall be implemented. The plan shall recognize that both maternity and winter roosting seasons are vulnerable times for bats and require exclusion outside of these times, generally between March 1 and April 15 or September 1 and October 15 when temperatures are sufficiently warm. Work operations shall cease if bats are found roosting within the Project area and CDFW shall be consulted.

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## ENVIRONMENTAL DATA

CEQA requires that information developed in EIRs and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. €.) Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be 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. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

## CONCLUSION

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

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

Sincerely,

DocuSigned by:  
  
Erin Chappell  
B77E9A6211EF486  
Erin Chappell  
Regional Manager  
Bay Delta Region

Attachment A: Draft Mitigation Monitoring and Reporting Program

ec: Office of Planning and Research, State Clearinghouse (SCH No. 2022090097)

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Brylski, Phillip V.; Collins, Paul W.; Peirson, Elizabeth D.; Rainey, William E.; and Kucera, Thomas E. 1998. Draft Terrestrial Mammals Species of Special Concern in California. Report submitted to California Department of Fish and Game, Sacramento, CA.

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## ATTACHMENT A

### Draft Mitigation Monitoring and Reporting Program (MMRP)

CDFW provides the following language to be incorporated into the MMRP for the Project.

Biological Resources (BIO)			
Mitigation Measure (MM)	Description	Timing	Responsible Party
<b>MM BIO-1</b>	<p>Subsequent Project CEQA Evaluation. A procedure or checklist for evaluating subsequent Project impacts on biological resources shall be prepared to determine if the impacts are within the scope of the Program EIR or if an additional environmental document is warranted. This checklist should be included as an attachment to the EIR. Future analysis shall include all special-status species and sensitive habitats including, but not limited to, species considered rare, threatened, or endangered species pursuant to CEQA Guidelines, section 15380.</p> <p>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 shall 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.</p>	Prior to Ground Disturbance	Project Applicant
<b>MM BIO-2</b>	<p>Swainson’s Hawk Surveys and Avoidance: If Project activities are scheduled during the nesting season for Swainson’s hawks (March 1 to August 31), prior to beginning work on this Project, Swainson’s hawk surveys shall be conducted by a qualified biologist with experience surveying for and detecting the species pursuant to the <i>Recommended timing and methodology for Swainson’s Hawk Nesting Surveys in California’s Central Valley Swainson’s Hawk</i> (2000)<sup>5</sup> survey protocol, within 0.5-mile of the Project site each year that Project activities occur.</p>		

<sup>5</sup> Swainson’s Hawk Technical Advisory Committee, 2000.  
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83990&inline>

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	Pursuant to the above survey protocol, surveys shall be completed for at least the two survey periods immediately prior to a Project's initiation. If the qualified biologist identifies nesting Swainson's hawks, the Project shall implement a 0.5-mile no-disturbance buffer zone around the nest. Project activities shall be prohibited within the buffer zone between March 1 and August 31, unless otherwise approved in writing by CDFW. If take of Swainson's hawk cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP.		
<b>MM BIO-3</b>	Tricolored Blackbird Avoidance. 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. Presence of nesting tricolored blackbird may require a CESA ITP before Project activities may commence.	Prior to Ground Disturbance or Impacts to Vegetation and continuing over the course of the Project	Project Applicant
<b>MM BIO-4</b>	Pre-Project Special-Status Plant Surveys. A Qualified Biologist shall conduct a habitat assessment for special-status plants, and if habitat is present, shall conduct a botanical survey during the appropriate blooming period and conditions for all special-status plants that have the potential to occur, prior to the start of construction. More than one year of surveys may be necessary. Surveys shall be conducted following CDFW's Protocol for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities ( <a href="https://wildlife.ca.gov/Conservation/Survey-Protocols#377281280-plants">https://wildlife.ca.gov/Conservation/Survey-Protocols#377281280-plants</a> ). Survey reports shall be submitted to CDFW for written approval prior to the start of construction. If any special-status plant species are observed, the Project shall fully avoid direct and indirect impacts to all individuals and prepare and implement a CDFW-approved avoidance plan prior to Project activities. If impacts cannot be avoided, the Project shall provide compensatory habitat at a minimum 3:1 ratio including preparing, implementing, and funding in perpetuity a long-term management plan, unless otherwise approved in writing by CDFW.	Prior to Ground Disturbance or Impacts to Vegetation	Project Applicant
<b>MM BIO-5</b>	Burrowing Owl Surveys. To protect wintering burrowing owl, a Qualified Biologist shall conduct a habitat assessment, and surveys if warranted based on the habitat assessment, pursuant to the <i>Department of Fish and Game Staff Report on Burrowing Owl Mitigation</i> (2012) survey methodology	Prior to Ground Disturbance or Impacts to	Project Applicant

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	<p>prior to Project activities beginning during the non-breeding wintering season (September 1 to January 31), unless otherwise approved in writing by CDFW. Any deviations from the survey methodology must be approved in writing by CDFW. If burrowing owl is detected, CDFW shall be immediately notified and a Qualified Biologist shall establish suitable buffers pursuant to the above survey methodology which shall be a minimum of 500 meters (1,640 feet) to ensure the owl is not disturbed by Project activities, unless otherwise approved in writing by CDFW. To prevent encroachment, the established buffers shall be clearly marked by high visibility material. Detected burrowing owls shall be avoided pursuant to the buffer zone prescribed in the <i>Department of Fish and Game Staff Report on Burrowing Owl Mitigation</i> (2012), unless otherwise approved in writing by CDFW, and any eviction plan shall be subject to CDFW review. Please be advised that CDFW does not consider eviction of burrowing owls (i.e., passive removal of an owl from its burrow or other shelter) as a “take” avoidance, minimization, or mitigation measure; therefore, off-site habitat compensation shall be included in the eviction plan. Habitat compensation acreages shall be approved by CDFW, as the amount depends on site specific conditions, and completed before Project construction unless otherwise approved in writing by CDFW. It shall also include placement of a conservation easement and preparation, implementation, and funding of a long-term management plan prior to Project construction.</p>	Vegetation	
<b>MM BIO-6</b>	<p>American Badger Avoidance. A Qualified Biologist shall survey the Project site and adjacent habitat for signs of American badger and suitable burrows. If occupied burrows are detected, the Project shall avoid occupied burrows and establish a sufficient buffer as determined by a qualified biologist and approved by CDFW. If badgers are found on or adjacent to the Project site and cannot be avoided the Project shall prepare and implement a CDFW-approved relocation plan.</p>	<p>Prior to Ground Disturbance and continuing over the course of the Project</p>	Project Applicant
<b>MM BIO-7</b>	<p>Bat Habitat Assessment and Surveys. Prior to Project activities that would remove trees or modify buildings or bridges, a Qualified Biologist shall conduct a habitat assessment for bats. The habitat assessment shall be conducted a minimum of 30 to 90 days prior to the beginning of Project activities.</p> <p>For tree removal, the habitat assessment shall include a visual inspection of potential roosting features (e.g., cavities, crevices in wood and bark, exfoliating bark for colonial species, suitable canopy for foliage roosting species, and anthropogenic structures such as buildings, bridges, and</p>	<p>Prior to Ground Disturbance or Impacts to Vegetation or Anthropogenic Structures</p>	Project Applicant

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	<p>culverts). If suitable habitat is found, it shall be flagged or otherwise clearly marked. Trees shall be removed only if: a) presence of bats is presumed, or documented during the surveys described below, in trees with suitable habitat, and removal using the two-step removal process detailed below occurs only during seasonal periods of bat activity, from approximately March 1 through April 15 and September 1 through October 15, or b) after a qualified biologist conducts night emergence surveys or completes visual examination of roost features that establish absence of roosting bats. Two-step tree removal shall be conducted over two consecutive days, as follows: 1) the first day (in the afternoon), under the direct supervision and instruction by a qualified biologist with experience conducting two-step tree removal, limbs and branches shall be removed by a tree cutter using chainsaws only. Limbs with cavities, crevices, or deep bark fissures shall be avoided, and 2) the second day the entire tree shall be removed.</p> <p>If roosting bats are detected in anthropogenic structures that will be impacted by Project activities, a bat avoidance and exclusion plan shall be implemented. The plan shall recognize that both maternity and winter roosting seasons are vulnerable times for bats and require exclusion outside of these times, generally between March 1 and April 15 or September 1 and October 15 when temperatures are sufficiently warm. Work operations shall cease if bats are found roosting within the Project area and CDFW shall be consulted.</p>		
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