



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



October 12, 2022

Michael Allen, Senior Planner
City of Napa
1600 First Street
Napa, CA 94559
mallen@cityofnapa.org

Subject: Browns Valley Subdivision Project, Mitigated Negative Declaration,
SCH No. 2022090306, City and County of Napa

Dear Mr. Allen:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt Mitigated Negative Declaration (MND) from the City of Napa (City) for the Browns Valley Subdivision Project (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

CDFW is submitting comments on the MND 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 (LSA) 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: Edenbridge Homes

Objective: Construct 11 new single-family homes with landscaping and a new public cul-de-sac street with driveways on a 3.77-acre residential infill site. Project activities include demolishing all existing pavement and structures (barn, two residences and sheds), some of which are within the riparian zone, adjacent to Browns Valley Creek.

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

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The Project will also install a bioretention area and stormwater detention that will empty onto a rock energy dissipater within the edge of riparian vegetation.

Location: The Project is located at 3090 Browns Valley Road, Napa, CA 94558. The Assessor's Parcel Number is 041-170-009.

Timeframe: Construction is anticipated to begin January 2023 and would last approximately 14-18 months.

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 has the potential to impact California freshwater shrimp (*Syncaris pacifica*), a CESA listed as endangered species, and tricolored blackbird (*Agelaius tricolor*) and Swainson's hawk (*Buteo swainsoni*), both CESA listed as threatened species, 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 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

CDFW will require an LSA Notification, pursuant to Fish and Game Code sections 1600 et. seq. for Project activities affecting lakes or streams and associated riparian habitat. Notification 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. **The Project would impact Browns Valley Creek and therefore an LSA Notification would be required, as further described below.** Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. CDFW, as a Responsible Agency under CEQA, will

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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.

Fully Protected Species

Fully Protected species, such as white-tailed kite (*Elanus leucurus*) and golden eagle (*Aquila chrysaetos*), may not be taken or possessed at any time (Fish & G. Code, §§ 3511, 4700, 5050, & 5515) except for collecting these species for necessary scientific research, relocation of the bird species for the protection of livestock, or if they are a covered species whose conservation and management is provided for in a Natural Community Conservation Plan.

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. Attachment 1 Draft Mitigation Monitoring and Reporting Program includes the below recommended mitigation measures. Editorial comments or other suggestions may also be included to improve the document. Based on the Project's avoidance of significant impacts on biological resources with implementation of mitigation measures, including those recommended below, CDFW concludes that an MND is appropriate for the Project.

- I. 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?**

Environmental Setting and Mitigation Measures

COMMENT 1: Swainson's Hawk

Issue: The Project may impact nesting Swainson's hawk, which occurs in Napa County. The California Natural Diversity Database (CNDDB) documents a Swainson's hawk mating pair occurrence less than 4 miles from the Project site.

The proposed nesting bird survey mitigation measure would only survey for raptors present within 1,000 feet of the Project, however nesting Swainson's hawks may be impacted up to 0.25 miles from the Project within urban areas and may not be detected using the proposed nesting bird surveys.

Specific impacts and why they may occur and be significant: If active Swainson's hawk nests are not detected by the proposed surveys or appropriate buffer zones are not established, Swainson's hawk could be disturbed by Project

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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 20th 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 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 including an evaluation of Swainson's hawk in the impact analysis and adding the following mitigation measure:

Mitigation Measure (MM) BIO-13 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) survey protocol², within 0.25 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. For example, if the project is scheduled to begin on June 20, the qualified biologist shall complete three surveys in Period III and three surveys in Period V. It is recommended that surveys be completed in Periods II, III and V. The Project shall obtain CDFW's written acceptance of the qualified biologist and survey report prior to Project construction occurring between March 1 and August 31 each year. If the qualified biologist identifies nesting Swainson's hawks, the Project shall implement a 0.25 mile no disturbance buffer zone around the nest, unless otherwise approved in

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

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writing by CDFW. 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 2: Tricolored blackbird

Issue: The project may impact tricolored blackbird, which occurs in Napa County. The Project sites fall within the range and predicted habitat of tricolored blackbird. CNDDDB documents an occurrence within 5 miles of the Project site.

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).

Recommended Mitigation Measure: For an accurate environmental setting and to reduce impacts to tricolored blackbird to less than significant, CDFW recommends including an impact analysis for tricolored blackbird and including the following mitigation measure:

MM BIO-14: 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. If take of tricolored blackbird cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP.

Mitigation Measures

COMMENT 3: California freshwater shrimp

Issue: The proposed pre-construction surveys are insufficient to ensure impacts to California freshwater shrimp are avoided, as surveys may not detect this elusive species.

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Recommended Mitigation Measure:

MM BIO-15: California Freshwater Shrimp Avoidance. No Project activities shall occur when standing or flowing water is present in the stream within 500 feet of the project area, unless otherwise approved in writing by CDFW. No streambanks outside of the Project footprint shall be impacted or disturbed. No sediment from the Project area shall be allowed to enter the stream channel. Flowing water and standing pools of water shall be completely avoided. Silt fencing and any other necessary erosion controls shall be installed between the work area and the stream channel to ensure sediment is prevented from entering the stream, unless otherwise approved in writing by CDFW. The silt fence shall be checked daily by the Qualified Biologist, including during periods of inactivity, and any necessary repairs shall be made immediately.

If sediment or any other materials from the Project area enter the stream channel, Project activities shall immediately stop and the Qualified Biologist shall immediately notify CDFW. If take of California freshwater shrimp cannot be avoided, the Project shall the Project shall consult with CDFW pursuant to CESA and obtain an ITP.

II. 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 in local or regional plans, policies, or regulations, or by CDFW or U.S. Fish and Wildlife Service (USFWS)?

Environmental Setting and Mitigation Measures

COMMENT 4: Foothill Yellow-Legged Frog

Issue: The MND does not consider impacts to foothill yellow-legged frog (*Rana boylei*, northwest/north coast clade). The Project site is within the range and suitable habitat for foothill yellow-legged frog and there is a CNDDDB documented occurrence in Redwood Creek, approximately 3.2 miles from the Project site.

Specific impacts and why they may occur and be significant: Foothill yellow-legged frogs have been extirpated from about two-thirds of their historical range since 1970 (U.S. Forest Service (USFS) 2016) and is a California Species of Special Concern (SSC).

The main risk factors for the foothill yellow-legged frog are water development and diversion, climate change, habitat loss (including urbanization and fragmentation), and introduced species (USFS 2016). Project location can negatively affect foothill yellow-legged frog based on proximity to suitable habitats. Many post-metamorphic foothill yellow-legged frogs move among a variety of stream habitats throughout the year, including perennial mainstem reaches to highly ephemeral headwater streams

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(Bourque 2008). This species is also documented in uplands near streams (< 300 m; Twitty et al. 1967, Cook et al. 2012). Projects involving the alteration of the bed and/or banks of any stream or adjacent upland habitats could have potentially significant impacts on the species or its habitat. Therefore, if foothill yellow-legged frogs are present on or adjacent to the Project site, the Project would have potentially significant impacts on the species.

Recommended Mitigation Measure: For an adequate environmental setting and to reduce impacts to foothill yellow-legged frog to less-than-significant, CDFW recommends including an impact analysis for foothill yellow-legged frog and including the following mitigation measure:

MM BIO-16: Foothill Yellow-Legged Frog Surveys. Prior to starting Project activities, a Qualified Biologist shall conduct surveys for foothill yellow-legged frog using a CDFW-approved methodology. If foothill yellow-legged frogs, their eggs, or any other special-status species are found, CDFW shall be notified immediately and construction shall not occur without written approval from CDFW allowing the Project activities to proceed. If foothill yellow-legged frog egg masses are observed in a stream that is scheduled for dewatering, dewatering shall not occur until an egg mass relocation plan is approved in writing by CDFW and implemented. In the event adult foothill yellow-legged frogs are observed, a temporary wildlife exclusion fence shall be installed, if requested by CDFW, to prevent frogs and/or other special-status species from entering the work site. The results of the survey shall be submitted to CDFW for written acceptance prior to starting Project activities. If the Project has collected data that the stream has been completely dry for greater than 30 days prior to starting Project activities, and no water or moist areas within the streambed exist within 500 feet upstream and downstream of the Project, then the Project may request CDFW written approval that surveys for foothill yellow-legged frogs are not necessary.

Mitigation Measures

COMMENT 5: MM BIO-4: Noise and Lighting Restrictions

Issue: MM BIO-4 does not provide specific guidance regarding how lighting will be minimized. Artificial lighting may adversely impact special-status species.

Recommended Mitigation Measure: To reduce impacts from artificial lighting to less-than-significant, CDFW recommends replacing MM BIO-4 with the following language:

MM BIO-4: Noise and Lighting Restrictions: Construction noise shall be limited to daylight hours. All temporary Project lighting associated with construction staging areas, access routes and construction sites in natural lands must not spill into

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natural areas. Temporary Project lighting on the surface of the road will be directed towards the road surface and will not be directed into natural areas outside of the road surface to prevent additional light pollution and disruption of nocturnal wildlife activity. Baffles and shielding devices will be required on all temporary lighting systems within the Project limits. All temporary lighting shall be limited to 2,700 kelvins. A photometer shall be used in and around the construction site to ensure light is not being exposed to natural areas.

COMMENT 6: MM BIO-7: Construction Monitoring

Issue: MM BIO-7 specifies that a qualified biologist may be on-site for daily monitoring if an aquatic state or federally listed species is present within or near the Project site, depending on the species. It is unclear whether the Project is required to consult with CDFW and/or USFWS in the event a listed species is encountered. MM BIO-7 also does not account for species designated as SSC.

Recommended Mitigation Measure: Revise MM BIO-7 to specify that a qualified biologist shall be on-site daily when work occurring within stream or riparian habitat, unless otherwise approved in writing by CDFW. Additionally, if any special-status species are detected, the Project shall consult with CDFW and/or USFWS regarding appropriate steps before proceeding with construction.

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?

Mitigation Measures

COMMENT 7: Riparian Habitat

Issue: The MND mentions the need to obtain an LSA Agreement from CDFW; however, this is not included as a mitigation measure. Additionally, on page 65, the MND includes a list of Best Management Practices (BMPs). This includes a BMP specifying that work within the riparian zone would occur between April 15 to October 31; however, CDFW generally considers the dry season to be June 15 to October 15 in Napa County.

Additionally, while the MND states no riparian vegetation will be removed, it is unclear whether the area where structures will be removed within the riparian zone will be restored with native plantings. If demolition areas are left barren of vegetation, this could result in erosion and sedimentation within Browns Valley Creek.

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Furthermore, the MND states that the BMPs listed on page 65 are included to help avoid and minimize potential impacts to critical habitat and essential fish habitat to less than significant levels, yet these BMPs are not included as mitigation measures.

Recommended Mitigation Measure: To reduce impacts to riparian habitat to less-than-significant, CDFW recommends including a mitigation measure requiring the Project to submit an LSA Notification to CDFW and comply with the LSA Agreement if issued by CDFW. The LSA Agreement would likely include measures restricting work within the riparian zone from June 15 to October 15, unless otherwise approved in writing by CDFW, and require any areas within the riparian zone left barren of vegetation be restored and planted with native trees, shrubs and grasses. Additionally, permanent impacts, such as from installation of the storm drain outfall structure should be restored at a 3:1 ratio for acreage and linear feet impacted and temporary impacts should be restored on-site, unless otherwise approved in writing by CDFW.

CDFW also recommends that all BMPs that are intended to reduce impacts to riparian and stream habitat to less-than-significant be clearly listed as mitigation measures.

IV. Editorial Comments and Suggestions

COMMENT 8: On page 65 of the MND it states, “No trees or other vegetation will be removed in the riparian zone unless it poses a safety hazard as determined by an arborist (for trees).” CDFW recommends revising this sentence for clarity. It is unclear if hazardous vegetation, besides trees, could be removed.

If CDFW issues an LSA Agreement for the Project, the above recommended mitigation measures will likely be included in the Agreement, as applicable.

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 the 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>.

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ENVIRONMENTAL DOCUMENT FILING FEES

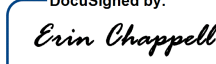
The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental 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 MND to assist the City in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Alicia Bird, Environmental Scientist, at (707) 980-5154 or alicia.bird@wildlife.ca.gov; or Melanie Day, Senior Environmental Scientist (Supervisory), at (707) 210-4415 or melanie.day@wildlife.ca.gov.

Sincerely,

DocuSigned by:

Erin Chappell
Regional Manager
Bay Delta Region

Attachment 1: Draft Mitigation Monitoring and Reporting Program

ec: Office of Planning and Research, State Clearinghouse (SCH No. 2022090306)

REFERENCES

Bloom, P. H. 1980. The status of the Swainson's hawk in California, 1979. Bureau of Land Management, Sacramento, CA, USA.

Bourque, R. M. 2008. Spatial ecology of an inland population of the foothill yellow-legged frog (*Rana boylei*) in Tehama County, California. Thesis, Humboldt State University, Arcata, CA, USA.

CDFW. 2016. Status review: Swainson's hawk (*Buteo swainsoni*) in California. Report to the California Fish and Game Commission, Sacramento, CA, USA.

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Cook, D. G., P. W. White, and E. White. 2012. Natural history notes: *Rana boylei* (foothill yellow-legged frog), upland movement. *Herpetological Review* 43:325–326.

Twitty, V., D. Grant, and O. Anderson. 1967. Amphibian orientation: an unexpected observation. *Science* 155:352–353.

U.S. Forest Service (USFS). 2016. Foothill yellow-legged frog conservation assessment in California. General Technical Report PSW-GTR-248, Pacific Southwest Research Station, U.S. Forest Service, Albany, CA, USA.

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Attachment 1

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
MM BIO-4	<p><u>MM BIO-4: Noise and Lighting Restrictions:</u> Construction noise shall be limited to daylight hours. All temporary Project lighting associated with construction staging areas, access routes and construction sites in natural lands must not spill into natural areas. Temporary Project lighting on the surface of the road will be directed towards the road surface and will not be directed into natural areas outside of the road surface to prevent additional light pollution and disruption of nocturnal wildlife activity. Baffles and shielding devices will be required on all temporary lighting systems within the Project limits. All temporary lighting shall be limited to 2700 kelvins. A photometer shall be used in and around the construction site to ensure light is not being exposed to natural areas.</p>	<p>Prior to Ground Disturbance and continuing over the course of the Project</p>	<p>Project Applicant</p>
MM BIO-13	<p><u>MM BIO-13 Swainson's Hawk Surveys and Avoidance:</u> 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) survey protocol, within 0.25 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. For example, if the project is scheduled to begin on June 20, the qualified biologist shall complete three surveys in Period III and three surveys in Period V. It is recommended that surveys be completed in Periods II, III and V. The Project shall obtain CDFW's written acceptance of the qualified biologist and survey report prior to Project construction</p>	<p>Prior to Ground Disturbance and continuing over the course of the Project</p>	<p>Project Applicant</p>

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	<p>occurring between March 1 and August 31 each year. If the qualified biologist identifies nesting Swainson's hawks, the Project shall implement a 0.25 mile no disturbance buffer zone around the nest, unless otherwise approved in writing by CDFW. 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.</p>		
MM BIO-14	<p><u>MM BIO-14: Tricolored Blackbird Avoidance.</u> 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>	<p>Prior to Ground Disturbance and continuing over the course of the Project</p>	<p>Project Applicant</p>
MM BIO-15	<p><u>MM BIO-15: California Freshwater Shrimp Avoidance.</u> No project activities shall occur when standing or flowing water is present in the stream within 500 feet of the project area, unless otherwise approved in writing by CDFW. No streambanks outside of the project footprint shall be impacted or disturbed. No sediment from the project area shall be allowed to enter the stream channel. Flowing water and standing pools of water shall be completely avoided. Silt fencing and any other necessary erosion controls shall be installed between the work area and the stream channel to ensure sediment is prevented from entering the stream, unless otherwise approved in writing by CDFW. The silt fence shall be checked daily by the Qualified Biologist, including during periods of inactivity, and any necessary repairs shall be made immediately.</p> <p>If sediment or any other materials from the project area enter the stream channel project activities shall immediately stop and the Qualified Biologist shall immediately notify CDFW. If take of California freshwater shrimp cannot be avoided, the Project shall the Project shall consult with CDFW pursuant to CESA and obtain an ITP.</p>	<p>Prior to Ground Disturbance and continuing over the course of the Project</p>	<p>Project Applicant</p>
MM BIO-16	<p><u>MM BIO-16: Foothill Yellow-Legged Frog Surveys.</u> Prior to starting Project activities, a Qualified Biologist</p>	<p>Prior to Ground</p>	<p>Project Applicant</p>

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	<p>shall conduct surveys for foothill yellow-legged frog using a CDFW-approved methodology. If foothill yellow-legged frogs, their eggs, or any other special-status species, are found, CDFW shall be notified immediately and construction shall not occur without written approval from CDFW allowing the Project activities to proceed. If foothill yellow-legged frog egg masses are observed in a stream that is scheduled for dewatering, dewatering shall not occur until an egg mass relocation plan is approved in writing by CDFW and implemented. In the event adult foothill yellow-legged frogs are observed, a temporary wildlife exclusion fence shall be installed, if requested by CDFW, to prevent frogs and/or other special-status species from entering the work site. The results of the survey shall be submitted to CDFW for written acceptance prior to starting Project activities. If the Project has collected data that the stream has been completely dry for greater than 30 days prior to starting Project activities, and no water or moist areas within the streambed exist within 500 feet upstream and downstream of the Project, then the Project may request CDFW written approval that surveys for foothill yellow-legged frogs are not necessary.</p>	<p>Disturbance and continuing over the course of the Project</p>	
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