



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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GAVIN NEWSOM, Governor
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Governor's Office of Planning & Research

Oct 24 2022

STATE CLEARINGHOUSE

October 24, 2022

Mr. Jerry Aguirre, Associate Flood Control Planner
Riverside County Flood Control and Water Conservation District
1995 Market Street
Riverside, CA 92501
jeraquir@RIVCO.ORG

Subject: Mitigated Negative Declaration
Perris Valley Channel Lateral B, Stage 4 Project
State Clearinghouse No. 2022090378

Dear Mr. Aguirre:

The California Department of Fish and Wildlife (CDFW) received a Mitigated Negative Declaration (MND) from the Riverside County Flood Control and Water Conservation District (County) for the Perris Valley Channel Lateral B, Stage 4 Project (Project) for the County, in partnership with the March Joint Powers Authority (MJPA) and March Air Reserve Base, (Project Applicant/Proponent) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California's Trustee Agency for fish and wildlife resources and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (Fish & G. Code, § 1802.). Similarly, for purposes of CEQA, CDFW provides, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

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.

CDFW is also submitting comments as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may

need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

CDFW issued Natural Community Conservation Plan approval and take authorization in 2004 for the Western Riverside Multiple Species Habitat Conservation Plan (MSHCP), as per Section 2800, et seq., of the California Fish and Game Code. The MSHCP established a multiple species conservation program to minimize and mitigate habitat loss and the incidental take of covered species in association with activities covered under the permit. The County of Riverside is a permittee to the MSHCP and is responsible for implementation of the MSHCP and its associated Implementation Agreement. CDFW is providing the following comments as they relate to the Project's consistency with the MSHCP and CEQA.

PROJECT DESCRIPTION SUMMARY

Project Location

The Project site comprises approximately 21.27 acres in the City of Perris within Riverside County, California, in Section 36 West, Township 3 South, Range 4 West, of the U.S. Geological Survey (USGS) 7.5" Perris, California topographic quadrangle map. The Project is located east of Interstate 215 freeway (I-215), north of Harley Knox Boulevard, and immediately west of March Air Reserve Base/Inland Port Airport. The Project is located within Assessor's Parcel Numbers (APN) 294-220-003, 294-200-002, 294-180-007, 294-180-006, 294-180-037, 294-180-055, and 294-180-017.

Project Description

The Project proposes to construct Perris Valley Channel (PVC) Lateral B Stage 4 which consists of approximately 6,000 ft of reinforced concrete box (RCB) culvert connecting the PVC Lateral B Stage 5 facility to the existing PVC Lateral B Stage 2 facility. It would also include three transitions structures, four junction structures, twelve bolted down manholes for security, and two inlets along the southernmost end of the alignment to collect on-site flows from the March Air Reserve Base. The Project would also include two lateral stubs and bulkheads for the future construction of Lateral B-7 and Lateral B-8 in the City of Perris.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations presented below to assist the County in adequately identifying and/or mitigating the Project's potentially significant direct and indirect impacts to biological resources, and in Attachment 1 "Mitigation Monitoring and Reporting Program" for consideration by the County prior to adoption of the MND for the Project. The comments and recommendations are also offered to enable the CDFW to adequately review and comment on the proposed Project's consistency with the MSHCP.

Western Riverside County Multiple Species Habitat Conservation Plan

Western Riverside MSHCP Implementation:

Compliance with approved habitat plans, such as the MSHCP, is discussed in CEQA. Specifically, Section 15125(d) of the CEQA Guidelines requires that the CEQA document discuss any inconsistencies between a proposed project and applicable general plans and regional plans, including habitat conservation plans and natural community conservation plans. An assessment of the impacts to the MSHCP as a result of this Project is necessary to address CEQA requirements. The proposed Project occurs within the MSHCP area and is subject to the provisions and policies of the MSHCP.

The proposed Project occurs within the MSHCP area and is subject to the provisions and policies of the MSHCP. To be considered a covered activity, Permittees need to demonstrate that proposed actions are consistent with the MSHCP, the Permits, and the Implementing Agreement. The County is the Lead Agency and is signatory to the Implementing Agreement of the MSHCP.

To demonstrate consistency with the MSHCP, as part of the CEQA review, the County shall ensure the Project implements the following:

1. Pays Local Development Mitigation Fees and other relevant fees as set forth in Section 8.5 of the MSHCP.
2. Demonstrates compliance with: 1) the Protection of Species Associated with Riparian/Riverine Areas and Vernal Pools, set forth in Section 6.1.2 of the MSHCP; 2) the Protection of Narrow Endemic Plant Species set forth in Section 6.1.3; 3) the Urban/Wildlands Interface Guidelines as set forth in Section 6.1.4 of the MSHCP; 4) the policies set forth in Section 6.3.2; and 5) the Best Management Practices and the siting, construction, design, operation and maintenance guidelines as set forth in Section 7.0 and Appendix C of the MSHCP.

The MSHCP identifies that the California Department of Fish and Wildlife and the U. S. Fish and Wildlife Service (collectively known as the Wildlife Agencies) shall be notified

in advance of approval of public and private projects for the identified MSHCP activities which includes the Protection of Species Associated with Riparian/Riverine Areas and Vernal Pools (Section 6.11 of the MSHCP). CDFW requests that to demonstrate compliance with the MSHCP, the County complete MSHCP implementation prior to adoption of the MND for the Project.

Protection of Species Associated with Riparian/Riverine Areas and Vernal Pools

The MSHCP Protection of Species Associated with Riparian/Riverine and Vernal Pool Resources Section 6.1.2 indicates that if avoidance of onsite impacts to Section 6.1.2 resources is not feasible, then the impacts should be identified and mitigated for through a Determination of Biologically Equivalent or Superior Preservation (DBESP) process prior to or in parallel to CEQA. The assessment of Riparian/Riverine and Vernal Pool Resources should include mapping of riparian/riverine areas and vernal pools, species composition, topography/hydrology, and soil analysis which may be completed during the CEQA process (Section 6.1.2 of the MSHCP). If the mapping noted above identifies suitable Habitat for the species listed in the MSHCP and the proposed project design does not incorporate avoidance of the identified Habitat, focused surveys for those species shall be conducted, and avoidance and minimization measures implemented in accordance with the species-specific objectives for those species. The MSHCP identifies that the Wildlife Agencies **shall** be notified in advance of approval of public or private projects of draft determinations for the biologically equivalent or superior determination findings associated with the Protection of Wetland Habitats and Species policies presented in Section 6.1.2 of the MSHCP (MSHCP Section 6.11). As required by MSHCP, completion of the DBESP process prior to adoption of the environmental document ensures that the project is consistent with the MSHCP and provides public disclosure and transparency during the CEQA process by identifying the project impacts and mitigation for wetland habitat, a requirement of CEQA Guidelines, §§ 15071, subs. (a)-(e).

The MND and accompanying *General Biological Resources Assessment and MSHCP Consistency Analysis* (located in Appendix B-1) indicate that 2.4 acres of riparian/riverine or vernal pool resources are located within the proposed Project area. CDFW appreciates the analysis of impacts provided within the MND and General Biological Resource Assessment, however, because the DBESP has not been completed the impact analysis and required mitigation may change based on Wildlife Agencies review to demonstrate that the proposed mitigation proposed for the impacts to riparian/riverine resources is biologically equivalent or superior preservation to avoidance. Without a complete and accurate description of the impacts to existing riparian/riverine resources and the proposed mitigation the draft MND provides incomplete analysis of the project-related environmental impacts. To ensure the mitigation included in the final environmental document accurately represents what is required for MSHCP implementation and addresses protection of riparian/riverine resources, a DBESP should be prepared and submitted to the Wildlife Agencies for review and response prior to adopting the MND. The final CEQA document should fully

identify the potential impacts to riparian/riverine resources and provide adequate avoidance, minimization, mitigation, monitoring, and reporting commitments identified in the DBESP. CDFW requests that to demonstrate consistency with the MSHCP, the County complete the DBESP process prior to adopting the environmental document and recommends the inclusion of the following measure in the MND per the edits below (edits are in ~~strike through~~ and **bold**), and also included in Attachment 1 "Mitigation Monitoring and Reporting Program".

MM Bio XX: Riparian/Riverine Resources. The County approved a Determination of Biologically Equivalent or Superior Preservation (DBESP) to address impacts to riparian/riverine resources, MSHCP Section 6.1.2. The U.S. Fish and Wildlife Service and California Department of Fish and Wildlife reviewed and responded to the DBESP. As identified in the DBESP report, the proposed impacts are [update with numbers] of acres, and the proposed mitigation sufficient to offset impacts MSHCP riparian/riverine areas is [update with DBESP results and findings]. The County shall implement the avoidance, minimization, and mitigation measures identified in the DBESP.

Lake and Streambed Alteration Program

Based on review of material submitted with the MND and review of aerial photography the Project has the potential to impact of fish and wildlife resources subject to Fish and Game Code section 1600 et seq. Depending on how the Project is designed and constructed, it is likely that the Project applicant will need to notify CDFW per Fish and Game Code section 1602. To ensure compliance with Fish and Game Code section 1602 CDFW recommends that the County condition the MND to include a mitigation measure for consultation with CDFW to determine if Fish and Game Code section 1600 et seq. resources may occur within the proposed Project alignment. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following: substantially divert or obstruct the natural flow of any river, stream or lake; substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or deposit debris, waste or other materials that could pass into any river, stream or lake. Please note that "any river, stream or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow.

Upon receipt of a complete notification, CDFW determines if the proposed Project activities may substantially adversely affect existing fish and wildlife resources and whether a Lake and Streambed Alteration (LSA) Agreement is required. An LSA Agreement includes measures necessary to protect existing fish and wildlife resources. CDFW may suggest ways to modify the project that would eliminate or reduce harmful impacts to fish and wildlife resources.

CDFW's issuance of an LSA Agreement is a "project" subject to CEQA (see Pub. Resources Code, § 21065). To facilitate issuance of an LSA Agreement, if necessary, the MND should fully identify the potential impacts to the lake, stream, or riparian resources, and provide adequate avoidance, mitigation, and monitoring and reporting commitments. Early consultation with CDFW is recommended, since modification of the proposed Project may be required to avoid or reduce impacts to fish and wildlife resources. To obtain a Lake or Streambed Alteration notification package, please go to <https://www.wildlife.ca.gov/Conservation/LSA/Forms>.

CDFW recommends the inclusion of the following measure in the MND per the edits below (edits are in ~~strike through~~ and **bold**), and also included in Attachment 1 "Mitigation Monitoring and Reporting Program":

MM Bio XX: Prior to the grading the Project site and prior to the start of Project activities, the Applicant shall notify the California Department of Fish and Wildlife (CDFW) for impacts to Fish and Game Code section 1602 resources. The applicant shall either receive a Streambed Alteration Agreement or written documentation from CDFW that a Streamed Alteration Agreement is not needed.

Nesting Birds

It is the Project proponent's responsibility to avoid Take of all nesting birds. Fish and Game Code section 3503 makes it unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by the rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.). Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto. These regulations apply anytime nests or eggs exist on the Project site.

The timing of the nesting season varies greatly depending on several factors, such as the bird species, weather conditions in any given year, and long-term climate changes (e.g., drought, warming, etc.). CDFW staff have observed that changing climate conditions may result in the nesting bird season occurring earlier and later in the year than historical nesting season dates. CDFW recommends the completion of nesting bird survey regardless of time of year to ensure compliance with all applicable laws pertaining to nesting and to avoid take of nests.

The duration of a pair to build a nest and incubate eggs varies considerably, therefore, CDFW recommends surveying for nesting behavior and/or nests and construction within

three days prior to start of Project construction to ensure all nests on site are identified and to avoid take of nests.

CDFW is concerned that potential impacts to nesting birds are not identified or discussed within the MND and strongly suggests the City evaluate the direct, indirect, and cumulative impacts to nesting birds, before approval and certification of the MND. Appropriate analysis would include conducting focused nesting bird surveys throughout the project site. To address the above issues and help the Project applicant avoid unlawfully taking of nests and eggs, CDFW requests the County include the following mitigation measures in the MND per below (edits are in ~~strikethrough~~ and **bold**), and also included in Attachment 1 "Mitigation Monitoring and Reporting Program".

MM BIO-XX: Nesting Bird Survey. Site preparation activities (ground disturbance, construction activities, and/or removal of trees and vegetation) for all Project activities shall be avoided, to the greatest extent possible, during the nesting season of potentially occurring nesting species. Additionally, raptors (birds of prey) are known to begin nest building in January or February. If vegetation clearing is to occur between January 1 and February 15, a nesting raptor survey shall be conducted within the project site, including a 500-foot buffer, no more than three days prior to vegetation removal.

If site-preparation activities must take place during the nesting/breeding season, a qualified biologist shall be retained to perform a pre-construction survey for nesting birds. A pre-activity field survey shall be conducted by a qualified biologist prior to the issuance of grading permits for such project to determine if active nests of species protected by the MBTA or the California Fish and Game Code are present in the construction zone in addition to ongoing monitoring, and if necessary, establishment of minimization measures. The Project Applicant shall adhere to the following:

- 1. Applicant shall designate a biologist (Designated Biologist) experienced in: identifying local and migratory bird species of special concern; conducting bird surveys using appropriate survey methodology; nesting surveying techniques, recognizing breeding and nesting behaviors, locating nests and breeding territories, and identifying nesting stages and nest success; determining/establishing appropriate avoidance and minimization measures; and monitoring the efficacy of implemented avoidance and minimization measures.**
- 2. Pre-activity field surveys shall be conducted at the appropriate time of day/night, during appropriate weather conditions, no more than 3 days prior to the initiation of Project activities.**

Surveys shall encompass all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures. Survey duration shall take into consideration the size of the Project site; density, and complexity of the habitat; number of survey participants; survey techniques employed; and shall be sufficient to ensure the data collected is complete and accurate.

If active nests are not located within the implementing project site, no biological monitor is needed. If active bird nests are confirmed to be present during the pre-construction survey, an appropriate buffer zone shall be established by a qualified biologist immediately based on their best professional judgement and experience, the buffer around the nest shall be delineated and flagged, and no construction activity shall occur within the buffer area until a qualified biologist determines nesting species have fledged and the nest is no longer active or the nest has failed. A minimum buffer of 500 feet around an active listed species or raptor nest, 300 feet around active passerine (perching birds or songbirds), sensitive, or protected bird nests (non-listed), or 1000 feet of sensitive or protected songbird nests. The Designated Biologist shall monitor the nest at the onset of project activities, and at the onset of any changes in such project activities (e.g., increase in number or type of equipment, change in equipment usage, etc.) to determine the efficacy of the buffer. If the Designated Biologist determines that such project activities may be causing an adverse reaction, the Designated Biologist shall adjust the buffer accordingly or implement alternative avoidance and minimization measures, such as redirecting or rescheduling construction or erecting sound barriers. All work within these buffers will be halted until the nesting effort is finished (i.e., the juveniles are surviving independent from the nest). The onsite qualified biologist will review and verify compliance with these nesting avoidance buffers and will verify the nesting effort has finished. Work can resume within these avoidance areas when no other active nests are found. Upon completion of the survey and nesting bird monitoring, a report shall be prepared and submitted to the County for mitigation monitoring compliance record keeping.

Burrowing Owl

For burrowing owl, suitable habitat was identified through aerial imagery and focused burrowing owl surveys were completed during the 2022 field season. No owls were observed in the Project site; however, two burrowing owls were observed within the 150-meter buffer of the survey area. In California, burrowing owl are in decline primarily as a result of habitat loss, as well as disease, predation, and drought. CDFW recommends the inclusion of a process to avoid direct take of burrowing owls and to avoid project delays if the owls are detected during the pre-construction surveys.

CDFW requests the County evaluate the direct, indirect, and cumulative impacts to burrowing owl through the DBESP process, before approval and certification of the MND. Appropriate analysis would include a discussion of the results of the focused burrowing owl surveys and suitable habitat surveys for the Project site. To avoid take of active nests, appropriate avoidance and minimization measures need to be identified in the MND to protect burrowing owl during the burrowing owl nesting season. CDFW recommends creation of a Burrowing Owl Plan if owls are detected on the Project Site.

To avoid take of active burrowing owl burrows (nests), CDFW requests the addition of the following mitigation measure. References to creating a DBESP are removed because the DBESP should have been sent to the Wildlife Agencies for 60-day review and response prior to approval of the Project. Requested additions are identified in **bold** and removed measures are in ~~strikeout~~.

MM BIO-XX: Burrowing Owl Survey. A 30-day preconstruction survey shall be conducted by a qualified biologist prior to the commencement of Project activities (e.g., vegetation clearing, clearing, and grubbing, tree removal, site watering) to determine the presence of owl or sign thereof. The results of the survey would be submitted to the County prior to obtaining a grading permit, in addition to a survey conducted and reported to CDFW within three days of ground disturbance or vegetation clearance following the recommended guidelines of the MSHCP.

If burrowing owl are not detected during the pre-construction survey, no further mitigation is required. If burrowing owl are detected, CDFW shall be sent written notification within 3 days of detection of burrowing owls. If active burrowing owl burrows are detected, the County shall not commence activities until no sign is present that the burrows are being used by adult or juvenile owls or following CDFW approval of a Burrowing Owl Plan as described below. If owl presence is difficult to determine, a qualified biologist shall monitor the burrows with motion-activated trail cameras for at least 24 hours to evaluate burrow occupancy. The onsite qualified biologist will verify the nesting effort has finished according to methods identified in the Burrowing Owl Plan.

The Burrowing Owl Plan shall be prepared in accordance with guidelines in the CDFW Staff Report on Burrowing Owl (March 2012) and MSHCP. The qualified biologist and Project Applicant shall coordinate with the County, CDFW, and USFWS to develop a Burrowing Owl Plan to be approved by the County, CDFW, and USFWS prior to commencing Project activities. The Burrowing Owl Plan shall describe proposed avoidance, relocation, monitoring, minimization, and/or mitigation actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites and details on proposed buffers

if avoiding the burrowing owls or information on the adjacent or nearby suitable habitat available to owls for relocation. If no suitable habitat is available nearby for relocation, details regarding the creation and funding of artificial burrows (numbers, location, and type of burrows) and management activities for relocated owls shall also be included in the Burrowing Owl Plan. The County shall implement the Burrowing Owl Plan following CDFW and USFWS review and approval.

If burrowing owls are observed within Project Site(s) during Project implementation and construction, the County shall notify CDFW immediately in writing within 48 hours of detection. A Burrowing Owl Plan shall be submitted to CDFW for review and approval within two weeks of detection and no Project activity shall continue within 1000 feet of the burrowing owls until CDFW approves the Burrowing Owl Plan. The County shall be responsible for implementing appropriate avoidance and mitigation measures, including burrow avoidance, passive or active relocation, or other appropriate mitigation measures as identified in the Burrowing Owl Plan.

If ground-disturbing activities occur but the site is left undisturbed for more than 30 days, a preconstruction survey for burrowing owl shall be conducted and reported to CDFW as described above. If a burrowing owl is found, the same coordination described above shall be necessary.

A final letter report shall be prepared by the qualified biologist documenting the results of the passive relocation. The letter shall be submitted to CDFW prior to the start of Project activities.

MITIGATION AND MONITORING REPORTING PLAN

CDFW recommends updating the MND's proposed Biological Resources Mitigation Measures to include mitigation measures recommended in this letter. Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments [(Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15126.4(a)(2)]. As such, CDFW has provided comments and recommendations to assist the City in developing mitigation measures that are (1) consistent with CEQA Guidelines section 15126.4; (2) specific; (3) detailed (i.e., responsible party, timing, specific actions, location), and (4) clear for a measure to be fully enforceable and implemented successfully via mitigation, monitoring, and/or reporting program (Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15097). the County is welcome to coordinate with CDFW to further review and refine the Project's mitigation measures. Per Public Resources Code section 21081.6(a)(1), CDFW has provided the the County with a summary of our suggested mitigation measures and recommendations in the form of an attached Draft Mitigation and Monitoring Reporting Plan (MMRP; Attachment

1).

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 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 MND for the Perris Valley Channel Lateral B, Stage 4 Project, State Clearinghouse No. 2022090378 to assist in identifying and mitigating Project impacts on biological resources. CDFW personnel are available for consultation regarding biological resources and strategies to minimize impacts. CDFW requests that Riverside County Flood Control and Water Conservation County addresses CDFW's comments and concerns prior to adoption of the MND for the Project.

Questions regarding this letter or further coordination should be directed to Katrina Rehrer, Environmental Scientist, at katrina.rehrer@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Kim Freeburn-Marquez
Environmental Program Manager

Jerry Aguirre, Associate Flood Control Planner
Riverside County Flood Control and Water Conservation District
October 24, 2022
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ec: **California Department of Fish and Wildlife**
Heather Pert, Senior Environmental Scientist Supervisory
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Western Riverside County Regional Conservation Authority
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ATTACHMENTS

Attachment 1: MMRP for CDFW-Proposed Mitigation Measures

REFERENCES

California Department of Fish and Game (CDFG). 2012. Staff report on burrowing owl mitigation. State of California, Natural Resources Agency. Available for download at:
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline=true>

ATTACHMENT 1: MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

PURPOSE OF THE MMRP

The purpose of the MMRP is to ensure compliance with mitigation measures during Project implementation. Mitigation measures must be implemented within the time periods indicated in the table below.

TABLE OF MITIGATION MEASURES

The following items are identified for each mitigation measure: Mitigation Measure, Implementation Schedule, and Responsible Party for implementing the mitigation measure. The Mitigation Measure column summarizes the mitigation requirements. The Implementation Schedule column shows the date or phase when each mitigation measure will be implemented. The Responsible Party column identifies the person or agency that is primarily responsible for implementing the mitigation measure.

Biological (BIO) Mitigation Measures (MM)	Implementation Schedule	Responsible Party
MM BIO-XX: Riparian/Riverine Resources. The County approved a Determination of Biologically Equivalent or Superior Preservation (DBESP) to address impacts to riparian/riverine resources, MSHCP Section 6.1.2. The U.S. Fish and Wildlife Service and California Department of Fish and Wildlife reviewed and responded to the DBESP. As identified in the DBESP report, the proposed impacts are [update with numbers] of acres, and the proposed mitigation sufficient to offset impacts MSHCP riparian/riverine areas is [update with DBESP results and findings]. The County shall implement the avoidance, minimization, and mitigation measures identified in the DBESP.	Prior to start of Project activities	Project Proponent
MM Bio-XX: Prior to the grading the Project site and prior to the start of Project activities, the Applicant shall notify the California Department of Fish and Wildlife (CDFW) for impacts to Fish and Game Code section 1602 resources. The applicant shall either receive a Streambed Alteration Agreement or written documentation from CDFW that a Streambed Alteration Agreement is not needed.	Prior to start of Project activities	Project Proponent
MM BIO-XX: Nesting Bird Survey. Site preparation activities (ground disturbance, construction activities, and/or removal of trees and vegetation) for all Project activities shall be avoided, to the greatest extent possible, during the nesting season of potentially occurring nesting species. Additionally, raptors (birds of prey) are known to begin nest building in January or	Prior to commencing ground- or vegetation disturbing activities	Project Proponent

<p>February. If vegetation clearing is to occur between January 1 and February 15, a nesting raptor survey shall be conducted within the project site, including a 500-foot buffer, no more than three days prior to vegetation removal.</p> <p>If site-preparation activities must take place during the nesting/breeding season, a qualified biologist shall be retained to perform a pre-construction survey for nesting birds. A pre-activity field survey shall be conducted by a qualified biologist prior to the issuance of grading permits for such project to determine if active nests of species protected by the MBTA or the California Fish and Game Code are present in the construction zone in addition to ongoing monitoring, and if necessary, establishment of minimization measures. The Project Applicant shall adhere to the following:</p> <ol style="list-style-type: none">1. Applicant shall designate a biologist (Designated Biologist) experienced in: identifying local and migratory bird species of special concern; conducting bird surveys using appropriate survey methodology; nesting surveying techniques, recognizing breeding and nesting behaviors, locating nests and breeding territories, and identifying nesting stages and nest success; determining/establishing appropriate avoidance and minimization measures; and monitoring the efficacy of implemented avoidance and minimization measures.2. Pre-activity field surveys shall be conducted at the appropriate time of day/night, during appropriate weather conditions, no more than 3 days prior to the initiation of Project activities. Surveys shall encompass all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures. Survey duration shall take into consideration the size of the Project site; density, and complexity of the habitat; number of survey participants; survey techniques employed; and shall be sufficient to ensure the data collected is complete and accurate.		
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<p>If active nests are not located within the implementing project site, no biological monitor is needed. If active bird nests are confirmed to be present during the pre-construction survey, an appropriate buffer zone shall be established by a qualified biologist immediately based on their best professional judgement and experience, the buffer around the nest shall be delineated and flagged, and no construction activity shall occur within the buffer area until a qualified biologist determines nesting species have fledged and the nest is no longer active or the nest has failed. A minimum buffer of 500 feet around an active listed species or raptor nest, 300 feet around active passerine (perching birds or songbirds), sensitive, or protected bird nests (non-listed), or 1000 feet of sensitive or protected songbird nests. The Designated Biologist shall monitor the nest at the onset of project activities, and at the onset of any changes in such project activities (e.g., increase in number or type of equipment, change in equipment usage, etc.) to determine the efficacy of the buffer. If the Designated Biologist determines that such project activities may be causing an adverse reaction, the Designated Biologist shall adjust the buffer accordingly or implement alternative avoidance and minimization measures, such as redirecting or rescheduling construction or erecting sound barriers. All work within these buffers will be halted until the nesting effort is finished (i.e., the juveniles are surviving independent from the nest). The onsite qualified biologist will review and verify compliance with these nesting avoidance buffers and will verify the nesting effort has finished. Work can resume within these avoidance areas when no other active nests are found. Upon completion of the survey and nesting bird monitoring, a report shall be prepared and submitted to the County for mitigation monitoring compliance record keeping.</p>		
<p>MM BIO-1: Burrowing Owl Preconstruction Survey. A 30-day preconstruction survey shall be conducted by a qualified biologist prior to the commencement of Project activities (e.g., vegetation clearing, clearing, and grubbing, tree removal, site watering) to determine the presence of owl or sign thereof. The results of the survey would</p>	<p>Prior to commencing ground- or vegetation disturbing activities</p>	<p>Project Proponent</p>

<p>be submitted to the County prior to obtaining a grading permit, in addition to a survey conducted and reported to CDFW within three days of ground disturbance or vegetation clearance following the recommended guidelines of the MSHCP.</p> <p>If burrowing owl are not detected during the pre-construction survey, no further mitigation is required. If burrowing owl are detected, CDFW shall be sent written notification within 3 days of detection of burrowing owls. If active burrowing owl burrows are detected, the County shall not commence activities until no sign is present that the burrows are being used by adult or juvenile owls or following CDFW approval of a Burrowing Owl Plan as described below. If owl presence is difficult to determine, a qualified biologist shall monitor the burrows with motion-activated trail cameras for at least 24 hours to evaluate burrow occupancy. The onsite qualified biologist will verify the nesting effort has finished according to methods identified in the Burrowing Owl Plan.</p> <p>The Burrowing Owl Plan shall be prepared in accordance with guidelines in the CDFW Staff Report on Burrowing Owl (March 2012) and MSHCP. The qualified biologist and Project Applicant shall coordinate with the County, CDFW, and USFWS to develop a Burrowing Owl Plan to be approved by the County, CDFW, and USFWS prior to commencing Project activities. The Burrowing Owl Plan shall describe proposed avoidance, relocation, monitoring, minimization, and/or mitigation actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites and details on proposed buffers if avoiding the burrowing owls or information on the adjacent or nearby suitable habitat available to owls for relocation. If no suitable habitat is available nearby for relocation, details regarding the creation and funding of artificial burrows (numbers, location, and type of burrows) and management activities for relocated owls shall also be included in the Burrowing Owl Plan. the County shall implement the Burrowing Owl Plan following CDFW and USFWS review and approval.</p> <p>If burrowing owls are observed within Project Site(s) during Project</p>		
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<p>implementation and construction, the County shall notify CDFW immediately in writing within 48 hours of detection. A Burrowing Owl Plan shall be submitted to CDFW for review and approval within two weeks of detection and no Project activity shall continue within 1000 feet of the burrowing owls until CDFW approves the Burrowing Owl Plan. the County shall be responsible for implementing appropriate avoidance and mitigation measures, including burrow avoidance, passive or active relocation, or other appropriate mitigation measures as identified in the Burrowing Owl Plan</p> <p>If ground-disturbing activities occur but the site is left undisturbed for more than 30 days, a preconstruction survey for burrowing owl shall be conducted and reported to CDFW as described above. If a burrowing owl is found, the same coordination described above shall be necessary.</p> <p>A final letter report shall be prepared by the qualified biologist documenting the results of the passive relocation. The letter shall be submitted to CDFW prior to the start of Project activities.</p>		
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