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Governor's Office of Planning & Research

**JAN 26 2023**

## STATE CLEARING HOUSE

January 25, 2023

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**Subject: Oakdale Irrigation District 10-Year Out-Of-District Water Sale Program  
Notice of Preparation of a Draft Initial Study / Mitigated Negative  
Declaration,  
State Clearinghouse No. 2022120631, Stanislaus County**

Dear Scot Moody:

The California Department of Fish and Wildlife (CDFW) received the Draft Program Initial Study and Mitigated Negative Declaration (IS/MND) regarding the 10-Year Out-Of-District Water Sale Program (Project) from the Oakdale Irrigation District (Oakdale ID) for the above-referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

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, CDFW appreciates 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 the trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (*Id.*, § 1802). Similarly, for purposes of CEQA,

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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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CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

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 that 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.), related authorization as provided by the Fish and Game Code will be required.

**Bird Protection:** CDFW has jurisdiction over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs, and nests include section 3503 (regarding unlawful take, possession, or needless destruction of the nest or eggs of any bird), section 3503.5 (regarding the take, possession, or destruction of any birds-of-prey or their nests or eggs), and section 3513 (regarding unlawful take of any migratory nongame bird).

**Water Rights:** The capture of unallocated stream flows to artificially recharge groundwater aquifers is subject to appropriation and approval by the State Water Resources Control Board (SWRCB) pursuant to Water Code section 1200 et seq. CDFW, as Trustee Agency, is consulted by SWRCB during the water rights process to provide terms and conditions designed to protect fish and wildlife prior to appropriation of the State's water resources. Certain fish and wildlife are reliant upon aquatic and riparian ecosystems, which in turn are reliant upon adequate flows of water. CDFW therefore has a material interest in assuring that adequate water flows within streams for the protection, maintenance, and proper stewardship of those resources. CDFW provides, as available, biological expertise to review and comment on environmental documents and impacts arising from Project activities.

## **PROJECT DESCRIPTION SUMMARY**

**Lead Agency:** Oakdale ID

**Description:** The Project proposes to provide surplus surface water acquired under Oakdale ID's pre-1914 water right, when available, to 11,000 acres of irrigated land outside of the Oakdale ID boundaries in northeastern Stanislaus County, generally between March and September from 2023 to 2032. Varying levels of construction are anticipated for some of these out-of-district lands to receive the surplus water. Construction of pipelines and turnouts will be needed to connect to Oakdale ID facilities, and two private irrigation reservoirs up to 4 acres and 15 acres are proposed for

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construction. Oakdale ID estimates that up to 25,000 acre-feet of water could be conveyed through the system to out-of-district lands through the Project.

**Location:** The Project area includes several parcels located in northeastern Stanislaus County. Some parcels are adjacent to the Oakdale ID service area and other parcels located farther outside the Oakdale ID service area.

**Objectives and Needs:** As the lead agency under CEQA, Oakdale ID's primary objectives include the following:

- Supplementing the irrigation demand of nearby lands that are currently solely reliant on groundwater with surface water to alleviate some of the stress on the local aquifers.
- Maximize use of conserved water determined to be surplus to Oakdale ID in-district demand.
- Protecting the surface water right of in-district customers, while maintaining affordable rates by generating outside revenue for continued capital improvements that increase conservation.

## COMMENTS AND RECOMMENDATIONS

### Biological Resources

CDFW offers the comments and recommendations below to assist Oakdale ID in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (i.e. biological resources). Editorial comments or other suggestions may also be included to improve the document. Based on a review of the Project description, a review of California Natural Diversity Database (CNDDDB) records, and a review of aerial photographs of the Project boundary and surrounding habitat, several special-status species could potentially be impacted by Project activities. Project-related construction activities within the Project boundary, including but not limited to construction and operation of water recharge facilities and introduction of surface water flows for storage, could impact the special-status plant and wildlife species and habitats known to occur in the area.

In particular, CDFW is concerned regarding potential impacts for special status species and habitats known to occupy the Project area, including the State threatened Swainson's hawk (*Buteo swainsoni*) and tricolored blackbird (*Agelaius tricolor*); the State endangered and fully protected bald eagle (*Haliaeetus leucocephalus*); the State and federal threatened California tiger salamander – central California Distinct Population Segment (DPS) (*Ambystoma californiense* pop. 1); the federal endangered vernal pool tadpole shrimp (*Lepidurus packardii*) and Conservancy fairy shrimp (*Branchinecta conservation*); the federal threatened vernal pool fairy shrimp (*Branchinecta lynchi*); the State candidate endangered Crotch bumble bee (*Bombus*

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*crotchii*) and western bumble bee (*Bombus occidentalis*); the State and federal endangered and California Rare Plant Rank (CRPR) 1B.1 Hartweg's golden sunburst (*Pseudobahia bahifolia*) and hairy Orcutt grass (*Orcuttia pilosa*); the State endangered, federal threatened, and CRPR 1B.2 succulent owl's-clover (*Castilleja campestris* var. *succulenta*) and San Joaquin Orcutt grass (*Orcuttia inaequalis*); the State endangered and CRPR 1B.1 Delta button celery (*Eryngium racemosum*); the State endangered, federal threatened, and CRPR 1B.1 Colusa grass (*Neostapfia colusana*); the State rare, federal endangered, and CRPR 1B.1 Greene's tuctoria (*Tuctoria greenei*); the federal threatened and CRPR 1B.2 Hoover's spurge (*Euphorbia hooveri*); the CRPR 1B.1 legenere (*Legenere limosa*) and veiny monardella (*Monardella venosa*); the CRPR 1B.2 Ahart's dwarf rush (*Juncus leiospermus* var. *ahartii*), Tuolumne button-celery (*Eryngium pinnatisectum*), subtle orache (*Atriplex subtilis*), and spiny-sepaled button-celery (*Eryngium spinosepalum*); the CRPR 1B.3 beaked clarkia (*Clarkia rostrata*) and pincushion navaretia (*Navarretia myersii* spp. *Myersii*); the CRPR 2B.2 dwarf downingia (*Downingia pusilla*); and the State species of special concern burrowing owl (*Athene cunicularia*), American badger (*Taxidea taxus*), Northern California legless lizard (*Anniella pulchra*), Townsend's big-eared bat (*Corynorhinus townsendii*), hoary bat (*Lasiurus cinereus*), pallid bat (*Antrozous pallidus*), western mastiff bat (*Eumops perotis californicus*), western red bat (*Lasiurus blossevillii*), western pond turtle (*Emys marmorata*), and western spadefoot (*Spea hammondi*). Other species of birds, amphibians, reptiles, mammals, fish, and plants also compose the local ecosystem within the Project boundary. Surface and ground water dependent ecosystems, vernal pool, swale, riparian, wetland habitats are present within the Project boundary. These habitats, as well as the special status species that inhabit these habitats, would be impacted by any proposed activities on lands not already under row or tree crop cultivation.

The Stanislaus River downstream of Goodwin Dam supports the federal threatened Central Valley steelhead DPS (*Oncorhynchus mykiss irideus* pop. 11), and the State species of special concern fall-run Central Valley Chinook salmon (*Oncorhynchus tshawytscha*). The San Joaquin River supports the nonessential experimental population of spring run Central Valley Chinook salmon, for which the San Joaquin River Restoration Program goal is to restore a self-sustaining fishery. CDFW documented the presence of the experimental spring-run Chinook salmon in the Tuolumne and Stanislaus Rivers during the 2021 escapement surveys, establishing the San Joaquin River as a migratory corridor for spring/fall Chinook and steelhead and likely providing rearing habitat. Other special status fish species known to occur include the federal threatened green sturgeon – southern Distinct Population Segment (*Acipenser medirostris* pop. 1), and the State species of special concern hardhead (*Mylopharodon conocephalus*) and white sturgeon (*Acipenser transmontanus*). Any potential impacts to instream flow requirements for the Stanislaus River, downstream of Goodwin Dam and affecting fish and wildlife, are of concern to CDFW.

Please note that the CNDDDB is populated by records which are voluntary submissions of species detections. As a result, species may be present in locations not depicted in

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the CNDDDB but where there is suitable habitat and features capable of supporting species. A lack of an occurrence record in the CNDDDB does not mean a species is not present. In order to adequately assess any potential Project-related impacts to biological resources, surveys conducted by a qualified biologist/botanist during the appropriate survey period(s) and using the appropriate protocol survey methodology are warranted in order to determine whether or not any special status species are present at or near the Project area.

## **I. Mitigation Measure or Alternative and Related Impact Shortcoming**

**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 United States Fish and Wildlife Service (USFWS)?**

### **COMMENT 1: Swainson's Hawk (SWHA)**

**Issues and Impacts:** SWHA have been documented in areas of suitable habitat within the Project vicinity (CDFW 2022a). Undeveloped and agricultural land in the surrounding area provide suitable foraging habitat for SWHA, and any trees in or near the Project area may also provide suitable nesting habitat. SWHA exhibit high nest-site fidelity year after year and lack of suitable nesting habitat limits their local distribution and abundance (CDFW 2016). Approval of the Project may lead to subsequent ground-disturbing activities that involve noise, groundwork, construction of structures, and movement of workers that could affect nests and has the potential to result in nest abandonment and loss of foraging habitat. In addition, conversion of undeveloped and agricultural land can directly influence distribution and abundance of SWHA, due to the reduction in foraging habitat. Groundwater pumping, surface water diversion, and habitat conversion may result in loss of riparian habitat and subsequent loss of nesting habitat.

Mitigation Measure MM-BR-10c of the IS/MND states that if active nests are detected during preconstruction surveys, a biologist would determine an appropriate no-disturbance construction setback based on CDFW guidelines, but does not specify the setback distance for SWHA. Without appropriate avoidance and minimization measures for SWHA, potential significant impacts that may result from Project activities include nest abandonment, loss of nest trees, loss of foraging habitat that would reduce nesting success (loss or reduced health or vigor of eggs or young), and direct mortality.

### **Recommended Mitigation Measure 1: Focused SWHA Surveys**

CDFW recommends that a qualified biologist conduct surveys for nesting SWHA following the entire survey methodology developed by the SWHA Technical Advisory Committee (SWHA TAC 2000) prior to Project implementation.

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**Recommended Mitigation Measure 2: SWHA Avoidance**

CDFW recommends that if Project-specific activities will take place during the SWHA nesting season (i.e., March 1 through September 15) and active SWHA nests are present, a minimum ½-mile no-disturbance buffer be delineated and maintained around each nest, regardless of when or how it was detected, until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival.

**Recommended Mitigation Measure 3: SWHA Take Authorization**

CDFW recommends that in the event an active SWHA nest is detected, and a ½-mile no-disturbance buffer is not feasible, consultation with CDFW occur to discuss how to implement the Project and avoid take. If take cannot be avoided, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081, subdivision (b) is necessary to comply with CESA. Alternately, the applicant can assume presence of SWHA and obtain an ITP.

**Recommended Mitigation Measure 4: Loss of SWHA Foraging Habitat**

CDFW recommends compensation for the loss of SWHA foraging habitat as described in the CDFW *Staff Report Regarding Mitigation for Impacts to Swainson's Hawks* (Staff Report) (CDFG 1994) to reduce impacts to foraging habitat to less than significant. The Staff Report recommends that mitigation for habitat loss occur for any project proposed within 10 miles from known nest sites.

**Recommended Mitigation Measure 5: SWHA Tree Removal**

CDFW recommends that the removal of known SWHA nest trees, even outside of the nesting season, be replaced with appropriate native tree species planting at a ratio of 3:1 at or near the Project area or in another area that will be protected in perpetuity, to offset the local and temporal impacts of nesting habitat loss.

**COMMENT 2: Bald Eagle (BAEA):**

**Issues and Impacts:** The IS/MND acknowledges that nesting BAEA have the potential to occur in the Project area and its vicinity. Mitigation Measure BIO-3B establishes a 660-foot nest buffer, which may be insufficient to avoid impacts to nesting eagles. Without appropriate avoidance and minimization measures, potentially significant impacts associated with the Project's construction include loss of foraging and/or nesting habitat, nest abandonment, reduced reproductive success, and reduced health and vigor of eggs and/or young.

Without appropriate survey methods, eagles nesting in the vicinity of a project can remain undetected resulting in avoidance and minimization measures not being effectively implemented (Driscoll 2010). Depending on the timing of construction, Project activities including noise, vibration, odors, and movement of workers or equipment could affect nests and also have the potential to result in nest abandonment, significantly impacting local nesting raptors.

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**Recommended Mitigation Measure 6: Focused Surveys for Nesting Eagles**

CDFW recommends that a qualified biologist conduct surveys for nesting raptors following the *Protocol for Evaluating Bald Eagle Habitat and Populations in California* (Jackman and Jenkins 2004). If ground-disturbing activities take place during the typical bird breeding season of February 1 through September 15, CDFW recommends that additional pre-construction surveys for active nests be conducted by a qualified biologist no more than 10 days prior to the start of construction.

**Recommended Mitigation Measure 7: Eagle Avoidance**

If an active eagle nest is found, CDFW recommends implementation of a minimum ½-mile no-disturbance buffer until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival. If nesting eagles are detected and the ½-mile no-disturbance nest buffer is not feasible, consultation with CDFW is warranted to determine if the Project can avoid take.

Please note that BAEA is a State fully protected species and pursuant to Fish and Game Code section 3511, CDFW cannot authorize their incidental take. CDFW recommends implementation of a minimum ½-mile no-disturbance buffer around identified BAEA nests until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest site for survival.

**COMMENT 3: Tricolored Blackbird (TRBL)**

**Issues and Impacts:** TRBL are known to occur in the Project area (CDFW 2022a), and review of aerial imagery indicates that suitable habitat types within the Project area includes wetlands, ponds, and flood-irrigated agricultural land, which is an increasingly important nesting habitat type for TRBL (Meese et al. 2017). TRBL aggregate and nest colonially, forming colonies of up to 100,000 nests (Meese et al. 2014), and approximately 86% of the global population is found in the San Joaquin Valley (Kelsey 2008, Weintraub et al. 2016). For these reasons, disturbance to nesting colonies can cause entire nest colony site abandonment and loss of all unfledged nests (Meese et al. 2014). Without appropriate avoidance and minimization measures for TRBL, potential significant impacts include nesting habitat loss, nest and/or colony abandonment, reduced reproductive success, and reduced health and vigor of eggs and/or young.

**Recommended Mitigation Measure 8: TRBL Surveys**

CDFW recommends that Project activities be timed to avoid the avian nesting season of February 1 through September 15. If Project activity that could disrupt nesting must take place during that time, CDFW recommends that a qualified biologist conduct surveys for nesting TRBL no more than 10 days prior to the start of implementation to evaluate presence or absence of TRBL nesting colonies in proximity to Project activities and to evaluate potential Project-related impacts.

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**Recommended Mitigation Measure 9: TRBL Colony Avoidance:**

If an active TRBL nesting colony is found during surveys, CDFW recommends implementation of a minimum 300-foot no-disturbance buffer, in accordance with CDFW's (2015) *Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields in 2015*, until the breeding season has ended or until a qualified biologist has determined that nesting has ceased and the young have fledged and are no longer reliant upon the colony or parental care.

**Recommended Mitigation Measure 10: TRBL Take Authorization**

In the event that a TRBL nesting colony is detected during surveys, consultation with CDFW is warranted to discuss whether the Project can avoid take and, if take avoidance is not feasible, to acquire an ITP pursuant to Fish and Game Code section 2081, subdivision (b), prior to any Project activities.

**COMMENT 4: California Tiger Salamander (CTS)**

**Issues and Impacts:** IS/MND Mitigation Measures may result in take of CTS, specifically BIO-5B (CTS exclusion fencing) and BIO-5C (CTS removal), and an ITP may be necessary to implement these measures. CTS are known to occur in the Project area and its vicinity (CDFW 2022a), and review of aerial imagery indicates the presence of several wetland features. In addition, the Project area or its immediate surroundings may support small mammal burrows, a requisite upland habitat feature for CTS. Without appropriate avoidance and minimization measures for CTS, potential significant impacts associated with any construction or ground disturbing activity include burrow collapse; inadvertent entrapment; reduced reproductive success; reduction in health and vigor of eggs, larvae and/or young; and direct mortality of individuals. In addition, depending on the design of any activity, the Project has the potential to result in creation of barriers to dispersal.

**Recommended Mitigation Measure 11: CTS Habitat Assessment**

CDFW recommends that a qualified biologist conduct a habitat assessment well in advance of Project implementation, to determine if any Project area or its vicinity contains suitable upland or breeding habitat for CTS.

**Recommended Mitigation Measure 12: Focused CTS Surveys**

If the Project area does contain suitable habitat for CTS, CDFW recommends that a qualified biologist evaluate potential Project-related impacts to CTS prior to ground-disturbing activities using the USFWS (2003) *Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander*. CDFW advises that the survey include a 100-foot buffer around the areas in wetland and upland habitats that could support CTS.

**Recommended Mitigation Measure 13: CTS Avoidance**

CDFW advises that avoidance for CTS include a minimum 50-foot no disturbance buffer delineated around all small mammal burrows and a minimum 250-foot no-



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disturbance buffer around potential breeding pools within and adjacent to the Project area. CDFW also recommends avoiding any impacts that could alter the hydrology or result in sedimentation of breeding pools.

**Recommended Mitigation Measure 14: CTS Take Authorization**

If CTS occupy the Project area and if take cannot be avoided, take authorization would be warranted prior to initiating Project activities, by acquiring an ITP pursuant to Fish and Game Code section 2081, subdivision (b), before Project ground or vegetation disturbing activities occur. Alternatively, in the absence of protocol surveys, the applicant can assume presence of CTS within the Project area and obtain an ITP.

**COMMENT 5: Vernal Pool Fairy Shrimp, Vernal Pool Tadpole Shrimp, Conservancy Fairy Shrimp**

**Issues and Impacts:** Occurrences of these species have been noted within the Project boundary (CDFW 2022a). These small, freshwater crustaceans complete their entire lifecycle within a variety of vernal pool habitats and temporary waters between November and early May. Vernal pool fairy shrimp have been documented within grassland, agricultural, silvicultural, and aquacultural settings throughout California (USFWS 2007). Review of aerial imagery indicates the presence of several depressional features in the Project area that have the potential to support Vernal Pool Fairy Shrimp, Vernal Pool Tadpole Shrimp, and Conservancy Fairy Shrimp.

**Recommended Mitigation Measure 15: Vernal Pool Fairy Shrimp, Vernal Pool Tadpole Shrimp, Conservancy Fairy Shrimp Habitat Assessment**

In advance of any Project activities occurring in non-cultivated areas, CDFW recommends that a qualified biologist conduct protocol level surveys in accordance with the USFWS (2017) *Survey Guidelines for the Listed Large Branchiopods* at the appropriate time of year to determine the existence and extent of fairy shrimp and tadpole shrimp. If through surveys it is determined that these species are occupying or have the potential to occupy the Project site, consultation with CDFW is warranted to determine appropriate avoidance and minimization measures including adequate implementation of no-disturbance buffers.

**COMMENT 6: Special-Status Plants**

**Issues and Impacts:** State- and federal listed, State rare, and other special-status plant species meeting the definition of rare or endangered under CEQA section 15380, are known to occur throughout the Project boundary and surrounding area, including the species listed above (CDFW 2022a).

Many of the plant species listed above are threatened by grazing and agricultural, urban, and energy development, and many historical occurrences of these species

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are presumed extirpated (CNPS 2021). Though new populations have recently been discovered, impacts to existing populations have the potential to significantly impact populations of plant species. Without appropriate avoidance and minimization measures for special-status plants, potential significant impacts associated with subsequent Project-specific activities include loss of habitat, loss or reduction of productivity, and direct mortality.

**Recommended Mitigation Measure 16: Special-Status Plant Surveys**

CDFW recommends that individual Project sites be surveyed for special-status plants by a qualified botanist following the *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (CDFG 2018). This protocol, which is intended to maximize detectability, includes the identification of reference populations to facilitate the likelihood of field investigations occurring during the appropriate floristic period. Note that due to variations in annual rainfall that CDFW recommends plant surveys be conducted over one season (Spring through Fall) and repeated over two separate seasons to maximize detection of special-status plants.

**Recommended Mitigation Measure 17: Special-Status Plant Avoidance**

CDFW recommends that special-status plant species be avoided whenever possible by delineating and observing a no-disturbance buffer of at least 50 feet from the outer edge of the plant population(s) or specific habitat type(s) required by special-status plant species. If buffers cannot be maintained, then consultation with CDFW may be warranted to determine appropriate minimization and mitigation measures for impacts to special-status plant species.

**Recommended Mitigation Measure 18: Listed Plant Species Take Authorization**

If a State-listed plant species is identified during botanical surveys, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided, take authorization is warranted. Take authorization would occur through issuance of an ITP, pursuant to Fish and Game Code section 2081, subdivision (b).

**COMMENT 7: Burrowing Owl (BUOW)**

**Issues and Impacts:** BUOW inhabit open grassland containing small mammal burrows, a requisite habitat feature used for nesting and cover. BUOW may also occur in some agricultural areas, ruderal grassy fields, vacant lots, and pastures if the vegetation structure is suitable and there are useable burrows and foraging habitat in the area (Gervais et al. 2008). BUOW occurrences have been documented in the Project vicinity, and habitat both within and bordering the Project site supports suitable habitat for BUOW (CDFW 2022a).

BUOW rely on burrow habitat year-round for their survival and reproduction. The Project and vicinity contain remnant undeveloped land but is otherwise intensively

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managed for agriculture. Potentially significant impacts to nesting and non-nesting BUOW can also occur as a result of ground-impacting activity, such as grading and flooding within active and fallow agricultural areas, and as a result of noise, vibration, and other disturbance caused by equipment and crews. Potential impacts associated with Project activities and land conversion include habitat loss, burrow collapse, inadvertent entrapment, nest abandonment, reduced reproductive success, reduction in health and vigor of eggs and/or young, and direct mortality.

**Recommended Mitigation Measure 19: BUOW Habitat Assessment**

CDFW recommends that a qualified biologist conduct a habitat assessment in advance of implementation of Project activities, to determine if the Project area or its vicinity contains suitable habitat for BUOW.

**Recommended Mitigation Measure 20: BUOW Surveys**

Where suitable habitat is present on or in the vicinity of the Project area, CDFW recommends assessing presence or absence of BUOW by having a qualified biologist conduct surveys following the California Burrowing Owl Consortium (1993) *Burrowing Owl Survey Protocol and Mitigation Guidelines* and the CDFG (2012) *Staff Report on Burrowing Owl Mitigation*. Specifically, these documents suggest three or more surveillance surveys conducted during daylight, with each visit occurring at least three weeks apart during the peak breeding season of April 15 to July 15, when BUOW are most detectable. CDFW advises that surveys include a minimum 500-foot survey radius around the Project area.

**Recommended Mitigation Measure 21: BUOW Avoidance**

CDFW recommends that no-disturbance buffers, as outlined by CDFG (2012), be implemented prior to and during any ground-disturbing activities, and specifically that impacts to occupied burrows be avoided in accordance with the following table unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.

Location	Time of Year	Level of Disturbance		
		Low	Med	High
Nesting sites	April 1-Aug 15	200 m*	500 m	500 m
Nesting sites	Aug 16-Oct 15	200 m	200 m	500 m
Nesting sites	Oct 16-Mar 31	50 m	100 m	500 m

\* meters (m)

**Recommended Mitigation Measure 22: BUOW Eviction and Mitigation**

If BUOW are found within these recommended buffers and avoidance is not possible, CDFG (2012) states that evicting birds from burrows is considered a potentially significant impact under CEQA. If it is necessary for Project

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implementation, CDFW recommends that burrow exclusion be conducted by qualified biologists and only during the non-breeding season, before breeding behavior is exhibited and after the burrow is confirmed empty through non-invasive methods, such as surveillance. CDFW then recommends mitigation in the form of replacement of occupied burrows with artificial burrows at a minimum ratio of one burrow collapsed to one artificial burrow constructed (1:1) to mitigate for evicting BUOW and the loss of burrows. BUOW may attempt to colonize or re-colonize an area that will be impacted; thus, CDFW recommends ongoing surveillance at a rate that is sufficient to detect BUOW if they return.

### **COMMENT 8: Special-Status Bat Species**

**Issues and Impacts:** Townsend's big-eared bat have been documented to occur in the vicinity of the Project area (CDFW 2022a). The draft MND acknowledges that habitat features are present that have the potential to support western mastiff bat, pallid, hoary bat, and western red bat.

Western mastiff bat, pallid, and Townsend's big-eared bat are known to roost in buildings, caves, tunnels, cliffs, crevices, and trees. (CDFW 2022b, Lewis 1994, and Gruver 2006). Hoary bat and western red bat are highly associated with riparian habitat (Peirson et al. 2006 and CDFW 2022b). Project activities have the potential to affect habitat upon which special-status bat species depend for successful breeding and have the potential to impact individuals and local populations. Without appropriate avoidance and minimization measures, potential significant impacts resulting from ground- and vegetation-disturbing activities associated with Project activities include habitat loss, inadvertent entrapment, roost abandonment, reduced reproductive success, reduction in health and vigor of young, and direct mortality.

#### **Recommended Mitigation Measure 23: Bat Roost Habitat Assessment**

CDFW recommends that a qualified biologist conduct a habitat assessment well in advance of Project implementation to determine if the Project area or its immediate vicinity contains suitable roosting habitat for special-status bat species.

#### **Recommended Mitigation Measure 24: Bat Roost Surveys**

If suitable habitat is present, CDFW recommends assessing presence of special-status bat roosts by conducting surveys during the appropriate seasonal period of bat activity. CDFW recommends methods such as through evening emergence surveys or bat detectors to determine whether bats are present.

#### **Recommended Mitigation Measure 25: Bat Roost Disturbance Minimization and Avoidance**

If bats are present, CDFW recommends that a 100-foot no-disturbance buffer be placed around the roost and that a qualified biologist who is experienced with bats monitor the roost for signs of disturbance to bats from Project activity. If a bat roost is identified and work is planned to occur during the breeding season, CDFW

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recommends that no disturbance to maternity roosts occurs and that CDFW be consulted to determine measures to prevent breeding disruption or failure.

#### **COMMENT 9: Western Pond Turtle (WPT)**

**Issues and Impacts:** WPT are documented in the Project area (CDFW 2022a), and a review of aerial imagery shows requisite habitat features that WPT utilize for nesting, overwintering, dispersal, and basking occur in the Project area. These features include aquatic and terrestrial habitats such as rivers, lakes, reservoirs, ponded areas, irrigation canals, riparian and upland habitat. WPT are known to nest in the spring or early summer within 100 meters of a water body, although nest sites as far away as 500 meters have also been reported (Thomson et al. 2016). Noise, vegetation removal, movement of workers, construction, and ground disturbance as a result of Project activities have the potential to significantly impact WPT populations. Without appropriate avoidance and minimization measures for WPT, potentially significant impacts associated with Project activities could include nest reduction, inadvertent entrapment, reduced reproductive success, reduction in health or vigor of eggs and/or young, and direct mortality.

#### **Recommended Mitigation Measure 26: WPT Surveys**

CDFW recommends that a qualified biologist conduct focused surveys for WPT within 10 days prior to Project implementation. In addition, CDFW recommends that focused surveys for nests occur during the egg-laying season of March through August.

#### **Recommended Mitigation Measure 27: WPT Avoidance and Minimization**

CDFW recommends that any WPT nests that are discovered remain undisturbed with a no-disturbance buffer maintained around the nest until the eggs have hatched and neonates are no longer in the nest or Project areas. If WPT individuals are discovered at the site during surveys or Project activities, CDFW recommends that they be allowed to move out of the area of their own volition without disturbance.

#### **COMMENT 10: Crotch Bumble Bee (CBB) and Western Bumble Bee (WBB)**

**Issues and Impacts:** The draft MND acknowledges that CBB and WBB have been documented within the Project area (CDFW 2022a). Suitable habitat includes areas of grasslands and upland scrub that contain requisite habitat elements, such as small mammal burrows. These bumble bee species primarily nest in late February through late October underground in abandoned small mammal burrows but may also nest under perennial bunch grasses or thatched annual grasses, underneath brush piles, in old bird nests, and in dead trees or hollow logs, and in structures (Williams et al. 2014, Hatfield et al. 2015). Overwintering sites utilized by mated queens include soft, disturbed soil (Goulson 2010), or under leaf litter or other debris (Williams et al. 2014).

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CBB and WBB have each experienced range-wide declines in abundance and range restrictions, including historic areas of California's Central Valley (Central Valley Xerces Society et al. 2018). Without appropriate avoidance and minimization measures, potentially significant impacts associated with ground- and vegetation-disturbing activities associated with construction of the Project include loss of foraging plants, changes in foraging behavior, burrow collapse, nest abandonment, reduced nest success, reduced health and vigor of eggs, young and/or queens, in addition to direct mortality.

**Recommended Mitigation Measure 28: CBB and WBB Surveys and Avoidance**

CDFW recommends that all small mammal burrows and thatched/bunch grasses be surveyed for the species and their nests during the optimal flight period of April 1 through July 31 during the peak blooming period of preferred plant species prior to Project implementation. CDFW recommends avoidance of detected queens and workers, and to allow CBB and WBB to leave the Project site of their own volition. Avoidance and protection of detected nests prior to or during Project implementation is recommended with delineation and observance of a 50-foot no-disturbance buffer.

**Recommended Mitigation Measure 29: CBB and WBB Take Authorization**

Any detection of CBB or WBB prior to or during Project implementation warrants consultation with CDFW to discuss how to avoid take. If take cannot be avoided, take authorization would be warranted through issuance of an ITP, pursuant to Fish and Game Code section 2081, subdivision (b).

**COMMENT 11: Other State Species of Special Concern**

**Issues and Impacts:** American badger, California legless lizard, and western spadefoot are known to inhabit grassland and upland shrub areas with friable soils (Williams 1986, Thomson et al. 2016). These species have been documented to occur in the vicinity of the Project, which supports requisite habitat elements for these species (CDFW 2022a). Habitat loss threatens all species mentioned above (Williams 1986, Thomson et al. 2016). Habitat within and adjacent to the Project represents some of the only remaining undeveloped land in the vicinity, which is otherwise intensively managed for agriculture. Without appropriate avoidance and minimization measures for these species, potentially significant impacts associated with ground disturbance include habitat loss, nest/den/burrow abandonment, which may result in reduced health or vigor of eggs and/or young, and direct mortality.

**Recommended Mitigation Measure 30: Habitat Assessment**

CDFW recommends that a qualified biologist conduct a habitat assessment in advance of project implementation, to determine if Project areas or their immediate vicinity contain suitable habitat for the species mentioned above.

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**Recommended Mitigation Measure 31: Surveys**

If suitable habitat is present, CDFW recommends that a qualified biologist conduct focused surveys for applicable species and their requisite habitat features to evaluate potential impacts resulting from ground and vegetation disturbance.

**Recommended Mitigation Measure 32: Avoidance**

Avoidance whenever possible is encouraged via delineation and observance of a 50-foot no-disturbance buffer around dens of mammals like the American badger as well as the entrances of burrows that can provide refuge for small mammals, reptiles, and amphibians.

**Would the Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by CDFW or USFWS?**

**COMMENT 12: Wetland, Vernal Pool, and Riparian Habitats**

**Issues and Impacts:** The Project area contains numerous waterways and wetland features, including vernal pools and swales within an agricultural landscape mosaic that also maintains undeveloped habitats. Project activities such as water recharge and any associated ground disturbances have the potential to involve temporary and permanent impacts to these habitat features. Project activities have the potential to result in temporary and permanent impacts to these features through groundwater pumping, habitat conversion, grading, fill, conveyance and infrastructure construction, and related development. Riparian and associated floodplain and wetland areas are valuable for their ecosystem processes such as protecting water quality by filtering pollutants and transforming nutrients; stabilizing stream banks to prevent erosion and sedimentation/siltation; and dissipating flow energy during flood conditions, thereby spreading the volume of surface water, reducing peak flows downstream, and increasing the duration of low flows by slowly releasing stored water into the channel through subsurface flow. Vernal pools provide unique wetland habitat for many special status and endemic plant and aquatic wildlife species. The Fish and Game Commission policy regarding wetland resources discourages development or conversion of wetlands that results in any net loss of wetland acreage or habitat value. Habitat conversion, construction, grading, and fill activities within these features also has the potential to impact downstream waters as a result of Project site impacts leading to erosion, scour, and changes in stream morphology.

**Recommended Mitigation Measure 33: Stream and Wetland Mapping**

CDFW recommends that formal stream mapping and wetland delineation be conducted by a qualified biologist or hydrologist, as warranted, to determine the baseline location, extent, and condition of streams (including any floodplain) and wetlands within and adjacent to the Project area. Please note that while there is overlap, State and federal definitions of wetlands differ, and complete stream

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mapping commonly differs from delineations used by the United States (U.S.) Army Corps of Engineers specifically to identify the extent of Waters of the U.S.

Therefore, it is advised that the wetland delineation identify both State and federal wetlands in the Project area as well as the extent of all streams including floodplains, if present. CDFW advises that site map(s) depicting the extent of any activities that may affect wetlands, lakes, or streams be included with any Project site evaluations, to clearly identify areas where stream/riparian and wetland habitats could be impacted from Project activities.

#### **Recommended Mitigation Measure 34: Stream and Wetland Habitat Mitigation**

CDFW recommends that the potential direct and indirect impacts to stream/riparian and wetland/vernal pool habitat be analyzed according to each Project activity. Based on those potential impacts, CDFW recommends that the IS/MND include measures to avoid, minimize, and/or mitigate those impacts. CDFW recommends that impacts to riparian habitat, including biotic and abiotic features, take into account the effects to stream function and hydrology from riparian habitat loss or damage, as well as potential effects from the loss of riparian habitat to special-status species already identified herein. CDFW recommends that losses to vernal pools, swales, and other wetland or riparian habitats be offset with corresponding habitat restoration incorporating native vegetation to replace the value to fish and wildlife provided by the habitats lost from Project implementation. If on-site restoration to replace habitats is not feasible, CDFW recommends offsite mitigation by restoring or enhancing in-kind riparian or wetland habitat and providing for the long-term management and protection of the mitigation area, to ensure its persistence.

## **II. Editorial Comments and/or Suggestions**

**Cumulative Impacts:** The Project may have cumulative impacts to State-listed and other special status species and habitats that are not analyzed in the IS/MND. Given the extent of the Project's size, scope, 10-year timeframe, and potential for impacts to State-listed species, CDFW recommends that Oakdale ID evaluate the appropriateness of a Program Environmental Impact Report (PEIR) for the Project. The intent of a PEIR is to assess a large-scale program or suite of projects undertaken over a longer period of time and to analyze how the overall program will impact various resources, including biological resources. The primary purpose of a PEIR should be to analyze the cumulative impacts of the program and to serve as a document from which the smaller, proposed projects can be tiered with future CEQA documents prepared analyzing, in more detail, the specific impacts of each future project.

A draft PEIR would include a cumulative impacts analysis that CDFW recommends include all biological resources that will either be significantly or potentially significantly impacted by implementation of the Project, including those whose impacts are determined to be less than significant with mitigation incorporated or for those resources that are rare or in poor or declining health and will be impacted by the project, even if those impacts are relatively small (i.e. less than significant). CDFW recommends that



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cumulative impacts be analyzed using an acceptable methodology to evaluate the impacts of past, present, and reasonably foreseeable future projects on resources and be focused specifically on the resource, not the Project. An appropriate resource study area identified and utilized for the analysis is advised. CDFW staff is available for consultation in support of cumulative impacts analyses as a trustee and responsible agency under CEQA.

**Water Rights:** The Project proposes the diversion of up to 25,000 acre-feet per year of surface flow from Goodwin Reservoir. It is not clear how this amount of surface flow is accounted for other than that it is assumed to come from conserved water elsewhere within Oakdale ID's system. The IS/MND is also not clear whether this diversion will impact other agencies' instream flows required for the Stanislaus River downstream of Goodwin Dam, and result in impacts to fisheries, including the species listed above. As stated previously, the capture of unallocated stream flows to artificially recharge groundwater aquifers is subject to appropriation and approval by the SWRCB pursuant to Water Code section 1200 et seq. The IS/MND states that the Project operation would not require new or expanded water rights, and no additional water would be required beyond quantities currently managed by Oakdale ID, but no additional details regarding existing water rights are provided. CDFW recommends that the IS/MND include a detailed description of the water rights and water entitlements that would pertain to the Project and address any applications or change petitions that may be filed. CDFW, as Trustee Agency, is consulted by the SWRCB during the water rights process to provide terms and conditions designed to protect fish and wildlife prior to appropriation of the State's water resources. Given the potential for impacts to special status species and their habitats, it is advised that required consultation with CDFW occur well in advance of the SWRCB water right application process.

**Lake and Streambed Alteration:** Project activities that have the potential to substantially change the bed, bank, and channel of streams and associated wetlands may be subject to CDFW's regulatory authority pursuant to Fish and Game Code section 1600 et seq. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake (including the removal of riparian vegetation); (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral or intermittent as well as those that are perennial. CDFW is required to comply with CEQA in the issuance of a Lake or Streambed Alteration (LSA) Agreement; therefore, if the CEQA document approved for the Project does not adequately describe the Project and its impacts, a subsequent CEQA analysis may be necessary for LSA Agreement issuance. Additional information on notification requirements is available through the Central Region LSA Program at (559) 243-4593 or [R4LSA@wildlife.ca.gov](mailto:R4LSA@wildlife.ca.gov), and the CDFW website: <https://wildlife.ca.gov/Conservation/LSA>.

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**Nesting birds:** CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

CDFW encourages that Project implementation occur during the bird non-nesting season; however, if Project activities must occur during the breeding season (i.e., February through mid-September), the Project applicant is responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Code sections as referenced above.

To evaluate Project-related impacts to nesting birds, CDFW recommends that a qualified biologist conduct preconstruction surveys for active nests no more than 10 days prior to the start of ground disturbance to maximize the probability that nests that could potentially be impacted by the Project are detected. CDFW also recommends that surveys cover a sufficient area around the work site to identify nests and determine their status. A sufficient area means any area potentially affected by the Project. In addition to direct impacts (i.e., nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. Prior to initiation of construction activities, CDFW recommends that a qualified biologist conduct a survey to establish a behavioral baseline of all identified nests. Once construction begins, CDFW recommends that a qualified biologist continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends that the work causing that change cease and that CDFW be consulted for additional avoidance and minimization measures.

If continuous monitoring of identified nests by a qualified biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival. Variance from these no-disturbance buffers is possible when there is compelling biological or ecological reason to do so, such as when the construction area would be concealed from a nest site by topography. CDFW recommends that a qualified biologist advise and support any variance from these buffers.

**Endangered Species Act Consultation:** CDFW recommends consultation with the USFWS and the National Marine Fisheries Service well in advance of Project implementation, due to potential impacts to federal listed species. Take under the federal Endangered Species Act is more stringently defined than under CESA, and may also include significant habitat modification or degradation that could result in death or

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injury to a listed species, by interfering with essential behavioral patterns such as breeding, foraging, or nesting.

## ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database that 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 obtained at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email address: [CNDDDB@wildlife.ca.gov](mailto:CNDDDB@wildlife.ca.gov). The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

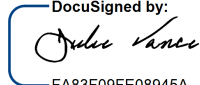
## FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

## CONCLUSION

CDFW appreciates the opportunity to comment on the IS/MND to assist Oakdale ID in identifying and mitigating Project impacts on biological resources. If you have questions regarding this letter, please contact Annette Tenneboe, Senior Environmental Scientist (Specialist), at (559) 580-3202 or by email at [Annette.Tenneboe@wildlife.ca.gov](mailto:Annette.Tenneboe@wildlife.ca.gov).

Sincerely,

  
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Regional Manager

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## REFERENCES

- California Burrowing Owl Consortium (CBOC). 1993. Burrowing Owl Survey Protocol and Mitigation Guidelines. Pages 171-177 in Lincer, J. L. and K. Steenhof (editors). 1993. The Burrowing Owl, Its Biology and Management. Raptor Research Report Number 9.
- California Department of Fish and Game (CDFG). 1994. Staff Report Regarding Mitigation for Impacts to Swainson's Hawks (*Buteo Swainsoni*) in the Central Valley of California. California Department of Fish and Game.  
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83992&inline>
- CDFG. 2012. Staff Report on Burrowing Owl Mitigation. California Department of Fish and Game. March 7, 2012.
- California Department of Fish and Wildlife (CDFW). 2015. Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields in 2015. March 19, 2015.
- CDFW. 2016. Five Year Status Review for Swainson's Hawk (*Buteo swainsoni*). California Department of Fish and Wildlife. April 11, 2016.
- CDFW. 2018. Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities. California Department of Fish and Wildlife. March 20, 2018.
- CDFW. 2022a. Biogeographic Information and Observation System (BIOS).  
<https://www.wildlife.ca.gov/Data/BIOS>. (Accessed 17 January 2023).
- CDFW. 2022b. California Wildlife Habitat Relationships System. Hoary Bat.  
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=2341&inline=1> Accessed 29 December 2022.
- California Native Plant Society. 2021. Inventory of Rare and Endangered Plants of California (online edition, v9-01 0.0). Website <http://www.rareplants.cnps.org>.
- Driscoll, D.E. 2010. Protocol for Golden Eagle Occupancy, Reproduction, and Prey Population Assessment. American Eagle Research Institute, Apache Jct., AZ. 55pp.
- Gervais, J. A., D. K. Rosenberg, and L. A. Comrack. 2008. Burrowing Owl (*Athene cunicularia*) In California Bird Species of Special Concern: A ranked assessment of species, subspecies, and distinct populations of birds of immediate conservation concern in California (W. D. Shuford and T. Gardali, editors).

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Studies of Western Birds 1. Western Field Ornithologists, Camarillo, California, and California Department of Fish and Game, Sacramento.

- Goulson, D. 2010. Bumblebees: behavior, ecology, and conservation. Oxford University Press, New York. 317pp.
- Gruver, J. C. and D. A. Keinath. 2006. Townsend's Big-eared Bat (*Corynorhinus townsendii*): A Technical Conservation Assessment. [Online]. USDA Forest Service, Rocky Mountain Region. Available:  
<http://www.fs.fed.us/r2/projects/scp/assessments/townsendbigearedbat.pdf>
- Hatfield, R., S. Jepsen, R. Thorp, L. Richardson, and S. Colla. 2015. *Bombus crotchii*. The IUCN Red List of Threatened Species 2015: e.T44937582A46440211.  
<https://dx.doi.org/10.2305/IUCN.UK.2015-2.RLTS.T44937582A46440211.en>.
- Jackman, R.E. and J.M. Jenkins. 2004. Protocol for Evaluating Bald Eagle Habitat and Populations in California. Prepared for U.S. Fish and Wildlife Service Endangered Species Division, Sacramento, CA, USA.
- Kelsey, R. 2008. Results of the tricolored blackbird 2008 census. Report submitted to U.S. Fish and Wildlife Service, Portland, OR, USA.
- Lewis, S. E. 1994. Night roosting ecology of pallid bats (*Antrozous pallidus*) in Oregon. The American Midland Naturalist, Vol. 132, pp. 219-226.
- Meese, R. J., E. C. Beedy, and W. J. Hamilton, III. 2014. Tricolored blackbird (*Agelaius tricolor*), The Birds of North America (P. G. Rodewald, Ed.). Ithaca: Cornell Lab of Ornithology; Retrieved from the Birds of North America: <https://birdsna-org.bnaproxy.birds.cornell.edu/Species-Account/bna/species/tribla>. Accessed December 15, 2017.
- Meese, R. J. 2017. Results of the 2017 Tricolored Blackbird Statewide Survey. California Department of Fish and Wildlife, Wildlife Branch, Nongame Wildlife Program Report 2017-04, Sacramento, CA. 27 pp. + appendices.
- Pierson, E. D., W. E. Rainey, and C. Corben. 2006. Distribution and status of Western red bats (*Lasiurus blossevillii*) in California. Calif. Dept. Fish and Game, Habitat Conservation Planning Branch, Species Conservation and Recovery Program Report 2006-04, Sacramento, CA 45 pp.
- Swainson's Hawk Technical Advisory Committee (SWHA TAC). 2000. Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in the Central Valley of California. Swainson's Hawk Technical Advisory Committee. May 31, 2000.

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Thomson, R. C., A. N. Wright, and H. B. Shaffer. 2016. California Amphibian and Reptile Species of Special Concern. California Department of Fish and Wildlife and University of California Press: 84-92.

USFWS. 2003. Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander, October 2003.

USFWS. 2007. Vernal Pool Fairy Shrimp (*Branchinecta lynchi*) 5-year Review: Summary and Evaluation. U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, Sacramento, California. September 2007.

USFWS. 2017. Survey Guidelines for the Listed Large Branchiopods. U. S. Fish and Wildlife Service, Pacific Southwest Region, Sacramento, California. Revised November 2017.

Weintraub, K., T. L. George, and S. J. Dinsmore. 2016. Nest survival of tricolored blackbirds in California's Central Valley. *Condor* 118(4): 850–861.

Williams, D. F. 1986. Mammalian species of special concern in California. Calif. Dept. Fish and Game, Sacramento. Admin. Rep. 86-1. 112pp.

Williams, P. H., R. W. Thorp, L. L. Richardson, and S. R. Colla. 2014. Bumble bees of North America: An Identification guide. Princeton University Press, Princeton, New Jersey. 208pp.

Xerces Society for Invertebrate Conservation, Defenders of Wildlife, and Center for Food Safety. 2018. A petition to the State of California Fish and Game Commission to list the Crotch bumble bee (*Bombus crotchii*), Franklin's bumble bee (*Bombus franklini*), Suckley cuckoo bumble bee (*Bombus suckleyi*), and western bumble bee (*Bombus occidentalis occidentalis*) as Endangered under the California Endangered Species Act. October 2018.

**Attachment 1**

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE  
RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM  
(MMRP)**

**PROJECT: Oakdale Irrigation District 10-Year Out-Of-District Water Sale Program**

**STATE CLEARINGHOUSE No.: 2022120631**

<b>RECOMMENDED MITIGATION MEASURES</b>	<b>STATUS/DATE/INITIALS</b>
<i>Before Project Activity</i>	
Recommended Mitigation Measure 1: Focused SWHA Surveys	
Recommended Mitigation Measure 2: SWHA Avoidance	
Recommended Mitigation Measure 3: SWHA Take Authorization	
Recommended Mitigation Measure 4: Loss of SWHA Foraging Habitat	
Recommended Mitigation Measure 5: SWHA Tree Removal	
Recommended Mitigation Measure 6: Focused Surveys for Nesting Eagles	
Recommended Mitigation Measure 7: Eagle Avoidance	
Recommended Mitigation Measure 8: TRBL Surveys	
Recommended Mitigation Measure 9: TRBL Colony Avoidance	
Recommended Mitigation Measure 10: TRBL Take Authorization	
Recommended Mitigation Measure 11: CTS Habitat Assessment	
Recommended Mitigation Measure 12: Focused CTS Surveys	
Recommended Mitigation Measure 13: CTS Avoidance	
Recommended Mitigation Measure 14: CTS Take Authorization	
Recommended Mitigation Measure 15: Vernal Pool Fairy Shrimp, Vernal Pool Tadpole Shrimp, Conservancy Fairy Shrimp Habitat Assessment	
Recommended Mitigation Measure 16: Special-Status Plant Surveys	



<b>RECOMMENDED MITIGATION MEASURES</b>	<b>STATUS/DATE/INITIALS</b>
Recommended Mitigation Measure 17: Special-Status Plant Avoidance	
Recommended Mitigation Measure 18: Listed Plant Species Take Authorization	
Recommended Mitigation Measure 19: BUOW Habitat Assessment	
Recommended Mitigation Measure 20: BUOW Surveys	
Recommended Mitigation Measure 21: BUOW Avoidance	
Recommended Mitigation Measure 22: BUOW Eviction and Mitigation	
Recommended Mitigation Measure 23: Bat Roost Habitat Assessment	
Recommended Mitigation Measure 24: Bat Roost Surveys	
Recommended Mitigation Measure 25: Bat Roost Disturbance Minimization and Avoidance	
Recommended Mitigation Measure 26: WPT Surveys	
Recommended Mitigation Measure 27: WPT Avoidance and Minimization	
Recommended Mitigation Measure 28: CBB and WBB Surveys and Avoidance	
Recommended Mitigation Measure 29: CBB and WBB Take Authorization	
Recommended Mitigation Measure 30: Habitat Assessment – – American badger, California legless lizard, and western spadefoot.	
Recommended Mitigation Measure 31: Surveys – American badger, California legless lizard, and western spadefoot.	
Recommended Mitigation Measure 32: Avoidance – American badger, California legless lizard, and western spadefoot.	
Recommended Mitigation Measure 33: Stream and Wetland Mapping	
Recommended Mitigation Measure 34: Stream and Wetland Habitat Mitigation	
<i>During Project Activity</i>	
Recommended Mitigation Measure 7: SWHA Avoidance	

<b>RECOMMENDED MITIGATION MEASURES</b>	<b>STATUS/DATE/INITIALS</b>
Recommended Mitigation Measure 7: Eagle Avoidance	
Recommended Mitigation Measure 9: TRBL Colony Avoidance	
Recommended Mitigation Measure 13: CTS Avoidance	
Recommended Mitigation Measure 17: Special-Status Plant Avoidance	
Recommended Mitigation Measure 21: BUOW Avoidance	
Recommended Mitigation Measure 25: Bat Roost disturbance Minimization and Avoidance	
Recommended Mitigation Measure 27: WPT Avoidance and Minimization	
Recommended Mitigation Measure 28: CBB and WBB Surveys and Avoidance	
Recommended Mitigation Measure 32: Avoidance – American badger, California legless lizard, and western spadefoot.	