



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



April 27, 2023

Trevor Hawkes, Supervising Planner
County of Napa
1195 Third Street, Suite 210
Napa, CA 94559
Trevor.Hawkes@countyofnapa.org

Subject: Duckhorn Vineyards Winery Use Permit Major Modification #P19-00097-MOD and Variance Request #P19-00098-VAR, Mitigated Negative Declaration, SCH No. 2023030759, Napa County

Dear Mr. Hawkes:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) from the County of Napa (County) for the Duckhorn Vineyards Winery Use Permit Major Modification #P19-00097-MOD and Variance Request #P19-00098-VAR (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

CDFW is submitting comments on the MND to inform the County, as the Lead Agency, of potentially significant impacts to biological resources associated with the Project.

CDFW ROLE

CDFW is a **Trustee Agency** with responsibility under CEQA pursuant to CEQA Guidelines section 15386 for commenting on projects that could impact fish, plant, and wildlife resources. CDFW is also considered a **Responsible Agency** if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA), the Lake and Streambed Alteration (LSA) Program, or other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources.

PROJECT DESCRIPTION SUMMARY

Proponent: Duckhorn Wine Company

Objective: Expand winery operations. The Project includes construction of a new 58,042-square-foot facility, expansion of the existing estate house by 8,839 square feet, and other winery improvements. The existing wastewater system will be removed, and a

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

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new system will be developed, requiring directional boring under the Napa River. Parking and spaces will be increased from 68 to 96. Several buildings and structures will be demolished, and 3.55 acres of vineyard will be removed. An existing 16,900-square-foot agricultural pond will be converted into a 20,300-square-foot bioretention pond. The Project will remove 49 trees, including some oak trees.

Location: 1000 Lodi Lane in the City of St. Helena, County of Napa; Longitude: 38.528427°N, Latitude: 122.489371°W; Assessor Parcel Numbers: 022-130-010, 022-100-033, 022-100-034, and 022-100-035.

REGULATORY REQUIREMENTS

Lake and Streambed Alteration

Notification, pursuant to Fish and Game Code sections 1600 et. seq. is required for any activity that will substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland resources; or deposit or dispose of material where it may pass into a river, lake or stream. Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. **Thank you for including a mitigation measure in the MND requiring the Project to submit an LSA notification for the directional drilling that would occur under the Napa River. Please include a frac-out plan with the LSA notification.** CDFW, as a Responsible Agency under CEQA, will consider the CEQA document for the Project. CDFW may not execute the final LSA Agreement until it has complied with CEQA as a Responsible Agency.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Based on the Project's avoidance of significant impacts on biological resources with implementation of mitigation measures, including those CDFW recommends in **Attachment A**, CDFW concludes that a MND is appropriate for the Project.

- I. **Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or U.S. Fish and Wildlife Service (USFWS)?**

COMMENT 1: Special-Status Bats – Environmental Setting Shortcoming

Issue: The Project included removal of buildings and trees which may provide suitable habitat for roosting bats, including pallid bat (*Antrozous pallidus*) and

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Townsend's big-eared bat (*Corynorhinus townsendii*), which are known to roost in tree bark, hollows, or foliage, as well as man-made structures (Johnston 2004). The California Natural Diversity Database (CNDDDB) documents several occurrences of both species occurring within five miles of the Project site. The MND does not include any measures to avoid or minimize impacts to special-status bats.

Specific impacts and why they may occur and be significant: Mature trees and buildings scheduled for removal could provide suitable roosting habitat for pallid bat and Townsend's big-eared bat. These bats are experiencing population declines in California (Brylski et al. 1998). Bats are long-lived and have a low reproductive rate (Johnston 2004); therefore, each mortality can have a protracted effect on the reproductive rate of the population.

The above bat species are California Species of Special Concern (SSC). CDFW designates certain vertebrate species as SSC because declining population levels, limited ranges, and/or continuing threats have made them vulnerable to extinction or extirpation in California. If special-status bats are roosting on-site and the Project would result in removal of roosting habitat, impacts to special-status bats would be potentially significant.

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

MM BIO-4: Bat Habitat Assessment and Surveys. Prior to Project activities, a Qualified Biologist shall conduct a habitat assessment for bats. The habitat assessment shall be conducted a minimum of 30 to 90 days prior to the beginning of Project activities and shall include a visual inspection of potential roosting features (e.g., cavities, crevices in wood and bark, exfoliating bark for colonial species, suitable canopy for foliage roosting species, and anthropogenic structures such as buildings, bridges, and culverts). If suitable habitat is found, it shall be flagged or otherwise clearly marked.

Trees shall be removed only if: a) presence of bats is presumed, or documented during the surveys described below, in trees with suitable habitat, and removal using the two-step removal process detailed below occurs only during seasonal periods of bat activity, from approximately March 1 through April 15 and September 1 through October 15, or b) after a Qualified Biologist conducts night emergence surveys or completes visual examination of roost features that establish absence of roosting bats. Two-step tree removal shall be conducted over two consecutive days, as follows: 1) the first day (in the afternoon), under the direct supervision and instruction by a Qualified Biologist with experience conducting two-step tree removal, limbs and branches shall be removed by a tree cutter using chainsaws only. Limbs with

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cavities, crevices, or deep bark fissures shall be avoided, and 2) the second day the entire tree shall be removed.

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

COMMENT 2: Special-Status Herpetofauna - Environmental Setting Shortcoming

Issue: The Project would expand and convert an agricultural pond into a bio-retention pond. The pond may provide suitable habitat for western pond turtle (*Emys marmorata*), foothill yellow-legged frog (*Rana boylei*, northwest/north coast clade), and California giant salamander (*Dicamptodon ensatus*). Additionally, these species may occur in upland habitat near suitable aquatic habitat, such as the Napa River.

Specific impacts and why they may occur and be significant: The above herpetofauna are SSC. The Project could impact aquatic habitat or upland dispersal habitat or refugia for these species through vegetation removal and grading activities, potentially injuring or killing them. Western pond turtles can move more than four miles up or down stream; therefore, the Project area is within the mobility range of western pond turtle observations (Holland 1994). The species may also survive outside of aquatic habitat for several months in uplands up to several hundred feet from aquatic habitat (Purcell et al. 2017; Zaragoza et al. 2015). Foothill yellow-legged frogs have been documented moving up to 500 feet from the wetted channel of a stream across upland habitat (CDFW 2018). Based on the above, if special-status herpetofauna occurs within the Project area, Project impacts to special-status herpetofauna would be potentially significant.

Recommended Mitigation Measures: For an accurate environmental setting and to reduce impacts to less-than-significant, CDFW recommends including the following mitigation measures in the MND.

MM BIO-5: Special-Status Species Survey. A qualified biologist shall conduct a pre-construction survey within 48 hours prior to the start of Project activities, focusing on the presence of special-status species, including, but not limited to, western pond turtle, foothill yellow-legged frog, and California giant salamander. If any special-status species are discovered during the survey, Project activities shall not begin until CDFW has been consulted with regarding avoidance and minimization

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measures to avoid and minimize impacts to special-status species. Permittee shall implement the avoidance and minimization measures if required by CDFW.

MM BIO-6: Foothill Yellow-Legged Frog Surveys. A qualified biologist shall provide a foothill yellow-legged frog survey methodology for CDFW review and written approval at least 30 days prior to conducting Project activities, unless otherwise approved in writing by CDFW. Project activities shall not begin until foothill yellow-legged frog surveys have been completed using a methodology approved by CDFW. Survey methodology shall target all life stages and shall include carefully searching under rocks, within vegetation such as sedges and other clumped vegetation, under undercut banks, and in any area with persistent moisture no less than 50 feet from both sides of the streambed, where appropriate, and at least 500 feet upstream and downstream of the Project area. Surveys should be conducted at different times of day and under variable weather conditions, if possible. Surveys should avoid windy days (15 miles per hour or greater), as ripples in the water make it more challenging to detect frogs. A final survey shall be conducted within 24 hours prior to starting Project activities.

Prior to starting Project activities, a qualified biologist shall conduct surveys for foothill yellow-legged frog using a CDFW-approved methodology. The results of the surveys shall be submitted to and approved in writing by CDFW prior to starting Project activities. The Permittee shall install exclusionary fencing and prepare and implement a foothill yellow-legged frog Habitat Improvement Plan if foothill yellow-legged frog or their eggs are found, if required and approved by CDFW and prior to starting Project activities.

Survey methodology and surveys are not required if the stream is dry and there are no areas of persistent summer moisture present in or within 500 feet upstream and downstream of the Project area.

MM BIO-7: Western Pond Turtle Surveys. No more than two weeks prior to the commencement of ground-disturbing activities, a qualified biologist shall perform surveys for western pond turtles and their nests within aquatic and upland habitat at the Project site, unless otherwise approved in writing by CDFW. An additional survey shall occur no more than 48 hours prior to Project activities. If a pond turtle or nest site is detected at any time, CDFW shall be notified immediately. Survey results shall be submitted to CDFW prior to construction activities. All western pond turtles observed on-site shall be avoided and allowed to leave the Project activity area of their own volition or shall be relocated, by a qualified biologist, to appropriate habitat within the same stream the individual was found. Any turtle nest sites shall be avoided with an appropriate buffer identified by a qualified biologist and accepted in writing by CDFW. The Permittee shall prepare and implement a Western Pond

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Turtle Habitat Improvement Plan, if western pond turtles or their nests are found, if required and approved by CDFW.

COMMENT 3: Special-Status Plants – Environmental Setting Shortcoming

Issue: Several special-status plants, including, but not limited to, Greene’s narrow-leaved daisy (*Erigeron greenei*) and Calistoga ceanothus (*Ceanothus divergens*) have the potential to occur at the Project site. The MND mentions that no sensitive plant species have been identified on or adjacent to the property in CNDDDB. The lack of positive occurrences submitted to CNDDDB does not preclude the need to evaluate whether special-status plants could occur at the Project site and be impacted by Project activities.

Specific impacts and why they may occur and be significant: The above plant species are California Rare Plant Rank² 1B.2. If special-status plants are present and not detected by appropriate surveys, the Project may result in potential significant impacts through crushing and killing plants and impacting viable seeds in the soil.

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

MM BIO-8: Pre-Project Special-Status Plant Surveys. A qualified biologist shall conduct a habitat assessment for special-status plants on and adjacent to the Project site, and if habitat is present, shall conduct botanical surveys during the appropriate blooming period and conditions for all special-status plants that have the potential to occur, prior to the start of Project construction. More than one year of surveys may be necessary. Surveys shall be conducted following CDFW’s Protocol for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities (<https://wildlife.ca.gov/Conservation/Survey-Protocols#377281280-plants>). The habitat assessment and survey results must be accepted by CDFW in writing prior to Project construction. If any special-status plant species are observed, the Project shall fully avoid direct and indirect impacts to all individuals and prepare and implement a CDFW-approved avoidance plan prior to Project activities. If impacts cannot be avoided, the Project shall mitigate impacts at a minimum 3:1 mitigation to impact ratio through compensatory habitat, restoration, monitoring, and maintenance, or a combination thereof, following a plan approved in

² CRPR rank definitions are available in CDFW’s *Special Vascular Plants, Bryophytes, and Lichens List* (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109383&inline>) and on the California Native Plant Society website (<https://www.cnps.org/rare-plants/cnps-rare-plant-ranks>).

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writing by CDFW. The plan may include preparing, funding, and implementing a long-term management plan in perpetuity.

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

COMMENT 4: Valley Oak Riparian Forest – Environmental Setting Shortcoming

Issue: The Project site appears to include Valley Oak (*Quercus lobata*) Riparian Forest Alliance. It is unclear if any of the trees that would be removed by the Project, including the oak (*Quercus* sp.) trees that would be removed described in the MND, occur within the Valley Oak Riparian Forest Alliance as the MND does not provide a figure showing the Project area.

Specific impacts and why they may occur and be significant: The Valley Oak Riparian Forest Alliance is considered a sensitive natural community (CDFG 2010; Standiford et al. 1996; CIWTG).³ Rare natural communities have limited distribution and are often vulnerable to Project impacts (CDFW 2009).

Research suggests that valley oak trees are not regenerating enough for eventual replacement (Zavaleta et al. 2007). Therefore, trees removed by the Project may never be replaced, and loss of regenerating trees may further reduce the ability of valley oak riparian forests to persist. Introduced alien annual grasses that limit available moisture appear to be a causal factor (Danielson and Halvorson 1991). Other factors may include fire suppression, cattle grazing and herbivory of oak shoots by cattle and native mammals (Zack et al. 2002). Based on the foregoing, if the Project removes Valley Oak Riparian Forest, then impacts to this sensitive natural community would be potentially significant.

Recommended Mitigation Measure: For an accurate environmental setting and to reduce impacts to valley oak riparian forest to less-than-significant, CDFW recommends the following mitigation measure:

MM BIO-9 Valley Oak Riparian Forest Restoration and Preservation: A qualified biologist shall evaluate if Valley Oak Riparian Forest will be impacted by the Project and the evaluation must be approved in writing by CDFW prior to Project construction. Any permanently impacted Valley Oak Riparian Forest shall be mitigated through restoration of this habitat type at a minimum 3:1 mitigation to impact ratio for acreage impacted. Restoration shall occur on-site to the extent feasible. If off-site restoration is necessary, it shall be as close to the Project site as

³ For a description of sensitive natural communities, see: <https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities#sensitive%20natural%20communities>

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possible and within the same watershed, unless otherwise approved in writing by CDFW. Restoration shall occur in the same year as the impacts. The restoration area shall be monitored for a minimum of five years until success criteria are met. Trees within the Valley Oak Riparian Forest will be removed shall be replaced at the following mitigation to impact ratios, unless otherwise approved in writing by CDFW:

Oak trees:

- 1:1 replacement for trees up to 3 inches diameter at breast height (DBH);
- 4:1 replacement for trees greater than 3 inches and up to 7 inches DBH;
- 5:1 replacement for trees greater than 7 inches and up to 15 inches DBH; and
- 10:1 replacement for trees greater than 15 inches DBH, which are considered old-growth oaks.

Non-oak trees:

- 1:1 replacement for non-native trees;
- 1:1 replacement for native trees up to 3 inches DBH;
- 3:1 replacement for trees greater than 3 inches DBH and up to 6 inches DBH; and
- 6:1 replacement for trees greater than 15 inches DBH.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during Project surveys to CNDDDB. The CNDDDB field survey form can be filled out and submitted online at the following link:

<https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link:

<https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

ENVIRONMENTAL DOCUMENT FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the

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Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental document filing fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

CONCLUSION

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

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

Sincerely,

DocuSigned by:
Erin Chappell
B77F9A6211EF486
Erin Chappell
Regional Manager
Bay Delta Region

Attachment A: Draft Mitigation Monitoring and Reporting Program

ec: Office of Planning and Research, State Clearinghouse (SCH No. 2023030759)

REFERENCES

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

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Zaveleta, E.S., K.B. Hulvey, and B. Fulfrost. 2007. Regional patterns of recruitment success and failure in two endemic California oaks. Diversity and Distributions 13:735-745.

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ATTACHMENT A

Draft Mitigation Monitoring and Reporting Program (MMRP)

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

Biological Resources (BIO)			
Mitigation Measure (MM)	Description	Timing	Responsible Party
MM BIO-4	<p>MM BIO-4: Bat Habitat Assessment and Surveys. Prior to Project activities, a Qualified Biologist shall conduct a habitat assessment for bats. The habitat assessment shall be conducted a minimum of 30 to 90 days prior to the beginning of Project activities and shall include a visual inspection of potential roosting features (e.g., cavities, crevices in wood and bark, exfoliating bark for colonial species, suitable canopy for foliage roosting species, and anthropogenic structures such as buildings, bridges, and culverts). If suitable habitat is found, it shall be flagged or otherwise clearly marked.</p> <p>Trees shall be removed only if: a) presence of bats is presumed, or documented during the surveys described below, in trees with suitable habitat, and removal using the two-step removal process detailed below occurs only during seasonal periods of bat activity, from approximately March 1 through April 15 and September 1 through October 15, or b) after a qualified biologist conducts night emergence surveys or completes visual examination of roost features that establish absence of roosting bats. Two-step tree removal shall be conducted over two consecutive days, as follows: 1) the first day (in the afternoon), under the direct supervision and instruction by a qualified biologist with experience conducting two-step tree removal, limbs and branches shall be removed by a tree cutter using chainsaws only. Limbs with cavities, crevices, or deep bark fissures shall be avoided, and 2) the second day the entire tree shall be removed.</p> <p>If roosting bats are detected in anthropogenic structures that will be impacted by Project activities, a bat avoidance and exclusion plan shall be implemented. The plan shall recognize that both maternity and winter roosting seasons are vulnerable times for bats and require exclusion outside of these times, generally between March 1 and April 15 or</p>	<p>Prior to Ground Disturbance or Impacts to Vegetation or Anthropogenic Structures</p>	<p>Project Applicant</p>

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	September 1 and October 15 when temperatures are sufficiently warm. Work operations shall cease if bats are found roosting within the Project area and CDFW shall be consulted.		
MM BIO-5	MM BIO-5: Special-Status Species Survey. A qualified biologist shall conduct a pre-construction survey within 48 hours prior to the start of Project activities, focusing on the presence of special-status species, including, but not limited to, western pond turtle, foothill yellow-legged frog, and California giant salamander. If any special-status species are discovered during the survey, Project activities shall not begin until CDFW has been consulted with regarding avoidance and minimization measures to avoid and minimize impacts to special-status species. Permittee shall implement the avoidance and minimization measures if required by CDFW.	Prior to Ground Disturbance	Project Applicant
MM BIO-6	<p>MM BIO-6: Foothill Yellow-Legged Frog Surveys. A qualified biologist shall provide a foothill yellow-legged frog survey methodology for CDFW review and written approval at least 30 days prior to conducting Project activities, unless otherwise approved in writing by CDFW. Project activities shall not begin until foothill yellow-legged frog surveys have been completed using a methodology approved by CDFW. Survey methodology shall target all life stages and shall include carefully searching under rocks, within vegetation such as sedges and other clumped vegetation, under undercut banks, and in any area with persistent moisture no less than 50 feet from both sides of the streambed, where appropriate, and at least 500 feet upstream and downstream of the Project area. Surveys should be conducted at different times of day and under variable weather conditions, if possible. Surveys should avoid windy days (15 miles per hour or greater), as ripples in the water make it more challenging to detect frogs. A final survey shall be conducted within 24 hours prior to starting Project activities.</p> <p>Prior to starting Project activities, a qualified biologist shall conduct surveys for foothill yellow-legged frog using a CDFW-approved methodology. The results of the surveys shall be submitted to and approved in writing by CDFW prior to starting Project activities. The Permittee shall install exclusionary fencing and prepare and implement a foothill yellow-legged frog Habitat Improvement Plan if foothill yellow-legged frog or their</p>	Prior to Ground Disturbance and Continuing Throughout the Project	Project Applicant

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	<p>eggs are found, if required and approved by CDFW and prior to starting Project activities.</p> <p>Survey methodology and surveys are not required if the stream is dry and there are no areas of persistent summer moisture present in or within 500 feet upstream and downstream of the Project area.</p>		
MM BIO-7	<p>Western Pond Turtle Surveys. No more than two weeks prior to the commencement of ground-disturbing activities, a qualified biologist shall perform surveys for western pond turtles and their nests within aquatic and upland habitat at the Project site, unless otherwise approved in writing by CDFW. An additional survey shall occur no more than 48 hours prior to Project activities. If a pond turtle or nest site is detected at any time, CDFW shall be notified immediately. Survey results shall be submitted to CDFW prior to construction activities. All western pond turtles observed on-site shall be avoided and allowed to leave the Project activity area of their own volition or shall be relocated, by a qualified biologist, to appropriate habitat within the same stream the individual was found. Any turtle nest sites shall be avoided with an appropriate buffer identified by a qualified biologist and accepted in writing by CDFW. The Permittee shall prepare and implement a Western Pond Turtle Habitat Improvement Plan, if western pond turtle or their nests are found, if required and approved by CDFW.</p>	<p>Prior to Ground Disturbance and Continuing Throughout the Project</p>	<p>Project Applicant</p>
MM BIO-8	<p>Pre-Project Special-Status Plant Surveys. A qualified biologist shall conduct a habitat assessment for special-status plants on and adjacent to the Project site, and if habitat is present, shall conduct botanical surveys during the appropriate blooming period and conditions for all special-status plants that have the potential to occur, prior to the start of Project construction. More than one year of surveys may be necessary. Surveys shall be conducted following CDFW's Protocol for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities (https://wildlife.ca.gov/Conservation/Survey-Protocols#377281280-plants). The habitat assessment and survey results must be accepted by CDFW in writing prior to Project construction. If any special-status plant species are observed, the Project shall fully avoid direct and indirect impacts to all individuals and prepare and implement a CDFW-approved avoidance plan prior to Project activities. If impacts cannot be avoided, the Project shall mitigate impacts at</p>	<p>Prior to Ground Disturbance and Continuing Throughout the Project</p>	<p>Project Applicant</p>

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	<p>a minimum 3:1 mitigation to impact ratio through compensatory habitat, restoration, monitoring, and maintenance, or a combination thereof, following a plan approved in writing by CDFW. The plan may include preparing, funding, and implementing a long-term management plan in perpetuity.</p>		
<p>MM BIO-9</p>	<p>Valley Oak Riparian Forest Restoration and Preservation: A qualified biologist shall evaluate if Valley Oak Riparian Forest will be impacted by the Project and the evaluation must be approved in writing by CDFW prior to Project construction. Any permanently impacted Valley Oak Riparian Forest shall be mitigated through restoration of this habitat type at a minimum 3:1 mitigation to impact ratio for acreage impacted. Restoration shall occur on-site to the extent feasible. If off-site restoration is necessary, it shall be as close to the Project site as possible and within the same watershed, unless otherwise approved in writing by CDFW. Restoration shall occur in the same year of the impacts. The restoration area shall be monitored for a minimum of 5 years until success criteria are met. Trees within the Valley Oak Riparian Forest will be removed shall be replaced at the following mitigation to impact ratios, unless otherwise approved in writing by CDFW:</p> <p>Oak trees:</p> <ul style="list-style-type: none"> • 1:1 replacement for trees up to 3 inches diameter at breast height (DBH) • 4:1 replacement for trees greater than 3 inches and up to 7 inches DBH • 5:1 replacement for trees greater than 7 inches and up to 15 inches DBH • 10:1 replacement for trees greater than 15 inches DBH, which are considered old growth oaks <p>Non-oak trees:</p> <ul style="list-style-type: none"> • 1:1 replacement for non-native trees • 1:1 replacement for native trees up to 3 inches DBH • 3:1 replacement for trees greater than 3 inches DBH and up to 15 inches DBH • 6:1 replacement for trees greater than 15 inches DBH 	<p>Prior to Ground Disturbance and Within the Same Year as Project Implementation</p>	<p>Project Applicant</p>