

Final

**Initial Study and
Mitigated Negative
Declaration
for the
Live Oak Canal Bridge
Replacement Project**

Lead Agency



**County of Sutter
1130 Civic Center Boulevard
Yuba City, California 95993**

June 2023



ECORP Consulting, Inc.
ENVIRONMENTAL CONSULTANTS

**Live Oak Canal Bridge Replacement
Sutter County, California**

FINAL MITIGATED NEGATIVE DECLARATION

State Clearinghouse Number

2023040298

June 2023

Lead Agency:



**County of Sutter
1130 Civic Center Blvd.
Yuba City, CA 95993**

Prepared by:



**2525 Warren Drive
Rocklin, CA 95677**

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**Live Oak Canal Bridge Replacement
Final Mitigated Negative Declaration
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LIST OF ATTACHMENTS

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Bridge Replacement

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**FINAL MITIGATED NEGATIVE DECLARATION
LIVE OAK CANAL BRIDGE REPLACEMENT**

Lead Agency:

County of Sutter
1130 Civic Center Blvd.
Yuba City, CA 95993

Project Location:

The Project site is located at the intersection of Sanders Road and Larkin Road in eastern Sutter County, California.

Project Description:

The County of Sutter proposes the Live Oak Canal Bridge Replacement Project. The Proposed Project is located on the eastern edge of Sutter County, between Yuba City and Live Oak, just west of State Route (SR) 99. The Live Oak Canal Bridge (Bridge No. 18C0106) is located on Sanders Road at the intersection with Larkin Road. The County is proposing to replace the bridge due to low sufficiency rating and poor intersection geometry. The new structure would allow truck turning for California Legal Trucks to and from Larkin Road onto Sanders Road. The proposed bridge replacement is planned to be a precast or cast-in-place, reinforced concrete double-celled box culvert (box culvert) with overall (gross) dimensions of about 13.9 feet (ft) wide by 105.5 ft long. The Project is currently partially funded through SB 1 and local funds.

Finding:

Based on the information contained in the attached Initial Study, the County of Sutter finds that there would not be a significant effect to the environment because the mitigation measures described herein would be incorporated as part of the Proposed Project.

Public Review Period:

April 12, 2023 – May 12, 2023

Mitigation Measures Incorporated into the Project to Avoid Significant Effects

Air Quality

AQ-1: CARB Tier 4 Compliance

The Project applicant and/or its contractor shall require that all Project construction equipment shall be California Air Resources Board (CARB) Tier 4 Certified, as set forth in Section 2423 of Title 13 of the California Code of Regulations, and Part 89 of Title 40 of the Code of Federal Regulations.

Biological Resources

BIO-1: Special-Status Plants Protocol

If initiation of construction does not occur within two years of the special-status plant survey (August 2022), the following measures shall be implemented:

- A qualified biologist shall perform floristic plant surveys according to USFWS, CDFW, and CNPS protocols prior to construction, timed according to the appropriate phenological stage for identifying target species. Known reference populations shall be visited or local herbaria records shall be reviewed, if available, prior to surveys to confirm the phenological stage of the target species. If no special-status plants are found within the Project site, no further measures pertaining to special-status plants are necessary.
- If special-status plants are identified within 25 feet of the Project impact area, the following avoidance and mitigation measures shall be required:
 - If avoidance of special-status plants is feasible, establish and clearly demarcate avoidance zones for special-status plant occurrences prior to construction. Avoidance zones shall include the extent of the special-status plants plus a 25-foot buffer, unless otherwise determined by a qualified biologist, and shall be maintained until the completion of construction. A qualified biologist/biological monitor shall be present if work must occur within the avoidance buffer to ensure special-status plants are not impacted by the work.
 - If avoidance of special-status plants is not feasible, mitigate for significant impacts to special-status plants. The measures shall be developed in consultation with CDFW. The avoidance and mitigation measures may include permanent preservation of onsite or offsite habitat for special-status plants or translocation of plants or seeds from impacted areas to unaffected habitats.

BIO-2: Northwestern Pond Turtle Surveys

The following measures shall be implemented prior to initiation of Project construction:

- Preconstruction surveys shall be conducted within 48 hours prior to the start of construction.
- If no northwestern pond turtles are found, no further measures pertaining to this species are necessary.
- If northwestern pond turtles are found within an area proposed for impact, a qualified biologist shall relocate the animal to a suitable location away from the proposed work area, in consultation with CDFW.

BIO-3: Giant Garter Snake Protocol

The following measures shall be implemented prior to initiation of Project construction:

- Conduct an assessment for giant garter snake habitat as described in the Draft Recovery Plan for the Giant Garter Snake (USFWS 1999). If giant garter snake habitat is absent from the Study Area, and CDFW and USFWS concur with the assessment, no further measures pertaining to this species are necessary.
- If the Study Area supports giant garter snake habitat, Project-related impacts to that habitat shall be avoided, and avoidance measures shall be developed in consultation with USFWS and CDFW.
- If impacts to giant garter snake habitat are unavoidable, minimization or avoidance measures shall be developed in consultation with USFWS and incidental take authorization obtained pursuant to the federal ESA Section 7 or Section 10. In addition, a CDFW Incidental Take Permit shall be obtained pursuant to California ESA Section 2081.

BIO-4: Nesting Birds Surveys

The following measures shall be implemented prior to ground-disturbing activities:

- A qualified biologist shall conduct a preconstruction survey for nesting raptors, within the Study Area and a 500-foot buffer, within 14 days of commencement of Project activities (can be conducted concurrently with nesting bird surveys, as appropriate). If an active nest is located, a no-disturbance buffer shall be established as determined by the biologist in consultation with CDFW and maintained until a qualified biologist determines the young have fledged and are no longer reliant upon the nest for survival.
- A qualified biologist shall conduct a preconstruction nesting bird (non-raptor) survey (can be conducted concurrently with raptor surveys, as appropriate) of all areas associated with construction activities, and a 100-foot buffer around these areas, within 14 days prior to commencement of construction. If active nests are found, a no-disturbance buffer around the nest shall be established. The buffer distance shall be established by a qualified biologist in consultation with the CDFW. The buffer shall be maintained until the fledglings are capable of flight and become independent of the nest, to be determined by a qualified biologist. Once the young are independent of the nest, no further measures are necessary.
- The construction contractor may knock down inactive nests (without eggs or fledglings) located on or beneath the bridge as determined by a qualified biologist.

BIO-5: Roosting Bats Surveys

The following measures shall be implemented prior to ground-disturbing activities:

- A qualified biologist shall survey for suitable roosting habitat within the Project impact limits prior to Project activities that may impact potential bat roosting habitat (e.g., removal of manmade structures or trees). If suitable roosting habitat is not identified, no further measures are necessary.

- If suitable roosting habitat is identified, a qualified biologist shall conduct an evening bat emergence survey that may include acoustic monitoring to determine whether or not bats are present within one week prior to construction. If roosting bats are determined to be present within the Study Area, consultation with CDFW prior to initiation of construction activities or preparation of a Bat Management Plan outlining avoidance and minimization measures specific to the potentially affected roost(s) may be required.

BIO-6: Waters of the U.S./State

The following measures shall be implemented prior to initiation of Project construction:

- Obtain verification of Waters of the U.S. from the USACE and/or Waters of the State from the Central Valley RWQCB.
- A permit authorization under Section 404 of the federal CWA (Section 404 Permit) must be obtained from USACE prior to discharging any dredged or fill materials into any Waters of the U.S. Final avoidance and mitigation measures will be developed as part of the Section 404 Permit process to ensure no-net-loss of wetland function and values.
- A permit authorization from the Central Valley RWQCB pursuant to Section 401 of the CWA and the California Porter-Cologne Water Quality Act must be obtained prior to the discharge of material in an area that could affect Waters of the U.S./State. Mitigation requirements for discharge to Waters of the U.S./State will be developed in consultation with the Central Valley RWQCB.
- If necessary, a SAA from CDFW pursuant to Section 1602 of the California Fish and Game Code must be obtained for impacts to features (e.g., the bed, channel, or bank of any river, stream, or lake) that may be subject to Section 1600 of the Fish and Game Code. The construction contractor shall adhere to all conditions outlined in the Section 1602 SAA.

Cultural Resources

CUL-1: Unanticipated Discoveries

If subsurface deposits believed to be cultural or human in origin are discovered during construction, all work must halt within a 100-foot radius of the discovery. A qualified professional archaeologist, meeting the Secretary of the Interior's Professional Qualification Standards for prehistoric and historic archaeology, shall be retained to evaluate the significance of the find, and shall have the authority to modify the no-work radius as appropriate, using professional judgment. The following notifications shall apply, depending on the nature of the find:

- If the professional archaeologist determines that the find does not represent a cultural resource, work may resume immediately and no agency notifications are required.

- If the professional archaeologist determines that the find does represent a cultural resource from any time period or cultural affiliation, the archaeologist shall immediately notify the lead agencies. The agencies shall consult on a finding of eligibility and implement appropriate treatment measures, if the find is determined to be a Historical Resource under CEQA, as defined in Section 15064.5(a) of the CEQA Guidelines or a historic property under Section 106 NHPA, if applicable. Work may not resume within the no-work radius until the lead agencies, through consultation as appropriate, determine that the site either: 1) is not a Historical Resource under CEQA or a Historic Property under Section 106; or 2) that the treatment measures have been completed to their satisfaction.
- If the find includes human remains, or remains that are potentially human, they shall ensure reasonable protection measures are taken to protect the discovery from disturbance (AB 2641). The archaeologist shall notify the Sutter County Coroner (per Section 7050.5 of the Health and Safety Code). The provisions of Section 7050.5 of the California Health and Safety Code, Section 5097.98 of the California PRC, and AB 2641 will be implemented. If the coroner determines the remains are Native American and not the result of a crime scene, the coroner will notify the Native American Heritage Commission (NAHC), which then will designate a Native American Most Likely Descendant (MLD) for the Project (Section 5097.98 of the PRC). The designated MLD will have 48 hours from the time access to the property is granted to make recommendations concerning treatment of the remains. If the landowner does not agree with the recommendations of the MLD, the NAHC can mediate (Section 5097.94 of the PRC). If no agreement is reached, the landowner must rebury the remains where they will not be further disturbed (Section 5097.98 of the PRC). This will also include either recording the site with the NAHC or the appropriate Information Center; using an open space or conservation zoning designation or easement; or recording a reinternment document with the county in which the property is located (AB 2641). Work may not resume within the no-work radius until the lead agencies, through consultation as appropriate, determine that the treatment measures have been completed to their satisfaction.

The lead agency is responsible for ensuring compliance with this mitigation measure. Section 15097 of Title 14, Chapter 3, Article 7 of CEQA, Mitigation Monitoring or Reporting, "The public agency shall adopt a program for monitoring or reporting on the revisions which it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects. A public agency may delegate reporting or monitoring responsibilities to another public agency or to a private entity which accepts the delegation; however, until mitigation measures have been completed the lead agency remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with the program."

Tribal Cultural Resources

TCR-1: Unanticipated Discoveries

If subsurface deposits are encountered which represent a Native American or potentially Native American resource that does not include human remains, all work shall cease within 100 feet of the find and the contractor shall immediately contact the County of Sutter and coordinate to contact a member of a culturally affiliated tribe. If the tribal representative determines the find is a TCR, the tribe and the County of Sutter shall consult on appropriate treatment measures. Preservation in place is the preferred treatment, if feasible. Work may not resume within the no-work radius until the lead agencies, through consultation as appropriate, determine that the site either: 1) is not a Tribal Cultural Resource or a Historical Resource under CEQA, as defined in Section 15064.5(a) of the CEQA Guidelines; or 2) that the treatment measures have been completed to their satisfaction. This Mitigation Measure shall be implemented in conjunction with Mitigation Measure CUL-1.

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1.0 INTRODUCTION

This document is the Final Mitigated Negative Declaration (MND) and the Mitigation Monitoring and Reporting Plan (MMRP) for the Live Oak Canal Bridge Replacement. It has been prepared in accordance with the California Environmental Quality Act (CEQA) (Public Resource Code [PRC] Section 21000 et. seq.) and the State CEQA Guidelines (California Code of Regulations Section 15000 et seq.) as amended. This Final MND and Responses to Comments document supplements and updates the Draft MND (Attachment D) released for public review on April 12, 2023.

The County of Sutter is the Lead Agency for the Proposed Project. On April 12, 2023, the Lead Agency distributed the Draft MND for the Proposed Project to public agencies and the general public for review and comment, as indicated in the Notice of Intent (NOI) to Adopt a Mitigated Negative Declaration (Attachment A). In accordance with the State CEQA Guidelines, a 30-day review period, which ended on May 12, 2023, was completed. During the public review period, two (2) comment letters and/or emails on the Draft MND were received from interested parties.

This Final MND and Responses to Comments document is organized as follows:

- Section 1.0 provides a discussion of the purpose of the document and discusses the structure of the document;
- Section 2.0 contains a summary of the Project Description and a discussion regarding why a recirculation of the Draft MND is not required;
- Section 3.0 includes the comment letters received and responses to these comments;
- Section 4.0 includes corrections and revisions made to the Draft MND in response to comments;
- Section 5.0 includes the Proposed Project's Mitigation Monitoring and Reporting Program (MMRP), prepared pursuant to PRC Section 21081.6; and
- Section 6.0 includes Attachments to the Final MND.

This Final MND document and the Draft MND together constitute the environmental document for the Proposed Project. As a result of comments received on the Draft MND, minor revisions were required to the Draft MND text, however, there were no substantial revisions that would require recirculation of the document. A substantial revision according to Section 15073.5 of the *2023 CEQA Statute Guidelines* shall mean:

- "(1) A new, avoidable significant effect is identified and mitigation measures or project revisions must be added in order to reduce the effect to insignificance, or
- (2) The lead agency determines that the proposed mitigation measures or project revisions will not reduce potential effects to less than significance and new measures or revisions must be required."

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2.0 PROJECT OVERVIEW

2.1 Project Location

The Project site is located at the intersection of Sanders Road and Larkin Road in eastern Sutter County, California.

2.2 Project Description

The County of Sutter proposes the Live Oak Canal Bridge Replacement Project. The Proposed Project is located on the eastern edge of Sutter County, between Yuba City and Live Oak, just west of State Route (SR) 99. The Live Oak Canal Bridge (Bridge No. 18C0106) is located on Sanders Road at the intersection with Larkin Road. The County is proposing to replace the bridge due to low sufficiency rating and poor intersection geometry. The new structure would allow truck turning for California Legal Trucks to and from Larkin Road onto Sanders Road. The proposed bridge replacement is planned to be a precast or cast-in-place, reinforced concrete double-celled box culvert (box culvert) with overall (gross) dimensions of about 13.9 feet (ft) wide by 105.5 ft long. The Project is currently partially funded through SB 1 and local funds.

2.3 Decision Not to Recirculate Draft MND

Minor changes were made to two biological resources mitigation measures after the completion of the public/agency comment period for the Draft MND. These revisions do not meet the criteria for recirculation of the MND prior to adoption as outlined in Section 15073.5 of the State CEQA Guidelines. According to the Guidelines, "A lead agency is required to recirculate a negative declaration when the document must be substantially revised after public notice of its availability has been given pursuant to Section 15072 but prior to its adoption."

The revisions proposed in this Final MND do not meet the criteria for recirculation provided in Section 15073.5 (c) of the CEQA Guidelines. These criteria are provided below, along with an explanation regarding the reasons why the changes to the Project do not require recirculation.

Recirculation in context of the Proposed Project is not required under the following circumstance:

- (1) *Mitigation measures are replaced with equal or more effective measures pursuant to Section 15074.1.*

3.0 COMMENTS AND RESPONSES

3.1 Introduction

This section of the document contains copies of the comment letters received during the 30-day public review period, which began on April 12, 2023, and ended on May 12, 2023. Comments and responses to comments are not required to be included in MNDs, but are included here for informational purposes for the public and decision-makers on the Project.

This section contains the following:

- A list of commenters on the Draft MND which lists public agencies, organizations and individuals who submitted comments during the public comment period; and
- A response to all comments received on the Draft MND, which includes copies of all letters and emails received during the public comment period.

In conformance with Section 15088(a) of the State CEQA Guidelines, the County of Sutter has considered comments on environmental issues from reviewers of the Draft MND and has prepared written responses. A total of two (2) letters were received via email, commenting on the Draft MND. These letters and the responses to the comments contained in the letters are provided in this section.

A list of public agencies, organizations, and individuals that provided comments on the Draft MND is presented below. The letters and the responses to the comments follow this page.

3.2 List of Commenters

Agencies, individuals, and organizations who commented on the Draft MND are listed below.

- California Department of Fish and Wildlife (CDFW)
- Central Valley Regional Water Quality Control Board (CVRWQCB)

3.3 Responses to Comments

The following section includes comment letters received during the public comment period on the Draft MND, followed by a written response to each comment. The comments and responses are correlated by code numbers shown in the right margin of each comment letter.

Letter 1. CDFW – Alexander Funk, received May 11, 2023.

Subject: FW: LIVE OAK CANAL BRIDGE REPLACEMENT PROJECT 2023-0119-0000 – INITIAL STUDY AND MITIGATED NEGATIVE DECLARATION; CDFW CEQA Comment

From: Funk, Alexander@Wildlife <Alexander.Funk@Wildlife.ca.gov>

Sent: Thursday, May 11, 2023 4:20 PM

To: Scott Riddle <SRiddle@co.sutter.ca.us>

Cc: Wildlife R2 CEQA <R2CEQA@wildlife.ca.gov>

Subject: RE: LIVE OAK CANAL BRIDGE REPLACEMENT PROJECT 2023-0119-0000 – INITIAL STUDY AND MITIGATED NEGATIVE DECLARATION; CDFW CEQA Comment

May 1, 2023

Scott Riddle
Senior Civil Engineer
County of Sutter
1130 Civic Center Blvd
Yuba City, CA 95993
sriddle@co.sutter.ca.us

SUBJECT: LIVE OAK CANAL BRIDGE REPLACEMENT PROJECT 2023-0119-0000 – INITIAL STUDY AND MITIGATED NEGATIVE DECLARATION

Dear Mr. Riddle,

The California Department of Fish and Wildlife (CDFW) received and reviewed the Initial Study and Mitigated Negative Declaration (IS/MND) from the Sutter County Development Services Department (County) for the Live Oak Canal Bridge Replacement (Project) pursuant the California Environmental Quality Act (CEQA) statute and guidelines.^[1]

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish, wildlife, native plants, and their habitat. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project upon which CDFW, by law, may need to exercise its own regulatory authority under the Fish and Game Code.

CDFW ROLE

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

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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) regarding any future discretionary actions such as the issuance of a Lake or Streambed Alteration Agreement (Fish & Game Code, § 1600 et seq and/or a California Endangered Species Act (CESA) Permit for Incidental Take of Endangered, Threatened, and/or Candidate species (Fish & Game Code §§ 2080.1 and 2081). CDFW also administers the Native Plant Protection Act, Natural Community Conservation Act, and other provisions of the Fish and Game Code that afford protection to California's fish and wildlife resources.

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PROJECT DESCRIPTION SUMMARY

The Live Oak Canal Bridge (Bridge No. 18C0106) is located on the eastern edge of Sutter County, between Yuba City and Live Oak, on Sanders Road at the intersection with Larkin Road. The County is proposing to replace the bridge due to low sufficiency rating and poor intersection geometry. The new structure would allow truck turning for California Legal Trucks to and from Larkin Road onto Sanders Road. The proposed bridge replacement is planned to be a precast or cast-in-place, reinforced concrete double-celled box culvert (box culvert) with overall (gross) dimensions of about 13.9 feet (ft) wide by 105.5 ft long. The Proposed Project is currently partially funded through SB 1 and local funds. Construction is anticipated to begin in Spring 2024. During construction, Sanders Road between Larkin Road and Broadway will be closed to through traffic. However, residents that live within the closed portion of Sanders Road will still be able to access their homes and property via the Sanders Road/Broadway intersection or via Madden Avenue.

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COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the County in adequately identifying and, where appropriate, mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

SPECIAL STATUS PLANT SPECIES

The California Endangered Species Act (CESA) (Fish & Game Code, § 2050 et seq.) makes it illegal to import, export, "take", possess, purchase, sell, or attempt to import, export, "take", possess, purchase, or sell any species that is designated as threatened, endangered, or a candidate for listing, unless permitted by CDFW. "Take" is defined as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill."

The Native Plant Protection Act (NPPA) (Fish & Game Code, § 1900 et seq.) allows the Fish and Game Commission to designate plants as rare or endangered and prohibits the take or possession of State-listed rare and endangered plants, including any part or product thereof, unless authorized by CDFW or in certain limited circumstances.

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There are currently 222 species, subspecies, and varieties of native plants that are listed as rare, threatened, or endangered. For a list of rare, threatened, and endangered plants, please go to <https://wildlife.ca.gov/Conservation/Plants>. Twenty-eight (28) special-status plant species were identified as having the potential to occur within the Study Area based on the database queries and literature review. CDFW recommends that a CESA Incidental Take Permit (ITP) be obtained if the

Project has the potential to result in take of State-listed rare, threatened, or endangered species, either through construction or over the life of the Project.

The initial study states that Brazilian Watermeal (*Wolffia brasiliensis*)(2B.3), Wright's trichocoronis (*Trichocoronis wrightii* var. *wrightii*)(2B.1), Sanford's Arrowhead (*Sagittaria sanfordii*)(1B.2), Wolly Rose-mallow (*Hibiscus lasiocarpus* var. *occidentalis*)(1B.2), Water Star grass (*Heteranthera dubia*)(2B.2), Parry's rough tarplant (*Centromadia parryi* ssp. *rudis*)(4.2), have the possibility of occurring within the project action areas, and marginally suitable habitat is present for these species within the project footprint. BIO-1: Special-Status Plants Protocol states, "If initiation of construction does not occur within two years of the special-status plant survey (August 2022), the following measures shall be implemented:", a botanical survey should be conducted prior to the start of construction activities whether or not the elapsed time period referred to in the BIO-1 measure has passed or not, with the following rationale, as well as the following methodology:

Botanical field surveys should be comprehensive over the entire project area, including areas that will be directly or indirectly impacted by the project. Adjoining properties should also be surveyed where direct or indirect project effects could occur, such as those from fuel modification, herbicide application, invasive species, and altered hydrology. Surveys restricted to known locations of special status plants may not identify all special status plants and sensitive natural communities present, and therefore do not provide a sufficient level of information to determine potential impacts.

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Conduct botanical field surveys using systematic field techniques in all habitats of the project area to ensure thorough coverage. The level of effort required per given area and habitat is dependent upon the vegetation and its overall diversity and structural complexity, which determines the distance at which plants can be identified. Conduct botanical field surveys by traversing the entire project area to ensure thorough coverage, documenting all plant taxa observed. Parallel survey transects may be necessary to ensure thorough survey coverage in some habitats. The level of effort should be sufficient to provide comprehensive reporting. Additional time should be allocated for plant identification in the field.

Conduct botanical field surveys in the field at the time of year when plants will be both evident and identifiable. Usually this is during flowering or fruiting. Space botanical field survey visits throughout the growing season to accurately determine what plants exist in the project area. This usually involves multiple visits to the project area (e.g., in early, mid, and late-season) to capture the floristic diversity at a level necessary to determine if special status plants are present.¹³ (U.S. Fish and Wildlife Service Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed, Proposed and Candidate Plants available at: <https://www.fws.gov/sacramento/es/Survey-Protocols-Guidelines/>), and through CDFW at <https://wildlife.ca.gov/Conservation/Plants/Info>. The timing and number of visits necessary to determine if special status plants are present is determined by geographic location, the natural communities present, and the weather patterns of the year(s) in which botanical field surveys are conducted.

For some project areas, floristic inventories or botanical survey reports may already exist. Additional botanical field surveys may be necessary for one or more of the following reasons:

- **Botanical field surveys are not current;**¹⁴ (Habitats, such as grasslands or desert plant communities that have annual and short-lived perennial plants as major floristic components, may require multiple annual surveys to fully capture baseline conditions. In habitats dominated by long-lived perennial plants, such as forests, surveys that were not conducted within the previous five years may not adequately represent the current baseline conditions and should be re-conducted.)

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• Botanical field surveys were conducted in natural systems that commonly experience year to year fluctuations such as periods of drought or flooding (e.g., vernal pool habitats or riverine systems):

• Botanical field surveys did not cover the entire project area; • Botanical field surveys did not occur at the appropriate times of year;

• Botanical field surveys were not conducted for a sufficient number of years to detect plants that are not evident and identifiable every year (e.g., geophytes, annuals, and some short-lived plants):

• Botanical field surveys did not identify all plants in the project area to the taxonomic level necessary to determine rarity and listing status;

• Fire history, land use, or the physical or climatic conditions of the project area have changed since the last botanical field survey was conducted:

• Changes in vegetation or plant distribution have occurred since the last botanical field surveys were conducted, such as those related to habitat alteration, fluctuations in abundance, invasive species, seed bank dynamics, or other factors; or

• Recent taxonomic studies, status reviews and other scientific information has resulted in a revised understanding of the special status plants with potential to occur in the project area.

The failure to locate a known special status plant occurrence during one field season does not constitute evidence that the plant occurrence no longer exists at a location, particularly if adverse conditions are present. For example, botanical field surveys over a number of years may be necessary if the special status plant is an annual or short-lived plant having a persistent, long-lived seed bank and populations of the plant are known to not germinate every year. Visiting the project area in more than one year increases the likelihood of detecting special status plants, particularly if conditions change. To further substantiate negative findings for a known occurrence, a visit to a nearby reference site may help ensure that the timing of botanical field surveys was appropriate.

The environmental document should fully elucidate and adequately address the assessment of potential project impacts to special status plants by providing the following information:

• A discussion of the significance of special status plant populations in the project area considering nearby populations and total range and distribution;

• A discussion of the significance of sensitive natural communities in the project area considering nearby occurrences and natural community distribution;

• A discussion of project related direct, indirect, and cumulative impacts to special status plants and sensitive natural communities;

• A discussion of the degree and immediacy of all threats to special status plants and sensitive natural communities, including those from invasive species;

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- A discussion of the degree of impact, if any, of the project on unoccupied, potential habitat for special status plants; and
- Recommended measures to avoid, minimize, or mitigate impacts to special status plants and sensitive natural communities.

BIO-1: Special-Status Plants Protocol also states, “If avoidance of special-status plants is not feasible, mitigate significant impacts to special-status plants. The measures shall be developed in consultation with CDFW. The avoidance and mitigation measures may include permanent preservation of onsite or offsite habitat for special-status plants or translocation of plants or seeds from impacted areas to unaffected habitats.”

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However, CEQA Guidelines §15126.4 (a)(1)(B) states that formulation of mitigation measures should not be deferred until some future time. Mitigation measure BIO-1 relies on future approvals or agreements as a means to bring identified significant environmental effects to below a level of significance. Because there is no guarantee that these approvals or cooperation with all the involved entities will ultimately occur, the mitigation measures are unenforceable, and do not reduce the impacts to biological resources to a less-than-significant level.

Giant Garter Snake

The environmental document states that according to the California Natural Diversity Database (CNDDDB) (CDFW 2022) the giant garter snake has potential to occur within five (5) miles of the project site and may be affected by the project. Three (3) CNDDDB occurrences of giant garter snake have been reported within 5 miles of the Study Area (CDFW 2022). Live Oak Canal within the Study Area provides suitable habitat for this species. Giant garter snakes have potential to occur onsite. Giant garter snake is listed as a threatened species under CESA and as such it is afforded full protection under the act. It is unlawful to take a State-listed endangered or threatened species (Fish & Game Code §2050 et seq.). Take is defined as “hunt, pursue, catch, capture or kill or attempt to hunt, pursue, catch, capture or kill” (Fish & Game Code §86). CESA take authorization, should be obtained if the proposed project has the potential to result in take of a State-listed plant or wildlife species.

Issuance of a CESA permit is subject to CEQA documentation; therefore, the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the proposed Project will impact CESA listed species, early consultation is encouraged, as significant modification to the proposed Project and mitigation measures may be required in order to obtain a CESA permit. A CESA permit may only be obtained if the impacts of the authorized take of the species are minimized, and fully mitigated and adequate funding has been ensured to implement the mitigation measures. CDFW may only issue a CESA permit if the CDFW determines that issuance of the permit does not jeopardize the continued existence of the species. The CDFW will make this determination based on the best scientific information available and shall include consideration of the species’ capability to survive and reproduce, including the species known population trends and known threats to the species. Issuance of a CESA permit may take up to 180 days from receipt of an application from the applicant.

1-7

The initial study identifies GGS suitable habitat within the study area. BIO-3 states, “If the Study Area supports giant garter snake habitat, Project-related impacts to that habitat shall be avoided, and avoidance measures shall be developed in consultation with USFWS and CDFW.” However, once

again, CEQA Guidelines §15126.4 (a)(1)(B) states that formulation of mitigation measures should not be deferred until some future time.

Furthermore, BIO-3 states, "If proposed impacts to giant garter snake are unavoidable,...", however, there are no proposed impacts to GGS identified within the environmental document, and if impacts to this species are indeed anticipated, then early consultation with CDFW and USFWS is recommended, potential CESA take permitting (as articulated above) may be needed, as well as the development of mitigation and avoidance measures, which should be identified and developed in advance of project initiation, and during subsequent consultation with CDFW.

1-7

Nesting Birds

BIO-4 states, "The construction contractor may knock down inactive nests (without eggs or fledglings) as determined by a qualified biologist."

Fish and Game Code § 3503 states, "It is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by this code or any regulation made pursuant thereto." Fish and Game Code § 3503.5 states, "It is unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto." Burrowing Owls (*Athene cunicularia*) (a member of the Strigiformes order), Swainson's Hawk (*Buteo swainsoni*) (a fully protected bird of prey), White-tailed kite (*Elanus leucurus*) (a fully protected state bird of prey), are identified in the initial study as having the potential to occur in the study area, and these species' nests are protected by the above statutes, as well as other state and federal regulatory authority not limited to the Migratory Bird Treaty Act.

1-8

CDFW recommends avoiding the destruction of **ANY** bird nests, as determining a specific occupant of the nest, or its current use state, is a subjective determination, and not a definitive determination whether a species may be using or able to use the nest, nor if any particular species may choose to take up residence in and utilize the existing nest. Nest destruction could result in detrimental effects to nesting bird species which may be present or migrate through the area.

Migratory Birds and Birds of Prey

Migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) (16 U.S.C., §§ 703-712). CDFW implemented the MBTA by adopting the Fish & Game Code section 3513. Fish & Game Code sections 3503, 3503.5 and 3800 provide additional protection to nongame birds, birds of prey, their nests, and eggs. Potential habitat for nesting birds and birds of prey is present within the Project area. The proposed Project should disclose all potential activities that may incur a direct or indirect take to nongame nesting birds within the Project footprint and its close vicinity. Appropriate avoidance, minimization, and/or mitigation measures to avoid take must be included in the environmental document. Measures to avoid the impacts should include species specific work windows, biological monitoring, installation of noise attenuation barriers, etc.

1-9

All measures to protect nesting birds should be performance-based. While some birds may tolerate disturbance within 250 feet of construction activities, other birds may have a different disturbance threshold and "take" could occur if the temporary disturbance buffers are not designed to reduce stress to that individual pair. The CDFW recommends including performance-based protection measures for avoiding all nests protected under the Migratory Bird Treaty Act and Fish & Game Code. A 250-foot exclusion buffer may be sufficient; however, that buffer may need to be increased

based on the birds' tolerance level to the disturbance. Below is an example of a performance-based protection measure:

Should construction activities cause the nesting migratory bird or raptor to vocalize, make defensive flights at intruders, get up from a brooding position, or fly off the nest, then increase the exclusionary buffer such that activities are far enough from the nest to stop this agitated behavior by the migratory bird or raptor. The exclusionary buffer should remain in place until the chicks have fledged or as otherwise determined by a qualified biologist.

1-9

Threatened, Endangered, Candidate Species

The Project area as shown in the IS/MND includes habitat for State and federally listed species. If during the environmental analysis for the Project, it is determined that the Project may have the potential to result in "take", as defined in the Fish & Game Code, section 86, of a State-listed species, the environmental document shall disclose an Incidental Take Permit (ITP) or a consistency determination (Fish & Game Code, §§ 2080.1 & 2081) may be required prior to starting construction activities. The environmental document must include all avoidance and minimization to reduce the impacts to a less than significant level. If impacts to listed species are expected to occur even with the implementation of these measures, mitigation measures shall be proposed to fully mitigate the impacts to State-listed species (Cal. Code Regs., tit. 14, § 783.2, subd.(a)(8)).

1-10

CDFW encourages early coordination to determine appropriate measures to offset Project impacts and facilitate future permitting processes and to coordinate with the U.S. Fish and Wildlife Service to coordinate specific measures if federally listed species are present within the Project limits.

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 found at the following link:

<https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be submitted online or mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov.

1-11

FILING FEES

The Project, as proposed, would have an effect on fish and 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 & Game Code § 711.4; Pub. Resources Code, § 21089.)

1-12

CONCLUSION

Pursuant to Public Resources Code sections 21092 and 21092.2, CDFW requests written notification of proposed actions and pending decisions regarding the Project. Written notifications shall be directed to: California Department of Fish and Wildlife North Central Region, 1701 Nimbus Road, Rancho Cordova, CA 95670.

1-13

CDFW appreciates the opportunity to comment on the Initial Study and Mitigated Negative Declaration for the Live Oak Canal Bridge Replacement Project. CDFW personnel are available for consultation regarding biological resources and strategies to minimize impacts.

1-13

REFERENCES

California Native Plant Society, Rare Plant Program. Most recent version. Inventory of rare and endangered plants (online edition). California Native Plant Society. Sacramento, CA. Available at: <http://www.rareplants.cnps.org/>.

California Department of Fish and Wildlife, California Natural Diversity Database. Most recent version. Special vascular plants, bryophytes and lichens list. Updated quarterly. Available at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109383&inline>.

Thank you!

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^[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.

Letter 1 Responses to Comments

Response to Comment 1-1:

The comment summarizes CDFW's role as a trustee and responsible agency for the Proposed Project.

Response to Comment 1-2:

This comment summarizes the Project Description.

Response to Comment 1-3:

This comment summarizes the California Endangered Species Act (CESA) and Native Plant Protection Act (NPPA).

Response to Comment 1-4:

The botanical field survey conducted in August 2022 covered the entire Project Area. Adjacent properties are privately owned and consist of highly disturbed and modified habitats (active orchard) that would lead to a very low likelihood of any potential special-status plant species. Additionally, the final footprint of the Proposed Project would be much smaller than the surveyed Project Area. The Project site would operate similar to the existing condition after Project implementation. Further, the systematic field techniques listed by CDFW in Comment 1-4 are the methods used for all ECORP protocol botanical field surveys, included the survey conducted for the Proposed Project. The appropriate survey timing described was also taken into account for this survey.

Response to Comment 1-5:

The comment summarizes instances when additional botanical field surveys may be necessary. The Project Area contains highly disturbed and managed habitat and a majority of the species identified in the botanical field survey are non-native. The August 2022 botanical field survey was complete, so a repeated survey should only be required if the Project is unable to begin before September 2024. Additionally, ECORP recognizes that there is no written requirement that surveys must be repeated after two-years, as Mitigation Measure BIO-1 directs. BIO-1 was crafted with ECORP and the County's understanding of what CDFW has recommended for previous projects with similar habitats.

Response to Comment 1-6:

Sensitive Natural Communities are discussed in Section 4.4.2.8 of the Draft IS/MND. A reference site visit was conducted for the six species with potential to occur within the Project Area. Further discussion is not necessary for special-status plant populations or sensitive natural communities as none were found within the highly disturbed Project Area and are unlikely to be found within the similarly disturbed adjacent habitat. The Project site is dominated by non-native and invasive species and the Proposed Project is unlikely to affect that status. The highly disturbed habitat within the Project Area does not present quality potential habitat for future use of special-status plant species.

The County disagrees with CDFW's assertion that Mitigation Measure BIO-1 is inconsistent with CEQA Guidelines §15126.4 (a)(1)(B). Different species and sensitivity rankings of plants require different potential mitigation strategies. It is infeasible to list all of the potential mitigation options for all of the special-status plants with potential to occur within the Project Area. Additionally, no special-status plants were observed during the survey completed in August 2022. The Project as proposed would rely on that finding and begin construction in Spring 2024. Should the start of Project construction be delayed past August 2024, then Mitigation Measure BIO-1 would ensure an additional botanical field survey is conducted and potential mitigation strategies are developed in consultation with CDFW if special-status plants are identified where they currently do not exist.

Response to Comment 1-7:

This comment summarizes the requirements of a CESA permit. The comment also advises that the formulation of mitigation measures should not be deferred until a future time. Mitigation Measure BIO-3 requires a giant garter snake habitat assessment and CDFW and USFWS concurrence with the findings. This is not deferred mitigation because a habitat assessment conducted by a giant garter snake (GGS) specialist would confirm or deny whether the site supports habitat for GGS.

The County appreciates and agrees with CDFW's comment that the word "proposed" in the third bullet of Mitigation Measure BIO-3 does not make sense. The word "proposed" has been eliminated so that the final bullet of BIO-3 now reads as "If ~~proposed~~ impacts to giant garter snake habitat are unavoidable, minimization or avoidance measures shall be developed in consultation with USFWS and incidental take authorization obtained pursuant to the federal ESA Section 7 or Section 10. In addition, a CDFW Incidental Take Permit shall be obtained pursuant to California ESA Section 2081."

Response to Comment 1-8:

This comment questions the validity of Mitigation Measure BIO-4, claiming that "it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird." However, while it is illegal to collect, possess, or by any means transfer possession of migratory bird nests, the Migratory Bird Treaty Act (MBTA) does not contain any prohibition that applies to the destruction of a bird nest alone (without eggs or birds in it), provided that no possession occurs during destruction. Further, destruction of inactive nests would not be "needless" as any nests that are attached to the existing bridge would be destroyed during its removal. If destruction of inactive nests were not allowed, many bridge replacement projects would never be able to occur. Removing inactive nests would not contradict the MBTA as a qualified biologist is able to make the determination of whether a nest is active.

The County appreciates CDFW's input on the third bullet point Mitigation Measure BIO-4. This measure is meant to specifically refer to the potential of nests that could be on or beneath the existing bridge. BIO-4 has been revised so that it now reads as "The construction contractor may knock down inactive nests (without eggs or fledglings) located on or beneath the bridge as determined by a qualified biologist."

Response to Comment 1-9:

This comment summarizes the need for performance-based measures to protect nesting birds. Mitigation Measure BIO-4 stipulates language to this effect. BIO-4 reads "If active nests are found, a no-disturbance buffer around the nest shall be established. The buffer distance shall be established by a qualified biologist in consultation with the CDFW." Therefore, BIO-4 would ensure nesting birds would be protected via performance-based measures.

Response to Comment 1-10:

Comment noted and provided for consideration by the Lead Agency.

Response to Comment 1-11:

Comment noted and provided for consideration by the Lead Agency.

Response to Comment 1-12:

Comment noted and provided for consideration by the Lead Agency.

Response to Comment 1-13:

CDFW will be notified of future Project decisions and will be consulted for implementation of mitigation measures as appropriate.

Letter 2. CVRWQCB – Peter Minkel, received May 11, 2023.



Central Valley Regional Water Quality Control Board

11 May 2023

Scott Riddle
Sutter County
1130 Civic Center Boulevard
Yuba City, CA 95993
sriddle@co.sutter.ca.us

COMMENTS TO REQUEST FOR REVIEW FOR THE MITIGATED NEGATIVE DECLARATION, LIVE OAK CANAL BRIDGE REPLACEMENT PROJECT, SCH#2023040298, SUTTER COUNTY

Pursuant to the State Clearinghouse's 12 April 2023 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the *Request for Review for the Mitigated Negative Declaration* for the Live Oak Canal Bridge Replacement Project, located in Sutter County.

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore, our comments will address concerns surrounding those issues.

I. Regulatory Setting

Basin Plan

The Central Valley Water Board is required to formulate and adopt Basin Plans for all areas within the Central Valley region under Section 13240 of the Porter-Cologne Water Quality Control Act. Each Basin Plan must contain water quality objectives to ensure the reasonable protection of beneficial uses, as well as a program of implementation for achieving water quality objectives with the Basin Plans. Federal regulations require each state to adopt water quality standards to protect the public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act. In California, the beneficial uses, water quality objectives, and the Antidegradation Policy are the State's water quality standards. Water quality standards are also contained in the National Toxics Rule, 40 CFR Section 131.36, and the California Toxics Rule, 40 CFR Section 131.38.

The Basin Plan is subject to modification as necessary, considering applicable laws, policies, technologies, water quality conditions and priorities. The original Basin Plans were adopted in 1975, and have been updated and revised periodically as required, using Basin Plan amendments. Once the Central Valley Water Board has adopted a Basin Plan amendment in noticed public hearings, it must be approved by the State Water Resources Control Board (State Water Board), Office of

2-1

MARK BRADFORD, CHAIR | PATRICK PULUPA, ESQ., EXECUTIVE OFFICER

11020 Sun Center Drive #200, Rancho Cordova, CA 95670 | www.waterboards.ca.gov/centralvalley

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Administrative Law (OAL) and in some cases, the United States Environmental Protection Agency (USEPA). Basin Plan amendments only become effective after they have been approved by the OAL and in some cases, the USEPA. Every three (3) years, a review of the Basin Plan is completed that assesses the appropriateness of existing standards and evaluates and prioritizes Basin Planning issues. For more information on the *Water Quality Control Plan for the Sacramento and San Joaquin River Basins*, please visit our website:

http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/

2-1

Antidegradation Considerations

All wastewater discharges must comply with the Antidegradation Policy (State Water Board Resolution 68-16) and the Antidegradation Implementation Policy contained in the Basin Plan. The Antidegradation Implementation Policy is available on page 74 at:

https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsjr_2018_05.pdf

In part it states:

Any discharge of waste to high quality waters must apply best practicable treatment or control not only to prevent a condition of pollution or nuisance from occurring, but also to maintain the highest water quality possible consistent with the maximum benefit to the people of the State.

2-2

This information must be presented as an analysis of the impacts and potential impacts of the discharge on water quality, as measured by background concentrations and applicable water quality objectives.

The antidegradation analysis is a mandatory element in the National Pollutant Discharge Elimination System and land discharge Waste Discharge Requirements (WDRs) permitting processes. The environmental review document should evaluate potential impacts to both surface and groundwater quality.

II. Permitting Requirements

Construction Storm Water General Permit

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Construction General Permit), Construction General Permit Order No. 2009-0009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP). For more information on the Construction General Permit, visit the State Water Resources Control Board website at:

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http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml

Clean Water Act Section 404 Permit

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the United States Army Corps of Engineers (USACE). If a Section 404 permit is required by the USACE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements. If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACE at (916) 557-5250.

2-4

Clean Water Act Section 401 Permit – Water Quality Certification

If an USACE permit (e.g., Non-Reporting Nationwide Permit, Nationwide Permit, Letter of Permission, Individual Permit, Regional General Permit, Programmatic General Permit), or any other federal permit (e.g., Section 10 of the Rivers and Harbors Act or Section 9 from the United States Coast Guard), is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications. For more information on the Water Quality Certification, visit the Central Valley Water Board website at:

2-5

https://www.waterboards.ca.gov/centralvalley/water_issues/water_quality_certification/

Waste Discharge Requirements – Discharges to Waters of the State

If USACE determines that only non-jurisdictional waters of the State (i.e., "non-federal" waters of the State) are present in the proposed project area, the proposed project may require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation. For more information on the Waste Discharges to Surface Water NPDES Program and WDR processes, visit the Central Valley Water Board website at: [https://www.waterboards.ca.gov/centralvalley/water_issues/waste to surface water/](https://www.waterboards.ca.gov/centralvalley/water_issues/waste_to_surface_water/)

2-6

Projects involving excavation or fill activities impacting less than 0.2 acre or 400 linear feet of non-jurisdictional waters of the state and projects involving dredging activities impacting less than 50 cubic yards of non-jurisdictional waters of the state may be eligible for coverage under the State Water Resources Control Board Water Quality Order No. 2004-0004-DWQ (General Order 2004-0004). For more information on the General Order 2004-0004, visit the State Water Resources Control Board website at:

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https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2004/wqo/wqo2004-0004.pdf

Dewatering Permit

If the proposed project includes construction or groundwater dewatering to be discharged to land, the proponent may apply for coverage under State Water Board General Water Quality Order (Low Threat General Order) 2003-0003 or the Central Valley Water Board's Waiver of Report of Waste Discharge and Waste Discharge Requirements (Low Threat Waiver) R5-2018-0085. Small temporary construction dewatering projects are projects that discharge groundwater to land from excavation activities or dewatering of underground utility vaults. Dischargers seeking coverage under the General Order or Waiver must file a Notice of Intent with the Central Valley Water Board prior to beginning discharge.

2-7

For more information regarding the Low Threat General Order and the application process, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0003.pdf

For more information regarding the Low Threat Waiver and the application process, visit the Central Valley Water Board website at:

https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/waivers/r5-2018-0085.pdf

Limited Threat General NPDES Permit

If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. Dewatering discharges are typically considered a low or limited threat to water quality and may be covered under the General Order for *Limited Threat Discharges to Surface Water* (Limited Threat General Order). A complete Notice of Intent must be submitted to the Central Valley Water Board to obtain coverage under the Limited Threat General Order. For more information regarding the Limited Threat General Order and the application process, visit the Central Valley Water Board website at:

2-8

https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2016-0076-01.pdf

NPDES Permit

If the proposed project discharges waste that could affect the quality of surface waters of the State, other than into a community sewer system, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. A complete Report of Waste Discharge must be submitted with the Central Valley Water Board to obtain a NPDES Permit. For more information regarding the NPDES Permit and the application process, visit the Central Valley Water Board website at: <https://www.waterboards.ca.gov/centralvalley/help/permit/>

2-9

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If you have questions regarding these comments, please contact me at (916) 464-4684 or Peter.Minkel2@waterboards.ca.gov.

Peter Minkel

Peter Minkel
Engineering Geologist

cc: State Clearinghouse unit, Governor's Office of Planning and Research,
Sacramento

Letter 2 Responses to Comments

Response to Comment 2-1:

Comment noted and provided for consideration by the Lead Agency.

Response to Comment 2-2:

This comment cites the RWQCB Antidegradation Policy and recommends the environmental document evaluate potential impacts to both surface and groundwater quality. Potential impacts to surface water quality are addressed in Section 4.10.3 item a). There would be no impact to groundwater quality as the Project site would operate similar to the existing condition.

Response to Comment 2-3:

Comment noted and provided for consideration by the Lead Agency. The Proposed Project is required to implement a Storm Water Pollution Prevention Plan (SWPPP).

Response to Comment 2-4:

Comment noted and provided for consideration by the Lead Agency. The Proposed Project is required to obtain a Section 404 permit.

Response to Comment 2-5:

Comment noted and provided for consideration by the Lead Agency. The Proposed Project is required to obtain a Section 401 Water Quality Certification.

Response to Comment 2-6:

Comment noted and provided for consideration by the Lead Agency. The Proposed Project may be required to obtain a Waste Discharge Requirement permit.

Response to Comment 2-7:

Comment noted and provided for consideration by the Lead Agency. The Proposed Project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit.

Response to Comment 2-8:

See response to Comment 2-7.

Response to Comment 2-9:

See response to Comment 2-7.

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4.0 REVISIONS TO THE DRAFT MITIGATED NEGATIVE DECLARATION

Revisions have been made to the Draft MND text as a result of minor Project changes. These revisions include minor clarifying changes to Mitigation Measures BIO-3 and BIO-4.

No new avoidable significant effects or new mitigation measures were introduced during the public circulation period that would constitute substantial revisions requiring recirculation of the document. According to Section 15073.5 of the CEQA Guidelines, a substantial revision shall mean:

- (1) a new, avoidable significant effect is identified and mitigation measures or project revisions must be added in order to reduce the effect to insignificance, or
- (2) the lead agency determines that the proposed mitigation measures or project revisions will not reduce potential effects to less than significance and new measures or revisions must be required."

The revisions are provided below. Changes in text are identified by ~~strikeout~~ where text is removed and by underline where text is added.

4.1 Mitigation Measure BIO-3

The following text was removed based on CDFW Comment 1-7. Mitigation Measure BIO-3 appears on page 3 of the Draft Mitigated Negative Declaration and page 4-59 of the Draft Initial Study.

BIO-3: Giant Garter Snake Protocol

The following measures shall be implemented prior to initiation of Project construction:

- Conduct an assessment for giant garter snake habitat as described in the Draft Recovery Plan for the Giant Garter Snake (USFWS 1999). If giant garter snake habitat is absent from the Study Area, and CDFW and USFWS concur with the assessment, no further measures pertaining to this species are necessary.
- If the Study Area supports giant garter snake habitat, Project-related impacts to that habitat shall be avoided, and avoidance measures shall be developed in consultation with USFWS and CDFW.
- If ~~proposed~~ impacts to giant garter snake habitat are unavoidable, minimization or avoidance measures shall be developed in consultation with USFWS and incidental take authorization obtained pursuant to the federal ESA Section 7 or Section 10. In addition, a CDFW Incidental Take Permit shall be obtained pursuant to California ESA Section 2081.

4.2 Mitigation Measure BIO-4

The following text was added based on CDFW Comment 1-8. Mitigation Measure BIO-4 appears on page 3 of the Draft Mitigated Negative Declaration and page 4-59 of the Draft Initial Study.

BIO-4: Nesting Birds Surveys

The following measures shall be implemented prior to ground-disturbing activities:

- A qualified biologist shall conduct a preconstruction survey for nesting raptors, within the Study Area and a 500-foot buffer, within 14 days of commencement of Project activities (can be conducted concurrently with nesting bird surveys, as appropriate). If an active nest is located, a no-disturbance buffer shall be established as determined by the biologist in consultation with CDFW and maintained until a qualified biologist determines the young have fledged and are no longer reliant upon the nest for survival.
- A qualified biologist shall conduct a preconstruction nesting bird (non-raptor) survey (can be conducted concurrently with raptor surveys, as appropriate) of all areas associated with construction activities, and a 100-foot buffer around these areas, within 14 days prior to commencement of construction. If active nests are found, a no-disturbance buffer around the nest shall be established. The buffer distance shall be established by a qualified biologist in consultation with the CDFW. The buffer shall be maintained until the fledglings are capable of flight and become independent of the nest, to be determined by a qualified biologist. Once the young are independent of the nest, no further measures are necessary.
- The construction contractor may knock down inactive nests (without eggs or fledglings) located on or beneath the bridge as determined by a qualified biologist.

5.0 MITIGATION MONITORING AND REPORTING PLAN

5.1 Introduction

In accordance with CEQA, an MND that identifies adverse impacts related to the construction activity for the Project was prepared. The MND identifies mitigation measures that would reduce or eliminate these impacts.

Section 21081.6 of the PRC and Sections 15091(d) and 15097 of the State CEQA Guidelines require public agencies to adopt a reporting and monitoring program for changes to the project which it has adopted or made a condition of project approval in order to mitigate or avoid significant effects on the environment. An MMRP is required for the Project because the MND identified potentially significant adverse impacts related to construction and operation of the Project, and mitigation measures have been identified to mitigate these impacts. Adoption of the MMRP will occur along with approval of the Project.

5.2 Purpose of the Mitigation Monitoring and Reporting Plan

This MMRP has been prepared to ensure that all required mitigation measures are implemented and completed according to schedule and maintained in a satisfactory manner during the construction and operation of the Project, as required. The MMRP may be modified by the County of Sutter during Project implementation, as necessary, in response to changing conditions or other Project refinements. Table 5-1 has been prepared to assist the responsible parties in implementing the MMRP. This table identifies the category of significant environmental impact(s), individual mitigation measures, monitoring and mitigation timing, responsible person/agency for implementing the measure, monitoring and reporting procedure, and notation space to confirm implementation of the mitigation measures. The numbering of the mitigation measures follows the numbering sequence in the MND.

5.3 Roles and Responsibilities

The County of Sutter and the Project construction contractor are responsible for oversight of compliance of the mitigation measures in the MMRP.

5.4 Mitigation Monitoring and Reporting Plan

The column categories identified in Table 5-1 are described below.

- **Mitigation Measure** – This column lists the mitigation measures by number.
- **Oversight Responsibility**– This column provides the entities responsible for complying with the requirements of the mitigation measure, agencies responsible for oversight of the mitigation implementation, and any outside agencies with which the County of Sutter may coordinate for implementation of the mitigation measure.
- **Mitigation Actions/Reports**. This column summarizes the mitigation activities and reports/deliverables that must be prepared to implement and comply with the required

mitigation measure. These actions/reports are described in more detail in the mitigation measure text.

- **Monitoring Timing or Schedule** – This column lists the timing of each activity, and the frequency/schedule of monitoring for each activity.

Table 5-1. Live Oak Canal Bridge Replacement Mitigation Monitoring and Reporting Program

MITIGATION MONITORING AND REPORTING PROGRAM			
Documentation of Compliance			
Mitigation Measure	Oversight Responsibility	Monitoring Timing or Schedule	Actions/Coordination/Reports
<i>Air Quality</i>			
<p>AQ-1: CARB Tier 4 Compliance</p> <p>The Project applicant and/or its contractor shall require that all Project construction equipment shall be California Air Resources Board (CARB) Tier 4 Certified, as set forth in Section 2423 of Title 13 of the California Code of Regulations, and Part 89 of Title 40 of the Code of Federal Regulations.</p>	Project Contractor and County of Sutter	During Project construction.	n/a
<i>Biological Resources</i>			
<p>BIO-1: Special-Status Plants Protocol</p> <p>If initiation of construction does not occur within two years of the special-status plant survey (August 2022), the following measures shall be implemented:</p> <ul style="list-style-type: none"> A qualified biologist shall perform floristic plant surveys according to USFWS, CDFW, and CNPS protocols prior to construction, timed according to the appropriate phenological stage for identifying target species. Known reference populations shall be visited or local herbaria records shall be reviewed, if available, prior to surveys to confirm the phenological stage of the target species. If no special-status plants are found within the Project site, no further measures pertaining to special-status plants are necessary. 	Project Contractor, Project Biologist, and County of Sutter	BIO-1 will be required only if the Proposed Project does not begin construction by August 2024.	Coordination with USFWS, CDFW, and/or CNPS may be necessary if measure is required.

MITIGATION MONITORING AND REPORTING PROGRAM			
Documentation of Compliance			
Mitigation Measure	Oversight Responsibility	Monitoring Timing or Schedule	Actions/Coordination/Reports
<ul style="list-style-type: none"> ▪ If special-status plants are identified within 25 feet of the Project impact area, the following avoidance and mitigation measures shall be required: <ul style="list-style-type: none"> – If avoidance of special-status plants is feasible, establish and clearly demarcate avoidance zones for special-status plant occurrences prior to construction. Avoidance zones shall include the extent of the special-status plants plus a 25-foot buffer, unless otherwise determined by a qualified biologist, and shall be maintained until the completion of construction. A qualified biologist/biological monitor shall be present if work must occur within the avoidance buffer to ensure special-status plants are not impacted by the work. – If avoidance of special-status plants is not feasible, mitigate for significant impacts to special-status plants. The measures shall be developed in consultation with CDFW. The avoidance and mitigation measures may include permanent preservation of onsite or offsite habitat for special-status plants or translocation of plants or seeds from impacted areas to unaffected habitats. 			
<p>BIO-2: Northwestern Pond Turtle Surveys</p> <p>The following measures shall be implemented prior to initiation of Project construction:</p> <ul style="list-style-type: none"> ▪ Preconstruction surveys shall be conducted within 48 hours prior to the start of construction. 	Project Contractor, Project Biologist, and County of Sutter	Within 48 hours prior to the start of construction activities	Consultation with CDFW required if northwestern pond turtles are found.

MITIGATION MONITORING AND REPORTING PROGRAM			
Documentation of Compliance			
Mitigation Measure	Oversight Responsibility	Monitoring Timing or Schedule	Actions/Coordination/Reports
<ul style="list-style-type: none"> ▪ If no northwestern pond turtles are found, no further measures pertaining to this species are necessary. ▪ If northwestern pond turtles are found within an area proposed for impact, a qualified biologist shall relocate the animal to a suitable location away from the proposed work area, in consultation with CDFW. 			
<p>BIO-3: Giant Garter Snake Protocol</p> <p>The following measures shall be implemented prior to initiation of Project construction:</p> <ul style="list-style-type: none"> ▪ Conduct an assessment for giant garter snake habitat as described in the Draft Recovery Plan for the Giant Garter Snake (USFWS 1999). If giant garter snake habitat is absent from the Study Area, and CDFW and USFWS concur with the assessment, no further measures pertaining to this species are necessary. ▪ If the Study Area supports giant garter snake habitat, Project-related impacts to that habitat shall be avoided, and avoidance measures shall be developed in consultation with USFWS and CDFW. ▪ If impacts to giant garter snake habitat are unavoidable, minimization or avoidance measures shall be developed in consultation with USFWS and incidental take authorization obtained pursuant to the federal ESA Section 7 or Section 10. In addition, a CDFW Incidental Take Permit shall be obtained pursuant to California ESA Section 2081. 	<p>Project Contractor, Project Biologist, and County of Sutter</p>	<p>Prior to Project construction.</p>	<p>Giant Garter Snake Habitat Assessment will be reviewed by CDFW and USFWS.</p>

MITIGATION MONITORING AND REPORTING PROGRAM			
Documentation of Compliance			
Mitigation Measure	Oversight Responsibility	Monitoring Timing or Schedule	Actions/Coordination/Reports
<p>BIO-4: Nesting Birds Surveys</p> <p>The following measures shall be implemented prior to ground-disturbing activities:</p> <ul style="list-style-type: none"> ▪ A qualified biologist shall conduct a preconstruction survey for nesting raptors, within the Study Area and a 500-foot buffer, within 14 days of commencement of Project activities (can be conducted concurrently with nesting bird surveys, as appropriate). If an active nest is located, a no-disturbance buffer shall be established as determined by the biologist in consultation with CDFW and maintained until a qualified biologist determines the young have fledged and are no longer reliant upon the nest for survival. ▪ A qualified biologist shall conduct a preconstruction nesting bird (non-raptor) survey (can be conducted concurrently with raptor surveys, as appropriate) of all areas associated with construction activities, and a 100-foot buffer around these areas, within 14 days prior to commencement of construction. If active nests are found, a no-disturbance buffer around the nest shall be established. The buffer distance shall be established by a qualified biologist in consultation with the CDFW. The buffer shall be maintained until the fledglings are capable of flight and become independent of the nest, to be determined by a qualified biologist. Once the young are independent of the nest, no further measures are necessary. 	<p>Project Contractor, Project Biologist, and County of Sutter</p>	<p>Within 14 days prior to the start of construction activities</p>	<p>Nesting raptor and non-raptor preconstruction surveys. No-disturbance buffers to be established in consultation with CDFW if active nests are found.</p>

MITIGATION MONITORING AND REPORTING PROGRAM			
Documentation of Compliance			
Mitigation Measure	Oversight Responsibility	Monitoring Timing or Schedule	Actions/Coordination/Reports
<ul style="list-style-type: none"> ▪ The construction contractor may knock down inactive nests (without eggs or fledglings) located on or beneath the bridge as determined by a qualified biologist. 			
<p>BIO-5: Roosting Bats Surveys</p> <p>The following measures shall be implemented prior to ground-disturbing activities:</p> <ul style="list-style-type: none"> ▪ A qualified biologist shall survey for suitable roosting habitat within the Project impact limits prior to Project activities that may impact potential bat roosting habitat (e.g., removal of manmade structures or trees). If suitable roosting habitat is not identified, no further measures are necessary. ▪ If suitable roosting habitat is identified, a qualified biologist shall conduct an evening bat emergence survey that may include acoustic monitoring to determine whether or not bats are present within one week prior to construction. If roosting bats are determined to be present within the Study Area, consultation with CDFW prior to initiation of construction activities or preparation of a Bat Management Plan outlining avoidance and minimization measures specific to the potentially affected roost(s) may be required. 	<p>Project Contractor, Project Biologist, and County of Sutter</p>	<p>Roosting habitat survey will occur prior to Project construction. If necessary, an evening bat emergence survey will occur within one week prior to construction.</p>	<p>If roosting bats are determined to be present within the Study Area, consultation with CDFW prior to initiation of construction activities may be required.</p>

MITIGATION MONITORING AND REPORTING PROGRAM			
Documentation of Compliance			
Mitigation Measure	Oversight Responsibility	Monitoring Timing or Schedule	Actions/Coordination/Reports
<p>BIO-6: Waters of the U.S./State</p> <p>The following measures shall be implemented prior to initiation of Project construction:</p> <ul style="list-style-type: none"> ▪ Obtain verification of Waters of the U.S. from the USACE and/or Waters of the State from the Central Valley RWQCB. ▪ A permit authorization under Section 404 of the federal CWA (Section 404 Permit) must be obtained from USACE prior to discharging any dredged or fill materials into any Waters of the U.S. Final avoidance and mitigation measures will be developed as part of the Section 404 Permit process to ensure no-net-loss of wetland function and values. ▪ A permit authorization from the Central Valley RWQCB pursuant to Section 401 of the CWA and the California Porter-Cologne Water Quality Act must be obtained prior to the discharge of material in an area that could affect Waters of the U.S./State. Mitigation requirements for discharge to Waters of the U.S./State will be developed in consultation with the Central Valley RWQCB. ▪ If necessary, a SAA from CDFW pursuant to Section 1602 of the California Fish and Game Code must be obtained for impacts to features (e.g., the bed, channel, or bank of any river, stream, or lake) that may be subject to Section 1600 of the Fish and Game Code. 	<p>Project Biologist and County of Sutter</p>	<p>Prior to Project construction.</p>	<p>Permit coordination with CVRWQCB, USACE, and CDFW will be required.</p>

MITIGATION MONITORING AND REPORTING PROGRAM			
Documentation of Compliance			
Mitigation Measure	Oversight Responsibility	Monitoring Timing or Schedule	Actions/Coordination/Reports
The construction contractor shall adhere to all conditions outlined in the Section 1602 SAA.			
Cultural Resources			
<p>CUL-1: Unanticipated Discoveries</p> <p>If subsurface deposits believed to be cultural or human in origin are discovered during construction, all work must halt within a 100-foot radius of the discovery. A qualified professional archaeologist, meeting the Secretary of the Interior’s Professional Qualification Standards for prehistoric and historic archaeology, shall be retained to evaluate the significance of the find, and shall have the authority to modify the no-work radius as appropriate, using professional judgment. The following notifications shall apply, depending on the nature of the find:</p> <ul style="list-style-type: none"> ▪ If the professional archaeologist determines that the find does not represent a cultural resource, work may resume immediately and no agency notifications are required. ▪ If the professional archaeologist determines that the find does represent a cultural resource from any time period or cultural affiliation, the archaeologist shall immediately notify the lead 	Project Contractor, Project Archaeologist, County of Sutter	During Project construction.	If the Project Archaeologist determines a find represents a cultural resource, consultation with CRHR, Sutter County Coroner, and NAHC may be required.

MITIGATION MONITORING AND REPORTING PROGRAM			
Documentation of Compliance			
Mitigation Measure	Oversight Responsibility	Monitoring Timing or Schedule	Actions/Coordination/Reports
<p>agencies. The agencies shall consult on a finding of eligibility and implement appropriate treatment measures, if the find is determined to be a Historical Resource under CEQA, as defined in Section 15064.5(a) of the CEQA Guidelines or a historic property under Section 106 NHPA, if applicable. Work may not resume within the no-work radius until the lead agencies, through consultation as appropriate, determine that the site either: 1) is not a Historical Resource under CEQA or a Historic Property under Section 106; or 2) that the treatment measures have been completed to their satisfaction.</p> <ul style="list-style-type: none"> ▪ If the find includes human remains, or remains that are potentially human, they shall ensure reasonable protection measures are taken to protect the discovery from disturbance (AB 2641). The archaeologist shall notify the Sutter County Coroner (per Section 7050.5 of the Health and Safety Code). The provisions of Section 7050.5 of the California Health and Safety Code, Section 5097.98 of the California PRC, and AB 2641 will be implemented. If the coroner determines the remains are Native American and not the result of a crime scene, the coroner will notify the Native American 			

MITIGATION MONITORING AND REPORTING PROGRAM			
Documentation of Compliance			
Mitigation Measure	Oversight Responsibility	Monitoring Timing or Schedule	Actions/Coordination/Reports
<p>Heritage Commission (NAHC), which then will designate a Native American Most Likely Descendant (MLD) for the Project (Section 5097.98 of the PRC). The designated MLD will have 48 hours from the time access to the property is granted to make recommendations concerning treatment of the remains. If the landowner does not agree with the recommendations of the MLD, the NAHC can mediate (Section 5097.94 of the PRC). If no agreement is reached, the landowner must rebury the remains where they will not be further disturbed (Section 5097.98 of the PRC). This will also include either recording the site with the NAHC or the appropriate Information Center; using an open space or conservation zoning designation or easement; or recording a reinternment document with the county in which the property is located (AB 2641). Work may not resume within the no-work radius until the lead agencies, through consultation as appropriate, determine that the treatment measures have been completed to their satisfaction.</p> <p>The lead agency is responsible for ensuring compliance with this mitigation measure. Section 15097 of Title 14,</p>			

MITIGATION MONITORING AND REPORTING PROGRAM			
Documentation of Compliance			
Mitigation Measure	Oversight Responsibility	Monitoring Timing or Schedule	Actions/Coordination/Reports
Chapter 3, Article 7 of CEQA, Mitigation Monitoring or Reporting, "The public agency shall adopt a program for monitoring or reporting on the revisions which it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects. A public agency may delegate reporting or monitoring responsibilities to another public agency or to a private entity which accepts the delegation; however, until mitigation measures have been completed the lead agency remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with the program."			
Tribal Cultural Resources			
<p>TCR-1: Unanticipated Discoveries</p> <p>If subsurface deposits are encountered which represent a Native American or potentially Native American resource that does not include human remains, all work shall cease within 100 feet of the find and the contractor shall immediately contact the County of Sutter and coordinate to contact a member of a culturally affiliated tribe. If the tribal representative determines the find is a TCR, the tribe and the County of Sutter shall consult on appropriate treatment measures. Preservation in place is the preferred treatment, if feasible. Work may not resume within the no-work radius until the lead agencies, through consultation as appropriate,</p>	Project Contractor, Project Archaeologist, County of Sutter	During Project construction.	Consultation between the County and the culturally affiliated tribe is required in the event of a potentially Native American resource discovery.

MITIGATION MONITORING AND REPORTING PROGRAM			
Documentation of Compliance			
Mitigation Measure	Oversight Responsibility	Monitoring Timing or Schedule	Actions/Coordination/Reports
determine that the site either: 1) is not a Tribal Cultural Resource or a Historical Resource under CEQA, as defined in Section 15064.5(a) of the CEQA Guidelines; or 2) that the treatment measures have been completed to their satisfaction. This Mitigation Measure shall be implemented in conjunction with Mitigation Measure CUL-1.			

6.0 LIST OF ATTACHMENTS

Attachment A – Notice of Intent

Attachment B – Proof of Publication

Attachment C – Notice of Determination and CDFW Filing Fee Receipt

Attachment D – Draft Initial Study and Mitigated Negative Declaration for the Live Oak Canal
Bridge Replacement

ATTACHMENT A

Notice of Intent



COUNTY OF SUTTER...established 1850

Donna M. Johnston

County Clerk-Recorder – Registrar of Voters – Clerk of the Board of Supervisors

CERTIFICATE OF POSTING

Pursuant to CEQA, Section 21152(c) of the Public Resource Code, I, Stephanie Ratner, Deputy Clerk of the Board, certify that the attached notice was posted in the office of the Clerk of the Board at 1160 Civic Center Blvd., Suite A, Yuba City, CA 95993, for the following time period: 4/11/2023 through 05/12/2023.

ATTEST:
DONNA M. JOHNSTON,
Clerk-Recorder
Registrar of Voters
Ex-Officio Clerk of the Board

By *S. Ratner*
Stephanie Ratner
Deputy Clerk of the Board

RECEIPT# N/A

Clerk-Recorder
433 Second Street
Yuba City, CA 95991
Tel: (530) 822-7134
Fax: (530) 822-7214

Clerk of the Board of Supervisors
1160 Civic Center Blvd. Suite A
Yuba City, CA 95993
Tel: (530) 822-7106
Fax: (530) 822-7103

Registrar of Voters
1435 Veteran Memorial Circle
Yuba City, CA 95993
Tel: (530) 822-7122
Fax: (530) 822-7587

NOTICE OF INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION AND INITIAL STUDY

DATE: April 12, 2023

TO: Responsible Agencies, Interested Parties, and Organizations

SUBJECT: Live Oak Canal Bridge Replacement — SUTTER COUNTY

The County of Sutter (County) is the California Environmental Quality Act (CEQA) Lead Agency for the proposed Live Oak Canal Bridge Replacement (Proposed Project). The County has directed the preparation of an Initial Study/Mitigated Negative Declaration (IS/MND) in compliance with CEQA.

Project Description: The Live Oak Canal Bridge (Bridge No. 18C0106) is located on the eastern edge of Sutter County, between Yuba City and Live Oak, on Sanders Road at the intersection with Larkin Road. The County is proposing to replace the bridge due to low sufficiency rating and poor intersection geometry. The new structure would allow truck turning for California Legal Trucks to and from Larkin Road onto Sanders Road. The proposed bridge replacement is planned to be a precast or cast-in-place, reinforced concrete double-celled box culvert with overall (gross) dimensions of about 13.9 ft wide by 105.5 ft long. The Proposed Project is currently partially funded through SB 1 and local funds. Construction is anticipated to begin in Spring 2024. During construction, Sanders Road between Larkin Road and Broadway will be closed to through traffic. However, residents that live within the closed portion of Sanders Road will still be able to access their homes and property via the Sanders Road/Broadway intersection or via Madden Avenue.

Potentially Significant Environmental Impacts: Potentially significant impacts to air quality, biological resources, cultural resources, and tribal cultural resources were identified in the Initial Study. All impacts would be reduced to a less than significant level with the implementation of identified mitigation measures.

Hazardous Waste Sites: Pursuant to Section 15087(c)(6) of the Guidelines for CEQA, the County acknowledges the non-existence of hazardous waste sites within the Project site as reviewed by this Initial Study.

IS/MND Document Review and Availability: The public review and comment period for will extend for 30 days **starting April 12, 2023, and ending May 12, 2023**. The Draft IS/MND can be viewed and/or downloaded at the following website:

<https://www.suttercounty.org/government/county-departments/development-services/planning-services/project-notice-and-environmental-documents>

Appendices will be made available upon email request. One print copy of the IS/MND will be available at the County of Sutter Development Services Department (address below) Monday through Friday, 8 a.m. – 4 p.m.

Please Post through
MAY 12, 2023

FILED

APR 11 2023

BOARD OF SUPERVISORS
DONNA M. JOHNSTON
Clerk of the Board

By S. Kainer Deputy

NOTICE OF INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION AND INITIAL STUDY

Public and Agency Comments: Comments or questions regarding the Draft IS/MND may be addressed to Scott Riddle, Senior Civil Engineer at the following addresses (email preferred):

sriddle@co.sutter.ca.us

Subject Line: Live Oak Canal Bridge Replacement

or

County of Sutter
Development Services Department
ATTN: Scott Riddle
1130 Civic Center Blvd
Yuba City, CA 95993

ATTACHMENT B

Proof of Publication

PROOF OF PUBLICATION

APPEAL-DEMOCRAT

1530 Ellis Lake Drive, Marysville, CA 95901 * (530) 749-4700

STATE OF CALIFORNIA * Counties of Yuba and Sutter

I am not a party to, nor interested in the above entitled matter. I am the principal clerk of the printer and publisher of THE APPEAL-DEMOCRAT, a newspaper of general circulation, printed and published in the City of Marysville, County of Yuba, to which Newspaper has been adjudged a newspaper of general circulation by The Superior Court of the County of Yuba, State of California under the date of November 9, 1951, No. 11481, and County of Sutter to which Newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Sutter, State of California under the date of May 17, 1999, Case No. CVPT99-0819. The Notice, of which the annexed is a copy, appeared in said newspaper on the following dates:

April 12, 2023

I declare under penalty of perjury that the foregoing is true and correct.

April 12, 2023

Kathy Stannhill

Date

Signature

Ecorp Consulting

Notice of Intent

COPY:

NOTICE OF INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION AND INITIAL STUDY

DATE: April 12, 2023

TO: Responsible Agencies, Interested Parties, and Organizations

SUBJECT: Live Oak Canal Bridge Replacement - SUTTER COUNTY

The County of Sutter (County) is the California Environmental Quality Act (CEQA) Lead Agency for the proposed Live Oak Canal Bridge Replacement (Proposed Project). The County has directed the preparation of an Initial Study/Mitigated Negative Declaration (IS/MND) in compliance with CEQA.

Project Description: The Live Oak Canal Bridge (Bridge No. 18C0106) is located on the eastern edge of Sutter County, between Yuba City and Live Oak, on Sanders Road at the intersection with Larkin Road. The County is proposing to replace the bridge due to low sufficiency rating and poor intersection geometry. The new structure would allow truck turning for California Legal Trucks to and from Larkin Road onto Sanders Road. The proposed bridge replacement is planned to be a precast or cast-in-place, reinforced concrete double-celled box culvert with overall (gross) dimensions of about 13.9 ft wide by 105.5 ft long. The Proposed Project is currently partially funded through SB 1 and local funds. Construction is anticipated to begin in Spring 2024. During construction, Sanders Road between Larkin Road and Broadway will be closed to through traffic. However, residents that live within the closed portion of Sanders Road will still be able to access their homes and property via the Sanders Road/Broadway intersection or via Madden Avenue.

Potentially Significant Environmental Impacts: Potentially significant impacts to air quality, biological resources, cultural resources, and tribal cultural resources were identified in the Initial Study. All impacts would be reduced to a less than significant level with the implementation of identified mitigation measures.

Hazardous Waste Sites: Pursuant to Section 15087(c)(6) of the Guidelines for CEQA, the County acknowledges the non-existence of hazardous waste sites within the Project site as reviewed by this Initial Study.

IS/MND Document Review and Availability: The public review and comment period for will extend for 30 days starting April 12, 2023, and ending May 12, 2023. The Draft IS/MND can be viewed and/or downloaded at the following website:



<https://www.suttercounty.org/government/county-departments/development-services/planning-services/project-notices-and-environmental-documents>

Appendices will be made available upon email request. One print copy of the IS/MND will be available at the County of Sutter Development Services Department (address below) Monday through Friday, 8 a.m. – 4 p.m.

Public and Agency Comments: Comments or questions regarding the Draft IS/MND may be addressed to Scott Riddle, Senior Civil Engineer at the following addresses (email preferred):

sriddle@co.sutter.ca.us
Subject Line: Live Oak Canal Bridge Replacement

or

County of Sutter
Development Services Department
ATTN: Scott Riddle
1130 Civic Center Blvd
Yuba City, CA 95993

April 12, 2023

Ad #00289404

Notice of Determination and CDFW Filing Fee Receipt

NOTICE OF DETERMINATION

TO:

Office of Planning and Research
1400 10th Street
Sacramento, CA 95814

FROM:

County of Sutter
1130 Civic Center Blvd.
Yuba City, CA 95993

SUBJECT:

Filing of Notice of Determination in compliance with Section 21108 of the Public Resources Code

PROJECT TITLE:

Live Oak Canal Bridge Replacement

State Clearinghouse Number

2023040298

Contact Person

Mr. Scott Riddle

Telephone Number

530-822-7400

Project Approval

The County of Sutter adopted the Initial Study/Mitigated Negative Declaration and approved the Live Oak Canal Bridge Replacement on June 5, 2023.

Project Location

The Project site is located at the intersection of Sanders Road and Larkin Road in eastern Sutter County, California.

Project Description

The County of Sutter proposes the Live Oak Canal Bridge Replacement Project. The Proposed Project is located on the eastern edge of Sutter County, between Yuba City and Live Oak, just west of State Route (SR) 99. The Live Oak Canal Bridge (Bridge No. 18C0106) is located on Sanders Road at the intersection with Larkin Road. The County is proposing to replace the bridge due to low sufficiency rating and poor intersection geometry. The new structure would allow truck turning for California Legal Trucks to and from Larkin Road onto Sanders Road. The proposed bridge replacement is planned to be a precast or cast-in-place, reinforced concrete double-celled box culvert (box culvert) with overall (gross) dimensions of about 13.9 feet (ft) wide by 105.5 ft long. The Project is currently partially funded through SB 1 and local funds.

FILED

JUN 05 2023

BOARD OF SUPERVISORS
DONNA M. JOHNSTON
Clerk of the BoardBy S. Ratner Deputy

Please Post through
July 06, 2023

The County of Sutter, as the Lead Agency, has approved the above-described Project and has made the following determinations:

- There is no substantial evidence that the Proposed Project will have a significant effect on the environment;
- In accordance with CEQA, a Mitigated Negative Declaration for the Proposed Project was prepared. The Mitigated Negative Declaration has been adopted by the County of Sutter, which is the Lead Agency for the Proposed Project. The Mitigated Negative Declaration and record of project approval may be examined at 1130 Civic Center Blvd., Yuba City, California, 95993. The Mitigated Negative Declaration reflects the independent judgment and analysis of the County of Sutter;
- Mitigation measures were required to be made a condition of approval of the Proposed Project;
- A Statement of Overriding Considerations was not required to be adopted for the Proposed Project; and
- A Mitigation Monitoring and Reporting Plan was adopted for the Proposed Project.

This is to certify that the Final Initial Study/Mitigated Negative Declaration including comments and responses, the mitigation monitoring and reporting plan, and record of Project approval is available to the general public at 1130 Civic Center Blvd., Yuba City, California, 95993.



Signature

6-5-2023

Date

Scott Riddle, PE
Senior Civil Engineer
Sutter County Development Services

Date Received for Filing at OPR: _____



State of California - Department of Fish and Wildlife
2023 ENVIRONMENTAL DOCUMENT FILING FEE
CASH RECEIPT
 DFW 753.5a (REV. 01/01/23) Previously DFG 753.5a

RECEIPT NUMBER:
 51 — 06/05/2023 — 29
 STATE CLEARINGHOUSE NUMBER (If applicable)
 N/A

SEE INSTRUCTIONS ON REVERSE. TYPE OR PRINT CLEARLY.

LEAD AGENCY County of Sutter	LEAD AGENCY EMAIL N/A	DATE 06/05/2023
COUNTY/STATE AGENCY OF FILING Sutter	DOCUMENT NUMBER	

PROJECT TITLE

Live Oak Canal Bridge Replacement

PROJECT APPLICANT NAME County of Sutter	PROJECT APPLICANT EMAIL N/A	PHONE NUMBER (530) 822-7400
PROJECT APPLICANT ADDRESS 1130 Civic Center Blvd.	CITY Yuba City	STATE CA
		ZIP CODE 95993

PROJECT APPLICANT (Check appropriate box)

- Local Public Agency
 School District
 Other Special District
 State Agency
 Private Entity

CHECK APPLICABLE FEES:

- | | | | |
|---|------------|----|-------------------|
| <input type="checkbox"/> Environmental Impact Report (EIR) | \$3,839.25 | \$ | <u>0.00</u> |
| <input checked="" type="checkbox"/> Mitigated/Negative Declaration (MND)(ND) | \$2,764.00 | \$ | <u>2,764.00</u> |
| <input type="checkbox"/> Certified Regulatory Program (CRP) document - payment due directly to CDFW | \$1,305.25 | \$ | <u>0.00</u> |
|
 | | | |
| <input type="checkbox"/> Exempt from fee | | | |
| <input type="checkbox"/> Notice of Exemption (attach) | | | |
| <input type="checkbox"/> CDFW No Effect Determination (attach) | | | |
| <input type="checkbox"/> Fee previously paid (attach previously issued cash receipt copy) | | | |
| <hr/> | | | |
| <input type="checkbox"/> Water Right Application or Petition Fee (State Water Resources Control Board only) | \$850.00 | \$ | <u>0.00</u> |
| <input checked="" type="checkbox"/> County documentary handling fee | | \$ | <u>50.00</u> |
| <input type="checkbox"/> Other | | \$ | <u> </u> |

PAYMENT METHOD:

#91133

- Cash
 Credit
 Check
 Other

TOTAL RECEIVED \$ 2,814.00

SIGNATURE X <i>Stephanie Ratner</i>	AGENCY OF FILING PRINTED NAME AND TITLE Stephanie Ratner, Deputy Clerk of the Board
---	--

Draft Initial Study and Mitigated Negative Declaration for the Live Oak Canal Bridge
Replacement



www.ecorconsulting.com

REDLANDS, CA
(909) 307-0046

SAN DIEGO, CA
(858) 275-4040

ROCKLIN, CA
(916) 782-9100

CHICO, CA
(530) 805-2585

FLAGSTAFF, AZ

SANTA ANA, CA
(714) 648-0630

SANTA FE, NM
(714) 222-5932