



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



July 26, 2023

Jeff Church, Senior Environmental Specialist
Sonoma County Water Agency
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Subject: Russian River County Sanitation District Headworks, Lift Stations, and Force Mains Project, Mitigated Negative Declaration, SCH No. 2023060798, Sonoma County

Dear Mr. Church:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an Initial Study and Mitigated Negative Declaration (IS/MND) from Sonoma County Water Agency (Sonoma Water) for the Russian River County Sanitation District (District) Headworks, Lift Stations, and Force Mains Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

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

CDFW ROLE

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

PROJECT DESCRIPTION SUMMARY

Proponent: Sonoma County Water Agency

Objective: Reduce the potential for sanitation system failures resulting from deteriorating infrastructure or resulting from damage caused by ground deformation,

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

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liquefaction, or lateral ground movement. Primary Project activities include repairing, replacing, or rehabilitating elements of the sanitation system, including:

- Installing new pipe under the Russian River by trenchless microtunneling construction. The existing force main would be abandoned in place;
- Replacing segments of force main with new pipe using open cut construction; and
- Rehabilitating a segment of the force main by installing sliplining in the existing pipe.

Additionally, Project activities include repair and replacement of existing elements of District lift stations and the headworks facility; installation of new Project components; decommissioning two existing medium-voltage electrical transmission lines; installing new dedicated Pacific Gas and Electric Company (PG&E) electrical utility services at three lift stations; and installing a new low voltage electrical service at an additional lift station.

Project activities are expected to include vegetation and hardscape removal, excavation, microtunneling, backfilling, minor grading, and surface restoration.

Location: The Project includes multiple sites within the District Sanitation Boundary in unincorporated areas of Rio Nido, Guerneville, Guerneville Park, and Vacation Beach in Sonoma County. Most sites are adjacent to the Russian River, one site crosses under the Russian River, one crosses over the Russian River suspended below an existing bridge, and two are situated approximately one mile north of the river. One staging location is sited outside the District Sanitation Boundary. The approximate Project area midpoint is at Global Positioning System (GPS) coordinates 38.502189, -122.994399.

Timeframe: Project construction may occur concurrently at multiple sites. The duration of construction for different Project activities ranges from one month to 12 months.

REGULATORY REQUIREMENTS

California Endangered Species Act

Please be advised that a CESA Incidental Take Permit (ITP) must be obtained if the Project has the potential to result in “take” of plants or animals listed under CESA, either during construction or over the life of the Project. **The Project has the potential to impact northern spotted owl (*Strix occidentalis caurina*, NSO) and bank swallow (*Riparia riparia*), both of which are CESA listed as threatened species, as further described below.** Issuance of an ITP is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain an ITP.

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CEQA requires a Mandatory Finding of Significance if a project is likely to substantially restrict the range or reduce the population of a threatened or endangered species. (Pub. Resources Code, §§ 21001, subd. (c) & 21083; CEQA Guidelines, §§ 15380, 15064, & 15065). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency's FOC does not eliminate the Project proponent's obligation to comply with CESA.

Lake and Streambed Alteration Agreement

Notification, pursuant to Fish and Game Code sections 1600 et. seq. is required for any activity that will substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland resources; or deposit or dispose of material where it may pass into a river, lake or stream. Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. **The Project would include activities impacting the Russian River and associated riparian habitat; therefore, an LSA Notification would be required.** CDFW, as a Responsible Agency under CEQA, will consider the CEQA document for the Project. CDFW may not execute the final LSA Agreement until it has complied with CEQA as a Responsible Agency.

COMMENTS AND RECOMMENDATIONS

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

I. Stream Alteration

Comment 1: Stream Alteration, MND Page 63

Issue: The MND indicates that the Project would impact riparian habitat associated with the Russian River, install a new pipe under the river by trenchless microtunneling construction, and potentially conduct other activities impacting the river. However, the IS/MND does not include a mitigation measure requiring LSA Notification and compliance with the LSA Agreement for the above activities. It is not clear in the IS/MND if microtunneling would include the use of drilling fluid. The Project occurs within federally Designated Critical Habitat for Coho salmon (*Oncorhynchus kisutch* pop. 4; federal and state endangered), Chinook salmon (*Oncorhynchus tshawytscha*; federal listed as threatened), and steelhead (*Oncorhynchus mykiss* ssp. *Irideus*;

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federally listed as threatened). Therefore, if a frac-out of drilling fluid occurs within the river the above special-status fish species and other special-status species could be adversely impacted.

Recommended Mitigation Measure: To comply with Fish and Game Code section 1600 et seq., CDFW recommends including the mitigation measure below.

Mitigation Measure 1: Lake and Streambed Alteration Notification and Agreement. The Project shall notify CDFW pursuant to Fish and Game Code section 1600 et seq. using the Environmental Permit Information Management System (see: <https://wildlife.ca.gov/Conservation/Environmental-Review/EPIMS>) for Project activities affecting lakes or streams, associated riparian habitat and any connected wetlands, and shall comply with the LSA Agreement, if issued. Permanent impacts to riparian habitat shall be mitigated by restoring riparian habitat at a minimum 3:1 mitigation to impact ratio, temporary impacts to riparian habitat shall be restored, and restoration shall be completed in the same year of the impact, unless otherwise approved in writing by CDFW.

If trenchless microtunneling construction could result in a frac-out, the notification shall include a frac-out clean-up plan and measures to avoid and minimize impacts to fish and wildlife including, but not limited to, the above special-status fish species. If a frac-out could occur where CESA listed fish may be present (e.g., coho salmon) then the frac-out plan shall include that in the event of frac-out into the stream and associated impacts to species listed under the CESA, the Project shall obtain an ITP from CDFW.

II. Mandatory Findings of Significance: Does the Project have the potential to substantially reduce the number or restrict the range of a rare or endangered plant or animal?

Comment 2: Northern Spotted Owl - Environmental Setting and Related Impact Shortcoming, MND Page 58

Issue: The MND concludes that NSO “...is unlikely to occur within the Proposed Project area or immediately adjacent areas due to the lack of suitable habitat.” However, California Natural Diversity Database (CNDDDB) documents records from as recently as 2021 showing NSO activity within one mile from the Project site, and from 2020 less than 0.5-mile from the Project site. Further, aerial imagery and data available through California Wildlife Habitat Relationship System supports that habitat within 0.25-mile of the Project site, the distance at which nesting NSO may be disturbed from Project activities, may be suitable to support nesting NSO.

Specific impacts and why they may occur and be significant: If suitable NSO nesting habitat occurs on the Project site or within a 0.25-mile radius and active NSO nests are not detected, NSO could be disturbed by Project activities resulting in nest abandonment and loss of eggs or reduced health and vigor and loss of young,

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thereby substantially reducing the number of the species. The Project may result in audio or visual disturbances to nesting NSO within 0.25-mile of the Project site. NSO is CESA listed as a threatened species and therefore, is considered to be a threatened species pursuant to CEQA Guidelines section 15380. Therefore, if an active NSO nest is disturbed by the Project, the Project may result in a substantial reduction in the number of a threatened species, which is considered a Mandatory Finding of Significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

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

Mitigation Measure 2: Northern Spotted Owl Avoidance. A qualified biologist shall provide an assessment of potential NSO nesting habitat within the Project site and a 0.25-mile radius and obtain CDFW's written acceptance of the assessment. Alternatively, if the assessment is not completed, or if it concludes that NSO nesting habitat is present, then no Project activities within 0.25 miles of potential NSO nesting habitat shall occur between February 1 and July 31 unless a qualified biologist approved in writing by CDFW conducts NSO surveys following the U.S. Fish and Wildlife Service (USFWS) Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls, dated (revised) January 9, 2012. Surveys shall be conducted in accordance with Section 9 of the survey protocol, surveys for disturbance-only projects. If nesting NSO are detected during surveys, a 0.25-mile no-disturbance buffer zone shall be implemented around the nest until the end of the breeding season, or a qualified biologist determines that the nest is no longer active, unless otherwise approved in writing by CDFW. If barred owl (*Strix varia*) is detected during surveys, then NSO nesting may not be accurately determined and no activities shall occur between February 1 and July 31 within a 0.25-mile radius around the Project site, unless otherwise approved in writing by CDFW. The Project shall obtain CDFW's written acceptance of the qualified biologist and survey report prior to Project construction occurring between February 1 and July 31 each year.

Alternate buffer zones may be proposed to CDFW after conducting an auditory and visual disturbance analysis following the USFWS guidance, Estimating the Effects of Auditory and Visual Disturbance to Northern Spotted Owl and Marbled Murrelets in Northwestern California, dated October 1, 2020. Alternative buffers must be approved in writing by CDFW.

If take of NSO cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP, and also consult with USFWS pursuant to the federal Endangered Species Act (ESA).

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Comment 3: Bank Swallow - Environmental Setting and Related Impact Shortcoming, MND Appendix D, Page D-19

Issue: The MND concludes that bank swallow is unlikely to occur; however, also indicates that suitable habitat for the species is present. In addition, CNDDDB documents a record of the species within 5 miles of the Project.

Specific impacts and why they may occur and be significant: If suitable bank swallow habitat occurs on the Project site or within the disturbance distance of the species and bank swallow burrows or nests are not detected, bank swallows could be disturbed by Project activities resulting in burrow or nest abandonment and loss of eggs or reduced health and vigor and loss of young, thereby substantially reducing the number of the species. The Project may result in audio or visual disturbances to bank swallows. Bank swallow is CESA listed as a threatened species and; therefore, is considered to be a threatened species pursuant to CEQA Guidelines section 15380. Therefore, if bank swallows are disturbed by the Project, the Project may result in a substantial reduction in the number of a threatened species, which is considered a Mandatory Finding of Significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

Recommended Mitigation Measure: For an accurate environmental setting and to and to comply with CESA and reduce impacts to bank swallows to less-than-significant, CDFW recommends including the mitigation measure below.

Mitigation Measure 3: Bank Swallow Avoidance. At least 30 days before the start of Project activities, a qualified biologist shall evaluate if streambanks with greater than 70 percent slope are present within the disturbance distance of bank swallows and prepare a report documenting the evaluation and a biologically based justification for the proposed disturbance distance. The Project shall obtain CDFW written approval of the report prior to Project start. If streambanks with greater than 70 percent slope are identified within the disturbance distance of bank swallows, they shall be surveyed specifically for bank swallow burrows and nests one week before the start of Project activities and again immediately prior to Project start. If active bank swallow burrows or nests are found, the Project shall consult with CDFW before the start of Project activities. If there is a lapse in Project activities of more than 7 days, surveys shall be repeated. If impacts to bank swallows cannot be avoided, the Project shall obtain an ITP from CDFW.

III. Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or USFWS?

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Comment 4: Special-Status Plants - Environmental Setting and Related Impact Shortcoming, MND Pages 55-56

Issue: It is unclear whether the Project could impact special-status plants for the reasons outlined below.

- The MND refers to focused plant surveys conducted on April 24, April 27, and May 18, 2023, but does not include a report describing the methods or protocols used to conduct the surveys. It is unclear if the surveys were conducted according to CDFW's 2018 *Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities* and are therefore, adequate to detect special-status plants (see: <https://wildlife.ca.gov/Conservation/Survey-Protocols#377281280-plants>);
- In Appendix D, soil-type is used as the basis for determining the Project site does not contain habitat for special-status species, but no soil report is included with the MND;
- In Appendix D, Table D-1, the MND concludes several special-status plant species, including California Rare Plant Rank (CRPR) 1B.1 species, are unlikely to occur because habitat elements, while present, are in degraded condition. However, special-status plant species may persist in degraded habitats; therefore, further information is needed to support that the habitat is unsuitable; and
- In Appendix D, Table D-1, the MND concludes that the special-status plant species Napa false indigo (*Amorpha californica* var. *napensis*, CRPR 1B.2) is unlikely to occur and cites incorrect mapping of historical occurrences. CNDDDB (2023-07-01) documents two occurrences of this species within 2 miles upstream along the Russian River, both from 2022. Based on aerial imagery view (Google Earth, accessed July 18 and 19, 2023) these occurrences are in habitat that appears similar to habitat within the Project site.

Specific impact, why they may occur and be potentially significant: Project activities include vegetation removal, grading, and excavation. Special-status plants with a 1B CRPR are rare throughout their range and may occur on or adjacent to the Project site (see: <https://www.cnps.org/rare-plants/california-rare-plant-ranks>). If special-status plants are present and not detected by the appropriate surveys, the Project may result in potentially significant impacts through crushing and killing plants and impacting viable seeds in the soil.

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

Mitigation Measure 4: Special-Status Plant Protection. A recent botanical survey report detailing the survey methods, area, results, analysis, and conclusions shall be submitted to CDFW for written acceptance. If CDFW is unable to accept the results because the survey methodology was not sufficiently robust to detect special-status plants, a qualified biologist shall conduct botanical surveys during the appropriate blooming period and conditions for all special-status plants that have the potential to occur, prior to the start of construction. More than one year of surveys may be necessary. Surveys shall be conducted following CDFW's Protocol for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities (<https://wildlife.ca.gov/Conservation/Survey-Protocols#377281280-plants>) and include visiting reference populations, unless otherwise approved in writing by CDFW. Survey reports shall be submitted to CDFW for written approval prior to the start of construction. If any special-status plant species are observed, the Project shall fully avoid direct and indirect impacts to all individuals and prepare and implement a CDFW-approved avoidance plan prior to Project activities. If impacts cannot be avoided, the Project shall provide compensatory habitat at a minimum 3:1 ratio including preparing, implementing, and funding in perpetuity a long-term management plan prior to Project construction, unless otherwise approved in writing by CDFW.

Please be advised that the LSA Agreement, if issued, would likely include the above recommended mitigation measures, as applicable, in addition to other avoidance and minimization measures to protect fish and wildlife.

ENVIRONMENTAL DATA

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

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ENVIRONMENTAL DOCUMENT FILING FEES

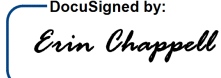
The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental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

CONCLUSION

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

Questions regarding this letter or further coordination should be directed to Sara Keeler, Environmental Scientist, at (916) 594-4485 or Sara.Keeler@wildlife.ca.gov; or Melanie Day, Senior Environmental Scientist (Supervisory), at (707) 210-4415 or Melanie.Day@wildlife.ca.gov.

Sincerely,

DocuSigned by:

Erin Chappell
Regional Manager
Bay Delta Region

Attachment A: Draft Mitigation Monitoring and Reporting Program

ec: Office of Planning and Research, State Clearinghouse (SCH No. 2023060798)
James Hansen, CDFW Bay Delta Region, James.Hansen@wildlife.ca.gov

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ATTACHMENT A

Draft Mitigation Monitoring and Reporting Program (MMRP)

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

Biological Resources (BIO)			
Mitigation Measure (MM)	Description	Timing	Responsible Party
MM1	<p>Lake and Streambed Alteration Notification and Agreement. The Project shall notify CDFW pursuant to Fish and Game Code section 1600 et seq. using the Environmental Permit Information Management System (see: https://wildlife.ca.gov/Conservation/Environmental-Review/EPIMS) for Project activities affecting lakes or streams, associated riparian habitat and any connected wetlands, and shall comply with the LSA Agreement, if issued. Permanent impacts to riparian habitat shall be mitigated by restoring riparian habitat at a minimum 3:1 mitigation to impact ratio, temporary impacts to riparian habitat shall be restored, and restoration shall be completed in the same year of the impact, unless otherwise approved in writing by CDFW.</p> <p>If trenchless microtunneling construction could result in a frac-out, the notification shall include a frac-out clean-up plan and measures to avoid and minimize impacts to fish and wildlife including, but not limited to, the above special-status fish species. If a frac-out could occur where CESA listed fish may be present (e.g., Coho salmon) then the frac-out plan shall include that in the event of frac-out into the stream and associated impacts to species listed under the CESA, the Project shall obtain an ITP from CDFW.</p>	<p>Prior to Ground Disturbance and continuing over the course of the Project</p>	<p>Project Applicant</p>
MM2	<p>Northern Spotted Owl Avoidance. A qualified biologist shall provide an assessment of potential NSO nesting habitat within the Project site and a 0.25-mile radius and obtain CDFW's written acceptance of the assessment. Alternatively, if the assessment is not completed, or if it concludes that NSO nesting habitat is present, then no Project activities within 0.25 miles of potential NSO nesting habitat shall occur between February 1 and July 31 unless a qualified biologist approved in writing by CDFW conducts NSO surveys following the USFWS Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls, dated (revised) January 9, 2012. Surveys shall be conducted in accordance with Section 9 of the survey protocol, Surveys for Disturbance-Only Projects. If nesting NSO are detected during surveys, a 0.25-mile no-disturbance buffer zone shall be implemented around the nest</p>	<p>Prior to Ground Disturbance and continuing over the course of the Project</p>	<p>Project Applicant</p>

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	<p>until the end of the breeding season, or a qualified biologist determines that the nest is no longer active, unless otherwise approved in writing by CDFW. If barred owl (<i>Strix varia</i>) is detected during surveys, then NSO nesting may not be accurately determined and no activities shall occur between February 1 and July 31 within a 0.25-mile radius around the Project site, unless otherwise approved in writing by CDFW. The Project shall obtain CDFW's written acceptance of the qualified biologist and survey report prior to Project construction occurring between February 1 and July 31 each year.</p> <p>Alternate buffer zones may be proposed to CDFW after conducting an auditory and visual disturbance analysis following the USFWS guidance, Estimating the Effects of Auditory and Visual Disturbance to Northern Spotted Owls and Marbled Murrelets in Northwestern California, dated October 1, 2020. Alternative buffers must be approved in writing by CDFW.</p> <p>If take of NSO cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP, and also consult with USFWS pursuant to the federal ESA.</p>		
MM3	<p>Bank Swallow Avoidance. At least 30 days before the start of Project activities, a qualified biologist shall evaluate if streambanks with greater than 70 percent slope are present within the disturbance distance of bank swallows and prepare a report documenting the evaluation and a biologically based justification for the proposed disturbance distance. The project shall obtain CDFW written approval of the report prior to Project start. If streambanks with greater than 70 percent slope are identified within the disturbance distance of bank swallows, they shall be surveyed specifically for bank swallow burrows and nests one week before the start of Project activities and again immediately prior to Project start. If active bank swallow burrows or nests are found, the Project shall consult with CDFW before the start of Project activities. If there is a lapse in Project activities of more than 7 days, surveys shall be repeated. If impacts to bank swallows cannot be avoided, the Project shall obtain an ITP from CDFW.</p>	<p>Prior to Ground Disturbance and continuing over the course of the Project</p>	<p>Project Applicant</p>
MM4	<p>Special-Status Plant Protection. A recent botanical survey report detailing the survey methods, area, results, analysis, and conclusions shall be submitted to CDFW for written acceptance. If CDFW is unable to accept the results because the survey methodology was not sufficiently robust to detect special-status plants, a qualified biologist shall conduct botanical surveys during the appropriate blooming period and conditions for all special-status plants that have the potential to occur, prior to the start of construction. More than one year of surveys may be necessary. Surveys shall be conducted</p>	<p>Prior to Ground Disturbance</p>	<p>Project Applicant</p>

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	<p>following CDFW's Protocol for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities (https://wildlife.ca.gov/Conservation/Survey-Protocols#377281280-plants) and include visiting reference populations, unless otherwise approved in writing by CDFW. Survey reports shall be submitted to CDFW for written approval prior to the start of construction. If any special-status plant species are observed, the Project shall fully avoid direct and indirect impacts to all individuals and prepare and implement a CDFW-approved avoidance plan prior to Project activities. If impacts cannot be avoided, the Project shall provide compensatory habitat at a minimum 3:1 ratio including preparing, implementing, and funding in perpetuity a long-term management plan prior to Project construction, unless otherwise approved in writing by CDFW.</p>		
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