



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



September 20, 2023

Sarah Nolan, Assistant Planner  
City of Vacaville  
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Subject: Weber Road Industrial and Construction Yard Project, Mitigated Negative Declaration, SCH No. 2023080611, City of Vacaville, Solano County

Dear Ms. Nolan:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) from the City of Vacaville (City) for the Weber Road Industrial and Construction Yard Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

CDFW is submitting comments on the MND to inform the City, 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) or Native Plant Protection Act, the Lake and Streambed Alteration (LSA) Agreement, 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:** Weber Road Industrial, LLC

**Objective:** Use two parcels totaling approximately 41 acres as an interim industrial and construction yard for five to fifteen years. Grade the Project site, develop utility connections, and pave driveways for six storage yard areas. Excavate and develop a bioretention basin to collect and treat stormwater inside each of the storage yard areas. Construct a three-foot-tall earthen berm along the northern, eastern, and southern sides

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

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of the Project site. Erect a five-foot-tall, slatted perimeter fence along the top of the berms at the Project site's northern side, along a portion of the eastern boundary, and along the southern boundary with gated access on Weber Road. Erect a five-foot-tall chain-link fence on the western boundary of the Project site adjacent to an elevated gravel access road and along a portion of the eastern boundary.

**Location:** City of Vacaville, Solano County, at the intersection of Weber Road and Byrnes Road, approximate centroid of 38.407116, -121.904784° (NAD 83), Assessor's Parcel Numbers 109-027-050 and 109-022-060.

## **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 Swainson's hawk (*Buteo swainsoni*), a 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.

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.

### **Raptors and Other Nesting Birds**

CDFW has jurisdiction over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nests or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

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## COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City 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 1**, CDFW concludes that an MND is appropriate for the Project.

### I. Environmental Setting and Mitigation Measure Related Impact Shortcomings

**MANDATORY FINDING OF SIGNIFICANCE. Does the Project have potential to substantially reduce the number or restrict the range of an endangered, rare, or threatened species?**

**COMMENT 1:** Swainson's Hawk, Pages 3-27, 3-30, and 3-31

**Issue:** The MND does not adequately evaluate potential impacts to Swainson's hawk. The California Natural Diversity Database (CNDDDB) documents 83 occurrences of nesting Swainson's hawk within five miles of the Project site (CNDDDB 2023). The occurrence of nesting Swainson's hawk closest to the Project is at the intersection of Weber Road and Byrnes Road, approximately 30 feet from the Project (CNDDDB 2023).

**Specific impacts, why they may occur and be potentially significant:** The Project has the potential to impact nesting Swainson's hawk through auditory or visual disturbances above ambient levels. Disturbances from Project activities may result in Swainson's hawk nest abandonment and loss of eggs or reduced health and vigor and loss of young. A general nesting bird survey as proposed by Mitigation Measure BIO-1 (MND page 3-31) may not detect nesting Swainson's hawk and therefore, may not prevent impacts to the species. Swainson's hawk 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 Swainson's hawk 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).

The Project would also result in the removal of potential foraging habitat for Swainson's hawk; however, no compensatory habitat mitigation is proposed in the MND. The breeding population of Swainson's hawks in California has declined by an estimated 91 percent since 1900 and the species continues to be threatened by on-going and cumulative loss of foraging habitat (CDFW 2016). Therefore, reduction of Swainson's hawk foraging habitat would be a potentially significant impact.

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The Project site is within the draft Solano Multispecies Habitat Conservation Plan (HCP) Irrigated Agriculture Conservation Area, and according to the draft Solano HCP Mitigation Measure SH 1 for Swainson's hawk, Irrigated Agriculture Foraging habitat should be mitigated at a ratio of 1:1 (see Section 6.4.8 and Figure 4-21 of the draft Solano HCP at: <https://www.scwa2.com/solano-multispecies-habitat-conservation-plan/>).

**Recommended Mitigation Measures:** To reduce potential impacts to Swainson's hawk to less-than-significant and comply with CESA, CDFW recommends including the below mitigation measures.

Mitigation Measure BIO-2 (Swainson's Hawk Surveys and Avoidance Buffer): If Project activities are scheduled during the nesting season for Swainson's hawks (March 1 to September 15), prior to beginning work on the Project, a qualified biologist shall conduct surveys according to the Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83990&inline>) and prepare a report documenting the survey results. Survey methods shall be closely followed by starting early in the nesting season (late March to early April) to maximize the likelihood of detecting an active nest (nests, adults, and chicks are more difficult to detect later in the growing season because trees become less transparent as vegetation increases). Surveys shall be conducted: 1) within a minimum 0.5-mile radius of the Project site or a larger area if needed to identify potentially impacted active nests, unless otherwise approved by CDFW in writing, and 2) for at least the two survey periods immediately prior to initiating Project-related construction activities. Surveys shall occur annually for the duration of the Project. The qualified biologist shall have a minimum of two years of experience implementing the survey methodology resulting in detections. If active Swainson's hawk nests are detected, the Project shall immediately notify CDFW and implement a 0.5-mile construction avoidance buffer around the nest until the nest is no longer active as determined by a qualified biologist, unless otherwise approved by CDFW in writing. Any detected nesting Swainson's hawk shall be monitored by the qualified biologist to ensure it is not disturbed during construction activities, unless otherwise approved in writing by CDFW. If take of Swainson's hawk cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP.

Mitigation Measure BIO-3 (Swainson's Hawk Foraging Habitat Mitigation): Impacts to Swainson's hawk foraging habitat shall be quantified by a qualified biologist based on the final Project design plans, and the Project shall obtain written acceptance of the acreage of habitat impacts from CDFW. Consistent with the draft Solano HCP, prior to Project construction, the Project shall provide Swainson's hawk foraging habitat mitigation at a 1:1 ratio, which shall include: 1) permanent preservation of the species' foraging habitat through a conservation easement and implementing and funding a long-term management plan in perpetuity, or 2) purchase of Swainson's hawk foraging

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habitat credits at a CDFW-approved mitigation bank in Solano County (County), unless otherwise approved in writing by CDFW.

## II. Environmental Setting and Related Impact Shortcoming

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

**COMMENT 2:** Burrowing owl (*Athene cunicularia*), MND Pages 3-27, 3-30, and 3-31; Biological Resources Assessment (BRA) page 6

**Issue:** The MND does not adequately evaluate potential impacts to burrowing owl. The BRA states that “the Project area does not contain small mammal activity and the presence of burrows that would be required for the presence of nesting burrowing owls” (BRA page 6); however, the Project is surrounded by fallow land, agricultural land, and the unpaved shoulder of the Interstate 80 right-of-way. Any of these surrounding lands may contain California ground squirrels (*Otospermophilus beecheyi*) or other fossorial rodents. Ground squirrels or other rodents may easily cross property boundaries into the Project and excavate burrows, providing refugia habitat for burrowing owl.

CNDDDB documents 16 occurrences of burrowing owl within 5 miles of the Project, with the nearest occurrence approximately 0.4 miles northeast of the Project (CNDDDB 2023). In addition, CNDDDB contains one unprocessed occurrence of nesting burrowing owl approximately 860 feet east of the Project (CNDDDB 2023).

**Specific impacts, why they may occur and be potentially significant:** The Project would result in a permanent reduction of potential burrowing owl foraging habitat in the County and may impact nesting or wintering burrowing owls utilizing burrows or burrow surrogates on or within 500 meters (1,640 feet) of the Project site. The Project could result in burrowing owl nest abandonment, loss of young, reduced health and vigor of owlets, injury or mortality of adults, and permanent wintering (i.e., non-nesting) or nesting habitat loss. Burrowing owl is a California Species of Special Concern because the species’ population viability and survival are adversely affected by risk factors such as precipitous declines from habitat loss, fragmentation, and degradation; evictions from nesting sites without habitat mitigation; wind turbine mortality; human disturbance; and eradication of California ground squirrels resulting in a loss of suitable burrows required by burrowing owls for nesting, protection from predators, and shelter (Shuford and Gardali 2008; Department of Fish and Game Staff Report on Burrowing Owl Mitigation (2012); personal communication, CDFW Statewide Burrowing Owl Coordinator Esther Burkett, May 13, 2022). Preliminary analyses of regional patterns for breeding populations of burrowing owls have detected declines both locally in their central and

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southern coastal breeding areas, and statewide where the species has experienced breeding range retraction (Department of Fish and Game Staff Report on Burrowing Owl Mitigation (2012); personal communication, Esther Burkett, May 13, 2022). Based on the foregoing, if burrowing owls are wintering or nesting on or within 500 meters of the Project site, or if burrowing owl foraging habitat is removed, Project impacts to burrowing owl would be potentially significant.

According to the draft Solano HCP Mitigation Measure BO 1 for burrowing owl, burrowing owl habitat should be mitigated at a ratio of 1:1 (see Section 6.4.9 and Figure 4-22 of the draft Solano HCP).

**Recommended Mitigation Measures:** To reduce potential impacts to burrowing owl to less-than-significant, CDFW recommends including the below mitigation measures.

Mitigation Measure BIO-4 (Burrowing Owl Surveys): A qualified biologist shall conduct a habitat assessment and surveys, if warranted based on the habitat assessment, following the Department of Fish and Game Staff Report on Burrowing Owl Mitigation (2012) methodology (<https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds>) and prepare a report documenting the survey results. Surveys for nesting burrowing owls shall be conducted if Project construction starts during nesting season (February 1 to August 31), and surveys for wintering burrows owls shall be conducted if the construction starts during the wintering season (September 1 to January 31). The habitat assessment and surveys shall encompass the Project site and a sufficient buffer zone to detect owls nearby that may be impacted, which is up to 500 meters (1,640 feet) around the Project site pursuant to the above methodology. Habitat assessments and surveys shall occur each year of Project construction, as conditions may change annually and suitable refugia for burrowing owl, such as small mammal burrows, can be created within a few hours or days, unless otherwise approved in writing by CDFW. Time lapses between surveys or Project activities shall trigger subsequent surveys including, but not limited to, a final survey within 24 hours prior to ground disturbance. The qualified biologist shall have a minimum of two years of experience implementing the above methodology resulting in burrowing owl detections. The Project shall immediately notify CDFW if burrowing owl is detected and implement a construction avoidance buffer around any detected burrowing owl pursuant to the buffer distances outlined in the Department of Fish and Game Staff Report on Burrowing Owl Mitigation (2012), which may be up to 500 meters (1,640 feet). Any detected owl shall be monitored by the qualified biologist to ensure it is not disturbed during construction activities, unless otherwise approved in writing by CDFW. Impacts to nesting burrowing owls shall be fully avoided.

Mitigation Measure BIO-5 (Burrowing Owl Foraging Habitat Mitigation): Impacts to burrowing owl foraging habitat shall be mitigated as described in Mitigation Measure BIO-3 above.

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Mitigation Measure BIO-6 (Burrowing Owl Burrow Mitigation): If the Project would impact an unoccupied nesting burrowing owl burrow or burrow surrogate (i.e., a burrow known to have been used in the past three years for nesting), or an occupied burrow (where a non-nesting owl would be evicted as described below), the following habitat mitigation shall be implemented prior to Project construction.

Impacts to each burrowing owl nesting site shall be mitigated by permanent preservation of two burrowing owl occupied nesting sites with appropriate foraging habitat within the County, unless otherwise approved by CDFW, through a conservation easement and implementing and funding a long-term management plan in perpetuity. The same requirements shall apply for impacts to non-nesting evicted owl sites except two burrowing owl occupied non-nesting (i.e., wintering) sites shall be preserved.

The Project may implement alternative methods for preserving habitat with written acceptance from CDFW.

Please be advised that CDFW does not consider exclusion of burrowing owls (i.e., passive removal of an owl from its burrow or other shelter) as a “take” avoidance, minimization, or mitigation measure for the reasons outlined below. The long-term demographic consequences of exclusion techniques have not been thoroughly evaluated, and the survival rate of excluded owls is unknown. Burrowing owls are dependent on burrows at all times of the year for survival or reproduction; therefore, eviction from nesting, roosting, overwintering, and satellite burrows or other sheltering features may lead to indirect impacts or “take” which is prohibited under Fish and Game Code section 3503.5. All possible avoidance and minimization measures should be considered before temporary or permanent exclusion and closure of burrows is implemented to avoid “take.” Habitat compensation shall be provided for any evicted owl as described above and the Project shall obtain CDFW’s written acceptance of the eviction plan.

Mitigation Measure BIO-7 (Cap Pipe and Hose): To prevent burrowing owls from sheltering or nesting in exposed material; all construction pipes, culverts, hoses or similar materials greater than two inches in diameter stored at the Project site shall be capped or covered before the end of each work day and shall be inspected thoroughly for wildlife before the pipe or similar structure is buried, capped, used, or moved.

## **ENVIRONMENTAL DATA**

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



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

## ENVIRONMENTAL DOCUMENT FILING FEES


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

## CONCLUSION

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

Questions regarding this letter or further coordination should be directed to Alex Single, Environmental Scientist, at (707) 799-4210 or [Alex.Single@wildlife.ca.gov](mailto:Alex.Single@wildlife.ca.gov); or Melanie Day, Senior Environmental Scientist (Supervisory), at [Melanie.Day@wildlife.ca.gov](mailto:Melanie.Day@wildlife.ca.gov) or (707) 210-4415.

Sincerely,

DocuSigned by:  
  
Erin Chappell  
B77E9A6211EF486  
Erin Chappell  
Regional Manager  
Bay Delta Region

Attachment 1. Draft Mitigation and Monitoring Reporting Plan

ec: Office of Planning and Research, State Clearinghouse (SCH No. 2023080611)

## REFERENCES

CDFW. 2023. California Natural Diversity Database (CNDDDB) Management Framework. California Department of Fish and Wildlife. Sacramento, CA. Website <https://wildlife.ca.gov/Data/BIOS> [accessed 28 August 2023].

CDFW. 2016. Status Review: Swainson's Hawk (*Buteo swainsoni*) in California, reported to the California Fish and Game Commission, five-year status report.



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CDFW. 2012. Department of Fish and Game Staff Report on Burrowing Owl Mitigation.  
State of California Natural Resources Agency, Sacramento, CA.

Shuford, W. D., and Gardali, T., editors. 2008. California Bird Species of Special Concern: A ranked assessment of species, subspecies, and distinct populations of birds of immediate conservation concern in California. Studies of Western Birds 1. Western Field Ornithologists, Camarillo, California, and California Department of Fish and Game, Sacramento.

Solano County Water Agency. 2014. Draft Solano Multispecies Habitat Conservation Plan. <https://www.scwa2.com/solano-multispecies-habitat-conservation-plan/>

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## ATTACHMENT 1

### Draft Mitigation and Monitoring Reporting Plan

Biological Resources (BIO)			
Mitigation Measure (MM)	Description	Timing	Responsible Party
<b>MM BIO-2</b>	<p>Swainson's Hawk Surveys and Avoidance Buffer: If Project activities are scheduled during the nesting season for Swainson's hawks (March 1 to September 15), prior to beginning work on the Project, a qualified biologist shall conduct surveys according to the Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (<a href="https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83990&amp;inline">https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83990&amp;inline</a>) and prepare a report documenting the survey results. Survey methods shall be closely followed by starting early in the nesting season (late March to early April) to maximize the likelihood of detecting an active nest (nests, adults, and chicks are more difficult to detect later in the growing season because trees become less transparent as vegetation increases). Surveys shall be conducted: 1) within a minimum 0.5-mile radius of the Project site or a larger area if needed to identify potentially impacted active nests, unless otherwise approved by CDFW in writing, and 2) for at least the two survey periods immediately prior to initiating Project-related construction activities. Surveys shall occur annually for the duration of the Project. The qualified biologist shall have a minimum of two years of experience implementing the survey methodology resulting in detections. If active Swainson's hawk nests are detected, the Project shall immediately notify CDFW and implement a 0.5-mile construction avoidance buffer around the nest until the nest is no longer active as determined by a qualified biologist, unless otherwise approved by CDFW in writing. Any detected nesting Swainson's hawk shall be monitored by the qualified biologist to ensure it is not disturbed during construction activities, unless otherwise approved in writing by CDFW. If take of Swainson's hawk cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP.</p>	Prior to Ground Disturbance and for Duration of Construction	Project Applicant
<b>MM BIO-3</b>	Swainson's Hawk Foraging Habitat Mitigation: Impacts to Swainson's hawk foraging habitat shall be quantified by a qualified biologist based on the final Project design plans,	Prior to Ground Disturbance	Project Applicant

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	and the Project shall obtain written acceptance of the acreage of habitat impacts from CDFW. Consistent with the draft Solano HCP, prior to Project construction, the Project shall provide Swainson's hawk foraging habitat mitigation at a 1:1 ratio, which shall include: 1) permanent preservation of the species' foraging habitat through a conservation easement and implementing and funding a long-term management plan in perpetuity, or 2) purchase of Swainson's hawk foraging habitat credits at a CDFW-approved mitigation bank in the County, unless otherwise approved in writing by CDFW.		
<b>MM BIO-4</b>	<p>Burrowing Owl Surveys: A qualified biologist shall conduct a habitat assessment and surveys, if warranted based on the habitat assessment, following the Department of Fish and Game Staff Report on Burrowing Owl Mitigation (2012) methodology (<a href="https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds">https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds</a>) and prepare a report documenting the survey results. Surveys for nesting burrowing owls shall be conducted if Project construction starts during nesting season (February 1 to August 31), and surveys for wintering burrows owls shall be conducted if the construction starts during the wintering season (September 1 to January 31). The habitat assessment and surveys shall encompass the Project site and a sufficient buffer zone to detect owls nearby that may be impacted, which is up to 500 meters (1,640 feet) around the Project site pursuant to the above methodology. Habitat assessments and surveys shall occur each year of Project construction, as conditions may change annually and suitable refugia for burrowing owl, such as small mammal burrows, can be created within a few hours or days, unless otherwise approved in writing by CDFW. Time lapses between surveys or Project activities shall trigger subsequent surveys including but not limited to a final survey within 24 hours prior to ground disturbance. The qualified biologist shall have a minimum of two years of experience implementing the above methodology resulting in burrowing owl detections. The Project shall immediately notify CDFW if burrowing owl is detected and implement a construction avoidance buffer around any detected burrowing owl pursuant to the buffer distances outlined in the Department of Fish and Game Staff Report on Burrowing Owl Mitigation (2012), which may be up to 500 meters (1,640 feet). Any detected owl shall be monitored by the qualified biologist to ensure it is not disturbed during construction activities, unless otherwise approved in writing by CDFW. Impacts to nesting burrowing owls shall be fully avoided.</p>	Prior to Ground Disturbance and for Duration of Construction	Project Applicant

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<p><b>MM BIO-5</b></p>	<p>Burrowing Owl Foraging Habitat Mitigation: Impacts to burrowing owl foraging habitat shall be mitigated as described in Mitigation Measure BIO-3 above.</p>	<p>Prior to Ground Disturbance</p>	<p>Project Applicant</p>
<p><b>MM BIO-6</b></p>	<p>Burrowing Owl Burrow Mitigation: If the Project would impact an unoccupied nesting burrowing owl burrow or burrow surrogate (i.e., a burrow known to have been used in the past three years for nesting), or an occupied burrow (where a non-nesting owl would be evicted as described below), the following habitat mitigation shall be implemented prior to Project construction.</p> <p>Impacts to each burrowing owl nesting site shall be mitigated by permanent preservation of two burrowing owl occupied nesting sites with appropriate foraging habitat within the County, unless otherwise approved by CDFW, through a conservation easement and implementing and funding a long-term management plan in perpetuity. The same requirements shall apply for impacts to non-nesting evicted owl sites except two burrowing owl occupied non-nesting (i.e., wintering) sites shall be preserved.</p> <p>The Project may implement alternative methods for preserving habitat with written acceptance from CDFW.</p> <p>Please be advised that CDFW does not consider exclusion of burrowing owls (i.e., passive removal of an owl from its burrow or other shelter) as a “take” avoidance, minimization, or mitigation measure for the reasons outlined below. The long-term demographic consequences of exclusion techniques have not been thoroughly evaluated, and the survival rate of excluded owls is unknown. Burrowing owls are dependent on burrows at all times of the year for survival or reproduction; therefore, eviction from nesting, roosting, overwintering, and satellite burrows or other sheltering features may lead to indirect impacts or “take” which is prohibited under Fish and Game Code section 3503.5. All possible avoidance and minimization measures should be considered before temporary or permanent exclusion and closure of burrows is implemented to avoid “take.” Habitat compensation shall be provided for any evicted owl as described above and the Project shall obtain CDFW’s written acceptance of the eviction plan.</p>	<p>Prior to Ground Disturbance</p>	<p>Project Applicant</p>