



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**



July 8, 2024

Brian Millar, Contract Planner  
City of Dixon  
600 East A Street  
Dixon, CA 95620  
[BMillar@CityofDixon.us](mailto:BMillar@CityofDixon.us)

Subject: The Campus, Environmental Impact Report, SCH No. 2023080739, City of Dixon, Solano County

Dear Mr. Millar:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a Draft Environmental Impact Report (EIR) from the City of Dixon (City) for The Campus (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup> CDFW previously submitted comments in response to the Notice of Preparation of the EIR (NOP) in a letter dated September 29, 2023.

CDFW is submitting comments on the EIR 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) 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:** Dixon Venture LLC

**Objective:** The Project would develop a phased, mixed-use development on approximately 260 acres of farmland. The development would consist of 47.87 acres of light industrial business park/tech campus (the Dixon Opportunity Center), 2.49 acres of light commercial use, 11.54 acres of high-density residential use, 33.49 acres of

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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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medium-density residential use, 99.24 acres of low-density residential use, 8.42 acres of recreational parks and open space, 27.90 acres of water and drainage infrastructure, and 23.66 acres of road and road right-of-way.

The Project would also rezone the site, currently zoned as Professional & Admin Office (PAO-PUD), Neighborhood Commercial (CN-PUD), and Light Industrial (ML-PUD), to Campus Mixed Use Planned Development (CAMU-PD).

**Location:** The Project is located in northeast Dixon, with a center point of approximately 38.477517 °N, -121.807619 °W. The Project site is comprised of APNs 0111-040-010, 0111-040-020, 0111-040-030, 0111-040-040, and 0111-080-050.

## 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*), 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 (MBTA).

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## COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below, which are also included in **Attachment 1**, 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.

### I. 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?*

**AND**

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

**COMMENT 1: Swainson's hawk, EIR pages 2.2, 2.3, 2.4, 3.4-31, 3.4-35, 3.4-36, 3.4-37, and figures ES-4 and ES-6.**

**Issue:** The EIR does not adequately mitigate potential impacts to Swainson's hawk. The California Natural Diversity Database (CNDDDB) documents 143 occurrences of nesting Swainson's hawk within five miles of the Project site (CNDDDB 2024). The nearest two occurrences of nesting Swainson's hawk overlap with the northwest and the southeast portions of the Project site (CNDDDB 2024). Additionally, the EIR identifies that "croplands within the Project site (261.192 acres) provide suitable foraging habitat for this species and suitable nest trees are located adjacent to the Project site and in the surrounding vicinity" (EIR page 3.4-31).

**Specific impacts, why they may occur and be potentially significant:**

*Nesting Swainson's hawks*

Thank you for including in Mitigation Measure 3.4-4(b) protocol-level Swainson's hawk surveys pursuant to the 2000 *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>) (EIR pages 3.4-35, 3.4-36, and 3.4-37). However, the proposed buffer distance of 200 yards around any detected active nests is potentially inadequate and therefore the Project has the potential to impact nesting Swainson's hawk through auditory or visual disturbances above ambient levels, which may result in Swainson's hawk nest abandonment and loss

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of eggs or reduced health and vigor and loss of young. This above protocol document includes Project activities which occur greater than 200 yards in a category of low disturbance to the reproductive success of individuals (TAC 2000 page 5). However, this “low” level of disturbance may still result in take, and a 200-yard buffer may not be adequate to prevent take of nesting Swainson’s hawk. A more protective 0.5-mile buffer is recommended in both the *Staff Report Regarding Mitigation for Impacts to Swainson’s Hawks (Buteo swainsoni) in the Central Valley of California* (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83992&inline>) and the *Swainson’s Hawk Survey Protocols, Impact Avoidance, and Minimization Measures for Renewable Energy Projects in the Antelope Valley of Los Angeles and Kern Counties, California* (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83991&inline>) and should be implemented for this Project (CDFW 1994 page 11 and CEC and CDFG 2010).

Further, use of “if possible” in the Mitigation Measure, for example “If possible, no work will occur within 200 yards of the nest while it is in active use” (EIR page 3.4-35) presents uncertainty that any buffer will be implemented.

#### *Swainson’s hawk foraging habitat*

As described in the EIR, the Project site contains 261.192 acres of Swainson’s hawk foraging habitat (page 3.4-31), which would be destroyed during Project implementation (EIR pages 2-2, 2-3, and 2-4 figures ES-4 and ES-6). The Project site is within the draft Solano Multispecies Habitat Conservation Plan (HCP) Irrigated Agriculture Conservation Area, and should be mitigated at a 1:1 ratio according to the draft Solano HCP Mitigation Measure SH 1 for Swainson’s hawk (See Section 6.4.8 and Figure 4-21 of the draft Solano HCP at: <https://www.scwa2.com/solano-multispecies-habitat-conservation-plan/>), as described our response to the NOP in a letter dated September 29, 2023.

Mitigation Measure 3.4-4(b) does not provide certainty that foraging habitat destroyed by the Project will be adequately mitigated. Mitigation Measure 3.4-4(b) states that “the City of Dixon as the CEQA lead agency shall make the final determination as to the extent of the proposed Project’s impacts to Swainson’s hawk foraging habitat and any appropriate mitigation that might be necessary associated with project development” (EIR page 3.4-36). Mitigation Measure 3.4-4(b) inappropriately defers determining the amount of mitigation land necessary to offset impacts to Swainson’s hawk foraging habitat, therefore this impact may not be reduced to less-than-significant. Further, the amount of mitigation land, if any, would not be subject to public review under CEQA, thereby circumventing key purposes of CEQA including informing the public and governmental decision makers about the potential, significant environmental effects of a proposed project and identifying ways that environmental damage can be avoided or significantly reduced (CEQA Guidelines, § 15002). CEQA Guidelines section 15126.4,

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subdivision (b) states: "Formulation of mitigation measures shall not be deferred until some future time. The specific details of a mitigation measure, however, may be developed after project approval when it is impractical or infeasible to include those details during the project's environmental review provided that the agency (1) commits itself to the mitigation, (2) adopts specific performance standards the mitigation will achieve, and (3) identifies the type(s) of potential action(s) that can feasibly achieve that performance standard and that will be considered, analyzed, and potentially incorporated in the mitigation measure. Compliance with a regulatory permit or other similar process may be identified as mitigation if compliance would result in implementation of measures that would be reasonably expected, based on substantial evidence in the record, to reduce the significant impact to the specified performance standards." With respect to Swainson's hawk foraging habitat mitigation, Mitigation Measure 3.4-4(b) does not commit the City as Lead Agency to habitat mitigation, nor does it adopt specific performance standards for mitigation.

#### *Potentially significant impacts*

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 or its foraging habitat is removed, the Project may result in a substantial reduction in the number or restriction in the range of a threatened species, which is considered a Mandatory Finding of Significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

**Recommended Mitigation Measures:** To reduce potential impacts to Swainson's hawk to less-than-significant and comply with CESA, CDFW recommends replacing Mitigation Measure 3.4-4(b) with the below Mitigation Measures.

*Mitigation Measure 3.4-4(e) (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

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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 3.4-4(f) (Swainson's Hawk Foraging Habitat Mitigation):* 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 Solano County, unless otherwise approved in writing by CDFW.

**COMMENT 2: Burrowing owl (*Athene cunicularia*), EIR pages 3.4-31 and 3.4-34.**

**Issue:** The EIR does not adequately mitigate potential impacts to burrowing owl. The CNDDDB documents 17 occurrences of burrowing owl within five miles of the Project site (CNDDDB 2024). The nearest occurrence of burrowing owl is a nesting burrow approximately 375 feet southeast of the Project site (CNDDDB 2024). Additionally, the EIR identifies that "based on suitable habitat in the Project site and the number and proximity of nearby documented occurrences, burrowing owl has a high potential to occur in the Project site" (page 3.4-31).

**Specific impacts, why they may occur and be potentially significant:**

*Nesting and wintering burrowing owl*

Thank you for including a protocol-level burrowing owl survey and mitigation generally based on the *Department of Fish and Game Staff Report on Burrowing Owl Mitigation* (2012) methodology (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline=true>) in Mitigation Measure 3.4-4(a) (EIR page 3.4-34). However, Mitigation Measure 3.4-4(a) only includes surveys extending 500 feet from the edge of the Project area (EIR page 3.4-34). However, pursuant to the above protocol, the Project may impact nesting or wintering burrowing owl 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 (SSC) because the species' population viability and survival are adversely affected by risk factors such as precipitous declines

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from habitat loss, fragmentation, and degradation; evictions from nesting sites without habitat mitigation; wind turbine mortality; human disturbance; and eradication of California ground squirrel (*Otospermophilus beecheyi*) resulting in a loss of suitable burrows required by burrowing owl 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 owl have detected declines both locally in their central and 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).

#### *Burrowing owl foraging habitat*

The Project would result in a permanent reduction of potential burrowing owl foraging habitat in Solano County. 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).

#### *Potentially significant impacts*

Based on the foregoing, if burrowing owl 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.

**Recommended Mitigation Measure:** To reduce potential impacts to burrowing owl to less-than-significant and comply with Fish and Game Code section 3500 et seq. and the federal MBTA, CDFW recommends replacing Mitigation Measure 3.4-4(a) with the below mitigation measures.

*Mitigation Measure 3.4-4(a) (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 owl shall be conducted if Project construction starts during nesting season (February 1 to August 31), and surveys for wintering burrowing owl 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

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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 owl shall be fully avoided.

*Mitigation Measure 3.4-4(b) (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 Solano 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 owl (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 owl 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.



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*Mitigation Measure 3.4-4(c) (Burrowing Foraging Habitat Mitigation):* Consistent with the draft Solano HCP, prior to Project construction, the Project shall provide burrowing owl 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 burrowing owl foraging habitat credits at a CDFW-approved mitigation bank in Solano County, unless otherwise approved in writing by CDFW.

*Mitigation Measure 3.4-4(d) (Cap Pipe and Hose):* To prevent burrowing owl 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:

<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. (See: 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 EIR 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, Senior Environmental Scientist (Specialist), at [Alex.Single@wildlife.ca.gov](mailto:Alex.Single@wildlife.ca.gov) or

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(707) 799-4210; 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*

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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. 2023080739)

## REFERENCES

CDFW, 2024. California Natural Diversity Database (CNDDDB) Management Framework. California Department of Fish and Wildlife. Sacramento, CA. Website <https://wildlife.ca.gov/Data/BIOS> [accessed 20 June 2024].

CDFG, 2012. *Staff Report Regarding Mitigation for Impacts to Swainson's Hawks (Buteo swainsoni) in the Central Valley of California*. California Department of Fish and Game, Sacramento, CA. <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83992&inline>

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

CEC and CDFG, 2010. Swainson's Hawk Survey Protocols, Impact Avoidance, and Minimization Measures for Renewable Energy Projects in the Antelope Valley of Los Angeles and Kern Counties, California. California Energy Commission and Department of Fish and Game, Sacramento, CA. <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83991&inline>

TAC, 2000. Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley. Swainson's Hawk Technical Advisory Committee, Sacramento, CA. <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83990&inline>

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

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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://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
3.4-4(a)	<p><i>Burrowing Owl Surveys.</i> A qualified biologist shall conduct a habitat assessment and surveys, if warranted based on the habitat assessment, following the <i>Department of Fish and Game Staff Report on Burrowing Owl Mitigation (2012)</i> 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 owl shall be conducted if Project construction starts during nesting season (February 1 to August 31), and surveys for wintering burrowing owl 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 <i>Department of Fish and Game Staff Report on Burrowing Owl Mitigation (2012)</i>, 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 owl shall be fully avoided.</p>	<p>Prior to Ground Disturbance and for Duration of Construction</p>	<p>Project Applicant</p>

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<p><b>3.4-4(b)</b></p>	<p><i>Burrowing Owl Burrow Mitigation.</i> 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 Solano 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.</p> <p>Please be advised that CDFW does not consider exclusion of burrowing owl (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 owl 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>
<p><b>3.4-4(c)</b></p>	<p><i>Burrowing Foraging Habitat Mitigation.</i> Consistent with the draft Solano HCP, prior to Project construction, the Project shall provide burrowing owl 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 burrowing owl foraging habitat credits at a CDFW-approved mitigation bank in Solano County, unless otherwise approved in writing by CDFW.</p>	<p>Prior to Ground Disturbance</p>	<p>Project Applicant</p>

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<p><b>3.4-4(d)</b></p>	<p><i>Cap Pipe and Hose.</i> To prevent burrowing owl from sheltering or nesting in exposed material; all construction pipes, culverts, hoses or similar materials greater than 2 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.</p>	<p>Prior to Ground Disturbance and for Duration of Construction</p>	<p>Project Applicant</p>
<p><b>3.4-4(e)</b></p>	<p><i>Swainson's Hawk Surveys and Avoidance Buffer.</i> 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 <i>Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley</i> (<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>	<p>Prior to Ground Disturbance and for Duration of Construction</p>	<p>Project Applicant</p>
<p><b>3.4-4(f)</b></p>	<p><i>Swainson's Hawk Foraging Habitat Mitigation.</i> 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</p>	<p>Prior to Ground Disturbance</p>	<p>Project Applicant</p>

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	long-term management plan in perpetuity, or 2) purchase of Swainson's hawk foraging habitat credits at a CDFW-approved mitigation bank in Solano County, unless otherwise approved in writing by CDFW.		
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