



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Bay Delta Region  
2825 Cordelia Road, Suite 100  
Fairfield, CA 94534  
(707) 428-2002  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



Governor's Office of Planning & Research

February 09 2024

February 9, 2024

## STATE CLEARINGHOUSE

Ann Calnan, Environmental Lead  
Santa Clara Valley Transportation Authority  
Environmental Programs Office  
3331 North First Street, B-2  
San Jose, CA 95134-1927  
[beneficial.reuse@vta.org](mailto:beneficial.reuse@vta.org)

Subject: Beneficial Reuse of Excavated Material in Tidal Marsh Restoration Project, Notice of Preparation of a Draft Joint Environmental Impact Report/Environmental Impact Statement, SCH No. 2024010509, Counties of Alameda, San Mateo, and Santa Clara

Dear Ann Calnan:

The California Department of Fish and Wildlife (CDFW) received a Notice of Preparation (NOP) of a Draft Joint Environmental Impact Report/Environmental Impact Statement (EIR/EIS) from the Santa Clara Valley Transportation Authority for the Beneficial Reuse of Excavated Material in Tidal Marsh Restoration Project (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

### CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (*Id.*, § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

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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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CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's Lake and Streambed Alteration (LSA) regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by state law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

## **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. Issuance of a CESA Permit 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 a CESA Permit.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially restrict the range or reduce the population of a threatened, rare, or endangered species (Pub. Resources Code, §§ 21001, subd. (c), 21083; CEQA Guidelines, § 15380, 15064, and 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 Fish and Game Code section 2080.

### **Lake and Streambed Alteration**

CDFW requires an LSA Notification, pursuant to Fish and Game Code § 1600 et. seq., for Project activities affecting lakes or streams and associated riparian habitat. Notification is required for any activity that may 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. CDFW, as a Responsible Agency under CEQA, will consider the CEQA document for the Project and may issue an LSA Agreement. CDFW may not execute the final LSA Agreement (or ITP) until it has complied with CEQA as a Responsible Agency.

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## **Cutting the Green Tape Program**

CDFW's Cutting the Green Tape (CGT) program is a statewide effort, representing CDFW's environmental permitting and grant funding programs with added support from its general counsel and executive leadership. This program is leading efforts to develop and implement improvements to how CDFW issues permits and administers its grant programs, to accelerate the pace and scale of restoration throughout the state.

A Restoration Management Permit (RMP) is a tool available under the CGT program that consolidates "take" authorizations that voluntary habitat restoration projects may need to obtain into a single streamlined permit. The RMP can authorize state-defined take (hunt, pursue, capture, catch, or kill, or attempt to do so) of endangered, threatened, and candidate species pursuant to section 2081, subdivision (a), of CESA as well as fully protected species (FPS) pursuant to Fish and Game Code, §§ 3511, 4700, 5050, and 5515.

## **PROJECT DESCRIPTION SUMMARY**

**Proponent:** Santa Clara Valley Transportation Authority (VTA)

**Objective:** The objective of the Project is to place excavated or other "fill" material into several former salt production ponds around south San Francisco Bay to raise pond bottoms for the purpose of accelerating the timeline for tidal marsh habitat restoration. Primary Project activities include transport and placement of up to 3.5 million cubic yards of excavated material from VTA's BART Silicon Valley-Phase II Extension Project (BSVII Project), as well as construction of infrastructure to facilitate sediment delivery and placement. The draft EIR/EIS includes analysis at a project level of sediment placement from the BSVII Project to the Pond A8 Complex and Pond A4, and analysis at a programmatic level of sediment placement from other project proponents to the Ravenswood Pond Complex (except Pond SF2), the Alviso Pond Complex, and Pond A4.

**Location:** Project-level ponds are located in south San Francisco Bay in Santa Clara County. The Pond A8 Complex (consisting of Ponds A5, A7, A8, and A8S) is located in the cities of San Jose and Santa Clara. Ponds A12 and A13 are located in the City of San Jose. The Pond A8 Complex, Pond A12, and Pond A13 are contained within the Don Edwards San Francisco Bay National Wildlife Refuge and are part of the Alviso Pond Complex. Pond A4 is located in the cities of Sunnyvale and San Jose, immediately southwest of the Alviso Pond Complex.

Programmatic-level ponds are located in south San Francisco Bay and include the Ravenswood Pond Complex in San Mateo County (except Pond SF2), the Alviso Pond Complex (A8 Complex, A12, and A13) in Santa Clara and Alameda counties, and Pond A4 in Santa Clara County.

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**Timeframe:** Approximately 2026-2029 for project-level ponds. Undetermined for programmatic-level ponds, as further definition of specific projects will require further CEQA analysis.

## **COMMENTS AND RECOMMENDATIONS**

CDFW offers the comments and recommendations below to assist VTA in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document. Based on the potential for the Project to have a significant impact on biological resources, CDFW concludes that an Environmental Impact Report is appropriate for the Project.

### **I. Project Description and Related Impact Shortcoming**

**Would the Project conflict with provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?**

**COMMENT #1:** Figure 4 and page 7 – Los Esteros Spur Option

**Issue:** The Los Estero Spur Option may conflict with the Prohibited Uses of a Recorded Conservation Easement Agreement between the City of San Jose and the Santa Clara Valley Habitat Agency (Habitat Agency). Under the Los Esteros Spur Option, the NOP describes construction of two storage tracks south of Los Esteros Road that would be used to unload material from the existing Union Pacific Railroad (UPRR) mainline, where it would then be transported by conveyor belt or by truck to the Project-level ponds.

**Specific impact:** Burrowing owl (*Athene cunicularia*) is a California Species of Special Concern (SSC) that is a Covered Species under the Santa Clara Valley Habitat Plan/Natural Community Conservation Plan. The Conservation Easement Agreement and associated Management Plan were established as part of the Santa Clara Valley Habitat Plan's Reserve System to protect and manage burrowing owl. Project activities, including improvements that would alter the surface of the Easement Area and dumping of materials are not allowed activities under the Conservation Easement Agreement.

**Why impact would occur:** Construction of storage tracks and unloading/stockpiling material in the area within the Conservation Easement Agreement would result in potential short-term and/or long-term impacts to burrowing owl foraging habitat.

**Evidence impact would be significant:** Burrowing owl is designated as a California SSC due to population decline and breeding range retraction. The species

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has also experienced a severe population decline in Santa Clara County. Project activities have the potential to adversely affect burrowing owl. Project impacts may result in disturbance or take of burrowing owls, resulting in further species population decline and potential cumulative impacts resulting in the restriction in the range of the species. Therefore, Project impacts to burrowing owl would be potentially significant.

**Recommended Potentially Feasible Mitigation Measure(s) (Regarding Project Description and Related Impact Shortcoming)**

**Mitigation Measure #1: Stockpile and Haul Route Alternatives**

The draft EIR/EIS should identify all possible alternatives to stockpiling or transporting sediments to the project-level ponds. All Project activities, including stockpiling and haul route sites, should be limited to areas that do not result in short-term or long-term impacts to special-status species and their habitats.

**Mitigation Measure #2: Habitat Agency Coordination**

The draft EIR/EIS should discuss any of VTA's coordination with the Habitat Agency regarding Project use of the Easement Area. If it is determined that any Project activities can be authorized within the limits of the Easement Area under the Conservation Easement Agreement, this should be clearly disclosed, including payment of any necessary impact fees, as defined under the Santa Clara Valley Habitat Plan. The draft EIR/EIS should also include all appropriate protective measures to avoid take or adverse impacts to nesting or overwintering western burrowing owls present within the Conservation Easement.

**Mitigation Measure #3: Enhancement Opportunities**

The draft EIR/EIS should describe in detail if, or how, any surplus soil from the stockpile site may be used for habitat enhancement purposes within the Conservation Easement area, and whether these types of enhancements may result in short-term impacts to western burrowing owls that may be nesting or overwintering within the Conservation Easement area. If such enhancement activities are proposed, the draft EIR/EIS should include all feasible and effective mitigation measures to avoid any short-term impacts to western burrowing owls during implementation of these activities.

**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)?**

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**COMMENT #2:** Figure 4 and Page 7 – Rail Haul Method

**Issue:** The NOP describes two methods (truck and rail) for hauling excavated material to the project-level ponds. Based on the information provided in the NOP, the truck haul method appears to utilize existing highways and local roads, whereas the rail haul method includes the use of existing and newly constructed rail spur tracks within wildlife habitat. The NOP does not describe the types of habitat or species that may be impacted by construction of new rail infrastructure associated with the rail haul method.

**Specific impact:** The Pond A12 Spur Option would be constructed between the UPRR mainline and the Coastal Flood Protection Levee Reach 1 east of Pond A12. The Los Esteros Spur Option would require reconfiguration of a curve at the intersection of the spur and the UPRR mainline, construction of siding along the south side of the existing spur from the reconfigured curve to Grant Boulevard, and construction of two storage tracks south of Los Esteros Road for unloading. The two rail spur options are proposed in areas known to support special-status species, such as burrowing owl, western snowy plover (*Charadrius nivosus nivosus*), California black rail (*Laterallus jamaicensis coturniculus*), tricolored blackbird (*Agelaius tricolor*), salt marsh harvest mouse (*Reithrodontomys raviventris*), and salt marsh wandering shrew (*Sorex vagrans halicoetes*).

**Why impact would occur:** Construction and use of the proposed rail spur options have the potential to result in a substantial reduction in available breeding, roosting, and foraging habitat and to substantially increase disturbance to several special-status wildlife species.

**Evidence impact would be significant:** Species above may be listed as FPS under California Fish and Game Code (§ 3511 or § 4700); listed under CESA and may also be designated as rare, threatened, or endangered under §15380, subds. (c)(1) and (c)(2)); or may be species designated by CDFW as SSC and are at conservation risk and may be experiencing serious population declines or range retractions.

**Recommended Potentially Feasible Mitigation Measure(s) (Regarding Closely Related Past, Present, and Reasonably Foreseeable Probable Future Projects)**

**Mitigation Measure #1:** Stockpile and Haul Route Alternatives

The draft EIR/EIS should identify all possible alternatives to transporting sediments to the project-level ponds. All Project activities, including haul routes, should be limited to areas that do not result in short-term or long-term adverse impacts to special-status species and their habitats. The draft EIR/EIS should clearly explain

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the rationale for the use of rail haul route alternatives (if selected) over seemingly less impactful truck haul route alternatives.

## II. Environmental Setting and Related Impact Shortcoming

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

**COMMENT #3:** Pages 5-6 – Habitat Types

**Issue:** The NOP refers to several stream channels directly adjacent to Project-level and Programmatic-level former salt production ponds, including Guadalupe River, Alviso Slough, San Tomas Aquino Creek, Moffett Channel, and Coyote Creek. These stream channels are subject to CDFW's LSA authority, pursuant to Fish and Game Code 1600 et. seq. The NOP does not describe the hydrologic connectivity of these channels to the ponds that will receive sediment placement.

**Specific impact:** Work within the Project area has the potential to result in substantial diversion or obstruction of natural flows; substantial change or use of material from the bed, bank, or channel (including removal of riparian/wetland vegetation); and deposition of debris, waste, sediment, or other materials into water features causing water pollution deleterious to fish and wildlife.

**Why impact would occur:** Placement of sediment into the ponds may result in temporary and/or permanent impacts to adjacent stream channels if they are hydrologically connected via existing breaches, culverts, flap-gates, siphons, pumps, or other structures where sediment may pass into the channels. In addition, other Project elements, including improvements made to rail haul routes, equipment use on levees associated with conventional or hydraulic placement of sediment, and construction associated with conveyor systems may result in temporary and/or permanent impacts to adjacent stream channels.

**Evidence impact would be significant:** Substantial diversion or obstruction of natural flow, change in stream bed or bank, or deposit of debris into streams without necessary permitting would be a violation under Fish and Game Code 1600 et. seq.

**Recommended Potentially Feasible Mitigation Measure(s) (Regarding Environmental Setting and Related Impact Shortcoming)**

**Mitigation Measure #1:** Habitat Assessment

A qualified biologist should conduct a habitat assessment in advance of Project implementation to determine if the Project area or its immediate vicinity supports

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tidal, brackish, and freshwater marsh; wetland; open-water pond; and/or riparian communities and associated hydrologic connectivity. This assessment should include, but not be limited to marsh, ponds, creeks, streams, and drainage channels.

**Mitigation Measure #2: Impact Minimization**

The draft EIR/EIS should include avoidance and minimization measures for all temporary and permanent impacts to tidal, brackish, and freshwater marsh; wetland; open-water pond; stream; and riparian habitats resulting from implementation of the Project.

**Mitigation Measure #3: Notification of Lake or Streambed Alteration**

Fish and Game Code 1600 et. seq. requires an entity to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake, (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. Project construction activities may necessitate that the Project proponent submit a Notification of LSA to CDFW. CDFW is required to comply with CEQA in the issuance of an LSA Agreement. Additional information can be found at <https://www.wildlife.ca.gov/Conservation/LSA>

**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?**

**COMMENT #4: Page 19 – Biological Resources**

**Issue:** Special-status fish and wildlife species, including endangered, threatened, fully protected, and state SSC may occur within or directly adjacent to the Project area. The NOP does not discuss potential impacts to special-status fish or wildlife species that may be present within or near the Project area. These species may include, but are not limited to:

- Central California Coast Distinct Population Segment (DPS) steelhead (*Oncorhynchus mykiss irideus*) – Federal Threatened (FT)
- Central Valley fall-run/late fall-run Evolutionarily Significant Units (ESU) Chinook salmon (*O. tshawytscha*) – State SSC
- Southern DPS green sturgeon (*Acipenser medirostris*) – FT



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- White Sturgeon (*A. transmontanus*) - SSC
- Longfin smelt (*Sprinichus thaleichthys*) – Federal Candidate, State Threatened (ST)
- Crotch’s bumble bee (*Bombus crotchii*) – State Candidate Endangered
- Western pond turtle (*Emys marmorata*) – Federal Proposed Threatened, SSC
- Western snowy plover (*Charadrius nivosus nivosus*) – FT, SSC
- California black rail (*Laterallus jamaicensis coturniculus*) – ST, State Fully Protected (FP)
- California Ridgway’s Rail (*Rallus obsoletus obsoletus*) – Federal Endangered (FE), State Endangered (SE), FP
- California least tern (*Sternula antillarum browni*) – FE, SE, FP
- Golden eagle (*Aquila chrysaetos*) – FP
- White-tailed kite (*Elanus leucurus*) – FP
- Tricolored blackbird (*Agelaius tricolor*) – ST
- Yellow rail (*Coturnicops noveboracensis*) – SSC
- Black skimmer (*Rynchops niger*) – SSC
- Northern harrier (*Circus hudsonius*) – SSC
- Burrowing owl (*Athene cunicularia*) – SSC
- Loggerhead shrike (*Lanius ludovicianus*) – SSC
- Bryant’s savannah sparrow (*Passerculus sandwichensis alaudinus*) – SSC
- Alameda song sparrow (*Melospiza melodia pusillula*) – SSC
- San Francisco common yellowthroat (*Geothlypis trichas sinuosa*) – SSC
- Yellow warbler (*Setophaga petechia*) – SSC
- Salt marsh harvest mouse (*Reithrodontomys raviventris*) – FE, SE, FP

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- Salt marsh wandering shrew (*Sorex vagrans halicoetes*) – SSC
- Pallid bat (*Antrozous pallidus*) – SSC
- Western red bat (*Lasiurus blossevillii*) – SSC

**Specific impact:** Impacts may include, but are not limited to, direct mortality through crushing of adults, young, or individuals within nests; loss of nests or nest abandonment; loss of potential breeding, nesting, rearing, and foraging habitat; reduction in ability to forage due to increased turbidity; reduction in fish egg survival due to increased turbidity; barotrauma to fish (if pile-driving is conducted); reduction in reproductive success to wildlife due to auditory and/or visual disturbance; and inadvertent entrapment, entrainment, or impingement.

**Why impact would occur:** Implementation of the Project could include operation of heavy equipment, road and rail haul route improvements, levee improvements, construction of conveyor systems, and hydraulic and/or cutter suction dredging operations. The Project would include impacts such as noise, groundwork, and movement of workers that would have the potential to adversely impact breeding, foraging, and rearing of special-status fish and wildlife species.

**Evidence impact would be significant:** Species above may be listed as FPS under California Fish and Game Code (§ 3511 or § 4700); listed under CESA and may also be designated as rare, threatened, or endangered under §15380, subds. (c)(1) and (c)(2)); or may be species designated by CDFW as SSC and are at conservation risk and may be experiencing serious population declines or range retractions.

### **Recommended Potentially Feasible Mitigation Measure(s) (Regarding Mitigation Measure or Alternative and Related Impact Shortcoming)**

#### **Mitigation Measure #1: Habitat Assessment**

The draft EIR/EIS should include results of a thorough habitat assessment conducted by a qualified biologist to determine if the Project site or its vicinity contains suitable habitat for special-status fish and wildlife species.

#### **Mitigation Measure #2: Special-Status Fish and Wildlife Species Surveys**

Focused surveys for special-status species using appropriate protocols should be conducted by qualified biologists at the Project site prior to any Project-related construction. Protocol-level surveys are intended to maximize detectability. In the absence of protocol-level surveys being performed, focused surveys for special-

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status species presence, nests, eggs, or other indicators of presence (e.g. bat guano) should be conducted.

**Mitigation Measure #3: Avoidance**

If special-status wildlife species or their nests are found within or adjacent to the Project site, a no-disturbance buffer should be established and monitoring of the individuals and/or active nests should be conducted by a qualified biologist during all Project-related construction activities. The qualified biologist should increase the buffer if individuals are showing signs of unusual or distressed behavior such as running away, seeking cover, defensive flights/vocalizations, standing up from a brooding position, or flying away from a nest. Buffers should be maintained until the individuals have left the Project area on their own volition, or until nesting has concluded or the eggs have hatched and young have fledged. The draft EIR/EIS should include additional avoidance and minimization measures for each special-status species that could be potentially impacted by Project activities.

**Mitigation Measure #4: State-listed Species Take Authorization**

If known or expected occurrences of state-listed wildlife species are present at the Project site or the species is identified during surveys and full avoidance of take is not feasible, the Project proponent should apply to CDFW for take authorization through issuance of an ITP or RMP, as appropriate. A RMP, if appropriate, may include take coverage for state FPS.

**COMMENT #5: Page 19 – Biological Resources**

**Issue:** Special-status plant species may occur within the Project area. The NOP does not discuss potential impacts to special-status plant species that may be present within the Project area. These species may include, but are not limited to:

- Congdon's tarplant (*Centromadia parryi* ssp. *congdonii*) – California Rare Plant Rank (CRPR) 1B.1
- Small spikerush (*Eleocharis parvula*) – CRPR 4.3
- Saline clover (*Trifolium hydrophilum*) – CRPR 1B.2

**Specific impact:** Impacts include direct mortality or inability to reproduce.

**Why impact would occur:** Implementation of the Project could include operation of heavy equipment, road and rail haul route improvements, levee improvements, and construction of conveyor systems that could crush or bury individual plants.

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**Evidence impact would be significant:** Special-status plants are typically narrowly distributed endemic species. These species are susceptible to habitat loss and habitat fragmentation resulting from development, vehicle and foot traffic, and introduction of non-native plant species.

**Recommended Potentially Feasible Mitigation Measure(s) (Regarding Mitigation Measure or Alternative and Related Impact Shortcoming)**

**Mitigation Measure #1: Habitat Assessment**

The draft EIR/EIS should include results of a thorough habitat assessment conducted by a qualified botanist to determine if the Project site or its vicinity contains suitable habitat for special-status and rare plant species.

**Mitigation Measure #2: Special-Status Plant Focused Surveys**

The Project site should be surveyed for special-status plant species by a qualified botanist following protocol-level surveys. Protocol-level surveys, which are intended to maximize detectability, may include identification of reference populations to facilitate the likelihood of field investigations occurring during the appropriate floristic period.

**Mitigation Measure #3: Special-Status Plant Avoidance**

Direct and indirect impacts to special-status plant species should be avoided through delineation and establishment of a no-disturbance buffer of at least 50 feet from the outer edge of the plant population or specific habitat type required by special-status plant species.

**COMMENT #6: Pages 5 and 19 – Benefits to Biological Resources**

**Issue:** The Project will place sediment into former salt-production ponds containing both diked and open-water habitat with varying salinities and small patches of brackish and tidal habitats, resulting in habitat conversion.

**Specific impact:** Open-water pond habitat will become shallower (eventually reaching marsh plain elevation), and over time may be converted or restored to tidal marsh habitat. This could result in habitat availability for some suites of species at the expense of others.

**Why impact would occur:** The Project will result in the conversion of one aquatic habitat type to another by reducing availability of open-water habitat, altering pond salinities, and ultimately converting some pond habitat to brackish and tidal marsh habitat.

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**Evidence impact would be significant:** Habitat type conversion could have a substantial impact on species that currently depend on open-water pond habitat, such as roosting, nesting, and foraging seabirds, shorebirds, and waterfowl.

**Recommended Potentially Feasible Mitigation Measure(s) (Regarding Project Description and Related Impact Shortcoming)**

**Mitigation Measure #1: Habitat Assessment**

The draft EIR/EIS should include results of a thorough habitat assessment conducted by a qualified biologist to determine how placement of sediments into former salt-production ponds will result in aquatic habitat conversion. The habitat assessment should compare the impacts and benefits of habitat conversion to different suites of species (e.g., fish, seabirds, shorebirds, waterfowl, and brackish and tidal marsh-dependent species, such as California Ridgway's rail, California black rail, and salt marsh harvest mouse).

**III. Editorial Comments and/or Suggestions**

When describing Project benefits as they relate to facilitating future tidal marsh habitat restoration, CDFW recommends that the draft EIR/EIS clearly describe how those benefits tie into the specific goals and objectives of the South Bay Salt Pond Restoration Project.

**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 California Natural Diversity Database (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.

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(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 NOP for the draft EIR/EIS to assist VTA in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Tami Schane, Senior Environmental Scientist (Specialist), at (415) 710-0711 or [Tami.Schane@wildlife.ca.gov](mailto:Tami.Schane@wildlife.ca.gov); or Peter McHugh, Environmental Program Manager, at [Peter.McHugh@wildlife.ca.gov](mailto:Peter.McHugh@wildlife.ca.gov).

Sincerely,

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

ec: Office of Planning and Research, State Clearinghouse (SCH No 2024010509)  
Craig Weightman, CDFW Bay Delta Region – [Craig.Weightman@wildlife.ca.gov](mailto:Craig.Weightman@wildlife.ca.gov)  
Desiree Dela Vega, CDFW Bay Delta Region – [Desiree.DelaVega@wildlife.ca.gov](mailto:Desiree.DelaVega@wildlife.ca.gov)  
Brenda Blinn, CDFW Bay Delta Region – [Brenda.Blinn@wildlife.ca.gov](mailto:Brenda.Blinn@wildlife.ca.gov)