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March 29, 2024
Sent via email

Joe Broadhead
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Subject: Draft Mitigated Negative Declaration, Wine Country Sewer Project, State Clearinghouse No. 2024030056, Eastern Municipal Water District, Riverside County

Dear Joe Broadhead:

The California Department of Fish and Wildlife (CDFW) received a Mitigated Negative Declaration (MND) from the Eastern Municipal Water District (EMWD), as the Project Applicant/Proponent, for the Wine Country Sewer Project (Project), pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines[1].

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, subdivision (a) & 1802; Pub. Resources Code, § 21070; California Environmental Quality Act (CEQA) Guidelines, § 15386, subdivision (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

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

potential to adversely affect state fish and wildlife resources.

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, including lake and streambed alteration 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.*), or CESA-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & G. Code, §1900 *et seq.*), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

CDFW issued Natural Community Conservation Plan approval and take authorization in 2004 for the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP), as per Section 2800, et seq., of the California Fish and Game Code. The MSHCP established a multiple species conservation program to minimize and mitigate habitat loss and the incidental take of covered species in association with activities covered under the permit. CDFW is providing the following comments as they relate to the Project's consistency with the MSHCP and CEQA.

PROJECT DESCRIPTION AND SUMMARY

Description: The Eastern Municipal Water District (EMWD; Lead Agency), as the Project Applicant, is proposing the Wine Country Sewer Project (Project). The proposed Project will consist of the construction of two separate sewer segments identified as the Northern Alignment and the Southern Alignment. The Northern Alignment will construct approximately 2.74 miles of sewer transmission lines located within the Right of Way (ROW) of the following road segments:

- Rancho California Road, Lomo Ventoso Lane to Buck Road
- Glenoaks Road, Rancho California Road to Camino del Vino
- Buck Road, Rancho California Road to Otis Street
- Warren Road, Otis Street to East Benton Road
- East Benton Road, Warren Road to Bella Vista Road

The Northern Alignment sewer transmission lines will be constructed primarily with open trench construction. Pipeline installation would occur at approximately 80 feet per day for pipe with standard cover (7.5-foot depth), and at approximately 50 feet per day for pipe deeper than standard cover (greater than 7.5-foot depth). Pavement restoration will be confirmed during final design. Roadways impacted during construction will be returned to original grade, and adjacent natural soils impacted during construction would be revegetated with hydroseeding. No night work will occur, and no temporary/permanent lighting will be used. The Project will not construct any aboveground structures.

The Southern Alignment will construct approximately 4.34 miles of sewer transmission lines within a segment of De Portola Road, beginning at the intersection with Butterfield Stage Road and extending eastward to the intersection with Pulgas Creek Road. The Southern Alignment sewer transmission line will be constructed primarily within paved Right of Way, with the exception of an approximately 1.15-mile segment of De Portola Road that is unpaved. Dewatering is not anticipated to be necessary during construction. The Southern Alignment will introduce three permanent graded pads to maintain access to manholes introduced in the unpaved segment of De Portola Road. All three of the permanent graded pads will be located within disturbed land within the ROW of De Portola Road.

Location: The Project site is located within a portion of unincorporated Riverside County near the City of Temecula. Regional access to the Northern Alignment is provided via Interstate 15, located approximately 7.5 miles to the west, and local access is provided via Rancho California Road. The Norther Alignment is located within the Pauba Land Grant on U.S. Geological Survey Bachelor Mountain quadrangle, Township 07 South, Range 02 West.

COMMENTS AND RECOMMENDATIONS

Based on the documents for review, CDFW offers the comments and recommendations below to assist the EMWD in adequately identifying, avoiding, 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 are also included to improve the environmental document. CDFW recommends the measures or revisions below be included in a science-based monitoring program that contains adaptive management strategies as part of the Project's CEQA mitigation, monitoring, and reporting program (Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15097).

Specific Comments

Comment #1: Impacts to Aquatic and Riparian Resources; Lake and Streambed Alteration Agreement (LSAA)

Issue: Based on review of material submitted with the MND and review of aerial photography, the Project has the potential to impact fish and wildlife resources subject to Fish and Game Code section 1600 et seq.

Specific Impact: The MND identified that the Project would involve trenching to a depth of at least 7.5 feet in multiple areas that cross over existing culverts and riparian/riverine resources. There is no discussion on whether these culverts will be avoided or if they are to be temporarily impacted by the construction activities. The Project activities have the potential to impact fish and wildlife resources through the deposition of debris, waste or other materials that could pass into any river, stream, or

lake.

Why Impact Would Occur: Project-related activities could potentially alter drainage patterns and water quality within, upstream, and downstream of the Project site, including: volume, velocity, and frequency of existing and post-Project surface flows; polluted runoff; soil erosion and/or sedimentation in streams and water bodies; and post-Project fate of runoff from the Project site.

Evidence Impact Would Be Significant: The Project may substantially adversely affect the existing stream pattern and geomorphologic processes of the Project site through the deposition of debris, waste or other materials that could pass into any river, stream, or lake. Depending on how the Project is designed and constructed, it is likely that the Project applicant will need to notify CDFW per Fish and Game Code section 1602. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following: substantially divert or obstruct the natural flow of any river, stream or lake; substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or deposit debris, waste or other materials that could pass into any river, stream or lake. Please note that “any river, stream or lake” includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow.

Upon receipt of a complete notification, CDFW determines if the proposed Project activities may substantially adversely affect existing fish and wildlife resources and whether a Lake and Streambed Alteration (LSA) Agreement is required. An LSA Agreement includes measures necessary to protect existing fish and wildlife resources. CDFW may suggest ways to modify the project that would eliminate or reduce harmful impacts to fish and wildlife resources.

CDFW’s issuance of an LSA Agreement is a “project” subject to CEQA (see Pub. Resources Code, § 21065). To facilitate issuance of an LSA Agreement, if necessary, the MND should fully identify the potential impacts to the lake, stream, or riparian resources, and provide adequate avoidance, mitigation, and monitoring and reporting commitments. Early consultation with CDFW is recommended, since modification of the proposed Project may be required to avoid or reduce impacts to fish and wildlife resources. To obtain a Lake or Streambed Alteration notification package, please go to https://www.wildlife.ca.gov/Conservation/LSA/Forms.

Recommended potentially feasible mitigation measure(s):

Mitigation Measure #1: To ensure compliance with Fish and Game Code section 1602 CDFW recommends that the EMWD condition the MND to include a mitigation measure for consultation with CDFW to determine if Fish and Game Code section 1600 et seq. resources may occur within the proposed Project alignment.

CDFW recommends the inclusion of the following measure in the MND per the edits below (edits are in ~~strikethrough~~ and **bold**), and also included in Attachment 1 "Mitigation Monitoring and Reporting Program":

Mitigation Measure XX: If Project activities may impact any river, stream or lake, then prior to the start of Project activities, EMWD shall notify the California Department of Fish and Wildlife (CDFW) for impacts to Fish and Game Code section 1602 resources and obtain one of the following: a CDFW-executed Streambed Alteration Agreement (SAA) authorizing impacts to Fish and Game Code section 1602 resources associated with the Project, written documentation from CDFW that notification is not required, or written documentation that a Streamed Alteration Agreement is not required.

The notification to CDFW should provide the following information:

1. **A stream delineation including the bed, bank and channel;**
2. **Linear feet and/or acreage of streams and associated natural communities that would be permanently and/or temporarily impacted by the Project. This includes impacts as a result of routine maintenance and fuel modification. Plant community names should be provided based on vegetation association and/or alliance per the Manual of California Vegetation (Sawyer et al 2009);**
3. **A discussion as to whether impacts on streams within the Project site would impact those streams immediately outside of the Project site where there is hydrologic connectivity. Potential impacts such as changes to drainage pattern, runoff, and sedimentation should be discussed; and**
4. **A hydrological evaluation of the 100-year storm event to provide information on how water and sediment is conveyed through the Project site.**

If an SAA is required, the Applicant shall provide compensatory mitigation at no less than 3:1 for impacts to streams and associated natural communities, or at a ratio acceptable to CDFW per a LSA Agreement. Mitigation should occur within the Western Riverside County. On-site mitigation measures may include the enhancement of existing streams. A conceptual Habitat Mitigation and Monitoring Plan shall be prepared, if necessary, for the enhancement activities to address impacts to Fish and Game Code section 1602 resources, which may include non-native

species removal and revegetation followed by periodic monitoring. The plan shall specify the criteria and standards by which the enhancement actions will compensate for impacts of the project on streams.

Comment #2: Burrowing Owl

Issue: The Project may have a significant impact on burrowing owl (*Athene cunicularia),* a Species of Special Concern (SSC).

Specific impacts: Project construction and activities may result in injury or mortality of burrowing owl, disrupt natural burrowing owl breeding behavior, and reduce reproductive capacity. Also, the Project may impact breeding, wintering, and foraging habitat for the species. Habitat loss could result in local extirpation of the species and contribute to local, regional, and State-wide declines of burrowing owl.

Why impacts would occur: The MND and Appendix B identifies that the Project site was evaluated for burrowing owl habitat, and potentially suitable burrows do not occur within the Project site; however, one suitable burrow was noted adjacent to Rancho California Road. Additional details (the survey dates, times, etc.) were not provided regarding the burrowing owl habitat surveys mentioned within the MND.

Absent disclosure of survey details, it is uncertain if burrowing owl habitat occurs onsite and/or if focused surveys should be conducted. As such, CDFW recommends the MND is revised to include summary reports from a recent habitat assessment for burrowing owls, and if suitable habitat is confirmed, that focused surveys for burrowing owls be conducted as described in the *Staff Report on Burrowing Owl Mitigation*. If focused surveys confirm occupied burrowing owl habitat in or adjacent to the Project area, CDFW recommends that the MND is revised to include an impact assessment per guidelines in the *Staff Report on Burrowing Owl Mitigation.* Impact assessments evaluate the extent to which burrowing owls and their habitat may be impacted, directly or indirectly, on and within a reasonable distance of the proposed Project. A burrowing owl habitat assessment, focused surveys, and an impact assessment will also inform appropriate avoidance, minimization, and mitigation measures for the Project and help demonstrate that impacts to burrowing owls are less than significant.

Burrowing owls could react to low level disturbances such as surveys, drive by, or minimal ground disturbance/excavation (Environment Canada 2009). The Project could generate noise and ground vibrations more consistent with medium to high level disturbance. Project construction would generate noise and ground vibrations during daytime and nighttime earthmoving activities, demolition, tunneling, spoils hauling, and operation of large machinery. These types of disturbances could result in burrowing owls abandoning active nests, potentially causing loss of eggs, or developing young, and noise could cause birds to avoid suitable nesting habitat.

There is insufficient information provided to determine if the proposed avoidance and minimization measures will mitigate Project impacts below a level of significance. BIO-2 states that "passive relocation activities during the non-breeding season (September 1 through January 31) may be authorized in consultation with CDFW, which would include preparation, approval, and implementation of a Burrowing Owl Exclusion Plan in accordance with protocol described in the CDFW Staff Report on Burrowing Owl Mitigation". The CDFW *Staff Report on Burrowing Owl Mitigation* states that "exclusion in and of itself is not a take avoidance, minimization, or mitigation method. Eviction of burrowing owls is a potentially significant impact under CEQA." (CDFW 2012), and the potential impacts to burrowing owl have yet to be mitigated to below a level of significance.

Evidence impact would be significant: Burrowing owl is an SSC, an SSC is a species, subspecies, or distinct population of an animal native to California that currently satisfies one or more of the following (not necessarily mutually exclusive) criteria:

- is extirpated from the State or, in the case of birds, is extirpated in its primary season or breeding role;

- is listed as ESA-, but not CESA-, threatened, or endangered; meets the State definition of threatened or endangered but has not formally been listed;

- is experiencing, or formerly experienced, serious (noncyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status; and/or,

- has naturally small populations exhibiting high susceptibility to risk from any factor(s), that if realized, could lead to declines that would qualify it for CESA threatened or endangered status (CDFW 2022b). CEQA provides protection not only for ESA and CESA-listed species, but for any species including but not limited to SSC which can be shown to meet the criteria for State listing. These SSC meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380). In addition, migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (Code of Federal Regulations, Title 50, § 10.13). Sections 3503, 3503.5, and 3513 of the California Fish and Game Code prohibit take of all birds and their active nests including raptors and other migratory nongame birds (as listed under the Federal MBTA). It is unlawful to take, possess, or needlessly destroy the nest or eggs of any raptor.

In California, burrowing owls are in decline primarily because of habitat loss, as well as disease, predation, and drought. Burrowing owls require specific soil and microhabitat conditions, occur in few locations within a broad habitat category of grassland and

some forms of agricultural land, require a relatively large home range to support their life history requirements, occur in relatively low numbers, and are semi-colonial.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: To avoid take of active burrowing owl burrows (nests), CDFW requests the EMWD include the following mitigation measures in the MND per below (edits are in ~~strikethrough~~ and **bold**), and also included in Attachment 1"Mitigation Monitoring and Reporting Program.

MM-BIO 2: Burrowing Owl. **To prevent direct and indirect impacts to burrowing owl, the following measures shall be implemented.**

If suitable burrowing owl habitat is present on the or adjacent to the project site, focused burrowing owl surveys shall be conducted in accordance with the *Staff Report on Burrowing Owl Mitigation* (2012 or most recent version). If burrowing owls are detected during the focused surveys, the qualified biologist and Project proponent shall prepare a Burrowing Owl Plan that shall be submitted to CDFW for review and approval prior to commencing Project activities. The Burrowing Owl Plan shall describe proposed avoidance, monitoring, relocation, minimization, and/or mitigation actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites, acres of burrowing owl habitat that will be impacted, details of site monitoring, and details on proposed buffers and other avoidance measures if avoidance is proposed.

If impacts to occupied burrowing owl habitat or burrow cannot be avoided, the Burrowing Owl Plan shall also describe minimization and compensatory mitigation actions that will be implemented. Proposed implementation of burrow exclusion and closure should only be considered as a last resort, after all other options have been evaluated as exclusion is not in itself an avoidance, minimization, or mitigation method and has the possibility to result in take. The Burrowing Owl Plan shall identify compensatory mitigation for the temporary or permanent loss of occupied burrow(s) and habitat consistent with the "Mitigation Impacts" section of the 2012 Staff Report and shall implement CDFW-approved mitigation prior to initiation of Project activities. If impacts to occupied burrows cannot be avoided, information shall be provided regarding adjacent or nearby suitable habitat available to owls. If no suitable habitat is available nearby, details regarding the creation and funding of artificial burrows (numbers, location, and type of burrows) and management activities for relocated owls shall also be included in the Burrowing Owl Plan. The Project proponent shall implement the

Burrowing Owl Plan following CDFW and USFWS review and approval.

~~Conduct~~ A pre-construction **burrowing owl surveys shall be conducted**, ~~take avoidance survey in suitable disturbed land within the project footprint, plus 500 feet. per the~~ **in accordance with the protocol described in the California Department of Fish and Wildlife (CDFW)** Staff Report on Burrowing Owl Mitigation (CDFW 2012), ~~take avoidance surveys require an initial survey~~ no less than 14 days prior to the start of ground disturbance activities and a final survey conducted within 24 hours of ground disturbance. ~~If burrowing owls are detected, the CDFW must be notified within 48 hours and avoidance measures and/or mitigation would be required.~~ **If the preconstruction surveys confirm occupied burrowing owl habitat, Project activities shall be immediately halted. The qualified biologist shall coordinate with CDFW and prepare a Burrowing Owl Plan that shall be submitted to CDFW and USFWS for review and approval prior to commencing Project activities.**

~~If active burrowing owl burrows are identified within the potential impact area, the project shall avoid disturbing active burrowing owl burrows (nesting sites) and burrowing owl individuals. Buffers shall be established around occupied burrows in accordance with guidance provided in the CDFW Staff Report on Burrowing Owl Mitigation (CDFW 2012) based on the proposed level of disturbance. For low disturbance projects, initial setback distances for avoidance of active burrows shall be 200 meters (approximately 656 feet) from April 1 to October 15 and 50 meters (164 feet) from October 16 to March 31. Exceptions can be made to the avoidance distance for areas with natural (hills, trees) or artificial (buildings, walls) barriers in place. The final avoidance buffer shall be at the discretion of the biologist. If, after consideration of a reduced buffer, an adequate avoidance buffer cannot be provided between an occupied burrow and required ground-disturbing activities, then passive relocation activities during the non-breeding season (September 1 through January 31) may be authorized in consultation with CDFW, which would include preparation, approval, and implementation of a Burrowing Owl Exclusion Plan in accordance with protocol described in the CDFW Staff Report on Burrowing Owl Mitigation.~~

Comment #3: Impacts to CESA Listed Species

Issue: The Project identified no special-status wildlife species onsite during the various biological surveys. In addition, several special-status plant species and special-status wildlife species were described as having low potential to occur within the Project site.

However, after reviewing species occurrence databases such as the California Natural

Diversity Database, CDFW is concerned that the analysis conducted by EMWD may not have adequately identified species potentially present onsite or the likelihood of certain species to be present, and as a result, the proposed mitigation may not provide enough specificity to sufficiently avoid or minimize impacts to species protected under CESA as well as California Species of Special Concern (SSC).

Specific Impact: Based on the information presented in the MND and supporting Appendix B, as well as data from the California Natural Diversity Database, the Project site has the potential to support Stephens' kangaroo rat (*Dipodomys stephensi*), coastal California gnatcatcher (*Polioptila californica californica*), northern harrier (*Circus hudsonius*), coast horned lizard (*Phrynosoma blainvillii*), San Diego desert woodrat (*Neotoma lepida intermedia*), and western spadefoot (*Spea hammondii*) within the Project site.

Multiple occurrences of Stephen's kangaroo rat have been recorded immediately adjacent to the Project site, and the Project site is located within Subunit 3 (Temecula & Cottonwood Creeks) of the MSHCP; one of the primary biological issues and considerations for this Subunit is to maintain Core and Linkage Habitat for Stephens' kangaroo rat. While the EMWD is not signatory to the MSHCP, the MND should still include an assessment of the impacts to the MSHCP, areas designated as Core Habitat for Stephens' kangaroo rat, and to Stephens' kangaroo rat movement and dispersal as a result of this Project is necessary to address CEQA requirements.

The MND does not include any avoidance or mitigation measures to prevent direct or indirect impacts from occurring during ground disturbance and vegetation clearing activities. Direct impacts to SSCs could result from Project construction and activities (e.g., equipment staging, mobilization, and grading); ground disturbance; vegetation clearing; and trampling or crushing from construction equipment, vehicles, and foot traffic. Indirect impacts could result from temporary or permanent loss of suitable habitat.

Why Impacts Would Occur: Without appropriate species-specific avoidance measures, biological construction monitoring may be ineffective for detecting SSC and CESA listed species. This may result in trampling or crushing of these sensitive species. Demolition and paving after false negative conclusions may trap wildlife hiding under refugia and burrows. Project ground-disturbing activities such as grading and grubbing may result in habitat destruction, causing the death or injury of adults, juveniles, eggs, or hatchlings. In addition, the Project may remove habitat by eliminating native vegetation that may support essential foraging and breeding habitat.

Evidence Impacts Would Be Significant: CEQA provides protection not only for state and federally listed species, but for any species including but not limited to California Species of Special Concern which can be shown to meet the criteria for State listing. These Species of Special Concern meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15065). Take of SSC could

require a mandatory finding of significance by the EMWD (CEQA Guidelines, § 15065).

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #2: To address the above issues and help the Project applicant avoid unlawfully take of CESA listed species and SSC, CDFW requests the EMWD include the following mitigation measures in the MND per below (edits are in ~~strikethrough~~ and **bold**), and also included in Attachment 1"Mitigation Monitoring and Reporting Program.

Recommendation #1: CDFW recommends that EMWD update their CEQA document to reflect the possibility of coastal California gnatcatcher (*Polioptila californica californica*) and western spadefoot (*Spea hammondii*) within the Project site and discuss the local and regional significance of impacts to the species. Focused surveys should be conducted in order to determine presence/absence and to further evaluate the quality of habitat present for these species. The updated analysis should include appropriate avoidance, minimization, and compensatory mitigation measures to offset any impacts to below a level of significance.

MM-BIO XX: Scientific Collecting Permit – The EMWD /qualified biologist must obtain appropriate handling permits to capture, temporarily possess, and relocate SSC wildlife, and to avoid harm or mortality in connection with Project construction and activities.

If EMWD must relocate CESA- or ESA-listed species, they should obtain appropriate take authorization from CDFW and/or USFWS.

MM-BIO XX: Coastal California Gnatcatcher- To prevent direct and indirect impacts to coastal California gnatcatcher, the following measures shall be implemented:

Coastal California Gnatcatcher –If suitable habitat for Coastal California Gnatcatcher exists onsite, EMWD shall conduct surveys following US Fish and Wildlife Service (USFWS) protocol. If coastal California gnatcatcher are found within 500 feet of Project activities, Permittee shall immediately consult with CDFW and USFWS for appropriate avoidance and minimization measures. Survey protocol for coastal California gnatcatcher can be found at: http://www.fws.gov/ventura/docs/species/protocols/cagn/coastalgnatcatcher_survey-guidelines.pdf.

MM-BIO XX: Western Spadefoot - To prevent direct and indirect impacts to Western Spadefoot, the following measures shall be implemented:

Western Spadefoot: If western spadefoot may be impacted by the project, prior to ground disturbing activities, and within the appropriate season and site conditions, a CDFW-approved qualified biologist shall conduct surveys within suitable habitat to determine presence of western spadefoot following a protocol acceptable to CDFW. The results of the survey shall be sent to CDFW within one week of survey completion and the Permittee, in coordination with the qualified biologist, shall prepare an avoidance and minimization plan for CDFW review and approval, that will be used by construction staff before and during construction. The avoidance and minimization plan shall include, but not be limited to, protocol for a permitted biologist to relocate any spadefoot found to suitable habitat outside of the construction site and installation of exclusion fencing.

If during construction, toads are found within a construction area, activities at that construction area shall cease until the permitted biologist moves the individuals to suitable habitat outside of the construction area. If the area was previously unfenced, the qualified biologists in consultation with CDFW will determine if additional fencing or surveys are needed.

MM-BIO 3: Stephens' Kangaroo Rat. To prevent direct and indirect impacts to Stephens' Kangaroo Rat, the following measures shall be implemented:

Stephens' Kangaroo Rat: Prior to ground disturbing activities, a CDFW-approved qualified biologist shall conduct pre- construction trapping surveys within suitable habitat to determine presence of Stephens' kangaroo rat following trapping protocols acceptable to CDFW. If Stephens' kangaroo rat is present onsite, an incidental take permit and mitigation at no less than a 3:1 (replacement to impact) ratio for loss of habitat shall be required, or as determined in the appropriate CESA authorization for listed species. Construction will not proceed until appropriate authorization (i.e., CESA ITP under Fish and Game Code section 2081) is obtained.

~~Conduct a pre-construction take avoidance survey within the potential staging areas. The take avoidance surveys would require a focused habitat assessment survey within 14 days prior to the start of ground disturbance activities to determine whether the potential staging area contains suitable habitat with potential Stephens' kangaroo rat sign, tracks, or burrows. If no evidence of Stephens' kangaroo rat is present, then the staging area will be fenced with silt fencing to the roadway to prevent occupation by this species during construction. If evidence of~~

~~Stephens' kangaroo rat is present, potential staging areas will avoid suitable disturbed land and be limited to unsuitable areas of disturbed land and/or the developed roadway.~~

Comment #4: Nesting Birds

Issue: The Project may have a significant impact on nesting birds, including Species of Special Concern and fully protected species, that are subject to Fish and Game Code section 3513 and the Migratory Bird Treaty Act of 1918.

Specific impact: Project implementation could result in the loss of nesting and/or foraging habitat for passerine and raptor species from the removal of vegetation onsite.

Why impacts would occur: Project activities could result in temporary or long-term loss of suitable nesting and foraging habitats. Construction during the breeding season of nesting birds could potentially result in the incidental loss of breeding success or otherwise lead to nest abandonment. Noise from road use, generators, and heavy equipment may disrupt nesting bird mating calls or songs, which could impact reproductive success (Patricelli and Blickley 2006, Halfwerk et al. 2011). Noise has also been shown to reduce the density of nesting birds (Francis et al. 2009), and songbird abundance and density was significantly reduced in areas with high levels of noise (Bayne et al. 2008). Additionally, noise exceeding 70 dB(A) may affect feather and body growth of young birds (Kleist et al. 2018). In addition to construction activities, residential development and increased human presence in the Project site could contribute to nesting bird impacts.

The timing of the nesting season varies greatly depending on several factors, such as the bird species, weather conditions in any given year, and long-term climate changes (e.g., drought, warming, etc.). CDFW staff have observed that changing climate conditions may result in the nesting bird season occurring earlier and later in the year than historical nesting season dates. CDFW recommends the completion of nesting bird survey regardless of time of year to ensure compliance with all applicable laws pertaining to nesting and to avoid take of nests.

The duration of a pair to build a nest and incubate eggs varies considerably, therefore, CDFW recommends surveying for nesting behavior and/or nests and construction within three days prior to start of Project construction to ensure all nests on site are identified and to avoid take of nests. Without appropriate species-specific avoidance measures, biological construction monitoring may be ineffective for detecting nesting birds. This may result in Take of nesting birds. Project ground-disturbing activities such as grading and grubbing may result in habitat destruction, causing the death or injury of adults, juveniles, eggs, or hatchlings. In addition, the Project may remove habitat by eliminating native vegetation that may support essential foraging and breeding habitat.

Evidence impacts would be significant: It is the Project proponent's responsibility to

avoid Take of all nesting birds. Fish and Game Code section 3503 makes it unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by the rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16

U.S.C. § 703 et seq.). Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto. These regulations apply anytime nests or eggs exist on the Project site.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: To address the above issues and help the Project applicant avoid unlawfully taking of nesting birds, CDFW requests the EMWD include the following mitigation measures in the MND per below (edits are in ~~strikethrough~~ and **bold**), and also included in Attachment 1"Mitigation Monitoring and Reporting Program.

MM BIO-4: Migratory and Nesting Birds and Raptors. To prevent direct impacts to nesting birds, including raptors, protected under the federal MBTA and CFG Code Sections 3503, 3503.5, and 3513, the following measures shall be implemented:

Construction should be conducted outside of the avian and raptor breeding season, ~~which is generally defined as January 1 to August 31~~. If construction must take place during the nesting season, a qualified biologist shall perform a pre-construction survey for nesting birds within the project site, including a 500ft buffer **around the disturbance footprint to confirm the absence of active nests belonging to migratory birds, including coastal California gnatcatcher, and raptors afforded protection under the MBTA and CFG Code.**

The pre-construction nesting bird survey shall be performed no more than ~~seven~~ **three** days prior to the start of construction. **If active bird nests are confirmed to be present during the pre-construction survey,** ~~a buffer zone will be established by a qualified biologist until a qualified biologist has verified that young have fledged, or the nest has otherwise become inactive.~~ **for more than three days, an additional survey shall be conducted. The results of the pre-construction survey shall be documented by the qualified biologist and shall be provided to EMWD. The Project Applicant shall adhere to the following:**

1. **Applicant shall designate a biologist (Designated Biologist) experienced in: identifying local and migratory bird species of special concern; conducting bird surveys using appropriate survey methodology; nesting surveying techniques, recognizing breeding and nesting behaviors, locating nests and breeding territories, and identifying nesting stages and nest success; determining/establishing appropriate avoidance and minimization measures; and monitoring the efficacy of implemented avoidance and minimization measures.**

2. **Pre-activity field surveys shall be conducted at the appropriate time of day/night, during appropriate weather conditions, no more than 3 days prior to the initiation of Project activities. Surveys shall encompass all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures. Survey duration shall take into consideration the size of the Project site; density, and complexity of the habitat; number of survey participants; survey techniques employed; and shall be sufficient to ensure the data collected is complete and accurate.**

If the qualified biologist determines that an active migratory bird, coastal California gnatcatcher, or raptor nest is present, avoidance buffers shall be implemented as determined by a qualified biologist and approved by EMWD, based on their best professional judgement and experience until the young have fledged the nest and the nest is confirmed to no longer be active, as determined by the qualified biologist. The buffer shall be of a distance to ensure avoidance of adverse effects to the nesting bird by accounting for topography, ambient conditions, species, nest location, and activity type. All nests shall be monitored as determined by the qualified biologist until nestlings have fledged and dispersed or it is confirmed that the nest has been unsuccessful or abandoned. The Designated Biologist shall monitor the nest at the onset of project activities, and at the onset of any changes in such project activities (e.g., increase in number or type of equipment, change in equipment usage, etc.) to determine the efficacy of the buffer. The qualified biologist shall halt all construction activities within proximity to an active nest if it is determined that the activities are harassing the nest and may result in nest abandonment or take. The biological monitor may modify the buffer or propose other recommendations in order to minimize disturbance to nesting birds. Work can resume within these avoidance areas when no other active nests are found. Upon completion of the survey and nesting bird monitoring, a report shall be prepared and submitted to EMWD for mitigation monitoring compliance record keeping.

Comment #5: Noise Pollution

Issue: Construction may result in substantial noise through road use, equipment, and other Project-related activities.

Specific Impacts: The proposed Project activities may result in a substantial amount of noise through road use, equipment, and other project-related activities. This may adversely affect wildlife species in several ways as wildlife responses to noise can occur at exposure levels of only 55 to 60 dB (Barber et al. 2009).

Why Impact Would Occur: Anthropogenic noise can disrupt the communication of many wildlife species including frogs, birds, and bats (Sun and Narins 2005, Patricelli and Blickley 2006, Gillam and McCracken 2007, Slabbekoorn and Ripmeester 2008). Noise can also affect predator prey relationships as many nocturnal animals such as bats and owls primarily use auditory cures (i.e., hearing) to hunt. Additionally, many prey species increase their vigilance behavior when exposed to noise because they need to rely more on visual detection of predators when auditory cues may be masked by noise (Rabin et al. 2006, Quinn et al. 2017). Noise has also been shown to reduce the density of nesting birds (Francis et al. 2009) and cause increased stress that results in decreased immune responses (Kight and Swaddle 2011).

Evidence Impact Would Be Significant: Construction may result in substantial noise through road use, equipment, and other Project-related activities. The MND (Appendix F-1, F-2) states construction noise would occur due to the use of equipment that includes a combination of trucks, power tools, concrete saw, backhoe/loader, hydraulic excavator, and pavement braker that when combined can reach high levels but includes no analysis of the impacts of construction noise on biological resources. The MND indicates noise levels have the potential to reach 77 to 90 dBA during the hours when construction is permitted, which exceeds exposure levels that may adversely affect wildlife species. In addition, there is no analysis provided to analyze the effect of potential boring that may be utilized during construction. The Wildlife Agencies are concerned about impacts to wildlife from noise generated during Project activities.

The Project is adjacent to conserved lands associated with the Johnson Ranch to the north. Per the MSHCP, wildlife adjacent to MSHCP Conservation Areas should not be subject to noise that would exceed residential noise standards. However, the MND only has the generic language from the MSHCP and does provide specific details on the types of measures that will be implemented to reduce noise impacts to the adjacent Conservation Area. CDFW recommends that MM BIO-XX is included to provide specific measures to address noise impacts from the development to reduce edge effects from noise on the adjacent Conservation area. These measures should establish existing noise levels in the Conservation Area and post-project monitoring to evaluate the noise levels in the Conservation Area during construction and after the Project is complete.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: To address the above issues and help the Project applicant avoid impacts from noise, CDFW requests the EMWD include the following mitigation measures in the MND per below (edits are in strikethrough and **bold**), and also included in Attachment 1"Mitigation Monitoring and Reporting Program".

MM BIO-XX: Prior to approval of the Final Design, a Noise plan shall be submitted to Eastern Municipal Water District for review and approval. The Noise Plan shall identify noise generating land uses that may affecting the MSHCP Conservation Area and shall incorporate setbacks, berms, or walls to minimize the effects of noise on MSHCP Conservation Area resources pursuant to applicable rules, regulations and guidelines related to land use noise standards. For planning purposes, wildlife within the MSHCP Conservation Area should not be subject to noise that would exceed residential noise standards. The Noise Plan shall include monitoring during construction and post-project to demonstrate noise levels in the Conservation Area do not exceed residential standards. If noise standards are exceeded, the Project Applicant is responsible for immediate implementation of remedial actions to reduce noise levels to acceptable levels.

Additional Recommendations

Weed Management Plan. A weed management plan should be developed for the Project site and implemented during the duration of this Project. On-going soil disturbance promotes establishment and growth of non-native weeds. As part of the Project, non-native weeds should be prevented from becoming established. The Projects site should be monitored via mapping for new introductions and expansions of non-native weeds.

Mitigation and Monitoring Reporting Plan

CDFW recommends updating the MND's proposed Biological Resources Mitigation Measures to include mitigation measures recommended in this letter. Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments [Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15126.4(a)(2)]. As such, CDFW has provided comments and recommendations to assist the EMWD in developing mitigation measures that are (1) consistent with CEQA Guidelines section 15126.4; (2) specific; (3) detailed (i.e., responsible party, timing, specific actions, location), and (4) clear for a measure to be fully enforceable and implemented successfully via mitigation, monitoring, and/or reporting program (Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15097). The EMWD is welcome to coordinate with CDFW to further review and refine the Project's mitigation measures. Per Public Resources Code section 21081.6(a)(1), CDFW has provided the EMWD

with a summary of our suggested mitigation measures and recommendations in the form of an attached Draft Mitigation and Monitoring Reporting Plan (MMRP; Attachment 1).

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 (CNDDB). The CNNDB field survey form can be filled out and submitted online at the following link: HTTPs. The types of information reported to CNDDB can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/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 for the Wine Country Sewer Project, State Clearinghouse No. 2024030056 to assist in identifying and mitigating Project impacts on biological resources. CDFW personnel are available for consultation regarding biological resources and strategies to minimize impacts. CDFW requests that the Eastern Municipal Water District address CDFW's comments and concerns prior to adoption of the MND for the Project.

Questions regarding this letter or further coordination should be directed to Breanna Machuca, Senior Environmental Scientist Specialist, at Breanna.Machuca@wildlife.ca.gov.

Sincerely,

DocuSigned by:
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Attachment A: Draft Mitigation and Monitoring Reporting Plan

CDFW recommends the following language to be incorporated into a future environmental document for the Project. A final MMRP shall reflect results following additional plant and wildlife surveys and the Project's final on and/or off-site mitigation plans.

Biological Resources (BIO)			
Mitigation Measure (MM)		**Timing**	**Responsible Party**
Lake or Streambed Alteration Agreement	**Mitigation Measure XX:** If Project activities may impact any river, stream or lake, then prior to the start of Project activities, EMWD shall notify the California Department of Fish and Wildlife (CDFW) for impacts to Fish and Game Code section 1602 resources and obtain one of the following: a CDFW-executed Streambed Alteration Agreement (SAA) authorizing impacts to Fish and Game Code section 1602 resources associated with the Project, written documentation from CDFW that notification is not required, or written documentation that a Streamed Alteration Agreement is not required. The notification to CDFW should provide the following information: 1. A stream delineation including the bed, bank and channel; 2. Linear feet and/or acreage of streams and associated natural communities that would be permanently and/or temporarily impacted by the Project. This includes impacts as a result of routine maintenance and fuel	Prior to commencing ground- or vegetation disturbing activities	Project Proponent

	modification. Plant community names should be provided based on vegetation association and/or alliance per the Manual of California Vegetation (Sawyer et al 2009); 3. A discussion as to whether impacts on streams within the Project site would impact those streams immediately outside of the Project site where there is hydrologic connectivity. Potential impacts such as changes to drainage pattern, runoff, and sedimentation should be discussed; and 4. A hydrological evaluation of the 100-year storm event to provide information on how water and sediment is conveyed through the Project site		
	If an SAA is required, the Applicant shall provide compensatory mitigation at no less than 3:1 for impacts to streams and associated natural communities, or at a ratio acceptable to CDFW per a LSA Agreement. Mitigation should occur within the Western Riverside County. On-site mitigation measures may include the enhancement of existing streams. A conceptual Habitat Mitigation and Monitoring Plan shall be prepared, if necessary, for the enhancement activities to address impacts to Fish and Game Code section 1602 resources, which may include non-native species removal and revegetation followed by periodic monitoring. The plan shall specify the criteria and standards by which the enhancement actions will compensate for impacts of the project on streams.		

Burrowing Owl	**MM-BIO 2: Burrowing Owl.** To prevent direct and indirect impacts to burrowing owl, the following measures shall be implemented:		
	If suitable burrowing owl habitat is present on the or adjacent to the project site, focused burrowing owl surveys shall be conducted in accordance with the *Staff Report on Burrowing Owl Mitigation* (2012 or most recent version). If burrowing owls are detected during the focused surveys, the qualified biologist and Project proponent shall prepare a Burrowing Owl Plan that shall be submitted to CDFW for review and approval prior to commencing Project activities. The Burrowing Owl Plan shall describe proposed avoidance, monitoring, relocation, minimization, and/or mitigation actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites, acres of burrowing owl habitat that will be impacted, details of site monitoring, and details on proposed buffers and other avoidance measures if avoidance is proposed. If impacts to occupied burrowing owl habitat or burrow cannot be avoided, the Burrowing Owl Plan shall also describe minimization and compensatory mitigation actions that will be implemented. Proposed implementation of burrow exclusion and closure should only be considered as a last resort, after all other options have been evaluated as exclusion is not in itself an avoidance, minimization, or mitigation method and has the possibility to result in take. The Burrowing Owl Plan shall identify compensatory mitigation for the temporary or permanent loss of occupied burrow(s) and habitat consistent with the “Mitigation Impacts” section of the 2012 Staff Report and shall implement CDFW-	Prior to commencing ground- or vegetation disturbing activities	Project Proponent

	approved mitigation prior to initiation of Project activities. If impacts to occupied burrows cannot be avoided, information shall be provided regarding adjacent or nearby suitable habitat available to owls. If no suitable habitat is available nearby, details regarding the creation and funding of artificial burrows (numbers, location, and type of burrows) and management activities for relocated owls shall also be included in the Burrowing Owl Plan. The Project proponent shall implement the Burrowing Owl Plan following CDFW and USFWS review and approval. A pre-construction burrowing owl surveys shall be conducted, in accordance with the protocol described in the California Department of Fish and Wildlife (CDFW) Staff Report on Burrowing Owl Mitigation (CDFW 2012), no less than 14 days prior to the start of ground disturbance activities and a final survey conducted within 24 hours of ground disturbance. If the preconstruction surveys confirm occupied burrowing owl habitat, Project activities shall be immediately halted. The qualified biologist shall coordinate with CDFW and prepare a Burrowing Owl Plan that shall be submitted to CDFW and USFWS for review and approval prior to commencing Project activities.		

Species of Special Concern	**MM BIO-XX: Scientific Collecting Permit** – The EMWD /qualified biologist must obtain appropriate handling permits to capture, temporarily possess, and relocate SSC wildlife and rare plants, and to avoid harm or mortality in connection with Project construction and activities. If EMWD must relocate CESA- or ESA-listed species, they should obtain appropriate take authorization from CDFW and/or USFWS.	Prior to commencing ground- or vegetation disturbing activities	Project Proponent
Species of Special Concern	**MM BIO-XX: Coastal California Gnatcatcher- To prevent direct and indirect impacts to coastal California gnatcatcher, the following measures shall be implemented:** **Coastal California Gnatcatcher – If suitable habitat for Coastal California Gnatcatcher exists onsite, EMWD shall conduct surveys following US Fish and Wildlife Service (USFWS) protocol. If coastal California gnatcatcher are found within 500 feet of Project activities, Permittee shall immediately consult with CDFW and USFWS for appropriate avoidance and minimization measures. Survey protocol for coastal California gnatcatcher can be found at: http://www.fws.gov/ventura/docs/species/protocols/cagn/coastalgnatcatcher_survey-guidelines.pdf.**	Prior to commencing ground- or vegetation disturbing activities	Project Proponent
	MM-BIO XX: Western Spadefoot - To prevent direct and indirect impacts to Western Spadefoot, the following measures shall be implemented: **Western Spadefoot: If western spadefoot may be impacted by the project, prior to ground disturbing activities, and within the appropriate season and site conditions, a CDFW-**		

Species of Special Concern	**approved qualified biologist shall conduct surveys within suitable habitat to determine presence of western spadefoot following a protocol acceptable to CDFW. The results of the survey shall be sent to CDFW within one week of survey completion and the Permittee, in coordination with the qualified biologist, shall prepare an avoidance and minimization plan for CDFW review and approval, that will be used by construction staff before and during construction. The avoidance and minimization plan shall include, but not be limited to, protocol for a permitted biologist to relocate any spadefoot found to suitable habitat outside of the construction site and installation of exclusion fencing.** **If during construction, toads are found within a construction area, activities at that construction area shall cease until the permitted biologist moves the individuals to suitable habitat outside of the construction area. If the area was previously unfenced, the qualified biologists in consultation with CDFW will determine if additional fencing or surveys are needed.**	Prior to commencing ground- or vegetation disturbing activities	Project Proponent

Species of Special Concern	**MM BIO-XX: Stephens' Kangaroo Rat:** Prior to ground disturbing activities, a CDFW-approved qualified biologist shall conduct pre-construction trapping surveys within suitable habitat to determine presence of Stephens' kangaroo rat following trapping protocols acceptable to CDFW. If Stephens' kangaroo rat is present onsite, an incidental take permit and mitigation at no less than a 3:1 (replacement to impact) ratio for loss of habitat shall be required, or as determined in the appropriate CESA authorization for listed species. Construction will not proceed until appropriate authorization (i.e., CESA ITP under Fish and Game Code section 2081) is obtained.	Prior to commencing ground- or vegetation disturbing activities	Project Proponent
Nesting Birds	**MM BIO-4:** Migratory and Nesting Birds and Raptors. To prevent direct impacts to nesting birds, including raptors, protected under the federal MBTA and CFG Code Sections 3503, 3503.5, and 3513, the following measures shall be implemented: Construction should be conducted outside of the avian and raptor breeding season. If construction must take place during the nesting season, a qualified biologist shall perform a pre-construction survey for nesting birds within the project site, including a 500ft buffer **where legal access is granted around the disturbance footprint to confirm the absence of active nests belonging to migratory birds, including coastal California gnatcatcher, and raptors afforded protection under the MBTA and CFG Code.** The pre-construction nesting bird survey shall be performed no more than three days prior to the start of construction. If active bird nests are confirmed to be present during the pre-construction survey, for more than three days, an additional	Prior to commencing ground- or vegetation disturbing activities	Project Proponent

	survey shall be conducted. The results of the pre-construction survey shall be documented by the qualified biologist and shall be provided to EMWD. The Project Applicant shall adhere to the following: 1. Applicant shall designate a biologist (Designated Biologist) experienced in: identifying local and migratory bird species of special concern; conducting bird surveys using appropriate survey methodology; nesting surveying techniques, recognizing breeding and nesting behaviors, locating nests and breeding territories, and identifying nesting stages and nest success; determining/establishing appropriate avoidance and minimization measures; and monitoring the efficacy of implemented avoidance and minimization measures. 2. Pre-activity field surveys shall be conducted at the appropriate time of day/night, during appropriate weather conditions, no more than 3 days prior to the initiation of Project activities. Surveys shall encompass all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures. Survey duration shall take into consideration the size of the Project site; density, and complexity of the habitat; number of survey participants; survey techniques employed; and shall be sufficient to ensure the data collected is complete and accurate. If the qualified biologist determines that an active migratory bird, coastal California gnatcatcher, or raptor nest is present, avoidance buffers shall be implemented as determined by a qualified biologist and approved by EMWD, based on their best professional judgement and experience until the young have fledged the nest and the nest is confirmed to no longer be		

	active, as determined by the qualified biologist. The buffer shall be of a distance to ensure avoidance of adverse effects to the nesting bird by accounting for topography, ambient conditions, species, nest location, and activity type. All nests shall be monitored as determined by the qualified biologist until nestlings have fledged and dispersed or it is confirmed that the nest has been unsuccessful or abandoned. The Designated Biologist shall monitor the nest at the onset of project activities, and at the onset of any changes in such project activities (e.g., increase in number or type of equipment, change in equipment usage, etc.) to determine the efficacy of the buffer. The qualified biologist shall halt all construction activities within proximity to an active nest if it is determined that the activities are harassing the nest and may result in nest abandonment or take. The biological monitor may modify the buffer or propose other recommendations in order to minimize disturbance to nesting birds. Work can resume within these avoidance areas when no other active nests are found. Upon completion of the survey and nesting bird monitoring, a report shall be prepared and submitted to EMWD for mitigation monitoring compliance record keeping.		
Noise	**MM BIO-XX:** Prior to approval of the Final Design, a Noise plan shall be submitted to Elsinore Valley Municipal Water District for review and approval. The Noise Plan shall identify noise generating land uses that may affecting the MSHCP Conservation Area and shall incorporate setbacks, berms, or walls to minimize the effects of noise on MSHCP Conservation Area resources pursuant to applicable rules, regulations and guidelines related to land use noise standards. For planning purposes, wildlife within the MSHCP Conservation Area should not be subject to noise that would exceed residential noise standards. The Noise Plan shall include monitoring during	Prior to commencing ground- or vegetation disturbing activities	Project Proponent

	construction and post- project to demonstrate noise levels in the Conservation Area do not exceed residential standards. If noise standards are exceeded, the Project Applicant is responsible for immediate implementation of remedial actions to reduce noise levels to acceptable levels.		