



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



October 11, 2024

Krystine Ball, Public Works Program Manager  
City of Rio Vista  
One Main Street  
Rio Vista, CA 94571  
[KBall@ci.rio.vista.ca.us](mailto:KBall@ci.rio.vista.ca.us)

Subject: Wastewater Plant Consolidation Project, Mitigated Negative Declaration,  
SCH No. 2024090486, Solano County

Dear Ms. Ball:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) from the City of Rio Vista (City) for the Wastewater Plant Consolidation Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

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

## **CDFW ROLE**

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

## **PROJECT DESCRIPTION SUMMARY**

**Proponent:** City of Rio Vista

**Objective:** The City proposes installing a wastewater pipeline and recycled water pipeline, and improvements and rehabilitation to the existing wastewater service capacities which will protect water quality and beneficial uses of the Sacramento River. As the Beach Wastewater Treatment Plant (WWTP) has reached its operational lifespan of 50 years and has a recent history of Regional Water Quality Control Board

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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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(RWQCB) standard water quality violations including exceedances of biological oxygen demand, total dissolved solids, total suspended solids, average weekly effluent limitations, total coliform, and chlorine residual, the City has planned to transfer all wastewater treatment to the more capable Northwest WWTP. Additionally, Northwest WWTP has the capability to supply and distribute recycled water. Thus, the Project would enable the transfer of wastewater treatment services to the Northwest WWTP and cease all operations at the Beach WWTP.

Most of the excavation for wastewater pipeline installation is within existing paved roadways with a small amount of excavation within upland habitats characterized as non-native grasslands. Most of the excavation for the recycled pipeline installation is within the Trilogy subdivision within existing roadways with a small amount of excavation within the landscaped features of the subdivision's golf course. Upgrades within the Northwest WWTP are within previously disturbed open areas characterized by ruderal grasses and forbs. This Project would occur within the existing boundaries or right-of-way of Beach Drive, South 2nd Street, Bruning Avenue, South/North Front Street, CPN Pipeline property, Rio Vista Channel, St. Francis Way, Airport Road, Northwest WWTP, Summerset Drive, Laurel Place, golf course property, and Marks Road in the Trilogy development. The Project site is composed of disturbed urban landscape features (concrete sidewalks, cut and fill materials) and non-native or ruderal grasses and forbs.

**Location:** City of Rio Vista, County of Solano, between two wastewater treatment plants: 1) Beach Wastewater Treatment Plant, 38.141949°, -121.695006°; and 2) Northwest Wastewater Treatment Plant 38.186382°, -121.692298°.

## REGULATORY REQUIREMENTS

### California Endangered Species Act and Native Plant Protection 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 or NPPA either during construction or over the life of the Project. **The Project has the potential to impact Swainson's hawk (*Buteo swainsoni*) a CESA listed as threatened species, and Mason's lilaepsis (*Lilaepsis masonii*), an NPPA listed as a rare species, as further described below.** Issuance of an ITP is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain an ITP.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially restrict the range or reduce the population of a threatened or endangered species. (Pub.

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Resources Code, §§ 21001, subd. (c) & 21083; CEQA Guidelines, §§ 15380, 15064, & 15065.). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency's FOC does not eliminate the Project proponent's obligation to comply with CESA.

### **Lake and Streambed Alteration**

An LSA Notification, pursuant to Fish and Game Code section 1600 et. seq., is required for project activities affecting lakes or streams and associated riparian habitat. Notification is required for any activity that will substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland resources; or deposit or dispose of material where it may pass into a river, lake or stream. Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to LSA Notification requirements. **The MND states that the Project will not affect or modify any stream or waterbody, however Figure 2-14 depicts the new recycled water line within an existing paved road intersecting a stream, therefore it is unclear if impacts to the stream may occur. CDFW recommends clarifying how impacts to any streams intersecting the Project alignment would be avoided. If stream impacts would not be avoided, an LSA Notification may be required.** CDFW, as a Responsible Agency under CEQA, would consider the CEQA document for the Project and may issue an LSA Agreement. CDFW may not execute the final LSA Agreement until it has complied with CEQA as a Responsible Agency.

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

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

### **COMMENTS AND RECOMMENDATIONS**

CDFW offers the comments and recommendations below to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Based on the Project's avoidance of significant impacts on biological resources with implementation of mitigation measures, including those CDFW recommends below and in Attachment 1 Draft Mitigation and Monitoring Reporting Plan, CDFW concludes that

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an MND is appropriate for the Project.

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

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

**COMMENT 1:** Swainson's Hawk, MND page 63

**Issue:** The MND does not adequately evaluate and mitigate potential impacts to nesting Swainson's hawk and there are multiple California Natural Diversity Databased (CNDDDB) records of the species occurring in the Project vicinity.

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

MND MM BIO-2 states that a survey within 0.25 miles of the Project would be conducted for nesting Swainson's hawk within 14 days prior to beginning construction. However, portions of the Project are within rural areas and the species may be disturbed within 0.5 miles, and the survey methodology does not follow accepted protocols and therefore may not detect nesting Swainson's hawks.

Additionally, the MND indicates that the Project would occur within non-native grassland habitat, which may be used by Swainson's hawk for foraging, but does not evaluate potential Swainson's hawk foraging habitat loss. The Project site is within the Draft Solano HCP Valley Floor Grassland Conservation Area, which should be mitigated at a minimum 1:1 ratio according to the Draft Solano HCP Mitigation Measure SH 2 for Swainson's hawk (see Section 6.4.8 and Figure 4-21 of the draft Solano HCP at: <https://www.scwa2.com/solano-multispecies-habitat-conservation-plan/>). In 2016, CDFW released a Status Review for Swainson's hawk in California and recommended the species retain its status as threatened under the California Endangered Species Act (CDFW 2016). The review cites the primary threat to Swainson's hawk continues to be habitat loss, especially the loss of suitable foraging habitat. The study cites concerns regarding impacts to Swainson's hawk from urban development, reduction in grasslands, and orchard and vineyard cultivation, all of which are prominent impacts in Solano County, where the Project is proposed.

The Project has the potential to impact nesting Swainson's hawk through auditory or visual disturbances above ambient levels within 0.5 miles of Project activities, and removal of foraging habitat. Disturbances from Project activities may result in Swainson's hawk nest abandonment and loss of eggs or reduced health and vigor and loss of young. Swainson's hawk is CESA listed as a threatened species and therefore is considered to be a threatened species pursuant to CEQA Guidelines section 15380. Therefore, if an active Swainson's hawk nest is disturbed by the

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

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

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

*Mitigation Measure BIO-2 (Swainson's Hawk Foraging Habitat):* A qualified biologist shall evaluate if the Project would result in loss of Swainson's hawk foraging habitat, and if so shall quantify the loss in acres. Consistent with the Draft Solano HCP, prior to Project construction, if the Project would result in loss of Swainson's hawk foraging habitat, the Project shall provide Swainson's hawk foraging habitat mitigation at a 1:1 ratio, which shall include: 1) permanent preservation of the

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

**COMMENT 2:** Mason's Lilaeopsis and other Special-Status Plants, MND page 63

**Issue:** The MND does not adequately evaluate and mitigate potential impacts to Mason's lilaeopsis and other special-status plants.

**Specific impacts and why they may occur and be significant:** The MND indicates that Mason's lilaeopsis and other special-status plants may be impacted by the Project. MND MM BIO-1 does not clearly require that special-status plant surveys will be conducted according to accepted protocol survey methodology. Therefore, the surveys may not detect Mason's lilaeopsis and other special-status plants and consequently the Project may cause impacts to these plants. Mason's lilaeopsis and other special-status plants may be impacted by ground-disturbing activities and vegetation removal. For example, vehicles, equipment, and foot traffic may bury, excavate, crush, trample, or disturb special-status plants. Soil disturbance may result in permanent loss of special-status plants.

Mason's lilaeopsis is an NPPA listed as rare species and therefore is considered a rare species pursuant to Section 15380 of the CEQA Guidelines. Mason's lilaeopsis is threatened by erosion, bank and channel-stabilization, flood-control projects, widening of Delta channels for water transport, dredging and dumping of spoils, boat wake overwash, recreation (e.g., fishing trails), and in some areas, by water hyacinth (see *Species Accounts of Rare, Threatened, and Endangered Plants from 2004 Status Report* at <https://wildlife.ca.gov/Conservation/Plants/Info>). Impacts to Mason's lilaeopsis could substantially reduce the species' population or restrict its range, which would be considered a Mandatory Finding of Significance pursuant to Section 15065, subdivision (a) of the CEQA Guidelines. Therefore, if Mason's lilaeopsis is present in the Project area and would be directly or indirectly impacted by the Project, then Project impacts to Mason's lilaeopsis would be potentially significant.

Impacts to other special-status plant species may result in local population declines or extirpation of a species. Insufficient detection or mitigation may result in prolonged temporal or permanent impacts to a special-status plant species' range, distribution, and population in the State. Therefore, if other special-status plants occur on or adjacent to the Project site where they may be directly or indirectly impacted, impacts to other special-status plants would be potentially significant.

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**Recommended Mitigation Measure:** To reduce impacts to Mason's lilaeopsis and other special-status plants to less-than-significant and comply with NPPA, CDFW recommends including the below mitigation measure.

*Mitigation Measure BIO-3 (Special-Status Plant Surveys and Protection):* Prior to the start of Project activities, a qualified biologist shall conduct a habitat assessment for special-status plants. If potential habitat for special-status plants is present, botanical surveys shall be conducted during the appropriate blooming period and conditions for all special-status plants that have the potential to occur within or near the Project where they may be directly or indirectly impacted by for example, modifications to hydrological conditions. More than one year of surveys during appropriate conditions may be necessary. Surveys shall include visiting reference population unless otherwise approved in writing by CDFW. Surveys and associated reporting shall be conducted according to *CDFW's 2018 Protocol for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities* (see:

<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>). The habitat assessment and survey reports shall be submitted to CDFW prior to the start of construction. Project activities shall not proceed until CDFW has provided written approval of the habitat assessment and survey reports. If any special-status plant species are observed, the Project shall fully avoid direct and indirect impacts to all individuals and prepare and implement a CDFW-approved avoidance plan prior to Project activities. If full avoidance is not possible, Project activities may not commence until the Permittee has consulted with CDFW and obtained CDFW's written approval, which may include topsoil salvage, transplanting, or habitat compensation. The Project shall obtain and comply with a CESA ITP from CDFW for any impacts to Mason's lilaeopsis or any other CESA or NPPA listed plants and provide habitat compensation to mitigate impacts to Mason's lilaeopsis or any other CESA or NPPA listed plant species at a minimum 3 to 1 mitigation to impact ratio, unless otherwise approved in writing by CDFW. Habitat compensation shall include placing a conservation easement over occupied habitat for the applicable species and preparing, funding, and implementing an interim and/or long-term management plan, unless otherwise approved in writing by CDFW. The habitat compensation location, conservation easement, and all associated land conservation documents including but not limited to the management plan(s) shall be submitted to CDFW for review and the Project shall obtain CDFW's written approval of these documents, unless otherwise approved in writing by CDFW. The conservation easement shall be recorded and management plan(s) funding shall be completed prior to Project construction, unless otherwise approved in writing by CDFW.

***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***



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***CDFW or the U.S. Fish and Wildlife Service?***

**COMMENT 3:** Burrowing owl (*Athene cunicularia*), MND page 69

**Issue:** The MND does not adequately evaluate potential impacts to burrowing owl and there are multiple CNDDDB records of the species occurring in the Project vicinity.

**Specific impacts, why they may occur and be potentially significant:** MND MM BIO-3 includes surveys for burrowing owl, however the methodology does not require surveys for wintering burrowing owl which may be disturbed by the Project, and the survey distance of 500 feet does not appear to follow accepted survey methodology. The Project may impact nesting or wintering burrowing owl utilizing burrows or burrow surrogates on or within up to 500 meters (1,640 feet) of the Project site. The Project could result in burrowing owl nest abandonment, loss of young, reduced health and vigor of owlets, injury or mortality of adults, and permanent wintering (i.e., non-nesting) or nesting habitat loss. Burrowing owl is a California Species of Special Concern because the species' population viability and survival are adversely affected by risk factors such as precipitous declines from habitat loss, fragmentation, and degradation; evictions from nesting sites without habitat mitigation; wind turbine mortality; human disturbance; and eradication of California ground squirrels resulting in a loss of suitable burrows required by burrowing owl for nesting, protection from predators, and shelter (Shuford and Gardali 2008; *Department of Fish and Game Staff Report on Burrowing Owl Mitigation* (2012); personal communication, CDFW Statewide Burrowing Owl Coordinator Esther Burkett, May 13, 2022). Preliminary analyses of regional patterns for breeding populations of burrowing owl have detected declines both locally in their central and southern coastal breeding areas, and statewide where the species has experienced breeding range retraction (*Department of Fish and Game Staff Report on Burrowing Owl Mitigation* (2012); personal communication, Esther Burkett, May 13, 2022). Based on the foregoing, if burrowing owl are wintering or nesting on or within 500 meters of the Project site, Project impacts to burrowing owl would be potentially significant.

**Recommended Mitigation Measures:** To reduce potential impacts to burrowing owl to less-than-significant and comply with Fish and Game Code section 3503.5, CDFW recommends including the below mitigation measures.

**Mitigation Measure BIO-4 (Burrowing Owl Surveys):** A qualified biologist shall conduct a habitat assessment and surveys, if warranted based on the habitat assessment, following the *Department of Fish and Game Staff Report on Burrowing Owl Mitigation* (2012) methodology (<https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds>) and prepare a report documenting the survey results.



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

*Mitigation Measure BIO-5 (Burrowing Owl Burrow Mitigation)*: If the Project would impact an unoccupied nesting burrowing owl burrow or burrow surrogate (i.e., a burrow known to have been used in the past three years for nesting), or an occupied burrow (where a non-nesting owl would be evicted as described below), the following habitat mitigation shall be implemented prior to Project construction.

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

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

Please be advised that CDFW does not consider exclusion of burrowing owl (i.e., passive removal of an owl from its burrow or other shelter) as a "take" avoidance, minimization, or mitigation measure for the reasons outlined below. The long-term demographic consequences of exclusion techniques have not been thoroughly

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evaluated, and the survival rate of excluded owls is unknown. Burrowing owl are dependent on burrows at all times of the year for survival or reproduction, therefore eviction from nesting, roosting, overwintering, and satellite burrows or other sheltering features may lead to indirect impacts or “take” which is prohibited under Fish and Game Code section 3503.5. All possible avoidance and minimization measures should be considered before temporary or permanent exclusion and closure of burrows is implemented to avoid “take.” Habitat compensation shall be provided for any evicted owl as described above and the Project shall obtain CDFW’s written acceptance of the eviction plan.

*Mitigation Measure BIO-6 (Cap Pipe and Hose):* To prevent burrowing owl from sheltering or nesting in exposed material; all construction pipes, culverts, hoses or similar materials greater than two inches in diameter stored at the Project site shall be capped or covered before the end of each work day and shall be inspected thoroughly for wildlife before the pipe or similar structure is buried, capped, used, or moved.

## **ENVIRONMENTAL DATA**

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

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

<https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

## **ENVIRONMENTAL DOCUMENT FILING FEES**

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


## **CONCLUSION**

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

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Questions regarding this letter or further coordination should be directed to Jordan Beaton, Environmental Scientist, at [Jordan.Beaton@wildlife.ca.gov](mailto:Jordan.Beaton@wildlife.ca.gov) or (707) 980-5172; or Melanie Day, Senior Environmental Scientist (Supervisory), at [Melanie.Day@wildlife.ca.gov](mailto:Melanie.Day@wildlife.ca.gov) or (707) 210-4415.

Sincerely,

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

Attachment 1. Draft Mitigation and Monitoring Reporting Plan

ec: Office of Planning and Research, State Clearinghouse (SCH No. 2024090486)

## REFERENCES

CDFW. 2023. California Natural Diversity Database (CNDDDB) Management Framework. California Department of Fish and Wildlife. Sacramento, CA. Website <https://wildlife.ca.gov/Data/BIOS> [accessed 19 September 2024].

CDFW. 2016. Status Review: Swainson's Hawk (*Buteo swainsoni*) in California, reported to the California Fish and Game Commission, five-year status report. State of California Natural Resources Agency, Sacramento, CA. <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=133622&inline>

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

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

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

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**ATTACHMENT 1**

**Draft Mitigation and Monitoring Reporting Plan**

Biological Resources (BIO)			
Mitigation Measure (MM)	Description	Timing	Responsible Party
BIO-1	<p><i>Swainson’s Hawk Pre-Construction Survey:</i> If Project activities are scheduled during the nesting season for Swainson’s hawks (March 1 to September 15), prior to beginning work on the Project, a qualified biologist shall conduct surveys according to the Recommended Timing and Methodology for Swainson’s Hawk Nesting Surveys in California’s Central Valley (<a href="https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83990&amp;inline">https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83990&amp;inline</a>) and prepare a report documenting the survey results. The Project shall obtain CDFW’s written approval of the qualified biologist and survey report prior to starting construction activities between March 1 and September 15. Survey methods shall be closely followed by starting early in the nesting season (late March to early April) to maximize the likelihood of detecting an active nest (nests, adults, and chicks are more difficult to detect later in the growing season because trees become less transparent as vegetation increases). Surveys shall be conducted: 1) within a minimum 0.5-mile radius of the Project site or a larger area if needed to identify potentially impacted active nests, unless otherwise approved by CDFW in writing, and 2) for at least the two survey periods immediately prior to initiating Project-related construction activities. Surveys shall occur annually for the duration of the Project. The qualified biologist shall have a minimum of two years of experience implementing the survey methodology resulting in detections. If active Swainson’s hawk nests are detected, the Project shall immediately notify CDFW and implement a 0.5-mile construction avoidance buffer around the nest until the nest is no longer active as determined by a qualified biologist, unless otherwise approved by CDFW in writing. Any detected nesting Swainson’s hawk shall be</p>	<p>Prior to Ground Disturbance and for Duration of Construction</p>	<p>Project Applicant</p>

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	<p>monitored by the qualified biologist to ensure it is not disturbed during construction activities, unless otherwise approved in writing by CDFW. If take of Swainson’s hawk cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP before Project activities may commence.</p>		
<b>BIO-2</b>	<p><i>Swainson’s Hawk Foraging Habitat:</i> A qualified biologist shall evaluate if the Project would result in loss of Swainson’s hawk foraging habitat, and if so shall quantify the loss in acres. Consistent with the Draft Solano HCP, prior to Project construction, if the Project would result in loss of Swainson’s hawk foraging habitat, the Project shall provide Swainson’s hawk foraging habitat mitigation at a 1:1 ratio, which shall include:                  1) permanent preservation of the species’ foraging habitat through a conservation easement and implementing and funding a long-term management plan in perpetuity, or 2) purchase of Swainson’s hawk foraging habitat credits at a CDFW-approved mitigation bank in Solano County, unless otherwise approved in writing by CDFW.</p>	<p>Prior to Ground Disturbance</p>	<p>Project Applicant</p>
<b>BIO-3</b>	<p><i>Special-Status Plant Surveys and Protection:</i> Prior to the start of Project activities, a qualified biologist shall conduct a habitat assessment for special-status plants. If potential habitat for special-status plants is present, botanical surveys shall be conducted during the appropriate blooming period and conditions for all special-status plants that have the potential to occur within or near the Project where they may be directly or indirectly impacted by, for example, modifications to hydrological conditions. More than one year of surveys during appropriate conditions may be necessary. Surveys shall include visiting reference population unless otherwise approved in writing by CDFW. Surveys and associated reporting shall be conducted according to CDFW’s 2018 Protocol for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (see: <a href="https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&amp;inline">https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&amp;inline</a>). The habitat assessment and survey reports shall be submitted to CDFW prior to the start of construction. Project activities shall not proceed until CDFW has provided written</p>	<p>Prior to Ground Disturbance</p>	<p>Project Applicant</p>

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	<p>approval of the habitat assessment and survey reports. If any special-status plant species are observed, the Project shall fully avoid direct and indirect impacts to all individuals and prepare and implement a CDFW-approved avoidance plan prior to Project activities. If full avoidance is not possible, Project activities may not commence until the Permittee has consulted with CDFW and obtained CDFW's written approval, which may include topsoil salvage, transplanting, or habitat compensation. The Project shall obtain and comply with a CESA ITP from CDFW for any impacts to Mason's lilaepsis or any other CESA or NPPA listed plants and provide habitat compensation to mitigate impacts to Mason's lilaepsis or any other CESA or NPPA listed plant species at a minimum 3 to 1 mitigation to impact ratio, unless otherwise approved in writing by CDFW. Habitat compensation shall include placing a conservation easement over occupied habitat for the applicable species and preparing, funding, and implementing an interim and/or long-term management plan, unless otherwise approved in writing by CDFW. The habitat compensation location, conservation easement, and all associated land conservation documents including but not limited to the management plan(s) shall be submitted to CDFW for review and the Project shall obtain CDFW's written approval of these documents, unless otherwise approved in writing by CDFW. The conservation easement shall be recorded and management plan(s) funding shall be completed prior to Project construction, unless otherwise approved in writing by CDFW.</p>		
<p><b>BIO-4</b></p>	<p><i>Burrowing Owl Surveys:</i> A qualified biologist shall conduct a habitat assessment and surveys, if warranted based on the habitat assessment, following the Department of Fish and Game Staff Report on Burrowing Owl Mitigation (2012) methodology (<a href="https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds">https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds</a>) and prepare a report documenting the survey results. Surveys for nesting burrowing owls shall be conducted if Project construction starts during nesting season (February 1 to August 31), and surveys for wintering burrows owls shall be conducted if the construction starts during the wintering season (September 1 to January 31). The habitat</p>	<p>Prior to Ground Disturbance and for Duration of Construction</p>	<p>Project Applicant</p>



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	<p>assessment and surveys shall encompass the Project site and a sufficient buffer zone to detect owls nearby that may be impacted, which is up to 500 meters (1,640 feet) around the Project site pursuant to the above methodology. Habitat assessments and surveys shall occur each year of Project construction, as conditions may change annually and suitable refugia for burrowing owl, such as small mammal burrows, can be created within a few hours or days, unless otherwise approved in writing by CDFW. Time lapses between surveys or Project activities shall trigger subsequent surveys including but not limited to a final survey within 24 hours prior to ground disturbance. The qualified biologist shall have a minimum of two years of experience implementing the above methodology resulting in burrowing owl detections. The Project shall immediately notify CDFW if burrowing owl is detected and implement a construction avoidance buffer around any detected burrowing owl pursuant to the buffer distances outlined in the Department of Fish and Game Staff Report on Burrowing Owl Mitigation (2012), which may be up to 500 meters (1,640 feet). Any detected owl shall be monitored by the qualified biologist to ensure it is not disturbed during construction activities, unless otherwise approved in writing by CDFW. Impacts to nesting burrowing owls shall be fully avoided.</p>		
<p><b>BIO-5</b></p>	<p><i>Burrowing Owl Burrow Mitigation.</i> If the Project would impact an unoccupied nesting burrowing owl burrow or burrow surrogate (i.e., a burrow known to have been used in the past three years for nesting), or an occupied burrow (where a non-nesting owl would be evicted as described below), the following habitat mitigation shall be implemented prior to Project construction.</p> <p>Impacts to each burrowing owl nesting site shall be mitigated by permanent preservation of two burrowing owl occupied nesting sites with appropriate foraging habitat within Solano County, unless otherwise approved by CDFW, through a conservation easement and implementing and funding a long-term management plan in perpetuity. The same requirements shall apply for impacts to non-nesting evicted owl sites except two burrowing owl occupied non-nesting (i.e., wintering) sites shall be preserved.</p>	<p>Prior to Ground Disturbance</p>	<p>Project Applicant</p>

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	<p>The Project may implement alternative methods for preserving habitat with written acceptance from CDFW.</p> <p>Please be advised that CDFW does not consider exclusion of burrowing owls (i.e., passive removal of an owl from its burrow or other shelter) as a “take” avoidance, minimization, or mitigation measure for the reasons outlined below. The long-term demographic consequences of exclusion techniques have not been thoroughly evaluated, and the survival rate of excluded owls is unknown. Burrowing owls are dependent on burrows at all times of the year for survival or reproduction, therefore eviction from nesting, roosting, overwintering, and satellite burrows or other sheltering features may lead to indirect impacts or “take” which is prohibited under Fish and Game Code section 3503.5. All possible avoidance and minimization measures should be considered before temporary or permanent exclusion and closure of burrows is implemented to avoid “take.” Habitat compensation shall be provided for any evicted owl as described above and the Project shall obtain CDFW’s written acceptance of the eviction plan.</p>		
<p><b>BIO-6</b></p>	<p><i>Cap Pipe and Hose.</i> To prevent burrowing owls from sheltering or nesting in exposed material; all construction pipes, culverts, hoses or similar materials greater than two inches in diameter stored at the Project site shall be capped or covered before the end of each workday and shall be inspected thoroughly for wildlife before the pipe or similar structure is buried, capped, used, or moved.</p>	<p>For Duration of Construction</p>	<p>Project Applicant</p>