



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
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February 13, 2025

William Via, Public Works Director
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**Subject: Valenzuela Water System Upgrade Project (Project)
INITIAL STUDY/MITIGATED NEGATIVE DECLARATION (MND)
SCH: 2025010436**

Dear William Via:

The California Department of Fish and Wildlife (CDFW) received an MND from the City of Hollister for the Project pursuant 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, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

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

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.

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agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect 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. As proposed, for example, the Project may be subject to CDFW's 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.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

Nesting Birds: CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include sections 3503 (regarding unlawful take, possession, or needless destruction of the nest 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).

Unlisted Species: Species of plants and animals need not be officially listed as Endangered, Rare, or Threatened (E, R, or T) on any State or federal list to be considered E, R, or T under CEQA. If a species can be shown to meet the criteria for E, R, or T, as specified in the CEQA Guidelines section 15380, CDFW recommends it be fully considered in the environmental analysis for the Project.

PROJECT DESCRIPTION SUMMARY

Proponent: City of Hollister

Objective: The proposed Project would connect the Valenzuela Water System (VWS) to the City's public water system through installation of two parallel 8-inch diameter water pipelines (water pipelines) which would be buried a minimum of 4-feet deep in a 44-inch-wide trench within the Nash Road right-of-way. At the San Benito River, the water pipelines would be attached to the north side of the Nash Road Bridge to avoid entering the jurisdictional limits of the San Benito River. No horizontal drilling beneath the riverbed would occur. Upon crossing the San Benito River, the water pipelines would continue underground until they connect to the existing City water system at the Nash Road/Westside Boulevard intersection. The 0.51- mile length of the water pipelines would connect to the existing distribution system at Rancho Valenzuela.

Location: The Project is located partially in unincorporated San Benito County (County) and the City of Hollister on Assessors' Parcel Number (APN) 021-050-017-0 and Nash Road right-of-way. Specifically, the proposed Project extends from approximately 0.05-

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mile northeast of the Nash Road/Riverside Road intersection north/northwest to the intersection of Nash Road/Westside Boulevard. Construction staging areas are proposed on portions of either APN 021-050-021-0 or APN 021-050-013-0.

Timeframe: Construction of the proposed Project is anticipated to begin in Spring 2026 and would last approximately eight months.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City of Hollister in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the MND prepared for this Project.

The MND notes the Project site and vicinity are comprised of large lot single family residential units, large animal corrals, high density residential units, vacant land, the San Benito River, timber milling uses, aggregate sales use, and light industrial uses. Aerial imagery shows the San Benito River travels southeast to northwest under the Nash Street bridge with ruderal habitat and anthropogenic facilities located on either side of the Nash Street Bridge.

Currently, the MND acknowledges that the Project site is within the geographic range of several special-status animal and plant species and states "A review of the CNDDDB identified 16 special-status wildlife species and a review of the CNPS identified 11 special-status plant species in the Hollister quadrangle that could potentially occur in the project area." The MND also states, "A field survey was conducted within the project area on February 28, 2023, to determine the habitats present and to determine if special-status wildlife and plant species occur on the site." The field survey noted that, "During the field survey, swallow nests were observed under the Nash Road Bridge over the San Benito River. None of the 27 special-status wildlife and plant species were observed on the project site during the field visit." CDFW has concerns related to the level of survey effort conducted to inform the MND, and the lack of species-specific mitigation measures provided within the MND to reduce impacts to less than significant and avoid unauthorized take for several special-status animal species, including but not limited to, the State threatened bank swallow (*Riparia riparia*), the State and federally threatened California tiger salamander (*Ambystoma californiense pop. 1*), the State candidate western burrowing owl (*Athene cunicularia hypugaea*), the State species of special concern American badger (*Taxidea taxus*), western mastiff bat (*Eumops perotis californicus*), and western red bat (*Lasiurus frantzii*), the State species of special concern and federally threatened California red-legged frog (*Rana draytoni*), and the State species of special concern and federally proposed threatened western spadefoot (*Spea hammondi*).

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Bank Swallow

The MND did not evaluate potential impacts to bank swallow (BASW) within the Project site and there are historical occurrences of BASW documented in the vicinity and within the Project site (CDFW 2025). Additionally, the banks of the San Benito River may provide suitable nesting habitat for BASW. Depending on the timing of construction, Project activities including direct disturbance, noise, vibration, visual disturbance, and movement of workers or equipment, as described in the MND, could result in the unauthorized take of BASW. As such, CDFW recommends the following:

Recommended Mitigation Measure 1: BASW Habitat Assessment

CDFW recommends that a qualified biologist conduct a habitat assessment in advance of implementation of Project activities, to determine if the Project site, specifically the habitats along the San Benito River and within a 500- foot buffer of the river, or area around the Project site contains suitable nesting habitat for BASW.

Recommended Mitigation Measure 2: BASW Focused Surveys

If suitable nesting habitat is determined to be present for BASW, CDFW recommends that a qualified wildlife biologist conduct focused surveys for BASW prior to Project initiation, within areas of habitat in the Project site and a 500- foot buffer. In addition, if Project activities will take place during the species' nesting season of March 1 through August 31, CDFW recommends that additional preconstruction surveys for active nests be conducted by a qualified biologist no more than 10 days prior to the start of construction.

Recommended Mitigation Measure 3: BASW Avoidance

CDFW recommends that Project activities be timed to avoid the species' nesting season. If Project activity will take place during the nesting season and an active BASW nest, or nest colony, is found during surveys, CDFW recommends implementing and maintaining a minimum 500-foot no-disturbance buffer around the nest/colony until the nesting season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest site for survival.

Recommended Mitigation Measure 4: BASW Take Authorization

If a 500-foot no-disturbance nest buffer is not feasible, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided, take authorization through the acquisition of an Incidental Take Permit (ITP), pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA.

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California Tiger Salamander

The Project site is within the range of California tiger salamander (CTS) and there are several known occurrences of the species within the vicinity of the Project site. Additionally, no mitigation measures were proposed to mitigate for potential Project-related impacts to the species. CTS are known to breed and develop in vernal and seasonal pools and stock ponds in grassland habitat types and have been determined to be physiologically capable of dispersing up to approximately 1.5 miles from these habitats. As CTS have been documented in the Project vicinity, and have the potential to utilize the habitat within the Project site, CDFW recommends the following:

Recommended Mitigation Measure 5: Focused CTS Protocol-level Surveys

CDFW recommends that a qualified biologist conduct protocol-level surveys in accordance with the USFWS “Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander” (USFWS 2003) at the appropriate time of year to determine the existence and extent of CTS breeding and refugia habitat. The protocol-level surveys for CTS require more than one survey season and are dependent upon sufficient rainfall to complete. As a result, consultation with CDFW and the USFWS is recommended well in advance of beginning the surveys and prior to any planned vegetation- or ground-disturbing activities. CDFW advises that the protocol-level survey include a 100-foot buffer around the Project area in all areas of wetland and upland habitat that could support CTS. Please be advised that protocol-level survey results are viable for two years after the results are reviewed by CDFW.

Recommended Mitigation Measure 6: CTS Avoidance Buffer

If CTS protocol-level surveys are not conducted, CDFW advises that a minimum 50-foot no-disturbance buffer be delineated around all small mammal burrows in suitable upland refugia habitat within and/or adjacent to the Project site. Further, CDFW recommends potential or known breeding habitat within and/or adjacent to the Project site be delineated with a minimum 250-foot no-disturbance buffer. Both upland burrow and wetland breeding no-disturbance buffers are intended to minimize impacts to CTS habitat and avoid take of individuals.

Recommended Mitigation Measure 7: CTS Take Authorization

If through surveys it is determined that CTS are occupying or have the potential to occupy the Project site, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA. As stated above, in the absence of protocol surveys, the applicant can assume presence of CTS within the Project site and obtain an ITP from CDFW.

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Western Burrowing Owl

The Project site is within the range of western burrowing owl (BUOW) and there are several known occurrences of the species within the vicinity of the Project site. Additionally, no mitigation measures were proposed to mitigate for potential Project-related impacts to the species. The California Fish and Game Commission (FGC) approved BUOW as a candidate for potential listing as a protected species under CESA on October 10, 2024, and published these findings in the California Regulatory Notice Register (Notice Register) on October 25, 2024. As such, BUOW is now a candidate under CESA and receives the same legal protection afforded to an endangered or threatened species (Fish & G. Code, §§ 2074.2 & 2085).

As BUOW have been documented in the Project vicinity, and have the potential to utilize the habitat adjacent to the Project site, CDFW recommends the following:

Recommended Mitigation Measure 8: BUOW Surveys

CDFW recommends that a qualified biologist conduct protocol surveys for BUOW, following the 2012 Staff Report on Burrowing Owl Mitigation (CDFG 2012), the survey season immediately prior to construction.

Recommended Mitigation Measure 9: BUOW Avoidance Buffer

Should a BUOW or known BUOW den (active or inactive) be detected, either during preconstruction surveys or construction activities, CDFW recommends that no-disturbance buffers, as outlined in the 2012 Staff Report on Burrowing Owl Mitigation (CDFG 2012), be implemented prior to and during any ground-disturbing activities. CDFW also recommends that these buffers be implemented for both wintering and breeding BUOW.

Recommended Mitigation Measure 10: BUOW Take Authorization

If a BUOW or known BUOW den (active or inactive) is detected, and the no-disturbance buffers outlined in the 2012 Staff Report on Burrowing Mitigation are not feasible, consultation with CDFW is warranted to discuss how to implement the Project and avoid take. If take cannot be avoided, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA.

Special-Status Bats

The MND acknowledges that the Project site encompasses the Nash Street bridge and has the potential to support special-status bats, including western mastiff bat (WMB) and the western red bat (WRB). Both species are known to occur on and in the vicinity of the Project site and historical occurrences have been documented on the Project site (CDFW 2025). Project activities have the potential to affect individuals and their roosting

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habitat on the Nash Street Bridge. Additionally, no mitigation measures were proposed to mitigate for potential Project-related impacts to the species. As such, CDFW recommends the following:

Recommended Mitigation Measure 11: Special-Status Bat Surveys

CDFW recommends the project proponent conduct focused surveys to establish species usage and seasonal usage. Focused survey methodology is advised to include visual surveys of bats (observation of presence of bats during foraging period), inspection for suitable habitat or bat sign (guano), and use of ultrasonic detectors (Anabat, Sonobat, etc.) during all dusk emergence and pre-dawn re-entry. To maximize detectability, each survey needs to be conducted within one 24-hour period.

Recommended Mitigation Measure 12: Bat Roost Disturbance Avoidance and Minimization

If bats are present, CDFW recommends that a 100-foot no-disturbance buffer be placed around the roost and installing new roost sites to be in place prior to the initiation of Project related activities to allow enough time for bats to relocate. If a bat roost is identified and work is planned to occur during the breeding season, CDFW recommends that no disturbance to maternity roosts occur and that CDFW be consulted to determine measures to prevent breeding disruption or failure.

Other State Species of Special Concern

The Project site is within the known geographic range of American badger (AMBA), California red-legged frog (CRLF), and western spadefoot (WESP) and suitable habitat is present adjacent to the Project site and within the San Benito River. Suitable upland habitat also appears to be present within the Project site ROW and staging areas for CRLF, and WESP. Additionally, no mitigation measures were proposed to mitigate for potential Project-related impacts to these species. As such, CDFW recommends the following:

Recommended Mitigation Measure 13: Focused Surveys

CDFW recommends that a qualified biologist conduct focused surveys for AMBA, CRLF, and WESP, as well as their requisite habitat features, prior to the initiation of Project activities to evaluate potential impacts resulting from ground disturbance.

Recommended Mitigation Measure 14: Avoidance

Avoidance whenever possible is encouraged via delineation of a 50-foot no disturbance buffer around AMBA, CRLF, and WESP and their burrows, as applicable. CDFW also recommends that the entrances of burrows or soil cracks that can provide refuge for CRLF and WESP be delineated and avoided by a 50-

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foot no disturbance buffer. CDFW also advises that any individuals observed be allowed to leave the Project site of their own volition.

Editorial Comments and/or Suggestions

Nesting Birds:

CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include §§ 3503 (regarding unlawful take, possession or needless destruction of the nest 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).

The MND notes that swallow nests were identified on the Nash Street Bridge during survey conducted to inform the Project. Additionally, nesting birds could be present within the Project site and Project vicinity during the avian nesting season (February through mid-September). For this reason, CDFW encourages Project implementation occur during the non-nesting bird season. However, if ground-disturbing activities must occur during the breeding season (February through mid-September), the Project applicant is responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Codes as referenced above.

To evaluate Project-related impacts on nesting birds, CDFW recommends that a qualified biologist conduct a pre-construction survey for active nests no more than 10 days prior to the start of ground or vegetation disturbance to maximize the probability that nests that could potentially be impacted are detected. CDFW also recommends that surveys cover a sufficient area around the Project site to identify nests and determine their status. A sufficient area means any area potentially affected, either directly or indirectly, by the Project. In addition to direct impacts (i.e., nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. CDFW recommends that a qualified biologist establish a behavioral baseline of all identified nests. Once Project activities begin, CDFW recommends having a qualified biologist continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends halting the work causing that change and consulting with CDFW for additional avoidance and minimization measures.

If continuous monitoring of identified nests by a qualified biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined the birds have fledged and are

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no longer reliant upon the nest or on-site parental care for survival. Variance from these no-disturbance buffers is possible when there is a compelling biological or ecological reason to do so, such as when the Project site would be concealed from a nest site by topography. CDFW recommends that a qualified biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

CNDDDB Positive Submission of Data: Please note that the California Natural Diversity Database (CNDDDB) is populated by and records voluntary submissions of species detections. As a result, species may be present in locations not depicted in the CNDDDB but where there is suitable habitat and features capable of supporting species. A lack of an occurrence record in the CNDDDB does not mean a species is not present. In order to adequately assess any potential Project-related impacts to biological resources, surveys conducted by a qualified wildlife biologist/botanist during the appropriate survey period(s) and using the appropriate protocol survey methodology are warranted in order to determine whether or not any special-status species are present at or near the Project site.

Lake and Streambed Alteration: Project activities, including staging activities and construction on the Nash Street Bridge, are immediately adjacent and over the San Benito River. Project activities that substantially change the bed, bank, and channel of any river, stream, or lake are subject to CDFW's regulatory authority pursuant Fish and Game Code section 1600 et seq. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake (including the removal of riparian vegetation); (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral or intermittent as well as those that are perennial and may include those that are highly modified such as canals and retention basins.

CDFW is required to comply with CEQA in the issuance of a Lake or Streambed Alteration Agreement (LSAA); therefore, if the CEQA document approved for the Project does not adequately describe the Project and its impacts to lakes or streams, a subsequent CEQA analysis may be necessary for LSAA issuance. For information on notification requirements, please refer to CDFW's website (<https://wildlife.ca.gov/Conservation/LSA>) or contact CDFW staff in the Central Region Lake and Streambed Alteration Program at (559) 243-4593.

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, §

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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>.

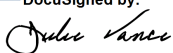
FILING FEES

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

CONCLUSION

CDFW appreciates the opportunity to comment on the MND to assist the City of Hollister in identifying and mitigating Project impacts on biological resources. A Mitigation and Monitoring Program (MMRP) (Attachment 1) is included to assist the City of Hollister with incorporating the recommended mitigation measures provided above. Questions regarding this letter or further coordination should be directed to John Riedel, Environmental Scientist, at (559) 807-1453 or john.riedel@wildlife.ca.gov.

Sincerely,

DocuSigned by:

FA83F09FE08945A...

Julie A. Vance
Regional Manager

ATTACHMENT

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References

California Department of Fish and Game. 2012. Staff report on burrowing owl mitigation. California Department of Fish and Game, Sacramento, California, USA.

California Department of Fish and Wildlife. 2025. Biogeographic information and observation system (BIOS). <https://www.wildlife.ca.gov/Data/BIOS>. Accessed 28 January 2025.

United States Fish and Wildlife Service (USFWS). 2003. Interim guidance on site assessment and field surveys for determining presence or a negative finding of the California tiger salamander. Sacramento, California, USA.

Attachment 1

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM
(MMRP)**

PROJECT: Valenzuela Water System Upgrade Project

SCH No.: 2025010436

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
<i>Before Disturbing Soil or Vegetation</i>	
Bank Swallow (BASW)	
Recommended Mitigation Measure 1: BASW habitat assessments	
Recommended Mitigation Measure 2: BASW focused surveys	
Recommended Mitigation Measure 4: BASW take authorization	
California tiger salamander (CTS)	
Recommended Mitigation Measure 5: CTS focused protocol-level surveys	
Recommended Mitigation Measure 7: CTS take authorization	
Western burrowing owl (BUOW)	
Recommended Mitigation Measure 8: BUOW surveys	
Recommended Mitigation Measure 10: BUOW take authorization	
Special-status bats	
Recommended Mitigation Measure 11: Special-status bats surveys	
Other state species of special concern	
Recommended Mitigation Measure 13: Focused surveys	
<i>During Construction</i>	
Bank Swallow (BASW)	
Recommended Mitigation Measure 3: BASW avoidance	
California tiger salamander (CTS)	
Recommended Mitigation Measure 6: CTS avoidance buffer	

Western burrowing owl (BUOW)	
Recommended Mitigation Measure 9: BUOW avoidance buffer	
Special-status bats	
Recommended Mitigation Measure 12: Special-status bat avoidance and minimization	
Other State Species of Special Concern	
Recommended Mitigation Measure 14: Avoidance	