



State of California – Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
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February 28, 2025

Elke Rank, Senior Water Resources Planner
 Zone 7 Water Agency
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Subject: Alamo Creek Bank Stabilization and Flood Management Pilot Project,
 Initial Study/Mitigated Negative Declaration, SCH No. 2025010825, Zone 7
 Water Agency, Alameda County

Dear Elke Rank:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration (IS/MND) ~~Choose an item from the~~ Zone 7 Water Agency (Lead Agency) for the Alamo Creek Bank Stabilization and Flood Management Pilot Project (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, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

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

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

PROJECT DESCRIPTION SUMMARY

Proponent: Zone 7 Water Agency

Objective: The main purpose of this Project is to implement an ecologically uplifting approach to flood management that will reduce erosion, restore aquatic and riparian habitat, and promote public recreation. This Project will also serve as a pilot project for wider use throughout Zone 7's system. The Project includes combinations of habitat

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.

Elke Rank
 Zone 7 Water Agency
 February 28, 2025
 Page 2

uplift and bank stabilization features, collectively referred to as ‘modules.’ Module designs will direct flows to the center of the channel and away from the banks and revegetate the banks with native plant species. The Project will reduce bank erosion caused by high turbulence and flows down Alamo Creek, thereby enhancing flood protection by maintaining the flood control channel. Reduced toe scour and bank erosion will also reduce fine sediment inputs to the creek and improve downstream water quality. In total, the modules provide approximately 1,270 linear feet of bank protection and habitat uplift along the channel and total an area of approximately 2.14 acres.

Location: The Project is located in the City of Dublin, Alamo Canal (waterway) upstream of Dublin Boulevard. The parcels associated with the Project are assessor parcel numbers (APN) 941-205-1-63 and 941-205-6-6. GPS coordinates are 37°42'33.3"N 121°54'59.2"W.

Timeframe: Project construction is anticipated to occur during the 2025 season (May 1 to October 31).

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the Lead Agency in adequately identifying and/or mitigating the Project’s significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document.

I. Environmental Setting, Mitigation Measures and Related Impact Shortcoming

COMMENT 1: Project Design

The Project includes placement of Rock Slope Protection, woven coir fabric, and a vegetated geogrid. Woven coir and geogrid can release microplastics into the environment as they degrade, negatively impacting fish and other aquatic species. As they break down, they can also become entangled with other natural creek materials as well as entrap wildlife.

Recommended Mitigation Measure 1: Coordination and Design Modifications

CDFW recommends coordination with regional CDFW and Conservation Engineering staff on the design. Coordination should evaluate opportunities to reduce the use of plastic materials in the restoration design and minimize impacts on aquatic and terrestrial life.

II. 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, or regulations, or by CDFW or U.S. Fish and Wildlife Service?

COMMENT 2: Special-Status Plant Species

The Native Plant Protection Act (NPPA, Fish & G. Code §1900 *et seq.*) prohibits the take or possession of state-listed rare and endangered plants, including any part or product thereof, unless authorized by CDFW or in certain limited circumstances. Take of state-listed rare and/or endangered plants due to Project activities may only be permitted through an Incidental Take Permit (ITP) or other authorization issued by CDFW pursuant to California Code of Regulations, Title 14, section 786.9 subdivision (b).

Impacts to special-status plant species should be considered significant under CEQA unless they are clearly mitigated below a level of significance. CDFW considers plant

Elke Rank
Zone 7 Water Agency
February 28, 2025
Page 3

communities, alliances, and associations with a statewide ranking of S1, S2, S3, and S4 as sensitive and declining at the local and regional level (Sawyer 2009).

Additionally, plants that have a California Native Plant Society (CNPS) California Rare Plant Rank (CRPR) of 1A, 1B, 2A, and 2B are rare throughout their range, endemic to California, and are seriously or moderately threatened in California. All plants constituting CRPR 1A, 1B, 2A, and 2B are eligible for State listing. Impacts to these species or their habitat must be analyzed during preparation of environmental documents relating to CEQA, as they meet the definition of rare or endangered (CEQA Guidelines, § 15380). Please see CNPS Rare Plant Ranks at <https://www.cnps.org/rare-plants/rare-plant-ranking-review> (CNPS 2022) page for additional rank definitions.

Rare plant species likely to occur in the Project area include Congdon's tarplant (*Centromadia parryi* ssp. *Congdonii*). Previously there were large patches of Congdon's tarplant within 0.6 miles of the site and could occur in the Project area. It blooms from May to November. It typically occurs on alkaline soils and sea level grasslands.

The Project will have 0.297 acres of temporary impacts to grassland and 0.954 acres of permanent impacts to grassland.

The Project could impact rare plants through additional grading, earth movement and degraded habitat. In addition to direct impacts, indirect impacts to special-status species could also occur, including habitat degradation as a result of impacts to water quality, competition from added vegetation, introduction of non-native species, and increased human presence.

Recommended Mitigation Measure 2: Surveys and Buffers

Measure BIO-2 should include multiple surveys and buffers. According to CDFW's *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities* the protocol botanical field surveys should be conducted in the field at the times of year when plants will be both evident and identifiable. Usually this is during flowering or fruiting. Space botanical field survey visits throughout the growing season to accurately determine what plants exist in the Project area. This usually involves multiple visits to the Project area (e.g., in early, mid, and late-season) to capture the floristic diversity at a level necessary to determine if special-status plants are present. The timing and number of visits necessary to determine if special-status plants are present is determined by geographic location, the natural communities present, and the weather patterns of the year(s) in which botanical field surveys are conducted.

To avoid indirect impacts to special-status plants, an appropriate buffer distance should be established between the special-status plant occurrence and the Project impact areas. Appropriate buffer distance should be based upon review of site-specific conditions (e.g. special-status plants located downstream or in lower elevational areas in relation to the impact location, special-status plants being down wind of earth moving activities, and other conditions).

Recommended Mitigation Measure 3: Compensatory Mitigation and Revegetation

A review of protocol-level survey results should be conducted to establish appropriate compensatory mitigation ratios specific to each special-status plant species. Compensatory mitigation ratios should be developed based on the biological factors specific to each species and should be sufficient to compensate for the loss of those species.

All revegetation/restoration areas that will serve as mitigation should include preparation of a restoration plan, to be approved by CDFW prior to any ground disturbance. The restoration plan should include restoration and monitoring methods; annual success

Elke Rank
Zone 7 Water Agency
February 28, 2025
Page 4

criteria; contingency actions should success criteria not be met; long-term management and maintenance goals; and a funding mechanism for long-term management.

COMMENT 3: Burrowing Owl

The burrowing owl (*Athene cunicularia*) is currently a candidate species under CESA and is afforded the same protection as a CESA-listed species (CEQA Guidelines, §15380, subds.(b)). Unauthorized take of this species pursuant to CESA is a violation of Fish and Game Code section 2080 et seq.

The Project includes grassland and herbaceous vegetation that may be potential burrowing owl habitat. The Project will have 0.297 acres of temporary impacts to grassland and 0.954 acres of permanent impacts to grassland. The IS/MND notes the presence of ground squirrel (*Marmotini*) burrows on-site.

Burrowing owl were formerly numerous throughout the San Francisco Bay Area region, particularly in the interior east of the Bay. Based on the burrowing owl endangered species petition, the number of breeding burrowing owl pairs in the San Francisco Bay area have declined from 165 in 1993 to less than 25 in 2023. Of the 5 primary threats it lists, the 2024 Burrowing Owl Petition identifies habitat loss, fragmentation, and degradation as the primary threat to burrowing owl in California.

Small, isolated colonies such as those that likely occur in the area are vulnerable to extirpation, especially without the influx of immigrants. Fragmented populations are at higher risk of extinction due to factors like reproductive isolation, inbreeding, and increased predation, and environmental factors such as drought or reduced prey density may further threaten these small populations.

Direct mortality could occur through crushing of adults or young within burrows, loss of nesting burrows, loss of nesting habitat, loss of foraging habitat resulting in reduced nesting success (loss or reduced health or vigor of eggs or young), nest abandonment, and reduced frequency or duration of care for young resulting in reduced health or vigor of young. This could occur due to excavation for placement of modules, excess noise and disturbance, and earth moving equipment. Because of their highly specialized, ground-dwelling lifestyle and dependence on underground tunnels, burrowing owl are extremely vulnerable to direct and indirect impacts of grading, disking, tilling, earthmoving, burrow blockage, and eradication of ground squirrels.

Recommended Mitigation Measure 4: Burrowing Owl Avoidance

The IS/MND should modify BIO-3 to state that if burrowing owl are detected during surveys within or near the Project area, a protective buffer will be established to ensure construction activities will not impact the burrowing owl or their habitat. Appropriate buffers typically have a 150 to 1,500-foot radius and vary depending on the level of disturbance and timing of construction. If the burrowing owl show signs of distress (e.g., defensive vocalizations and/or flying away from the nest), the buffer distance should be increased. The Designated Biologist shall submit the results of the surveys, including a Burrow Complex Map to CDFW for approval prior to beginning Covered Activities. If changes in burrowing owl presence are detected (e.g., burrowing owl have moved onsite or changed burrow use), the Designated Biologist shall contact the CDFW Regional Representative by phone or email within 24 hours of the observation to consult on appropriate measures to avoid or minimize impacts of the Project. If a lapse in Project-related work of 14 calendar days or longer occurs, the Lead Agency shall contact the CDFW Regional Representative by phone or email and may be required to conduct additional surveys before work may be reinitiated.

The Designated Biologist shall visually inspect any pipes, debris piles, culverts, pallet stacks, burrow exclusion installations, or similar structures for burrowing owl before the material is moved, buried, or capped. The Designated Biologist shall inspect all open

Elke Rank
Zone 7 Water Agency
February 28, 2025
Page 5

holes and trenches within the Project Area at a minimum of twice a day and immediately prior to backfilling. At the end of each workday, the Lead Agency shall place an escape ramp at each end of trenches or holes to allow any animals that may have become trapped in the trench or hole to climb out overnight. The ramp may be constructed of either dirt fill or wood planking or other suitable material that is placed at an angle no greater than 30-45 degrees. If any worker discovers that burrowing owl have become trapped, they shall halt Covered Activities and notify the Designated Biologist immediately. Project workers and the Designated Biologist shall allow the burrowing owl to escape unimpeded.

Recommended Mitigation Measure 5: Burrowing Owl Monitoring

The Designated Biologist(s) shall be present during construction activities to monitor the behavior of any burrowing owl. The Designated Biologist(s) shall have the authority to order stop work if burrowing owl exhibit distress and/or abnormal behavior for (e.g., excessive vocalizations, defensive flights at intruders, flushing frequently, or otherwise displaying agitated behavior). Permittee shall not resume activities until CDFW has been consulted by the Designated Biologist and both the Designated Biologist and CDFW confirm that the burrowing owl's behavior has normalized. CDFW, in consultation with the Designated Biologist(s), shall determine whether to increase the size of the no-disturbance buffer.

Recommended Mitigation Measure 6: Compensatory Mitigation

CDFW highly recommends that the Project proponent obtain take authorization from CDFW through issuance of an ITP if full avoidance of take during construction and/or operations is not feasible. The IS/MND must include all biologically appropriate and feasible take avoidance measures. If permanent or temporary impacts of the proposed Project to burrowing owl foraging and/or nesting habitat cannot be completely avoided, the IS/MND should include measures to minimize the impacts of construction on owls and their habitat, and effective compensatory mitigation to offset all habitat loss. A mitigation plan should be prepared in consultation with CDFW.

COMMENT 4: Crotch's Bumble Bee

The IS/MND does not analyze potential impacts to Crotch's bumble bee (*Bombus crotchii*) which is currently a Candidate Endangered species under CESA. Bumble bees are critically important because they pollinate a wide range of plants over the lifecycles of their colonies, which typically live longer than most native solitary bee species. As a candidate species, unauthorized take of this species pursuant to CESA is a violation of California Fish and Game Code section 2080 et seq.

The Project will result in permanent impacts to grassland habitats, which may be suitable to support Crotch's bumble bee. Absence of or lack of specificity in occurrence locations should not be interpreted as absence of the species at or near a given site. The Project location is within the Crotch's bumble bee range (<https://wildlife.ca.gov/Conservation/CESA>) and grassland within and adjacent to the Project site may contain potential habitat for Crotch's bumble bee.

Direct mortality through crushing or filling of active bee colonies and hibernating bee cavities, reduced reproductive success, loss of suitable breeding and foraging habitats, loss of native vegetation that may support essential foraging habitat.

Recommended Mitigation Measure 7: Habitat Assessment

A habitat assessment shall be conducted by a qualified entomologist knowledgeable with the life history and ecological requirements of Crotch's bumble bee. The habitat assessment shall include all suitable nesting, overwintering, and foraging habitats within the Project area and surrounding areas. Potential nest habitat (February through October) could include that of other *Bombus* species such as bare ground, thatched

Elke Rank
Zone 7 Water Agency
February 28, 2025
Page 6

grasses, abandoned rodent burrows or bird nests, brush piles, rock piles, and fallen logs. Overwintering habitat (November through January) could include that of other *Bombus* species such as soft and disturbed soil or under leaf litter or other debris. The habitat assessment shall be conducted during peak bloom period for floral resources on which Crotch's bumble bee feed. Further guidance on habitat surveys can be found within *Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species* (<https://wildlife.ca.gov/Conservation/CESA>).

Recommended Mitigation Measure 8: Survey Plan

If Crotch's bumble bee habitat is present within the Project area, the Project should include a pre-construction survey plan as a mitigation measure. The survey plan should be submitted to CDFW for review. Surveys should be conducted by a qualified entomologist familiar with the behavior and life history of Crotch's bumble bee. If CESA candidate bumble bees will be captured or handled, surveyors should obtain a 2081(a) Memorandum of Understanding (MOU) from CDFW.

Surveys should be conducted during the colony active period (i.e. April through August) and when floral resources are in peak bloom. Bumble bees move nests sites each year, therefore, surveys should be conducted each year that Project work activities will occur. Further guidance on presence surveys can be found within *Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species* (<https://wildlife.ca.gov/Conservation/CESA>).

Recommended Mitigation Measure 9: Crotch's Bumble Bee Avoidance or Take Authorization

If Crotch's bumble bee are detected during pre-construction surveys, a Crotch's bumble bee avoidance plan should be developed and provided to CDFW for review prior to work activities involving ground disturbance or vegetation removal.

If full take avoidance is not feasible, CDFW strongly recommends that the IS/MND state that the Project proponent will apply to CDFW for take authorization under an ITP.

Recommended Mitigation Measure 10: Herbicide Application

To minimize impacts to bumble bees, herbicide application and mowing activities should avoid the bloom periods. If this is not possible, CDFW recommends that the Project obtain take authorization under an ITP, pursuant to Fish and Game Code section 2081 subdivision (b).

Recommended Mitigation Measure 11: Compensatory Mitigation

CDFW recommends that the IS/MND include compensatory mitigation for the loss of all suitable Crotch's bumble bee habitat. Bumble bee floral resources should be mitigated at a 3:1 ratio for permanent impacts in the absence of information regarding the compensatory mitigation site. Floral resources should be replaced as close to their original location as is feasible. If active Crotch's bumble bee nests have been identified and floral resources cannot be replaced within 600 feet of their original location, floral resources should be planted in the most centrally available location relative to identified nests. This location should be no more than 4,900 feet (1.5-km) from any identified nest. Replaced floral resources may be split into multiple patches to meet distance requirements for multiple nests. The IS/MND should state that mitigation lands will be protected in perpetuity under a conservation easement with an endowment established for long-term management of the lands.

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

Elke Rank
Zone 7 Water Agency
February 28, 2025
Page 7

subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB_FieldSurveyForm.pdf. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/plants_and_animals.asp.

FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of 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 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 IS/MND to assist Zone 7 Water Agency in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Marcus Griswold, Senior Environmental Scientist (Specialist), at (707) 815-6451 or Marcus.Griswold@wildlife.ca.gov.

Sincerely,

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

ec: Office of Planning and Research, State Clearinghouse, Sacramento

Attachment 1: Special-Status Species and Commercially/Recreationally Important Species

REFERENCES

California Department of Fish and Wildlife (CDFW). 2025. Biogeographic Information and Observation System (BIOS). <https://www.wildlife.ca.gov/Data/BIOS>. Accessed February 20, 2025.

Elke Rank
 Zone 7 Water Agency
 February 28, 2025
 Page 8

ATTACHMENT 1: Special-Status Species

Species	Status
Fish and Invertebrates	
Crotch's bumble bee (<i>Bombus crotchii</i>)	State candidate (SC)
Birds	
burrowing owl (<i>Athene cunicularia</i>)	SC
Mammals	
pallid bat (<i>Antrozous pallidus</i>)	SSC
Reptiles and Amphibians	
California red-legged frog (<i>Rana draytonii</i>)	Federally Threatened (FT), SSC
western pond turtle (<i>Emys marmorata</i>)	Proposed FT, SSC
Plants	
Congdon's tarplant (<i>Centromadia parryi</i> ssp. <i>congdonii</i>)	S2, 1B.1
San Joaquin spearscale (<i>Extriplex joaquinana</i>)	1B
Prostrate vernal pool navarretia (<i>Navarretia prostrata</i>)	1B
Saline clover (<i>Trifolium hydrophilum</i>)	1B