



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
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Fresno, California 93710
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
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April 4, 2025

Erik Johnson, District Engineer
Tuolumne Utilities District
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**Subject: Teleli Golf Course Recycled Water Pipeline (Project)
MITIGATED NEGATIVE DECLARATION (MND)
SCH: 2025030075**

Dear Erik Johnson:

The California Department of Fish and Wildlife (CDFW) received an MND from Tuolumne County for the above referenced 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. While the comment period may have ended, CDFW respectfully requests that Merced County still consider our comments.

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,

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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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 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: Tuolumne Utilities District (TUD)

Objective: The proposed Project will allow the Teleli Golf Course, operated by the Tuolumne Economic Development Authority (TEDA), to receive tertiary treated recycled water from TUD's wastewater treatment facility within the City of Sonora for irrigation. The Project proposes to install and operate approximately 1.5 miles of 8- and 10-inch recycled water pipeline from TUD's existing cement recycled water pipeline and turnout in TUO's West property to TEDA's Storage Pound 1 and will be constructed in two phases. The proposed pipeline will be installed underground, except for where it crosses Sullivan Creek. At this location the proposed pipeline will follow the existing utility-grade pipe.

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Location: The Project is in a rural area of Tuolumne County, outside the community of Jamestown, southwest of the Teleli Golf Course. Portions of the Project will occur within Assessor's Parcel Number's (APN's) 059-160-08 and 059-070-08.

COMMENTS AND RECOMMENDATIONS

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

The MND notes the surrounding land uses and settings are in a rural area of Tuolumne County outside the community of Jamestown. The Project site is mostly undeveloped and consists of interior live oak-gray pine woodland, annual grassland, white alder-red willow riparian forest, seasonal wetlands, an irrigated wetland, Sullivan Creek, and an intermittent stream.

Currently, the MND acknowledges that the Project site is within the geographic range of several special-status animal species and proposes specific mitigation measures to reduce impacts to less than significant. CDFW has concerns about the ability of these measures to reduce impacts to less than significant and avoid unauthorized take for special-status animal species, including but not limited to, the State fully protected and State endangered bald eagle (*Haliaeetus leucocephalus*), the State fully protected golden eagle (*Aquila chrysaetos*), the State candidate western burrowing owl (*Athene cunicularia hypugaea*) and Crotch's bumble bee (*Bombus crotchii*), the federally endangered vernal pool tadpole shrimp (*Lepidurus packardii*), and the federally threatened vernal pool fairy shrimp (*Branchinecta lynchi*).

Fully Protected Raptors

The MND's Biological Resource Assessment (BRA) states there is low potential for occurrence of bald eagle (BAEA) within the Project site because there are no large lakes, reservoirs, or large rivers adjacent to the Project site to provide suitable habitat. CDFW does not concur with this conclusion, as the Project site is within three miles of New Melones Lake with available perching trees and foraging habitat. Additionally, there is a historical occurrence documented within 2 ½ miles from the Project site. Golden eagle (GOEA) are known to inhabit open areas with large trees for nesting and these habitat features are present within the Project vicinity. As the MND didn't provide focused surveys or mitigation measures for potential significant impacts for these species, CDFW recommends the following:

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Recommended Mitigation Measure 1: BAEA Surveys and GOEA Evaluation

CDFW recommends that focused BAEA surveys follow the Bald Eagle Breeding Survey Instructions (CDFW 2010) and GOEA evaluations use the Interim Golden Eagle Inventory and Monitoring Protocols; and Other Recommendations guidelines (Pagel et al. 2010) and be conducted by qualified biologists prior to Project implementation.

Recommended Mitigation Measure 2: BAEA and GOEA Avoidance Buffer

If a BAEA or GOEA nest is found prior to, or during construction, CDFW recommends implementing a minimum ½-mile no-disturbance buffer around the nest. CDFW advises that this buffer remain in place until the breeding season has ended or until a qualified biologist has determined that nesting has ceased, the birds have fledged and are no longer reliant upon parental care for survival. In the event that a BAEA or GOEA nest is detected during surveys, and a ½-mile no-disturbance buffer is not feasible, consultation with CDFW is recommended.

Western Burrowing Owl

The California Fish and Game Commission (FGC) approved western burrowing owl (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 considered a candidate under CESA and receives the same legal protection afforded to an endangered or threatened species (Fish & G. Code, §§ 2074.2 & 2085).

The BRA states the potential for occurrence of BUOW within the Project site is low as no burrowing owl or evidence of burrowing owl was found during fieldwork. The Project site is within the known geographical range of BUOW and a historical occurrence was documented within three miles of the Project site (CDFW 2025). CDFW has concerns related to the level of survey effort conducted to inform the MND in identifying potential BUOW habitat within the Project site. Therefore, CDFW recommends the following:

Recommended Mitigation Measure 3: BUOW Preconstruction Surveys

Prior to Project construction, CDFW recommends that surveys, following the 2012 Staff Report on Burrowing Owl Mitigation (CDFG 2012) be performed the season immediately prior to construction.

Recommended Mitigation Measure 4: 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.

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CDFW also recommends that these buffers be implemented for both wintering and breeding BUOW.

Recommended Mitigation Measure 5: 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.

Crotch's Bumble Bee

The MND Mitigation Measure (MM) BIO-2 provides for a Crotch's bumble bee (CBB) preconstruction survey, development of avoidance and minimization measures if an active nest is located, and if avoidance is not possible, acquiring an ITP pursuant to Fish and Game Code Section 2081(b), prior to initiating ground-disturbing activities. CDFW concurs with these measures but has concerns they are not adequate for potential Project related impacts for CBB, therefore, CDFW recommends the following:

Recommended Mitigation Measure 6: CBB Focused Surveys

If potentially suitable habitat is identified, CDFW recommends that a qualified biologist conduct focused surveys for CBB, and their requisite habitat features following the methodology outlined in the Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species (CDFW 2023).

Recommended Mitigation Measure 7: CBB Avoidance Buffer

If CBB is detected, then CDFW recommends that all small mammal burrows and thatched/bunch grasses be avoided by a minimum of 50 feet to avoid take and potentially significant impacts. If ground-disturbing activities will occur during the overwintering period (October through February), consultation with CDFW is warranted to discuss how to implement Project activities and avoid take. Any detection of CBB prior to or during Project implementation warrants consultation with CDFW to discuss how to avoid take.

Branchiopods

The Project site is within the geographic range of vernal pool tadpole shrimp (VPTS), and vernal pool fairy shrimp (VPFS) - (branchiopods) and there is a historical occurrence of VPFS within 5 ¼ miles from the Project site. Section 5.4 of the MND identifies wetlands within the Project site, this section states "A total of 0.242 acres of wetlands and waters are expected to qualify as both waters of the U.S. and waters of the state. A total of 0.012 acres of irrigated wetland and culverts are not expected to be

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considered wetlands and water of the U.S. or state.” The BRA states the potential for vernal pool fairy shrimp occurrence in the study area as ‘none’ as there are no vernal pools or seasonal wetlands suitable for use. CDFW does not concur with this conclusion as branchiopods are known to breed and develop in aquatic habitats and these features have been documented in the MND. As there is wetland habitat within the Project site and branchiopods have been documented within the Project vicinity, CDFW recommends the following mitigation measures:

Recommended Mitigation Measure 8: Branchiopod Surveys and Consultation with CDFW

CDFW recommends that a qualified biologist conduct protocol level surveys in accordance with the USFWS “Survey Guidelines for the Listed Large Branchiopods” (USFWS 2017) the survey season prior to construction. These surveys would need to be conducted at the appropriate time of year to determine the existence and extent of branchiopods. If through surveys it is determined that branchiopods are occupying or have the potential to occupy the Project site, coordination with CDFW is recommended well in advance of any planned vegetation- or ground-disturbing activities to determine appropriate avoidance and minimization measures including adequate implementation of no-disturbance buffers. Additionally, consultation with U.S. Fish and Wildlife Service (USFWS) may be necessary to minimize the potential for federal “take” and/or mitigate for potential impacts.

Editorial Comments and/or Suggestions

Night Lighting: Section 2.6.3 of the MND discusses planned construction staging and stockpiling areas, which would include temporary fencing and lighting. Night lighting is discussed in Section 3.4 Biological Resources (page 3-49) only as it applies to Project related construction activities, “No night work requiring night lighting will occur during proposed Project construction.” CDFW recommends including mitigation measures for night lighting at the construction staging and stockpiling areas within potentially sensitive wildlife areas. Installation of outdoor artificial night lighting can disrupt the circadian rhythms of many wildlife species. Many species use photoperiod cues for communication, determining when to begin foraging, thermoregulation behavior, and migration (Longcore and Rich 2004, Miller 2006, Nightingale et al. 2006, Perry et al. 2008, Stone et al. 2009). Phototaxis, a phenomenon which results in attraction and movement towards light, can disorient, entrap, and temporarily blind wildlife species that experience it (Longcore and Rich 2004). Project activities could result in disruption of wildlife behavior, inadvertent injury, or mortality. Potentially feasible mitigation measures include motion sensitive lighting; mounting light fixtures as low as possible to minimize light trespass; use of light fittings that direct and confine the spread of light downward; and use of long-wavelength light sources. In addition, CDFW recommends that lighting not be installed in ecologically sensitive areas (e.g., streams, wetlands, and habitat used by special-status species, such as nesting/roosting sites and riparian corridors)

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and the use of the white/blue wavelengths of the light spectrum be avoided. CDFW recommends the above measures be included in any other Project related activities requiring artificial light in sensitive wildlife areas.

Invasive Plant Species: The MND MM BIO-3 notes that all equipment and tools will be inspected for the presence of undesirable species and cleaned prior to entering the work area at each location to reduce the risk of introducing nonnative plant or animal species. CDFW recommends specifically including this mitigation measure to apply to all construction equipment before entering the staging and storage areas, and including all workers' boots, gloves and tools entering the Project site that could also potentially introduce invasive plant material into the Project site.

Federally Listed Species: CDFW recommends consulting with USFWS regarding potential impacts to federally listed species including but not limited to, the vernal pool tadpole shrimp and the vernal pool fairy shrimp. Take under the Federal Endangered Species Act (ESA) is more broadly defined than CESA; take under ESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS in order to comply with ESA is advised well in advance of any Project activities.

Nesting Birds: CDFW encourages that Project ground-disturbing activities occur during the bird non-nesting season; however, if ground-disturbing or vegetation-disturbing activities must occur during the nesting season (February 1st through September 15th), 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 Code sections as referenced above.

If the nesting season cannot be avoided, 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.

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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 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.

Lake and Streambed Alteration: The MND identifies Sullivan Creek, two intermittent creeks and a perennial channel within the Project site and states that “before construction, TEDA would obtain a Section 1600 streambed alteration agreement from CDFW.” CDFW concurs as 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; 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 Lake or Streambed Alteration Agreement 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.

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

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to determine whether or not any special-status species are present at or near the Project site.

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>.

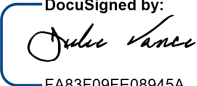
FILING FEES

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 Tuolumne County in identifying and mitigating Project impacts on biological resources. A Mitigation and Monitoring Program (MMRP) (Attachment 1) is included to assist Tuolumne County with incorporating the recommended mitigation measures provided above. Questions regarding this letter or further coordination should be directed to Jackson Powell, Environmental Scientist, at (559) 899-9758 Jackson.Powell@wildlife.ca.gov.

Sincerely,

DocuSigned by:

FA83F09FE08945A...
Julie A. Vance
Regional Manager

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ATTACHMENT

Cc: State Clearinghouse
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U.S. Fish and Wildlife Service
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References

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Attachment 1

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

PROJECT: Teleli Golf Course Recycled Water Pipeline

SCH No.: 2025030075

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
<i>Before Disturbing Soil or Vegetation</i>	
Bald Eagle, Golden Eagle (BAEA, GOEA)	
Recommended Mitigation Measure 1: BAEA surveys & GOEA evaluation	
Western Burrowing Owl (BUOW)	
Recommended Mitigation Measure 3: BUOW preconstruction survey	
Recommended Mitigation Measure 5: BUOW take authorization	
Crotch's Bumble Bee (CBB)	
Recommended Mitigation Measure 6: CBB focused surveys	
Branchiopods (BRA)	
Recommended Mitigation Measure 8: BRA surveys & consultation	
<i>During Construction</i>	
Bald Eagle, Golden Eagle (BAEA, GOEA)	
Recommended Mitigation Measure 2: BAEA and GOEA avoidance buffer	
Western Burrowing Owl (BUOW)	
Recommended Mitigation Measure 4: BUOW avoidance buffer	
Crotch's Bumble Bee (CBB)	
Recommended Mitigation Measure 7: CBB avoidance buffer	