



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**



April 18, 2025

Cesar Orozco, Planning Manager  
City of Vallejo  
555 Santa Clara Street  
Vallejo, CA 94590  
[Cesar.Orozco@cityofvallejo.net](mailto:Cesar.Orozco@cityofvallejo.net)

Subject: Visa Cove Project, Notice of Preparation of a Draft Environmental Impact Report, SCH No. 2025030788, City of Vallejo, Solano County

Dear Mr. Orozco:

The California Department of Fish and Wildlife (CDFW) reviewed the Notice of Preparation (NOP) of a Draft Environmental Impact Report (EIR) for the Vista Cove Project (Project).

CDFW is providing City of Vallejo (City) as the Lead Agency, with specific detail about the scope and content of the environmental information related to CDFW's area of statutory responsibility that must be included in the EIR (Cal. Code Regs., tit. 14, § 15082, subd. (b)).

### **CDFW ROLE**

CDFW is a **Trustee Agency** with responsibility under the California Environmental Quality Act (CEQA) for commenting on projects that could impact fish, plant, and wildlife resources (Pub. Resources Code, § 21000 et seq.; Cal. Code Regs., tit. 14, § 15386). CDFW is also considered a **Responsible Agency** if a project would require discretionary approval, such as a permit pursuant to the California Endangered Species Act (CESA) or Native Plant Protection Act (NPPA), Lake and Streambed Alteration (LSA) program, and other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources. Pursuant to our authority, CDFW has the following concerns, comments, and recommendations regarding the Project.

### **PROJECT LOCATION AND DESCRIPTION**

The Project site is located at approximately 38.08185°N, -122.20082°W, at the northeast corner of Shady Lane and Wildflower Street, Assessor's Parcel Numbers 0079-171-170 and 0079-120-100, in the City of Vallejo, 94589, Solano County, California.

The Project would result in the subdivision of the currently vacant 20.13-acre site, of which approximately 10 acres would be developed into 51 residential lots and associated passive park and infrastructure improvements, while the remaining acreage

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would be retained as open space. The residential units would front new internal roadways. A total of 69 trees would be removed, including 47 significant trees that are protected under the City's tree protection ordinance. Vehicular access to the Project site would be provided by one full access residential street through the established residential community to the west off the intersection of Shady Lane and Wildflower Avenue. The Project area includes segments of two stream tributaries of Southampton Creek.

The CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.) require that the EIR incorporate a full project description, including reasonably foreseeable future phases of the Project, that contains sufficient information to evaluate and review the Project's environmental impact (CEQA Guidelines, §§ 15124 & 15378). Please include a complete description of the following Project components in the Project description:

- Land use changes resulting from, for example, rezoning certain areas.
- Footprints of permanent Project features and temporarily impacted areas, such as staging areas and access routes.
- Area and plans for any proposed buildings/structures, ground disturbing activities, fencing, paving, stationary machinery, landscaping, and stormwater systems.
- Operational features of the Project, including level of anticipated human presence (describe seasonal or daily peaks in activity, if relevant), artificial lighting/light reflection, noise, traffic generation, and other features.
- Construction schedule, activities, equipment, and crew sizes.

## 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 or candidates for listing, either during construction or over the life of the Project. **The Project has the potential to impact Delta smelt (*Hypomesus transpacificus*), state listed as endangered; soft salty bird's beak (*Chloropyron molle* ssp. *molle*) and Mason's lilaepsis (*Lilaepsis masonii*), which are both state listed as rare; longfin smelt – San Francisco Bay Delta Distinct Population Segment (*Spirinchus thaleichthys* pop. 2), Swainson's hawk (*Buteo swainsonii*), and tricolored blackbird (*Aquila chrysaetos*), which are all state listed as threatened species; and burrowing owl (*Athene cunicularia*) and white sturgeon (*Acipenser transmontanus*), which are state candidate species, as further described below.**

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Issuance of a CESA 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 or species covered by the NPPA, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA 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. Resources Code, §§ 21001, subd. (c) & 21083; CEQA Guidelines, §§ 15380, 15064, and 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 Project has the potential to impact two stream tributaries to Southampton Creek which flows into Southampton Bay.** 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 (MBTA).

### ***California Fully Protected Species***

Fully protected species may not be taken or possessed at any time and no licenses or permits may be issued for their take except as follows:

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- Take is for necessary scientific research,
- Efforts to recover a fully protected, endangered, or threatened species, live capture and relocation of a bird species for the protection of livestock, or
- They are a covered species whose conservation and management is provided for in a Natural Community Conservation Plan (Fish & G. Code, §§ 3511, 4700, 5050, & 5515).

Specified types of infrastructure projects may be eligible for an ITP for unavoidable impacts to fully protected species if certain conditions are met (Fish & G. Code § 2081.15). Project proponents should consult with CDFW early in the Project planning process. **The Project has the potential to impact salt-marsh harvest mouse (*Reithrodontomys raviventris*), California Ridgeway's rail (*Rallus obsoletus obsoletus*), California black rail (*Laterallus jamaicensis coturniculus*), and white-tailed kite (*Elanus leucurus*), which are fully protected species.**

## ENVIRONMENTAL SETTING

The EIR should provide sufficient information regarding the environmental setting ("baseline") to understand the Project's, and its alternative's (if applicable), potentially significant impacts on the environment (CEQA Guidelines, §§ 15125 & 15360).

CDFW recommends that the CEQA document prepared for the Project provide baseline habitat assessments for special-status plant, fish and wildlife species located and potentially located within the Project area and surrounding lands, including, but not limited to all rare, threatened, or endangered species (CEQA Guidelines, § 15380). The EIR should describe aquatic habitats, such as wetlands or waters of the U.S. or State, and any sensitive natural communities or riparian habitat occurring on or adjacent to the Project site (for sensitive natural communities see: <https://wildlife.ca.gov/Data/VegCAMP/NaturalCommunities#sensitive%20natural%20communities>), and any stream or wetland set back distances the City may require. Fully protected, threatened or endangered, rare, candidate, and other special-status species and sensitive natural communities that are known to occur, or have the potential to occur in or near the Project site, include but are not limited to those listed in **Attachment 1**. The EIR should recognize that the Project is adjacent to the Benicia State Recreation Area which provides habitat for several special-status species and includes sensitive natural communities.

Habitat descriptions and the potential for species occurrence should include information from multiple sources: aerial imagery, historical and recent survey data, field reconnaissance, scientific literature and reports, U.S. Fish and Wildlife Service's (USFWS) Information, Planning, and Consultation System, California Aquatic

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Resources Inventory (CARI), and findings from “positive occurrence” databases such as California Natural Diversity Database (CNDDDB). Based on the data and information from the habitat assessment, the EIR should adequately assess which special-status species are likely to occur on or near the Project site, and whether they could be impacted by the Project.

CDFW recommends that prior to Project implementation, surveys be conducted for special-status species with potential to occur, following recommended survey protocols if available. Survey and monitoring protocols and guidelines are available at: <https://www.wildlife.ca.gov/Conservation/Survey-Protocol>.

Botanical surveys for special-status plant species, including those with a California Rare Plant Rank (<http://www.cnps.org/cnps/rareplants/inventory/>), must be conducted during the blooming period within the Project area and adjacent habitats that may be indirectly impacted by, for example, changes to hydrological conditions, and require the identification of reference populations. More than one year of surveys may be necessary based on environmental conditions. Please refer to CDFW protocols for surveying and evaluating impacts to special-status plants available at: <https://www.wildlife.ca.gov/Conservation/Plants>.

## **IMPACT ANALYSIS AND MITIGATION MEASURES**

The EIR should discuss all direct and indirect impacts (temporary and permanent) that may occur with implementation of the Project (CEQA Guidelines, § 15126.2). This includes evaluating and describing impacts such as:

- Land use changes that would reduce open space or agricultural land uses and increase residential or other land use involving increased development;
- Encroachments into riparian habitats, wetlands or other sensitive areas;
- Potential for impacts to special-status species;
- Loss or modification of breeding, nesting, dispersal and foraging habitat, including vegetation removal, alternation of soils and hydrology, and removal of habitat structural features (e.g., snags, roosts, vegetation overhanging banks);
- Permanent and temporary habitat disturbances associated with ground disturbance, noise, lighting, reflection, air pollution, traffic or human presence; and
- Obstruction of movement corridors, fish passage, or access to water sources and other core habitat features.

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The CEQA document should also identify reasonably foreseeable future projects in the Project vicinity, disclose any cumulative impacts associated with these projects, determine the significance of each cumulative impact, and assess the significance of the Project's contribution to the impact (CEQA Guidelines, §15355). Although a project's impacts may be insignificant individually, its contributions to a cumulative impact may be considerable; a contribution to a significant cumulative impact – e.g., reduction of available habitat for a special-status species – should be considered cumulatively considerable without mitigation to minimize or avoid the impact.

Based on the comprehensive analysis of the direct, indirect, and cumulative impacts of the Project, the CEQA Guidelines direct the Lead Agency to consider and describe all feasible mitigation measures to avoid potentially significant impacts in the EIR, and/or mitigate significant impacts of the Project on the environment (CEQA Guidelines, §§ 15021, 15063, 15071, 15126.2, 15126.4 & 15370). This includes a discussion of impact avoidance and minimization measures for special-status species, which are recommended to be developed in early consultation with CDFW, USFWS, and the National Marine Fisheries Service. These measures can then be incorporated as enforceable Project conditions to reduce potential impacts to biological resources to less-than-significant levels.

**CDFW offers the specific 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. Please be advised that the EIR should include a comprehensive evaluation of potentially significant impacts to fish and wildlife resources as described in this letter, and CDFW may provide additional comments once the EIR is circulated for public review.**

**COMMENT 1.** To reduce impacts to streams to less-than-significant and comply with Fish and Game Code section 1600 et. seq., the Clean Water Act, and the Porter Cologne Water Quality Control Act, CDFW recommends including the below mitigation measure in the EIR.

Streambed Alteration: If the bed, bank, channel, or riparian habitat of any streams, including, but not limited to the two tributaries to Southampton Creek, will be impacted the Project shall submit a Lake and Streambed Alteration Notification to CDFW and comply with the Streambed Alteration Agreement, if issued (see: <https://wildlife.ca.gov/Conservation/Environmental-Review/LSA>). The Project shall also obtain any necessary authorization from the U.S. Army Corps of Engineers and Regional Water Quality Control Board pursuant to the Clean Water Act and Porter Cologne Water Quality Control Act.

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**COMMENT 2:** To reduce potential impacts to California black rail and California Ridgeway's rail to less-than-significant and comply with Fish and Game Code, CDFW recommends including the below mitigation measure in the EIR.

California Ridgeway's Rail/Black Rail Avoidance and Surveys. A Qualified Biologist shall assess if suitable habitat for California Ridgeway's rail (CRR) or California black rail (CBR) habitat occurs on or within 700 feet of the Project area and shall obtain CDFW's written acceptance of the assessment prior to the start of Project construction. Project activities within tidal marsh or suitable CRR or CBR habitat, and within 700 feet of such habitat, shall be avoided during rail breeding season (January 15 – August 31 for CRR, February 1 – August 31 for CBR) each year unless appropriately timed, yearly protocol level surveys are conducted and survey methodology and results are submitted to and accepted by CDFW in writing. Surveys shall focus on suitable habitat that may be disturbed by Project activities during the breeding season to ensure that these species are not nesting in these locations.

If breeding rails are determined to be present, no activities, visual disturbance (direct line of sight) and/or an increase in the ambient noise level shall occur within 700 feet of areas where CRR and/or CBR have been detected during the breeding season, unless otherwise approved in writing by CDFW. If surveys have not been conducted, all work shall be conducted 700 feet from CRR and/or CBR habitat during nesting season.

**COMMENT 3:** To reduce impacts to fully protected species to less-than-significant, CDFW recommends including the below mitigation measures in the EIR.

Fully Protected Species. A qualified biologist shall be present on site to survey and monitor for CDFW Fully Protected species, including salt marsh harvest mouse (SMHM), California Ridgeway's rail (CRR), and California black rail (CBR), during: a) all vegetation removal or disturbance, and b) all work within 500 feet of tidal or pickleweed (*Salicornia* spp.) habitats. A Biological Monitor may monitor for Fully Protected species after surveys are completed. The qualified biologist or Biological monitor shall have the authority to stop work if deemed necessary for any reason to protect these species, or any other special-status species. Take or possession of Fully Protected species is prohibited (Fish & G. Code, §§ 3511 & 4700).

Salt Marsh Harvest Mouse Vegetation Removal. Prior to impacting salt marsh habitat, a CDFW approved Qualified Biologist, familiar with SMHM, shall walk through and inspect suitable habitat prior to Project related vegetation removal and search for signs of harvest mice, such as nests, or other sensitive wildlife and plants. Following inspection, personnel, under the supervision of the Qualified Biologist, shall disturb (e.g., flush) vegetation to cause movement of SMHM into adjacent

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marsh areas. Flushing of vegetation shall first occur in the center of the site then progress toward the two sides away from the open water areas or away from impacted habitat. Immediately following vegetation flushing, personnel, under the supervision of the Qualified Biologist, shall remove vegetation with hand tools (e.g., weed-eater, hoe, rake, trowel, shovel, grazing) so that vegetation is no taller than two inches.

**COMMENT 4.** To reduce impacts to special-status plants to less-than-significant and comply with NPPA, CDFW recommends including the below mitigation measure in the EIR.

Pre-Project Special-Status Plant Habitat Assessment and Surveys. A qualified biologist shall conduct a habitat assessment to determine if special-status plants may occur on or adjacent to the Project site where they could be directly or indirectly impacted. If suitable habitat is present, the qualified biologist shall conduct botanical surveys during the appropriate blooming period and conditions for special-status plants prior to the start of construction. More than one year of surveys may be necessary pursuant to the below protocol survey methodology. Surveys shall be conducted following CDFW's *Protocol for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities* (<https://wildlife.ca.gov/Conservation/Survey-Protocols#377281280-plants>) and include visiting reference populations, unless otherwise approved in writing by CDFW. The habitat assessment and survey reports shall be submitted to CDFW for written approval prior to the start of construction. 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 prior to the start of construction, which may include salvaging topsoil, transplanting individuals, compensatory habitat, or other measures. If impacts to state listed plants cannot be avoided, the Project shall obtain a CESA ITP from CDFW and comply with the ITP. The Project shall consult with USFWS for any impacts to federally listed plants.

**COMMENT 5.** To reduce potential impacts to Swainson's hawk to less-than-significant and comply with CESA, CDFW recommends including the below mitigation measures in the EIR.

Swainson's Hawk Surveys and Avoidance Buffer. 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



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(<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.

**COMMENT 5.** To reduce potential impacts to tricolored blackbird to less-than-significant, CDFW recommends including the below mitigation measure in the EIR.

Tricolored Blackbird Avoidance. General nesting bird surveys shall include the Project area and a minimum 500-foot buffer around the Project area. If nesting tricolored blackbird or evidence of their presence is found during nesting bird surveys within 500 feet of Project activities, CDFW shall be notified immediately and work shall not occur without written approval from CDFW allowing the Project to proceed. Project activities shall not occur within 500 feet of an active nest unless otherwise approved in writing by CDFW. If take of tricolored blackbird cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP.

**COMMENT 6.** To reduce potential impacts to burrowing owl to less-than-significant and comply with CESA, CDFW recommends including the below mitigation measures in the EIR.

Burrowing Owl Habitat Assessment and Surveys: A qualified biologist shall conduct a habitat assessment and surveys for wintering burrows owls prior to construction if construction starts during the burrowing wintering season (September 1 to January 31). Surveys shall be conducted if warranted based on the habitat assessment. The habitat assessment and surveys shall follow the *Department of Fish and Game Staff*

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*Report on Burrowing Owl Mitigation* (2012) methodology (<https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds>) and the qualified biologist shall prepare a report documenting the survey results. 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. If take of burrowing owl cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP before Project activities may commence

Burrowing Owl Wintering Burrow Mitigation: If the Project would impact an unoccupied wintering burrowing owl burrow or burrow surrogate (i.e., a burrow known to have been used in the past three years for wintering), the following habitat mitigation shall be implemented prior to Project construction.

Impacts to each unoccupied burrowing owl wintering site shall be mitigated by permanent preservation of two burrowing owl occupied wintering sites with appropriate foraging habitat, unless otherwise approved by CDFW, through a conservation easement and implementing and funding a long-term management plan in perpetuity. If the Project would impact burrowing owl and obtains an ITP, any stricter requirements of the ITP shall apply.

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

Burrowing Owl Foraging Habitat Mitigation: Impacts to burrowing owl foraging habitat shall be quantified by a qualified biologist based on the final Project design plans, and the Project shall obtain written acceptance of the acreage of habitat impacts from CDFW. Prior to Project construction, the Project shall provide burrowing owl foraging habitat mitigation at a minimum 1:1 ratio, which shall include: 1) permanent preservation of the species' foraging habitat through a conservation easement and

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implementing and funding a long-term management plan in perpetuity, or 2) purchase of burrowing owl foraging habitat credits at a CDFW-approved mitigation bank, unless otherwise approved in writing by CDFW. If the Project would impact burrowing owl and obtains an ITP, any stricter requirements of the ITP shall apply.

**COMMENT 7.** To reduce potential impacts to special-status roosting bats to less-than-significant, CDFW recommends including the below mitigation measure in the EIR.

Roosting Bat Habitat Assessment and Surveys: Prior to any tree removal, a qualified biologist shall conduct a habitat assessment for bats. A qualified bat biologist shall have: 1) at least two years of experience conducting bat surveys that resulted in detections for relevant species, such as pallid bat, with verified project names, dates, and references, and 2) experience with relevant equipment used to conduct bat surveys. The habitat assessment shall be conducted a minimum of 30 to 90 days prior to tree removal and shall include a visual inspection of potential roosting features (e.g., cavities, crevices in wood and bark, exfoliating bark, suitable canopy for foliage roosting species). If suitable habitat trees are found, or bats are observed, Roosting Bat Tree Protections (see below) shall be implemented.

Roosting Bat Tree Protections: If the qualified biologist identifies potential bat habitat trees, then tree trimming and tree removal shall not proceed unless the following occurs: 1) a qualified biologist conducts night emergence surveys or completes visual examination of roost features that establishes absence of roosting bats, or 2) tree trimming and tree removal occurs only during seasonal periods of bat activity, from approximately March 1 through April 15 and September 1 through October 15, and tree removal occurs using the two-step removal process. Two-step tree removal shall be conducted over two consecutive days. The first day (in the afternoon), under the direct supervision and instruction by a qualified biologist with experience conducting two-step tree removal, limbs and branches shall be removed by a tree cutter using chainsaws only; limbs with cavities, crevices or deep bark fissures shall be avoided. The second day the entire tree shall be removed.

**COMMENT 8.** To reduce potential impacts to special-status herpetofauna to less-than-significant, CDFW recommends including the below mitigation measure in the EIR.

Special-status Herpetofauna: For all Project activities that occur within 500 feet of stream or wetland habitat, prior to ground-disturbing activities, a qualified biologist shall conduct a pre-construction survey within 48 hours prior to the start of Project activities, focusing on the presence of northwestern pond turtle (*Actinemys marmorata*), federal proposed threatened species and California Species of Special Concern (SSC); and California red-legged frog (*Rana draytonii*), federally listed as threatened and SSC; and their nests. If any special-status amphibian or reptile species are discovered during the survey, Project activities shall not begin until

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CDFW has been consulted and approved in writing measures to avoid and minimize impacts to special-status species, and the measures have been implemented. If northwestern pond turtle or California red-legged frog is encountered, the Project shall also consult with USFWS pursuant to the federal Endangered Species Act (ESA) and obtain any required authorization for impacts.

**COMMENT 9.** To reduce potential impacts to white-tailed kite and other nesting birds to less-than-significant and comply with Fish and Game Code, CDFW recommends including the below mitigation measure in the EIR.

Nesting Bird Surveys: If construction, grading, vegetation removal, or other Project-related activities are scheduled during the avian nesting season, February 1 to August 31, a qualified biologist shall conduct a survey for active bird nests within 7 days prior to the beginning of Project-related activities. The survey shall include the entire Project site and a minimum 500-foot radius around the Project site. If a lapse in project-related work of seven days or longer occurs, another survey shall be conducted before project work can be reinitiated. If an active nest is found during surveys, the qualified biologist shall immediately notify the CDFW contact below, or if unavailable another CDFW representative, and establish site- and species-specific no-work buffers to ensure the nest is not disturbed. The buffer distances shall be specified to protect the bird's normal behavior to prevent nesting failure or abandonment and comply with Fish and Game Code section 3500 et seq. and the federal MBTA. Abnormal nesting behaviors which may cause reproductive harm include, but are not limited to, defensive flights/vocalizations directed towards Project personnel, standing up from a brooding position, and flying away from the nest. The qualified biologist shall have authority to order the cessation of all nearby Project activities if the nesting birds exhibit abnormal behavior which may cause reproductive failure (nest abandonment and loss of eggs and/or young) until an appropriate buffer is established.

The qualified biologist shall monitor the behavior of the birds (adults and young, when present) at the nest site to ensure that they are not disturbed by Project work. Nest monitoring shall continue during Project work until the young have fully fledged (have completely left the nest site and are no longer being fed by the parents), as determined by the qualified biologist, unless otherwise approved in writing by CDFW.

## **ENVIRONMENTAL DATA**

CEQA requires that information developed in EIRs 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 online field survey form and other methods for

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submitting data can be found 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://wildlife.ca.gov/Data/CNDDDB/Plantsand-Animals>.

## FILING FEES

CDFW anticipates that the Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish & G. Code, § 711.4; Pub. Resources Code, § 21089). 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.

If you have any questions, please contact Nicholas Magnuson, Environmental Scientist, at (707) 815-4166 or [Nicholas.Magnuson@wildlife.ca.gov](mailto:Nicholas.Magnuson@wildlife.ca.gov); or Melanie Day, Senior Environmental Scientist (Supervisory), at (707) 210-4415 or [Melanie.Day@wildlife.ca.gov](mailto:Melanie.Day@wildlife.ca.gov).

Sincerely,

DocuSigned by:

*Erin Chappell*

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Erin Chappell  
Regional Manager  
Bay Delta Region

Attachment 1: Special-Status Species

ec: Office of Planning and Research, State Clearinghouse (SCH No. 2025030788)

## REFERENCES

California Department of Fish and Wildlife (CDFW), 2016. 5-year Status Review: Swainson's hawk (*Buteo swainsoni*). Prepared for the California Fish and Game Commission. Nongame Bird and Mammal Program 1416 Ninth Street, Sacramento, CA.

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**ATTACHMENT 1: Special-Status Species**

Scientific Name	Common Name	Status
<b>Amphibians and Reptiles</b>		
<i>Rana draytonii</i>	California red-legged frog	FT, SSC
<i>Actinemys marmorata</i>	northwestern pond turtle	FPT, SSC
<b>Birds</b>		
<i>Rallus obsoletus obsoletus</i>	California Ridgway's rail	SE, FP
<i>Laterallus jamaicensis coturniculus</i>	California black rail	ST, FP
<i>Agelaius tricolor</i>	tricolored blackbird	ST, SSC
<i>Buteo swainsoni</i>	Swainson's hawk	ST
<i>Elanus leucurus</i>	white-tailed kite	FP
<i>Athene cunicularia</i>	burrowing owl	SC, SSC
<i>Circus hudsonius</i>	northern harrier	SSC
<i>Melospiza melodia samuelis</i>	San Pablo song sparrow	SSC
<i>Melospiza melodia maxillaris</i>	Suisun song sparrow	SSC
<i>Coturnicops noveboracensis</i>	yellow rail	SSC
<i>Geothlypis trichas sinuosa</i>	saltmarsh common yellowthroat	SSC
<i>Circus hudsonius</i>	northern harrier	SSC
<i>Buteo regalis</i>	ferruginous hawk	WL
<i>Pandion haliaetus</i>	osprey	WL
<b>Fishes</b>		
<i>Hypomesus transpacificus</i>	Delta smelt	SE, FT
<i>Spirinchus thaleichthys</i> pop. 2	longfin smelt – San Francisco Bay Delta Distinct Population Segment	ST

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<i>Acipenser transmontanus</i>	white sturgeon	SC, SSC
<i>Acipenser medirostris</i> pop. 1	green sturgeon - southern DPS	FT, SSC
<b>Invertebrates</b>		
<i>Speyeria callippe callippe</i>	callippe silverspot butterfly	FE
<i>Danaus plexippus plexippus</i> pop. 1	monarch - California overwintering population	FPT
<b>Mammals</b>		
<i>Taxidea taxus</i>	American badger	SSC
<i>Antrozous pallidus</i>	pallid bat	SSC
<b>Plants</b>		
<i>Chloropyron molle</i> ssp. <i>molle</i>	soft salty bird's-beak	FE, SR
<i>Lilaeopsis masonii</i>	Mason's lilaeopsis	SR, CRPR 1B.1
<i>Blepharizonia plumosa</i>	big tarplant	CRPR 1B.1
<i>Isocoma arguta</i>	Carquinez goldenbush	CRPR 1B.1
<i>Trifolium hydrophilum</i>	saline clover	CRPR 1B.2
<i>Fritillaria liliacea</i>	fragrant fritillary	CRPR 1B.2

FP = state fully protected under Fish and Game Code; FE = federally listed as endangered under the Endangered Species Act (ESA); FT = federally listed as endangered under ESA; FPT = federally proposed threatened species under ESA; SE = state listed as endangered under California Endangered Species Act (CESA); ST = state listed as threatened under CESA; SC = state candidate species under CESA; SR = state listed as rare under NPPA, WL = CDFW Watch List; SSC = state Species of Special Concern; CRPR = California Rare Plant Rank<sup>1</sup>

<sup>1</sup> CRPR 1B plants are considered rare, threatened, or endangered in California and elsewhere. Further information on CRPR ranks is available in CDFW's *Special Vascular Plants, Bryophytes, and Lichens List* (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109383&inline>) and on the California Native Plant Society website (<https://www.cnps.org/rare-plants/cnps-rare-plant-ranks>).