State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
South Coast Region
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GAVIN NEWSOM, Governor
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November 9, 2020

Dylan Lawrence
City of Los Angeles
200 N. Spring Street, Room 621
Los Angeles, CA 90012
dylan.lawrence@lacity.org

Subject: James Street Four (4) Single-Family Residences, Mitigated Negative Declaration, SCH #2020100088, City of Los Angeles, Los Angeles County

Dear Dylan Lawrence:

The California Department of Fish and Wildlife (CDFW) has reviewed the above-referenced Mitigated Negative Declaration (MND) for the James Street Four (4) Single-Family Residences Project. The MND's supporting documentation includes the *MND Initial Study FINAL with Appendices signed*.

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's 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, subdivision (a) & 1802; Pub. Resources Code, § 21070; California Environmental Quality Act (CEQA) Guidelines, § 15386, subdivision (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 state 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, including 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.), or CESA-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & G. Code, §1900 et seq.), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

Project Description and Summary

Objective: The City of Los Angeles (City; Lead Agency) and James Street Group, LLC (Project Applicant) proposes the James Street Four Single-Family Residences (Project). The proposed Project would construct four single-family dwellings, each with a total floor area of approximately 1,840 square feet, on four vacant lots with a total area of 15,142 square feet. The Project proposes to cut 2,000 cubic yards across the four lots and export 2,000 cubic yards of soil off-site. No fill or import of soil is proposed. The Project proposes to remove a total of five California black walnut trees (*Juglans californica*) across three of the four lots. A total of 11 California black walnut trees will be protected on-site across three of the four lots.

Location: The Project is located at 434, 438, 442, and 458 West James Street in the Mount Washington Glassell Park area of the Northeast Los Angeles Community Plan. The Project is located west of Figueroa Street and north of Cypress Avenue. The Project site is located on an east-facing hillside surrounded by scattered single-family dwellings and primarily undeveloped, disturbed hillsides north of the Project site. The four vacant lots primarily consist of ornamental and non-native vegetation indicative of a disturbed landscape.

Comments and Recommendations

CDFW offers the comments and recommendations below to assist the City in adequately identifying, avoiding, and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources.

Specific Comments

Comment #1: Impacts to Southern California black walnut (*Juglans californica*)

Issue #1: The Project proposes to remove five Southern California black walnut trees (walnut trees). The Project proposes to replace those five walnut trees at a 4:1 replacement ratio. Based on the *Tree Locations on Project Landscaping Plan* for 434, 438, and 442 West James Street, the Project would plant a total of 15 walnut trees. A 4:1 replacement ratio would require 20 walnut trees.

Issue #2: Replacement walnut trees may be grouped into a small planting area.

Issue #3: The Project proposes to plant five California bay laurel trees (*Umbellularia californica*). California bay laurel trees do not occur within the Project boundary or the 500-foot study area (see Appendix A, Biological Resources Report, Figure 2, and Attachment B). The Project would be introducing a novel species.

Specific impacts: The Project would not meet the required replacement ratio and would not sufficiently mitigate for impacts to five walnut trees by replanting 15 walnut trees instead of 20. Walnut trees may be grouped into a small planting area. This could lead to stunted growth or mortality of replacement trees. Additionally, the Project proposes to plant five California bay laurel trees instead of additional walnut trees.

Why impacts would occur: The Project proposes to replace five walnut trees at a 4:1 replacement ratio, which would require 20 walnut trees. The landscaping plan for 434, 438, and

442 West James Street shows three replacement walnut trees within each lot. This is a total of 15 replacement walnut trees for the Project, five trees less than what is proposed by mitigation. Accordingly, mitigation for impacts to walnut trees would not sufficiently mitigate for impacts to five walnut trees

In addition, the Project's landscaping plan shows replacement walnut trees planted close together. For example, in the landscaping plan for 434 West James Street, three walnut trees are grouped into a space that is almost the amount of space taken up by one existing walnut tree that is to be protected in place (see Appendix A.3, Tree #1). CDFW acknowledges that the landscaping plan may be a draft rendering. Nevertheless, the landscaping plan as it is presented, shows that replacement trees will be grouped together. Southern California black walnut trees can growth up to 30 feet tall and 30 feet wide (Esser 1993). A mature tree may be a single-trunked tree or a tree with multiple trunks. The root system is extensive, often with a deep taproot (Esser 1993). Replacement walnut trees planted close together may not provide adequate spacing to accommodate growth horizontally, vertically, and laterally below ground.

Finally, the Project proposes five California bay laurel trees (*Umbellularia californica*) to meet 4:1 replacement (20 replacement trees total). Walnut trees, as a rare species, should be replaced with trees of the same genus and species. Moreover, California bay laurel trees may not be naturally occurring in the Project site and surrounding natural vegetation communities. No California bay laurel trees, or any trees in the Laurel (Lauraceae) family, were detected during biological surveys.

Evidence impacts would be significant: The Southern California black walnut has a California Rare Plant Rank (CRPR) of 4.2 (Calflora 2020). The Southern California black walnut is a species of local significance; a species of limited distribution; and a species that is moderately threatened in California (CNPS 2020). Accordingly, some plants with a CRPR of 4, such as the Southern California black walnut tree, meet the definition of rare or endangered under CEQA. Inadequate avoidance, minimization, and mitigation measures for impacts to special status plant species will result in the Project continuing to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by CDFW.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: CDFW recommends the City replant no less than 20 Southern California black walnut trees to satisfy a 4:1 replacement ratio. Before finalizing the environmental document, CDFW recommends the City update the MND where applicable to clearly state that the Project would replace a total of no less than 20 Southern California black walnut trees.

Mitigation Measure #2: CDFW recommends the City work with a certified arborist familiar with Southern California black walnut tree life history to update the Protected Tree Report and *Tree Locations on Project Landscaping Plan* for 434, 438, and 442 West James Street. Specifically, CDFW recommends modifying the plans to reflect a total of 20 replacement Southern California black walnut trees appropriately spaced to accommodate growth horizontally, vertically, and laterally below ground. CDFW also recommends that each landscaping plan and/or Protected

Tree Report be updated to disclose/provide planting instructions specifying appropriate spacing between each replacement tree.

Mitigation Measure #3: CDFW recommends that trees planted for mitigation be monitored, maintained, and inspected as described in the Protected Tree Report. CDFW recommends long-term monitoring, maintenance, and inspection until all planted trees survive to produce reproductive structures (i.e., catkins).

Mitigation Measure #4: If the City observes changes, stress, or failure of planted Southern California black walnut trees, as recommended in the Protected Tree Report, CDFW recommends consulting with a certified arborist or tree specialist to assess the tree and provide specific recommendations. There should be no net loss of Southern California black walnut trees. If any replacement trees fail, CDFW recommends City replace those trees until a minimum of 20 total trees survive to produce catkins.

Recommendation: CDFW recommends the City request the Project Applicant, James Street Group, LLC., update its tree plan to reflect CDFW's comments. The Project Applicant should resubmit the tree plan to the City for the Project Permit Compliance Review.

Comment #2: Spreading Invasive Pests and Diseases

Issue #1: The Project would remove five walnut trees that may host invasive pests and diseases.

Issue #2: The Project proposes to plant five California bay laurel trees. California bay laurel trees are known to host invasive pests and diseases, such as those in the genus *Phytophthora.*

Specific impacts: The Project may result in the spread of tree insect pests and diseases into areas not currently exposed to these stressors. This could result in expediting the loss of Southern California black walnut and other native trees within and adjacent to the Project site. Loss of trees may result in loss of foraging and perching habitat for mammals, birds, and raptors dependent on California walnut trees and woodland habitat northwest of the Project site.

Why impacts would occur: The Project would remove tree species that could host insect pests and diseases. Chippers, trucks, chainsaws, and any tools used to remove trees may contain infected plant fragments. These fragments can be spread to new locations if the equipment and tools are not disinfected or cleaned before moving to the next work location. Trees will be removed and presumably hauled to off-site locations for disposal. This may expose off-site native tree species to pests and diseases.

In addition, the Project proposes to plant California bay laurel trees. The species was not documented within the Project site or a 500-foot area surrounding the Project. The California bay laurel tree is a known host species of fungus in the genus *Phytophthora* such as sudden oak death (*Phytophthora ramorum*) (Calinvasives 2020). Sudden oak death has become the most common cause of mortality of oak (*Quercus* genus) and other native trees (Phytosphere 2015). Mortality rates of oak trees are greater than 50 percent in some areas impacted by sudden oak death (Phytosphere 2012). Tree dieback can have cascading impacts on the habitat and ecosystem. Diseases caused by both aerial and soil-borne *Phytophthora* species are common in plant nurseries (Phytosphere 2015). Therefore, infected nursery stock (i.e., box

trees) brought into the Project site could introduce and spread pests and diseases such as those in the genus *Phytophthora*.

Evidence impacts would be significant: The Project may have a substantial adverse effect on any sensitive natural communities identified in local or regional plans, policies, and regulations or by the CDFW. The Project may result in a substantial adverse effect, either directly or through habitat modifications, on species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by CDFW that are dependent on woodlands susceptible to insect and disease pathogens.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: Prior to tree removal, CDFW recommends the City work with a certified arborist to evaluate the five Southern black walnut trees for infectious tree diseases including but not limited to: sudden oak death (*Phytophthora ramorum*), thousand canker fungus (*Geosmithia morbida*), Polyphagous shot hole borer (*Euwallacea* spp.), and goldspotted oak borer (*Agrilus auroguttatus*) (TCD 2020; UCANR 2020; Phytosphere Research 2012; UCIPM 2013).

Mitigation Measure #2: If the certified arborist determines trees are impacted by infectious pests or diseases, CDFW recommends the City work with the certified arborist to prepare an Infectious Tree Disease Management Plan or develop a detailed, robust, enforceable, and feasible list of preventative measures. A plan/list should provide measures relevant for each tree pest or disease observed. To avoid the spread of infectious tree pests and diseases, infected trees should not be transported from the Project site without first being treated using best available management practices described Infectious Tree Disease Management Plan or list of preventative measures.

Mitigation Measure #3: If possible, CDFW recommends that all tree material, especially infected tree material, is left on site, chipping the material for use as ground cover or mulch. CDFW also recommends cleaning and disinfecting pruning and power tools before use to prevent introducing pathogens from known infested areas, and after use to prevent spread of pathogens to new areas.

Mitigation Measure #4: CDFW recommends the City work with a certified arborist and/or tree specialist to acquire appropriately sized, locally source Southern California black walnut trees from a local native plant nursery that implements Phytophthora/Clean Nursery Stock protocols. This may reduce the probability of introducing Southern California black walnut trees contaminated with pests, diseases, and pathogens that could spread and infect native trees or habitats. A certified arborist and/or tree specialist should inspect and potentially quarantine nursery stock before bringing them into the Project site.

Mitigation Measure #5: CDFW recommends the City remove the five California bay laurel trees from the Project's mitigation plan. Only tree species impacted by the Project and are natural to the Project site and adjacent areas should be replanted.

Recommendation: CDFW recommends the City request the Project Applicant, James Street Group, LLC., update its tree plan to reflect CDFW's comments [see Comment #1 Impacts to Southern California black walnut (*Juglans californica*), Mitigation Measure #6].

Comment #3: Impacts to Nesting Birds

Issue: CDFW is concerned that the Project's proposed mitigation measure, *IV-10 Habitat Modification (Nesting Native Birds, Hillside, or Rural Areas)*, may not fully avoid impacts to nesting birds and raptors.

Specific Impacts: Project construction and related activities may result in increased nesting mortality due to nest abandonment or decreased feeding frequency.

Why impacts would occur: Construction and tree removal during the breeding season for nesting birds could result in the loss of fertile eggs or nestlings or otherwise lead to nest abandonment. Impacts could result from noise disturbances, increased human activity, dust, ground disturbing activities (e.g., staging, access, excavation, and grading), and vibrations caused by heavy equipment.

Evidence impacts would be significant: Nests of all birds and raptors are protected under State laws and regulations, including Fish and Game Code, sections 3503 and 3503.5. Take or possession of migratory nongame birds designated in the Federal Migratory Bird Treaty Act of 1918 (Code of Federal Regulations, Title 50, § 10.13) is prohibited under Fish and Game Code section 3513. The loss of occupied habitat or reductions in the number of sensitive and special status bird species, either directly or indirectly through nest abandonment or reproductive suppression, would constitute a significant impact absent appropriate mitigation.

Recommended Potentially Feasible Mitigation Measure(s): CDFW recommends modifications to BIO IV-10 by removing the language with strikethrough and including the underlined language:

Mitigation Measure #1: "Proposed project activities (including disturbances to native and non-native vegetation, structures and substrates) shall take place outside of the breeding bird season ~~which generally runs from March 1- August 31 (as early as February 1 for raptors)~~ to avoid take (including disturbances which would cause abandonment of active nests containing eggs and/or young). The City of Los Angeles/James Street Group, LLC shall not perform any Project construction or activities or remove or otherwise disturb vegetation on the project site, or adjacent to the site, from February 15 to August 31, and as early as January 1, to avoid impacts to breeding/nesting birds and raptors. Take means to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture of kill (Fish and Game Code Section 86)."

Mitigation Measure #2: "If project activities cannot feasibly avoid the breeding bird season, beginning thirty days prior to the disturbance of suitable nesting habitat, the applicant shall:

a. Arrange for weekly bird surveys to detect any protected native birds in the habitat to be removed and any other such habitat within 300 feet of the construction work area (within 500 feet for raptors) as access to adjacent areas allows. The surveys shall be conducted by a Qualified Biologist with experience in conducting breeding bird surveys. Nesting bird surveys shall be conducted at appropriate nesting times and concentrate on potential roosting or perch sites. The surveys shall continue on a weekly basis with the last survey being conducted no more than 3 days prior to the initiation of clearance/construction work." If Project activities are delayed or suspended for more than 7 days after the last survey, surveys shall be repeated before work can resume.

b. ~~If a protected native bird is found, the applicant shall delay all clearance/construction disturbance activities within 300 feet of suitable nesting habitat for the observed protected bird species (within 500 feet for suitable raptor nesting habitat) until August 31."~~

c. "~~Alternatively, the Qualified Biologist could continue the surveys in order to locate any nests.~~ If an active nest is located, clearing and construction within 300 feet around active passerine (perching birds and songbirds) nests and 500 feet around non-listed raptor nests, ~~of the nest (within 500 feet for raptor nests)~~ or as determined by a qualified biological monitor, shall be postponed until the nest is vacated and juveniles have fledged and when there is no evidence of a second attempt at nesting. The buffer zone from the nest shall be established in the field with flagging and stakes. The qualified biologist shall retain the ability to increase buffers if needed to protect the nesting birds. Temporary fencing and signage shall be maintained for the duration of the Project. Construction personnel shall be instructed on the sensitivity of the area and be advised not to work, trespass, or engage in activities that would disturb nesting birds near or inside the buffer."

Per Public Resources Code Section 21081.6(a)(1), CDFW has provided the City with a summary of our suggested mitigation measures and recommendations in the form of an attached Draft Mitigation and Monitoring Reporting Plan (MMRP; Attachment A).

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 City of Los Angeles and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required 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

We appreciate the opportunity to comment on the Project to assist the City of Los Angeles in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that the City of Los Angeles has to our comments and to receive notification of any forthcoming hearing date(s) for the Project [CEQA Guidelines, § 15073(e)]. If you have any questions or comments regarding this letter, please contact Ruby Kwan-Davis, Senior Environmental Scientist (Specialist), at Ruby.Kwan-Davis@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Erinn Wilson
B6E58CFE24724F5...

Erinn Wilson
Environmental Program Manager I

Ec: CDFW
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Attachment A: Draft Mitigation and Monitoring Reporting Plan

CDFW recommends the following language to be incorporated into a future environmental document for the Project.

Biological Resources (BIO)			
Mitigation Measure (MM)		**Timing**	**Responsible Party**
MM-BIO-1- Impacts to California black walnut	No less than 20 Southern California black walnut trees (*Juglans californica*) will be replanted to mitigate at a ratio of 4:1 for Project impacts to walnut trees.	During/After Project construction and activities	City of Los Angeles/James Street Group, LLC
MM-BIO-2- Impacts to California black walnut	The Project Applicant shall work with a certified arborist familiar with Southern California black walnut tree life history to update the *Protected Tree Report and Tree Locations on Project Landscaping* Plan for 434, 438, and 442 West James Street. Plans shall be modified to reflect a total of 20 replacement Southern California black walnut trees appropriately spaced to accommodate growth horizontally, vertically, and laterally below ground. Each landscaping plan and/or Protected Tree Report shall be updated to disclose/provide planting instructions specifying appropriate spacing between each replacement tree.	Prior to Project construction and activities	City of Los Angeles/James Street Group, LLC
MM-BIO-3- Impacts to California black walnut	Southern California black walnut trees shall be monitored, maintained, and inspected as described in the Protected Tree Report. Long-term monitoring, maintenance, and inspection shall be provided until all planted trees survive to produce reproductive structures (i.e., catkins).	After Project construction and activities	City of Los Angeles/James Street Group, LLC
MM-BIO-4- Impacts to California black walnut	If the City/James Street Group observes changes, stress, or failure of planted Southern California black walnut trees, as recommended in the Protected Tree Report, the City/James Street Group shall consult with a certified arborist or tree specialist to assess the tree and provide specific recommendations. There shall	After Project construction and activities	City of Los Angeles/James Street Group, LLC

	be no net loss of Southern California black walnut trees. If any replacement trees fail, City/James Street Group shall replace those trees until a minimum of 20 total trees survive to produce catkins.		
MM-BIO-5-Impacts to California black walnut	James Street Group shall resubmit a tree plan to the City for review in order to comply with regulatory compliance measures to ensure that no significant impacts to sensitive biological species or habitat would occur. The City shall review an updated tree plan as part of the Project Permit Compliance Review.	Prior to Project construction and activities	City of Los Angeles/James Street Group, LLC
MM-BIO-6-Spreding Invasive Pests and Diseases	Prior to tree removal, the City/James Street Group shall work with a certified arborist to evaluate the five Southern black walnut trees for infectious tree diseases including but not limited to: sudden oak death (*Phytophthora ramorum*), thousand canker fungus (*Geosmithia morbida*), Polyphagous shot hole borer (*Euwallacea* spp.), and goldspotted oak borer (*Agrilus auroguttatus*).	Prior to Project construction and activities	City of Los Angeles/James Street Group, LLC
MM-BIO-7-Spreding Invasive Pests and Diseases	If the certified arborist determines trees are impacted by infectious pests or diseases, the City/James Street Group shall work with the certified arborist to prepare an Infectious Tree Disease Management Plan or develop a detailed, robust, enforceable, and feasible list of preventative measures. A plan/list shall provide measures relevant for each tree pest or disease observed. To avoid the spread of infectious tree pests and diseases, infected trees shall not be transported from the Project site without first being treated using best available management practices described Infectious Tree Disease Management Plan or list of preventative measures.	Prior to Project construction and activities	City of Los Angeles/James Street Group, LLC
MM-BIO-8-Spreding Invasive Pests and Diseases	All tree material, especially infected tree material, shall be left on site, chipping the material for use as ground cover or mulch. Pruning and power tools shall be cleaned and disinfected before use to prevent introducing pathogens from known infested areas, and after use to prevent spread of pathogens to new areas.	Prior to Project construction and activities	City of Los Angeles/James Street Group, LLC
MM-BIO-9-Spreding Invasive Pests and Diseases	The City/James Street Group shall work with a certified arborist and/or tree specialist to acquire appropriately sized, locally source Southern California black walnut trees from a local native plant nursery that implements Phytophthora/Clean Nursery Stock	Prior to/During Project	City of Los Angeles/James Street Group, LLC

	protocols. This may reduce the probability of introducing Southern California black walnut trees contaminated with pests, diseases, and pathogens that could spread and infect native trees or habitats. A certified arborist and/or tree specialist shall inspect and potentially quarantine nursery stock before bringing them into the Project site.	construction and activities	
MM-BIO-10-Spreding Invasive Pests and Diseases	The City/James Street Group shall remove California bay laurel trees from the Project. Only tree species impacted by the Project and are natural to the Project site and adjacent areas shall be replanted.	Prior to Project construction and activities	City of Los Angeles/James Street Group, LLC
MM-BIO-11-Impacts to Nesting Birds and Raptors	Proposed project activities (including disturbances to native and non-native vegetation, structures and substrates) shall take place outside of the breeding bird season to avoid take (including disturbances which would cause abandonment of active nests containing eggs and/or young). The City of Los Angeles/James Street Group, LLC shall not perform any Project construction or activities or remove or otherwise disturb vegetation on the project site, or adjacent to the site, from February 15 to August 31, and as early as January 1, to avoid impacts to breeding/nesting birds and raptors. Take means to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture of kill (Fish and Game Code Section 86).	Prior to Project construction and activities	City of Los Angeles/James Street Group, LLC
MM-BIO-12-Impacts to Nesting Birds and Raptors	If project activities cannot feasibly avoid the breeding bird season, beginning thirty days prior to the disturbance of suitable nesting habitat, the applicant shall: a. Arrange for weekly bird surveys to detect any protected native birds in the habitat to be removed and any other such habitat within 300 feet of the construction work area (within 500 feet for raptors) as access to adjacent areas allows. The surveys shall be conducted by a Qualified Biologist with experience in conducting breeding bird surveys. Nesting bird surveys shall be conducted at appropriate nesting times and concentrate on potential	Prior to/During Project construction and activities	City of Los Angeles/James Street Group, LLC

	roosting or perch sites. The surveys shall continue on a weekly basis with the last survey being conducted no more than 3 days prior to the initiation of clearance/construction work." If Project activities are delayed or suspended for more than 7 days after the last survey, surveys shall be repeated before work can resume. b. If an active nest is located, clearing and construction within 300 feet around active passerine (perching birds and songbirds) nests and 500 feet around non-listed raptor nests, or as determined by a qualified biological monitor, shall be postponed until the nest is vacated and juveniles have fledged and when there is no evidence of a second attempt at nesting. The buffer zone from the nest shall be established in the field with flagging and stakes. The qualified biologist shall retain the ability to increase buffers if needed to protect the nesting birds. Temporary fencing and signage shall be maintained for the duration of the Project. Construction personnel shall be instructed on the sensitivity of the area and be advised not to work, trespass, or engage in activities that would disturb nesting birds near or inside the buffer.		