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State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director

January 16, 2025

Irene O'Sullivan, Engineering Manager
Fairfield-Suisun Sewer District
1010 Chadbourne Road
Fairfield, CA 94534
IOSullivan@faifieldsuisunsewer.ca.gov

Subject: Kellogg Resiliency Project, Mitigated Negative Declaration, SCH No. 2024121118, Solano County

Dear Ms. O'Sullivan:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) from the Fairfield Suisun Sewer District (District) for the Kellogg Resiliency Project (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.[1]

CDFW is submitting comments on the MND to inform the District, as the Lead Agency, of potentially significant impacts to biological resources associated with the Project.

CDFW ROLE

CDFW is a **Trustee Agency** with responsibility under CEQA pursuant to CEQA Guidelines section 15386 for commenting on projects that could impact fish, plant, and wildlife resources. CDFW is also considered a **Responsible Agency** if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA) or Native Plant Protection Act (NPPA), a Lake or Streambed Alteration Agreement, or other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources.

PROJECT DESCRIPTION SUMMARY

Proponent: Fairfield Suisun Sewer District

Objective: District proposes to rehabilitate existing stormwater infrastructure to address flood risks for the surrounding community, improve stormwater infrastructure reliability, improve water quality, and increase wildfire resilience within a residential area in the City of Suisun City (City) on the northern outskirts of the Suisun Marsh. The Project site

[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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includes portions of Kellogg Street, Maple Street, and School Street, as well as undeveloped/unpaved areas and limited work near the Suisun Wildlife Center.

The Project would implement various improvements including rehabilitating mechanical equipment associated with the Kellogg pump station, installing green stormwater infrastructure (GSI) at various locations throughout the Project site, constructing a fire vehicle access road along the southern side of the stormwater detention basin, replacing damaged fencing along the northern side of the stormwater detention basin, and removing invasive species within and around the basin and revegetating the area with native, fire-resistant species. The Project would also replace the existing pavement at the intersection of Maple Street and School Street and reconstruct and repave the southern terminus of School Street. The reconstruction and replacement would include replacement of manholes and underground pipelines that have reached the end of their useful life. The completed Project would address flood risks due to climate change, improve stormwater infrastructure and reliability, improve water quality, and increase wildfire resilience.

The Kellog Pump Station (PS) is a below-ground station constructed in 1996 to pump stormwater from the Kellogg stormwater basin out to the Suisun Slough. This PS mitigates community flood risks by drawing water away from the area and to the slough. The Project would rehabilitate the existing PS by replacing the existing pumps, piping, valves, and protective linings and coatings. The Project would also replace the one-way tide gate on the discharge outlet to Suisun Slough.

The Project would install approximately 1,320 square feet of GSI along School Street and 1,670 square feet of GSI along Kellogg Street. The installation of the new GSI would help the City meet regulatory requirements under the National Pollutant Discharge Elimination System Municipal permit.

The Project will construct an approximately 1,000 linear-foot long fire access road at the top of Kellogg basin's southern embankment (above the water line). This access road would be located within a fenced-in area and located behind a locked gate with maintenance, operation, and emergency access available only to the City and the District. Construction of the access road would include vegetation removal, grading, application of a light road base, a drainage and GSI system, and new fencing to ensure roadway stability for emergency vehicle access.

The Kellogg stormwater detention basin is an approximately 900-foot-long stormwater detention basin which collects water from the neighborhood drainage area. Stormwater from the neighborhood drainage area flows via underground storm drain pipelines to the west end of the basin. The basin serves to detain stormwater to mitigate flooding in the adjacent community. Basin maintenance is proposed as part of the Project and would include dewatering, removal of invasive species and revegetation of the basin with

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native species, and removal of trash and debris. Temporary coffer dams would be created using sand and gravel bags placed on plastic sheeting or other removable structures or material. Water from inside the cofferdam would be pumped out of the portion of the basin being dewatered and into the flooded portion of the basin. Coffer dams would be completely removed upon completion of the work.

The Project site is generally surrounded by single family residences to the north; brackish/salt marsh to the west; the Suisun Wildlife Center, ruderal grasslands and brackish/salt marsh to the south; and the Suisun City municipal boat launch and parking lot to the east.

Location: City of Suisun, County of Solano, with an approximate centroid of 38.232911, -122.040842.

REGULATORY REQUIREMENTS

California Endangered Species 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 or candidate species under CESA either during construction or over the life of the Project. [2] **The Project has the potential to impact longfin smelt (*Spirinchus thaleichthys*), a CESA listed as threatened species, and burrowing owl *(Athene cunicularia)*, a CESA candidate species, as further described below.** Issuance of an 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, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain an 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, & 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

A Lake and Streambed Alteration (LSA) Notification, pursuant to Fish and Game Code section 1600 et seq., is required for project activities affecting lakes or streams and

[2] Take, as defined in Fish and Game Code section 86, means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.

Docusign Envelope ID: F2E87F91-CD1A-48D0-AE56-35E7D6B9A148

associated riparian habitat. Notification is required for any activity that may 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. **As described in the MND (page 14), an LSA Notification would be required for the Project.** CDFW 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.

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:

- 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 and Game 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 and Game Code § 2081.15). Project proponents should consult with CDFW early in the Project planning process. **The Project has the potential to impact California black rail (*Laterallus jamaicensis coturniculus*), a California fully protected and CESA listed as threatened species, as further described below. The Project also has the potential impact salt marsh harvest mouse (*Reithrodontomys raviventris*), a California fully protected and CESA listed as endangered species. Thank you for including mitigation measures for salt marsh harvest mouse and please be advised that an LSA Agreement issued for the Project may include additional protection measures for the species.**

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

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3513 (regarding unlawful take of any migratory nongame bird). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the District in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Based on the Project's avoidance of significant impacts on biological resources with implementation of mitigation measures, including those CDFW recommends below and in Attachment 1 Draft Mitigation and Monitoring Reporting Plan, CDFW concludes that an MND is appropriate for the Project.

I. Environmental Setting and Mitigation Measure Related Impact Shortcomings

MANDATORY FINDING OF SIGNIFICANCE. Does the Project have potential to substantially reduce the number or restrict the range of an endangered, rare, or threatened species?

And,

Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or U.S. Fish and Wildlife Service (USFWS)?

COMMENT 1: Longfin smelt*,* Biological Resources Report page 6

Issue: The California Natural Diversity Database (CNDDB) documents longfin smelt within the Project site at the tide gate in Suisun Slough. It is unclear if the existing one-way tide gate at the Project site currently precludes backflow from Suisun Slough to the Project site's detention basin which may contain longfin smelt, and if the proposed work at the tide gate would be in water thereby potentially impacting longfin smelt or temporarily opening the tide gate. It is also unclear if sediment or other pollutants could wash from the Project site downstream into Suisun Slough where the species is documented to occur.

Specific impacts, why they may occur and be potentially significant: Project activities may impact longfin smelt during dewatering of the detention basin, if the species is present, resulting in injury or mortality. Project activities may also remotely impact special-status fishes such as longfin smelt through pollutants introduced upstream from their habitat, such as Suisun Slough. Longfin smelt are CESA listed as threatened and listed under the federal Endangered Species Act as an endangered, and therefore are considered to be threatened or endangered species

Docusign Envelope ID: F2E87F91-CD1A-48D0-AE56-35E7D6B9A148

pursuant to CEQA Guidelines section 15380. Therefore, if longfin smelt would be impacted by the Project, the Project could result in a substantial reduction in the species' population, which would be a Mandatory Finding of Significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

Recommended Mitigation Measure: To reduce potential impacts to longfin smelt to less-than-significant and comply with CESA, CDFW recommends including the mitigation measure below.

Mitigation Measure BIO-1 (Longfin Smelt Avoidance): If water may flow from Suisun Slough into the detention basin where dewatering would occur, if tide gate repairs in Suisun Slough would include in water work, or if sedimentation or other pollutants from the Project site may enter Suisun Slough, the Project shall consult with CDFW and obtain an ITP if take of longfin smelt cannot be avoided prior to commencing Project activities, and shall comply with the ITP. The Project shall also consult with the USFWS or National Marine Fisheries Service (NMFS) for any impacts to federally listed fish.

COMMENT 2: California black rail*,* Mitigated Negative Declaration pages 41, 42

Issue: There is a CNDDB record of California black rail occurring within 0.25-mile of the Project site, and based on aerial imagery it appears that suitable nesting habitat for the species occurs within 700 feet of the Project site. The MND did not identify potential impacts to California black rail that may nest within 700 feet of Project site, the distance at which the species may be disturbed.

Specific impacts, why they may occur and be potentially significant: The Project has the potential to impact nesting California black rail through auditory or visual disturbances above ambient levels. Disturbances from Project activities within 700 feet of suitable nesting habitat may result in California black rail nest abandonment and loss of eggs or reduced health and vigor and loss of young. Although the presence of residential development and disturbed vegetation areas exist between the Project site and potentially suitable nesting habitat, audio and visual disturbances may still occur. California black rail is CESA listed as threatened and therefore is considered to be a threatened species pursuant to CEQA Guidelines section 15380. Therefore, if an active California black rail nest is disturbed by the Project, the Project may result in a substantial reduction in the number of a threatened species, which is considered a Mandatory Finding of Significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

Recommended Mitigation Measure: To reduce potential impacts to California black rail to less-than-significant and comply with Fish and Game Code section 3511

Docusign Envelope ID: F2E87F91-CD1A-48D0-AE56-35E7D6B9A148

(fully protected avian species), CDFW recommends including the mitigation measure below.

Mitigation Measure BIO-2 (California Black Rail Habitat Assessment, Surveys, and Avoidance): The Project shall map the location of potentially suitable California black rail nesting habitat within 700 feet of the Project site and obtain CDFW's written approval of the mapping prior to Project construction. Any Project activities within 700 feet of potentially suitable California black rail nesting habitat shall be avoided during the breeding season (February 1 to August 31) each year unless appropriately timed, yearly protocol level surveys are conducted and survey methodology and results are submitted to and accepted in writing by CDFW, or the Project implements noise and visual avoidance measures below. Surveys shall focus on suitable habitat that may be disturbed by Project activities during the breeding season to ensure that California black rail are not nesting in these locations.

If breeding California black rail 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 California black rail have been detected during the breeding season.

If work must be done during the breeding season within 700 feet of California black rail nesting habitat, and annual surveys have not documented California black rail absence, noise levels shall not exceed 10 dBA over existing ambient noise levels and a noise attenuating fence and/or visual barrier shall be installed to reduce visual and/or acoustic impacts, unless otherwise approved in writing by CDFW. In this case, the Project shall prepare a noise and visual avoidance plan and obtain CDFW's written approval of the plan, and implement the CDFW-approved plan, prior to conducting Project activities.

COMMENT 3: Burrowing owl*,* Mitigated Negative Declaration pages 41, 45, 49, and 50

Issue: There are thirteen CNDDB records of burrowing owl occurring within five miles of the Project, with the closest record approximately 0.25 miles northwest of the Project. While the MND correctly states that "burrowing owls may nest and/or winter within the stormwater detention basin banks and in uplands adjacent to the basin" (page 41), mitigation measure (MM) BIO-3 may not adequately mitigate impacts to burrowing owl to less-than-significant.

Specific impacts, why they may occur and be potentially significant: MM BIO-3 includes a survey for burrowing owl, however the one preconstruction survey required by MM BIO-3 is inconsistent with the surveys recommended in the *Department of Fish and Game* [currently CDFW] *Staff Report on Burrowing Owl*

Docusign Envelope ID: F2E87F91-CD1A-48D0-AE56-35E7D6B9A148

Mitigation (2012) (CDFW 2012 Staff Report), which requires at least four surveys. The survey distance of 500 feet required by MM BIO-3 would not detect owls up to 500 meters (1,640 feet) from the Project site, the distance at which the species could be impacted by auditory and visual disturbances, pursuant to the CDFW 2012 Staff Report. The buffer distance in MM BIO-3 of 250 feet (page 49) may be too small to fully avoid impacts to burrowing owl, especially during the nesting season. MM BIO-3 states that within a buffer "no new activity will be permissible" (page 49), suggesting that ongoing activities may impact any detected owls. Finally, MM BIO-3.4 contemplates passive relocation (page 50). CDFW does not consider passive relocation to be a take avoidance measure because the long-term demographic consequences of exclusion techniques have not been thoroughly evaluated, and the survival rate of excluded owls is unknown. Burrowing owl are dependent on burrows at all times of the year for survival or reproduction, therefore eviction from nesting, roosting, overwintering, and satellite burrows or other sheltering features may lead to indirect impacts or "take" which is prohibited under CESA and Fish and Game Code section 3503.5.

Based on the foregoing, the Project may impact nesting or wintering burrowing owl utilizing burrows or burrow surrogates on or within up to 500 meters (1,640 feet) of the Project site. The Project could result in burrowing owl nest abandonment, loss of young, reduced health and vigor of owlets, injury or mortality of adults, and permanent wintering (i.e., non-nesting) or nesting habitat loss. Burrowing owl is a candidate species for CESA listing because the species' population viability and survival are adversely affected by risk factors such as precipitous declines from habitat loss, fragmentation, and degradation; evictions from nesting sites without habitat mitigation; wind turbine mortality; human disturbance; and eradication of California ground squirrels resulting in a loss of suitable burrows required by burrowing owl for nesting, protection from predators, and shelter (Shuford and Gardali 2008; CDFW 2012 Staff Report; personal communication, CDFW Statewide Burrowing Owl Coordinator Esther Burkett, May 13, 2022). Preliminary analyses of regional patterns for breeding populations of burrowing owl have detected declines both locally in their central and southern coastal breeding areas, and statewide where the species has experienced breeding range retraction (CDFW 2012 Staff Report). Borrowing owl have been extirpated from 16 percent of their former range and are at risk of being extirpated from another 13 percent of their range in the State (CDFW 2024). Therefore, if burrowing owl are wintering or nesting on or within 500 meters (1,640 feet) of the Project site, the Project may result in a substantial reduction in the number of a CESA candidate species, which is considered a Mandatory Finding of Significance pursuant to CEQA Guidelines sections 15065, subdivision (a)(1) and 15380.

Recommended Mitigation Measures: To reduce potential impacts to burrowing owl to less-than-significant and comply with CESA and Fish and Game Code section

Docusign Envelope ID: F2E87F91-CD1A-48D0-AE56-35E7D6B9A148

3503.5, CDFW recommends replacing MM BIO-3 with the mitigation measures below.

Mitigation Measure BIO-3.1 (Burrowing Owl Habitat Assessment and Surveys): A qualified biologist shall conduct a habitat assessment and surveys, if warranted based on the habitat assessment, following the *Department of Fish and Game Staff Report on Burrowing Owl Mitigation* (2012) methodology (https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds) and prepare a report documenting the survey results. The qualified biologist shall have a minimum of two years of experience implementing the above methodology resulting in burrowing owl detections. Based on the habitat assessment, if suitable burrows or burrow surrogates are present, surveys for nesting burrowing owl shall be conducted if Project construction starts during nesting season (February 1 to August 31), and surveys for wintering burrowing owl shall be conducted if the construction starts during the wintering season (September 1 to January 31). 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, unless otherwise approved in writing by CDFW. 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, as determined by a qualified biologist, including, but not limited to a final survey within 24 hours prior to ground disturbance.

If the habitat assessment does not identify burrows and additional surveys are not conducted, an additional habitat assessment shall be conducted within 14 days prior to construction. If new burrows are present, surveys shall be conducted as described above, unless otherwise approved in writing by CDFW.

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 the Project cannot ensure burrowing owl and their burrows are fully avoided, the Project shall consult with CDFW and obtain a CESA take authorization or otherwise demonstrate compliance with CESA. Take is likely to occur and the Project shall obtain an ITP if: 1) burrowing owl surveys of the Project area detect burrowing owl occupancy of burrows or burrow surrogates, or 2) there is sign of burrowing owl occupancy on the Project area within the past three years and habitat

Docusign Envelope ID: F2E87F91-CD1A-48D0-AE56-35E7D6B9A148

has not had any substantial change that would make it no longer suitable. Occupancy means a site that is assumed occupied if at least one burrowing owl has been observed occupying a burrow or burrow surrogate within the last three years. Occupancy of suitable burrowing owl habitat may also be indicated by burrowing owl sign including its molted feathers, cast pellets, prey remains, eggshell fragments, or excrement at or near a burrow entrance or perch site. If burrowing owl, or their burrows or burrow surrogates, are detected within 500 meters (1,640 feet) of the Project site during burrowing owl surveys, but not on the Project site, the project shall with CDFW to determine if avoidance is feasible or an ITP is warranted.

Mitigation Measure BIO-3.2 (Cap Pipes and Hoses): To prevent burrowing owl from sheltering or nesting in exposed material; all construction pipes, culverts, hoses or similar materials greater than two inches in diameter stored at the Project site shall be capped or covered before the end of each work day and shall be inspected thoroughly for wildlife before the pipe or similar structure is buried, capped, used, or moved.

Please be advised that an LSA Agreement, if issued for the Project, would likely include the above recommended mitigation measures, as applicable, and may include additional measures to protect fish and wildlife resources, such as salt marsh harvest mouse.

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 CNDDB. The CNDDB field survey form can be filled out and submitted online at the following link: https://wildlife.ca.gov/Data/CNDDB/Submitting-Data. The types of information reported to CNDDB can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Plants-and-Animals.

ENVIRONMENTAL DOCUMENT FILING FEES

The Project, as proposed, would 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.)

Docusign Envelope ID: F2E87F91-CD1A-48D0-AE56-35E7D6B9A148

CONCLUSION

CDFW appreciates the opportunity to comment on the MND to assist the District in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Jordan Beaton, Environmental Scientist, at Jordan.Beaton@wildlife.ca.gov or (707) 980-5172; or Melanie Day, Senior Environmental Scientist (Supervisory), at Melanie.Day@wildlife.ca.gov or (707) 210-4415.

Sincerely,

DocuSigned by:
Erin Chappell
B77E9A6211EF486...

Erin Chappell
Regional Manager
Bay Delta Region

Attachment 1. Draft Mitigation and Monitoring Reporting Plan

ec: Office of Planning and Research, State Clearinghouse (SCH No. 2024121118)

REFERENCES

California Department of Fish and Wildlife (CDFW). 2025. California Natural Diversity Database (CNDDB) Management Framework. California Department of Fish and Wildlife. Sacramento, CA. Website https://wildlife.ca.gov/Data/BIOS [accessed 8 January 2025].

CDFW. 2024. Petition Evaluation for Western Burrowing Owl (*Athene cunicularia hypugaea*). Report to the Fish and Game Commission. California Department of Fish and Wildlife, P.O. Box 944209, Sacramento, CA.

CDFW. 2012. Department of Fish and Game Staff Report on Burrowing Owl Mitigation. State of California Natural Resources Agency, Sacramento, CA.

Shuford, W. D., and Gardali, T., editors. 2008. California Bird Species of Special Concern: A ranked assessment of species, subspecies, and distinct populations of birds of immediate conservation concern in California. Studies of Western Birds 1. Western Field Ornithologists, Camarillo, California, and California Department of Fish and Game, Sacramento.

Docusign Envelope ID: F2E87F91-CD1A-48D0-AE56-35E7D6B9A148

ATTACHMENT 1

Draft Mitigation and Monitoring Reporting Plan

Biological Resources (BIO)			
Mitigation Measure (MM)	**Description**	**Timing**	**Responsible Party**
BIO-1	Longfin Smelt Avoidance: If water may flow from Suisun Slough into the detention basin where dewatering would occur, if tide gate repairs in Suisun Slough would include in water work, or if sedimentation or other pollutants from the Project site may enter Suisun Slough, the Project shall consult with CDFW and obtain an ITP if take of longfin smelt cannot be avoided prior to commencing Project activities, and shall comply with the ITP. The Project shall also consult with the USFWS or NMFS for any impacts to federally listed fish.	Prior to Ground Disturbance and for Duration of Construction	Project Applicant
BIO-2	*California Black Rail Habitat Assessment, Surveys, and Avoidance:* The Project shall map the location of potentially suitable California black rail nesting habitat within 700 feet of the Project site and obtain CDFW's written approval of the mapping prior to Project construction. Any Project activities within 700 feet of potentially suitable California black rail nesting habitat shall be avoided during the breeding season (February 1 to August 31) each year unless appropriately timed, yearly protocol level surveys are conducted and survey methodology and results are submitted to and accepted in writing by CDFW, or the Project implements noise and visual avoidance measures below. Surveys shall focus on suitable habitat that may be disturbed by Project activities during the breeding season to ensure that California black rail are not nesting in these locations. If breeding California black rail 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 California black rail have been detected during the breeding season. If work must be done during the breeding season within 700 feet of California black rail nesting habitat, and annual surveys have not documented California black rail absence, noise levels shall not exceed 10 dBA over existing ambient noise levels and a noise attenuating fence and/or visual barrier shall be installed to reduce	Prior to Ground Disturbance and for Duration of Construction	Project Applicant

Docusign Envelope ID: F2E87F91-CD1A-48D0-AE56-35E7D6B9A148

	visual and/or acoustic impacts, unless otherwise approved in writing by CDFW. In this case, the Project shall prepare a noise and visual avoidance plan and obtain CDFW's written approval of the plan, and implement the CDFW-approved plan, prior to conducting Project activities.		
BIO-3.1	*Burrowing Owl Habitat Assessment and Surveys*: A qualified biologist shall conduct a habitat assessment and surveys, if warranted based on the habitat assessment, following the Department of Fish and Game Staff Report on Burrowing Owl Mitigation (2012) methodology (https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds) and prepare a report documenting the survey results. The qualified biologist shall have a minimum of two years of experience implementing the above methodology resulting in burrowing owl detections. Based on the habitat assessment, if suitable burrows or burrow surrogates are present, surveys for nesting burrowing owl shall be conducted if Project construction starts during nesting season (February 1 to August 31), and surveys for wintering burrows owls shall be conducted if the construction starts during the wintering season (September 1 to January 31). 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, unless otherwise approved in writing by CDFW. 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, as determined by a qualified biologist, including, but not limited to a final survey within 24 hours prior to ground disturbance. If the habitat assessment does not identify burrows and additional surveys are not conducted, an additional habitat assessment shall be conducted within 14 days prior to construction. If new burrows are present, surveys shall be conducted as described above, unless otherwise approved in writing by CDFW. 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	Prior to Ground Disturbance and for Duration of Construction	Project Applicant

Docusign Envelope ID: F2E87F91-CD1A-48D0-AE56-35E7D6B9A148

	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 the Project cannot ensure burrowing owl and their burrows are fully avoided, the Project shall consult with CDFW and obtain a CESA take authorization or otherwise demonstrate compliance with CESA. Take is likely to occur and the Project shall obtain an ITP if: 1) burrowing owl surveys of the Project area detect burrowing owl occupancy of burrows or burrow surrogates, or 2) there is sign of burrowing owl occupancy on the Project area within the past three years and habitat has not had any substantial change that would make it no longer suitable. Occupancy means a site that is assumed occupied if at least one burrowing owl has been observed occupying a burrow or burrow surrogate within the last three years. Occupancy of suitable burrowing owl habitat may also be indicated by burrowing owl sign including its molted feathers, cast pellets, prey remains, eggshell fragments, or excrement at or near a burrow entrance or perch site. If burrowing owl, or their burrows or burrow surrogates, are detected within 500 meters (1,640 feet) of the Project site during burrowing owl surveys, but not on the Project site, the project shall with CDFW to determine if avoidance is feasible or an ITP is warranted.		
BIO-3.2	*Mitigation Measure BIO-3.2 (Cap Pipes and Hoses):* To prevent burrowing owl from sheltering or nesting in exposed material; all construction pipes, culverts, hoses or similar materials greater than two inches in diameter stored at the Project site shall be capped or covered before the end of each work day and shall be inspected thoroughly for wildlife before the pipe or similar structure is buried, capped, used, or moved.	For Duration of Construction	Project Applicant