



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Inland Deserts Region
3602 Inland Empire Boulevard, Suite C-220
Ontario, CA 91764
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



July 10, 2025
Sent via email

Mina Morgan
Associate Planner
City of Victorville Planning Department
14343 Civic Drive
Victorville, California 92393
mmorgan@victorvilleca.gov

PLAN23-00021 - Desert Valley Hospital (Project)
Mitigated Negative Declaration (MND)
SCH# 2025060809

Dear Mina Morgan:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from the City of Victorville (City) for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

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

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

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

PROJECT DESCRIPTION SUMMARY

Proponent: Prime Healthcare Management, Inc.

Objective: The Project proposes the development of a building addition to the existing Desert Valley Hospital which will be located east of the existing Medical Office Building and will occupy the southeast corner of the Desert Valley Hospital. The approximately 83,369- square-foot building addition will be two stories. The first floor of the building addition will include 39,036 square feet and will connect to the existing hospital on the first floor through an existing corridor that will be widened. The second floor of the building addition will be 38,269 square feet and will connect to the existing hospital through a new bridge over the existing hospital's low roof. An existing ground-based helipad will be demolished and a replacement helipad will be constructed on the roof of the new addition. A service yard consisting of a pump house, a cooling tower, a chiller room, a normal power electrical room, and an emergency power electrical room will be constructed on the northeastern portion of the Project site. Adjacent to the service yard, a bulk oxygen storage yard will be constructed. Additionally, north of the service yard two emergency water storage tanks will be installed underground.

Location: The Project is located in the southeastern portion of the City of Victorville, San Bernardino County, north of Bear Valley Road, west of 1st Avenue and east of the existing Desert Valley Hospital. The Project site's latitude and longitude are 34.471698°N, -117.296158°W.

Timeframe: The project is scheduled to begin construction in May of 2025, and is anticipated to be completed by the end of October 2027.

COMMENTS AND RECOMMENDATIONS

CDFW offers the 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. Editorial comments or other suggestions may also be included to improve the document.

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COMMENT #1: Western Joshua Tree (*Yucca brevifolia*)

Issue: Western Joshua tree is present on the Project site, and it is likely that the Project will have impacts on western Joshua trees, which are protected under Fish and Game Code sections 1927-1927.12 and Fish and Game Code section 2081.

Specific impact: Project implementation will likely result in the direct take of WJT and indirect take of WJT.

Why impact would occur: Excavation, trenching, and paving activities associated with construction of the Project will entail lethal take of WJT individuals. Additionally, these activities could impact root systems and change patterns of drainage, infiltration, and soil moisture that could impact and lead to the indirect take of WJT individuals.

Evidence impact would be significant: Field surveys for the Project are reported in the Biological Resources Technical Report (BRTR) and were conducted in 2023. The BRTR documents the presence of at least 6 WJT within the Project survey area that could be directly and indirectly impacted by Project activities.

Recommended potentially feasible mitigation measure to reduce impacts to less than significant: CDFW strongly recommends the following revisions to MM BIO-1 (edits are in ~~strikethrough~~ and **bold**) for adoption in the final MND.

Mitigation Measure: MM BIO-1 Western Joshua Tree Fee Payment (Revised)

The WJT Conservation Act (WJTCA) requires submittal of a WTJCA Incidental Take Permit application, accompanied by a census of western Joshua trees within the Project site and a 50-foot buffer (census area). At minimum, the census requires parallel survey transects throughout the Census Area, photographs of each tree, and tree measurements per CDFW protocol.

Mitigation for direct **and indirect** impacts to ~~two~~ western Joshua trees **identified in the census** and indirect impacts to ~~two western Joshua trees less than 5 meters but greater than 1 meter in height~~ will be fulfilled through attainment of a Western Joshua Tree Conservation Act (WJTCA) Incidental Take Permit (ITP) prior to their removal and payment of the elected fees as described in Section 1927.3 of the WJTCA. In conformance with the **2025** standard fee schedule prescribed for the project area, mitigation will consist of payment of \$2,500 for each western Joshua tree 5 meters or greater in height, \$500 for each western Joshua tree less than 5 meters but greater than 1 meter in height, and \$340 for each western Joshua tree less than 1 meter in height. California Department of Fish and Wildlife (CDFW) determines the final fee **based on the current version of the fee schedule**. Alternatively, **under a CESA ITP** mitigation will occur through off-site conservation, through a CDFW-approved mitigation bank **and/or through land acquisition and management and conservation in perpetuity thereof**, or as required by a Section 2081 ITP, ~~if received~~. The project shall implement

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relocation specifications and tree protection measures provided in The Joshua Tree Preservation, Protection, and Relocation Plan (Joshua Tree Plan) for this project (Appendix A of BTR) **and relocation as required by CDFW if CDFW deems relocation applicable.**

Other local regulations (i.e., City of Victorville Municipal Code Chapter 13.33 California Desert Native Plants Act, Food and Agricultural Code, Division 23)) also require permitting or notification prior to removal of western Joshua trees. Therefore, the project applicant must also receive written consent from the City of Victorville's director of Parks and Recreation or their designee prior to the removal or relocation of western Joshua trees in accordance with City of Victorville Municipal Code Chapter 13.33, Preservation and Removal of Joshua Trees. Additionally, the project applicant shall obtain a permit through San Bernardino County and pay fees pursuant to the California Desert Native Plants Act, Sections 80001-80201, for all western Joshua trees to be removed prior to the issuance of grading permits.

COMMENT # 2: Burrowing Owl (*Athene cunicularia*)

Issue: The protocol-level burrowing owl surveys conducted for the Project documented suitable burrows for burrowing owl nesting and residency, as reported in the BRTR. The BRTR also documented that the Project area contains suitable habitat for nesting or overwintering by burrowing owl, but no burrowing owls were detected. Considering that surveys were conducted in the period of March 2024 through June 2024 and Project construction was scheduled to begin in May 2025, burrowing owl could occupy the Project area at the time of construction, either as overwintering or breeding individuals.

Specific impact: The MND documents suitable burrows and habitat for burrowing owl, a CESA candidate species that has documented occurrences in the Project proximity.

Why impact would occur: The MND includes mitigation measure (MM) BIO-4, which details pre-construction surveys, creation of a relocation plan, and avoidance of burrows during the nesting season for burrowing owl. However, MM BIO-4 includes relocation of burrowing owl, which should only be conducted with appropriate take authorization (e.g., ITP).

Evidence impact would be significant: The Project, as described, may result in injury, direct mortality, indirect mortality, disruption of breeding behavior, and/or may reduce reproductive capacity of burrowing owl. On October 10, 2024, the Fish and Game Commission designated burrowing owl as a candidate species under CESA. CDFW considers the take of burrowing owl and the loss of the species' habitat as a significant impact, unless mitigated to a level of less than significant, which would occur through a CESA ITP. Further, burrowing owl is protected under Fish and Game Code section 3503.5 and the Migratory Bird Treaty Act.

CDFW strongly recommends the following revisions to MM-BIO-4 (edits are in ~~strikethrough~~ and **bold**) for adoption in the final MND.

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Mitigation Measure: MM-BIO-4 Pre-Construction Burrowing Owl Survey and Avoidance (Revised)

A pre-construction burrowing owl survey shall be completed no more than 14 days before initiation of site preparation or grading activities. If ground-disturbing activities are delayed or suspended for more than 30 days after the pre-construction surveys, the project site shall be re-surveyed. Surveys for burrowing owl shall be conducted by a qualified biologist in accordance with protocols established in the Staff Report on Burrowing Owl Mitigation prepared by the California Department of Fish and Game (now California Department of Fish and Wildlife [CDFW]) in 2012 or current version.

If burrowing owls are detected, the Project proponent shall fully avoid impacts to burrowing owl. If impacts to burrowing owl are unavoidable, the Project proponent should obtain a CESA ITP.

~~If burrowing owls are detected, a Burrowing Owl Relocation Plan shall be implemented in consultation with CDFW. As part of the Burrowing Owl Relocation Plan, disturbance to burrows shall be avoided during the nesting season (February 1 through August 31). Buffers will be established around occupied burrows as determined by a qualified biologist. No project activities shall be allowed to encroach into established buffers without the consent of a monitoring biologist. The buffer shall remain in place until it is determined that occupied burrows have been vacated or the nesting season has completed.~~

~~Outside of the nesting season, passive owl relocation techniques approved by CDFW shall be implemented. Owls shall be excluded from burrows in the immediate project area and within a buffer zone by installing one-way doors in burrow entrances if there is a threat to the surface or subterranean burrow structure. These doors will be placed at least 48 hours prior to ground-disturbing activities. The project area shall be monitored daily for 1 week to confirm owl departure from burrows prior to any ground-disturbing activities. Compensatory mitigation for permanent loss of owl habitat will be provided following the guidance in the CDFW's 2012 Staff Report on Burrowing Owl Mitigation or current version.~~

~~Where possible, burrows will be excavated using hand tools and refilled to prevent reoccupation. Sections of flexible plastic pipe shall be inserted into the tunnels during excavation to maintain an escape route for any wildlife inside the burrow.~~

~~If the above measures are followed, it is assumed that the project shall not need to obtain authorization from CDFW through the California Endangered Species Act Incidental Take Permit (ITP) process. If the burrows cannot be avoided during the nesting season, as outlined in this measure, the project applicant will consult with CDFW regarding the need to obtain an ITP. Any measures determined to be necessary through the permit process to offset impacts to burrowing owl may supersede measures provided in this CEQA document and shall be incorporated into the relocation plan. In the event an ITP is needed, mitigation for direct impacts to burrowing owl habitat will be fulfilled through compensatory mitigation at a minimum 1:1 in-kind habitat replacement of equal or better functions and values to those impacted by the project, or as otherwise~~

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determined through the permit process. Mitigation will be accomplished either through offsite conservation or through a CDFW-approved mitigation bank. If mitigation is not purchased through a mitigation bank and lands are conserved separately, a cost estimate will be prepared to estimate the initial start-up costs and ongoing annual costs of management activities for the management of the conservation easement area(s) in perpetuity. The funding source will be in the form of an endowment to help the qualified natural lands management entity that is ultimately selected to hold the conservation easement(s) **and manage the lands in perpetuity**. The endowment amount will be established following the completion of a project-specific Property Analysis Record to calculate the costs of in-perpetuity land management. The Property Analysis Record will consider all management activities required in the ITP **and in the interim and long-term management plans** to fulfill the requirements of the conservation easement(s).

COMMENT # 3: Nesting Birds

Issue: The draft MND proposes MM BIO-5 to avoid impacts to nesting birds that are subject to Fish and Game Code sections 3503.5, and 3513, and the Migratory Bird Treaty Act of 1918. CDFW staff have observed changes to timing of bird nesting and have observed nesting behavior outside of traditional nesting seasons and for this reason, CDFW is concerned that MM BIO-5 only requires pre-construction nesting bird survey during the traditional nesting season.

Specific impact: Project implementation could result in the loss of nesting and/or foraging habitat for passerine and raptor species from construction activities including grading and vegetation removal. CDFW is concerned about the impacts to nesting birds including loss of nesting/foraging habitat and potential take from ground disturbing activities and construction.

While MM BIO-5 considers conducting work outside the peak nesting season and CDFW considers that an important avoidance and minimization measure, CDFW recognizes that this is not always feasible, and thus recommends the completion of nesting bird surveys regardless of the time of year to ensure that impacts to nesting birds are avoided. This is also considering that the timing of the nesting season varies greatly depending on several factors, such as bird species, weather conditions in any given year, and long-term climate changes (e.g., drought, warming, etc.). In response to warming, birds have been reported to breed earlier, thereby reducing temperatures that nests are exposed to during breeding and this shift has led to a change in availability of resources (Socolar et al., 2017). CDFW staff have observed that climate change conditions may result in nesting bird season occurring earlier and later in the year than historical nesting season dates. CDFW recommends that disturbance to occupied nests of non-migratory passerine birds, migratory birds, and raptors within the Project site and surrounding area be avoided any time birds are nesting onsite. CDFW therefore recommends the completion of nesting bird surveys regardless of the time of year to ensure compliance with all applicable laws pertaining to nesting and migratory birds.

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Why impact would occur: The MND includes MM BIO-5, which requires a preconstruction survey for nesting birds. However, MM BIO-2 specifies that the preconstruction survey would only occur during a defined nesting season (i.e., February 1 -August 31), which may lead to impacts to birds that nest outside of this defined nesting season.

Evidence impact would be significant: Fish and Game Code section 3503 makes it unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by the rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.). Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto.

Recommended potentially feasible mitigation measure to reduce impacts to less than significant: CDFW strongly recommends the following revisions to MM BIO-2 (edits are in ~~strikethrough~~ and **bold**) for adoption in the final MND.

Mitigation Measure: MM BIO-2 Pre-Construction Nesting Bird Survey and Avoidance (Revised)

Construction activities shall avoid the migratory bird nesting season (typically February 1 through August 31) to reduce any potential significant impact to birds that may be nesting on the survey area. **Prior to ground disturbing activities** ~~If construction activities must occur during the migratory bird nesting season,~~ an avian nesting survey of the project site and within 500 feet of all impact areas must be conducted to determine the presence/absence of protected migratory birds and active nests. The avian nesting survey shall be performed by a qualified wildlife biologist within 72 hours prior to the start of construction in accordance with the Migratory Bird Treaty Act and California Fish and Game Code Sections 3503, 3503.5, and 3513. If an active bird nest is found, the nest shall be flagged **for avoidance** and mapped on the construction plans along with an appropriate buffer established around the nest, which will be determined by the biologist based on the species' sensitivity to disturbance (typically 300 feet for passerines and 500 feet for raptors and special-status species). The nest area shall be avoided until the nest is vacated and the juveniles have fledged. The nest area shall be demarcated in the field with flagging and stakes or construction fencing. On-site construction monitoring shall also be conducted when construction occurs in close proximity to an active nest buffer. No project activities may encroach into established buffers ~~without the consent of a monitoring biologist.~~ The buffer shall remain in place until it is determined the nestlings have fledged and the nest is no longer considered active.

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Additional Comments and Suggestions

CDFW strongly recommends the Project proponent submits data to the California Natural Diversity Database at <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>, regarding any special status species such as but not limited to: desert tortoise, Bendire's thrasher, burrowing owl, Cooper's hawk, golden eagle, LeConte's thrasher, loggerhead shrike, northern harrier, prairie falcon, Swainson's hawk observed within or adjacent to the Project area.

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 the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

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.)

CONCLUSION

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

Questions regarding this letter or further coordination should be directed to Jason Bill, Senior Environmental Scientist (Specialist) at Christopher.Bill@wildlife.ca.gov

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Sincerely,

DocuSigned by:

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For Alisa Ellsworth
Environmental Program Manager

ec: Office of Planning and Research, State Clearinghouse, Sacramento
State.clearinghouse@opr.ca.gov

Robert T. Escareno, Prime Healthcare Management, Inc.
REscareno@primehealthcare.com

Erin Lucett, Dudek
elucett@dudek.com

ATTACHMENT

Attachment A: Mitigation Monitoring and Reporting Plan

REFERENCES

California Department of Fish and Game (CDFG). 2012. Staff report on burrowing owl mitigation. State of California, Natural Resources Agency. Available for download at: [Microsoft Word - BUOW Staff Report final_030712 REV 1.doc \(ca.gov\)](#)

Socolar JB, Epanchin PN, Beissinger SR and Tingley MW. 2017. Phenological shifts conserve thermal niches. Proceedings of the National Academy of Sciences 114(49): 12976-12981.

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Attachment A

Mitigation Monitoring and Reporting Plan

Biological Resources (BIO)		
Mitigation Measure (MM)	Implementation Schedule	Responsible Party
<p><u>MM BIO-1</u></p> <p>The WJT Conservation Act (WJTCA) requires submittal of a WTJCA Incidental Take Permit application, accompanied by a census of western Joshua trees within the Project site and a 50-foot buffer (census area). At minimum, the census requires parallel survey transects throughout the Census Area, photographs of each tree, and tree measurements per CDFW protocol.</p> <p>Mitigation for direct and indirect impacts to two western Joshua trees identified in the census will be fulfilled through attainment of a Western Joshua Tree Conservation Act (WJTCA) Incidental Take Permit (ITP) prior to their removal and payment of the elected fees as described in Section 1927.3 of the WJTCA. In conformance with the 2025 standard fee schedule prescribed for the project area, mitigation will consist of payment of \$2,500 for each western Joshua tree 5 meters or greater in height, \$500 for each western Joshua tree less than 5 meters but greater than 1 meter in height, and \$340 for each western Joshua tree less than 1 meter in height. California Department of Fish and Wildlife (CDFW) determines the final fee based on the current version of the fee schedule.</p> <p>Alternatively, under a CESA ITP mitigation will occur through off-site conservation, through a CDFW-approved mitigation bank and/or through land acquisition and management and conservation in perpetuity thereof, or as required by a Section 2081 ITP. The project shall implement relocation specifications and tree protection</p>	<p>Prior to initiation of all ground disturbing activities</p>	<p>Project proponent</p>

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<p>measures provided in The Joshua Tree Preservation, Protection, and Relocation Plan (Joshua Tree Plan) for this project (Appendix A of BTR) and relocation as required by CDFW if CDFW deems relocation applicable.</p> <p>Other local regulations (i.e., City of Victorville Municipal Code Chapter 13.33 California Desert Native Plants Act, Food and Agricultural Code, Division 23)) also require permitting or notification prior to removal of western Joshua trees. Therefore, the project applicant must also receive written consent from the City of Victorville’s director of Parks and Recreation or their designee prior to the removal or relocation of western Joshua trees in accordance with City of Victorville Municipal Code Chapter 13.33, Preservation and Removal of Joshua Trees. Additionally, the project applicant shall obtain a permit through San Bernardino County and pay fees pursuant to the California Desert Native Plants Act, Sections 80001-80201, for all western Joshua trees to be removed prior to the issuance of grading permits.</p>		
<p><u>MM BIO-4</u></p> <p>A pre-construction burrowing owl survey shall be completed no more than 14 days before initiation of site preparation or grading activities. If ground-disturbing activities are delayed or suspended for more than 30 days after the pre-construction surveys, the project site shall be re-surveyed. Surveys for burrowing owl shall be conducted by a qualified biologist in accordance with protocols established in the Staff Report on Burrowing Owl Mitigation prepared by the California Department of Fish and Game (now California Department of Fish and Wildlife [CDFW]) in 2012 or current version.</p> <p>If burrowing owls are detected, the Project proponent shall fully avoid impacts to burrowing owl. If impacts to burrowing owl are unavoidable, the Project proponent should obtain a CESA ITP.</p>	<p>Prior to initiation of all ground disturbing activities</p>	<p>Project proponent and Qualified Biologist</p>

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<p>In the event an ITP is needed, mitigation for direct impacts to burrowing owl habitat will be fulfilled through compensatory mitigation determined through the permit process. Mitigation will be accomplished either through offsite conservation or through a CDFW-approved mitigation bank. If mitigation is not purchased through a mitigation bank and lands are conserved separately, a cost estimate will be prepared to estimate the initial start-up costs and ongoing annual costs of management activities for the management of the conservation easement area(s) in perpetuity. The funding source will be in the form of an endowment to help the qualified lands management entity that is ultimately selected to hold the conservation easement(s) and manage the lands in perpetuity. The endowment amount will be established following the completion of a project-specific Property Analysis Record to calculate the costs of in-perpetuity land management. The Property Analysis Record will consider all management activities required in the ITP and in the interim and long-term management plans to fulfill the requirements of the conservation easement(s).</p>		
<p><u>MM BIO-2</u></p> <p>Construction activities shall avoid the migratory bird nesting season (typically February 1 through August 31) to reduce any potential significant impact to birds that may be nesting on the survey area. Prior to ground disturbing activities, an avian nesting survey of the project site and within 500 feet of all impact areas must be conducted to determine the presence/absence of protected migratory birds and active nests. The avian nesting survey shall be performed by a qualified wildlife biologist within 72 hours prior to the start of construction in accordance with the Migratory Bird Treaty Act and California Fish and Game Code Sections 3503, 3503.5, and 3513. If an active bird nest is found, the nest shall be flagged for avoidance and mapped on the construction plans along with an appropriate buffer established</p>	<p>Prior to initiation of all ground disturbing activities</p>	<p>Project proponent and Qualified Avian Biologist</p>

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<p>around the nest, which will be determined by the biologist based on the species' sensitivity to disturbance (typically 300 feet for passerines and 500 feet for raptors and special-status species). The nest area shall be avoided until the nest is vacated and the juveniles have fledged. The nest area shall be demarcated in the field with flagging and stakes or construction fencing. On-site construction monitoring shall also be conducted when construction occurs in close proximity to an active nest buffer. No project activities may encroach into established buffers. The buffer shall remain in place until it is determined the nestlings have fledged and the nest is no longer considered active.</p>		
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