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State of California – Natural Resources Agency
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GAVIN NEWSOM, Governor
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September 25, 2025

Ben Goger, Senior Community and Development Planner
Mariposa County Planning Department
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Mariposa, CA 95338
(209) 966-5151
bgoger@mariposacounty.org

Subject: Mariposa Creek Parkway Phase III Hillside Trails Project (Project)
Initial Study/Mitigated Negative Declaration (MND)
State Clearinghouse No.: 2025081254

Dear Ben Goger:

The California Department of Fish and Wildlife (CDFW) received an MND from Mariposa County for the above referenced Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.[1]

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

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.

CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may

[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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need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

Nesting Birds: CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include sections 3503 (regarding unlawful take, possession, or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession, or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

Unlisted Species: Species of plants and animals need not be officially listed as Endangered, Rare, or Threatened (E, R, or T) on any State or Federal list to be considered E, R, or T under CEQA. If a species can be shown to meet the criteria for E, R, or T, as specified in the CEQA Guidelines section 15380, CDFW recommends it be fully considered in the environmental analysis for the Project.

PROJECT DESCRIPTION SUMMARY

Proponent: Mariposa County

Objective: The Project proposes to construct approximately 12.3 miles of nature trails and ancillary facilities including restrooms, parking, ecological restoration areas, and an outdoor classroom, which will branch off the planned Phase III section of the Mariposa Creek Parkway Trail. Ongoing activities associated with the Project include those related to the operation and maintenance of the Parkway including mowing, vegetation pruning, limbing of trees, and the restoration of trails as needed. The total Project area consists of approximately 235 acres.

Location: The Project site is located in the Sierra Nevada Mountain Range northeast of the City of Merced and south/southwest of the unincorporated community of Mariposa in the middle portion of Mariposa County. The Project site resides within Assessor's Parcel Numbers (APNs) 012-130-005, 012-140-040, and 013-190-008.

COMMENTS AND RECOMMENDATIONS

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

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The MND notes the Project site topography consists of rolling hills and mountains with elevations ranging from approximately 1,895 to 2,625 feet above mean sea level. Four biotic habitats were observed within the Project site including oak woodland, mixed oak/pine forest, chaparral, and creek habitat. The creek habitat includes Mariposa Creek located along the north/northeast portion of the Project site and an unnamed creek is located along the southern portion of the Project site. Both waterways contain sand-gravel-boulder bottoms and slow-moving water.

Currently, the MND acknowledges that the Project site is within the geographic range of several special-status animal species and proposes specific mitigation measures to reduce impacts to less than significant. CDFW has concerns about the ability of some of these measures to reduce impacts to less than significant and avoid unauthorized take for special-status animal species, including but not limited to: the State and federally threatened California tiger salamander - Central California Distinct Population Segment (DPS) (*Ambystoma californiense* pop. 1); the State candidate Crotch's bumble bee (*Bombus crotchii*); the State species of special concern and federally threatened California red-legged frog (*Rana draytonii*); and the State species of special concern pallid bat (*Antrozous pallidus)*.

CDFW also has concerns about the ability of the proposed Mitigation Measures (MM) to reduce impacts to less than significant and avoid unauthorized take for the special-status plant species, including: the State threatened, California Rare Plant Rank (CRPR) 1B.2 Mariposa Lupine (*Lupinus citrinus var. deflexus*); the State Rare, CRPR 1B.2 Congdon's woolly sunflower (*Eriophyllum congdonii*); and the State rare CRPR 1B.3 Yosemite Onion (*Allium yosemitense*).

California Tiger Salamander

The MND states that California tiger salamander (CTS) is absent from the Project site due to the Project site being outside the historical elevation range of the species. CDFW concurs that published data supports the historical range for the species to be below the elevation of the Project site; however, biological studies have shown that CTS are physiologically capable of dispersing up to approximately 1.5-miles from seasonally flooded wetlands (Searcy and Shaffer 2011). Further, CTS have previously been observed approximately 200 yards east of the north/ northeastern portions of the Project site, in the downtown Mariposa area. While the observation is currently pending publication within the CNDDB database, it has been field verified by multiple qualified biologists with expertise in the biology and identification of CTS. As the Project site has upland refugia habitat to support the species and the Project site is within proximity of their estimated range, CDFW finds there is potential for presence of CTS within the Project site. As such, CDFW recommends the following:

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Recommended Mitigation Measure 1: CTS Protocol Surveys

CDFW recommends that a qualified biologist conduct protocol-level surveys in accordance with the United States Fish and Wildlife Service (USFWS) "Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander" (USFWS 2003) at the appropriate time of year to determine the existence and extent of CTS breeding and refugia habitat. The protocol-level surveys for CTS require more than one survey season and are dependent upon sufficient rainfall to complete. As a result, consultation with CDFW is recommended well in advance of beginning the surveys and prior to any planned vegetation- or ground-disturbing activities. CDFW advises that the protocol-level survey include a 100-foot buffer around the Project site in all areas of wetland and upland habitat that could support CTS. Please be advised that protocol-level survey results are viable for two years after the results are reviewed by CDFW.

Recommended Mitigation Measure 2: CTS Avoidance Buffer

If CTS protocol-level surveys are not conducted, CDFW advises that a minimum 50-foot no-disturbance buffer be delineated around all small mammal burrows in suitable upland refugia habitat within and/or adjacent to the Project site. Further, CDFW recommends potential or known breeding habitat within and/or adjacent to the Project site be delineated with a minimum 250-foot no-disturbance buffer. Both upland burrow and wetland breeding no-disturbance buffers are intended to minimize impacts to CTS habitat and avoid take of individuals.

Recommended Mitigation Measure 3: CTS Take Authorization

If through surveys it is determined that CTS are occupying or have the potential to occupy the Project site, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA. In the absence of protocol surveys, the applicant can assume presence of CTS within the Project site and obtain an ITP from CDFW.

Crotch's Bumble Bee

The MND states the occurrence of Crotch's bumble bee (CBB) as possible within the Project site. MM BIO-13 and BIO-14 provide for a preconstruction survey and indicate if a CBB nest is observed during survey efforts that no Project activities will occur within 50 feet of the nest until the species is identified. CDFW is concerned that the measure's language, which indicates three flying bumble bee and nest surveys would be conducted during the peak flying periods, does not specify that they would be protocol level surveys and therefore may not be sufficient to identify CBB and their nests. In

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addition, BIO-13 states that CBB surveys will be conducted within or adjacent to creek habitat. CDFW is concerned that as proposed MM BIO-13 does not consider other areas within and adjacent to the Project site that may also contain suitable habitat for the species. CBB may inhabit a variety of habitats, including grasslands, scrublands, openings in woodlands, and areas with bare ground such as vacant lots, dirt roads, and levees (Xerces Society et al. 2018). CBB use requisite habitat elements for nesting, such as small mammal burrows and bunch/thatched grasses, which may be present in or near the Project site. CDFW recommends that a qualified biologist conduct focused surveys for CBB, and their requisite habitat features following the methodology outlined in the Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species (CDFW 2023).

Further the MND states that bumble bee individuals need to be captured to be identified. Please note that the capture of CBB, or other special-status bee species, for identification is considered take and would require a Scientific Collecting permit or an Incidental Take Permit to comply with CESA. As such, CDFW recommends the following:

Recommended Mitigation Measure 4: CBB Protocol Surveys

Depending on the time between the initial survey efforts, if potentially suitable habitat is identified and regardless of what time of year Project activities will be conducted, CDFW recommends that a qualified biologist conduct focused surveys for CBB and their requisite habitat features following the methodology outlined in the Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species (CDFW 2023).

Recommended Mitigation Measure 5: CBB Avoidance Buffer

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

Recommended Mitigation Measure 6: CBB Take Authorization

If take cannot be avoided, CDFW recommends acquiring an ITP pursuant to Fish and Game Code Section 2081(b), prior to initiating ground-disturbing activities.

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California Red-Legged Frog

The MND states the occurrence of California Red-Legged Frog (CRLF) as possible within the Project site. MM BIO-10 and BIO-11 provide for a preconstruction survey and a daily pre-activity clearance survey, including Project activity monitoring near creek habitat by a qualified biologist. CDFW concurs with these measures; however, if CRLF are detected during the preconstruction or daily pre-activity clearance surveys, CDFW recommends the following:

Recommended Mitigation Measure 7: CRLF Avoidance
If any CRLF are found during preconstruction surveys or at any time during construction, CDFW recommends avoidance whenever possible via delineation and observance of a 50-foot no-disturbance buffer around CRLF and their burrows. If CRLF are observed on the Project site, CDFW also recommends that Project activities in the immediate vicinity cease, allowing individuals to leave the Project site on their own accord. Finally, CDFW recommends that initial ground-disturbing activities be timed to avoid the period when CRLF are most likely to be moving through upland areas (November 1 and March 31). When ground-disturbing activities must take place between November 1 and March 31, CDFW recommends a qualified biologist monitor construction activity daily for CRLF.

Pallid Bat

The MND states the occurrence of Pallid bat (PBA) as possible within the Project site. MM BIO-20, BIO-21and BIO-22 provide for a preconstruction survey, construction buffer zones, and avoidance of identified maternity bat roosts. CDFW is concerned that the language included in the MND does not adequately minimize potentially significant impacts to less than significant. Specifically, the methods to be used during focused surveys for PBA presence, the establishment of a no-disturbance buffer to be implemented during all Project activities. As such, CDFW recommends the following:

Recommended Mitigation Measure 8: Pallid Bat Focused Surveys
CDFW recommends focused surveys to establish species usage and seasonal usage. Focused survey methodology is advised to include visual surveys of bats (observation of presence of bats during foraging period), inspection for suitable habitat or bat sign (guano), and use of ultrasonic detectors (Anabat, Sonobat, etc.) during all dusk emergence and pre-dawn re-entry. To maximize detectability, each survey needs to be conducted within one 24-hour period.

Recommended Mitigation Measure 9: Bat Roost Disturbance Avoidance and Minimization

If bats are present, CDFW recommends that a 100-foot no-disturbance buffer be placed around the roost and installing new roost sites to be in place prior to the

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initiation of Project related activities to allow enough time for bats to relocate. If a bat roost is identified and work is planned to occur during the breeding season, CDFW recommends that no disturbance to maternity roosts occur and that CDFW be consulted to determine measures to prevent breeding disruption or failure.

Special-Status Plants

The MND lists Congdon's woolly sunflower and Mariposa lupine as possible for occurrence within the Project site, and Yosemite onion as absent within the Project site due to it being outside of its elevation range. CDFW does not concur as Calflora lists Yosemite onion elevation range as 1,770 to 6,955 feet and California Native Plant Society lists 1,755 to 7,229 feet, both of which are within the elevational range of the Project. CDFW recommends adding Yosemite onion to the survey protocol and avoidance buffer provided in mitigation measure (MM) BIO-4 and MM BIO-5. CDFW concurs with these measures but recommends if special-status plants are detected, an avoidance buffer of a minimum of 50 feet be established from the outer edge of the plant population(s) or specific habitat type(s) required by special-status plant species.

Congdon's woolly sunflower and Yosemite onion are designated as State Rare under the California Native Plant Protection Act of 1977 (NPPA) which is only applicable to the 64 species, subspecies, and varieties of plants that are specifically identified as part of the NPPA. The unauthorized take of plant species listed as threatened, endangered, or rare pursuant to CESA or the NPPA is a violation of Fish and Game Code. As such, CDFW recommends the following:

Recommended Mitigation Measure 10: **Special-status Plant Consultation and Take Authorization**

During protocol surveys if special-status plant species, including State endangered, threatened, or rare plants, are identified during botanical surveys, consultation with CDFW is recommended to avoid take. For State CESA and NPPA listed species, If take cannot be avoided, CDFW recommends the Project obtain an ITP, pursuant to Fish and Game Code section 2081 subdivision (b) and/or California Code of Regulations, Title 14, Section 786.9, subdivision (b) to comply with CESA and the NPPA.

Editorial Comments and/or Suggestions

Nesting Birds: CDFW encourages that Project ground-disturbing activities occur during the bird non-nesting season; however, if ground-disturbing or vegetation-disturbing activities must occur during the nesting season (February 1st through September 15th), the Project applicant is responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Code sections as referenced above. MM BIO-7 and BIO-8 lists the nesting bird season as

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February 1st to August 15th, CDFW recommends extending the latter date to September 15th to minimize and avoid potential impacts to nesting birds.

If the nesting season cannot be avoided, CDFW recommends that a qualified biologist conduct a pre-construction survey for active nests no more than 10 days prior to the start of ground or vegetation disturbance to maximize the probability that nests that could potentially be impacted are detected. CDFW also recommends that surveys cover a sufficient area around the Project site to identify nests and determine their status. A sufficient area means any area potentially affected, either directly or indirectly, by the Project. In addition to direct impacts (i.e., nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. CDFW recommends that a qualified biologist establish a behavioral baseline of all identified nests. Once Project activities begin, CDFW recommends having a qualified biologist continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends halting the work causing that change and consulting with CDFW for additional avoidance and minimization measures.

MM BIO-9 provides for avoidance buffers to be determined by a qualified biologist based upon applicable CDFW/United States Fish and Wildlife Service (USFWS) guidelines. If continuous monitoring of identified nests by a qualified biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined the birds have fledged and are no longer reliant upon the nest or on-site parental care for survival. Variance from these no-disturbance buffers is possible when there is a compelling biological or ecological reason to do so, such as when the Project site would be concealed from a nest site by topography. CDFW recommends that a qualified biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

Project Lighting: The MND describes the Project would provide new sources of light and glare by installing trial lighting fixtures. Installation of outdoor artificial night lighting can disrupt the circadian rhythms of many wildlife species. Many species use photoperiod cues for communication, determining when to begin foraging, thermoregulation behavior, and migration (Longcore and Rich 2004, Miller 2006, Nightingale et al. 2006, Perry et al. 2008, Stone et al. 2009). Phototaxis, a phenomenon which results in attraction and movement towards light, can disorient, entrap, and temporarily blind wildlife species that experience it (Longcore and Rich 2004). Project activities could result in disruption of wildlife behavior, inadvertent injury, or mortality.

CDFW recommends that the MND for the Project include an analysis of the impacts of artificial lighting on biological resources and incorporate enforceable mitigation measures to decrease the impacts of artificial outdoor lighting on wildlife species.

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Potentially feasible mitigation measures include motion sensitive lighting; mounting light fixtures as low as possible to minimize light trespass; use of light fittings that direct and confine the spread of light downward; and use of long-wavelength light sources. In addition, CDFW recommends that lighting not be installed in ecologically sensitive areas (e.g., streams, wetlands, and habitat used by special status species, such as nesting/roosting sites and riparian corridors) and the use of the white/blue wavelengths of the light spectrum be avoided.

Lake and Streambed Alteration: The MND states the Project site includes Mariposa Creek along the north/northeast portion of the site and an unnamed creek along the southern portion of the site. Though the MND states that no Project activities are proposed within the creek, the document further describes construction related activities that may result in impacts to hydrological features including associated riparian habitat. CDFW notes that Project activities that substantially change the bed, bank, and channel of any river, stream, or lake are subject to CDFW's regulatory authority pursuant Fish and Game Code section 1600 et seq. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake (including the removal of riparian vegetation): (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral or intermittent as well as those that are perennial and may include those that are highly modified such as canals and retention basins.

CDFW is required to comply with CEQA in the issuance of a Lake or Streambed Alteration Agreement; therefore, if the CEQA document approved for the Project does not adequately describe the Project and its impacts to lakes or streams, a subsequent CEQA analysis may be necessary for Lake or Streambed Alteration Agreement issuance. For information on notification requirements, please refer to CDFW's website (https://wildlife.ca.gov/Conservation/LSA) or contact CDFW staff in the Central Region Lake and Streambed Alteration Program at (559) 243-4593.

CNDDB Positive Submission of Data: Please note that the California Natural Diversity Database (CNDDB) is populated by and records voluntary submissions of species detections. As a result, species may be present in locations not depicted in the CNDDB but where there is suitable habitat and features capable of supporting species. A lack of an occurrence record in the CNDDB does not mean a species is not present. In order to adequately assess any potential Project-related impacts to biological resources, surveys conducted by a qualified wildlife biologist/botanist during the appropriate survey period(s) and using the appropriate protocol survey methodology are warranted to determine whether or not any special-status species are present at or near the Project site.

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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.

FILING FEES

The Project, as proposed, could have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental document filing fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

CONCLUSION

CDFW appreciates the opportunity to comment on the MND to assist Mariposa County in identifying and mitigating Project impacts on biological resources. A Mitigation and Monitoring Program (MMRP) (Attachment 1) is included to assist Mariposa County with incorporating the recommended mitigation measures provided above. Questions regarding this letter or further coordination should be directed to John Riedel, Environmental Scientist, at (559) 807-1453 or John.Riedel@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Julie Vance
FA83F09FE08945A...
Julie A. Vance
Regional Manager

Attachment (MMRP)

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and western bumble bee (Bombus occidentalis occidentalis) as Endangered under the California Endangered Species Act. October 2018.

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Attachment 1

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

PROJECT: Mariposa Creek Parkway Phase III Hillside Trails Project

SCH No.: 2025081254

RECOMMENDED MITIGATION MEASURE	**STATUS/DATE/INITIALS**
Before Disturbing Soil or Vegetation	
California Tiger Salamander (CTS)	
Recommended Mitigation Measure 1: CTS protocol surveys	
Recommended Mitigation Measure 3: CTS take authorization	
Crotch's Bumble Bee (CBB)	
Recommended Mitigation Measure 4: CBB protocol surveys	
Recommended Mitigation Measure 6: CBB take authorization	
Pallid Bat (PBA)	
Recommended Mitigation Measure 8: PBA focused surveys	
Special-Status Plants (SSP)	
Recommended Mitigation Measure 10: SSP consultation and take authorization	
During Construction	
California Tiger Salamander (CTS)	
Recommended Mitigation Measure 2: CTS avoidance buffer	
Crotch's Bumble Bee (CBB)	
Recommended Mitigation Measure 5:	

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CBB avoidance buffer	
California Red-Legged Frog (CRLF)	
Recommended Mitigation Measure 7: CRLF avoidance buffer	
Pallid Bat (PBA)	
Recommended Mitigation Measure 9: PBA roost avoidance and minimization	