



STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

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April 6, 2026

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Subject: Travis Safe Routes to School and Transit Project, Mitigated Negative Declaration, SCH No. 2026020982, Solano County

Dear David Vong:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) from the City of Fairfield (City) for the Travis Safe Routes to School and Transit Project (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

CDFW is submitting comments on the MND to inform the City, as the Lead Agency, of our concerns regarding potentially significant impacts to biological resources associated with the Project, and recommended mitigation measures, as further described below and in **Attachment 1**.

CDFW ROLE

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

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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PROJECT DESCRIPTION SUMMARY

Proponent: City of Fairfield

Objective: The Project involves construction of a mixture of Class I, Class III and Class IV trails connecting the Fairfield-Vacaville Hannigan Train Station with three schools and Travis Air Force Base. The purpose of the Project is to provide safe transportation pathways between existing schools. The path of the new trail encompasses the Train Station South Portal to the Markeley Lane-Viking Lane intersection (Class I temporary trail), Markeley Lane (Class IV), and De Ronde Drive (Class IV); intersects Forbes Street; and parallels the storm drain channel (Class I), Air Base Parkway (Class I), and Parker Road (Class III). Proposed improvements would include lighting, camera system, wayfinding signage, storm water low-impact development (LID), and potentially seating areas if funding allows.

Location: The Project will occur in the City of Fairfield, Solano County, State of California, with an approximate centroid of 38.277626° Latitude, -121.960420° Longitude.

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 California tiger salamander (*Ambystoma californiense*), Swainson's hawk (*Buteo swainsoni*), and tricolored blackbird (*Agelaius tricolor*), all CESA listed as threatened species; San Joaquin Valley Orcutt grass (*Orcuttia inaequalis*), a CESA listed as endangered species; and burrowing owl (*Athene cunicularia*), a candidate species for CESA listing, as further described below. The Project also has the potential to impact Crotch's bumble bee (*Bombus crotchii*), a candidate species for CESA listing, thank you for including Mitigation Measure BIO-2a and -2b to mitigate impacts to this species.** Issuance of a CESA ITP is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the project will impact CESA listed species, early consultation is encouraged, as significant modification to the project and mitigation measures may be required in order to obtain a CESA ITP.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially restrict the range or reduce the population of a threatened or endangered species. (Pub. Resources Code, §§ 21001, subd. (c) & 21083; CEQA Guidelines, §§ 15380, 15064, & 15065.). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead

² "Take" means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill (Fish & G. Code, § 86).

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Agency makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency's FOC does not eliminate the project proponent's obligation to comply with CESA.

Lake and Streambed Alteration

An LSA Notification, pursuant to Fish and Game Code section 1600 et seq., is required for project activities affecting lakes or streams and associated riparian habitat. Notification is required for any activity that 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 notification requirements. **The Project appears to cross Union Creek, an unnamed tributary, and a hydrologically connected wetland (vernal pool) (MND Figure 4-2, page 4-29). If the Project would impact streams or wetlands that are hydrologically connected to streams, CDFW recommends that the MND include a mitigation measure requiring the Project to submit an LSA notification to CDFW and comply with the streambed alteration agreement, if issued.** CDFW will consider the CEQA document for the project and may issue an LSA Agreement. CDFW may not execute the final LSA Agreement (or ITP) until it has complied with CEQA as a Responsible Agency.

Raptors and Other Nesting Birds

CDFW has jurisdiction over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nests or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird). Migratory birds are also protected under the federal Migratory Bird Treaty Act (MBTA).

California Fully Protected Species

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

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

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Specified types of infrastructure projects may be eligible for an ITP for unavoidable impacts to fully protected species if certain conditions are met (Fish & G. Code § 2081.15). Project proponents should consult with CDFW early in the project planning process. **The Project has the potential to impact white-tailed kite (*Elanus leucurus*), a California fully protected species. Thank you for including MM BIO-5 to mitigate impacts to this and other raptor species.**

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. Based on the Project's avoidance of significant impacts on biological resources with implementation of mitigation measures, including those CDFW recommends in **Attachment 1**, CDFW concludes that a MND is appropriate for the Project.

I. Mitigation Measure and Environmental Setting Related Impact Shortcomings

Mandatory Findings of Significance: Does the Project have the 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: California Tiger Salamander, MND pages 4-19, 31, 34, 35, 39, 40

Issue, specific impacts, why they may occur and be potentially significant: The MND does not adequately evaluate and mitigate potential impacts to California tiger salamander. Thank you for including Mitigation Measure (MM) BIO-3 (MND page 4-31) requiring a CESA ITP from CDFW for California tiger salamander, however, it only applies to habitat north of Markeley Lane and based on Google Earth aerial imagery and street view images the Project also appears to overlap with suitable California tiger salamander grassland habitat south of Markeley Lane. Additionally, the MND concludes that there is no California tiger salamander breeding habitat in the Project area, however it is unclear how it was determined that some aquatic resources within and adjacent to the Project area depicted on Figure MND 4-1 are unsuitable as California tiger salamander breeding habitat.

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Based on the California Natural Diversity Database (CNDDDB), there are five documented larval California tiger salamander occurrences recorded within 0.7 miles of the Project area, the closest of which is within 0.09 miles from the Project area (as noted in the MND page 4-28). Part of the Project area south of Markeley Lane appears to support California tiger salamander upland habitat that is within 0.1 miles of documented or potential California tiger salamander breeding habitat (1.3 miles is the estimated mobility range of California tiger salamander from breeding habitat).

The Project could result in unmitigated impacts to California tiger salamander and their upland or breeding habitat including, but not limited to: 1) direct impacts in the entire Project area where suitable California tiger salamander habitat occurs, including, but not limited to north and south of Markeley Lane. Direct impacts would include permanent and temporary habitat loss from ground-disturbing activities and mortality of California tiger salamander, and 2) indirect impacts, such as increased lighting and other edge effects and hydrological modifications that alter offsite habitat, which also may result in injury or mortality of California tiger salamander. California tiger salamander is a CESA listed as threatened species, and the Central California distinct population segment is also federally listed as threatened. Thus, California tiger salamander is considered threatened under CEQA pursuant to CEQA Guidelines section 15380. Therefore, if California tiger salamander habitat is present on or adjacent to the entire Project area where suitable California tiger salamander habitat occurs, including, but not limited to north and south of Markeley Lane, the Project may substantially reduce the number or restrict the range of a threatened species, 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 California tiger salamander to less-than-significant and comply with CESA, CDFW recommends revising MM BIO-3 as follows:

Mitigation Measure BIO-3 (Secure Take Authorization for California Tiger Salamander, Vernal Pool Fairy Shrimp [*Branchinecta lynchi*], and Vernal Pool Tadpole Shrimp [*Lepidurus packardii*] and Implement All Permit Conditions; Preserve and Enhance Upland Habitat; Preserve and Create Breeding Habitat. (TSSP EIR Mitigation Measures 4.4-2a and -2b)):

1. No Project construction shall proceed until take authorization for California tiger salamander has been obtained from the USFWS and CDFW, and the City has abided by all conditions in the take authorization, including conservation and minimization measures, intended to be completed before on-site construction; and
2. The City shall preserve upland habitat at a minimum 3:1 ratio and create 0.01 acre of breeding habitat per acre of upland habitat removed or as specified in the USFWS and CDFW incidental take authorizations. All habitat mitigation lands shall

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be preserved in perpetuity and incompatible land uses shall be prohibited in habitat conservation areas.

COMMENT 2: Swainson's Hawk, MND pages 4-19, 4-33 through 4-37

Issue, specific impacts, why they may occur and be potentially significant: The MND does not adequately evaluate and mitigate potential impacts to Swainson's hawk. MM BIO-5 (MND page 4-33) states that "To the extent feasible, guidelines provided in Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in the Central Valley (Swainson's Hawk Technical Advisory Committee 2000) shall be followed for surveys for Swainson's hawk." However, "to the extent feasible" is non-compulsory and the protocol surveys are often necessary to ensure detection of the species. There are CNDDDB documented Swainson's hawk nests within 500 feet of the Project area and within 0.5 miles of it, the distance at which the species may be disturbed. The Project has the potential to impact nesting Swainson's hawk through auditory or visual disturbances above ambient levels within 0.5 miles of Project activities. Direct or indirect disturbances from Project activities may result in Swainson's hawk nest abandonment, loss of nests, and loss of eggs or reduced health and vigor and loss of young.

If a Swainson's hawk 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 Swainson's hawk, to less-than-significant and comply with CESA, and Fish and Game Code section 3503.5, CDFW recommends revising MM BIO-5 to include the below measure.

Mitigation Measure BIO-5 (Swainson's Hawk Surveys and Avoidance Buffer): If Project activities are scheduled during the nesting season for Swainson's hawks (March 1 to September 15), prior to beginning work on the Project, a qualified biologist shall conduct surveys according to the Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83990&inline>) and prepare a report documenting the survey results. The Project shall obtain CDFW's written approval of the qualified biologist and survey report prior to starting construction activities between March 1 and September 15. Survey methods shall be closely followed by starting early in the nesting season (late March to early April) to maximize the likelihood of detecting an active nest (nests, adults, and chicks are more difficult to detect later in the growing season because trees become less transparent as vegetation increases). Surveys shall be conducted: 1) within a minimum 0.5-mile radius of the Project site or a larger area if needed to identify potentially impacted active nests, unless otherwise approved by CDFW in writing, and 2) for at least the two survey periods immediately prior to initiating Project-related construction activities. Surveys shall occur annually for the duration of the

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Project. The qualified biologist shall have a minimum of two years of experience implementing the survey methodology. If active Swainson's hawk nests are detected, the Project shall immediately notify CDFW and implement a 0.5-mile construction avoidance buffer around the nest until the nest is no longer active as determined by a qualified biologist, unless otherwise approved by CDFW in writing. Any detected nesting Swainson's hawk shall be monitored by the qualified biologist to ensure it is not disturbed during construction activities, unless otherwise approved in writing by CDFW. If take of Swainson's hawk cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP before Project activities commence.

COMMENT 3: Burrowing Owl, MND pages 4-19, 4-33 through 4-37

Issue, specific impacts, why they may occur and be potentially significant: The MND does not adequately evaluate and mitigate potential impacts to burrowing owl. MM BIO-5.4 (MND page 4-34) describes that if an active burrowing owl nest is found during the non-breeding season they may be evicted using passive relocation. CDFW does not consider exclusion of burrowing owl (i.e., passive removal of an owl from its burrow or other shelter) as a "take" avoidance, minimization, or mitigation measure. 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.

Additionally, MM BIO-5.5 requires a 250-foot avoidance buffer for nesting burrowing owl, however this species can be impacted by audio or visual disturbances up to 500 meters (1,640 feet) away according to the *Department of Fish and Game Staff Report on Burrowing Owl Mitigation* (2012). There are CNDDDB documented burrowing owl occurrences within the Project area and within 500 meters of it. 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 CESA candidate species 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 squirrel (*Otospermophilus beecheyi*) resulting in a loss of suitable burrows required by burrowing owl for nesting, protection from predators, and shelter (Shuford and Gardali 2008; *Department of Fish and Game Staff Report on Burrowing Owl Mitigation* (2012); 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

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breeding areas, and statewide where the species has experienced breeding range retraction (*Department of Fish and Game Staff Report on Burrowing Owl Mitigation (2012)*; personal communication, Esther Burkett, May 13, 2022). Information indicates a decline in burrowing owl range over time, burrowing owl has experienced population declines in regions of California, and threats to burrowing owl, coupled with long-term population declines, suggest a high degree and immediacy of threat to burrowing owl in California (CDFW 2024).

If burrowing owl are wintering or nesting on or within 500 meters of the Project area, Project impacts to burrowing owl would be *potentially significant*.

Recommended Mitigation Measures: To reduce potential impacts to burrowing owl to less-than-significant and comply with CESA and Fish and Game Code section 3503 et seq., CDFW recommends revising MM BIO-5 to include the below measure.

Mitigation Measure BIO-5 (Burrowing Owl Survey and Avoidance Buffer): A qualified biologist shall conduct a burrowing owl habitat assessment within 500 meters (1,640 feet) of the Project area pursuant to the *Department of Fish and Game (now CDFW) Staff Report on Burrowing Owl Mitigation (CDFW 2012 Staff Report, available at: <https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds>)*, unless otherwise approved in writing by CDFW. The qualified biologist shall have a minimum of two years of experience implementing the CDFW 2012 Staff Report survey methodology resulting in detections. The habitat assessment shall focus on searching the CNDDDB and potentially other sources for any burrowing owl records on or within one mile of the Project area, vegetation type and height, suitable burrows (with an opening greater than 11 centimeters [cm] in diameter and a depth greater than 150 cm), burrow surrogates (culverts, piles of concrete rubble, piles of soil, burrows created along soft banks of ditches and canals, pipes, and similar structures), and presence of burrowing owl sign (tracks, molted feathers, cast pellets, prey remains, egg shell fragments, owl white wash, and nest burrow decoration material), and the presence of burrowing owl individuals or pairs. If the habitat assessment does not identify suitable habitat and surveys are not conducted as described below, an additional habitat assessment shall be conducted within 14 days prior to construction and if new potentially suitable burrowing owl refugia are present surveys shall be conducted as described below, unless otherwise approved in writing by CDFW. The results of the habitat assessment shall be emailed to the CDFW contact below, or if unavailable another CDFW representative, and the Project shall obtain CDFW's written approval of the habitat assessment prior to starting Project activities.

If suitable burrowing owl habitat is observed, 4 surveys shall be conducted to detect the presence of burrowing owl pursuant to the CDFW 2012 Staff Report. The site visits shall be spread evenly throughout the breeding or non-breeding season. The Project shall obtain CDFW's written approval of the survey results prior to starting Project activities. In addition,

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a survey shall be completed within 14 days prior to the start of construction, as described in the CDFW 2012 Staff Report. Surveys shall occur during burrowing owl nesting and wintering seasons for the duration of the Project, unless otherwise approved in writing by CDFW.

If burrowing owl is detected, the Project shall immediately notify CDFW. The Project shall avoid impacts to the burrowing owl and implement a 1,640-foot buffer area around the owl site in which no Project activities shall occur, unless otherwise approved in writing by CDFW. A qualified biologist shall monitor any detected owl to ensure it is not disturbed.

If the Project cannot ensure burrowing owl and their burrows are fully avoided, the Project shall consult with CDFW and obtain a 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 substantially changed. 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 area during burrowing owl surveys, but not on the Project area, the Project shall consult with CDFW to determine if avoidance is feasible or an ITP is warranted, and shall obtain an ITP if take cannot be avoided and comply with the ITP. The City shall mitigate the loss of unoccupied wintering or nest sites through preservation, through a conservation easement or purchase of wintering or nesting burrow credits from a CDFW approved conservation bank, of other known wintering or nest sites, as applicable, at a ratio of 2:1 unless another ratio is required by an ITP, in which case the City shall comply with the ITP.

Mitigation Measure BIO-5.1 (Caps, 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 area 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.

COMMENT 4: Tricolored Blackbird, MND page 4-19

Issue, specific impacts, why they may occur and be potentially significant: The MND does not adequately evaluate and mitigate potential impacts to tricolored blackbird. Mitigation Measure BIO-6 (MND page 4-35) requires a buffer distance of 50 feet for surveys and detected nests, however this species can be disturbed at greater distance than 50 feet.

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There are CNDDDB documented occurrences of tricolored black bird within 1.5 miles of the Project area. Tricolored blackbird utilizes grassland and wetland habitats for nesting and foraging, and it appears that there is suitable habitat within the Project area and 500 feet of it. The Project has the potential to impact nesting tricolored blackbird through direct nest impacts or auditory or visual disturbances above ambient levels. Project activities that occur between February 15 and August 31 could disturb nesting tricolored blackbirds leading to reduced nest and colony success, nest abandonment, and potential loss of eggs and mortality of young. Birds may initiate nesting during intensive construction and then abandon the nest when construction intensifies.

The statewide tricolored blackbird population has declined between 75 percent and 90 percent over the last 25 years and remains at or near its smallest recorded size (CDFW 2018). Tricolored blackbird is a CESA listed as threatened species and therefore is considered to be a threatened species pursuant to CEQA Guidelines section 15380. Therefore, if an active tricolored blackbird 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 tricolored blackbirds to less-than-significant and comply with CESA and Fish and Game Code section 3500 et seq., CDFW recommends revising MM BIO-6 to include the below mitigation measure.

Mitigation Measure BIO-6.1 (Tricolored Blackbird Nest Avoidance): If nesting tricolored black birds are detected during nesting bird surveys described in recommended Mitigation Measure BIO-6 below or otherwise, a qualified biologist shall:

- Map the location of the nest site and immediately notify CDFW;
- Establish a clearly marked no-disturbance buffer around the nest site. Buffer distances shall be site specific and an appropriate distance to ensure impacts are avoided, as determined by a qualified biologist, *and not less than 500 feet for tricolored blackbird nests*, unless otherwise approved in writing by CDFW;
- Monitor any active nest daily and ensure that the no-disturbance buffer is maintained, unless otherwise approved in writing by CDFW;
- Construction may resume when a qualified biologist has confirmed that the birds have fledged and are no longer dependent on parental care around the nest site; and

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- If impacts to nesting tricolored blackbird cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP before Project activities commence, and comply with the ITP.

COMMENT 5: San Joaquin Valley Orcutt Grass and other Special-Status Plants, MND page 4-19, 4-20 through 4-27

Issue, specific impacts, why they may occur and be potentially significant: The MND does not adequately evaluate and mitigate potential impacts to San Joaquin Valley Orcutt grass and other special-status plants. Thank you for including MM BIO-1a (MND page 4-25) which describes conducting protocol plant surveys prior to ground-disturbing activities, however, the measure: 1) does not state what specific protocol the surveys will follow, 2) states surveys shall be conducted no more than five years prior to Project activities which is an inadequately long survey interval, as habitats such as grasslands or desert plant communities that have annual and short-lived perennial plants as major floristic components may require multiple annual surveys to fully capture baseline conditions according to *CDFW's 2018 Protocol for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities*, and 3) does not include providing the results to CDFW for review and written approval. There is one CNDDDB documented occurrences of San Joaquin Valley Orcutt grass within four miles of the Project area and there appears to be suitable habitat including vernal pool and freshwater wetland within and adjacent to the Project area. The Project has potential to impact San Joaquin Valley Orcutt grass and other special-status plants.

San Joaquin Valley Orcutt grass is listed as endangered under CESA therefore this species is considered to be endangered pursuant to Section 15380 of the CEQA Guidelines. Therefore, if San Joaquin Valley Orcutt grass is present in the Project area or adjacent to it and would be directly or indirectly impacted by the Project, the Project could substantially reduce the population or restrict the range of an endangered species, which would be considered a *mandatory finding of significance* pursuant to Section 15065, subdivision (a) of the CEQA Guidelines.

Impacts to other special-status plant species may result in local population declines or extirpation of a species. Insufficient detection or mitigation may result in prolonged temporal or permanent impacts to a special-status plant species' range, distribution, and population in the State. Therefore, if other special-status plants occur on or adjacent to the Project area where they may be directly or indirectly impacted, impacts to other special-status plants would be *potentially significant*.

Recommended Mitigation Measure: To reduce potential impacts to San Joaquin Valley Orcutt grass and other special-status plants to less-than-significant and comply with CESA, CDFW recommends revising MM BIO-1 to include the below mitigation measure.

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Mitigation Measure BIO-1 (Conduct Special-Status Plant Surveys: Implement Avoidance and Mitigation Measures and Compensatory Mitigation for Specialstatus Plants): Prior to the start of Project activities, a qualified biologist shall conduct a habitat assessment for special-status plants. If potential habitat for special-status plants is present, botanical surveys shall be conducted during the appropriate blooming period and conditions for all special-status plants that have the potential to occur within or near the Project where they may be directly or indirectly impacted by for example, modifications to hydrological conditions. More than one year of surveys during appropriate conditions to fully capture baseline conditions may be necessary, especially in habitats such as grasslands or desert plant communities that have annual and short-lived perennial plants as major floristic components. Surveys shall include visiting reference population unless otherwise approved in writing by CDFW. Surveys and associated reporting shall be conducted according to CDFW's 2018 Protocol for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (see: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>). Surveys may be valid for two years once baseline conditions are fully captured, unless otherwise approved by CDFW in writing. The habitat assessment and survey reports shall be submitted to CDFW prior to the start of construction.

Project activities shall not proceed until CDFW has provided written approval of the habitat assessment and survey reports. If any special-status plant species are observed, the Project shall fully avoid direct and indirect impacts to all individuals and prepare and implement a CDFW-approved avoidance plan prior to Project activities. If full avoidance is not possible, Project activities may not commence until the Project has consulted with CDFW and obtained CDFW's written approval, which may include topsoil salvage, transplanting, or habitat compensation. The Project shall obtain and comply with a CESA ITP from CDFW for any impacts to San Joaquine Valley Orcutt grass or any other CESA or NPPA listed plants, and provide habitat compensation to mitigate impacts to San Joaquine Valley Orcutt grass or any other CESA or NPPA listed plant species at a minimum 3 to 1 mitigation to impact ratio, unless otherwise approved in writing by CDFW. Habitat compensation shall include placing a conservation easement over occupied habitat for the applicable species and preparing, funding, and implementing an interim and long-term management plan, unless otherwise approved in writing by CDFW. The habitat compensation location, conservation easement, and all associated land conservation documents including, but not limited to the management plans shall be submitted to CDFW for review and the Project shall obtain CDFW's written approval of these documents, unless otherwise approved in writing by CDFW. The conservation easement shall be recorded and management plans funding shall be completed prior to Project construction, unless otherwise approved in writing by CDFW. The Project shall also obtain USFWS authorization for impacts to federally listed plant species.

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COMMENT 6: Nesting Birds, MND page 4-35

Issue, specific impacts, why they may occur and be potentially significant: The MND does not adequately evaluate and mitigate potential impacts to nesting passerine birds. MM BIO-6 (MND page 4-35) requires a buffer distance of 50 feet for surveys and detected nests, however nesting passerine birds can be disturbed at a greater distance than 50 feet.

Nesting birds are protected by Fish and Game Code section 3500 et seq. and the federal MBTA. Human activity and removal of habitat has contributed to the loss of a significant proportion of the total number of birds in the United States and Canada since the 1970s (Rosenburg et al. 2019). Nesting birds may be disturbed by habitat removal or noise and visual disturbances above ambient levels, which could result in active nest loss or abandonment or reduced health and vigor of young, resulting in a *potentially significant impact*.

Recommended Mitigation Measure: To reduce potential impacts to nesting birds to less-than-significant and comply with Fish and Game Code section 3500 et seq. and MBTA, CDFW recommends revising MM BIO-6 as follows.

Mitigation Measure BIO-6 (Nesting Bird Surveys): If construction, grading, vegetation removal, or other project-related activities are scheduled during the avian nesting season, February 1 to August 31, a qualified biologist shall conduct a survey for active bird nests within 7 days prior to the beginning of Project-related activities. The survey shall cover the entire project area and a *minimum 500-foot buffer* or the distance necessary as determined by a qualified biologist. If a lapse in project-related work of seven days or longer occurs, another survey shall be conducted before Project work can be reinitiated. If an active nest is found during surveys, the qualified biologist shall immediately notify CDFW and establish site- and species-specific no-work buffers to ensure the nest is not disturbed. The buffer distances shall be specified to protect the bird's normal behavior to prevent nesting failure or abandonment and comply with Fish and Game Code section 3500 et seq. and the federal MBTA. Abnormal nesting behaviors which may cause reproductive harm include, but are not limited to, defensive flights/vocalizations directed towards project personnel, standing up from a brooding position, and flying away from the nest. The qualified biologist shall have authority to order the cessation of all nearby project activities if the nesting birds exhibit abnormal behavior which may cause reproductive failure (nest abandonment and loss of eggs and/or young) until an appropriate buffer is established.

The qualified biologist shall monitor the behavior of the birds (adults and young, when present) at the nest site to ensure that they are not disturbed by project work. Nest monitoring shall continue during project work until the young have fully fledged (have

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completely left the nest site and are no longer being fed by the parents), as determined by the qualified biologist, unless otherwise approved in writing by CDFW.

ENVIRONMENTAL DATA

CEQA requires that information developed in 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 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>.

FILING FEES

CDFW anticipates that the Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish & G. Code, § 711.4; Pub. Resources Code, § 21089). Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW.

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 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 Land Use and Climate Innovation SCH No. 2026020982
Vincent Griego, US Fish and Wildlife Service - Vincent.Griego@fws.gov
Alicia Pisani, Water Boards - Alicia.Pisani@waterboards.ca.gov

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William Connor, US Army Corps of Engineers - William.M.Connor@usace.army.mil
Craig Weightman, CDFW Bay Delta Region - Craig.Weightman@wildlife.ca.gov

REFERENCES

- California Department of Fish and Wildlife (CDFW). 2024. California Natural Diversity Database (CNDDDB) Management Framework. California Department of Fish and Wildlife. Sacramento, CA. Website <https://wildlife.ca.gov/Data/BIOS> [accessed March 2026].
- 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. 2018. Report to the Fish and Game Commission: A Status Review of the Tricolored Blackbird (*Agelaius tricolor*) in California. State of California Natural Resources Agency, Sacramento, CA. <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=154287&inline>
- CDFW. 2016. Status Review: Swainson's Hawk (*Buteo swainsoni*) in California, reported to the California Fish and Game Commission, five-year status report. State of California Natural Resources Agency, Sacramento, CA. <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=133622&inline>
- 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.

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ATTACHMENT 1

Draft Mitigation and Monitoring Reporting Plan

Biological Resources (BIO)			
Mitigation Measure (MM)	Description	Timing	Responsible Party
BIO-1b	<p><i>Conduct Special-Status Plant Surveys: Implement Avoidance and Mitigation Measures and Compensatory Mitigation for Special-status Plants.</i> Prior to the start of Project activities, a qualified biologist shall conduct a habitat assessment for special-status plants. If potential habitat for special-status plants is present, botanical surveys shall be conducted during the appropriate blooming period and conditions for all special-status plants that have the potential to occur within or near the Project where they may be directly or indirectly impacted by for example, modifications to hydrological conditions. More than one year of surveys during appropriate conditions to fully capture baseline conditions may be necessary, especially in habitats such as grasslands or desert plant communities that have annual and short-lived perennial plants as major floristic components. Surveys shall include visiting reference population unless otherwise approved in writing by CDFW. Surveys and associated reporting shall be conducted according to CDFW's 2018 Protocol for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (see: https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline). Surveys are often valid for two years, unless otherwise approved by CDFW in writing. The habitat assessment and survey reports shall be submitted to CDFW prior to the start of construction.</p> <p>Project activities shall not proceed until CDFW has provided written approval of the habitat assessment and survey reports. If any special-status plant species are observed, the Project shall fully avoid direct and indirect impacts to all individuals and prepare and implement a CDFW-approved avoidance plan prior to Project activities. If full avoidance is not possible, Project activities may not commence until the Project has consulted with CDFW and obtained CDFW's written approval, which may include topsoil salvage,</p>	Prior to Ground Disturbance	Project Applicant

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	<p>transplanting, or habitat compensation. The Project shall obtain and comply with a CESA ITP from CDFW for any impacts to San Joaquine Valley Orcutt grass or any other CESA or NPPA listed plants, and provide habitat compensation to mitigate impacts to San Joaquine Valley Orcutt grass or any other CESA or NPPA listed plant species at a minimum 3 to 1 mitigation to impact ratio, unless otherwise approved in writing by CDFW. Habitat compensation shall include placing a conservation easement over occupied habitat for the applicable species and preparing, funding, and implementing an interim and/or long-term management plan, unless otherwise approved in writing by CDFW. The habitat compensation location, conservation easement, and all associated land conservation documents including, but not limited to the management plan(s) shall be submitted to CDFW for review and the Project shall obtain CDFW's written approval of these documents, unless otherwise approved in writing by CDFW. The conservation easement shall be recorded and management plan(s) funding shall be completed prior to Project construction, unless otherwise approved in writing by CDFW. The Project shall also obtain USFWS authorization for impacts to federally listed plant species.</p>		
<p>BIO-3</p>	<p><i>Secure Take Authorization for California Tiger Salamander, Vernal Pool Fairy Shrimp, and Vernal Pool Tadpole Shrimp and Implement All Permit Conditions; Preserve and Enhance Upland Habitat; Preserve and Create Breeding Habitat. (TSSP EIR Mitigation Measures 4.4-2a and -2b))</i></p> <ol style="list-style-type: none"> 1. No Project construction shall proceed until take authorization for California tiger salamander has been obtained from the USFWS and CDFW, and the City has abided by all conditions in the take authorization, including conservation and minimization measures, intended to be completed before on-site construction. 2. The City shall preserve upland habitat at a minimum 3:1 ratio and create 0.01 acre of breeding habitat per acre of upland habitat removed or as specified in the USFWS and CDFW incidental take authorizations. All habitat mitigation lands shall be preserved in perpetuity and incompatible land uses shall be prohibited in habitat conservation areas. 	<p>Prior to Ground Disturbance and for Duration of Construction</p>	<p>Project Applicant</p>

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<p>BIO-5</p>	<p><u>Swainson's Hawk Surveys and Avoidance Buffer</u> If Project activities are scheduled during the nesting season for Swainson's hawks (March 1 to September 15), prior to beginning work on the Project, a qualified biologist shall conduct surveys according to the Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83990&inline) and prepare a report documenting the survey results. The Project shall obtain CDFW's written approval of the qualified biologist and survey report prior to starting construction activities between March 1 and September 15. Survey methods shall be closely followed by starting early in the nesting season (late March to early April) to maximize the likelihood of detecting an active nest (nests, adults, and chicks are more difficult to detect later in the growing season because trees become less transparent as vegetation increases). Surveys shall be conducted: 1) within a minimum 0.5-mile radius of the Project site or a larger area if needed to identify potentially impacted active nests, unless otherwise approved by CDFW in writing, and 2) for at least the two survey periods immediately prior to initiating Project-related construction activities. <u>Surveys shall occur annually for the duration of the Project.</u> The qualified biologist shall have a minimum of two years of experience implementing the survey methodology. If active Swainson's hawk nests are detected, the Project shall immediately notify CDFW and implement a 0.5-mile construction avoidance buffer around the nest until the nest is no longer active as determined by a qualified biologist, unless otherwise approved by CDFW in writing. Any detected nesting Swainson's hawk shall be monitored by the qualified biologist to ensure it is not disturbed during construction activities, unless otherwise approved in writing by CDFW. If take of Swainson's hawk cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP before Project activities commence.</p>	<p>Prior to Ground Disturbance and for Duration of Construction</p>	<p>Project Applicant</p>
<p>BIO-5</p>	<p><u>Burrowing Owl Surveys and Avoidance Buffer:</u> A qualified biologist shall conduct a burrowing owl habitat assessment within 1,640 feet of the Project area pursuant to the California Department of Fish and Game (now CDFW) 2012 Staff Report on Burrowing Owl Mitigation (CDFW 2012 Staff Report, available here: https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds), unless otherwise approved in writing by CDFW. The qualified biologist shall have a minimum of two years of experience implementing the</p>	<p>Prior to Ground Disturbance and for Duration of Construction</p>	<p>Project Applicant</p>

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	<p>CDFW 2012 Staff Report survey methodology resulting in detections. The habitat assessment shall focus on searching the CNDDDB and potentially other sources for any burrowing owl records on or within one mile of the Project area, vegetation type and height, suitable burrows (with an opening of >11 cm in diameter and a depth of >150 cm), burrow surrogates (culverts, piles of concrete rubble, piles of soil, burrows created along soft banks of ditches and canals, pipes, and similar structures), and presence of burrowing owl sign (tracks, molted feathers, cast pellets, prey remains, egg shell fragments, owl white wash, and nest burrow decoration material), and the presence of burrowing owl individuals or pairs. If the habitat assessment does not identify suitable habitat and surveys are not conducted as described below, an additional habitat assessment shall be conducted within 14 days prior to construction and if new potentially suitable burrowing owl refugia are present surveys shall be conducted as described below, unless otherwise approved in writing by CDFW. The results of the habitat assessment shall be emailed to the CDFW contact below, or if unavailable another CDFW representative, and the Project shall obtain CDFW's written approval of the habitat assessment prior to starting Project activities.</p> <p>If suitable burrowing owl habitat is observed, four surveys shall be conducted to detect the presence of burrowing owl pursuant to the CDFW 2012 Staff Report. The site visits shall be spread evenly throughout the breeding or non-breeding season. The Project shall obtain CDFW's written approval of the survey results prior to starting Project activities. In addition, a survey shall be completed within 14 days prior to the start of construction, as described in the CDFW 2012 Staff Report. <u>Surveys shall occur during burrowing owl nesting and wintering seasons for the duration of the Project, unless otherwise approved in writing by CDFW.</u></p> <p>If burrowing owl is detected, the Project shall immediately notify CDFW. The Project shall avoid impacts to the burrowing owl and implement a 1,640-foot buffer area around the owl site in which no Project activities shall occur, unless otherwise approved in writing by CDFW. A qualified biologist shall monitor any detected owl to ensure it is not disturbed.</p> <p>If the Project cannot ensure burrowing owl and their burrows are fully avoided, the Project shall consult with CDFW and obtain a take authorization or otherwise demonstrate compliance with CESA. Take is likely to occur and the Project shall obtain an ITP if: 1) burrowing</p>		
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	<p>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 substantially changed. 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 area during burrowing owl surveys, but not on the Project area, the Project shall consult with CDFW to determine if avoidance is feasible or an ITP is warranted, and shall obtain an ITP if take cannot be avoided and comply with the ITP. The City shall mitigate the loss of unoccupied wintering or nest sites through preservation, through a conservation easement or purchase of wintering or nesting burrow credits from a CDFW approved conservation bank, of other known wintering or nest sites, as applicable, at a ratio of 2:1 unless another ratio is required by an ITP, in which case the City shall comply with the ITP.</p>		
<p>BIO-5.1</p>	<p><i>Caps, Pipes, and Hose:</i> To prevent burrowing owl from sheltering or nesting in exposed material; all construction pipes, culverts, hoses or similar materials greater than 2 inches in diameter stored at the Project area 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.</p>	<p>For Duration of Construction</p>	<p>Project Applicant</p>
<p>BIO-6</p>	<p><i>Nesting Bird Surveys:</i> If construction, grading, vegetation removal, or other project-related activities are scheduled during the avian nesting season, February 1 to August 31, a qualified biologist shall conduct a survey for active bird nests within 7 days prior to the beginning of Project-related activities. The survey shall cover the entire project area and a minimum 500-foot buffer or the distance necessary as determined by a qualified biologist. If a lapse in project-related work of seven days or longer occurs, another survey shall be conducted before Project work can be reinitiated. If an active nest is found during surveys, the qualified biologist shall immediately notify CDFW and establish site- and species-specific no-work buffers to ensure the nest is not disturbed. The buffer</p>	<p>Prior to Ground Disturbance and for Duration of Construction</p>	<p>Project Applicant</p>

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	<p>distances shall be specified to protect the bird's normal behavior to prevent nesting failure or abandonment and comply with Fish and Game Code section 3500 et seq. and the federal MBTA. Abnormal nesting behaviors which may cause reproductive harm include, but are not limited to, defensive flights/vocalizations directed towards project personnel, standing up from a brooding position, and flying away from the nest. The qualified biologist shall have authority to order the cessation of all nearby project activities if the nesting birds exhibit abnormal behavior which may cause reproductive failure (nest abandonment and loss of eggs and/or young) until an appropriate buffer is established.</p> <p>The qualified biologist shall monitor the behavior of the birds (adults and young, when present) at the nest site to ensure that they are not disturbed by project work. Nest monitoring shall continue during project work until the young have fully fledged (have completely left the nest site and are no longer being fed by the parents), as determined by the qualified biologist, unless otherwise approved in writing by CDFW.</p>		
<p>BIO-6.1</p>	<p><i>Tricolored Blackbird Nest Avoidance:</i> If nesting tricolored black birds are detected during nesting bird surveys described in recommended Mitigation Measure BIO-6 below or otherwise, a qualified biologist shall:</p> <ul style="list-style-type: none"> • Map the location of the nest site and immediately notify CDFW; • Establish a clearly marked no-disturbance buffer around the nest site. Buffer distances shall be site specific and an appropriate distance to ensure impacts are avoided, as determined by a qualified biologist, and not less than 500 feet for tricolored blackbird nests, unless otherwise approved in writing by CDFW; • Monitor any active nest daily and ensure that the no-disturbance buffer is maintained, unless otherwise approved in writing by CDFW; and • Construction may resume when a qualified biologist has confirmed that the birds have fledged and are no longer dependent on parental care around the nest site. <p>If impacts to nesting tricolored blackbird cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP before Project activities commence and comply with the ITP.</p>	<p>Prior to Ground Disturbance and for Duration of Construction</p>	<p>Project Applicant</p>