

STATE OF CALIFORNIA  
DEPARTMENT OF FISH AND WILDLIFE



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May 15, 2026

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**Subject: Madera Subbasin Recharge Project 1 (Project)  
Initial Study and Mitigated Negative Declarations (MND)  
State Clearinghouse No.: 2026040797**

Dear Jamie Bax:

The California Department of Fish and Wildlife (CDFW) received a Mitigated Negative Declaration (MND) from Madera County for the above referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

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. Although the public comment period has ended, CDFW respectfully requests that Madera County consider these comments prior to approving the MND.

### **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

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<sup>1</sup> 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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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 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.

**Fully Protected Species:** CDFW has jurisdiction over fully protected species of birds, mammals, amphibians, reptiles, and fish, pursuant to Fish and Game Code sections 3511, 4700, 5050, and 5515. Take of any fully protected species was previously prohibited and CDFW was not able to authorize their incidental take. Senate Bill No. 147, which became effective on July 10, 2023, amended Fish and Game Code sections 3511, 4700, 5050, and 5515, and added section 2081.15, to authorize CDFW to issue a permit under CESA that authorizes the take of a fully protected species resulting from impacts attributable to the implementation of specified projects, which include maintenance, repair, or improvement projects to critical regional or local water agency infrastructure, if certain conditions are satisfied.

**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.

**Water Rights:** The capture of unallocated stream flows to artificially recharge groundwater aquifers is subject to appropriation and approval by the State Water Resources Control Board (SWRCB) pursuant to Water Code section 1200 et seq. CDFW, as Trustee Agency, is consulted by SWRCB during the water rights

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process to provide terms and conditions designed to protect fish and wildlife prior to appropriation of the State’s water resources. Certain fish and wildlife are reliant upon aquatic and riparian ecosystems, which in turn are reliant upon adequate flows of water. CDFW therefore has a material interest in assuring that adequate water flows within streams for the protection, maintenance, and proper stewardship of those resources. CDFW provides, as available, biological expertise to review and comment on environmental documents and impacts arising from Project activities.

**PROJECT DESCRIPTION SUMMARY**

**Proponent:** Madera County

**Objective:** The proposed Project consists of the construction and operation of four turnouts and four groundwater recharge sites totaling 2,317 acres around Madera County. The groundwater recharge sites consist of one recharge basin at the Root Creek site and three Flood-Managed Aquifer Recharge (Flood-MAR) sites at the Brock More, Waterlands, and Wine Group sites. Turnout construction for the Root Creek, Brockmore, and Waterlands sites will occur along Merced Irrigation District’s (MID) Lateral 6. An additional turnout would be constructed along MID’s Lateral 32.2 for the Wine Group site. For the Brock Moore, Waterlands and Wine Group sites, the Project would include construction of the water delivery infrastructure for Flood-MAR, and landowners would then connect existing irrigation systems to the new infrastructure for land application. The basins would provide approximately 25,065 acre-feet per year of groundwater recharge capacity, utilizing flood flows available as Reclamation Reform Act of 1982 Section 215 water from the U.S. Bureau of Reclamation’s Central Valley Project Friant Division.

**Location:** The Project occurs at four locations described below in Table 1.

Location Name	Latitude	Longitude	United States Geological Survey Quadrangle*	Assessor’s Parcel Number
Root Creek	36.899065	-119.909708	Gregg, T12S, R19E, S9	047-272-005
Brock Moore	36.929328	-119.844048	Lanes Bridge, T11S, R19E, S36	049-650-017
Waterlands	36.942843	-119.866364	Lanes Bridge, T11S, R19E, S26	049-010-002, 049-650-021
Wine Group	37.077949	-120.121109	Kismet, T9S, R17E, S9	030-301-002

**COMMENTS AND RECOMMENDATIONS**

CDFW offers the comments and recommendations below to assist Madera 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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Based on a review of the Project description, a review of California Natural Diversity Database (CNDDDB) records (CDFW 2026), and a review of aerial imagery of the Project and surrounding habitat, several special-status species could potentially be impacted by Project activities including but not limited to: the State fully protected white-tailed kite (*Elanus leucurus*), the State threatened and federally endangered California tiger salamander (*Ambystoma californiense*), the State threatened Swainson's hawk (*Buteo swainsoni*), the State candidate western burrowing owl (*Athene cunicularia hypugaea*), and Crotch's bumble bee (*Bombus crotchii*), the federally threatened vernal pool fairy shrimp (*Branchinecta lynchi*), and the federally proposed threatened western spadefoot (*Spea hammondi*). CDFW recommends that the following modifications and/or edits be incorporated into the MND, including proposed avoidance, minimization, and compensatory measures, prior to its adoption by Madera County.

### **White-Tailed Kite**

The Project area is within the known geographic range of white-tailed kite (WTKI). The MND acknowledges that WTKI has the potential to occur in the Project area and includes Mitigation Measure (MM) BIO-3 for general nesting birds which includes a specific survey distance of ¼ mile from Project activities and indicates if active nests are found an appropriate no disturbance buffer shall be implemented, typically 500-feet for raptors. The MND analysis does not provide a biological basis of how a no-disturbance buffer will be determined as adequate to avoid significant impacts, including but not limited to avoiding take of individuals through nest failure or other means, as a result of Project implementation. CDFW has concerns that the proposed MMs are not sufficient to avoid significant impacts and unauthorized take of WTKI could occur. As such, CDFW recommends the MND include the following measures:

#### **Recommended Mitigation Measure 1: WTKI Surveys**

CDFW recommends that focused WTKI surveys be conducted prior to the initiation of Project activities. CDFW recommends that these surveys occur within the Project area and a ½-mile buffer of the Project area and be conducted by a qualified biologist.

#### **Recommended Mitigation Measure 2: WTKI Avoidance**

If WTKI is found prior to or during surveys or Project activities, CDFW recommends establishing a minimum no-disturbance buffer of ½ mile around active WTKI nests, and that this buffer be maintained until the end of the breeding season or until a qualified biologist has confirmed that the young have fledged and are no longer dependent on the nest or parental care. If active WTKI nests are detected, and a ½-mile no disturbance buffer is not feasible, consultation with CDFW is warranted to discuss how to implement the Project and avoid take.

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## California Tiger Salamander

The Project area is within the geographic range of the California tiger salamander (CTS) and CTS have been documented within 5 miles of the Project area (CDFW 2026). The MND mentions that CTS have a low probability of occurrence and acknowledges that vernal pool habitat is present in one of the Project locations. The MND includes MM BIO-5 for the performance of amphibian clearance surveys prior to initiating Project activities. CTS breed and develop in vernal and seasonal pools and stock ponds in grassland, woodland, and scrub habitat types, and have been known to utilize agricultural lands with sufficient breeding habitat such as agricultural ponds, ditches, and canals. CTS have also been known to utilize refugia habitat (i.e., upland habitat), such as agricultural orchards, adjacent to these agricultural aquatic resources. CTS have also been determined to be physiologically capable of dispersing up to approximately 1 ½-miles from seasonally flooded wetlands (Searcy and Shaffer 2011). These habitat features may be present within the Plan area and vicinity. As there is the potential for CTS to utilize the habitat within and surrounding the Project area, CDFW recommends that a qualified biologist conduct a habitat assessment for CTS as part of the biological technical studies conducted in support of the MND to determine where suitable breeding and refugia habitat is located within the Plan area. CDFW also recommends the MND include the following

### **Recommended Mitigation Measure 3: Focused CTS Protocol-level Surveys**

CDFW recommends that a qualified biologist conduct protocol-level surveys within areas of suitable habitat prior to the initiation of development activities associated with the Plan. CDFW recommends these surveys be conducted in accordance with the U.S. 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 all areas of wetland and upland habitat that could support CTS in the Project area where ground disturbing is set to occur. Please be advised that protocol-level survey results are considered viable for two years after the results are reviewed by CDFW. As such, several rounds of protocol surveys may be necessary prior to the initiation of ground disturbing activities.

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**Recommended Mitigation Measure 4: CTS Avoidance**

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 area. Further, CDFW recommends potential or known breeding habitat within and/or adjacent to the Project area 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. Alternatively, the applicant can assume presence of CTS and obtain from CDFW a State ITP in accordance with Fish and Game Code section 2081(b).

**Recommended Mitigation Measure 5: CTS Take Authorization**

If suitable habitat is present within or immediately adjacent to the Project area and absence of the species cannot be confirmed, consultation with CDFW is warranted to determine if activities 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. As stated above, in the absence of protocol surveys, the applicant can assume presence of CTS and obtain an ITP from CDFW.

**Swainson's Hawk**

The Project area is within the geographic range of Swainson's hawk (SWHA) and SWHA have can potentially occur within Project area (CDFW 2026). The MND acknowledges that SWHA could nest in the vicinity of and forage within the Project area. The MND provides in MM BIO-3 for construction to occur outside of the avian breeding season and if construction does occur during the breeding season that a qualified biologist will survey for nests within ¼ mile of the Project area. MM BIO-3 indicates if active nests are found an appropriate no-disturbance buffer shall be implemented, typically ¼-mile for Swainson's hawk. The MND analysis does not provide a biological basis of how a no-disturbance buffer will be determined as adequate to avoid significant impacts, including but not limited to avoiding take of individuals through nest failure or other means, as a result of Project implementation. CDFW has concerns that the proposed measures are not sufficient to avoid significant impacts and unauthorized take of SWHA could occur. As such, CDFW recommends the MND include the following measures:

**Recommended Mitigation Measure 6: SWHA Protocol Surveys**

CDFW recommends that a qualified biologist conduct protocol surveys following the survey methodology developed by the SWHA Technical Advisory Committee (SWHA TAC 2000) and be conducted the survey season immediately prior to construction. The SWHA TAC survey protocol includes early season surveys to assist the Project proponent in implementing necessary avoidance and

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minimization measures, and in identifying active nest sites prior to initiating ground-disturbing activities

**Recommended Mitigation Measure 7: SWHA Avoidance Buffer**

If Project-specific activities will take place during the SWHA nesting season (i.e., March 1 through September 15), and active SWHA nests are present, CDFW recommends a minimum ½-mile no-disturbance buffer be delineated and maintained around each nest, regardless of whether it was detected by surveys or observed incidentally. These buffers would remain in place until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival, to prevent nest abandonment and other take of SWHA as a result of Project activities.

**Recommended Mitigation Measure 8: SWHA Take Authorization**

CDFW also recommends that in the event an active SWHA nest is detected, and maintaining a ½-mile no-disturbance buffer is not feasible, consultation with CDFW is warranted to discuss how to implement the Project and 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.

**Western Burrowing Owl**

The California Fish and Game Commission (Commission) approved western burrowing owl (BUOW) as a candidate for potential listing as a protected species under CESA on October 10, 2024, and published these findings in the California Regulatory Notice Register (Notice Register) on October 25, 2024. As such, BUOW is now a candidate under CESA and receives the same legal protection afforded to an endangered or threatened species (Fish & G. Code, §§ 2074.2 & 2085).

The Project area is within the geographic range of BUOW and the species has been documented within three miles of the Project area (CDFW 2026). The MND acknowledges that BUOW could be present within the Project area as suitable nesting, roosting, and foraging habitat exists in the Project area. For BUOW, MM BIO-4 states that prior to Project-related ground disturbance, a qualified biologist will conduct BUOW surveys in accordance with the methods described in the *2012 Staff Report on Burrowing Owl Mitigation* (CDFG 2012), within suitable habitat. The MND also states that if active BUOW burrows are detected, that occupied burrows will be avoided to the maximum extent feasible including establishing a minimum no disturbance buffer of 250-feet during the breeding season and 160-feet during the non-breeding season. CDFW concurs with conducting an avoidance survey in accordance with the *2012 Staff Report on Burrowing Owl Mitigation* . However, CDFW has concerns with the size of the BUOW buffers included in the MND and that construction activities could still occur

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within these buffers. The MND analysis does not provide a biological basis of how a no-disturbance buffer will be determined as adequate to avoid significant impacts, including but not limited to avoiding take of individuals through nest failure or other means, as a result of Project implementation. CDFW has concerns that the proposed measures are not sufficient to avoid significant impacts and unauthorized take of BUOW could occur. As such, CDFW recommends the MND include the following measures:

**Recommended Mitigation Measure 9: BUOW Avoidance Buffer**

Should a BUOW or known BUOW den (active or inactive) be detected, either during pre-construction surveys or construction activities, CDFW recommends that no-disturbance buffers, as outlined in the *2012 Staff Report on Burrowing Owl Mitigation* (CDFG 2012), be implemented prior to and during any ground-disturbing activities. CDFW also recommends that these buffers be implemented for both wintering and breeding BUOW.

**Recommended Mitigation Measure 10: BUOW Take Authorization**

If a BUOW or known BUOW den (active or inactive) is detected, and the no disturbance buffers outlined in the *2012 Staff Report on Burrowing Mitigation* are not feasible, consultation with CDFW is warranted to discuss how to implement the Project and 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.

**Crotch's Bumble Bee**

The Project area is within the range of Crotch's bumblebee (CBB). The MND does not discuss bumble bees, and it is unclear if CBB was considered during MND development. CBB are known to inhabit areas of grasslands, scrub habitat, and ruderal vegetation that contain requisite habitat elements for nesting, such as small mammal burrows and bunch/thatched grasses, and these habitat elements may be present within the Project area. CBB primarily nest in late February through late October underground in abandoned small mammal burrows but may also nest under perennial bunch grasses or thatched annual grasses, underneath brush piles, in old bird nests, and in dead trees or hollow logs (Williams et al. 2014, Hatfield et al. 2015). Overwintering sites for CBB mated queens include soft, disturbed soil (Goulson 2010) or leaf litter or other debris (Williams et al. 2014). As such, CDFW recommends the following:

**Recommended Mitigation Measure 11: CBB Habitat Assessment**

CDFW recommends a qualified biologist conduct a habitat assessment to determine if the Project site and the immediate surrounding vicinity contain habitat suitable to support CBB. Potential nesting sites, which include all small mammal burrows, perennial bunch grasses, thatched annual grasses, brush piles, old bird nests, dead trees, and hollow logs would need to be documented as part of the assessment.

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**Recommended Mitigation Measure 12: CBB Surveys**

In areas of suitable habitat, CDFW recommends that a qualified biologist conduct focused surveys for CBB following the methodology outlined in the *Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species* (CDFW 2023) during the vegetation blooming period prior to activities at Project sites.

**Recommended Mitigation Measure 13: CBB Avoidance Buffer**

If CBB is detected, then 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 14: CBB Take Authorization**

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.

**Vernal Pool Fairy Shrimp**

The Project area is within the geographic range of vernal pool fairy shrimp (VPFS) and there are historical occurrences documented within approximately 5 miles of the Project area. The MND states that the chance for VPFS to occur is moderate within the seasonal wetland at the Root Creek Project site. MM BIO-2 includes conducting a branchiopod suitability survey and all areas identified as potential suitable habitat will be avoided. VPFS are small, freshwater crustaceans that complete their entire life cycle within a variety of vernal pool habitats and temporary waters between winter and spring. These species will disappear before vernal pools and other aquatic sites dry in the summer months but resting eggs, known as cysts, will remain viable within the dried pools for years. Hatching subsequently begins in response to rains during the beginning of the rainy season. As suitable habitat appears to be present within and adjacent the Project site, and VPFS have been documented within the Project vicinity, CDFW recommends the following measure be included in the MND:

**Recommended Mitigation Measure 15: Branchiopod Surveys and Consultation**

CDFW recommends that a qualified biologist conduct protocol level surveys in accordance with the USFWS *Survey Guidelines for the Listed Large Branchiopods* (USFWS 2017) the survey season prior to construction. These surveys would need to be conducted at the appropriate time of year to determine

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the existence and extent of branchiopods. If through surveys it is determined that branchiopods are occupying or have the potential to occupy the Project site, coordination with CDFW is recommended well in advance of any planned vegetation- or ground-disturbing activities to determine appropriate avoidance and minimization measures including adequate implementation of no-disturbance buffers.

### **Western Spadefoot**

The Project is within the known geographic range of western spadefoot (WESP) and there is a documented occurrence within approximately 4 miles of the Project area (CDFW 2026). WESP occurs primarily in grasslands and seasonal wetlands with appropriate upland habitat, though they are also documented throughout the San Joaquin Valley in areas of irrigated agriculture, where features such as tailwater ponds and irrigation ditches are present. As the Project area contains these habitat features, there is the potential for WESP to be present within the Project site and vicinity. CDFW recommends the MND include the following measures and that these measures be incorporated prior to any development or ground disturbance activities that are initiated as part of this Project:

#### **Recommended Mitigation Measure 16: WESP Focused Surveys**

CDFW recommends that a qualified biologist conduct a habitat assessment to determine if the Project area and the immediate surrounding vicinity contain habitat suitable to support WESP. If potential habitat exists, CDFW recommends a qualified biologist conduct focused breeding season surveys for WESP, using appropriate survey methodologies, prior to any ground-disturbing activities that may occur as part of the Project.

#### **Recommended Mitigation Measure 17: WESP Avoidance Buffer**

If burrows, soil cracks, loose soil areas or other refugia are found to be used by WESP during focused surveys, avoidance whenever possible is encouraged via delineation and observance of a 50-foot no-disturbance buffer around these resources, including all potential breeding habitat, which can include agricultural sumps and irrigation ditches in addition to any areas that pool water for only a few weeks. Avoidance of potential breeding habitat should occur even when dry, since post-metamorphic WESP juveniles have a unique adaptation to the drying of their temporary breeding pools; they utilize the dried pond bottom as a refuge, burying themselves in the desiccation cracks and damp soil beneath the surface crust (Baumberger et al., 2020). If any life stage of WESP are observed on the Project site, Project activities in their immediate vicinity should cease, allowing individuals to leave the Project site on their own accord.

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## **Editorial Comments and/or Suggestions**

**Western Spadefoot:** On September 24, 2025, the Commission received a petition to list the northern population of WESP as threatened species and the southern population of WESP as an endangered species under CESA. If the Commission takes action and WESP becomes listed as a Candidate for listing pursuant to CESA (possible in 2026), or ultimately becomes listed as threatened or endangered pursuant to CESA, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081, subdivision (b), would be necessary to comply with CESA if full avoidance of WESP could not be achieved. Please note that implementation of the recommended WESP measures would help minimize impacts to WESP as required by CEQA, but would not fully avoid impacts and thus take; additional measures would need to be implemented to avoid take of WESP. In the event that WESP becomes protected under CESA, CDFW recommends early consultation to help identify if avoidance is feasible or if not, to initiate discussions regarding the need for ITP acquisition.

**Nesting Birds:** To protect nesting birds, CDFW recommends that Project ground-disturbing and vegetation-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 in this letter.

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.

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

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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.

**Lake and Streambed Alteration:** The Project includes the diversion and storage of surface flows for groundwater recharge. Project activities, including the diversion of surface water, are subject to the notification requirement of 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. Future on-going project operations and maintenance may involve activities that are jurisdictional under Fish and Game Code section 1602. CDFW recommends coordination with CDFW staff prior to groundbreaking activities on-site or submission of a Lake or Streambed Alteration Notification to determine if the activities proposed are subject to CDFW's jurisdiction.

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.

**Water Rights:** As stated previously, the capture of unallocated stream flows to artificially recharge groundwater aquifers is subject to appropriation and approval by the SWRCB pursuant to Water Code section 1200 et seq. CDFW recommends that the MND include a detailed description of the water rights and water entitlements that would pertain to the Project and address any applications or change petitions that Madera County will be filing. CDFW, as Trustee Agency, is consulted by the SWRCB during the water rights process to provide terms and conditions designed to protect fish and wildlife prior to appropriation of the State's water resources. Given the potential for impacts to sensitive species and their habitats, it is advised that required consultation with CDFW occur well in advance of the SWRCB water right application process.

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**CNDDB Positive Submission of Data:** Please note that the California Natural Diversity Database (CNDDDB) is populated by and records voluntary submissions of species detections. As a result, species may be present in locations not depicted in the CNDDDB but where there is suitable habitat and features capable of supporting species. A lack of an occurrence record in the CNDDDB 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 in order to determine whether or not any special-status species are present at or near the Project site.

## **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 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**


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).

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## CONCLUSION

CDFW appreciates the opportunity to comment on the MND to assist the Madera County in identifying and mitigating Project impacts on biological resources. More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>). A Mitigation and Monitoring Program (MMRP) (Attachment 1) is included to assist the Madera County with incorporating the recommended mitigation measures provided above. Questions regarding this letter or further coordination should be directed to Jackson Powell, Environmental Scientist, at (559) 899-9758 or by electronic mail at [Jackson.Powell@wildlife.ca.gov](mailto:Jackson.Powell@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
FA83F09FE08945A...

Julie A. Vance  
Regional Manager

Attachment - MMRP Table

ec: State Clearinghouse  
Land Use and Climate Innovation  
[State.Clearinghouse@lci.ca.gov](mailto:State.Clearinghouse@lci.ca.gov)

Jamie Bax, Director of Community and Economic Development  
Madera County  
May 15, 2026  
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## **References**

- Baumberger, K., A. Backlin, E. Gallegos, C. Hitchcock, and R. Fisher. Mitigation ponds offer drought resiliency for western spadefoot (*Spea hammondi*) populations. Southern California Academy of Sciences, 119(1), pp. 6-17.
- California Department of Fish and Game (CDFG). 2012. Staff Report on Burrowing Owl Mitigation. <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline>
- California Department of Fish and Wildlife (CDFW). 2023. Survey considerations for California Endangered Species Act (CESA) candidate bumble bee species. Sacramento, California, USA.
- CDFW. 2026. Biogeographic information and observation system (BIOS). <https://www.wildlife.ca.gov/Data/BIOS>. Accessed 5 May 2026.
- Goulson, D. 2010. Bumblebees: behaviour, ecology, and conservation. Oxford University Press, New York. 317pp.
- Hatfield, R., S. Jepsen, R. Thorp, L. Richardson. and S. Colla. 2015. *Bombus crotchii*. The IUCN Red List of Threatened Species. <https://www.iucnredlist.org/species/44937582/46440211>
- Searcy, C.A. and H.B. Shaffer. 2011. Determining the migration distance of a vagile vernal pool specialist: How much land is required for conservation of California tiger salamanders? California State University, Chico, California, USA.
- Swainson's Hawk Technical Advisory Committee (SWHA TAC). 2000. 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>
- Williams, P. H., R. W. Thorp, L. L. Richardson, and S .R. Colla. 2014. Bumble bees of North America: An Identification guide. Princeton University Press, Princeton, New Jersey. 208 pp.
- U. S. Fish and Wildlife Service (USFWS). 2003. Interim guidance on site assessment and field surveys for determining presence or a negative finding of the California tiger salamander. Sacramento, California, USA.
- USFWS. 2017. Survey guidelines for the listed large branchiopods. Pacific Southwest Region, Sacramento, California, USA. Revised November 2017.

# Attachment 1

**Attachment 1**

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

**PROJECT: Madera Subbasin Recharge Project 1 (Project)  
Initial Study/ Mitigated Negative Declaration (IS/MND)  
SCH No.: 2026040797**

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
<b>Before Disturbing Soil or Vegetation</b>	
White Tailed Kite (WTKI)	
<b>Recommended Mitigation Measure 1:</b> WTKI Surveys	
California Tiger Salamander (CTS)	
<b>Recommended Mitigation Measure 3:</b> Focused CTS Protocol-level Surveys	
<b>Recommended Mitigation Measure 5:</b> CTS Take Authorization	
Swainson's Hawk (SWHA)	
<b>Recommended Mitigation Measure 6:</b> SWHA Protocol Surveys	
<b>Recommended Mitigation Measure 8:</b> SWHA Take Authorization	
Western burrowing owl (BUOW)	
<b>Recommended Mitigation Measure 10:</b> BUOW Take Authorization	
Crotch's bumble bee (CBB)	
<b>Recommended Mitigation Measure 11:</b> CBB Habitat Assessment	
<b>Recommended Mitigation Measure 12:</b> CBB Surveys	
<b>Recommended Mitigation Measure 14:</b> CBB Take Authorization	
Vernal Pool Fairy Shrimp (VPFS)	
<b>Recommended Mitigation Measure 15:</b> Branchiopod Surveys and Consultation	
Western Spadefoot (WESP)	

<b>Recommended Mitigation Measure 16:</b> WESP Focused Surveys	
<b>During Construction</b>	
White Tailed Kite (WTKI)	
<b>Recommended Mitigation Measure 2:</b> WTKI Avoidance	
California Tiger Salamander (CTS)	
<b>Recommended Mitigation Measure 4:</b> CTS Take Authorization	
Swainson's Hawk (SWHA)	
<b>Recommended Mitigation Measure 7:</b> SWHA Avoidance Buffer	
Western burrowing owl (BUOW)	
<b>Recommended Mitigation Measure 9:</b> BUOW Avoidance Buffer	
Crotch's bumble bee (CBB)	
<b>Recommended Mitigation Measure 13:</b> CBB Avoidance	
Western Spadefoot (WESP)	
<b>Recommended Mitigation Measure 17:</b> WESP Avoidance Buffer	