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From: Tran, Harvey@Wildlife
Sent: Wednesday, June 3, 2026 5:54 PM
To: Sarah.Ahmed@smud.org
Cc: Wildlife R2 CEQA; Wood, Dylan@Wildlife; Sheya, Tanya@Wildlife; Kilgour, Morgan@Wildlife
Subject: CDFW Comments on the MND for the Jackson Bulk Substation Project (SCH No. 2026050302)

Dear Sarah Ahmed:

The California Department of Fish and Wildlife (CDFW) received and reviewed the Notice of Intent to Adopt an MND from Sacramento Municipal Utility District (SMUD) for the Jackson Bulk Substation Project (Project) pursuant the California Environmental Quality Act (CEQA) statute and guidelines.^[1]

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish, wildlife, native plants, and their habitat. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may need to exercise its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California's Trustee Agency for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (Fish & G. Code, § 1802.) Similarly for purposes of CEQA, CDFW provides, 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 may also act as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

The Project site is located at a 44-acre parcel at the southeast corner of Jackson Road and Excelsior Road in unincorporated Sacramento County. The two parcels consist of 6037 Excelsior Road, Sacramento (APN 067-0050-039) and 10590 Jackson Road, Sacramento (APN 067-0050-040).

The Project consists of the construction of a new bulk transmission substation and new or modified overhead 69kV subtransmission and 230kV transmission power lines that would link the substation to the existing grid. The new substation would include new electrical equipment, a control building, driveway access, site fencing, lighting, stormwater drainage, and utilities.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist SMUD in adequately identifying and, where appropriate, mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Based on the Project's avoidance of significant impacts on biological resources with implementation of mitigation measures, CDFW concludes that a Mitigated Negative Declaration is appropriate for the Project.

CDFW is primarily concerned with the project impacts to Swainson's hawk (*Buteo swainsoni*), burrowing owl (*Athene cunicularia*), tricolored blackbird (*Agelaius tricolor*), and the two open water features.

COMMENT 1: Swainson's hawk Preconstruction Survey Radius, Special-Status Raptors and Nesting Birds, page number 3.4-25

Issue: The MND stated that a preconstruction survey for Swainson's hawk (SWHA) shall be conducted within 0.25-mile of the Project site. CDFW does not believe that the survey buffer is sufficient to capture project impacts on nearby active SWHA nests, especially in a rural setting. While 0.25-mile may be sufficient for an urban setting where traffic and development are more frequent for the SWHA to encounter, the Project site is not located in that same setting, and Project impacts may impact the SWHA farther than the 0.25-mile where the species is not acclimated to the increased construction noise.

Recommendation or Recommended Mitigation Measure: CDFW recommends that the relevant MND section be edited to follow the protocol in the "Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley" written by the Swainson's Hawk Technical Advisory Committee in May 31, 2000 which recommends that preconstruction surveys be conducted within a 0.5-mile radius of the Project site.

COMMENT 2: Swainson's hawk Avoidance, Minimization, and Mitigation Measures, Special-Status Raptors and Nesting Birds, page numbers 3.4-25 and 3.4-26

Issue: The MND states that there was an active SWHA nest within the Project site with three chicks fledging in July 2025. CDFW considers the SWHA nest active if it has been used within the last 5 years due to the species' high nest-site fidelity. The Project proposes to remove all 21 trees within the Project site, including the eucalyptus tree with the active SWHA nest.

Removal of a SWHA nest is considered take under CESA. The MND does not include adequate minimization and mitigation measures for the loss of the existing nesting tree and the foraging habitat around it, which would be needed to demonstrate that the Project will mitigate for the take to reduce project impacts to a less-than-significant level under CEQA or meet CESA's fully mitigate definition. The MND only states in G-AMM18 Unanticipated Covered or ESA and CESA-Listed Species that a qualified biologist would capture and relocate the species. The G-AMM18 measure originates from the SMUD HCP which does not cover take of avian species including SWHA.

Recommendation or Recommended Mitigation Measure: CDFW recommends avoiding the existing nesting tree. If avoidance measures are not feasible, then CDFW recommends that the Project proponent consult with CDFW and demonstrate compliance with CESA. CDFW is responsible for ensuring appropriate conservation of fish and wildlife resources including threatened, endangered, and/or candidate plant and animal species, pursuant to the CESA. CDFW recommends an incidental take permit (ITP) include SWHA if the Project has the potential to result in "take" (Fish & G. Code § 86 defines "take" as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill") of the CESA-listed species, either through construction or over the life of the Project. To reduce project impacts to a less-than-significant level under CEQA and fully mitigate under CESA, the MND should include more detailed measures for how SMUD would minimize and mitigate the loss of a SWHA nesting tree and how SMUD would minimize and mitigate potential permanent and temporary impacts to the SWHA foraging habitat before construction commences. Minimization measures can include timing of tree removal to outside the species' nesting season and performance-based no disturbance buffers for nesting SWHA. Mitigation measures can include purchasing SWHA nesting and foraging mitigation credits from a CDFW-approved conservation bank, purchasing and placing a conservation easement on nearby biologically suitable, occupied SWHA nesting habitat, or any other method approved by CDFW. The additional measures should be incorporated into the appropriate MND section(s).

COMMENT 3: Burrowing Owl, Mitigation Measure BIO-11, page number 3.4-26

Issue: The MND states that the Project site has suitable burrows and foraging habitats for the burrowing owl (BUOW). The California Natural Diversity Database (CNDDDB) shows a recorded occurrence of the species west of the Project site within one mile. Based on the occurrence and the suitable habitat, the Project site has a moderate probability of BUOW utilizing the site in either a nesting or wintering capacity. The MND states that if an active BUOW burrow is identified onsite and a non-disturbance buffer cannot be maintained, then coordination with CDFW will be completed. The MND does not provide further clarification of what that coordination would be and what possible mitigation measures will be needed in order to comply with both CEQA and CESA. The MND does not include mitigation measures for the possible take of an active burrowing owl nest to reduce project impacts to a less-than-significant level under CEQA. If a nesting BUOW is found onsite and proposed to be impacted, early consultation with CDFW is encouraged, as modifications to the proposed Project and mitigation measures may be required in order to obtain an ITP.

Please note that mitigation measures that are adequate to reduce impacts to a less-than-significant level to meet CEQA requirements may not be enough for the issuance of an ITP.

To facilitate the issuance of an ITP, CDFW recommends the MND include details pertaining to the permanent protection and perpetual management of compensatory habitat necessary to fully mitigate project-related impacts, both permanent and temporary. The type and amount of mitigation should be based on factors including an assessment of the importance of that habitat in the Project site, the extent to which covered activities will impact the habitat, and the estimate of the acreage required to provide for adequate compensation in coordination with CDFW.

Recommendation or Recommended Mitigation Measure: CDFW recommends the relevant MND section should be modified to state that if take of BUOW cannot be avoided, then CDFW recommends the Project proponent obtain an ITP and provide suitable mitigation that fully mitigates the Project impacts.

CDFW recommends the mitigation for the take of an active BUOW best be described in the relevant section of the MND. CDFW recommends that the mitigation ratio for BUOW habitat impacts is a minimum of 3:1 to offset the permanent loss of nesting habitat and 2:1 to offset the permanent loss of foraging habitat. CDFW also recommends that the mitigation for temporary impacts is no less than 1:1 for BUOW and their habitat to reduce project impacts to a less-than-significant level. CDFW recommends that mitigation is in the form of purchasing suitable mitigation credits from a CDFW-approved conservation bank, habitat restoration/enhancement onsite or offsite, partnership with other agencies or non-profit groups on suitable restoration projects, or other biologically suitable mechanisms pre-approved by the Lead Agency.

CDFW also recommends that the MND modifies the Mitigation Measures to include language to demonstrate that all feasible avoidance measures will be exhausted before allowing for eviction as a last resort after obtaining an ITP from CDFW. Example recommended language is provided below:

1. Burrowing Owl Surveys. Project proponent shall conduct a BUOW survey over all suitable habitat present within the Project site. BUOW surveys shall be conducted by a qualified biologist in accordance with the protocol described in the *Staff Report on Burrowing Owl Mitigation* (CDFW, March 7, 2012). If possible, surveys should be conducted during both the breeding (February 1 – August 31) and non-breeding seasons (September 1 – January 31) immediately preceding the planned start of construction activities to ascertain the seasonal residency status of any owls occupying the site. The presence of BUOW or their sign anywhere on the site or within a 500-foot accessible radius around the Project site shall be recorded and mapped. Surveys shall disclose all burrows and occurrence of sign of BUOW on the Project site and within the 500-foot buffer. Results of the survey shall be submitted to SMUD.
2. Burrowing Owl Take Avoidance. During the breeding season (February 1 to August 31), surveys shall document whether BUOW are nesting in or within 500 feet of the Project area. During the non-breeding season (September 1 to January 31), surveys shall document whether BUOW are using habitat in or directly adjacent to any area to be disturbed. Survey results shall only be valid for the season (breeding or non-breeding) during which the survey was

conducted. If a lapse in Project-related work of fifteen (15) calendar days or longer occurs, another focused survey and consultation with SMUD and CDFW shall be required before Project work can be reinitiated. If a BUOW or evidence of presence at or near a burrow entrance is found to occur within 500 feet of the Project site, the following measures shall be implemented:

- 2.1 If BUOW are found during the non-breeding season (approximately September 1 to January 31), the Project applicant shall establish a minimum 160-foot (50-meter) buffer zone around active burrows. The buffer zone shall be flagged or otherwise clearly marked. Measures such as visual screens may be used to further reduce the buffer with CDFW approval and provided a qualified biologist confirms that such measures do not cause agitated behavior.
- 2.2 If BUOW are found during the breeding season (approximately February 1 to August 31), the Project applicant shall:
 - a. Avoid all nest sites that could be disturbed by Project construction during the remainder of the breeding season or while the nest is occupied by adults or young (occupation includes individuals or family groups foraging on or near the site following fledging).
 - b. Establish a minimum 500-foot non-disturbance buffer zone around nests, unless otherwise approved by SMUD in writing, in consultation with CDFW. The buffer zone shall be flagged or otherwise clearly marked. Should construction activities cause the nesting bird to vocalize, make defensive flights at intruders, or otherwise display agitated behavior, then the exclusionary buffer will be increased such that activities are far enough from the nest so that the bird(s) no longer display this agitated behavior. Construction shall only occur within the 500-foot buffer zone during the breeding season if a qualified biologist monitors the nest and determines that the activities do not disturb nesting behavior, or the birds have not begun egg-laying and incubation, or that the juveniles from the occupied burrows have fledged and moved off site. Any modifications to this buffer shall be approved by SMUD, in consultation with CDFW prior to its implementation. The buffer reduction request shall include relevant information and/or propose new measures to justify the buffer reduction. The buffer area must be clearly marked to prevent Project-related activities from occurring within the buffer zone.
3. Eviction of Burrowing Owls. If after all applicable avoidance and minimization measures are implemented and Project proponent needs to evict BUOW, an ITP shall be obtained for the activity and a BUOW eviction plan shall be developed by a qualified biologist for SMUD's review and approval, in consultation with CDFW. This plan, including its proposed mitigation, shall be consistent with the most recent available guidelines (e.g., *2012 Staff Report on Burrowing Owl Mitigation*). Burrow eviction shall only be conducted during the non-breeding season for burrows located in the Project footprint, and in limited instances

within a buffer zone around the Project site, as determined by SMUD in consultation with CDFW after all avoidance and minimization measures have been exhausted.

COMMENT 4: Tricolored Blackbird, Mitigation Measure BIO-11, page number 3.4-26

Issue: The MND states that tricolored blackbirds (TRBL) were present within the Project site. CNDDDB shows numerous recorded occurrences of the species between 2014-2015 within one mile of the Project site. The aquatic features present within the Project contain suitable vegetation (e.g., broad-leaf cattail (*Typha latifolia*), common tule (*Schoenoplectus acutus* var. *occidentalis*), and willow (*Salix* spp.)) for the species to nest and forage. Due to the stock ponds and other depressional wetlands onsite, the species has a high probability of being present onsite during construction. However, the MND does not contain adequate avoidance, minimization, and mitigation measures to demonstrate that the Project will mitigate for possible take of the species to reduce project impacts to a less-than-significant level under CEQA or meet CESA's fully mitigate definition if take of the species is unavoidable. The only avoidance measure included in the MND was a preconstruction survey for the species within 100 feet of the Project site which has an inadequate survey radius.

Recommendation or Recommended Mitigation Measure: CDFW recommends the MND include more detailed measures for how SMUD would avoid, minimize and mitigate for potential permanent and temporary impacts to TRBL nesting habitat before construction commences. Avoidance measures can include a preconstruction survey with a 300 feet radius of the Project site. Minimization measures can include timing of removal of the vegetation to outside the species' nesting season and performance-based no disturbance buffers for nesting TRBL. Mitigation measures can include purchasing TRBL nesting mitigation credits from a CDFW-approved conservation bank, purchasing and placing a conservation easement on nearby biologically suitable, occupied TRBL nesting habitat, or any other method approved by CDFW. The additional measure should be incorporated into the appropriate MND section(s).

CDFW recommends that the Project proponent consult with CDFW and demonstrate compliance with CESA. CDFW is responsible for ensuring appropriate conservation of fish and wildlife resources including threatened, endangered, and/or candidate plant and animal species, pursuant to the CESA. CDFW recommends an ITP include TRBL if the Project has the potential to result in "take" (Fish & G. Code § 86 defines "take" as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill") of the CESA-listed species, either through construction or over the life of the Project.

COMMENT 5: Impacts to Open Water Features, Section C., page number 3.4-31

Issue: The MND states that the Project would involve the removal of the two open water features (pond/lake), their associated vegetation, and any other aquatic features that are hydrologically connected to the open water features, including season wetlands and vernal pools. These activities will require notification for a Streambed Alteration Agreement. This was not clearly stated in the MND. In addition, while the impacts to the vernal pools and the wetlands associated with the vernal pool tadpole shrimps are proposed to be mitigated

through the SMUD HCP, no mitigation proposal was provided in the MND for the permanent loss of the open water/fringe habitat (stock ponds) or other aquatic resources. Only that it would be determined during the permitting process. As written, the mitigation in the MND does not reduce project impacts to a less-than-significant level under CEQA for the stock ponds and other aquatic features.

Recommendation or Recommended Mitigation Measure: CDFW recommends the MND clearly states that notification for a Streambed Alteration Agreement will be required for the removal of the two open water features (ponds/lakes), their associated vegetation, and any other aquatic features that are hydrologically connected to the open water features. The notification should include mitigation proposals for compensation to any permanent impacts to the aquatic features which may include the purchase of suitable mitigation credits at a 3:1 replacement to loss ratio, habitat restoration/enhancement onsite or offsite, habitat connectivity enhancements (wildlife crossings), partnership with other agencies or non-profit groups on restoration projects, or another mechanism pre-approved 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 California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link:

<https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be submitted online or mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov.

FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of 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 fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

Pursuant to Public Resources Code § 21092 and § 21092.2, CDFW requests written notification of proposed actions and pending decisions regarding the proposed project. Written notifications shall be directed to: California Department of Fish and Wildlife North Central Region, 1701 Nimbus Road, Rancho Cordova, CA 95670 or emailed to R2CEQA@wildlife.ca.gov.

CDFW appreciates the opportunity to comment on the MND for the Jackson Bulk Substation Project to assist SMUD in identifying and mitigating Project impacts on biological resources. CDFW personnel are available for consultation regarding biological resources and strategies

to minimize and/or mitigate impacts. Questions regarding this letter or further coordination should be directed to Harvey Tran, Senior Environmental Scientist (Specialist) at (916) 358-4035 or harvey.tran@wildlife.ca.gov.

Sincerely,

Harvey Tran

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^[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.