



STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

GAVIN NEWSOM, Governor
MEGHAN HERTEL, Director

Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
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July 16, 2026

Kelly Hyde, Open Space Planner
Marin County Open Space District
1600 Los Gato, Suite 275
San Rafael, CA 94903
Kelly.Hyde@marincounty.gov

Subject: Bowman Canyon Habitat Protection and Public Access Improvement Project, Mitigated Negative Declaration, SCH No. 2026060677, Marin County

Dear Kelly Hyde:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) from the Marin County Open Space District (District) for the Bowman Canyon Habitat Protection and Public Access Improvement Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

CDFW is submitting comments on the MND to inform the District, 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 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: Marin County Open Space District

Objective: The Project involves reconfiguring existing trails and roads by decommissioning, relocating, converting, and improving them throughout the Project area. The purpose of the Project is to reduce the overall footprint of trails and roads to protect sensitive habitats. The Project would decommission 3.0 miles of ranch roads and 3.1 miles of social trails, relocating trails out of sensitive habitats, and converting 1.2 miles of ranch roads to trail use. The Project includes improvements of 2.5 miles of ranch roads and 0.2 miles of social trails, construction of 5.8 miles of newly built trails, installation of drainage and watercourse improvements, and passive restoration of sensitive habitats, supplemented by additional seeding and planting of native shrubs. The Project will reduce road density, habitat fragmentation, and improve hydrologic function along trail and road alignments.

Location: The Project will occur in an unincorporated area of the City of Novato, Marin County, State of California, with an approximate centroid of 38.130558° Latitude, - 122.616112° 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 Marin western flax (*Hesperolinon congestum*), CESA listed as threatened species and burrowing owl (*Athene cunicularia*), a candidate species for CESA listing, as further described below.** 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 will impact unnamed streams, thank you for stating in the MND that the Project will obtain an LSA Agreement from CDFW prior to Project construction (MND page 24).** 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.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the District 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 are also 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?

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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: Marin Western Flax and other special-status plants, MND page 34, 63, 116, 119, 219

Issue, specific impacts, why they may occur and be potentially significant: The MND does not adequately evaluate and mitigate potential impacts to Marin western flax and other special-status plants. The MND describes that protocol plant surveys were conducted in 2019, 2022, 2023, however it is unclear what survey protocol was followed, which should be *CDFW's 2018 Protocol for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities*. There is one California Natural Diversity Database (CNDDDB) documented occurrences of Marin western flax within the Project area, multiple CNDDDB records adjacent to the Project area, and the MND identifies multiple occurrences of Marin western flax within the Project area (Figure 17, MND page 63). The MND describes that new and existing trails and roads will be reconfigured to avoid impacts to sensitive habitat, which CDFW appreciates, however it does not state if there will be full avoidance to Marin western flax and other special-status plants. The MND indicates that the Project may impact Marin western flax and other special-status plants, and references (Page 120) a special-status plant Best Management Practice (BMP) on page 219 (Special-Status Plants-2: Avoidance and Protection of Special-Status Plant Species near Road and Trail Management Projects), which is not a mitigation measure. The special-status plant BMP indicates that special-status plant habitat assessments will occur followed by surveys where suitable habitat is present within 14 days prior to the start of construction, and if impacts to special-status plants cannot be avoided the Project will contact CDFW and USFWS for any necessary permits. However, the above survey within 14 days of Project construction does not appear to be protocol level and therefore may not identify Marin western flax or other special-status plants.

Marin western flax is listed as threatened under CESA and the federal Endangered Species Act, therefore this species is considered to be threatened pursuant to Section 15380 of the CEQA Guidelines. Therefore, if Marin western flax 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 a threatened species, which would be considered a *mandatory finding of significance* pursuant to Section 15065, subdivision (a) of the CEQA Guidelines.

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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: CDFW recommends that the MND include the mitigation measure below to reduce potential impacts to Marin western flax and other special-status plants to less-than-significant and comply with CESA.

Mitigation Measure BIO-3 (Special-Status Plant Surveys, Avoidance and Mitigation): Prior to the start of Project activities, a qualified biologist shall conduct a habitat assessment for special-status plants which shall cover all areas of potential direct and indirect impacts from the Project. If potential habitat for special-status plants is present, botanical surveys shall be conducted during the appropriate blooming/identifiable 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. Surveys shall include visiting reference populations 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 a CESA ITP from CDFW for any impacts to Marin western flax or any other CESA or NPPA listed plants prior to Project activities, comply with the ITP, and provide habitat compensation to mitigate impacts to Marin western flax or any other CESA or NPPA listed plant species at a minimum 3 to 1 mitigation to impact ratio, unless otherwise required by the ITP. Habitat compensation shall include placing a conservation easement over occupied habitat for the applicable

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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 plan, 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 activities, unless otherwise approved in writing by CDFW. The Project shall also obtain USFWS authorization for impacts to federally listed plant species.

COMMENT 2: Burrowing Owl, MND pages 34, 37, 116, 120

Issue, specific impacts, why they may occur and be potentially significant: The MND does not adequately evaluate and mitigate potential impacts to burrowing owl. The Project is within the wintering range of the species, the MND identifies that there is suitable habitat for wintering burrowing owl within the Project area, and there are CNDDDB documented occurrences of burrowing owl within three miles of the Project area. The MND describes that burrow surveys were conducted, and numerous American badger (*Taxidea taxus*) and California ground squirrel (*Otospermophilus beecheyi*) burrows were observed, which could become occupied by burrowing owl, although no burrowing owl were observed. However, the surveys were conducted in February and March which is not the wintering season for burrowing owl and did not appear to follow the CDFW-accepted burrowing owl protocol survey methodology described below, therefore CDFW concludes that wintering burrowing owl may be present during Project activities. The MND includes Mitigation Measure BIO-1 and Table BIO-1 requiring nesting bird surveys to be conducted within seven days of the start of Project activities and implementing a buffer of 160 feet for owl species if a nest is detected; the measure does not require protocol wintering burrowing owl surveys or an adequate protective buffer if wintering burrowing owl are detected, therefore MM BIO-1 does not adequately mitigate potential impacts to wintering burrowing owl.

The Project may impact wintering burrowing owl utilizing burrows or burrow surrogates on or within up to 1,640 feet of the Project area. The Project could result in injury or mortality of adults and permanent wintering (i.e., non-nesting) habitat loss. Burrowing owl is a candidate species under CESA 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 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

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Statewide Burrowing Owl Coordinator 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). Based on the foregoing, if burrowing owl are wintering on or within up to 1,640 feet of the Project area, Project impacts to burrowing owl would be *potentially significant*.

Recommended Mitigation Measure: CDFW recommends that the MND includes the mitigation measure below to reduce impacts to burrowing owl to less-than-significant and comply with CESA and Fish and Game Code 3500 et seq.

Mitigation Measure BIO-4 (Wintering Burrowing Owl Surveys and Avoidance): If the Project occurs during the burrowing owl wintering season from September 1 to January 31, prior to Project activities 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 CDFW 2012 Staff Report survey methodology. 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 CDFW 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, 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 non-breeding season, unless otherwise approved in writing by CDFW. The survey results shall be emailed to CDFW and 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. Time lapses of more than 14 days between Project activities may trigger subsequent surveys including but not limited to a final survey conducted within 24 hours prior to ground disturbance.

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 or biological monitor shall monitor any detected owl to ensure it is not disturbed.

If the surveys result in the detection of the burrowing owl that may be impacted by the Project, or the presence of this species and impacts to it are assumed, the Project shall obtain and comply with an ITP from CDFW prior to construction.

Habitat compensation for impacts to occupied wintering burrowing owl habitat (habitat known to have been occupied by wintering burrowing owl within the last 3 years) shall also be provided at a minimum 3:1 mitigation to impact ratio prior to Project construction, unless otherwise approved by CDFW. Habitat mitigation shall include permanent preservation of high-quality burrowing owl wintering habitat through a conservation easement and implementing and funding a long-term management plan in perpetuity, to be finalized before Project construction, unless otherwise approved in writing by CDFW. The burrowing owl mitigation plan shall be submitted to CDFW for approval before Project construction and include a review of suitability of mitigation lands for burrowing owl as confirmed by a qualified biologist. The Project shall obtain CDFW's written approval of the burrowing owl mitigation plan. If the Project obtains an ITP for burrowing owl, the Project shall comply with the habitat compensation requirements in the ITP, which may differ.

Please be advised that an LSA Agreement for the Project, if issued, will likely include the above recommended mitigation measures as applicable and additional measures to protect fish and wildlife resources.

EDITORIAL COMMENT

California red-legged frog (*Rana draytonii*): Mitigation Measure BIO-2 (MND page 97, 124) states "Presence of California red-legged frogs may require a CESA ITP before project activities may commence." The status of California red-legged frog is correctly noted on MND page 32, "*Listing Status: Federal Threatened; California Species of Concern.*" California red-legged frog is not a species listed under CESA, therefore an ITP would not be issued for impacts to this species. The Project should consult with the USFWS for impacts to the species.

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ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special-status species and natural communities detected during Project surveys to 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 District 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

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Erin Chappell
Regional Manager
Bay Delta Region

Attachment: Attachment 1. Draft Mitigation and Monitoring Reporting Plan

cc: Office of Land Use and Climate Innovation, State Clearinghouse (SCH No. 2026060677)

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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 June 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. 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-3	<u>Special-Status Plant Surveys, Avoidance, Mitigation:</u> Prior to the start of Project activities, a qualified biologist shall conduct a habitat assessment for special-status plants which shall cover all areas of potential direct and indirect impacts from the Project. If potential habitat for special-status plants is present, botanical surveys shall be conducted during the appropriate blooming/identifiable 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. Surveys shall include visiting reference populations unless otherwise approved in writing by CDFW. Surveys and associated reporting shall be conducted according to CDFW's 2018 <i>Protocol for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities</i> (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 a CESA ITP from CDFW for any impacts to Marin western flax or any other	Prior to Ground Disturbance	Project Applicant

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	CESA or NPPA listed plants prior to Project activities, comply with the ITP, and provide habitat compensation to mitigate impacts to Marin western flax or any other CESA or NPPA listed plant species at a minimum 3 to 1 mitigation to impact ratio, unless otherwise required by the ITP. 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 plan 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 activities, unless otherwise approved in writing by CDFW. The Project shall also obtain USFWS authorization for impacts to federally listed plant species.		
BIO-4	<u>Wintering Burrowing Owl Surveys and Avoidance:</u> If the Project occurs during the burrowing owl wintering season from September 1 to January 31, prior to Project activities 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 CDFW 2012 Staff Report survey methodology. The habitat assessment shall focus on searching the California Natural Diversity Database 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 cm in diameter and a depth of 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	Prior to Ground Disturbance and for Duration of Construction	Project Applicant

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	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 CDFW 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, 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 non-breeding season, unless otherwise approved in writing by CDFW. The survey results shall be emailed to CDFW and 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. Time lapses of more than 14 days between Project activities may trigger subsequent surveys including, but not limited to a final survey conducted within 24 hours prior to ground disturbance. 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 or biological monitor shall monitor any detected owl to ensure it is not disturbed. If the surveys result in the detection of the burrowing owl that may be impacted by the Project, or the presence of this species and impacts to it are assumed, the Project shall obtain and comply with an ITP from CDFW prior to construction. Habitat compensation for impacts to occupied wintering burrowing owl habitat (habitat known to have been occupied by wintering burrowing owl within the last 3 years) shall also be provided at a minimum 3:1 mitigation to impact ratio prior to Project construction, unless otherwise approved by CDFW. Habitat mitigation shall include permanent preservation of high-quality burrowing owl wintering habitat through a conservation easement and implementing and funding a long-term management plan in perpetuity, to be finalized before Project construction, unless otherwise approved in writing by CDFW. The burrowing owl mitigation plan shall be submitted to CDFW for approval before Project		
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	construction and include a review of suitability of mitigation lands for burrowing owl as confirmed by a qualified biologist. The Project shall obtain CDFW's written approval of the burrowing owl mitigation plan. If the Project obtains an ITP for burrowing owl, the Project shall comply with the habitat compensation requirements in the ITP, which may differ.		
N/A: EDITORIAL	California red-legged frog (<i>Rana draytonii</i>): Mitigation Measure BIO-2 (MND page 97, 124) states "Presence of California red-legged frogs may require a CESA ITP before project activities may commence." The status of California red-legged frog is correctly noted on MND page 32, "Listing Status: Federal Threatened; California Species of Concern." California red-legged frog is not a species listed under CESA, therefore an ITP would not be issued for impacts to this species. The Project should consult with USFWS for impacts to the species.	During Final MND Preparation	Lead Agency