



STATE OF CALIFORNIA  
DEPARTMENT OF FISH AND WILDLIFE

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September 29, 2026

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Subject: North Bay Regional Water Treatment Plant, Fairfield-Vacaville Water Works Project,  
Mitigated Negative Declaration, SCH No. 2026080694, Solano County

Dear David Vong:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) from the City of Fairfield (City) for the North Bay Regional Water Treatment Plant, Fairfield-Vacaville Water Works Project (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

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

## CDFW ROLE

CDFW is a **Trustee Agency** with responsibility under the California Environmental Quality Act (CEQA) for commenting on projects that could impact fish, plant, and wildlife resources (Pub. Resources Code, § 21000 et seq.; Cal. Code Regs., tit. 14, § 15386). CDFW is also considered a **Responsible Agency** if a project would require discretionary approval, such as a permit pursuant to the California Endangered Species Act (CESA) or Native Plant Protection Act (NPPA), Lake and Streambed Alteration (LSA) Agreement, 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.

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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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## PROJECT DESCRIPTION SUMMARY

**Proponent:** City of Fairfield

**Objective:** The Project involves expanding the capacity and operational efficiency of the existing North Bay Regional Water Treatment Plant (NBRWTP) and construction of one new pipe alignment to accommodate combined existing and planned service demands of both Fairfield and Vacaville within their respective adopted General Plan service areas. The Project would increase the NBRWTP capacity from approximately 52.7 million gallons per day (mgd) to a maximum of 65 mgd. The expansion includes new and upgraded water treatment facilities; pumping and chemical storage systems; and electrical, operations facilities, and energy resilience improvements. Two pipeline alignments are under consideration: 1) Linear Trail Pipeline Alignment (preferred alignment), and 2) Peabody Road Pipeline Alignment. Each alignment would traverse a range of conditions, including developed and unpaved areas of the NBRWTP, across and along Putah South Canal, unnamed tributaries, paved roadways, and unpaved open space areas that are generally not accessible to the public. The pipeline improvements would enhance operational flexibility and water delivery reliability between NBRWTP and Vacaville's distribution network. Construction activities would occur within the existing treatment plant property, existing utility corridors, roadway rights-of-way, other previously disturbed areas, and undeveloped lands, including but not limited to grassland and seasonal wetland habitats. Preliminary estimates indicate that total Project ground disturbance, including NBRWTP impacts, would encompass up to approximately 56.82 acres under the Linear Trail Alignment, of which 37.05 acres would be undeveloped land and 57.48 acres under Peabody Road Alignment, of which 33.53 acres of which would be undeveloped land.

**Location:** The Project would occur in the cities of Fairfield and Vacaville and an unincorporated area between them, Solano County, State of California, with an approximate centroid of 38.298871° Latitude, -121.966448° Longitude.

## REGULATORY REQUIREMENTS

### California Endangered Species Act and Native Plant Protection 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.<sup>2</sup> **The Project has the potential to impact the below species, as further described in the Comments and Recommendations section of this letter:**

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<sup>2</sup> "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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- **Boggs Lake hedge-hyssop (*Gratiola heterosepala*), Colusa grass (*Neostapfia colusana*), San Joaquin Valley Orcutt grass (*Orcuttia inaequalis*), and Crampton's tuctoria (Solano grass, *Tuctoria mucronata*), which are CESA and NPPA listed as endangered species;**
- **California tiger salamander (*Ambystoma californiense*), Tricolored blackbird (*Agelaius tricolor*), and Swainson's hawk (*Buteo swainsoni*), which are CESA listed as threatened species; and**
- **Burrowing owl (*Athene cunicularia*) and Crotch's bumble bee (*Bombus occidentalis*), which are both candidate species for CESA listing.**

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 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 has the potential to impact the Putah Creek South Canal, Union Creek, unnamed tributaries, and hydrologically connected wetlands. Thank you for including Mitigation Measure BIO-22 requiring the Project to submit an LSA Notification and comply with the LSA Agreement once issued.** CDFW will consider the CEQA document for the Project and may issue an LSA Agreement. CDFW may not execute the final LSA Agreement (or ITP) until it has complied with CEQA as a Responsible Agency.

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## Raptors and Other Nesting Birds

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

## California Fully Protected Species

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

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

Specified types of infrastructure projects may be eligible for an ITP for unavoidable impacts to fully protected species if certain conditions are met. (See Fish & G. Code § 2081.15.) Project proponents should consult with CDFW early in the project planning process. **The Project has the potential to impact white-tailed kite (*Elanus leucurus*), which is a California fully protected species, as further described below.**

## COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Based on the Project's avoidance of significant impacts on biological resources with implementation of mitigation measures, including those CDFW recommends in **Attachment A**, CDFW concludes that an MND is appropriate for the Project.

**I. Mandatory Findings of Significance: Does the Project have the potential to substantially reduce the number or restrict the range of an endangered, rare, or threatened species?**

**And,**

**Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species**

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**in local or regional plans, policies, or regulations, or by CDFW or U.S. Fish and Wildlife Service (USFWS)?**

**COMMENT 1:** California Tiger Salamander, Mitigation Measure and Related Impact Shortcoming

**Issue, specific impacts, why they may occur and be potentially significant:** Thank you for including Mitigation Measure (MM) BIO-1 (MND page 4-70) indicating that a CESA ITP from CDFW will be obtained for CESA-listed species; however, MM BIO-1 does not explicitly state which species an ITP would be obtained for, therefore it is unclear if the Project would obtain a CESA ITP for California tiger salamander (CTS). According to the MND, the Project would impact up to 37.05 acres of grassland and seasonal wetland habitats, which are suitable for CTS. Table 4.4.A indicates there is a high potential for CTS to occur in the Project area and Page 4-62 states "The Project has the potential to negatively impact California tiger salamanders directly through death or injury if a burrow is crushed during construction activities or indirectly through effects on hydrology in a potential breeding pond adjacent to the Project site. Construction activities could also disrupt or block seasonal movements." Additionally, MM BIO-11 indicates that a CTS relocation plan, which may result in take of CTS ("take" means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill pursuant to Fish and Game Code section 86), would be submitted to CDFW and USFWS prior to Project activities.

Absent an ITP carefully evaluating CTS impacts and mitigation, the Project could result in unmitigated impacts to CTS and their upland or breeding habitat including but not limited to: 1) direct impacts in the entire Project area where suitable CTS habitat occurs, direct impacts would include permanent and temporary habitat loss from ground disturbing activities and mortality of CTS, and 2) indirect impacts, such as increased lighting and other edge effects and hydrological modifications that alter off-site habitat, which also may result in injury or mortality of CTS. CTS is a CESA listed as threatened species, and the Central California distinct population segment is also federally listed as threatened. Thus, CTS is considered threatened under CEQA pursuant to CEQA Guidelines section 15380. Therefore, if CTS are present on or adjacent to the Project area where suitable CTS habitat occurs, the Project may substantially reduce the number or restrict the range of a threatened species, which would be a *mandatory finding of significance* pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

**Recommended Mitigation Measure:** To reduce potential impacts to CTS to less-than-significant and comply with CESA, CDFW recommends revising MM BIO-11 to add the below mitigation measure.

Mitigation Measure BIO-11 (California Tiger Salamander): Prior to Project construction, the Project shall obtain a CESA ITP from CDFW for CTS and comply with the ITP, including but not limited to any habitat compensation requirements (see:

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<https://wildlife.ca.gov/Conservation/CESA/Permitting/Incidental-Take-Permits>). The Project shall also obtain authorization from USFWS for impacts to CTS and comply with the authorization.

**COMMENT 2:** Tricolored Blackbird, Mitigation Measure and Related Impact Shortcoming

**Issue, specific impacts, why they may occur and be potentially significant:** The MND does not adequately mitigate potential impacts to tricolored blackbird. Mitigation Measure BIO-19 (MND pages 4-79 and 4-80) describes a survey “should be” conducted by a qualified biologist before any Project activity occurring within 500 feet of suitable nesting habitat, however “should” is non-compulsory meaning it may not be implemented. The MND also states that the size of the avoidance buffer for an active nest shall be determined in consultation with CDFW, and the buffer size is anticipated to range from 100 to 500 feet. However, a buffer of less than 500 feet without CDFW’s written approval may not be adequate to avoid impacts to the species.

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

The statewide tricolored blackbird population has declined between 75 percent and 90 percent over the last 25 years and remains at or near its smallest recorded size (CDFW 2018). Tricolored blackbird is a CESA listed as threatened species and therefore is considered to be a threatened species pursuant to CEQA Guidelines section 15380. Therefore, if an active tricolored blackbird nest is disturbed by the Project, the Project may result in a substantial reduction in the number of a threatened species, which is considered a *mandatory finding of significance* pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

**Recommended Mitigation Measure:** To reduce potential impacts to tricolored blackbirds to less-than-significant and comply with CESA and Fish and Game Code section 3500 et seq., CDFW recommends revising MM BIO-19 to include the below mitigation measure.

Mitigation Measure BIO-19 (Tricolored Blackbird Nest Avoidance): If nesting tricolored black birds are detected during nesting bird surveys described in recommended Mitigation Measure BIO-20 below or otherwise, a qualified biologist shall:

- Map the location of the nest site and immediately notify CDFW,

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- Establish a clearly marked no-disturbance buffer around the nest site. Buffer distances shall be site-specific and an appropriate distance to ensure impacts are avoided, as determined by a qualified biologist, and not less than 500 feet for tricolored blackbird nests, unless otherwise approved in writing by CDFW, and
- Monitor any active nest daily and ensure that the no disturbance buffer is maintained, unless otherwise approved in writing by CDFW.
- Construction may resume when a qualified biologist has confirmed that the birds have fledged and are no longer dependent on parental care around the nest site, and with written approval from CDFW.
- If impacts to nesting tricolored blackbird cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP before Project activities commence, and comply with the ITP.

**COMMENT 3:** White-tailed Kite and other Nesting Birds, Mitigation Measure and Related Impact Shortcoming

**Issue, specific impacts, why they may occur and be potentially significant:** The MND does not adequately mitigate potential impacts to white-tailed kite and other nesting birds. MM BIO-20 (MND page 4-80) describes a buffer “should be” established if an active nest is found and be based on based on the bird species, however “should” is non-compulsory meaning it may not be implemented.

White-tailed kite is a California Fully Protected Species (Fish & G. Code, § 3511) and nesting birds are protected by Fish and Game Code section 3500 et seq. and the federal MBTA. Human activity and removal of habitat has contributed to the loss of a significant proportion of the total number of birds in the United States and Canada since the 1970s (Rosenburg et al. 2019). Nesting birds may be disturbed by habitat removal or noise and visual disturbances above ambient levels, which could result in active nest loss or abandonment or reduced health and vigor of young, resulting in a *potentially significant impact*.

**Recommended Mitigation Measure:** To reduce potential impacts to nesting birds to less-than-significant and comply with Fish and Game Code sections 3500 et seq. and MBTA, CDFW recommends replacing MM BIO-20 with the below mitigation measure.

Mitigation Measure BIO-20 (Nesting Bird Surveys): A nesting bird survey shall be conducted by a qualified biologist prior to any vegetation removal or ground disturbing work occurring during the nesting season (February 1 to August 31). The survey shall extend out a minimum of 500 feet from the boundaries of the Project site to the extent feasible based on land uses and ownership of surrounding properties; however, the Project shall request landowner permission to survey other properties and use binoculars to cover the survey area, and document the survey effort and property owner coordination. The survey shall be completed

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no more than five days prior to the start of work. If an active nest is found during surveys, the qualified biologist shall immediately notify CDFW and establish site- and species-specific no-work buffers to ensure the nest is not disturbed, and obtain CDFW written approval of the buffer distance. The buffer distances shall be specified to protect the bird's normal behavior to prevent nesting failure or abandonment and comply with Fish and Game Code section 3500 et seq. and the federal MBTA. If a lapse in project-related work of five days or longer occurs, another survey shall be conducted before Project work can be reinitiated. Abnormal nesting behaviors which may cause reproductive harm include, but are not limited to, defensive flights/vocalizations directed towards project personnel, standing up from a brooding position, and flying away from the nest. The qualified biologist shall have authority to order the cessation of all nearby Project activities if the nesting birds exhibit abnormal behavior which may cause reproductive failure (nest abandonment and loss of eggs and/or young) until an appropriate buffer is established.

The qualified biologist shall monitor the behavior of the birds (adults and young, when present) at the nest site to ensure that they are not disturbed by Project work. Nest monitoring shall continue during Project work until the young have fully fledged (have completely left the nest site and are no longer being fed by the parents), as determined by the qualified biologist, unless otherwise approved in writing by CDFW.

#### **COMMENT 4:** Swainson's Hawk, Mitigation Measures and Related Impact Shortcoming

**Issue, specific impacts, why they may occur and be potentially significant:** The MND does not mitigate potential impacts to Swainson's hawk. MM BIO-17 (MND page 4-79) states "To the extent feasible, guidelines provided in *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in the Central Valley* (Swainson's Hawk Technical Advisory Committee 2000) (protocol surveys) shall be followed." However, "to the extent feasible" is non-compulsory and the protocol surveys are often necessary to ensure detection of the species. There is one CNDDDB documented Swainson's hawk nest within 0.7 miles and multiple other documented records within 1.5 miles of the Project area, and there appears to be suitable nesting habitat within 0.5 miles of the Project area, the distance at which the species may be disturbed in rural areas. The Project has the potential to impact nesting Swainson's hawk through auditory or visual disturbances above ambient levels within 0.5 miles of Project activities and through the removal of nesting trees that could be occupied. Direct or indirect disturbances from Project activities may result in Swainson's hawk nest abandonment, loss of nests, and loss of eggs or reduced health and vigor and loss of young.

The MND states that the Project area contains suitable Swainson's hawk foraging habitat and that the Project may result in a loss of foraging habitat (page 4-64), however MM BIO-18 uses the word "should" regarding foraging habitat compensation which is non-compulsory meaning it may not be implemented. In 2016, CDFW released a Status Review for Swainson's hawk in California and recommended the species retain its status as threatened under CESA (CDFW 2016). The review cites the primary threat to Swainson's hawk continues to be habitat

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loss, especially the loss of suitable foraging habitat. The study cites concerns regarding impacts to Swainson's hawk from urban development, reduction in grasslands, and orchard and vineyard cultivation, all of which are prominent impacts in Solano County.

If a Swainson's hawk nest is disturbed or foraging habitat is lost by the Project, the Project may result in a substantial reduction in the number or restriction in the range of a threatened species, which is considered a *mandatory finding of significance* pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

**Recommended Mitigation Measure:** To reduce potential impacts to Swainson's hawk, to less-than-significant and comply with CESA and Fish and Game Code section 3503.5, CDFW recommends replacing MM BIO-17 with the below mitigation measure and adding the below requirements to MM BIO-18.

*Mitigation Measure BIO-17 (Swainson's Hawk Surveys and Avoidance Buffer):* If Project activities are scheduled during the nesting season for Swainson's hawks (March 1 to September 15), prior to beginning work on the Project, a qualified biologist shall conduct surveys according to the Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83990&inline>) and prepare a report documenting the survey results. The Project shall obtain CDFW's written approval of the qualified biologist and survey report prior to starting construction activities between March 1 and September 15. Survey methods shall be closely followed by starting early in the nesting season (late March to early April) to maximize the likelihood of detecting an active nest (nests, adults, and chicks are more difficult to detect later in the growing season because trees become less transparent as vegetation increases). Surveys shall be conducted: 1) within a minimum 0.5-mile radius of the Project site or a larger area if needed to identify potentially impacted active nests, unless otherwise approved by CDFW in writing, and 2) for at least the two survey periods immediately prior to initiating Project-related construction activities. Surveys shall occur annually for the duration of the Project. The qualified biologist shall have a minimum of two years of experience implementing the survey methodology. If active Swainson's hawk nests are detected, the Project shall immediately notify CDFW and implement a 0.5-mile construction avoidance buffer around the nest until the nest is no longer active as determined by a qualified biologist, unless otherwise approved by CDFW in writing. Any detected nesting Swainson's hawk shall be monitored by the qualified biologist to ensure it is not disturbed during construction activities, unless otherwise approved in writing by CDFW. If take of Swainson's hawk cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP before Project activities commence.

*Mitigation Measure BIO-18 (Swainson's Hawk Foraging Habitat):* Mitigation for impacts to Swainson's hawk foraging habitat shall be consistent with Measure 4.4-2a of the Solano Multispecies HCP (SCWA 2025) which requires that three acres of valley floor grassland habitat be preserved for every one acre of permanent impact. A qualified biologist shall

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quantify the loss in foraging habitat in acres and submit this information to CDFW and obtain CDFW's written approval of the acreage and mitigation prior to Project construction.

**COMMENT 5:** Burrowing Owl, Environmental Setting and Mitigation Measure Related Impact Shortcomings

**Issue, specific impacts, why they may occur and be potentially significant:** The MND does not adequately evaluate and mitigate potential impacts to burrowing owl. MM BIO-14 (MND page 4-77) describes that surveys "shall encompass the Project area and a sufficient buffer zone..." however it does not state what the buffer zone is, which for medium and high disturbance activities should be 500 meters (1,640 feet) where suitable habitat occurs according to the *Department of Fish and Game Staff Report on Burrowing Owl Mitigation* (2012). Additionally, MM BIO-14 requires a 250-foot avoidance buffer for nesting burrowing owls, however this species can be impacted by audio or visual disturbances up to 500 meters (1,640 feet) away as stated above. There are CNDDDB documented burrowing owl occurrences within the Project area and multiple documented records within 1.7 miles of the Project area, and there appears to be suitable nesting and wintering habitat in the Project area and within 500 meters of it. The Project could result in burrowing owl nest abandonment, loss of young, reduced health and vigor of owlets, injury or mortality of adults, and permanent wintering (i.e., non-nesting) or nesting habitat loss. Burrowing owl is a CESA candidate species and California Species of Special Concern 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 squirrels resulting in a loss of suitable burrows required by burrowing owls for nesting, protection from predators, and shelter (Shuford and Gardali 2008; *Department of Fish and Game Staff Report on Burrowing Owl Mitigation* (2012); personal communication, CDFW Statewide Burrowing Owl Coordinator Esther Burkett, May 13, 2022). Preliminary analyses of regional patterns for breeding populations of burrowing owls have detected declines both locally in their central and southern coastal breeding areas, and statewide where the species has experienced breeding range retraction (*Department of Fish and Game Staff Report on Burrowing Owl Mitigation* (2012); personal communication, Esther Burkett, May 13, 2022). Information indicates a decline in burrowing owl range over time, burrowing owl has experienced population declines in regions of California, and threats to burrowing owl, coupled with long-term population declines, suggest a high degree and immediacy of threat to burrowing owl in California (CDFW 2024).

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

**Recommended Mitigation Measure:** To reduce potential impacts to burrowing owl to less-than-significant and comply with CESA and Fish and Game Code section 3503 et seq., CDFW recommends replacing MM BIO-14 with the below mitigation measure.

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

If suitable burrowing owl habitat is observed, four surveys shall be conducted to detect the presence of burrowing owl pursuant to the CDFW 2012 Staff Report. The site visits shall be spread evenly throughout the breeding or non-breeding season. The Project shall obtain CDFW's written approval of the survey results prior to starting Project activities. In addition, a survey shall be completed within 14 days prior to the start of construction, as described in the CDFW 2012 Staff Report. Surveys shall occur during burrowing owl nesting and wintering seasons for the duration of the Project, unless otherwise approved in writing by CDFW.

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

If the Project cannot ensure burrowing owl and their burrows are fully avoided, the Project shall consult with CDFW and obtain a CESA ITP prior to Project construction. If burrowing owl, or their burrows or burrow surrogates, are detected within 500 meters (1,640 feet) of the Project area during burrowing owl surveys, but not on the Project area, the Project shall consult with CDFW to determine if avoidance is feasible or an ITP is warranted, and shall obtain an ITP if take cannot be avoided and comply with the ITP. Additionally, prior to Project construction, the Project shall mitigate the loss of known (used by burrowing owl within the last three years) currently unoccupied wintering or nest sites through preservation,

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through a conservation easement or purchase of wintering or nesting burrow credits from a CDFW approved conservation bank, of known wintering or nest sites, as applicable, at a ratio of 2:1 unless another ratio is required by an ITP, in which case the Project shall comply with the ITP, unless otherwise approved in writing by CDFW.

Mitigation Measure BIO-14a (Caps, Pipes, and Hoses): To prevent burrowing owls from sheltering or nesting in exposed material; all construction pipes, culverts, hoses or similar materials greater than two inches in diameter stored at the Project area shall be capped or covered before the end of each work day and shall be inspected thoroughly for wildlife before the pipe or similar structure is buried, capped, used, or moved.

**COMMENT 6:** Crotch's bumble bee, Mitigation Measure Related Impact Shortcoming

**Issue, specific impacts, why they may occur and be potentially significant:** The MND does not adequately mitigate potential impacts to Crotch's bumble bee. There are multiple CNDDDB records within 2.5 miles of the Project area, and there appears to be suitable habitat within and adjacent to the Project area. MM BIO-9 (MND page 4-74) indicates that "...a focused survey of all suitable habitat..." will be conducted and follow the methods in *Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species* (CDFW 2023) prior to Project activities; however, it is unclear if the required minimum of three focused surveys for Crotch's bumble bee, spaced at least three weeks apart will be implemented.

If Crotch's bumble bee go undetected, the Project may result in mortality of individuals from direct impacts or indirect impacts via degradation of habitat. Crotch's bumble bee is a CESA candidate species, which affords it the same protections as formally listed species. Therefore, if Crotch's bumble bee are present on or adjacent to the Project area where they may be directly or indirectly impacted, Project impacts to Crotch's bumble bee would be *potentially significant*.

**Recommendation:** To reduce potential impacts to Crotch's bumble bee to less-than-significant and comply with CESA, CDFW recommends replacing MM BIO-9 with the below mitigation measure.

Mitigation Measure BIO-9 (Crotch's Bumble Bee Avoidance): All ground-disturbing work, including, but not limited to, staging of equipment on bare soil, grass, or other vegetation and trenching to remove underground infrastructure such as water and sewer lines, shall take place between the period of August 15 to October 15 (end of dry season which is applicable to the seasonal work window for CTS). This period has been developed using local Crotch's bumble bee data and may not be applicable to other regions or projects. If ground-disturbing work must occur between June 15 (beginning of dry season which is applicable to the seasonal work window for CTS) and August 14, a minimum of three focused surveys for Crotch's bumble bee, spaced at least three weeks apart and with at least one survey occurring during the peak flight season of Crotch's bumble bee and at least

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one survey occurring during the peak bloom period for the site, shall be conducted prior to the start of ground-disturbing activities each year of the Project, in accordance with CDFW's 2023 Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150&inline>). Surveys shall be conducted annually for the duration of the Project. The biologist conducting the survey and the survey protocol must be approved in writing by CDFW prior to the survey. The Project shall submit a survey report to CDFW prior to ground disturbing work and shall notify CDFW within 24 hours if Crotch's bumble bee or other special-status bumble bees are detected. If active nest colonies are detected the Project shall establish a minimum 50-foot no-disturbance buffer, unless otherwise approved in writing by CDFW. The project shall obtain a CESA ITP from CDFW if impacts to Crotch's bumble bee cannot be avoided.

**COMMENT 7:** Boggs Lake Hedge-hyssop, Colusa Grass, San Joaquin Valley Orcutt Grass, Crampton's tuctoria, and other special-status plants, Environmental Setting and Mitigation Measure Related Impact Shortcomings

**Issue, specific impacts, why they may occur and be potentially significant:** The MND does not adequately evaluate and mitigate potential impacts to Boggs Lake hedge-hyssop, Colusa grass, San Joaquine Valley Orcutt grass, Crampton's tuctoria, and other special-status plants. Thank you for including MM BIO-3 (MND page 4-70) which describes conducting protocol plant surveys prior to ground disturbing activities; however, the measure does not state what specific protocol the surveys will follow, which should be *CDFW's 2018 Protocol for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities*. The MND Appendix C (PDF pages 649-652) indicates there is potential habitat for Boggs Lake hedge-hyssop, Colusa grass, San Joaquine Valley Orcutt grass, and Crampton's tuctoria within or adjacent to the Project area including vernal pool and freshwater wetlands. The MND lists the above plants as having low potential to occur based on soil type; however, it is unclear if soil types were adequately characterized to effectively rule out the potential of these species to occur.

Boggs Lake hedge-hyssop, Colusa grass, San Joaquine Valley Orcutt grass, and Crampton's tuctoria are listed as endangered or threatened under CESA and NPPA and therefore these species are considered to be endangered pursuant to Section 15380 of the CEQA Guidelines. Therefore, if the above listed plant species are present in the Project area or adjacent to it and would be directly or indirectly impacted by the Project, the Project could substantially reduce the population or restrict the range of an endangered species, which would be considered a *mandatory finding of significance* pursuant to Section 15065, subdivision (a) of the CEQA Guidelines.

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

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where they may be directly or indirectly impacted, impacts to other special-status plants would be *potentially significant*.

**Recommended Mitigation Measure:** To reduce potential impacts to Boggs Lake hedge-hyssop, Colusa grass, San Joaquine Valley Orcutt grass, and Crampton's tuctoria and other special-status plants to less-than-significant and comply with CESA and NPPA, CDFW recommends replacing MM BIO-3 with the below mitigation measure.

Mitigation Measure BIO-3 (Conduct Special-Status Plant Surveys: Implement Avoidance and Mitigation Measures and Compensatory Mitigation for Special-status Plants): Prior to the start of Project activities, a qualified biologist shall conduct a habitat assessment for special-status plants including characterizing the soil types within the Project area and describing why it is unsuitable for any special-status plants, if applicable. If potential habitat for special-status plants is present, botanical surveys shall be conducted during the appropriate blooming or 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, especially in habitats such as grasslands or desert plant communities that have annual and short-lived perennial plants as major floristic components. Surveys shall include visiting reference population unless otherwise approved in writing by CDFW. Surveys and associated reporting shall be conducted according to CDFW's 2018 Protocol for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities (see: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>). Surveys shall include the entire extent of any directly or indirectly impacted suitable wetland habitat for special-status wetland plants, including portions of the wetland on adjacent parcels or not directly impacted, as impacts to part of a wetland often affects the entire wetland, unless otherwise approved in writing by CDFW. Evaluation of indirect impacts to special-status wetland plants may necessitate a thorough hydrological assessment that fully analyzes existing and post-project conditions to seasonal wetland habitat. Surveys may be valid for two years once baseline conditions are fully captured, unless site-specific conditions warrant a shorter period or 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 but is not limited to topsoil salvage, transplanting, restoration, or habitat compensation, and associated success criteria, monitoring, and maintenance, as applicable. The Project shall obtain and comply with a CESA ITP from CDFW or otherwise demonstrate compliance with CESA and NPPA for any

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impacts to Boggs Lake hedge-hyssop, Colusa grass, San Joaquine Valley Orcutt grass, or Crampton's tuctoria or any other CESA or NPPA listed plants. The Project shall also provide habitat compensation to mitigate impacts to Boggs Lake hedge-hyssop, Colusa grass, San Joaquine Valley Orcutt grass, or Crampton's tuctoria or any other CESA or NPPA listed plant species at a minimum 3:1 mitigation to impact ratio, unless otherwise approved in writing by CDFW. Habitat compensation shall include placing a conservation easement over occupied habitat for the applicable species and preparing, funding, and implementing an interim and long-term management plan, unless otherwise approved in writing by CDFW. The habitat compensation location, conservation easement, and all associated land conservation documents including but not limited to the management plans shall be submitted to CDFW for review and the Project shall obtain CDFW's written approval of these documents, unless otherwise approved in writing by CDFW. The conservation easement shall be recorded and management plans funding shall be completed prior to Project construction, unless otherwise approved in writing by CDFW. The Project shall also obtain USFWS authorization for impacts to federally listed plant species.

## **EDITORIAL COMMENT**

The MND references the Solano County Water Agency (SCWA) 2025 Multispecies Habitat Conservation Plan (MND page 6-1, PDF page 625); however, this document does not appear to be publicly available therefore the mitigation measures referenced within the MND, such as those for Swainson's hawk and burrowing owl foraging habitat compensation, cannot be verified for consistency. The SCWA website currently includes a draft version from year 2012, see: <https://scwa2.com/solano-multispecies-habitat-conservation-plan/>.

## **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 online field survey form and other methods for submitting data can be found 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://wildlife.ca.gov/Data/CNDDDB/Plantsand-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.

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## CONCLUSION

CDFW appreciates the opportunity to comment on the MND to assist the City in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Jordan Beaton, Environmental Scientist, at [Jordan.Beaton@wildlife.ca.gov](mailto:Jordan.Beaton@wildlife.ca.gov) or (707) 980-5172; or Melanie Day, Senior Environmental Scientist (Supervisory), at [Melanie.Day@wildlife.ca.gov](mailto:Melanie.Day@wildlife.ca.gov) or (707) 210-4415.

Sincerely,

DocuSigned by:  
  
B77E9A6211EF486...  
Erin Chappell  
Regional Manager  
Bay Delta Region

ec: Office of Land Use and Climate Innovation, Clearing House (SCH No. 2026080694)

Vincent Griego, U.S. Fish and Wildlife Service, [Vincent.Griego@fws.gov](mailto:Vincent.Griego@fws.gov)

Alicia Pisani, Water Boards, [Alicia.Pisani@waterboards.ca.gov](mailto:Alicia.Pisani@waterboards.ca.gov)

## REFERENCES

CDFW. 2024. Petition Evaluation for Western Burrowing Owl (*Athene cunicularia hypugaea*). Report to the Fish and Game Commission. California Department of Fish and Wildlife, P.O. Box 944209, Sacramento, CA.

CDFW. 2018. Report to the Fish and Game Commission: A Status Review of the Tricolored Blackbird (*Agelaius tricolor*) in California. State of California Natural Resources Agency, Sacramento, CA. <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=154287&inline>

CDFW. 2016. Status Review: Swainson's Hawk (*Buteo swainsoni*) in California, reported to the California Fish and Game Commission, five-year status report. State of California Natural Resources Agency, Sacramento, CA.  
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=133622&inline>

CDFW. 2012. Department of Fish and Game Staff Report on Burrowing Owl Mitigation. State of California Natural Resources Agency, Sacramento, CA.

Rosenberg, K.V., and A.M. Dokter. 2019. Decline of the North American Avifauna.  
<https://www.birds.cornell.edu/home/wp-content/uploads/2019/09/DECLINE-OF-NORTH-AMERICAN-AVIFAUNA-SCIENCE-2019.pdf>

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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.

## Attachment 1

### Draft Mitigation and Monitoring Reporting Plan

| Biological Resources (BIO) |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                     |                   |
|----------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|-------------------|
| Mitigation Measure (MM)    | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Timing                                                                              | Responsible Party |
| BIO-11                     | <p><b>Revise MM BIO-11 to add the below mitigation measure:</b></p> <p><i>California Tiger Salamander:</i> Prior to Project construction, the Project shall obtain a CESA ITP from CDFW for CTS and comply with the ITP, including but not limited to any habitat compensation requirements (see: <a href="https://wildlife.ca.gov/Conservation/CESA/Permitting/Incidental-Take-Permits">https://wildlife.ca.gov/Conservation/CESA/Permitting/Incidental-Take-Permits</a>). The Project shall also obtain authorization from USFWS for impacts to CTS and comply with the authorization.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Prior to Ground Disturbance and for Duration of Construction                        | Project Applicant |
| BIO-19                     | <p><b>Revise MM BIO-19 to include the below mitigation measure:</b></p> <p><i>Tricolored Blackbird Nest Avoidance:</i> If nesting tricolored black birds are detected during nesting bird surveys described in recommended Mitigation Measure BIO-20 below or otherwise, a qualified biologist shall:</p> <ul style="list-style-type: none"> <li>• Map the location of the nest site and immediately notify CDFW,</li> <li>• Establish a clearly marked no-disturbance buffer around the nest site. Buffer distances shall be site-specific and an appropriate distance to ensure impacts are avoided, as determined by a qualified biologist, <u>and not less than 500 feet for tricolored blackbird nests</u>, unless otherwise approved in writing by CDFW, and</li> <li>• Monitor any active nest daily and ensure that the no disturbance buffer is maintained, unless otherwise approved in writing by CDFW.</li> <li>• Construction may resume when a qualified biologist has confirmed that the birds have fledged and are no longer dependent on parental care around the nest site, and with written approval from CDFW.</li> </ul> | Prior to Vegetation Removal and Ground Disturbance and for Duration of Construction | Project Applicant |

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|               | <ul style="list-style-type: none"> <li>If impacts to nesting tricolored blackbird cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP before Project activities commence, and comply with the ITP.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                            |                          |
| <b>BIO-20</b> | <p><b>Replace MM BIO-20 with the below mitigation measure:</b></p> <p><i>Nesting Bird Surveys:</i> A nesting bird survey shall be conducted by a qualified biologist prior to any vegetation removal or ground disturbing work occurring during the nesting season (February 1 to August 31). The survey shall extend out a minimum of 500 feet from the boundaries of the Project site to the extent feasible based on land uses and ownership of surrounding properties, however the Project shall request landowner permission to survey other properties and use binoculars to cover the survey area, and document the survey effort and property owner coordination. The survey shall be completed no more than 5 days prior to the start of work. If an active nest is found during surveys, the qualified biologist shall immediately notify CDFW and establish site- and species-specific no-work buffers to ensure the nest is not disturbed, and obtain CDFW written approval of the buffer distance. The buffer distances shall be specified to protect the bird's normal behavior to prevent nesting failure or abandonment and comply with Fish and Game Code section 3500 et seq. and the federal MBTA. If a lapse in project-related work of 5 days or longer occurs, another survey shall be conducted before Project work can be reinitiated. Abnormal nesting behaviors which may cause reproductive harm include, but are not limited to, defensive flights/vocalizations directed towards project personnel, standing up from a brooding position, and flying away from the nest. The qualified biologist shall have authority to order the cessation of all nearby Project activities if the nesting birds exhibit abnormal behavior which may cause reproductive failure (nest abandonment and loss of eggs and/or young) until an appropriate buffer is established.</p> <p>The qualified biologist shall monitor the behavior of the birds (adults and young, when present) at the nest site to ensure that they are not disturbed by Project work. Nest monitoring shall continue during Project work until the young have fully fledged (have completely left the nest site and are no longer being fed by the parents), as determined by the qualified biologist, unless otherwise approved in writing by CDFW</p> | <p>Prior to Vegetation Removal and Ground Disturbance and for Duration of Construction</p> | <p>Project Applicant</p> |
| <b>BIO-17</b> | <p><b>Replace MM BIO-17 with the below mitigation measure:</b></p> <p><i>Swainson's Hawk Surveys and Avoidance:</i> If Project activities are scheduled during the nesting season for Swainson's hawks (March 1 to September 15), prior to beginning work on the Project, a qualified biologist shall conduct surveys according to the Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (<a href="https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83990&amp;inline">https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83990&amp;inline</a>)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <p>Prior to Vegetation Removal and Ground Disturbance and for Duration of Construction</p> | <p>Project Applicant</p> |

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|               | <p>e) and prepare a report documenting the survey results. The Project shall obtain CDFW's written approval of the qualified biologist and survey report prior to starting construction activities between March 1 and September 15. Survey methods shall be closely followed by starting early in the nesting season (late March to early April) to maximize the likelihood of detecting an active nest (nests, adults, and chicks are more difficult to detect later in the growing season because trees become less transparent as vegetation increases). Surveys shall be conducted: 1) within a minimum 0.5-mile radius of the Project site or a larger area if needed to identify potentially impacted active nests, unless otherwise approved by CDFW in writing, and 2) for at least the two survey periods immediately prior to initiating Project-related construction activities. <u>Surveys shall occur annually for the duration of the Project.</u> The qualified biologist shall have a minimum of two years of experience implementing the survey methodology. If active Swainson's hawk nests are detected, the Project shall immediately notify CDFW and implement a 0.5-mile construction avoidance buffer around the nest until the nest is no longer active as determined by a qualified biologist, unless otherwise approved by CDFW in writing. Any detected nesting Swainson's hawk shall be monitored by the qualified biologist to ensure it is not disturbed during construction activities, unless otherwise approved in writing by CDFW. If take of Swainson's hawk cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP before Project activities commence.</p> |                                                              |                   |
| <b>BIO-18</b> | <p><b>Revise MM BIO-18 to add the below mitigation measure:</b></p> <p><i>Swainson's Hawk Foraging Habitat:</i> Mitigation for impacts to Swainson's hawk foraging habitat shall be consistent with Measure 4.4-2a of the Solano Multispecies HCP (SCWA 2025) which requires that 3 acres of valley floor grassland habitat be preserved for every 1 acre of permanent impact. A qualified biologist shall quantify the loss in foraging habitat in acres and submit this information to CDFW and obtain CDFW's written approval of the acreage and mitigation prior to Project construction</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Prior to Ground Disturbance                                  | Project Applicant |
| <b>BIO-14</b> | <p><b>Replace MM BIO-14 with the below mitigation measure (14 and 14a):</b></p> <p><i>Burrowing Owl Habitat Surveys and Avoidance:</i> A qualified biologist shall conduct a burrowing owl habitat assessment within 500 meters (1,640 feet) of the Project area pursuant to the Department of Fish and Game (now CDFW) Staff Report on Burrowing Owl Mitigation (CDFW 2012 Staff Report, available at: <a href="https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds">https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds</a> ), 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</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Prior to Ground Disturbance and for Duration of Construction | Project Applicant |

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|  | <p>burrowing owl records on or within one mile of the Project area, vegetation type and height, suitable burrows (with an opening of &gt;11 cm in diameter and a depth of &gt;150 cm), burrow surrogates (culverts, piles of concrete rubble, piles of soil, burrows created along soft banks of ditches and canals, pipes, and similar structures), and presence of burrowing owl sign (tracks, molted feathers, cast pellets, prey remains, egg shell fragments, owl white wash, and nest burrow decoration material), and the presence of burrowing owl individuals or pairs. If the habitat assessment does not identify suitable habitat and surveys are not conducted as described below, an additional habitat assessment shall be conducted within 14 days prior to construction and if new potentially suitable burrowing owl refugia are present surveys shall be conducted as described below, unless otherwise approved in writing by CDFW. The results of the habitat assessment shall be emailed to the CDFW contact below, or if unavailable another CDFW representative, and the Project shall obtain CDFW's written approval of the habitat assessment prior to starting Project activities.</p> <p>If suitable burrowing owl habitat is observed, four surveys shall be conducted to detect the presence of burrowing owl pursuant to the CDFW 2012 Staff Report. The site visits shall be spread evenly throughout the breeding or non-breeding season. The Project shall obtain CDFW's written approval of the survey results prior to starting Project activities. In addition, a survey shall be completed within 14 days prior to the start of construction, as described in the CDFW 2012 Staff Report. <u>Surveys shall occur during burrowing owl nesting and wintering seasons for the duration of the Project, unless otherwise approved in writing by CDFW.</u></p> <p>If burrowing owl is detected, the Project shall immediately notify CDFW. The Project shall avoid impacts to the burrowing owl and implement a 1,640-foot buffer area around the owl site in which no Project activities shall occur, unless otherwise approved in writing by CDFW. A qualified biologist shall monitor any detected owl to ensure it is not disturbed.</p> <p>If the Project cannot ensure burrowing owl and their burrows are fully avoided, the Project shall consult with CDFW and obtain a CESA ITP prior to Project construction. If burrowing owl, or their burrows or burrow surrogates, are detected within 500 meters (1,640 feet) of the Project area during burrowing owl surveys, but not on the Project area, the Project shall consult with CDFW to determine if avoidance is feasible or an ITP is warranted, and shall obtain an ITP if take cannot be avoided and comply with the ITP. Additionally, prior to Project construction, the Project shall mitigate the loss of known (used by burrowing owl within the last 3 years) currently unoccupied wintering or nest sites through preservation, through a conservation easement or purchase of wintering or nesting burrow credits from a CDFW approved conservation bank, of known wintering or nest sites, as applicable, at a ratio of 2:1 unless another ratio is required by an ITP, in which case the Project</p> |  |  |
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|                | shall comply with the ITP, unless otherwise approved in writing by CDFW.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                     |                   |
| <b>BIO-14a</b> | <i>Caps, Pipes, and Hose:</i> To prevent burrowing owls from sheltering or nesting in exposed material; all construction pipes, culverts, hoses or similar materials greater than 2 inches in diameter stored at the Project area shall be capped or covered before the end of each work day and shall be inspected thoroughly for wildlife before the pipe or similar structure is buried, capped, used, or moved.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | For Duration of Construction                                                        | Project Applicant |
| <b>BIO-9</b>   | <p><b>Replace MM BIO-9 with the below mitigation measure:</b></p> <p><i>Crotch's Bumble Bee Avoidance:</i> All ground-disturbing work, including, but not limited to, staging of equipment on bare soil, grass, or other vegetation and trenching to remove underground infrastructure such as water and sewer lines, shall take place between the period of August 15 to October 15 (end of dry season which is applicable to the seasonal work window for CTS). This period has been developed using local Crotch's bumble bee data and may not be applicable to other regions or projects. If ground-disturbing work must occur between June 15 (beginning of dry season which is applicable to the seasonal work window for CTS) and August 14, a minimum of three focused surveys for Crotch's bumble bee, spaced at least three weeks apart and with at least one survey occurring during the peak flight season of Crotch's bumble bee and at least one survey occurring during the peak bloom period for the site, shall be conducted prior to the start of ground-disturbing activities each year of the Project, in accordance with CDFW's 2023 Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species (<a href="https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150&amp;inline">https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150&amp;inline</a>). Surveys shall be conducted annually for the duration of the Project. The biologist conducting the survey and the survey protocol must be approved in writing by CDFW prior to the survey. The Project shall submit a survey report to CDFW prior to ground disturbing work and shall notify CDFW within 24 hours if Crotch's bumble bee or other special-status bumble bees are detected. If active nest colonies are detected the Project shall establish a minimum 50-foot no-disturbance buffer, unless otherwise approved in writing by CDFW. The project shall obtain a CESA ITP from CDFW if impacts to Crotch's bumble bee cannot be avoided.</p> | Prior to Ground Disturbance and for Duration of Construction                        | Project Applicant |
| <b>BIO-3</b>   | <p><b>Replace MM BIO-3 with the below mitigation measure:</b></p> <p><i>Conduct Special-Status Plant Surveys: Implement Avoidance and Mitigation Measures and Compensatory Mitigation for Special-status Plants:</i> Prior to the start of Project activities, a qualified biologist shall conduct a habitat assessment for special-status plants including characterizing the soil types within the Project area and describing why it is unsuitable for any special-status plants, if applicable. If potential habitat for special-status plants is present, botanical surveys shall be conducted during the appropriate blooming or identifiable period and conditions for all special-status</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Prior to Vegetation Removal and Ground Disturbance and for Duration of Construction | Project Applicant |

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|  | <p>plants that have the potential to occur within or near the Project where they may be directly or indirectly impacted by for example, modifications to hydrological conditions. More than one year of surveys during appropriate conditions to fully capture baseline conditions may be necessary, especially in habitats such as grasslands or desert plant communities that have annual and short-lived perennial plants as major floristic components. Surveys shall include visiting reference population unless otherwise approved in writing by CDFW. Surveys and associated reporting shall be conducted according to CDFW's 2018 Protocol for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities (see: <a href="https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&amp;inline">https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&amp;inline</a> ). Surveys shall include the entire extent of any directly or indirectly impacted suitable wetland habitat for special-status wetland plants, including portions of the wetland on adjacent parcels or not directly impacted, as impacts to part of a wetland often affects the entire wetland, unless otherwise approved in writing by CDFW. Evaluation of indirect impacts to special-status wetland plants may necessitate a thorough hydrological assessment that fully analyzes existing and post-project conditions to seasonal wetland habitat. Surveys may be valid for two years once baseline conditions are fully captured, unless site-specific conditions warrant a shorter period or otherwise approved by CDFW in writing. The habitat assessment and survey reports shall be submitted to CDFW prior to the start of construction.</p> <p>Project activities shall not proceed until CDFW has provided written approval of the habitat assessment and survey reports. If any special-status plant species are observed, the Project shall fully avoid direct and indirect impacts to all individuals and prepare and implement a CDFW-approved avoidance plan prior to Project activities. If full avoidance is not possible, Project activities may not commence until the Project has consulted with CDFW and obtained CDFW's written approval, which may include but is not limited to topsoil salvage, transplanting, restoration, or habitat compensation, and associated success criteria, monitoring, and maintenance, as applicable. The Project shall obtain and comply with a CESA ITP from CDFW or otherwise demonstrate compliance with CESA and NPPA for any impacts to Boggs Lake hedge-hyssop, Colusa grass, San Joaquine Valley Orcutt grass, or Crampton's tuctoria or any other CESA or NPPA listed plants. The Project shall also provide habitat compensation to mitigate impacts to Boggs Lake hedge-hyssop, Colusa grass, San Joaquine Valley Orcutt grass, or Crampton's tuctoria or any other CESA or NPPA listed plant species at a minimum 3:1 mitigation to impact ratio, unless otherwise approved in writing by CDFW. Habitat compensation shall include placing a conservation easement over occupied habitat for the applicable species and preparing, funding, and implementing an interim and long-term management plan, unless otherwise approved in writing by CDFW. The habitat compensation location, conservation easement, and all associated land</p> |  |  |
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David Vong, Senior Civil Engineer  
City of Fairfield  
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|  | conservation documents including but not limited to the management plans shall be submitted to CDFW for review and the Project shall obtain CDFW's written approval of these documents, unless otherwise approved in writing by CDFW. The conservation easement shall be recorded and management plans funding shall be completed prior to Project construction, unless otherwise approved in writing by CDFW. The Project shall also obtain USFWS authorization for impacts to federally listed plant species. |  |  |
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