



STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

GAVIN NEWSOM, Governor
MEGHAN HERTEL, Director

Central Region
1234 East Shaw Avenue
Fresno, California 93710
(559) 243-4005
wildlife.ca.gov

September 18, 2026

Luis Verdugo
Kaweah Delta Water Conservation District
2975 North Farmersville Blvd
Farmersville, California 93233
(559) 747-5601
lverdugo@kdwcd.com

**Subject: Grants Check Structure Project (Project)
Initial Study (IS) and Mitigated Negative Declaration (MND)
State Clearinghouse No.: 2026080657**

Dear Luis Verdugo:

The California Department of Fish and Wildlife (CDFW) received an IS/MND from Kaweah Delta Water Conservation District (District) for the above-referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

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.

Luis Verdugo
Kaweah Delta Water Conservation District
September 18, 2026
Page 2

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project would be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code may be required.

Nesting Birds: CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their nests, and eggs include sections 3503 (regarding unlawful take, possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds of prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

Unlisted Species: Species of plants and animals need not be officially listed as endangered, rare, or threatened on any State or federal list pursuant to CESA and/or the federal Endangered Species Act to be considered endangered, rare, or threatened under CEQA. If a species can be shown to meet the criteria specified in the CEQA Guidelines (Cal. Code Regs., tit. 14, Chapter 3, § 15380), it should be fully considered in the environmental analysis for the Project.

PROJECT DESCRIPTION SUMMARY

Proponent: Kaweah Delta Water Conservation District (District)

Objective: The proposed Project would consist of replacing an existing check structure on the St. John's River. The new check structure will have a flow capacity of 8,000 cubic feet per second and will consist of a concrete pad, check gates, and airbladder which will raise and lower the gate system. Construction Project activities will also include installing temporary coffer dams and dewatering the worksite. Construction is anticipated to take 180 days and will occur when the St. Johns River is dry or at low flow conditions.

Location: The proposed Project is located within and adjacent to the St. John's River approximately 1.25 miles north of the City of Visalia, approximately 0.4 miles west of Road 108 and 0.2 miles south of Avenue 328, in unincorporated Tulare County; Township 18 South, Range 24 East, Section 11, Mount Diablo Base and Meridian; Monson U.S. Geological Survey 7.5-minute quadrangle; centroid latitude 36.38214 and longitude -119.33949.

Luis Verdugo
Kaweah Delta Water Conservation District
September 18, 2026
Page 3

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 may also be included to improve the IS/MND prepared for this Project.

Special-Status Species

Based on the IS/MND the Project occurs within the St. John's River adjacent to agricultural areas, such as orchards and a dairy. The IS/MND acknowledges that special-status species occur or have the potential to occur in or adjacent to the Project site and proposes specific mitigation measures to reduce impacts to less than significant levels. CDFW has concerns about the ability of some of these measures to reduce impacts to less than significant levels and avoid unauthorized take of special-status species, including, but not limited to the State threatened Swainson's hawk (*Buteo swainsoni*), the State candidate western burrowing owl (*Athene cunicularia hypugaea*), the State candidate and the federally proposed threatened western spadefoot (*Spea hammondi*), and the State candidate Crotch's bumble bee (*Bombus crotchii*). CDFW recommends the following modifications and/or edits be incorporated into the IS/MND, including proposed avoidance and minimization measures, prior to its adoption by the District.

Swainson's Hawk

The IS/MND states that Swainson's hawk (SWHA) has the potential to occur near the Project site. The IS/MND provides mitigation measure BIO-2 which includes avoiding construction activities during the nesting season if feasible, and requires that SWHA surveys be conducted within 0.5 miles of the Project if construction activities will occur during the nesting season. CDFW concurs with conducting activities outside of the nesting season and conducting SWHA surveys if Project activities will occur during the nesting season, however, it is unclear if protocol level SWHA surveys will be conducted when surveys are conducted, and the IS/MND does not include mitigation measures if an active SWHA nest is found within 0.5 miles of the Project. CDFW recommends modifying mitigation measure BIO-2 to reflect the following recommendations and that these measures be incorporated prior to the initiation of any Project activities:

Recommended Mitigation Measure 1: SWHA Pre-Activity Surveys

CDFW recommends that Project activities be timed to avoid the normal bird breeding season (February 1 through September 15). However, if Project activities must take place during that time, CDFW recommends that a qualified biologist conduct surveys for nesting SWHA following the entire survey methodology developed by the SWHA Technical Advisory Committee (SWHA

Luis Verdugo
Kaweah Delta Water Conservation District
September 18, 2026
Page 4

TAC 2000) the survey season immediately prior to the start of any Project activities.

Recommended Mitigation Measure 2: SWHA No-Disturbance Buffer

If any active SWHA nest is detected during pre-activity surveys or Project activities, CDFW recommends delineating and maintaining a minimum ½-mile no-disturbance buffer around each nest prior to and during any Project activities. To prevent nest abandonment and other take of SWHA as a result of Project activities, CDFW advises that these no-disturbance buffers remain in place until the breeding season (February 1 through September 15) has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival.

Recommended Mitigation Measure 3: SWHA Take Authorization

If any active SWHA nest is detected during pre-activity surveys or Project activities, and a ½-mile no-disturbance buffer is not feasible, consultation with CDFW is warranted to discuss how to implement the Project and avoid take. If take cannot be avoided, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA.

Western Burrowing Owl

The IS/MND notes that western burrowing owl (BUOW) have the potential to occur near the Project site. The IS/MND provides mitigation measure BIO-1 which requires BUOW pre-construction clearance survey, and if BUOW or their sign (e.g. feathers, guano, pellets) are found on or within 500 feet of the Project then a construction-free buffer, limited operating period, or passive relocation will be implemented in consultation with CDFW. It is unclear if protocol level BUOW surveys will be conducted. Further, acquisition of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b) would be necessary prior to any BUOW passive relocation. CDFW recommends modifying BUOW-1 of the IS/MND to reflect the following recommendations and that these measures be incorporated prior to the initiation of any Project activities:

Recommended Mitigation Measure 4: BUOW Pre-Activity Surveys

If suitable habitat is present in or within 500 meters of the Project, CDFW recommends that focused surveys, following the 2012 Staff Report on Burrowing Owl Mitigation (2012 Staff Report; CDFG 2012), be conducted the survey season immediately prior to Project activities, which necessitates multiple surveys prior to the initiation of Project activities.

Recommended Mitigation Measure 5: BUOW No-Disturbance Buffer

If any BUOW or known BUOW den (active or inactive) is detected during pre-activity surveys or Project activities, CDFW recommends delineating and

Luis Verdugo
Kaweah Delta Water Conservation District
September 18, 2026
Page 5

maintaining no-disturbance buffers, as outlined in the 2012 Staff Report, prior to and during any Project activities. CDFW advises that these no-disturbance buffers be implemented for both wintering and breeding BUOW.

Recommended Mitigation Measure 6: BUOW Take Authorization

If any BUOW or known BUOW den (active or inactive) is detected, and the no-disturbance buffers outlined in the 2012 Staff Report on Burrowing Owl Mitigation (CDFG 2012) are not feasible, consultation with CDFW is warranted to discuss how to implement the Project and avoid take. If take cannot be avoided, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA.

Western Spadefoot

The Project site is within the known geographic range of western spadefoot (WESP) (CDFW 2026). The IS/MND states that WESP is listed as a State species of special concern. Please be advised that the California Fish and Game Commission (FGC) approved WESP as a candidate for potential listing as a protected species under CESA on August 13, 2026, and is in the process of publishing the Notice of Findings in the California Regulatory Notice Register. Once the Notice of Findings is published, WESP will be designated as a candidate under CESA and as such will receive the same legal protection afforded to an endangered or threatened species (Fish & G. Code, §§ 2074.2 & 2085).

Additionally, the IS/MND states that WESP does not have the potential to occur due to the lack of vernal pool or other potential breeding habitat within the biological survey area. CDFW does not concur with this conclusion. WESP occurs primarily in grasslands and seasonal wetlands with appropriate upland habitat, though they are also regularly documented throughout the San Joaquin Valley in areas of irrigated agriculture, where features such as tailwater ponds, agricultural sumps, and irrigation ditches in addition to any areas that pool water for only a few weeks are present. Based on aerial imagery, the Project site and surrounding area contains these habitat features and potential breeding habitat may be present near and within the Project, therefore there is the potential for WESP to be present within the Project site and vicinity.

Recommended Mitigation Measure 7: WESP Habitat Assessment

CDFW recommends that habitat assessments for WESP be conducted specifically during the rainy season when pooled/ponded water is visible to evaluate potentially occupied breeding habitat. CDFW also recommends conducting several site visits while conducting these assessments to further assess whether there is a sufficient hydroperiod for WESP breeding (as little as two weeks, Stebbins 1951) and/or dispersal. If potentially suitable habitat is identified, consultation with CDFW is recommended for guidance on appropriate

Luis Verdugo
Kaweah Delta Water Conservation District
September 18, 2026
Page 6

WESP surveys, and for guidance on appropriate avoidance, minimization, and mitigation measures.

Recommended Mitigation Measure 8: WESP Avoidance and Take Authorization

CDFW recommends avoidance of potential breeding habitat even when dry, since post-metamorphic WESP juveniles have a unique adaptation to the drying of their temporary breeding pools; they utilize the dried pond bottom as a refuge, burying themselves in the desiccation cracks and damp soil beneath the surface crust (Baumberger et al., 2020). If any life stage of WESP are found and take of WESP cannot be avoided, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081, subdivision (b), would be necessary to comply with CESA.

Crotch's Bumble Bee

The Project site is within the known geographic range of the Crotch's bumble bee (CBB) (CDFW 2026). The IS/MND states that CBB does not have the potential to occur due to the lack of grassland and upland shrub habitat. CDFW does not concur with this conclusion. CBB inhabits a variety of habitats, including grasslands, scrublands, openings in woodlands, and areas with bare ground such as vacant lots, dirt roads, and levees (Xerces Society et al. 2018). CBB uses requisite habitat elements for nesting, such as small mammal burrows and bunch/thatched grasses, which may be present in or near the Project site. CDFW recommends including the following measures in the IS/MND and that these measures be incorporated prior to the initiation of any Project activities:

Recommended Mitigation Measure 9: CBB Habitat Assessment

CDFW recommends that a habitat assessment, following the Survey Considerations for California Endangered Species Act Bumble Bee Species (CDFW 2023), be conducted by a qualified biologist the survey season immediately prior to vegetation- or ground-disturbing activities. Potential nesting sites, which include all small mammal burrows, perennial bunch grasses, thatched annual grasses, brush piles, old bird nests, dead trees, and hollow logs would need to be documented as part of the assessment.

Recommended Mitigation Measure 10: CBB Pre-Activity Surveys

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

Luis Verdugo
Kaweah Delta Water Conservation District
September 18, 2026
Page 7

Recommended Mitigation Measure 11: CBB Avoidance

If CBB is detected, CDFW recommends that all small mammal burrows, thatched/bunch grasses, and any other potential nesting resources be avoided by a minimum of 50 feet to avoid take and potentially significant impacts. If vegetation- or ground-disturbing activities would occur during the overwintering period (October through February), consultation with CDFW is warranted to discuss how to implement Project activities and avoid take. Any detection of CBB prior to or during Project implementation warrants consultation with CDFW to discuss how to avoid take.

Recommended Mitigation Measure 12: CBB Take Authorization

If take cannot be avoided, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA.

Editorial Comments and/or Suggestions

Lake and Streambed Alteration: The Project includes the replacement of an instream structure which is subject to the notification requirement of Fish and Game Code section 1600 et seq. Specifically, Fish and Game Code section 1602 requires project proponents to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake; or (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral or intermittent as well as those that are perennial in nature. Future on-going project operations and maintenance may involve activities that are jurisdictional under Fish and Game Code section 1602. CDFW recommends coordination with CDFW staff prior to groundbreaking activities on-site or submission of a Lake or Streambed Alteration Notification to determine if the activities proposed are subject to CDFW's jurisdiction.

CDFW is required to comply with CEQA in the issuance of a Lake or Streambed Alteration Agreement; therefore, if the CEQA document approved for the Project does not adequately describe the Project and its impacts to lakes or streams, a subsequent CEQA analysis may be necessary for Lake or Streambed Alteration Agreement issuance. For information on notification requirements, please refer to CDFW's website (<https://wildlife.ca.gov/Conservation/LSA>) or contact CDFW staff in the Central Region Lake and Streambed Alteration Program at (559) 243-4593, or R4LSA@wildlife.ca.gov.

Nesting Birds: To protect nesting birds, CDFW recommends that Project ground-disturbing and vegetation-disturbing activities occur during the bird non-nesting season; however, if ground-disturbing or vegetation-disturbing activities must occur during the nesting season (February 1st through September 15th), the Project applicant is responsible for ensuring that implementation of the Project does not result in violation of

Luis Verdugo
 Kaweah Delta Water Conservation District
 September 18, 2026
 Page 8

the Migratory Bird Treaty Act or relevant Fish and Game Code sections as referenced in this letter.

If the nesting season cannot be avoided, CDFW recommends that a qualified biologist conduct a pre-construction survey for active nests no more than 10 days prior to the start of ground or vegetation disturbance to maximize the probability that nests that could potentially be impacted are detected. CDFW also recommends that surveys cover a sufficient area around the Project site to identify nests and determine their status. A sufficient area means any area potentially affected, either directly or indirectly, by the Project. In addition to direct impacts (i.e., nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. CDFW recommends that a qualified biologist establish a behavioral baseline of all identified nests. Once Project activities begin, CDFW recommends having a qualified biologist continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends halting the work causing that change and consulting with CDFW for additional avoidance and minimization measures.

If continuous monitoring of identified nests by a qualified biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined the birds have fledged and are no longer reliant upon the nest or on-site parental care for survival. Variance from these no-disturbance buffers is possible when there is a compelling biological or ecological reason to do so, such as when the Project site would be concealed from a nest site by topography. CDFW recommends that a qualified biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

California Natural Diversity Database (CNDDDB): Please note that the CNDDDB is populated by voluntary submission records of species detections. As a result, species may be present in locations not depicted in the CNDDDB, but where there is suitable habitat and features capable of supporting species. A lack of an occurrence record, or lack of recent occurrence records, in the CNDDDB does not mean a species is not present. In order to adequately assess any potential Project-related impacts to biological resources, surveys conducted by a qualified biologist/botanist during the appropriate survey period(s) and using the appropriate protocol survey methodology are warranted in order to determine whether or not any special-status species are present at or near the Project site.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, §

Luis Verdugo
Kaweah Delta Water Conservation District
September 18, 2026
Page 9

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 completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

FILING FEES

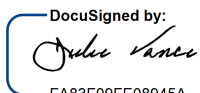
The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental document filing fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

CDFW appreciates the opportunity to comment on the IS/MND to assist the District in identifying and mitigating Project impacts on biological resources. More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>).

Please see the enclosed, Attachment 1, Mitigation Monitoring and Reporting Program (MMRP) table, which corresponds with recommended mitigation measures in this comment letter. If you have any questions regarding this letter or further coordination, please contact Jackson Powell, Environmental Scientist, at (559) 899-9758 or by electronic mail at Jackson.Powell@wildlife.ca.gov.

Sincerely,

DocuSigned by:

FA83F09FE08945A...
Julie A. Vance
Regional Manager

Attachment 1: Mitigation Monitoring and Reporting Program

cc: State Clearinghouse
Governor's Office of Land Use and Climate Innovation
state.clearinghouse@lci.ca.gov

Luis Verdugo
Kaweah Delta Water Conservation District
September 18, 2026
Page 10

REFERENCES

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Attachment 1

Attachment 1

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

PROJECT: Grants Check Structure Project

SCH No.: 2026080657

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
<i>Before Disturbing Soil or Vegetation</i>	
Swainson's hawk (SWHA)	
Recommended Mitigation Measure 1: SWHA Pre-Activity Surveys	
Recommended Mitigation Measure 2: SWHA No-Disturbance Buffer	
Recommended Mitigation Measure 3: SWHA Take Authorization	
Western burrowing owl (BUOW)	
Recommended Mitigation Measure 4: BUOW Pre-Activity Surveys	
Recommended Mitigation Measure 5: BUOW No-Disturbance Buffer	
Recommended Mitigation Measure 6: BUOW Take Authorization	
Western spadefoot (WESP)	
Recommended Mitigation Measure 7: WESP Habitat Assessment	
Recommended Mitigation Measure 8: WESP Avoidance and Take Authorization	
Crotch's bumble bee (CBB)	
Recommended Mitigation Measure 9: CBB Habitat Assessment	
Recommended Mitigation Measure 10: CBB Pre-Activity Surveys	
Recommended Mitigation Measure 11: CBB Avoidance	
Recommended Mitigation Measure 12: CBB Take Authorization	

<i>During Activities</i>	
Swainson's hawk (SWHA)	
Recommended Mitigation Measure 2: SJKF No-Disturbance Buffer	
Recommended Mitigation Measure 3: SWHA Take Authorization	
Western burrowing owl (BUOW)	
Recommended Mitigation Measure 5: BUOW No-Disturbance Buffer	
Recommended Mitigation Measure 6: BUOW Take Authorization	
Western spadefoot (WESP)	
Recommended Mitigation Measure 8: WESP Avoidance and Take Authorization	
Crotch's bumble bee (CBB)	
Recommended Mitigation Measure 11: CBB Avoidance	
Recommended Mitigation Measure 12: CBB Take Authorization	