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April 20, 2020

Governor's Office of Planning & Research

APR 21 2020

Sophia Pagoulatos
City of Fresno
2600 Fresno St, Room 3065
Fresno, California 93721

STATE CLEARINGHOUSE

Subject: City of Fresno General Plan (Project)
Program Environmental Impact Report (PEIR)
SCH#: 2019050005

Dear Ms. Pagoulatos:

The California Department of Fish and Wildlife (CDFW) received a PEIR from the City of Fresno 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 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.

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

PROJECT DESCRIPTION SUMMARY

Proponent: City of Fresno

Objective: The City of Fresno is updating the existing General Plan Master EIR (MEIR) and converting it to a Program EIR (PEIR) to be in conformance with State law and consistent with recent legislative changes related to Vehicle Miles Traveled (VMT). The PEIR includes a current baseline for the continued implementation of the approved General Plan and reflects changes in City planning documents that have occurred since adoption of the approved General Plan in 2014. The City is not proposing any land use changes as a part of this project, but it does include an update to the City's Greenhouse Gas Reduction Plan. This update, consistent with Section 15168 of the CEQA Guidelines, is intended to streamline implementation of the General Plan's programs and projects by supporting them with updated environmental analysis, regulatory framework, and mitigation measures, pursuant to CEQA.

Location: The Project site is the entire city of Fresno and its sphere of influence.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist the City of Fresno 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 CEQA document prepared for this Project.

There are several special-status species that have been documented in the Project vicinity and may be present at individual Project sites in the Project area. These resources may need to be evaluated and addressed prior to any approvals that would allow ground-disturbing activities or land use changes. The PEIR indicates there are potentially significant impacts unless mitigation measures are taken but some measures are either non-specific and potentially difficult to enforce or missing for some species.

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CDFW is concerned regarding potential impacts to special-status species including, but not limited to, the State and federally threatened California tiger salamander (*Ambystoma californiense*); the State threatened Swainson's hawk (*Buteo swainsoni*); the State threatened and federally endangered San Joaquin kit fox (*Vulpes macrotis mutica*); the State and federally endangered least Bell's vireo (*Vireo bellii pusillus*); the State threatened tricolored blackbird (*Agelaius tricolor*); the State candidate for listing as endangered Crotch bumble bee (*Bombus crotchii*); the State species of special concern burrowing owl (*Athene cunicularia*), western spadefoot (*Spea hammondi*), western pond turtle (*Emys marmorata*), American badger (*Taxidea taxus*), Chinook salmon (*Oncorhynchus tshawytscha*), pallid bat (*Antrozous pallidus*), and spotted bat (*Euderma maculatum*); and the State rare California Satintail (*Imperata brevifolia*) and other special-status plants. In order to adequately assess any potential impact to biological resources, focused biological surveys should be conducted by a qualified wildlife biologist/botanist during the appropriate survey period(s) in order to determine whether any special-status species may be present within the Project area. Properly conducted biological surveys, and the information assembled from them, are essential to identify any mitigation, minimization, and avoidance measures and/or the need for additional or protocol-level surveys, especially in the areas not in irrigated agriculture, and to identify any Project-related impacts under CESA and other species of concern.

I. Environmental Setting and Related Impact

Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or the United States Fish and Wildlife Service (USFWS)?

COMMENT 1: California Tiger Salamander (CTS)

Issue: CTS have the potential to occur in the Project area. Aerial imagery shows that the Project area includes potential upland habitat features (e.g., grasslands or ruderal fields with small mammal burrows) and may include or be adjacent to breeding habitat features (e.g., vernal pools, seasonal ponds, stock ponds, stormwater basins) for CTS that are dispersing from and into the area. The highest potential for these habitat features is in Northeast Fresno near or adjacent to the San Joaquin River and/or near Willow Avenue, but CTS have been documented in railroad right-of-ways, agriculture fields, and other marginal habitat when dispersing from burrows after winter rains begin.

Specific Impacts: The potential for ground- and vegetation-disturbing activities associated with the approval of the PEIR could result in: collapse of small mammal burrows, inadvertent entrapment, loss of upland refugia, water quality impacts to breeding sites, reduced reproductive success, reduction in health and vigor of eggs

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and/or young, increased habitat fragmentation and edge effects, and direct mortality of individuals.

Evidence impact would be significant: Up to 75% of historic CTS habitat has been lost to urban and agricultural development (Searcy et al. 2013). Loss, degradation, and fragmentation of habitat are the primary threats to CTS in both the Central and San Joaquin valleys. Contaminants and vehicle strikes are also sources of mortality for the species (CDFW 2015, USFWS 2017a). The Project area is within the range of CTS and has suitable habitat (i.e., upland and riparian habitat). CTS have been determined to be physiologically capable of dispersing up to approximately 1.5 miles from seasonally flooded wetlands (Searcy and Shaffer 2011) and have been documented to occur near the Project area (CDFW 2020). Given the presence of suitable habitat within the Project area, potential ground-disturbing activities may significantly impact local populations of CTS.

Recommended Potentially Feasible Mitigation Measure(s)

Because suitable habitat for CTS is present within and adjacent to the Project site, CDFW recommends conducting the following evaluation of individual Project sites, incorporating the following mitigation measures into the program environmental impact report (PEIR) prepared for this Project, and that these measures be made conditions of approval for the Project.

Recommended Mitigation Measure 1: Focused CTS Protocol-level Surveys

CDFW recommends that a qualified biologist conduct protocol-level surveys in accordance with the USFWS "Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander" (USFWS 2003) at the appropriate time of year to determine the existence and extent of CTS breeding and refugia habitat. Please note that the recommended survey protocol starts with a site assessment to determine if suitable habitat occurs within a Project site. If suitable habitat exists, the protocol-level surveys for CTS require more than one survey season and are dependent upon sufficient rainfall to complete. As a result, consultation with CDFW and the USFWS is recommended well in advance of beginning the surveys and prior to any planned vegetation- or ground-disturbing activities. CDFW advises that the protocol-level survey include a 100-foot buffer around the Project area in all areas of wetland and upland habitat that could support CTS. Please be advised that protocol-level survey results are viable for two years after the results are reviewed by CDFW.

Recommended Mitigation Measure 2: CTS Avoidance

If suitable habitat features exist at an individual Project site and CTS protocol-level surveys as described in Mitigation Measure 1 are not conducted, CDFW advises that

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a minimum 50-foot no-disturbance buffer be delineated around all small mammal burrows in suitable upland refugia habitat within and/or adjacent to an individual Project site. Further, CDFW recommends potential or known breeding habitat within and/or adjacent to the Project site be delineated with a minimum 250-foot no-disturbance buffer. Both upland burrow and wetland breeding no-disturbance buffers are intended to minimize impacts to CTS habitat and avoid take of individuals. Alternatively, the applicant can assume presence of CTS within the Project site and obtain from CDFW a State Incidental Take Permit (ITP) in accordance with Fish and Game Code section 2081(b).

Recommended Mitigation Measure 3: CTS Take Authorization

If through surveys it is determined that CTS are occupying or have the potential to occupy an individual Project site, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided, take authorization would be warranted prior to initiating ground-disturbing activities to comply with CESA. Take authorization would occur through issuance of an ITP by CDFW, pursuant to Fish and Game Code section 2081(b). As stated above, in the absence of protocol surveys, the applicant can assume presence of CTS within the Project site and obtain an ITP from CDFW.

COMMENT 2: Swainson's Hawk (SWHA)

Issue: SWHA have been documented in the Project area (CNDDDB 2020). SWHA have the potential to nest in areas with large, mature trees which are present at Woodward and Roeding parks as well as along the San Joaquin River. SWHA foraging habitat exists within the Project area along the southwestern and southeastern edges of Fresno in the form of agricultural land.

Specific impacts: Without appropriate avoidance and minimization measures for SWHA, potential significant impacts that may result from Project activities include: nest abandonment, loss of nest trees, loss of foraging habitat that would reduce nesting success (loss or reduced health or vigor of eggs or young), and direct mortality. Any take of SWHA without appropriate incidental take authorization would be a violation of Fish and Game Code.

Evidence impact is potentially significant: SWHA exhibit high nest-site fidelity year after year and lack of suitable nesting habitat in the San Joaquin Valley limits their local distribution and abundance (CDFW 2016). Approval of the PEIR may lead to subsequent ground-disturbing activities that involve noise, groundwork, and movement of workers that could affect nests and has the potential to result in nest abandonment and loss of foraging habitat, significantly impacting local nesting SWHA.

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Recommended Potentially Feasible Mitigation Measure(s)

Because suitable nesting and foraging habitat for SWHA is present in the Project area, CDFW recommends conducting the following evaluation of individual Project sites, incorporating the following mitigation measures into the PEIR prepared for this Project, and that these measures be made conditions of approval for the Project.

Recommended Mitigation Measure 4: SWHA Surveys

CDFW recommends that a qualified wildlife biologist determine if SWHA foraging habitat occurs on an individual Project site and/or if suitable nesting habitat is present within 0.5-mile of the site. If suitable SWHA nesting habitat is present within 0.5-mile of an individual Project-site, CDFW recommends consultation with CDFW to determine if SWHA nest surveys are warranted. Absent consultation, CDFW recommends that a qualified wildlife biologist conduct surveys for nesting SWHA following the survey methods developed by the Swainson's Hawk Technical Advisory Committee (SWHA TAC 2000) prior to future project implementation in relation to the PEIR. The SWHA TAC recommends a 0.5-mile survey distance from the limits of disturbance. The survey protocol includes early season surveys to assist the project proponent in implementing necessary avoidance and minimization measures, and in identifying active nest sites prior to initiating ground-disturbing activities. If suitable nesting habitat is within 0.5-mile of an individual Project site, SHWA nest surveys were warranted, and ground-disturbing activities will take place during the normal bird breeding season (March 1 through September 15), CDFW recommends that additional pre-activity surveys for active nests be conducted by a qualified biologist no more than 10 days prior to the start of Project implementation to ensure that SHWA have not begun nesting immediately before Project activities begin.

Recommended Mitigation Measure 5: No-disturbance Buffer

Mitigation Measure BIO-1.4 of the PEIR states that a suitable buffer shall be established around all active nests. CDFW recommends a minimum no-disturbance buffer of 0.5-mile be delineated around active nests until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival. If a 0.5-mile no-disturbance buffer from an active nest is not feasible, consultation with CDFW is warranted to discuss how to implement the Project and avoid take.

Recommended Mitigation Measure 6: SWHA Take Authorization

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

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Recommended Mitigation Measure 7: Loss of SWHA Foraging Habitat

If SWHA foraging habitat occurs on an individual Project site, CDFW recommends compensation for the loss of SWHA foraging habitat as described in CDFW's "Staff Report Regarding Mitigation for Impacts to Swainson's Hawks" (CDFG 1994) to reduce impacts to foraging habitat to less than significant. The Staff Report recommends that mitigation for habitat loss occur within a minimum distance of 10 miles from known nest sites. CDFW has the following recommendations based on the Staff Report:

- For projects within 1 mile of an active nest tree, a minimum of 1 acre of habitat management (HM) land for each acre of development is advised.
- For projects within 5 miles of an active nest but greater than 1 mile, a minimum of $\frac{3}{4}$ acre of HM land for each acre of development is advised.
- For projects within 10 miles of an active nest tree but greater than 5 miles from an active nest tree, a minimum of $\frac{1}{2}$ acre of HM land for each acre of development is advised.

Recommended Mitigation Measure 8: SWHA Nest Trees

CDFW recommends that the removal of known raptor nest trees, even outside of the nesting season, be replaced with an appropriate native tree species planting at a ratio of 3:1 at or near the Project area or in another area that will be protected in perpetuity to reduce impacts resulting from the loss of nesting habitat.

COMMENT 3: Crotch Bumble Bee (CBB)

Issue: On June 28, 2019, the Fish and Game Commission published findings of its decision to advance CBB to candidacy as endangered. Pursuant to Fish and Game Code section 2074.6, CDFW has initiated a status review report to inform the Commission's decision on whether listing of CBB, pursuant to CESA, is warranted. During the candidacy period, consistent with CEQA Guidelines section 15380, the status of the CBB as an endangered candidate species under CESA (Fish & G. Code, § 2050 et seq.) qualifies it as an endangered, rare, or threatened species under CEQA. It is unlawful to import into California, export out of California, or take, possess, purchase, or sell within California, CBB and any part or product thereof, or attempt any of those acts, except as authorized pursuant to CESA. Under Fish and Game Code section 86, take means to hunt, pursue, catch, capture, or kill, or to attempt to hunt pursue, catch, capture, or kill. Consequently, take of CBB during the status review period is prohibited unless authorization pursuant to CESA is obtained.

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CBB have been documented to occur within the vicinity of the Project area (CDFW 2020). Suitable CBB habitat includes areas of grasslands and upland scrub that contain requisite habitat elements, such as small mammal burrows. CBB primarily nest in late February through late October underground in abandoned small mammal burrows, but may also nest under perennial bunch grasses or thatched annual grasses, under brush piles, in old bird nests, and in dead trees or hollow logs (Williams et al. 2014; Hatfield et al. 2015). Overwintering sites utilized by CBB mated queens include soft, disturbed soil (Goulson 2010), or under leaf litter or other debris (Williams et al. 2014). Therefore, potential ground disturbance and vegetation removal associated with Project implementation may significantly impact local CBB populations.

Specific impact: The PEIR does not address CBB. Without appropriate avoidance and minimization measures for CBB, potentially significant impacts associated with ground- and vegetation-disturbing activities associated with implementation of the Project, and related future projects, could include loss of foraging plants, changes in foraging behavior, burrow collapse, nest abandonment, reduced nest success, reduced health and vigor of eggs, young and/or queens, in addition to direct mortality in violation of Fish and Game Code.

Evidence impact is potentially significant: CBB was once common throughout most of the central and southern California; however, it now appears to be absent from most of it, especially in the central portion of its historic range within California's Central Valley (Hatfield et al. 2014). Analyses by the Xerces Society et al. (2018) suggest there have been sharp declines in relative abundance by 98% and persistence by 80% over the last ten years.

Recommended Potentially Feasible Mitigation Measure(s)

To evaluate potential impacts to CBB associated with the Project, CDFW recommends incorporating the following mitigation measures into the PEIR prepared for this Project and implementing the following mitigation measures as a condition of approval for the Project.

Recommended Mitigation Measure 9: CBB Surveys

CDFW recommends that a qualified biologist conduct focused surveys for CBB and their requisite habitat features prior to Project implementation to evaluate impacts resulting from potential ground- and vegetation-disturbing activities that may result from the approval of the PEIR.

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Recommended Mitigation Measure 10: CBB Take Avoidance

If surveys cannot be completed, CDFW recommends that all small mammal burrows and thatched/bunch grasses be avoided by a minimum of 50 feet to avoid take and potentially significant impacts. If ground-disturbing activities will occur during the overwintering period (October through February), consultation with CDFW is warranted to discuss how to implement Project activities and avoid take. Any detection of CBB prior to or during Project implementation warrants consultation with CDFW to discuss how to avoid take.

Recommended Mitigation Measure 11: CBB Take Authorization

If CBB is identified during surveys, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided, take authorization prior to any ground-disturbing activities may be warranted. Take authorization would occur through issuance of an ITP by CDFW, pursuant to Fish and Game Code section 2081(b).

COMMENT 4: San Joaquin Kit Fox (SJKF)

Issue: SJKF have been documented to occur within the vicinity of the Project area (CDFW 2020). Review of aerial imagery indicates that the Project area is bordered by and contains some patches of annual grassland. SJKF den in right-of-ways, vacant lots, etc., and populations can fluctuate over time. Presence/absence in any one year is not necessarily a reliable indicator of SJKF potential to occur on a site. SJKF may be attracted to project sites due to the type and level of ground-disturbing activities and the loose, friable soils resulting from intensive ground disturbance. As a result, there is potential for SJKF to colonize the Project sites or to occupy adjacent grassland.

Specific impact: Without appropriate avoidance and minimization measures for SJKF, potential significant impacts include den collapse, inadvertent entrapment, reduced reproductive success, reduction in health and vigor of young, and direct mortality of individuals.

Evidence impact is potentially significant: Habitat loss resulting from agricultural, urban, and industrial development is the primary threat to SJKF (Cypher et al. 2013). The Project area is adjacent to some of the only remaining undeveloped land in the vicinity, which is otherwise intensively managed for agriculture. Therefore, subsequent ground-disturbing activities have the potential to significantly impact local SJKF populations.

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Recommended Potentially Feasible Mitigation Measure(s) (Regarding Environmental Setting and Related Impact Shortcoming)

To evaluate potential impacts to SJKF associated with the Project, CDFW recommends conducting the following evaluation of the Project area, incorporating the following mitigation measures into the EIR prepared for this Project, and that these measures be made conditions of approval for the Project.

Recommended Mitigation Measure 12: SJKF Habitat Assessment

CDFW recommends that a qualified biologist conduct a habitat assessment in advance of Project implementation, to determine if an individual Project site or its immediate vicinity contains suitable habitat for SJKF.

Recommended Mitigation Measure 13: SJKF Surveys

If any suitable habitat features occur on or adjacent to an individual Project site, consultation with CDFW is recommended to determine if SJKF surveys are warranted. If SJKF surveys are warranted, CDFW recommends assessing presence/absence of SJKF by conducting surveys following the USFWS "Standardized recommendations for protection of the San Joaquin kit fox prior to or during ground disturbance" (2011). When surveys are warranted, CDFW advises conducting these surveys in all areas of potentially suitable habitat no less than 14 days and no more than 30 days prior to beginning of ground-disturbing activities.

Recommended Mitigation Measure 14: SJKF Take Authorization

SJKF detection warrants consultation with CDFW to discuss how to avoid take, or if avoidance is not feasible, to acquire an Incidental Take Permit (ITP) prior to ground-disturbing activities, pursuant to Fish and Game Code § 2081(b).

COMMENT 5: Least Bell's Vireo (LBV)

Issue: LBV is not specifically included in the PEIR and have been documented to occur within the Project area (CDFW 2020). Review of aerial imagery indicates the presence of riparian woodland vegetation, suitable to support LBV, within the Project area along the San Joaquin River and its vicinity. Therefore, the Project has the potential to impact LBV.

Specific impact: Without appropriate avoidance and minimization measures for LBV, potential significant impacts associated with Project development include nest abandonment, reduced reproductive success, and reduced health and vigor of eggs and/or young.

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Evidence impact is potentially significant: LBV were abundant and widespread in the United States until the 1950s (Grinnell and Miller 1944). By the 1960s, they were considered scarce (Monson 1960), and by 1980, there were fewer than 50 pairs remaining (Edwards 1980), although this number had increased to 2,500 by 2004 (Kus and Whitfield 2005). The primary cause of decline for this species has been the loss and alteration of riparian woodland habitats (USFWS 2006). Fragmentation of their preferred habitat has also increased their exposure to brown-headed cowbird (*Molothrus ater*) parasitism (Kus 2002). Current threats to their preferred habitat include colonization by non-native plants and altered hydrology (diversion, channelization, etc.) (USFWS 2006).

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Environmental Setting and Related Impact)

To evaluate potential impacts to LBV, CDFW recommends conducting the following evaluation of the Project site, incorporating the following mitigation measures into the PEIR prepared for this Project, and that these measures be made conditions of approval for the Project.

Recommended Mitigation Measure 15: LBV Habitat Assessment

CDFW recommends that a qualified biologist conduct a habitat assessment in advance of Project implementation, to determine if an individual Project site or its immediate vicinity contains suitable habitat for LBV. Although LBV inhabit riparian woodlands, the species has also been found to benefit from non-riparian systems including brushy fields, second-growth forest or woodland, scrub oak, coastal chaparral, and mesquite brushlands (Kus and Miner 1989 in Poulin et al. 2011).

Recommended Mitigation Measure 16: LBV Avoidance

CDFW agrees with Mitigation Measure BIO-1.4 that nesting birds should be avoided if possible. LBV have the potential to occur outside the timeframe listed in Mitigation Measure BIO-1.4; thus, CDFW recommends that Project activities be timed to avoid the typical bird breeding season (February 1 through September 15).

Recommended Mitigation Measure 17: LBV Surveys

If Project activities must take place during the typical bird breeding season, and suitable LBV habitat is detected during habitat assessments at or adjacent to Project sites, CDFW recommends assessing presence/absence of LBV by conducting surveys following the USFWS' "Least Bell's Vireo Survey Guidelines" (2001) well in advance of the start of Project implementation to evaluate presence/absence of LBV nesting in proximity to Project activities, and to evaluate potential Project-related

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impacts and permitting needs. Additionally, CDFW advises conducting focused pre-construction surveys for LBV in all areas of potentially suitable habitat within 10 days of Project implementation, when initiated during the bird breeding season to ensure LBV have not begun nesting activities between the completion of surveys and the start of Project activities.

Recommended Mitigation Measure 18: LBV Take Authorization

LBV detection warrants consultation with CDFW to discuss how to avoid take, or if avoidance is not feasible, to acquire an ITP prior to ground-disturbing activities, pursuant to Fish and Game Code section 2081(b).

COMMENT 6: Burrowing Owl (BUOW)

Issue: BUOW are known to occur within the Project area. BUOW inhabit open grassland containing small mammal burrows, a requisite habitat feature used by BUOW for nesting and cover. Habitat both within and bordering the Project site, supports grassland habitat.

Specific impact: Potentially significant direct impacts associated with subsequent activities include burrow collapse, inadvertent entrapment, nest abandonment, reduced reproductive success, reduction in health and vigor of eggs and/or young, and direct mortality of individuals.

Evidence impact is potentially significant: BUOW rely on burrow habitat year-round for their survival and reproduction. Habitat loss and degradation are considered the greatest threats to BUOW in California's Central Valley (Gervais et al. 2008). The Project site is bordered by some of the only remaining undeveloped land in the vicinity, which is otherwise intensively managed for agriculture. Therefore, subsequent ground-disturbing activities associated with the Project have the potential to significantly impact local BUOW populations. In addition, and as described in CDFW's "Staff Report on Burrowing Owl Mitigation" (CDFG 2012), excluding and/or evicting BUOW from their burrows is considered a potentially significant impact under CEQA.

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Environmental Setting and Related Impact)

To evaluate potential impacts to BUOW, CDFW recommends conducting the following evaluation of the Project site, incorporating the following mitigation measures into the PEIR prepared for this Project, and that these measures be made conditions of approval for the Project.

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Recommended Mitigation Measure 19: BUOW Surveys

CDFW recommends assessing presence/absence of BUOW by having a qualified biologist conduct surveys following the California Burrowing Owl Consortium's "Burrowing Owl Survey Protocol and Mitigation Guidelines" (CBOC 1993) and CDFW's "Staff Report on Burrowing Owl Mitigation" (CDFG 2012). Please note that these protocols start with a habitat evaluation to determine if suitable habitat is present. If suitable habitat is present, CBOC and CDFW's Staff Report suggest three or more surveillance surveys conducted during daylight with each visit occurring at least three weeks apart during the peak breeding season (April 15 to July 15), when BUOW are most detectable. These surveys are to determine if there are more BUOW in addition to the December 2017 observation surveyed for the Project.

Recommended Mitigation Measure 20: BUOW Avoidance

CDFW recommends no-disturbance buffers, as outlined in the "Staff Report on Burrowing Owl Mitigation" (CDFG 2012), be implemented prior to and during any ground-disturbing activities. Specifically, CDFW's Staff Report recommends that impacts to occupied burrows be avoided in accordance with the following table unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.

Location	Time of Year	Level of Disturbance		
		Low	Med	High
Nesting sites	April 1-Aug 15	200 m*	500 m	500 m
Nesting sites	Aug 16-Oct 15	200 m	200 m	500 m
Nesting sites	Oct 16-Mar 31	50 m	100 m	500 m

* meters (m)

Recommended Mitigation Measure 21: BUOW Passive Relocation and Mitigation

If BUOW are found within these recommended buffers and avoidance is not possible, it is important to note that according to the Staff Report (CDFG 2012), exclusion is not a take avoidance, minimization, or mitigation method and is considered a potentially significant impact under CEQA. However, if necessary, CDFW recommends that burrow exclusion be conducted by qualified biologists and only during the non-breeding season, before breeding behavior is exhibited and after the burrow is confirmed empty through non-invasive methods, such as surveillance. CDFW recommends replacement of occupied burrows with artificial burrows at a

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ratio of 1 burrow collapsed to 1 artificial burrow constructed (1:1) as mitigation for the potentially significant impact of evicting BUOW. BUOW may attempt to colonize or re-colonize an area that will be impacted; thus, CDFW recommends ongoing surveillance, at a rate that is sufficient to detect BUOW if they return.

COMMENT 7: Tricolored Blackbird (TRBL)

Issue: TRBL occur within or near the Project area (CDFW 2020). Review of aerial imagery indicates that the Project area has or is near to dense low vegetation fields that may serve as nest colony sites.

Specific impact: Without appropriate avoidance and minimization measures for TRBL, potential significant impacts include nest and/or colony abandonment, reduced reproductive success, and reduced health and vigor of eggs and/or young.

Evidence impact would be significant: As mentioned above, aerial imagery indicates that the Project site is near dense low vegetation fields that may serve as nest colony sites. TRBL aggregate and nest colonially, forming colonies of up to 100,000 nests (Meese et al. 2014). Approximately 86% of the global population is found in the San Joaquin Valley (Kelsey 2008, Weintraub et al. 2016). Increasingly, TRBL are forming larger colonies that contain progressively larger proportions of the species' total population (Kelsey 2008). In 2008, for example, 55% of the species' global population nested in only two colonies, which were located in silage fields (Kelsey 2008). In 2017, approximately 30,000 TRBL were distributed among only 16 colonies in Merced County (Meese 2017). Nesting can occur synchronously, with all eggs laid within one week (Orians 1961). For these reasons, depending on timing, disturbance to nesting colonies can cause abandonment, significantly impacting TRBL populations (Meese et al. 2014).

Recommended Potentially Feasible Mitigation Measure(s)

CDFW recommends conducting the following evaluation of the Project site, editing the PEIR to include the following measures specific to TRBL, and that these measures be made conditions of approval for the Project.

Recommended Mitigation Measure 22: TRBL Habitat Assessment

CDFW recommends that a qualified biologist conduct a habitat assessment of the Project site in advance of Project implementation, to determine if an individual Project site or its vicinity contains suitable habitat for TRBL.

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Recommended Mitigation Measure 23: TRBL Surveys

If an individual Project site contains suitable habitat for TRBL, CDFW recommends that Project activities be timed to avoid the typical bird breeding season (February 1 through September 15). However, if Project activities must take place during that time, CDFW recommends that a qualified wildlife biologist conduct surveys for nesting TRBL no more than 10 days prior to the start of implementation to evaluate presence/absence of TRBL nesting colonies in proximity to Project activities and to evaluate potential Project-related impacts.

Recommended Mitigation Measure 24: TRBL Avoidance

If an active TRBL nesting colony is found during pre-activity surveys, CDFW recommends implementation of a minimum 300-foot no-disturbance buffer in accordance with CDFW's "Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields in 2015" (CDFW 2015b). CDFW advises that this buffer remain in place until the breeding season has ended or until a qualified biologist has determined that nesting has ceased, the birds have fledged, and are no longer reliant upon the colony or parental care for survival. It is important to note that TRBL colonies can expand over time and for this reason, the colony may need to be reassessed to determine the extent of the breeding colony within 10 days prior to Project initiation.

Recommended Mitigation Measure 25: TRBL Take Authorization

In the event that a TRBL nesting colony is detected during surveys, consultation with CDFW is warranted to discuss how to implement the Project and avoid take, or if avoidance is not feasible, to acquire an ITP, pursuant to Fish and Game Code Section 2081(b), prior to any ground-disturbing activities.

COMMENT 8: Special-Status Bat Species

Issue: Pallid bat, western mastiff bat, spotted bat, and hoary bat have been documented to occur in the vicinity of the Project area (CDFW 2020). In addition, habitat features that have the potential to support species is present within the Project area. However, the PEIR does not include specific measures to mitigate impacts to special-status bat species.

Specific impact: Without appropriate avoidance and minimization measures for special-status bat species, potential significant impacts resulting from ground- and vegetation-disturbing activities associated with Project construction include habitat loss, inadvertent entrapment, roost abandonment, reduced reproductive success, reduction in health and vigor of young, and direct mortality of individuals.

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Evidence impact is potentially significant: Pallid bat and other bats are known to roost under bridges (Lewis 1994 and Gruver 2006). Project activities on or around bridges have the potential to affect habitat upon which special-status bat species depend on for successful breeding, and the potential to impact individuals and local populations.

Recommended Potentially Feasible Mitigation Measure(s)

CDFW recommends editing the PEIR to include the following measures and that these be made conditions of approval for the Project.

Recommended Mitigation Measure 26: Habitat Assessment

CDFW recommends that a qualified biologist conduct a habitat assessment well in advance of Project implementation to determine if an individual Project site or its immediate vicinity contains suitable habitat for special-status bat species.

Recommended Mitigation Measure 27: Focused Surveys

If suitable habitat is present, CDFW recommends assessing presence/absence of special-status bats by conducting protocol-level surveys during the appropriate seasonal period of bat activity.

Recommended Mitigation Measure 28: Consultation

Detection of special-status bat species warrants consultation with CDFW prior to any activity that may disturb bats. CDFW recommends submitting a Bat Eviction Plan to CDFW for written approval prior to project implementation, and that the Eviction Plan include details for excluding bats from the roost site, and a monitoring plan to ensure that all bats have exited the roost prior to the start of activity and will be unable to re-enter the roost until activity is completed. CDFW also recommends that Project or bat eviction activities be timed to avoid lactation and young-rearing.

COMMENT 9: Western spadefoot

Issue: Western spadefoot inhabit grassland habitats, breed in seasonal wetlands, and seek refuge in upland habitat where they occupy burrows outside of the breeding season (Thomson et al. 2016). Review of aerial imagery indicates that the Project area contains these requisite habitat elements.

Specific impact: Western Spadefoot are known to occur in the area (CDFW 2020). Without appropriate avoidance and minimization measures for western spadefoot, potentially significant impacts associated with ground disturbance include; collapse

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of small mammal burrows, inadvertent entrapment, loss of upland refugia, water quality impacts to breeding sites, reduced reproductive success, reduction in health and vigor of eggs and/or young, and direct mortality of individuals.

Evidence impact is potentially significant: Habitat loss and fragmentation resulting from agricultural and urban development is the primary threat to western spadefoot (Thomson et al. 2016). The Project area is within the range of western spadefoot, contains suitable upland habitat (i.e., grasslands interspersed with burrows) and breeding habitat (i.e., vernal pools and swales). As a result, ground-disturbing activities associated with development of the Project site have the potential to significantly impact local populations of this species.

Recommended Potentially Feasible Mitigation Measure(s)

To evaluate potential impacts to western spadefoot associated with the Project, CDFW recommends conducting the following evaluation of the Project area, incorporating the following mitigation measures into the PEIR prepared for this Project, and that these measures be made conditions of approval for the Project.

Recommended Mitigation Measure 29: Western Spadefoot Surveys

CDFW recommends that a qualified biologist conduct focused surveys for western spadefoot and their requisite habitat features at individual Project sites to evaluate potential impacts resulting from ground- and vegetation-disturbance.

Recommended Mitigation Measure 30: Western Spadefoot Avoidance

If suitable habitat occurs at an individual Project site, avoidance of western spadefoot whenever possible is encouraged via delineation and observance of a 50-foot no-disturbance buffer around burrows.

COMMENT 10: Western pond turtle (WPT)

Issue: WPT are known to occur in the area of the Project site (CDFW 2020). WPT are known to nest in the spring or early summer within 100 meters of a water body, although nest sites as far away as 500 meter have also been reported (Thomson et al. 2016).

Specific impact: Without appropriate avoidance and minimization measures for WPT, potentially significant impacts associated with Project activities could include nest reduction, inadvertent entrapment, reduced reproductive success, reduction in health or vigor of eggs and/or young, and direct mortality.

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Evidence impact is potentially significant: The Project site is in close proximity of known WPT habitat. Additionally, noise, vegetation removal, movement of workers, and ground disturbance as a result of Project activities have the potential to significantly impact WPT populations.

Recommended Potentially Feasible Mitigation Measure(s)

To evaluate potential impacts to WPT, CDFW recommends conducting the following evaluation of the Project site, editing the PEIR to include the following measures specific to WPT, and that these measures be made conditions of approval for the Project.

Recommended Mitigation Measure 31: WPT Surveys

CDFW recommends a qualified biologist determine if suitable habitat for WPT occurs at an individual Project site. If suitable habitat is determined to occur on an individual Project site, CDFW recommends that a qualified biologist conduct focused surveys for WPT 10 days prior to Project implementation. In addition, CDFW recommends that focused surveys for nests occur during the egg-laying season (March through August) and that any nests discovered remain undisturbed until the eggs have hatched.

Recommended Mitigation Measure 32: WPT Relocation

CDFW recommends that if any WPT are discovered at the site immediately prior to or during Project activities, they be allowed to move out of the area on their own.

COMMENT 11: American Badger

Issue: American badger are known to occur on the Project site (CDFW 2020). Badgers occupy sparsely vegetated land cover with dry, friable soils to excavate dens, which they use for cover, and that support fossorial rodent prey populations (i.e., ground squirrels, pocket gophers, etc.) (Zeiner et. al 1990). The Project area supports these requisite habitat features. Therefore, the Project has the potential to impact American badger.

Specific impact: Without appropriate avoidance and minimization measures for American badger, potentially significant impacts associated with ground disturbance include direct mortality or natal den abandonment, which may result in reduced health or vigor of young.

Evidence impact is potentially significant: Habitat loss is a primary threat to American badger (Gittleman et al. 2001). The Project has the expectation to promote

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the growth of the City of Fresno, resulting in a high degree of land conversion and potential habitat fragmentation. As a result, ground-disturbing activities have the potential to significantly impact local populations of American badger.

Recommended Potentially Feasible Mitigation Measure(s)

To evaluate potential impacts to American badger associated with the Project, CDFW recommends conducting the following evaluation of tProject sites, incorporating the following mitigation measures into the PEIR prepared for this Project, and that these measures be made conditions of approval for the Project.

Recommended Mitigation Measure 33: American Badger Surveys

If suitable habitat is present, CDFW recommends that a qualified biologist conduct focused surveys for American badger and their requisite habitat features (dens) to evaluate potential impacts resulting from ground- and vegetation-disturbance.

Recommended Mitigation Measure 34: American Badger Avoidance

If suitable habitat is present, avoidance whenever possible is encouraged via delineation and observation of a 50-foot no-disturbance buffer around dens until it is determined through non-invasive means that individuals occupying the den have dispersed.

COMMENT 12: Spring-Run Chinook Salmon

Issue: The City of Fresno's sphere of influence's northern border encompasses a section of the San Joaquin River, which is known to support Chinook Salmon (*Oncorhynchus tshawytscha*), including the species of special concern fall-/late fall-run, and the nonessential experimental population of Central Valley spring-run.

Specific impact: Without appropriate avoidance and minimization measures potential impacts to chinook salmon include, disrupted spawning behavior, reduced reproductive success, and inability to reproduce.

Evidence impact would be significant: The Project area contains a part of the San Joaquin River; ground-disturbing activities or in-water work have the potential to impact salmon. Spring-run Chinook salmon are believed to have been the more abundant run and once spawned as high in the watershed as Mammoth Pool, the San Joaquin River represents the southernmost extent of the spring-run Chinook salmon geographic range and was once the largest such population in California (SJRRP 2018).

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Recommended Potentially Feasible Mitigation Measure(s)

To evaluate potential impacts to chinook salmon associated with the Project, CDFW recommends conducting the following evaluation of Project sites, incorporating the following mitigation measures into the PEIR prepared for this Project, and that these measures be made conditions of approval for the Project.

Recommended Mitigation Measure 35: Chinook Salmon Avoidance

CDFW recommends Project activities avoid work in water and floodplains whenever possible, conduct Project activities during less critical times of the year (late June through August), and avoid spawning riffles or holding pools.

Recommended Mitigation Measure 36: Tree Removal Avoidance

If Project activities will occur in the riparian environment, CDFW recommend avoidance of tree removal whenever possible. If trees removal is not feasible, CDFW recommends preparation of a revegetation plan that incorporates native tree plantings within the San Joaquin River Restoration Area to replace removed trees.

Recommended Mitigation Measure 37: Habitat Mitigation

If Project activities will occur in the Floodplain, CDFW advises consultation with us to determine how to minimize and mitigate impacts to juvenile salmon utilization.

COMMENT 13: Special Status Plant species

Issue: Plants listed pursuant to federal Endangered Species Act, CESA, and the Native Plant Protection Act, as well as other special-status plants such California Rare Plant Rank (CRPR) plant species have been documented in and around the Project area (CDFW 2020).

Specific impact: Without appropriate avoidance and minimization measures potential impacts to special-status plant species include inability to reproduce and direct mortality. Unauthorized take of species listed as threatened, endangered, or rare pursuant to CESA or the Native Plant Protection Act is a violation of Fish and Game Code.

Evidence impact would be significant: Special-status plant species plant species above are threatened with habitat loss and habitat fragmentation resulting from development, vehicle and foot traffic, and introduction of non-native plant species (CNPS 2020), all of which may be unintended impacts of the Project. Therefore,

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impacts of the Project have the potential to significantly impact populations of the species mentioned above.

Recommended Potentially Feasible Mitigation Measure(s)

To evaluate potential impacts to special-status plants associated with the Project, CDFW recommends conducting the following evaluation of the Project area and including the following mitigation measures as conditions of Project approval in the Project's CEQA document.

Recommended Mitigation Measure 38: Special-Status Plant Habitat Assessment

CDFW recommends that a qualified botanist conduct a habitat assessment of individual Project sites well in advance of Project implementation, to determine if the Project area or its vicinity contains suitable habitat for special-status plant species.

Recommended Mitigation Measure 39: Focused Surveys

If suitable habitat is present, CDFW recommends that individual Project sites be surveyed for special-status plants by a qualified botanist following the "Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities" (CDFW 2018). This protocol, which is intended to maximize detectability, includes identification of reference populations to facilitate the likelihood of field investigations occurring during the appropriate floristic period. In the absence of protocol-level surveys being performed, additional surveys may be necessary.

Recommended Mitigation Measure 40: Special-Status Plant Avoidance

CDFW recommends special-status plant species be avoided whenever possible by delineation and observing a no-disturbance buffer of at least 50 feet from the outer edge of the plant population(s) or specific habitat type(s) required by special-status plant species. If buffers cannot be maintained, then consultation with CDFW is warranted to determine appropriate minimization and mitigation measures for impacts to special-status plant species.

Recommended Mitigation Measure 41: Special-Status Plant Take Authorization

If a State-listed plant species is identified during botanical surveys, consultation with CDFW is warranted to determine if the Project can avoid take. However, if take cannot be avoided, take authorization would need to occur through issuance of an ITP by CDFW to comply with CESA and/or Fish and Game Code section 1900 and California Code of Regulations, title 14, section 786.9, subdivision (b).

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II. Editorial Comments and/or Suggestions

Lake and Streambed Alteration: The Project contains features that may result in Project activities at individual Project sites being subject to CDFW's regulatory authority pursuant Fish and Game Code section 1600 et seq. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake; 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, such as the unnamed stream within the Project site, as well as those that are perennial in nature.

For additional information on notification requirements, please contact our staff in the Lake and Streambed Alteration Program at (559) 243-4593. It is important to note, CDFW is required to comply with CEQA, as a Responsible Agency, when issuing a Lake or Streambed Alteration Agreement (LSAA). If inadequate, or no environmental review, has occurred, for the Project activities that are subject to notification under Fish and Game Code section 1602, CDFW will not be able to issue the Final LSAA until CEQA analysis for the project is complete. This may lead to considerable Project delays.

Federally Listed Species: CDFW recommends consulting with the USFWS on potential impacts to federally listed species including, but not limited to, CTS and SJKF. Take under FESA is more broadly defined than CESA; take under FESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS in order to comply with FESA is advised well in advance of any ground-disturbing activities.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be 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>.

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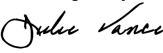
FILING FEES

If it is determined that the Project has the potential to impact biological resources, an assessment of filing fees will be necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

CDFW appreciates the opportunity to comment on the Project to assist the City of Fresno in identifying and mitigating the Project's 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>). If you have any questions, please contact Jaime Marquez, Environmental Scientist, at the address provided on this letterhead, by telephone at (559) 243-4014, extension 291, or by electronic mail at Jaime.Marquez@wildlife.ca.gov.

Sincerely,

DocuSigned by:

FA83F09FE08945A...

Julie A. Vance
Regional Manager

ec: Patricia Cole
United States Fish and Wildlife Service
Patricia.Cole@fws.gov

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Attachment 1**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM
(MMRP)****PROJECT: Fresno General Plan****SCH No.: 2019050005**

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
<i>Before Disturbing Soil or Vegetation</i>	
Mitigation Measure 1: Focused CTS Protocol-level Surveys	
Mitigation Measure 3: CTS Take Authorization	
Mitigation Measure 4: SWHA Surveys	
Mitigation Measure 6: SWHA Take Authorization	
Mitigation Measure 7: Loss of SWHA Foraging Habitat	
Mitigation Measure 8: SWHA Nest Trees	
Mitigation Measure 9: CBB Surveys	
Mitigation Measure 11: CBB Take Authorization	
Mitigation Measure 12: SJKF Habitat Assessment	
Mitigation Measure 13: SJKF Surveys	
Mitigation Measure 14: SJKF Take Authorization	
Mitigation Measure 15: LBV Habitat Assessment	
Mitigation Measure 17: LBV Surveys	
Mitigation Measure 18: LBV Take Authorization	
Mitigation Measure 19: BUOW Surveys	
Mitigation Measure 21: BUOW passive Relocation and Mitigation	
Mitigation Measure 22: TRBL Habitat Assessment	
Mitigation Measure 23: TRBL Surveys	
Mitigation Measure 25: TRBL Take Authorization	
Mitigation Measure 26: Habitat Assessment	
Mitigation Measure 27: Focused Surveys	
Mitigation Measure 28: Consultation	
Mitigation Measure 29: Western Spadefoot Surveys	
Mitigation Measure 31: WPT Surveys	
Mitigation Measure 32: WPT Relocation	
Mitigation Measure 33: American Badger Surveys	

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
Mitigation Measure 37: Habitat Mitigation	
Mitigation Measure 38: Special Status Plant Habitat Assessment	
Mitigation Measure 39: Focused Surveys	
Mitigation Measure 41: Special-status Plant take Avoidance	
<i>During Construction</i>	
Mitigation Measure 2: CTS Avoidance	
Mitigation Measure 5: No-disturbance Buffer	
Mitigation Measure 10: CBB Take Avoidance	
Mitigation Measure 16: LBV Avoidance	
Mitigation Measure 20: BUOW Avoidance	
Mitigation Measure 24: TRBL Avoidance	
Mitigation Measure 30: Western Spadefoot Avoidance	
Mitigation Measure 32: WPT Relocation	
Mitigation Measure 34: American Badger Avoidance	
Mitigation Measure 35: Chinook Salmon Avoidance	
Mitigation Measure 36: Tree Removal Avoidance	
Mitigation Measure 40: Special-Status Plant Avoidance	