



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Central Region  
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**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



Governor's Office of Planning & Research

**MAR 11 2020**

March 11, 2020

## STATE CLEARINGHOUSE

Mary Israel, Associate Planner  
County of Monterey Resource Management Agency  
1441 Schilling Place South, 2<sup>nd</sup> Floor  
Salinas, California 93901

**Subject: Miller Trust Commercial Project (Project)**  
**Notice of Preparation (NOP)**  
**SCH#: 2020029037**

Dear Ms. Israel:

The California Department of Fish and Wildlife (CDFW) received a NOP for a Draft Environmental Impact Report (DEIR) from the Monterey County Resource Management Agency for the above-referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

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

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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.

agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources. 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 will 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 eggs and nests 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).

In this role, CDFW is responsible for providing, as available, biological expertise during public agency environmental review efforts (e.g., CEQA), focusing specifically on Project activities that have the potential to adversely affect fish and wildlife resources. CDFW provides recommendations to identify potential impacts and possible measures to avoid or reduce those impacts.

## **PROJECT DESCRIPTION SUMMARY**

**Proponent:** County of Monterey

**Objective:** The proposed Project includes a vesting tentative map to re-subdivide six existing parcels into 3 parcels and a remainder consisting of Lot 1) 178,695-square-foot commercial building, 20,000-square-foot garden center and parking; Lot 2) well and tank lot with well and storage tank for irrigation and fire flow; Lot 3) San Juan Road right-of-way conveyance to the County of Monterey. A General Development Plan includes commercial development of the retail store with 870 parking spaces on 17.069 acres. The Project includes 10,000-cubic-yards of grading and an encroachment permit from Monterey County Public Works to deepen the County Stormwater Detention Basin.

**Location:** The Project is located at 235 San Juan Road in unincorporated Monterey County in the community of Pajaro, approximately five miles northeast of the river mouth and Monterey Bay.

**Timeframe:** N/A

## **COMMENTS AND RECOMMENDATIONS**

CDFW offers the following comments and recommendations to assist the Monterey County Resource Management Agency 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 document.

There are many special-status resources present adjacent to the Project area that these resources may need to be evaluated and addressed prior to any approvals that would allow ground-disturbing activities. CDFW is concerned regarding potential impacts to special-status species including, but not limited to, the State threatened Swainson's hawk (*Buteo swainsoni*), the State candidate-listed as endangered western bumble bee (*Bombus occidentalis*), the State threatened bank swallow (*Riparia riparia*), and the State species of special concern burrowing owl (*Athene cunicularia*), California red-legged frog (*Rana draytonii*), and western pond turtle (*Actinemys marmorata*).

### **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: Swainson's Hawk (SWHA)**

**Issue:** SWHA have the potential to nest near and forage within the Project site. The proposed Project will involve activities near large trees that may serve as potential nest sites.

**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 have the potential to occur near the Project site; the Project site is adjacent to the Pajaro River and there are abundant suitable nesting trees. Approval of the Project will 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.

### **Recommended Potentially Feasible Mitigation Measure(s)**

To evaluate potential impacts to SWHA, CDFW recommends conducting the following evaluation of the Project site, incorporating the following mitigation measures into the Environmental Impact Report (EIR) prepared for this Project, and that these measures be made conditions of approval for the Project.

#### **Recommended Mitigation Measure 1: SWHA Surveys**

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 project implementation. However, the 0.25-mile survey distance from the Project site as indicated in the DEIR is inconsistent with the SWHA TAC; 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.

#### **Recommended Mitigation Measure 2: SWHA No-disturbance Buffer**

If ground-disturbing activities are to 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. CDFW recommends a minimum no-disturbance buffer of ½-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.

#### **Recommended Mitigation Measure 3: SWHA Take Authorization**

CDFW recommends that in the event an active SWHA nest is detected during surveys, consultation with CDFW is warranted to discuss how to implement the project and avoid take. If take cannot be avoided, take authorization through the issuance of an Incidental Take Permit (ITP), pursuant to Fish and Game Code section 2081(b) is necessary to comply with CESA.

#### **Recommended Mitigation Measure 4: Loss of SWHA Foraging Habitat**

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.

## **COMMENT 2: Bank Swallow (BASW)**

**Issue:** BASW have the potential to occur near the Project site (CDFW 2020). The proposed Project will involve activities near the bank of the Pajaro River where BASW may potentially nest.

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

**Evidence impact is potentially significant:** BASW, historically common in California (Grinnell and Miller 1944), have had a range reduction of approximately 50% since 1900 (CDFG 1988). The main cause of their decline was channelization and stabilization of river banks used as nesting habitat as well as other disturbance of this habitat (CDFG 1988). The BASW continues to be threatened by flood and erosion control programs that stabilize banks eliminating them as breeding habitat for the swallow (CDFG 1995).

### **Recommended Potentially Feasible Mitigation Measure(s)**

To evaluate potential impacts to BASW, CDFW recommends conducting the following evaluation of the Project site, 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 5: BASW Surveys**

If ground-disturbing or vegetation-disturbing activities as a result of the Project must occur during the normal bird breeding season (February through mid-September), CDFW recommends that the Project site, especially the bank along the Pajaro River at the northern portion of the Project site, be surveyed for BASW by a qualified biologist no more than 10 days prior to the start of Project implementation.

### **Recommended Mitigation Measure 6: BASW No-disturbance Buffer**

CDFW recommends a minimum 500-foot no-disturbance buffer be delineated around active nest burrows until the breeding season has ended or until a qualified biologist has determined that the young birds have fledged. CDFW also recommends a permanent 100-foot no-disturbance buffer from nesting habitat features. Bank swallows typically use eroding river or stream banks for nesting habitat. Given the limited opportunities for similar nesting habitat features to be created, any loss is potentially significant.

### **Recommended Mitigation Measure 7: BASW Take Authorization**

CDFW recommends that in the event that active BASW nests are detected during surveys, consultation with CDFW is warranted to discuss how to implement the project and avoid take. 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.

### **COMMENT 3: Western Bumble Bee (WBB)**

**Issue:** On June 28, 2019, the Fish and Game Commission published findings of its decision to advance WBB 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 WBB, pursuant to CESA, is warranted. During the candidacy period, consistent with CEQA Guidelines section 15380, the status of the WBB 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, WBB 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 WBB during the status review period is prohibited unless authorization pursuant to CESA is obtained.

WBB have the potential to occur within the Project site. Suitable WBB habitat includes areas of grasslands and upland scrub that contain requisite habitat elements, such as small mammal burrows. WBB 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). Overwintering sites utilized by WBB mated queens include soft, disturbed soil (Goulson 2010), or under leaf litter or other debris (Williams et al. 2014). Therefore, ground disturbance and vegetation removal associated with Project implementation has the potential to significantly impact local WBB populations.

**Specific impact:** Without appropriate avoidance and minimization measures for WBB, potentially significant impacts associated with ground- and vegetation-disturbing activities associated with construction of the Project 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:** WBB was once common throughout most of California; WBB populations are now largely restricted to high elevation sites in the Sierra Nevada and scattered observations along the California coast (Xerces Society 2018). Analyses by the Xerces Society (2018) suggest there have been sharp declines in relative abundance by 84%.

#### **Recommended Potentially Feasible Mitigation Measure(s)**

To evaluate potential impacts to WBB, CDFW recommends conducting the following evaluation of the Project site, 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 8: WBB Surveys**

CDFW recommends that a qualified biologist conduct focused surveys for WBB and their requisite habitat features to evaluate potential impacts resulting from ground- and vegetation-disturbance associated with the Project.

#### **Recommended Mitigation Measure 9: WBB 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 WBB prior to or during Project implementation warrants consultation with CDFW to discuss how to avoid take.

#### **Recommended Mitigation Measure 10: WBB Take Authorization**

If WBB 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: Burrowing Owl (BUOW)**

**Issue:** BUOW may occur within and/or adjacent to the Project site. 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 (CDFW 2020).

**Specific impact:** Potentially significant direct impacts associated with subsequent activities and development 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 contains and is bordered by some of the only remaining undeveloped land in the vicinity. Therefore, subsequent ground-disturbing activities associated with Project approval 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 EIR prepared for this Project, and that these measures be made conditions of approval for the Project.

#### **Recommended Mitigation Measure 11: 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). Specifically, 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.

#### **Recommended Mitigation Measure 12: 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)

#### **COMMENT 5: California Red-Legged Frog (CRLF)**

**Issue:** CRLF primarily inhabit ponds but can also be found in other waterways including marshes, streams, and lagoons, and the species will also breed in ephemeral waters (Thomson et al. 2016). CRLF have been documented to occur in the vicinity of the Project site (CDFW 2020). The Project site is adjacent to habitat that may support the species. Avoidance and minimization measures are necessary to reduce impacts to CRLF to a level that is less than significant.

**Specific impact:** Without appropriate avoidance and minimization measures for CRLF, potentially significant impacts associated with the Project's activities include burrow collapse, inadvertent entrapment, reduced reproductive success, reduction in health and vigor of eggs, larvae and/or young, and direct mortality of individuals.

**Evidence impact would be significant:** CRLF populations throughout the State have experienced ongoing and drastic declines and many have been extirpated. Habitat loss from growth of cities and suburbs, invasion of nonnative plants, impoundments, water diversions, stream maintenance for flood control, degraded water quality, and introduced predators, such as bullfrogs are the primary threats to CRLF (Thomson et al. 2016, USFWS 2017). Project activities have the potential to significantly impact the species.

#### **Recommended Potentially Feasible Mitigation Measure(s)**

To evaluate potential impacts to CRLF, CDFW recommends conducting the following evaluation of the Project site, 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 13: CRLF Surveys**

CDFW recommends that a qualified wildlife biologist conduct surveys for CRLF in accordance with the USFWS "Revised Guidance on Site Assessment and Field Surveys for the California Red-legged Frog" (USFWS 2005) to determine if CRLF are within or adjacent to the Project area.

### **Recommended Mitigation Measure 14: CRLF Avoidance**

If any CRLF are found during pre-construction surveys or at any time during construction, consultation with CDFW is warranted to determine if the Project can avoid take. CDFW recommends that initial ground-disturbing activities be timed to avoid the period when CRLF are most likely to be moving through upland areas (November 1 and March 31). When ground-disturbing activities must take place between November 1 and March 31, CDFW recommends a qualified biologist monitor construction activity daily for CRLF.

### **COMMENT 6: Western Pond Turtle (WPT)**

**Issue:** There have been WPT documented within the Pajaro River (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 meters 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.

**Evidence impact is potentially significant:** The Project involves ground-disturbing activities adjacent to the adjacent water impoundment. 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, 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 15: WPT Surveys**

CDFW recommends that a qualified biologist conduct focused surveys for WPT no more than 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 16: 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.

## **II. Editorial Comments and/or Suggestions**

**Nesting birds:** CDFW encourages that Project implementation occur during the bird non-nesting season; however, if ground-disturbing or vegetation-disturbing activities must occur during the breeding season (February through mid-September), the Project applicant is responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Codes as referenced above.

To evaluate Project-related impacts on nesting birds, CDFW recommends that a qualified wildlife biologist conduct pre-activity surveys 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 by the Project. In addition to direct impacts (i.e. nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. Prior to initiation of construction activities, CDFW recommends that a qualified biologist conduct a survey to establish a behavioral baseline of all identified nests. Once construction begins, 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 wildlife 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 that 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 compelling biological or ecological reason to do so, such as when the construction area would be

concealed from a nest site by topography. CDFW recommends that a qualified wildlife biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

**Federally Listed Species:** CDFW recommends consulting with the USFWS on potential impacts to federally listed species including, but not limited to, CRLF. Take under the Federal Endangered Species Act (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](mailto: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**

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 & Game Code, § 711.4; Pub. Resources Code, § 21089).

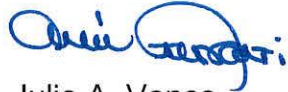
CDFW appreciates the opportunity to comment on the Project to assist the Monterey County Resource Management Agency in identifying and mitigating the Project's impacts on biological resources.




Mary Israel, Associate Planner  
County of Monterey Resource Management Agency  
March 11, 2020  
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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 Jim Vang, Environmental Scientist, at the address provided on this letterhead, by telephone at (559) 243-4014 extension 254, or by electronic mail at [Jim.Vang@wildlife.ca.gov](mailto:Jim.Vang@wildlife.ca.gov).

Sincerely,



 Julie A. Vance  
Regional Manager

Attachment

cc: United States Fish and Wildlife Service  
2800 Cottage Way, Suite W-2605  
Sacramento, California 95825

## Literature Cited

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Xerces Society for Invertebrate Conservation, Defenders of Wildlife, and Center for Food Safety. 2018. A petition to the state of California fish and game commission to list the Crotch bumble bee (*Bombus crotchii*), Franklin's bumble bee (*Bombus franklini*), Suckley cuckoo bumble bee (*Bombus suckleyi*), and western bumble bee (*Bombus occidentalis occidentalis*) as Endangered under the California Endangered Species Act. October 2018.

**Attachment 1**

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

**PROJECT: Miller Trust Commercial Project**

**SCH No.: 2020029037**

<b>RECOMMENDED MITIGATION MEASURE</b>	<b>STATUS/DATE/INITIALS</b>
<i>Before Disturbing Soil or Vegetation</i>	
Recommended Mitigation Measure 1: SWHA Surveys	
Recommended Mitigation Measure 2: SWHA No-disturbance Buffer	
Recommended Mitigation Measure 3: SWHA Take Authorization	
Recommended Mitigation Measure 4: Loss of SWHA Foraging Habitat	
Recommended Mitigation Measure 5: BASW Surveys	
Recommended Mitigation Measure 6: BASW No-disturbance Buffer	
Recommended Mitigation Measure 7: BASW Take Authorization	
Recommended Mitigation Measure 8: WBB Surveys	
Recommended Mitigation Measure 9: WBB Take Avoidance	
Recommended Mitigation Measure 10: WBB Take Authorization	
Recommended Mitigation Measure 11: BUOW Surveys	
Recommended Mitigation Measure 12: BUOW Avoidance	
Recommended Mitigation Measure 13: CRLF Surveys	
Recommended Mitigation Measure 14: CRLF Avoidance	
Recommended Mitigation Measure 15: WPT Surveys	
Recommended Mitigation Measure 16: WPT Relocation	
<i>During Construction</i>	
Recommended Mitigation Measure 2: SWHA No-disturbance Buffer	
Recommended Mitigation Measure 6: BASW No-disturbance Buffer	



<b>Recommended Mitigation Measure 9: WBB Take Avoidance</b>	
<b>Recommended Mitigation Measure 12: BUOW Avoidance</b>	
<b>Recommended Mitigation Measure 14: CRLF Avoidance</b>	
<b>Recommended Mitigation Measure 16: WPT Relocation</b>	