



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Inland Deserts Region  
3602 Inland Empire Blvd., Suite C220  
Ontario, CA 91764  
[wildlife.ca.gov](http://wildlife.ca.gov)

**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



August 11, 2022

Governor's Office of Planning & Research

*Sent via email*

**Aug 11 2022**

**STATE CLEARINGHOUSE**

Michael Draper, Planning Analyst II  
Mono County Department of Community Development  
P.O Box 347  
1290 Tavern Road  
Mammoth Lakes, CA 93546

Subject: Initial Study/Mitigated Negative Declaration  
Apogee Farms General Plan Amendment and Cannabis Facility Project  
State Clearinghouse No. 2021050252

Dear Mr. Draper:

The California Department of Fish and Wildlife (CDFW) received an Initial Study/Mitigated Negative Declaration (IS/MND) from the County of Mono (County) for the Apogee Farms General Plan Amendment and Cannabis Facility Project (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, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

### **CDFW ROLE**

CDFW is California's Trustee Agency for fish and wildlife resources and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants,

---

<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.

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.

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.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

## **PROJECT DESCRIPTION SUMMARY**

The Project site is located at 23555 Highway 6 (west of Highway 6 and south of Highway 120) in the city of Benton, California within Mono County; Latitude 37.78235 N and Longitude -118.46837 W. The Project proposes the construction and operation of a commercial cannabis production, processing, and distribution facility with the owner/operator living onsite. The Project site comprises approximately 78.45 acres on Assessor's Parcel Numbers (APNs) 025-020-013-000 and 025-040-002-000. The Project also includes a Specific Plan and General Plan Amendment to the Mono County 2015 General Plan Land Use Map to eliminate the existing Rural Residential (RR-40) designation and redesignate the two APNs on the Project site as Agricultural (AG-40).

The processing facility will be a steel structure constructed on a concrete foundation with a maximum height of 20 feet. Three greenhouses will be constructed southeast of the processing facility within the cultivation area and will be used for cannabis cultivation. The greenhouse facility will be made of steel posts and beams with clear plastic walls and ceilings. The total area of cultivation will be less than 10,000 square feet within the fenced 23,400-square-foot cultivation area. An approximately 320-square-foot storage house will be constructed northwest of the greenhouses within the cultivation area with a maximum height of 12 feet. The storage house will be constructed of treated

wood with insulation on a concrete foundation. The storage house will be used for storage of water tanks, fertilizers, and other materials related to cannabis cultivation. The Project will include improvements (e.g., widening) to the access road from Highway 6 to meet County standards for ingress and egress. The access road to the cannabis facility and the power line for the cannabis facility will cross Spring Canyon Creek and two other ephemeral drainages on-site.

Timeframe: Unavailable

### **COMMENTS AND RECOMMENDATIONS:**

The IS/MND discloses that a biological database search of several sources, including U.S. Fish and Wildlife Service, California Natural Diversity Database, California Native Plant Society, and National Wetland Inventory was conducted in May 2019 to determine which species had potential to occur onsite. The database search was followed by a reconnaissance-level survey conducted by biologist Russell Kokx on November 8, 2019, to document the environmental settings and to evaluate the potential for special-status species to occur; however, the results and methods of the reconnaissance-level survey were not provided. The IS/MND discloses that the final determination for species with potential to occur was made based upon known or expected occurrences within the area and whether the Project site or immediate vicinity contained suitable habitat. The IS/MND also disclosed that species “whose known distribution, habitat, or elevation range precluded a possible occurrence in the project vicinity” were not given further consideration and those “with relatively low probability for occurrence were retained for further evaluation because of incomplete knowledge about the range and/or habitat of certain species”.

As such, it was determined that a total of fourteen (14) special-status plant species and seven (7) special-status wildlife species had potential to occur onsite and are listed in Table 3-3 of the IS/MND, titled “Special-Status Species with Potential to Occur in the Project Site”. Among the special-status plants determined to have potential to occur included: alkali ivesia (*Ivesia kingii* var. *kingii*; State Rare Plant Rank [SRPR] 2B.2), Inyo County star-tulip (*Calochortus excavates*, SRPR 1B.1), fiddleleaf hawksbeard (*Crepis runcinate*, SRPR 2B.2), Inyo phacelia (*Phacelia inyoensis*, SRPR 1B.2) and dwarf monolepis (*Micromonolepis pusilla*, SRPR 2B.3). Among the special-status wildlife species determined to have potential to occur include Loggerhead Shrike

(*Lanius ludoviscianus*, CDFW Species of Special Concern [SSC]) and Swainson's Hawk (*Buteo swainsonii*, State Threatened).

Focused botanical surveys were then conducted on May 27 and June 17, 2020, and followed *Protocol for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (California Department of Fish and Game, 2009), *Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed, Proposed, and Candidate Plants* (U.S. Fish and Wildlife Service, 1996), and *Botanical survey guidelines of the California Native Plant Society* (California Native Plant Society, 2001). The survey methods and results were provided in Appendix C of the IS/MND, and it was reported that no special-status plant species were observed onsite. As such, CDFW appreciates that focused botanical surveys, were appropriately conducted for sensitive plants with potential to occur but is concerned that focused surveys were not conducted for special-status wildlife species with potential to occur onsite, including burrowing owl (*Athene cunicularia*, SSC) and Owens Valley vole (*Microtus californicus vallicola*, SSC). Burrowing owl is widespread throughout California, is associated with agricultural fields such as those adjacent to the Project site and prefers open areas with short vegetation and sparse shrubs, such as that occurring onsite. Owens Valley Vole is found within habitat that includes grasses, sedges, riparian scrub, and waterways (e.g., natural stream courses), which the Project site provides. Further, vole activity in the area surrounding the Project site has been observed by CDFW. Therefore, CDFW recommends conducting pre-construction surveys for burrowing owl and Owens Valley vole as per below in biological (BIO) Mitigation Measure (MM) BIO-4 and MM BIO-6, respectively.

The IS/MND also discloses that the Project site encompasses Spring Canyon Creek and two ephemeral drainages, although no jurisdictional delineation was conducted. The IS/MND states that the access road and the power line for the cannabis facility will impact Spring Canyon Creek and the two ephemeral drainages onsite. As such, CDFW appreciates the inclusion of MM BIO-2 and MM BIO-3 in the IS/MND to mitigate for impacts to riparian habitat and to prevent future development from impacting fish and wildlife resources under the Project's Specific Plan, respectively. CDFW offers minor revisions to MM BIO-2 and MM BIO-3, as per below, to consider Fish and Game Code section 1602, including notification of Lake and Streambed Alteration.

The IS/MND describes that water for the Project, including construction and operation will be sourced from the existing onsite well and estimates that

groundwater use will be approximately 600 gallons per day. The MND states that because 600 gallons per day is less than the daily average residential water use of 780 gallons per day in Mono County, the Project's water demand will not substantially decrease groundwater supplies. Absent a proper analysis, CDFW cannot agree that the Project will not substantially decrease groundwater supplies and is therefore concerned with the Project's impacts to groundwater and consequently potential impacts to Fish Slough. Fish Slough is considered an Area of Critical Concern by the Bureau of Land Management and supports fourteen (14) special-status plants including the endemic Fish Slough milk-vetch (*Astragalus lentiginosus var. piscinensis*, Federally Threatened; SRPR 1B.1: Rare or Endangered in California and elsewhere), and approximately 90% of Owens pupfish (*Cyprinodon radiosus*, Federally and State Endangered). Fish Slough is 100% dependent on groundwater discharge.

According to the IS/MND, the Project site is underlain by the Owens Valley groundwater basin (basin) and is located within the Tri Valley area of the Owens Valley groundwater basin. The basin's Groundwater Sustainability Plan (GSP) developed by the Owens Valley Groundwater Authority (OVGA) discusses that the declines in groundwater elevation in the Tri-Valley area could affect Fish Slough. Although CDFW understands that the GSP or OVGA has no regulatory authority over the Project, CDFW recommends that the Project applicant coordinate with OVGA to develop and implement best management practices and other actions to identify and avoid undesirable conditions in the operation and maintenance of the onsite well and to demonstrate the project will not contribute to cumulative impacts to Fish Slough from groundwater decline at the Project site.

Cannabis cultivation and related activities require large quantities of water, which can impact sensitive groundwater-dependent species and ecosystems such as Fish Slough, Owens pupfish, and Fish Slough milk-vetch. Although the IS/MND analyzes impacts of the Project on groundwater liquefaction, it does not properly analyze the potential for the Project to decrease groundwater supplies. CDFW recommends that the final MND include an analysis of impacts of the Project on groundwater supplies and groundwater-dependent species and ecosystems, such as Fish Slough, Owens pupfish, and Fish Slough milk-vetch. The final MND should also include an analysis of cumulative impacts (e.g., groundwater overdraft and degradation of and or loss of habitat). Additionally, per the Cannabis Cultivation Policy (State Water Resources Control Board, February 2019), please note that records of daily water usage for irrigation of cannabis

must be maintained for 5 years and readily available for review by the State Water Resources Control Board (SWRCB) and CDFW.

Considering all of the above, CDFW recommends: (1) a jurisdiction delineation be conducted and provided with the final MND and to CDFW via notification of Lake and Streambed Alteration and (2) the revision of MM BIO-1, MM BIO-2, and MM BIO-3 and the adoption of MM BIO-4, MM BIO-5, and MM BIO-6 as per below and also found in Attachment 1 (Mitigation Monitoring and Reporting Program) for adoption in a final IS/MND.

## **Biological Mitigation Measures**

### **Nesting Birds**

CDFW appreciates the inclusion of MM BIO-1 to mitigate for impacts to nesting birds and offers the following revisions below (edits are in ~~strikethrough~~ and **bold**):

#### **MM BIO-1:**

A preconstruction survey shall be performed prior to construction. The following measures shall be implemented:

- Use of heavy equipment, grading, demolition, construction, and/or tree removal, shall avoid the nesting season to the greatest extent feasible.
- ~~If use of heavy equipment, grading, demolition, construction, and/or tree removal are scheduled to occur during the nonbreeding season (September 1 through February 15), no measures are required.~~
- ~~If construction activities occur during the nesting season,~~ **Regardless of the time of year**, a preconstruction survey for active bird nests ~~in the project site~~ shall be conducted on the project site and within 500 feet of the project site by a qualified biologist ~~approved by the County~~ **no more than three (3) calendar days prior to initiating all Project activities. Surveys shall include any potential habitat, including trees, shrubs, the ground, or nearby structures that might be impacted by activities that may cause nest destruction or abandonment.**
  - ~~-If no nesting or breeding behavior is observed, construction may proceed.~~
  - ~~-If an active nest is detected a determination shall be made by a qualified biologist as to whether construction work could affect the active~~

~~nest. If it is determined that construction would not affect an active nest, work may proceed. If it is determined that construction activities are likely to impair the successful rearing of the young,~~ a 'no-disturbance buffer' in the form of orange mesh Environmentally Sensitive Area (ESA) fencing shall be established around occupied nests to prevent destruction of the nest and to prevent disruption of breeding or rearing behavior. The extent of the 'no-disturbance buffer' shall be **no less than 300 feet (500 feet for raptors), a smaller buffer may be** determined by a qualified biologist ~~in consultation with CDFW.~~ 'No-disturbance buffers' shall be maintained until the end of the breeding season or until a qualified wildlife biologist has determined that the nestlings have fledged. A qualified wildlife biologist shall inspect the active nest to determine whether construction activities are disturbing to the nesting birds or nestlings. If the qualified wildlife biologist determines that construction activities pose a disturbance to nesting, construction work shall be stopped in the area of the nest, and the 'no-disturbance buffer' expanded.

### **Fish and Game Code Section 1602**

CDFW is concerned about the IS/MND's confirmed impacts to Fish and Game Code section 1602 resources from construction and improvements to the access road and installation of power lines for the cannabis facility. Although the IS/MND acknowledges that development within streams onsite could require a Lake and Streambed Alteration Agreement (LSAA), mitigation proposed (i.e., MM BIO-2) does not consider notification of Lake and Streambed Alteration. Please note that the Department for Cannabis Control (DCC) requires cannabis cultivators to demonstrate compliance with Fish and Game Code section 1602 prior to issuing a cultivation license (Business and Professions Code, § 26060.1). To qualify for an Annual License from DCC, cultivators must have an LSAA or written verification from CDFW that one is not needed. Cannabis cultivators may apply online for an LSAA through the Environmental Permit Information Management System (EPIMS) at <https://epims.wildlife.ca.gov> and learn more about permitting at <https://wildlife.ca.gov/Conservation/Cannabis/Permitting>.

Nonetheless, CDFW appreciates the inclusion of MM BIO-2 to mitigate for impacts to riparian habitat onsite. Lamentably, MM BIO-2 does not consider impacts to streambed, bank, or channel and per Fish and Game Code section 1602: "An entity shall not substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of any,

river, stream, or lake...". Thus, CDFW recommends that the final MND include the below revisions to MM BIO-2 to consider notification of Lake and Streambed Alteration pursuant to Fish and Game Code 1602 (edits are in ~~strikethrough~~ and **bold**):

#### **MM BIO-2:**

If construction activities impact riparian habitat **and/or Fish and Game Code section 1602 resources**, the permanent loss of riparian habitat **and/or Fish and Game Code section 1602 resources** shall be compensated **as determined by the California Department of Fish and Wildlife (CDFW) through a Lake and Streambed Alteration Agreement** through ~~on-site enhancement or establishment of riparian habitat;~~ **one or more of the following: on-site restoration; purchase of mitigation bank credits from a CDFW-approved mitigation bank; and/or land acquisition, management and conservation in perpetuity, and funding thereof.** Permanent impacts to riparian habitat shall be compensated ~~through enhancement of riparian areas at a minimum 2:1 ratio (acres mitigated enhancement:acres impacted)~~ **or as determined by CDFW during project analysis after receiving notification for a Lake and Streambed Alteration Agreement** ~~or creation of riparian areas at a minimum 21:1 ratio.~~ All areas of temporary impact will be restored to preconstruction contours and habitat conditions, **as determined by CDFW through a Lake and Streambed Alteration Agreement.** ~~Impacts to riparian habitat are anticipated only as a result from improvements to the access road.~~ The applicant will prepare a habitat mitigation and monitoring plan (**HMMP**) **for restoration of temporary impact areas (mitigation site)** that includes **the below and the HMMP requirements within the Lake and Streambed Alteration Agreement:**

- Baseline conditions within the mitigation site
- Proposed mitigation site conditions
- Mitigation methods (e.g., habitat creation or enhancement)
- Performance standards/success criteria including a minimum of 70% vegetated cover with native riparian vegetation that are the target of the creation and enhancement efforts and less than 3% invasive species cover
- Habitat maintenance including trash removal, invasive weed removal, and repair of any damage to the mitigation site
- Monitoring requirements including annual monitoring during the establishment period. The annual monitoring will include surveys for native vegetation cover, photo documentation at defined photo-monitoring locations, and monitoring for invasive species and any other habitat stressors. Monitoring will be conducted for the first five years or until success criteria are met.

### **Future Impacts to Fish and Wildlife Resources**

CDFW appreciates the inclusion of MM BIO-3, which prevents future development from impacting fish and wildlife resources under the Project's Specific Plan and offers the following revisions to consider Fish and Game Code section 1602 (edits are in ~~strike through~~ and **bold**):

#### **MM BIO-3**

Future development under the Specific Plan would be prohibited within any streams, riparian habitats, sensitive natural communities, or other water bodies in the project area. No future development would occur in the floodplain to protect sensitive natural communities and special-status species. **If any changes to the Specific Plan are made and impacts to Fish and Game Code section 1602 resources are anticipated, the Project proponent shall submit a complete Lake and Streambed Alteration notification through EPIMS as noted above.**

#### **Burrowing Owl**

CDFW recommends the adoption of MM BIO-4 below to prevent potential impacts to burrowing owl.

#### **MM BIO-4:**

**Prior to initiating Project activities, a qualified biologist shall conduct at least one survey covering the entire Project area and surrounding 15-meter buffer to identify the presence of suitable burrows and/or burrow surrogates (>11 cm in diameter (height and width) and >150 cm in depth) for burrowing owl and sign of burrowing owl (e.g., pellets, prey remains, whitewash, or decoration, etc.). If suitable burrows and/or sign of burrowing owl is found, a breeding season survey for burrowing owl in accordance with the Staff Report on Burrowing Owl Mitigation (Department of Fish and Game, March 2012) shall be conducted by a qualified biologist prior to start of Project activities. If no burrowing owl, active burrowing owl burrows, or sign thereof are found, no further action is necessary. If burrowing owl, active burrowing owl burrows, or sign thereof are found, the qualified biologist shall coordinate with the California Department of Fish and Wildlife (CDFW) to conduct an impact assessment to develop avoidance, minimization, and mitigation measures to be approved by CDFW prior to commencing Project activities and propose mitigation for**

**permanent loss of occupied burrow(s) and habitat consistent with the 2012 Staff Report on Burrowing Owl Mitigation.**

**Employee Awareness of Wildlife Resources**

CDFW recommends the adoption of MM BIO-5 below to bring awareness to all persons employed or otherwise working onsite in order to avoid or minimize Project-related impacts to special-status species with potential to occur.

**MM BIO-5:**

**A qualified biologist shall conduct an education program for all persons employed or otherwise working on the Project site prior to performing any work on-site. The education program shall consist of a presentation that includes a discussion of the biology of the habitats and species that may be present at the site. The qualified biologist shall also include as part of the education program information about the distribution and habitat needs of any special-status species that may be present, legal protections for those species, penalties for violations, and mitigation measures. The education program should include, but not be limited to: (1) Best practices for managing waste and reducing activities that can lead to increased occurrences of opportunistic species and the impacts these species can have on wildlife in the area; (2) Protected species that have the potential to occur on the Project site including but not limited to burrowing owl; and (3) The location of Spring Canyon Creek and two ephemeral streams that transect the Project site and the importance of ensuring that no refuse or pollution enters the streambed habitat. Interpretation shall be provided for any non-English speaking workers, and the same instruction shall be provided for any new workers prior to their performing any work on-site.**

**Owens Valley Vole**

CDFW recommends the adoption of MM BIO-6 below to avoid potential Project-related impacts to Owens Valley vole.

**MM BIO-6:**

**A California Department of Fish and Wildlife (CDFW)-approved biologist shall conduct trapping surveys within suitable habitat for Owens Valley vole and within a 150-foot buffer from the Project footprint to identify**

**presence of Owen's Valley vole following CDFW-approved trapping protocols prior to initiating all Project activities. If presence of Owens Valley vole is confirmed, the Project proponent shall prepare and implement a set of avoidance and minimization measures to protect Owens Valley vole from Project-related impacts and shall provide them to CDFW for review and approval no fewer than 30 days prior to initiating all Project activities. Additionally, if Owen's Valley vole is present, a mitigation proposal shall be developed for the loss of habitat. Mitigation shall be determined by CDFW and may include, but is not limited to land acquisition, management and conservation in perpetuity, and funding thereof. Construction shall not proceed until mitigation is complete or a financial security (e.g., letter of credit) for mitigation measures is provided to CDFW.**

## **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: [Submitting Data to the CNDDDB \(ca.gov\)](#). 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: [CNDDDB - Plants and Animals \(ca.gov\)](#).

## **FILING FEES**

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the 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.)

Michael Draper, Planning Analyst II  
County of Mono  
August 11, 2022  
Page 12 of 18

## CONCLUSION

CDFW requests that the County include in the final MND the suggested mitigation measures (Attachment 1) offered by CDFW to avoid, minimize, and mitigate Project impacts on California fish and wildlife resources.

CDFW appreciates the opportunity to comment on Apogee Farms General Plan Amendment and Cannabis Facility Project (SCH No. 2021050252) and hopes our comments will assist the County in identifying, avoiding, minimizing, and mitigating Project impacts on fish and wildlife resources.

If you should have any questions pertaining to the comments provided in this letter, please contact Corina Jimenez, Environmental Scientist at [Corina.Jimenez@wildlife.ca.gov](mailto:Corina.Jimenez@wildlife.ca.gov).

## ATTACHMENTS

Attachment 1: MMRP for CDFW-Proposed Mitigation Measures

Sincerely,

DocuSigned by:  
 for  
4D759253408941E...

Alisa Ellsworth  
Environmental Program Manager

ec: Office of Planning and Research, State Clearinghouse, Sacramento  
[state.clearinghouse@opr.ca.gov](mailto:state.clearinghouse@opr.ca.gov).

## REFERENCES

California Department of Fish and Wildlife. 2018. Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities. Available for download at:  
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>

California Department of Fish and Game (CDFG). 2012. Staff report on burrowing owl mitigation. State of California, Natural Resources Agency. Available for download at:  
<https://www.wildlife.ca.gov/conservation/surveyprotocols>

State Water Resources Control Board. 2019. Cannabis Cultivation Policy.

Available for download at:

[https://www.waterboards.ca.gov/water\\_issues/programs/cannabis/docs/policy/final\\_cannabis\\_policy\\_with\\_attach\\_a.pdf](https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/final_cannabis_policy_with_attach_a.pdf)

## **ATTACHMENT 1: MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)**

### **PURPOSE OF THE MMRP**

The purpose of the MMRP is to ensure compliance with mitigation measures during project implementation. Mitigation measures must be implemented within the time periods indicated in the table below.

### **TABLE OF MITIGATION MEASURES**

The following items are identified for each mitigation measure: Mitigation Measure, Implementation Schedule, and Responsible Party. The Mitigation Measure column summarizes the mitigation requirements. The Implementation Schedule column shows the date or phase when each mitigation measure will be implemented. The Responsible Party column identifies the person or agency that is primarily responsible for implementing the mitigation measure.

<b>Biological (BIO) Mitigation Measures (MM)</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>
MM BIO-1:  A preconstruction survey shall be performed prior to construction. The following measures shall be implemented: <ul style="list-style-type: none"><li>• Use of heavy equipment, grading, demolition, construction, and/or tree removal, shall avoid the nesting season to the greatest extent feasible.</li><li>• Regardless of the time of year, a preconstruction survey for active bird nests shall be conducted on the project site and within 500 feet of the project site by a qualified biologist no</li></ul>	Prior to initiating Project activities	Project Proponent

<p>more than three (3) calendar days prior to initiating all Project activities. Surveys shall include any potential habitat, including trees, shrubs, the ground, or nearby structures that might be impacted by activities that may cause nest destruction or abandonment.</p> <p>-If an active nest is detected a 'no-disturbance buffer' in the form of orange mesh Environmentally Sensitive Area (ESA) fencing shall be established around occupied nests to prevent destruction of the nest and to prevent disruption of breeding or rearing behavior. The extent of the 'no-disturbance buffer' shall be no less than 300 feet (500 feet for raptors), a smaller buffer may be determined by a qualified biologist. 'No-disturbance buffers' shall be maintained until the end of the breeding season or until a qualified wildlife biologist has determined that the nestlings have fledged. A qualified wildlife biologist shall inspect the active nest to determine whether construction activities are disturbing to the nesting birds or nestlings. If the qualified wildlife biologist determines that construction activities pose a disturbance to nesting, construction work shall be stopped in the area of the nest, and the 'no-disturbance buffer' expanded.</p>		
<p>MM BIO-2:           If construction activities impact riparian habitat and/or Fish and Game Code section 1602 resources, the permanent loss of riparian habitat and/or Fish and Game Code section 1602 resources shall be compensated as determined by the</p>	<p>Prior to initiating Project activities</p>	<p>Project Proponent</p>

<p>California Department of Fish and Wildlife (CDFW) through a Lake and Streambed Alteration Agreement through one or more of the following: on-site restoration; purchase of mitigation bank credits from a CDFW-approved mitigation bank; and/or land acquisition, management and conservation in perpetuity, and funding thereof. Permanent impacts to riparian habitat shall be compensated at a minimum 2:1 ratio (acres mitigated: acres impacted) or as determined by CDFW during project analysis after receiving notification for a Lake and Streambed Alteration Agreement. All areas of temporary impact will be restored to preconstruction contours and habitat conditions, as determined by CDFW through a Lake and Streambed Alteration Agreement. The applicant will prepare a habitat mitigation and monitoring plan (HMMP) for restoration of temporary impact areas (mitigation site) that includes the below and the HMMP requirements within the Lake and Streambed Alteration Agreement:</p> <ul style="list-style-type: none"><li>• Baseline conditions within the mitigation site</li><li>• Proposed mitigation site conditions</li><li>• Mitigation methods (e.g., habitat creation or enhancement)</li><li>• Performance standards/success criteria including a minimum of 70% vegetated cover with native riparian vegetation that are the target of the creation and enhancement efforts and less than 3% invasive species cover</li><li>• Habitat maintenance including trash removal, invasive weed removal, and repair of any damage to the mitigation site</li><li>• Monitoring requirements including annual monitoring during the establishment period. The annual monitoring will include surveys for</li></ul>		
--	--	--

<p>native vegetation cover, photo documentation at defined photo-monitoring locations, and monitoring for invasive species and any other habitat stressors. Monitoring will be conducted for the first five years or until success criteria are met.</p>		
<p>MM BIO-3:           Future development under the Specific Plan would be prohibited within any streams, riparian habitats, sensitive natural communities, or other water bodies in the project area. No future development would occur in the floodplain to protect sensitive natural communities and special-status species. If any changes to the Specific Plan are made and impacts to Fish and Game Code section 1602 resources are anticipated, the Project proponent shall submit a complete Lake and Streambed Alteration notification through EPIMS as noted above.</p>	<p>Prior to initiating Project activities</p>	<p>Project Proponent</p>
<p>MM BIO-4           Prior to initiating Project activities, a qualified biologist shall conduct at least one survey covering the entire Project area and surrounding 15-meter buffer to identify the presence of suitable burrows and/or burrow surrogates (&gt;11 cm in diameter (height and width) and &gt;150 cm in depth) for burrowing owl and sign of burrowing owl (e.g., pellets, prey remains, whitewash, or decoration, etc.). If suitable burrows and/or sign of burrowing owl is found, a breeding season survey for burrowing owl in accordance with the Staff Report on Burrowing Owl Mitigation (Department of Fish and Game, March 2012) shall be conducted by a qualified biologist prior to start of Project activities. If no burrowing owl, active burrowing owl</p>	<p>Prior to initiating Project activities</p>	<p>Project Proponent</p>

<p>burrows, or sign thereof are found, no further action is necessary. If burrowing owl, active burrowing owl burrows, or sign thereof are found, the qualified biologist shall coordinate with the California Department of Fish and Wildlife (CDFW) to conduct an impact assessment to develop avoidance, minimization, and mitigation measures to be approved by CDFW prior to commencing Project activities and propose mitigation for permanent loss of occupied burrow(s) and habitat consistent with the 2012 Staff Report on Burrowing Owl Mitigation.</p>		
<p>MM BIO-5</p> <p>A qualified biologist shall conduct an education program for all persons employed or otherwise working on the Project site prior to performing any work on-site. The education program shall consist of a presentation that includes a discussion of the biology of the habitats and species that may be present at the site. The qualified biologist shall also include as part of the education program information about the distribution and habitat needs of any special-status species that may be present, legal protections for those species, penalties for violations, and mitigation measures. The education program should include, but not be limited to: (1) Best practices for managing waste and reducing activities that can lead to increased occurrences of opportunistic species and the impacts these species can have on wildlife in the area; (2) Protected species that have the potential to occur on the Project site including but not limited to burrowing owl; and (3) The location of Spring Canyon Creek and two ephemeral streams that transect the Project site and the importance of ensuring that no refuse or pollution enters the streambed habitat. Interpretation shall be provided for any non-</p>	<p>Prior to initiating Project activities</p>	<p>Project Proponent</p>

<p>English speaking workers, and the same instruction shall be provided for any new workers prior to their performing any work on-site.</p>		
<p>MM BIO-6</p> <p>A California Department of Fish and Wildlife (CDFW)-approved biologist shall conduct trapping surveys within suitable habitat for Owens Valley vole and within a 150-foot buffer from the Project footprint to identify presence of Owen’s Valley vole following CDFW-approved trapping protocols prior to initiating all Project activities. If presence of Owens Valley vole is confirmed, the Project proponent shall prepare and implement a set of avoidance and minimization measures to protect Owens Valley vole from Project-related impacts and shall provide them to CDFW for review and approval no fewer than 30 days prior to initiating all Project activities. Additionally, if Owen’s Valley vole is present, a mitigation proposal shall be developed for the loss of habitat. Mitigation shall be determined by CDFW and may include, but is not limited to land acquisition, management and conservation in perpetuity, and funding thereof. Construction shall not proceed until mitigation is complete or a financial security (e.g., letter of credit) for mitigation measures is provided to CDFW.</p>	<p>Prior to initiating Project activities</p>	<p>Project Proponent</p>