

**Robla Estates Project
Initial Study/Mitigated Negative Declaration**

**Errata Sheet
November 2022**

Introduction

This Errata presents, in ~~strike-through~~ and double-underline format, the revisions to the Robla Estates Project Initial Study/Mitigated Negative Declaration (IS/MND). The revisions to the IS/MND reflected in this Errata do not affect the adequacy of the previous environmental analysis contained in the Robla Estates Project IS/MND. Because the changes presented below would not result in any new significant impacts or increase in impact significance from what was identified in the IS/MND, recirculation of the Robla Estates Project IS/MND is not required.

Changes to IS/MND

Page 25 of the IS/MND, within Section 2, Air Quality, is hereby revised as follows:

The SVAB is currently designated as nonattainment for the NAAQS 8-hour ozone standard and the CAAQS for both 1-hour and 8-hour O₃ standard. The SVAB is also currently designated as nonattainment for ~~both NAAQS and the~~ CAAQS 24-hour PM₁₀ standards. In addition, the SVAB is currently designated as nonattainment for the NAAQS 24-hour PM_{2.5} standard. The air basin is designated as unclassified or in attainment for the remaining criteria air pollutants (SMAQMD 2019).

The above modification is for clarification purposes only and does not change the analysis or conclusions of the IS/MND.

Mitigation Measure 2-1, found on page 33 of the IS/MND, is hereby revised as follows:

2-1 *Prior to the initiation of ground disturbance, the project applicant shall show on the plans via notation that the contractor shall ensure that the heavy-duty off-road vehicles (50 horsepower or more) to be used in the construction project, including owned, leased, and subcontractor vehicles, shall not generate PM_{2.5} emissions in excess of 0.0512 tons PM_{2.5} per year. The PM_{2.5} reduction shall be achieved by requiring a combination of engine Tier 4 off-road construction equipment or the use of hybrid, electric, or alternatively fueled equipment. Additionally, prior to ground disturbance, the project applicant shall submit an equipment list to the City of Sacramento Community Development Department and the SMAQMD that demonstrates that the foregoing PM_{2.5} reduction goal would be achieved.*

In addition, all off-road equipment working at the construction site must be maintained in proper working condition according to manufacturer's specifications. Idling shall be limited to five minutes or less in

accordance with the Off-Road Diesel Fueled Fleet Regulation as required by CARB. Portable equipment over 50 horsepower must have either a valid District Permit to Operate (PTO) or a valid statewide Portable Equipment Registration Program (PERP) placard and sticker issued by CARB.

At the conclusion of project construction, the project applicant shall submit an updated (as required) equipment list to the City of Sacramento Community Development Department and the SMAQMD document compliance with this measure. The aforementioned requirements shall be noted on Grading Plans and submitted for review and approval by the City of Sacramento Community Development Department.

The above modifications are for amplification purposes only and do not change the analysis or conclusions of the IS/MND.

Mitigation Measure 3-3, found on page 42 of the IS/MND, is hereby revised as follows:

3-3(a) *If tree removal or other ground-disturbing activities are to begin during the breeding/nesting season for raptors or other protected bird species in the region (generally February 1 through August 31), a qualified biologist shall be retained by the project applicant to conduct pre-construction surveys in areas of suitable nesting habitat within two weeks prior to initiation of tree removal or ground disturbance. The pre-construction surveys shall be submitted to the City's Community Development Department. If active nests are not found, further mitigation is not required. If active nests are found, the construction contractor shall avoid impacts on such nests by establishing a no-disturbance buffer around the nest. The appropriate buffer size for all nesting birds shall be determined by a qualified biologist. Buffer size will vary depending on site-specific conditions, the species of nesting bird, nature of the project activity, the extent of existing disturbance in the area, visibility of the disturbance from the nest site, and other relevant circumstances. Construction activity shall not occur within the buffer area of an active nest and nests shall be monitored by a qualified biologist until a qualified biologist confirms that the chicks have fledged and are no longer dependent on the nest, or the nesting cycle has otherwise completed. Monitoring of the nest by a qualified biologist during construction activities shall be required if the activity has the potential to adversely affect the nest.*

3-3(b) *If equipment staging, site preparation, grading, excavation or other project-related activities are scheduled during the Swainson's hawk nesting season (typically March 1 through September 15) surveys for active nests of such birds shall be conducted by a Qualified Biologist in accordance with the typical survey protocol: Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (Swainson's Hawk Technical Advisory Committee 2000). Surveys shall be conducted at the appropriate radius (0.5 miles) and time periods listed in the survey protocol.*

If an active Swainson's hawk nest is found during project surveys, the Qualified Biologist shall consult with CDFW and demonstrate compliance with CESA. If during consultation it is determined that implementation of the project as proposed may result in take of Swainson's hawk, the project may seek related take authorization as provided by the Fish and Game Code.

3-3(c) Prior to the initiation of construction or grading activities, a qualified biologist shall conduct an analysis of, and reference to, studies of local Swainson's hawk activity on the project site, and, if applicable, shall subsequently determine an appropriate mitigation ratio of loss of on-site Swainson's hawk foraging habitat to off-site replacement habitat. In the event that the aforementioned analysis indicates the loss of on-site foraging habitat, the project applicant shall mitigate the loss by purchasing Swainson's hawk foraging habitat credits at a CDFW-approved conservation site or CDFW-approved mitigation or conservation bank at a ratio of no less than one acre of replacement habitat for every acre of impacted foraging habitat. Compliance with such mitigation shall be subject to review and approval by the City's Community Development Department.

The above modifications are for amplification purposes only and do not change the analysis or conclusions of the IS/MND.

The environmental checklist table on page 57 of the IS/MND is hereby revised as follows:

	Effect will be studied in the EIR	Effect can be mitigated to less than significant	No additional significant environmental effect
Issues:			
7. <u>GREENHOUSE GAS EMISSIONS</u> Would the project:			
A) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?		<u>X</u>	
B) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?		<u>X</u>	

The above modifications are for clarification purposes only and do not change the analysis or conclusions of the IS/MND.

Robla Estates Project Responses to Comments Received on the Initial Study/Mitigated Negative Declaration

The Initial Study/Mitigated Negative Declaration (IS/MND) for the Robla Estates Project (proposed project) was circulated for public comment from August 5, 2022 to September 6, 2022. Written comments were received as follows:

Date	Commenter
8/15/2022	Lorenzo Hernandez, Sacramento Department of Utilities
8/26/2022	Karen Huss, Sacramento Metropolitan Air Quality Management District
8/31/2022	Satwinder Dhatt, California Department of Transportation
9/2/2022	Dylan Wood, California Department of Fish and Wildlife
9/6/2022	Peter Minkel, Central Valley Regional Water Quality Control Board

The written comments are attached. The comments are acknowledged by the City and have been considered as part of the project planning and its implementation. The comments received did not identify any new significant effect, increase in severity of an impact identified in the IS/MND, or any significant new information. Thus, recirculation of the IS/MND is not required.

The responses below include responses to each comment letter submitted regarding the proposed project. Where revisions to the IS/MND text are required in response to a comment, new text is double underlined and deleted text is ~~struck through~~.

Response to Lorenzo Hernandez, Sacramento Department of Utilities, 8/15/2022: Thank you for participating in the public review process of the IS/MND. As stated throughout the IS/MND, wastewater treatment services for the project site will be provided by the City of Sacramento Department of Utilities. However, after being collected in the City's separated sewer system, wastewater generated from the project site would be directed into the Sacramento Regional County Sanitation District (SRCSD) interceptor system, where the wastewater is then conveyed into the Sacramento Regional Wastewater Treatment Plan. Therefore, although the project site is provided wastewater services exclusively by the Department of Utilities, the SRCSD is still indirectly involved in the wastewater treatment process.

Response to Karen Huss, Sacramento Metropolitan Air Quality, 8/26/22: Thank you for participating in the public review process of the IS/MND. In response to the commenter's suggested correction, page 25 of the IS/MND is hereby revised as follows:

The SVAB is currently designated as nonattainment for the NAAQS 8-hour ozone standard and the CAAQS for both 1-hour and 8-hour O₃ standard. The SVAB is also currently designated as nonattainment for ~~both NAAQS and the~~ CAAQS 24-hour PM₁₀ standards. In addition, the SVAB is currently designated as nonattainment for the NAAQS 24-hour PM_{2.5} standard. The air basin is designated as unclassified or in attainment for the remaining criteria air pollutants (SMAQMD 2019).

As noted on page 29 of the IS/MND, the project would be required to implement the SMAQMD's Basic Construction Emission Control Practices (BCECP). The City will require implementation of the BCECP through a condition of project approval.

In response to the comment, Mitigation Measure 2-1 is hereby revised as follows:

2-1

Prior to the initiation of ground disturbance, the project applicant shall show on the plans via notation that the contractor shall ensure that the heavy-duty off-road vehicles (50 horsepower or more) to be used in the construction project, including owned, leased, and subcontractor vehicles, shall not generate PM_{2.5} emissions in excess of 0.0512 tons PM_{2.5} per year. The PM_{2.5} reduction shall be achieved by requiring a combination of engine Tier 4 off-road construction equipment or the use of hybrid, electric, or alternatively fueled equipment. Additionally, prior to ground disturbance, the project applicant shall submit an equipment list to the City of Sacramento Community Development Department and the SMAQMD that demonstrates that the foregoing PM_{2.5} reduction goal would be achieved.

In addition, all off-road equipment working at the construction site must be maintained in proper working condition according to manufacturer's specifications. Idling shall be limited to five minutes or less in accordance with the Off-Road Diesel Fueled Fleet Regulation as required by CARB. Portable equipment over 50 horsepower must have either a valid District Permit to Operate (PTO) or a valid statewide Portable Equipment Registration Program (PERP) placard and sticker issued by CARB.

At the conclusion of project construction, the project applicant shall submit an updated (as required) equipment list to the City of Sacramento Community Development Department and the SMAQMD documenting compliance with this measure. The aforementioned requirements shall be noted on Grading Plans and submitted for review and approval by the City of Sacramento Community Development Department.

The AERMOD and HARP results were erroneously excluded from Appendix A; however, as noted on page 105 of the IS/MND, all technical studies were available upon request during the public review period. The results are included as an attachment to this document for informational purposes.

As noted on page 59 of the IS/MND, the prohibition of natural gas infrastructure is an inherent design feature of the proposed project and, as a result, the project, as proposed, would comply with BMP-1. Nonetheless, the City will require the prohibition of natural gas through a condition of project approval.

The environmental checklist table on page 57 is hereby revised as follows:

	Effect will be studied in the EIR	Effect can be mitigated to less than significant	No additional significant environmental effect
Issues:			
7. GREENHOUSE GAS EMISSIONS Would the project:			
A) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?		<u>X</u>	
B) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?		<u>X</u>	

Response to Satwinder Dhatt, California Department of Transportation, 8/31/22: Thank you for participating in the public review process of the IS/MND. The comment states that the proposed project would not cause any operational issues on the State Highway System. In addition, the comment contains a request for the project applicant to provide the Department of Transportation with copies of any further actions regarding the proposed project. The comment does not address the adequacy of the IS/MND, has been noted for the record, and will be forwarded to the decisionmakers as part of their consideration of the proposed project.

Response to Dylan Wood, California Department of Fish and Wildlife, 9/2/22: Thank you for participating in the public review process of the IS/MND. The first portion of the comment letter consists of a summary of the California Department of Fish and Wildlife's (CDFW's) role and function. Comment 1 states that CDFW recommends additional assessment of the Swainson's hawk during the nesting season, prior to project construction. In response to the comment, Mitigation Measure 3-3 is hereby revised as follows:

3-3(a) *If tree removal or other ground-disturbing activities are to begin during the breeding/nesting season for raptors or other protected bird species in the region (generally February 1 through August 31), a qualified biologist shall be retained by the project applicant to conduct pre-construction surveys in areas of suitable nesting habitat within two weeks prior to initiation of tree removal or ground disturbance. The pre-construction surveys shall be submitted to the City's Community Development Department. If active nests are not found, further mitigation is not required. If active nests are found, the construction contractor shall avoid impacts on such nests by establishing a no-disturbance buffer around the nest. The appropriate buffer size for all nesting birds shall be determined by a qualified biologist. Buffer size will vary depending on site-specific conditions, the species of nesting bird, nature of the project activity, the extent of existing disturbance in the area, visibility of the disturbance from the nest site, and other relevant circumstances. Construction activity shall not occur within the buffer area of an active nest and nests shall be monitored by a qualified biologist until a qualified biologist confirms that the chicks have fledged and are no longer dependent on the nest, or the nesting cycle has otherwise completed. Monitoring of the nest by a qualified biologist during construction activities shall be required if the activity has the potential to adversely affect the nest.*

3-3(b) *If equipment staging, site preparation, grading, excavation or other project-related activities are scheduled during the Swainson's hawk nesting season (typically March 1 through September 15) surveys for active nests of such birds shall be conducted by a Qualified Biologist in accordance with the typical survey protocol: Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (Swainson's Hawk Technical Advisory Committee 2000). Surveys shall be conducted at the appropriate radius (0.5 miles) and time periods listed in the survey protocol.*

If an active Swainson's hawk nest is found during project surveys, the Qualified Biologist shall consult with CDFW and demonstrate compliance with CESA. If during consultation it is determined that implementation of the project as proposed may result in take of Swainson's hawk, the project may seek related take authorization as provided by the Fish and Game Code.

In response to Comment 2, regarding potential impacts to Swainson's hawk foraging behavior, page 42 of the IS/MND is hereby revised as follows:

3-3(c) Prior to the initiation of construction or grading activities, a qualified biologist shall conduct an analysis of, and reference to, studies of local Swainson's hawk activity on the project site, and, if applicable, shall subsequently determine an appropriate mitigation ratio of loss of on-site Swainson's hawk foraging habitat to off-site replacement habitat. In the event that the aforementioned analysis indicates the loss of on-site foraging habitat, the project applicant shall mitigate the loss by purchasing Swainson's hawk foraging habitat credits at a CDFW-approved conservation site or CDFW-approved mitigation or conservation bank at a ratio of no less than one acre of replacement habitat for every acre of impacted foraging habitat. Compliance with such mitigation shall be subject to review and approval by the City's Community Development Department.

Comment 3 of the CDFW letter discusses the danger to nesting birds and nesting bird habitat resulting from the proposed project's proximity to existing open space areas within the City of Sacramento, including Robla Creek. The comment specifically details the hazards that domestic cats and clear and reflective sheet glass and plastic pose to bird species. The letter includes the recommendation of bird impact avoidance strategies, including an education program for residents of the proposed project to keep domestic cats indoors, and to install screens and window patterns to avoid bird collisions. Comment 4 of the CDFW letter recommends consideration of use of the Homegrown Habitat Plant List when developing landscaping plans, in order to increase drought tolerance, decrease water use, and decrease maintenance costs, while simultaneously increasing functionality for pollinators and wildlife, increasing the site's biodiversity, and increasing climate change resilience. Such recommendations and comments have been forwarded to the project applicant and decisionmakers for their consideration.

Response to Peter Minkel, Central Valley Regional Water Quality Control Board, 9/6/2022:

Thank you for participating in the public review process of the IS/MND. The comment provides background information regarding applicable regulations and required permits. The comment does not address the adequacy of the IS/MND, has been noted for the record, and will be forwarded to the decisionmakers as part of their consideration of the proposed project.

ATTACHMENT A
COMMENT LETTERS

From: [Lorenzo Hernandez](#)
To: [Ron Bess](#)
Subject: RE: Notice of Availability/Intent for the Robla Estates Project (P21-009)
Date: Monday, August 15, 2022 9:56:33 AM
Attachments: [Final-ISMND_DryCreekEstates2_DOJ_Comments.pdf](#)

Hi Ron,

I just have a minor comment, the wastewater will be provided by the City of Sacramento.

Thanks,

Lorenzo Hernandez
Assistant Civil Engineer

From: Inthira Mendoza <imendoza@cityofsacramento.org>
Sent: Friday, August 5, 2022 10:55 AM
To: Lorenzo Hernandez <LOHernandez@cityofsacramento.org>
Subject: FW: Notice of Availability/Intent for the Robla Estates Project (P21-009)

FYI

From: Ron Bess <RBess@cityofsacramento.org>
Sent: Friday, August 5, 2022 10:00 AM
To: Jose Quintanilla <JQuintanilla@cityofsacramento.org>; Garrett Norman <GNorman@cityofsacramento.org>
Cc: Scott Johnson <SRJohnson@cityofsacramento.org>; Ron Bess <RBess@cityofsacramento.org>
Subject: Notice of Availability/Intent for the Robla Estates Project (P21-009)

Good Morning Everyone,

This email is to inform you that the City of Sacramento, Community Development Department, as Lead Agency, has issued a **Notice of Availability/Intent to Approve the Robla Estates Project (P21-009)**.

The Comment Period is from August 5, 2022, to September 5, 2022.

The document is now available for public review and comment. The NOAI is available, along with the Mitigated Negative Declaration and Appendices at the City's Community Development Department webpage at:

<http://www.cityofsacramento.org/Community-Development/Planning/Environmental/Impact-Reports>

Comments are invited from all interested parties. Written comments on the Mitigated Negative Declaration should be submitted to the following address **NO LATER THAN 4:00 pm on Monday, September 5, 2022**. (NOTE: due to COVID-19, the Public Counter is CLOSED). All comments should be submitted via email or mailed to:

Scott Johnson, Senior Planner
City of Sacramento
Community Development Department
Environmental Planning Services
300 Richards Blvd. 3rd Floor
Sacramento, CA 95811
(916) 808-5842
SRJohnson@cityofsacramento.org



August 26, 2022

Scott Johnson
Senior Planner
Community Development Department
City of Sacramento
300 Richards Boulevard, 3rd Floor
Sacramento, CA 95811

Subject: Robla Estates Mitigated Negative Declaration (P21-009, SMAQMD# SAC202102746)

Dear Scott Johnson:

Thank you for providing the Sacramento Metropolitan Air Quality Management District (Sac Metro Air District) with the opportunity to review the Mitigated Negative Declaration (MND) for the Robla Estates project under the California Environmental Quality Act (CEQA). This project is a request to construct 177 single-unit residents on a 20.40-acre undeveloped site north of Marysville Boulevard and Claire Avenue at 5330 Rio Linda Boulevard in the North Sacramento Community Plan area. The project requires approval of an amendment to the General Plan, Rezone, a Tentative Subdivision Map, and Site Plan and Design Review, with deviations to single-unit residential lot depth and area. Sac Metro Air District offers the following recommendations on air quality and climate considerations for project implementation and CEQA review, consistent with methods recommended in our *Guide to Air Quality Assessment in Sacramento County*¹ (CEQA Guide).

Air Quality

The Existing Air Quality section of the MND indicates the Sac Valley Air Basin does not attain the Federal 24-hour particulate matter (PM10) standards. Please update this statement since the Sac Metro Air District does attain the Federal 24-hour PM10 standard² (page 25).

The MND uses our non-zero thresholds of significance for particulate matter emissions, which requires implementation of our Basic Construction Emission Control Practices³ (BCECP). Sac Metro Air District recommends the inclusion of our BCECP as a mitigation measure in the MND, condition of approval or design feature to ensure the practices are implemented (page 29).

Mitigation measure 2-1 is included to reduce exposure to diesel particulate matter from project construction activities (page 31). Sac Metro Air District recommends the City expand the mitigation to require the proponent/contractor to submit an equipment list to the City and Sac Metro Air District prior

¹ <https://www.airquality.org/Businesses/CEQA-Land-Use-Planning/CEQA-Guidance-Tools>

² <https://www.airquality.org/air-quality-health/air-quality-pollutants-and-standards>

³ <https://www.airquality.org/LandUseTransportation/Documents/Ch3BasicEmissionControlPracticesBMPSFinal7-2019.pdf>

to construction that demonstrates the measure will be achieved. Additionally, the proponent/contractor should be required to submit an equipment list at the conclusion of construction to document compliance.

Tables 5 and 6 report results from the analysis of potential health risks related to diesel particulate exposure with and without mitigation. The tables reference “see Appendix A” for AERMOD and HARP information supporting the analysis, but currently Appendix A only includes CalEEMod reports. For full disclosure, Sac Metro Air District recommends the City include additional information supporting the health risk analysis in Appendix A.

Greenhouse Gas Emissions

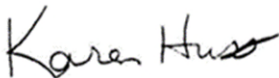
Sac Metro Air District commends the inclusion of our greenhouse gas thresholds Tier 1 best management practices (BMPs). In accordance with our CEQA Guide, implementation of the BMPs is requisite to determine that environmental impacts from project greenhouse gases are less than significant. Mitigation measure 7-1 is included to ensure BMP-2 related to electric vehicle infrastructure will be implemented. Sac Metro Air District recommends the City include BMP-1 related to building the project with no natural gas infrastructure as a mitigation measure in the MND, condition of approval or design feature to ensure BMP-1 is implemented (page 59).

The environmental checklist table at the beginning of the greenhouse gas emissions section is currently not complete. Sac Metro Air District recommends including the determination made for each question (Page 57).

Conclusion

Thank you for your attention to our comments. If you have any questions, please contact me at khuss@airquality.org or 279-207-1131.

Sincerely,



Karen Huss

Associate Air Quality Planner / Analyst

cc: Paul Philley, AICP, Program Supervisor, Sac Metro Air District
Molly Wright, AICP, Associate Air Quality Planner / Analyst, Sac Metro Air District

From: [Dhatt, Satwinder K@DOT](mailto:Dhatt.Satwinder.K@DOT) on behalf of D3.Local.Development@DOT
To: [Ron Bess](mailto:Ron.Bess)
Cc: [Arnold, Gary S@DOT](mailto:Arnold.Gary.S@DOT)
Subject: Notice of Availability/Intent for the Robla Estates Project (P21-009)
Date: Wednesday, August 31, 2022 11:00:00 AM

Good Morning Ron,

Thank you for including California Department of Transportation in the review process for Robla Estates Project. This project will not cause any operational issues and will not effect our State Highway System. Therefore, our office has no comments/conditions for this project.

Please provide our office with copies of any further actions regarding this proposal. We would appreciate the opportunity to review and comment on any changes related to this development.

Should you have questions please contact me, Local Development Review, Equity and System Planning Coordinator, by phone (530) 821-8261 or via email at D3.local.development@dot.ca.gov.

Thank you.

Satwinder Dhatt
Local Development Review, Equity and System Planning
California Department of Transportation, District 3
(530) 821-8261

From: [Wood, Dylan@Wildlife](mailto:Wood,Dylan@Wildlife)
To: [Scott Johnson](mailto:Scott.Johnson)
Cc: [Wildlife R2.CEQA](mailto:Wildlife.R2.CEQA); [Thomas, Kevin@Wildlife](mailto:Thomas.Kevin@Wildlife); [Garcia, Jennifer@Wildlife](mailto:Garcia.Jennifer@Wildlife); [Torres, Juan@Wildlife](mailto:Torres.Juan@Wildlife); ["state.clearinghouse@opr.ca.gov"](mailto:state.clearinghouse@opr.ca.gov)
Subject: Comments on the MND for the Robla Estates Project (SCH: 2022080102)
Date: Friday, September 2, 2022 4:16:26 PM
Attachments: [image001.png](#)
[Attachment 1 Homegrown Plant List_Final-1.pdf](#)

Dear Mr. Johnson:

The California Department of Fish and Wildlife (CDFW) received the Mitigated Negative Declaration (MND) for the Robla Estates Project in Sacramento County pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines¹.

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the project that may affect California fish and wildlife.

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.

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) Although not anticipated, CDFW may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed and to the extent implementation of the Project as proposed may result in take² 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.

¹CEQA 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.

²Section 86 of the Fish and Game Code defines "take" as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill"

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the Lead 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.

Comment 1: Mitigation Measure BIO 3-3 revisions needed to mitigate impacts to Swainson's hawk nesting to a level of less-than-significant. As identified in the MND, "during the field assessment, Swainson's hawks, Red-tailed hawks, and numerous cliff swallows were observed foraging on or near the project site." Swainson's hawk is a species listed as *threatened* under CESA, so potential take of the species resulting from the construction disturbance described in the MND could constitute a potentially significant impact under CEQA. Since onsite protocol surveys have not been completed, CDFW recommends additional assessment of the species prior to project construction. This assessment would more accurately assess nesting activity onsite and nearby areas where Swainson's hawk could be nesting.

To address this, CDFW recommends making the following additions to Biological Resources Mitigation Measure 3-3 (or adding as a new measure) to more effectively mitigate to a level-of-less than significant:

"If equipment staging, site preparation, grading, excavation or other project-related activities are scheduled during the Swainson's hawk nesting season (typically March 1 through September 15) surveys for active nests of such birds shall be conducted by a Qualified Biologist in accordance with the typical survey protocol: Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (Swainson's Hawk Technical Advisory Committee 2000). Surveys shall be conducted at the appropriate radius (0.5 miles) and time periods listed in the survey protocol.

If an active Swainson's hawk nest is found during project surveys, the Qualified Biologist shall consult with CDFW and demonstrate compliance with CESA. If during consultation it is determined that implementation of the project as proposed may result in take of Swainson's hawk, the project may seek related take authorization as provided by the Fish and Game Code."

Comment 2: Revisions needed to mitigate impacts to Swainson's hawk foraging to a level of less-than-significant. As identified in the MND, "during the field assessment, Swainson's hawks, Red-tailed hawks, and numerous cliff swallows were observed foraging on or near the project site." While the MND proposes measures for mitigation of potentially significant impacts to nesting behavior, the MND does not currently analyze potential impacts to the other critical component of Swainson's hawk life history, foraging behavior. Because the site contains suitable foraging habitat and has been documented as being utilized by the species, this potentially significant impact is currently not mitigated MND.

As such, CDFW recommends adding an appropriate analysis and reference to the studies of local Swainson's hawk activity onsite and subsequent determination of an appropriate mitigation ratio (if applicable) and considerations. CDFW recommends a ratio of no less than one acre or replacement habitat for every acre of impacted foraging habitat. In the event, mitigation for loss of foraging habitat is indicated by further analysis, CDFW recommends indicating that the project proponent shall mitigate by purchasing Swainson's hawk foraging habitat credits at a CDFW-approved conservation site or CDFW-approved mitigation or conservation bank at a ratio appropriate to mitigate the biological impact to a level of less-than-significant.

Comment 3: CDFW recommends implementation of a bird impact avoidance

strategy.

The proposed Project footprint will ultimately border existing open space areas within the City of Sacramento including Robla Creek. These open space areas provide suitable habitat for nesting birds. Placement of buildings adjacent to suitable nesting bird habitat may adversely affect bird populations by introducing sources of common bird mortalities such as domestic cats for residents at the facility and reflective windows that birds may collide with. Given declines in segments of the overall bird population³ and ecological benefits of healthy bird activity⁴⁵⁶, CDFW recommends consideration of bird enhancement and mortality reduction strategies in Project design and implementation. Incorporation of these strategies can reduce anthropogenic effects on birds and promote sustainable development in California.

Local bird populations are severely impacted by domestic cats, which are estimated to cause over one billion bird mortalities every year in the United States and may be the single biggest cause of global bird mortality after habitat destruction⁷. Unlike natural predators, whose populations fluctuate with prey levels, cat populations are artificially sustained through introduction of new individuals or feeding of feral individuals. Therefore, cats can contribute not only to direct bird mortality but also to the imbalance of natural factors in the birds' ecosystem. Keeping domestic cats indoors and out of native ecosystems is a key consideration for reducing environmental impacts and promoting responsible pet ownership in the community.

Collisions with clear and reflective sheet glass and plastic is also a leading cause in human-related bird mortalities⁸. Many types of windows, sheet glass, and clear plastics are invisible to birds resulting in casualties or injuries from head trauma after an unexpected collision. Birds may collide with windows as little as one meter away in an attempt to reach habitat seen through, or reflected in, clear and tinted panes, so even taking small measures to increase visibility of windows to birds can make a substantial difference in minimizing long-term impacts of urban development near natural environments.

As such, CDFW recommends the Project incorporate bird and wildlife friendly strategies:

- An education program for residents to keep domestic cats indoors
- Install screens, window patterns, or new types of glass such as acid-etched, fritted, frosted, ultraviolet patterned, or channel. Additional information can be found at <https://www.fws.gov/birds/bird-enthusiasts/threats-to-birds/collisions/buildings-and-glass.php>.

Incorporation of bird and wildlife strategies not only promotes environmental stewardship but also facilitates compliance with State and federal protections aimed at preserving bird populations.

Comment 4: CDFW recommends consideration of available planting and habitat resources.

CDFW is supportive of public and private landowner efforts to enhance localized habitat value, especially around developments adjacent to open space and creek corridors such as Robla Creek. Utilizing native plants onsite can lead to increased drought tolerance, decreased water use, and decreased maintenance/replacement costs while simultaneously

increasing functionality for pollinators and wildlife, increasing the site's biodiversity and ecosystem health, and increasing carbon sequestration and climate change resilience.

CDFW recommends the City and Project proponent consider utilization of the Homegrown Habitat Plant List (Sacramento Valley Chapter, California Native Plant Society) (Attachment 1) when developing landscaping plans. Further resources, including interactive planting guidance can be found at <https://calscape.org/>.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental documents 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 CNDDDB. The types of information reported to CNDDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>. The completed form can be sent electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov.

CONCLUSION

CDFW appreciates the opportunity to comment and assist the Lead Agency in identifying and mitigating project impacts on biological resources.

Please contact me at 916-358-2384 or dylan.a.wood@wildlife.ca.gov if you have any questions.

Sincerely,

Dylan Wood

California Department of Fish and Wildlife
Environmental Scientist
(916) 358-2384



References:

- 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.
- 2 Section 86 of the Fish and Game Code defines "take" as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill"
- 3 Douglas W Tallamy, W Gregory Shriver, Are declines in insects and insectivorous birds related?, Ornithological Applications, Volume 123, Issue 1, 1 February 2021.
- 4 Maas, B., D. S. Karp, S. Bumrungsri, K. Darras, D. Gonthier, J. C.-C. Huang, C. A. Lindell, J. J. Maine, L. Mestre, N. L. Michel, et al. . (2016). Bird and bat predation services in tropical forests and agroforestry landscapes. *Biological Reviews* 91:1081–1101.
- 5 Wenny, D. G., Ç. H. Şekercioğlu, N. J. Cordeiro, H. S. Rogers, and D. Kelly (2016). Seed dispersal by fruit-eating birds. In *Why Birds Matter: Avian Ecological Function and Ecosystem Services* (Ç. H. Şekercioğlu, D. G. Wenny, and C. J. Whelan, Editors). University of Chicago Press, IL, USA. pp. 107–146.
- 6 Fujita, M., and K. O. Kameda (2016). Nutrient dynamics and nutrient cycling by birds. In *Why Birds Matter: Avian Ecological Function and Ecosystem Services* (Ç. H. Şekercioğlu, D. G. Wenny, and C. J. Whelan, Editors). University of Chicago Press, IL, USA. pp. 271–297.

7 Dauphine, N. and Cooper, R.J. (2009) Impacts of Free-Ranging Domestic Cats (*Felis catus*) on Birds in the United States: A Review of Recent Research with Conservation and Management Recommendations. Warnell School of Forestry and Natural Resources, University of Georgia.

8 Klem, D. (2009). Avian Mortality at Windows: The Second Largest Human Source of Bird Mortality on Earth. Acopian Center for Ornithology, Department of Biology, Muhlenberg College, Allentown, Pennsylvania.

Homegrown Habitat Plant List 2019

A	B	C	D	E	F	G	H	
1	Bloom	Common Name	Scientific Name	Life Cycle	Height	WUCOL	Sun	Notes
2	Early	Western Redbud	<i>Cercis occidentalis</i>	P	10'-20'	L	S/PS	Drought-tolerant; also tolerates semi-riparian conditions
3		Red Willow	<i>Salix laevigata</i>	P	30'-50'	H	FS	Wetland-semi riparian; tolerates clay soils; fast grower, semi-deciduous
4		Arroyo Willow	<i>Salix lasiolepis</i>	P	7'-35'	H	FS	Likes marshes/wet areas; spreads by root runners; deciduous
5		Sandbar Willow	<i>Salix exigua</i>	P	10'-23'	H	FS	Constant moisture; spreads by basal shoots to any moisture
6		Valley Oak	<i>Quercus lobata</i>	P	60'-100'	L	FS	Fast growing (20' in 5 years); drought tolerant
7		Scrub Oak	<i>Quercus berberidifolia</i>	P	15'-20'	L	FS/PS	Smaller, drought tolerant, likes medium fast drainage
8		Buck Brush	<i>Ceanothus cuneatus</i>	P	5'-12'	VL	FS	Needs fast drainage; fast to moderate growth, evergreen
9		California Everlasting	<i>Psuedognaphalium californicum</i>	P	3'	VL/L	FS	Semi deciduous, may like some afternoon shade in summer
10		California Blackberry	<i>Rubus ursinus</i>	P	6'	M/H	FS/PS/S	Requires substantial moisture, wide spreading
11		Dutchmans Pipe	<i>Aristolochia californica</i>	P	20'	L/M	S/PS	Deciduous vine, grows in moist woods along streams
12		Baby Blue Eyes	<i>Nemophila menziesii</i>	A	.25'	L	FS/PS	Annual herb
13		Chinese Houses	<i>Collinsia heterophylla</i>	A	.5'	M	S/PS	Annual purple flowering herb, good in containers
14		Lacy Phacelia	<i>Phacelia tanacetifolia</i>	A	3'	VL/L	FS	Tolerates clay soils; good plant for biological pest control
15		Miners Lettuce	<i>Claytonia perfoliata</i>	A	1.3'	L/M	PS	Edible spreading annual herb; in the valley, does best in part shade
16								
17	Early-Mid	Blue Elderberry	<i>Sambucus nigra</i> var. <i>cerulea</i>	P	20'-30'	M	FS	Easy to grow, fast growing deciduous shrub/tree; host plant for endangered Valley Elderberry Longhorn Beetle
18		Interior Live Oak	<i>Quercus wislizenii</i>	P	15'-50'	VL	S/PS	Medium to large evergreen, moderate grower
19		Blue Oak	<i>Quercus douglasii</i>	P	16'-82'	VL	FS/PS	Slow grower deciduous, supports many species
20		Toyon	<i>Heteromeles arbutifolia</i>	P	12'	L	FS/PS	Evergreen shrub easy to grow, white flowers early summer, red berries in fall
21		Shining Willow	<i>Salix lasiandra</i>	P	3'-30'	M/H	FS/PS	Winter deciduous riparian plant, good for restoration projects
22		Mountain Mahogany	<i>Cercocarpus betuloides</i>	P	8'-20'	VL/L	FS/PS	In the valley this plant will do better with PM shade
23		Hollyleaf Redberry	<i>Rhamnus ilicifolia</i>	P	9'	L	PS	PM shade in the valley, siting is critical for success
24		California Broom/Deerweed	<i>Acmispon glaber</i>	P	3'	VL	FS	Not too showy subshrub with high habitat value
25		Skunkbush, Fragrant Sumac	<i>Rhus aromatica</i>	P	8'	L	FS/PS	Winter deciduous shrub, may like PM shade in valley
26		Chaparral Honeysuckle	<i>Lonicera interrupta</i> (<i>hispidula</i>)	P		VL/L	FS/PS	Hardy, woody chaparral shrub/vine, summer flowering, edible/bitter berries
27		Silver Bush Lupine	<i>Lupinus albus</i>	P	3'	L	FS/PS	Requires good drainage, PM shade in valley
28		Foothill Penstemon	<i>Penstemon heterophyllus</i>	P	5'	L	FS/PS	Perennial evergreen herb. May need pm shade in valley
29		Sonoma Sage	<i>Salvia sonomensis</i>	P	1.3'	VL	PS	Moderately drought tolerant if given part shade
30		Purple Needlegrass	<i>Stipa pulchra</i>	P	3'	VL/L	FS	CA state grass, perennial with deep roots
31		California Poppy	<i>Eschscholzia californica</i>	A	.5'	VL/L	FS	CA State flower, tolerates clay soil, readily reseeds
32		Elegant Clarkia	<i>Clarkia unguiculata</i>	A	.5'	L	FS/PS	Showy pink flowers, reseeds readily
33		Globe Gillia	<i>Gillia capitata</i>	A	1'	L/M	FS	Showy pink to lavender flowers
34		Miniature Lupine	<i>Lupinus bicolor</i>	A	1.3'	L	FS	Showy purple and white flowers, plant with CA poppies
35		Sky Lupine	<i>Lupinus nanus</i>	A	2'	L	FS	Chaparral annual herb

Homegrown Habitat Plant List 2019

	A	B	C	D	E	F	G	H
36	Bloom	Common Name	Scientific Name	Life Cycle	Height	WUCOL	Sun	Notes
37	Mid	California Buckwheat	Eriogonum fasciculatum	P	2.5'	VL/L	FS	Tough, easy to grow, prefer good drainage
38		Hoary Coffeberry	Frangula californica var tome	P	20'	L	FS/PS	May prefer PM shade in valley
39		California Wildrose	Rosa californica	P	8'	M	FS/PS	Tolerates clay soils; drought-tolerant; spreads through underground runners
40		California Wild Grape	Vitis californica	P	10'-40'	L/M	FS/PS	Common along rivers and streams, winter deciduous
41		Common Yarrow	Achillea millefolium	P	3'	L-H	FS/PS	Looks best with regular water; semi deciduous in drier conditions; can be aggressive
42		Coyote Mint	Monardella villosa	P	2'	L	PS/S	Requires good drainage, needs PM shade in the valley
43		Showy Milkweed	Asclepias speciosa	P	5'	L/M	FS	Tolerates clay soils; spreads through underground rhizomes
44		Imbricate Phacelia	Phacelia imbricata	P	1'	L	FS/PS	Perennial herb; tolerates clay soil; can re-seed
45		Woolly Sunflower	Eriophyllum lanatum	P	2'	L	FS/PS	Summer semi-deciduous; can be extremely drought-tolerant
46		Nude Buckwheat	Eriogonum nudum	P	6'	L	FS	Summer semi-deciduous; leafless stems
47		Blue Wild Rye	Elymus glaucus	P	5'	L	FS/PS	Popular accent grass for gardens; summer semi-deciduous
48		Deergrass	Muhlenbergia rigens	P	5'	L	FS	Attractive bunch grass; easy to grow; grows in most soils
49		Fleabane Daisy	Erigeron foliosus	P	3.3'	L	PS	
50		Lippia	Phyla nodiflora	P	6"	L	FS/PS	Flowering ground cover; spreads rapidly
51		Spider Lupine	Lupinus benthamii	A	2.3'	VL	FS	
52		Seep Monkeyflower	Erythranthe guttata	A	5'	M/H	FS/PS	Aquatic annual plant; good in ponds or rain gardens
53								
54	Mid-Late	Narrowleaf Milkweed	Asclepias fascicularis	P	1.5'	M	FS	Not showy; tolerates clay; host to Monarchs
55		Virgin's Bower	Clematis ligusticifolia	P	30'	L/M	PS/SH	vine; showy white flowers; summer deciduous; part shade to shade
56		Hooker's Evening Primros	Oenothera elata	P	5'	M-H	FS/PS	Wetland-riparian but still drought tolerant; reseeds aggressively
57		California Fuchsia	Epilobium canum	P	3'	L	FS	Hummingbird favorite; spreads; cut back in winter
58		Gumplant	Grindelia camporum	P	4'	L	FS	Tolerates most soils; can be cut back in winter
59		Snowberry	Symphoricarpos albus	P	6'	L	PS/SH	Moist shady areas; winter deciduous; spreads by rhizomes
60		Slender Woolly Buckwheat	Eriogonum gracile	A	5'	EL/VL	FS/PS	Small annual; tolerates most soils; winter semi-deciduous
61		Common Madia	Madia elegans	A	7'	L	FS/PS	Annual herb; showy yellow flowers; tolerates many soils
62		Common Sunflower	Helianthus annuus	A	5'	M	FS	Tolerates most soils; can get very large
63								
64	Late	California Aster	Symphotrichum chilense	P	5'	VL/L	FS/PS	Tolerates clay soil; winter deciduous; cut back in winter; aggressive spreader
65		California Goldenrod	Solidago californica	P	3'	VL/M	FS/PS/S	Easy to grow; for late color plant with Epilobium canum; spreader
66		Sulphur Buckwheat	Eriogonum umbellulatum	P	7'	VL/M	FS	Showy yellow flowers; variable plant; evergreen
67		Bee Plant	Scrophularia californica	P	4'	L	PS	Strong bee attractant; tolerates most soils; needs good drainage
68		Coyote Brush	Baccharis pilularis	P	10'	VL/L	FS/PS	Tour easy to grow shrub; variable forms; blooms into winter
69		Rubber Rubberbrush	Ericameria nauseosa	P	9'	L	FS	Needs good drainage; summer/fall bloom
70		Vinegarweed	Trichostema lanceolatum	A	1'	L	FS	Does not do well in seed mixes; sow individually; tolerates dry clay soils

Central Valley Regional Water Quality Control Board

6 September 2022

Scott Johnson
City of Sacramento
Community Development Department
300 Richards Boulevard
Sacramento, CA95811
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COMMENTS TO REQUEST FOR REVIEW FOR THE MITIGATED NEGATIVE DECLARATION, ROBLA ESTATES PROJECT, SCH#2022080102, SACRAMENTO COUNTY

Pursuant to the State Clearinghouse's 4 August 2022 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the Request for Review for the Mitigated Negative Declaration for the Robla Estates Project, located in Sacramento County.

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore, our comments will address concerns surrounding those issues.

I. Regulatory Setting

Basin Plan

The Central Valley Water Board is required to formulate and adopt Basin Plans for all areas within the Central Valley region under Section 13240 of the Porter-Cologne Water Quality Control Act. Each Basin Plan must contain water quality objectives to ensure the reasonable protection of beneficial uses, as well as a program of implementation for achieving water quality objectives with the Basin Plans. Federal regulations require each state to adopt water quality standards to protect the public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act. In California, the beneficial uses, water quality objectives, and the Antidegradation Policy are the State's water quality standards. Water quality standards are also contained in the National Toxics Rule, 40 CFR Section 131.36, and the California Toxics Rule, 40 CFR Section 131.38.

The Basin Plan is subject to modification as necessary, considering applicable laws, policies, technologies, water quality conditions and priorities. The original Basin Plans were adopted in 1975, and have been updated and revised periodically as required, using Basin Plan amendments. Once the Central Valley Water Board has adopted a Basin Plan amendment in noticed public hearings, it must be approved by

the State Water Resources Control Board (State Water Board), Office of Administrative Law (OAL) and in some cases, the United States Environmental Protection Agency (USEPA). Basin Plan amendments only become effective after they have been approved by the OAL and in some cases, the USEPA. Every three (3) years, a review of the Basin Plan is completed that assesses the appropriateness of existing standards and evaluates and prioritizes Basin Planning issues. For more information on the *Water Quality Control Plan for the Sacramento and San Joaquin River Basins*, please visit our website:

http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/

Antidegradation Considerations

All wastewater discharges must comply with the Antidegradation Policy (State Water Board Resolution 68-16) and the Antidegradation Implementation Policy contained in the Basin Plan. The Antidegradation Implementation Policy is available on page 74 at:

https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsjr_2018_05.pdf

In part it states:

Any discharge of waste to high quality waters must apply best practicable treatment or control not only to prevent a condition of pollution or nuisance from occurring, but also to maintain the highest water quality possible consistent with the maximum benefit to the people of the State.

This information must be presented as an analysis of the impacts and potential impacts of the discharge on water quality, as measured by background concentrations and applicable water quality objectives.

The antidegradation analysis is a mandatory element in the National Pollutant Discharge Elimination System and land discharge Waste Discharge Requirements (WDRs) permitting processes. The environmental review document should evaluate potential impacts to both surface and groundwater quality.

II. Permitting Requirements

Construction Storm Water General Permit

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Construction General Permit), Construction General Permit Order No. 2009-0009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP). For more information on the Construction General Permit, visit the State Water Resources Control Board website at:

http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml

Phase I and II Municipal Separate Storm Sewer System (MS4) Permits¹

The Phase I and II MS4 permits require the Permittees reduce pollutants and runoff flows from new development and redevelopment using Best Management Practices (BMPs) to the maximum extent practicable (MEP). MS4 Permittees have their own development standards, also known as Low Impact Development (LID)/post-construction standards that include a hydromodification component. The MS4 permits also require specific design concepts for LID/post-construction BMPs in the early stages of a project during the entitlement and CEQA process and the development plan review process.

For more information on which Phase I MS4 Permit this project applies to, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/municipal_permits/

For more information on the Phase II MS4 permit and who it applies to, visit the State Water Resources Control Board at:

http://www.waterboards.ca.gov/water_issues/programs/stormwater/phase_ii_municipal.shtml

Clean Water Act Section 404 Permit

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the United States Army Corps of Engineers (USACE). If a Section 404 permit is required by the USACE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements. If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACE at (916) 557-5250.

Clean Water Act Section 401 Permit – Water Quality Certification

If an USACE permit (e.g., Non-Reporting Nationwide Permit, Nationwide Permit, Letter of Permission, Individual Permit, Regional General Permit, Programmatic General Permit), or any other federal permit (e.g., Section 10 of the Rivers and Harbors Act or Section 9 from the United States Coast Guard), is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for

¹ Municipal Permits = The Phase I Municipal Separate Storm Water System (MS4) Permit covers medium sized Municipalities (serving between 100,000 and 250,000 people) and large sized municipalities (serving over 250,000 people). The Phase II MS4 provides coverage for small municipalities, including non-traditional Small MS4s, which include military bases, public campuses, prisons and hospitals.

401 Water Quality Certifications. For more information on the Water Quality Certification, visit the Central Valley Water Board website at:
https://www.waterboards.ca.gov/centralvalley/water_issues/water_quality_certification/

Waste Discharge Requirements – Discharges to Waters of the State

If USACE determines that only non-jurisdictional waters of the State (i.e., “non-federal” waters of the State) are present in the proposed project area, the proposed project may require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation. For more information on the Waste Discharges to Surface Water NPDES Program and WDR processes, visit the Central Valley Water Board website at:
https://www.waterboards.ca.gov/centralvalley/water_issues/waste_to_surface_water/

Projects involving excavation or fill activities impacting less than 0.2 acre or 400 linear feet of non-jurisdictional waters of the state and projects involving dredging activities impacting less than 50 cubic yards of non-jurisdictional waters of the state may be eligible for coverage under the State Water Resources Control Board Water Quality Order No. 2004-0004-DWQ (General Order 2004-0004). For more information on the General Order 2004-0004, visit the State Water Resources Control Board website at:
https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2004/wqo/wqo2004-0004.pdf

Dewatering Permit

If the proposed project includes construction or groundwater dewatering to be discharged to land, the proponent may apply for coverage under State Water Board General Water Quality Order (Low Threat General Order) 2003-0003 or the Central Valley Water Board’s Waiver of Report of Waste Discharge and Waste Discharge Requirements (Low Threat Waiver) R5-2018-0085. Small temporary construction dewatering projects are projects that discharge groundwater to land from excavation activities or dewatering of underground utility vaults. Dischargers seeking coverage under the General Order or Waiver must file a Notice of Intent with the Central Valley Water Board prior to beginning discharge.

For more information regarding the Low Threat General Order and the application process, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0003.pdf

For more information regarding the Low Threat Waiver and the application process, visit the Central Valley Water Board website at:
https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/waivers/r5-2018-0085.pdf

Limited Threat General NPDES Permit

If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. Dewatering discharges are typically considered a low or limited threat to water quality and may be covered under the General Order for *Limited Threat Discharges to Surface Water* (Limited Threat General Order). A complete Notice of Intent must be submitted to the Central Valley Water Board to obtain coverage under the Limited Threat General Order. For more information regarding the Limited Threat General Order and the application process, visit the Central Valley Water Board website at:

https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2016-0076-01.pdf

NPDES Permit

If the proposed project discharges waste that could affect the quality of surface waters of the State, other than into a community sewer system, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. A complete Report of Waste Discharge must be submitted with the Central Valley Water Board to obtain a NPDES Permit. For more information regarding the NPDES Permit and the application process, visit the Central Valley Water Board website at: <https://www.waterboards.ca.gov/centralvalley/help/permit/>

If you have questions regarding these comments, please contact me at (916) 464-4684 or Peter.Minkel2@waterboards.ca.gov.

Peter Minkel

Peter Minkel
Engineering Geologist

cc: State Clearinghouse unit, Governor's Office of Planning and Research,
Sacramento