

APPENDIX E

MITIGATION MONITORING AND REPORTING PLAN

Introduction

This section of the Final Initial Study/Mitigated Negative Declaration (IS/MND) provides the Mitigation Monitoring and Reporting Program (MMRP) that would be used to monitor the implementation of the mitigation measures adopted for the Westside Subbasin Ephemeral Drainage Diversion and Recharge Project (Project).

Responsibilities

The California Environmental Quality Act (CEQA) requires the adoption of feasible mitigation measures to reduce the severity and magnitude of potentially significant environmental impacts associated with development projects.

CEQA Guidelines Section 15091(d) states:

“When making the findings required in subdivision (a)(1), the agency shall also adopt a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to avoid or substantially lessen significant environmental effects. These measures must be enforceable through permit conditions, agreements, or other measures.”

The Final IS/MND for the Project identifies Project-specific mitigation measures to reduce the potentially significant impacts of the Project as proposed. Following adoption of the Final IS/MND and approval of this MMRP by Westlands Water District (District), the Project-specific mitigation measures identified in the Final IS/MND would be implemented and monitored by the District, its consultants, or contractors. The District shall be responsible for tracking and documenting compliance with the mitigation measures, note any problems that may result, and take appropriate actions to remedy problems. The District shall ensure that each person delegated any duties or responsibilities is qualified to monitor compliance.

Monitoring Table

For each mitigation measure, Table 1 identifies: 1) the full text of the mitigation measure; 2) the plan requirements and timing, including the agency which oversees the action; and 3) the monitoring division, including the entity responsible for monitoring the action and verifying compliance.

Mitigation Measure	Plan Requirements and Timing	Monitoring Division
Biological Resources		
<p>MM BIO-1: Burrowing Owl Surveys and Avoidance Measures. A qualified avian biologist shall conduct four focused, pre-construction burrowing owl surveys at each basin location to assess the presence or absence of burrowing owl in accordance with the <i>Staff Report on Burrowing Owl Mitigation</i> (California Department of Fish and Game [CDFG] 2012) and <i>Burrowing Owl Survey Protocol and Mitigation Guidelines</i> (California Burrowing Owl Consortium [CBOC] 1993), or the most recent California Department of Fish and Wildlife (CDFW) survey protocol available. If burrowing owls are detected during the focused surveys, the qualified biologist and Project proponent shall prepare a Burrowing Owl Plan that shall be submitted to CDFW for review and approval prior to commencing Project activities. The Burrowing Owl Plan shall describe proposed avoidance, monitoring, relocation, minimization, and/or mitigation actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites, acres of burrowing owl habitat that will be impacted, details of site monitoring, and details on proposed buffers and other avoidance measures if avoidance is proposed. If impacts to occupied burrowing owl habitat or burrow cannot be avoided, the Burrowing Owl Plan shall also describe minimization and compensatory mitigation actions that will be implemented. Proposed implementation of burrow exclusion and closure should only be considered as a last resort, after all other options have been evaluated as exclusion is not in itself an avoidance, minimization, or mitigation method and has the possibility to result in take. The Burrowing Owl Plan shall identify compensatory mitigation for the temporary or permanent loss of occupied burrow(s) and habitat consistent with the “Mitigation Impacts” section of the 2012 Staff Report and shall implement CDFW-approved mitigation prior to initiation of Project activities. If impacts to occupied burrows cannot be avoided, information shall be provided regarding adjacent or nearby suitable habitat available to owls. If no suitable habitat is available nearby, details regarding the creation and funding of artificial burrows (numbers, location, and type of burrows) and management activities for relocated owls shall also be included in the</p>	<p>Preconstruction burrowing owl surveys shall be conducted no more than 14 days prior to the start of Project-related activities and within 24 hours prior to ground disturbance, in accordance with the Staff Report on Burrowing Owl Mitigation (2012 or most recent version). Preconstruction surveys shall be performed by a qualified biologist following the recommendations and guidelines provided in the Staff Report on Burrowing Owl Mitigation. If the preconstruction surveys confirm occupied burrowing owl habitat, Project activities shall be immediately halted. The qualified biologist shall coordinate with CDFW and prepare a Burrowing Owl Plan that shall be submitted to CDFW and USFWS for review and approval prior to commencing Project activities.</p>	<p>The District shall ensure a qualified biologist is hired for the project, that a Burrowing Owl Plan is prepared for CDFW and USFWS review and approval, and appropriate minimization and compensatory mitigation actions are implemented.</p>

Mitigation Measure	Plan Requirements and Timing	Monitoring Division
<p>Burrowing Owl Plan. The Project proponent shall implement the Burrowing Owl Plan following CDFW and USFWS review and approval.</p> <p>Preconstruction burrowing owl surveys shall be conducted no more than 14 days prior to the start of Project-related activities and within 24 hours prior to ground disturbance, in accordance with the Staff Report on Burrowing Owl Mitigation (2012 or most recent version). Preconstruction surveys shall be performed by a qualified biologist following the recommendations and guidelines provided in the Staff Report on Burrowing Owl Mitigation. If the preconstruction surveys confirm occupied burrowing owl habitat, Project activities shall be immediately halted. The qualified biologist shall coordinate with CDFW and prepare a Burrowing Owl Plan that shall be submitted to CDFW and USFWS for review and approval prior to commencing Project activities.</p>		
<p>MM BIO-2: Loggerhead Shrike Considerations and Surveys. To the extent practicable, construction shall be scheduled to avoid the loggerhead shrike nesting season, which extends from January through July. If it is not possible to schedule construction between August and December, a pre-construction survey for nesting loggerhead shrikes shall be conducted by a qualified biologist to ensure that no active nests would be disturbed during Project implementation. During this survey, the qualified biologist shall inspect all potential nest substrates in and immediately adjacent to Project areas. If an active nest is found within 250 feet of the construction area to be disturbed by these activities, the qualified biologist shall determine the extent of a construction-free buffer zone to be established around the nest. If work cannot proceed without disturbing the nesting birds, work will either be (1) halted or (2) redirected to other areas at least 250 feet from the nest until nesting and fledging are completed or the nest has otherwise failed for non-construction related reasons.</p>	<p>A pre-construction survey shall be conducted no more than 14 days prior to the initiation of construction activities. During this survey, the qualified biologist shall inspect all potential nest substrates in and immediately adjacent to Project areas. If an active nest is found within 250 feet of the construction area to be disturbed by these activities, the qualified biologist shall determine the extent of a construction-free buffer zone to be established around the nest. If work cannot proceed without disturbing the nesting birds, work will either be (1) halted or (2) redirected to other areas at least 250 feet from the nest until nesting and fledging are completed or the nest has otherwise failed for non-construction related reasons.</p>	<p>The District shall ensure a qualified biologist is hired for the project. The District shall ensure construction-free buffer zones are properly delineated. The qualified biologist shall ensure work avoids disturbing nesting birds.</p>
<p>MM BIO-3: Swainson’s Hawk Nest Protection. To the extent practicable, construction shall be scheduled to avoid the Swainson’s hawk nesting season, which extends from March through August. If it is not possible to schedule construction</p>	<p>Construction activities shall be scheduled to avoid the loggerhead shrike nesting season, which extends from March through August, to the extent feasible. If it</p>	<p>The District shall ensure a qualified biologist is hired for the project. The District shall ensure construction-free buffer zones are properly delineated.</p>

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<p>between September and February, a qualified biologist shall conduct surveys for Swainson’s hawk in accordance with the Swainson’s Hawk Technical Advisory Committee’s (SWTAC’s) Recommended Timing and Methodology for Swainson’s Hawk Nesting Surveys in California’s Central Valley (SWTAC 2000). These methods require six surveys— three in each of the two survey periods—prior to Project initiation. Surveys shall be conducted within a minimum 0.5-mile radius around the Project site. If an active Swainson’s hawk nest is found within 0.5 miles of the Project site, and the qualified biologist determines that Project activities would disrupt the nesting birds, the qualified biologist shall consult CDFW and implement: (1) a construction-free buffer; and/or (2) a limited construction period that shall be enforced by the Project proponent and construction team and overseen by the qualified biologist.</p>	<p>is not possible to schedule construction between September and February, a qualified biologist shall conduct surveys for Swainson’s hawk in accordance with the Swainson’s Hawk Technical Advisory Committee’s (SWTAC’s) Recommended Timing and Methodology for Swainson’s Hawk Nesting Surveys in California’s Central Valley (SWTAC 2000).</p>	<p>The qualified biologist shall ensure work avoids disturbing nesting birds.</p>
<p>MM BIO-4: Surveys for Roosting Western Mastiff Bats. A pre-construction clearance survey shall be conducted by a qualified biologist to ensure that no roosting western mastiff bats would be disturbed during implementation of the Project. A pre-construction clearance survey shall be conducted no more than 14 days prior to the initiation of construction activities. During this survey, the qualified biologist shall inspect all potential roosting habitat in and immediately adjacent to the impact areas. If an active roost is found within 150 feet of the construction area to be disturbed by these activities, the qualified biologist shall determine the extent of a construction-free buffer zone to be established around the roost. If work cannot proceed without disturbing the roosting bats, work shall be (1) halted or (2) redirected to other areas at least 150 feet from the roost until the roost is no longer in use.</p>	<p>A pre-construction clearance survey shall be conducted no more than 14 days prior to the initiation of construction activities.</p>	<p>The District shall ensure a qualified biologist is hired for the project. The District shall ensure construction-free buffer zones are properly delineated. The qualified biologist shall ensure work avoids disturbing roosting bats.</p>
<p>MM BIO-5: Riparian Vegetation Replacement Plan. To the extent practical, the Project shall avoid impacting riparian vegetation. If impacts to riparian trees or shrubs are unavoidable, the District shall implement tree replacement and maintenance requirements, involving replacing native trees and/or shrubs that are damaged or removed by replanting native species at a 3:1 ratio (replaced to lost). The District shall ensure a performance criterion of 70 percent survival of plantings for a minimum period</p>	<p>The District shall ensure a performance criterion of 70 percent survival of plantings for a minimum period of five consecutive years, including up to three years within supplemental irrigation and a minimum of two years without such assistance.</p>	<p>The District shall specify the tree replacement and maintenance requirements in their application for a Streambed Alteration Agreement to be issued by the CDFW for the Project.</p>

Mitigation Measure	Plan Requirements and Timing	Monitoring Division
<p>of five consecutive years, including up to three years within supplemental irrigation and a minimum of two years without such assistance. The District shall specify the tree replacement and maintenance requirements in their application for a Streambed Alteration Agreement to be issued by the CDFW for the Project.</p>		
<p>MM BIO-6: Protection of Nesting Birds. To the extent practicable, construction shall be scheduled to avoid the nesting season, which extends from February through August. If it is not possible to schedule construction between September and January, pre-construction surveys for nesting birds shall be conducted by a qualified biologist to ensure that no active nests would be disturbed during the construction of the Project. A pre-construction survey shall be conducted no more than 14 days prior to the initiation of construction activities. During this survey, the qualified biologist shall inspect all potential nest substrates in and immediately adjacent to the impact areas. If an active nest is found within 250 feet of the construction area to be disturbed by these activities, the qualified biologist shall determine the extent of a construction-free buffer zone to be established around the nest. If work cannot proceed without disturbing the nesting birds, work shall be (1) halted or (2) redirected to other areas at least 250 feet from the nests until nesting and fledging are completed or the nest has otherwise failed for non-construction-related reasons.</p>	<p>The pre-construction survey shall be conducted no more than 14 days prior to the initiation of construction activities.</p>	<p>The District shall ensure a qualified biologist is hired for the project. The District shall ensure construction-free buffer zones are properly delineated. The qualified biologist shall ensure work avoids disturbing nesting birds.</p>
<p>Cultural Resources</p>		
<p>MM CUL-1: Inadvertent Discovery Plan for Archaeological Materials. Should any cultural resources or archaeological materials be discovered during excavation, work in the immediate vicinity of the find shall halt until the District retains a qualified archaeological consultant to assess the find. Responsibility for making this determination shall be with the District's onsite inspector. If the qualified archaeologist determines the materials belong to a potentially significant archaeological or historic resource, a treatment plan shall be developed in consultation with the District, tribal representatives</p>	<p>If cultural resources or archaeological materials are discovered during excavation and the qualified archaeologist determines the materials belong to a potentially significant archaeological or historic resource, a treatment plan shall be developed in consultation with the District, tribal representatives (in the event of a prehistoric site), and the Fresno County Department of Public Works and Planning.</p>	<p>The District shall ensure a qualified archaeological consultant is hired for the project. The District shall consult with the archaeological consultant, tribal representatives, and the Fresno County Department of Public Works and Planning.</p>

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<p>(in the event of a prehistoric site), and the Fresno County Department of Public Works and Planning.</p>		
<p>MM CUL-2: Inadvertent Discovery Plan for Human Remains. In the event that human remains are encountered during construction activities, the following procedures shall be implemented:</p> <ol style="list-style-type: none"> a. All construction activities in the vicinity of the discovered resource shall be halted immediately and a District representative contacted. b. Per the stipulations of the California Health and Safety Code 7050.5(b), the Fresno County Coroner's Office will be contacted immediately by the District. c. The Coroner's Office has two working days in which to examine the identified remains. If the Coroner determines that the remains are Native American, then the Office shall notify the Native American Heritage Commission (NAHC) within 24 hours of the determination. d. Following receipt of the Coroner's Office notice, the NAHC will contact a Most Likely Descendant (MLD). The MLD may, with the permission of the landowner or authorized representative, inspect the site and make recommendations regarding the treatment and/or a re-interment of the human remains and any associated grave goods within 48 hours of being granted access to the site. e. Appropriate treatment and disposition of Native American human remains and associated grave goods will be collaboratively determined in consultation between the MLD, the consulting archaeologist, and the landowner or authorized representative. The treatment of human remains may potentially include the preservation, excavation, analysis, and/or reburial of those remains and any associated artifacts. f. If the remains are determined not to be Native American, the Coroner, archaeological research team, and the District will collaboratively develop a procedure for the 	<p>If human remains are discovered, construction activities shall stop immediately. The District shall be responsible for contacting Fresno County Coroner's Office. These cultural resource protection standards shall be printed on all grading plans.</p>	<p>The District shall ensure that no further disturbance shall occur until the Fresno County Coroner's Office has made all necessary findings as to origin and disposition.</p>

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<p>appropriate study, documentation, and ultimate disposition of the historic human remains prior to reinitiating construction activities in the vicinity of the discovery.</p>		
<p>Tribal Cultural Resources</p>		
<p>MM TCR-1: Inadvertent Discovery Plan for Archaeological and Tribal Cultural Resources. Should archaeological or tribal cultural materials be discovered during excavation, work in the immediate vicinity of the find shall halt until the District retains a qualified archaeological consultant to assess the find. If the archaeologist determines the materials to belong to a potentially significant archaeological or tribal resource, a treatment plan shall be developed in consultation with the District, tribal representatives (in the event of a prehistoric site), and the Fresno County Department of Public Works and Planning.</p>	<p>If archaeological or tribal cultural materials are discovered during excavation, work in the immediate vicinity of the find shall halt until the District retains a qualified archaeological consultant to assess the find.</p>	<p>The District shall ensure that no further disturbance shall occur until a qualified archaeological consultant is hired for the project. The District shall consult with the archaeological consultant, tribal representatives, and the Fresno County Department of Public Works and Planning.</p>