

City of Hayward Recycled Water Project

Final Initial Study / Mitigated Negative Declaration
SCH # 2014062084



Prepared by:



SMB Environmental, Inc.

December 2014

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Chapter 1 Introduction

Pursuant to the California Environmental Quality Act (CEQA; Public Resources Code Section 21000, et seq. and CEQA Guidelines), the City of Hayward (City) prepared a Public Draft Initial Study/Mitigated Negative Declaration (IS/MND) to evaluate potential environmental impacts associated with the City's proposed Recycled Water Project (Proposed Project).

The City proposes to construct and operate a recycled water project located within the City of Hayward. The City has prepared a Recycled Water Facility Plan to identify potential users for recycled water within the City, including a conceptual distribution system and an estimate of project costs. The initial phase of the Proposed Project consists of installing a new Recycled Water Facility (RWF) located at the City's Water Pollution Control Facility (WPCF) at 3700 Enterprise Avenue, Hayward, California. The RWF would deliver an estimated 290 acre-feet per year of recycled water to 24 customers within the City of Hayward. The RWF will be served by approximately one and half 1.5 miles of new distribution lines (ranging in diameter from 6 to 8 inches) to the north and south of the WPCF, rehabilitation and connection to an existing and abandoned Shell Oil Pipeline, and over three (3) miles of laterals to customers, including installation of customer connections. The majority of recycled water customers will utilize the recycled water for irrigation, with some industrial uses for cooling towers and boilers. The City is pursuing an agreement with Shell Oil to purchase and use the existing abandoned 8-inch diameter pipeline that runs through the City. However, the environmental document assumes both the reuse of the existing abandoned 8-inch Shell Oil Pipeline as well as the construction of a new recycled water pipeline (in the event an agreement with Shell Oil is not reached or the use is otherwise determined infeasible. As a result, we have assumed a worst-case scenario and assumed approximately 3 miles of a new 8-inch pipeline paralleling portions of the Shell Oil Pipeline in existing roadways.

On October 24, 2014, to initiate public review of the Draft IS/MND, the City filed a Notice of Completion (NOC) for the project with the Governor's Office of Planning and Research (State Clearinghouse or SCH) and a Notice of Availability (NOA) with the County of Alameda and released the Draft IS/MND for a 30-day public review. The State Clearinghouse identified the project with SCH #2014102065. The 30-day public review period was established between October 24 and November 24, 2014, with copies of the Draft IS/MND available for review on the City's website at www.hayward-ca.gov and at the addresses below.

City of Hayward
Office of the City Clerk
4th Floor of City Hall
777 B Street
Hayward, CA 94541

City of Hayward Main Library
835 C Street
Hayward, CA 94541

Weekes Branch Library
27300 Patrick Avenue
Hayward, CA 94544

This Final IS/MND was prepared according to CEQA Guidelines and considers and incorporates all comments received by the State Clearinghouse and other agencies during the 30-day public review period. The purpose of this document is to clarify facts set forth in the Public Draft IS/MND, as necessary, to ensure accuracy. The City must consider the IS/MND, together with any comments received, before approving the Proposed Project (Public Resources Code Section 21091(f); and CEQA Guidelines Section 15074). The City has no affirmative duty to prepare formal responses to comments on the Public IS/MND, but should have adequate information on the record explaining why the comment(s) do/does not affect the conclusion that there are no potential significant environmental effects. The City is required to, however, notify, in writing, any commenting agencies of the date of the meeting on the Proposed Project for which an IS/MND is prepared and will be decided upon for approval (Public Resources Code Section 21092.5(b); and CEQA Guideline Section 15073).

This Final IS/MND is being distributed to agencies, stakeholder organizations, and individuals who commented on the Public Draft IS/MND to ensure that interested parties have an opportunity to express their views regarding the environmental impacts of the project, and to ensure that information pertinent to permits and approvals is provided to decision makers for the City and CEQA responsible agencies. Comments from the public have been incorporated into the Final IS/MND for the City Council to consider whether to approve the Proposed Project. **The City is scheduled to make a final decision on the Proposed Project at its regularly scheduled City Council Meeting on December 16, 2014 at 7:00 p.m. in the Council Chambers, 777 B Street, Hayward, CA 94541.**

Chapter 2 Comments Received

During the 30-day public review period (October 24, 2014 through November 24, 2014), the City received a total of two (2) comment letters on the Proposed Project. The City has reviewed and considered the comments from each agency as follows in Table 2-1 below. The letters are attached.

TABLE 2-1 AGENCY COMMENT LETTERS RECEIVED		
Date	Commenting Agency	Comment Letter
November 7, 2014	Ahmad Kashkoli, Senior Environmental Scientist State Water Resources Control Board 1001 I Street Sacramento, CA 95814	A
November 20, 2014	Scott Wilson, Regional Manager-Bay Delta Region California Department of Fish and Wildlife, Bay Delta Region 7329 Silverado Trail Napa, CA 94558	B



State Water Resources Control Board

NOV 07 2014

Suzan England
City of Hayward
3700 Enterprise Avenue
Hayward, CA 94545

Dear Ms. England:

INITIAL STUDY/MITIGATED NEGATIVE DECLARATION (IS/MND) FOR CITY OF HAYWARD (CITY);
CITY OF HAYWARD RECYCLED WATER PROJECT (PROJECT); ALAMEDA COUNTY (COUNTY);
STATE CLEARINGHOUSE NO. 2014102065

We understand that the City is pursuing Clean Water State Revolving Fund (CWSRF) financing for this
Project. As a funding agency and a state agency with jurisdiction by law to preserve, enhance, and
restore the quality of California's water resources, the State Water Resources Control Board (State
Water Board) is providing the following information and comments for the environmental document
prepared for the Project.

A-1

The State Water Board, Division of Financial Assistance, is responsible for administering the CWSRF
Program. The primary purpose for the CWSRF Program is to implement the Clean Water Act and
various state laws by providing financial assistance for wastewater treatment facilities necessary to
prevent water pollution, recycle water, correct nonpoint source and storm drainage pollution problems,
provide for estuary enhancement, and thereby protect and promote health, safety and welfare of the
inhabitants of the state. The CWSRF Program provides low-interest funding equal to one-half of the
most recent State General Obligation Bond Rates with a 30-year term. Applications are accepted and
processed continuously. Please refer to the State Water Board's CWSRF website at:
www.waterboards.ca.gov/water_issues/programs/grants_loans/srf/index.shtml.

A-1
Cont'd

The CWSRF Program is partially funded by the United States Environmental Protection Agency and
requires additional "California Environmental Quality Act (CEQA)-Plus" environmental documentation
and review. Three enclosures are included that further explain the CWSRF Program environmental
review process and the additional federal requirements. For the complete environmental application
package please visit:

A-1
Cont'd

http://www.waterboards.ca.gov/water_issues/programs/grants_loans/srf/srf_forms.shtml. The State
Water Board is required to consult directly with agencies responsible for implementing federal
environmental laws and regulations. Any environmental issues raised by federal agencies or the
IS/MND representatives will need to be resolved prior to State Water Board approval of a CWSRF
financing commitment for the proposed Project. For further information on the CWSRF Program,
please contact Mr. Ahmad Kashkoli, at (916) 341-5855.

A-1
Cont'd

It is important to note that prior to a CWSRF financing commitment, projects are subject to provisions of the Federal Endangered Species Act (ESA), and must obtain Section 7 clearance from the United States Department of the Interior, Fish and Wildlife Service (USFWS), and/or the United States Department of Commerce National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NMFS) for any potential effects to special status species. A-1 Cont'd

Please be advised that the State Water Board will consult with the USFWS, and/or the NMFS regarding all federal special-status species that the Project has the potential to impact if the Project is to be financed by the CWSRF Program. The City will need to identify whether the Project will involve any direct effects from construction activities, or indirect effects such as growth inducement, that may affect federally listed threatened, endangered, or candidate species that are known, or have a potential to occur in the Project site, in the surrounding areas, or in the service area, and to identify applicable conservation measures to reduce such effects. A-1 Cont'd

In addition, CWSRF projects must comply with federal laws pertaining to cultural resources, specifically Section 106 of the National Historic Preservation Act (Section 106). The State Water Board has responsibility for ensuring compliance with Section 106 and the State Water Board must consult directly with the California State Historic Preservation Officer (SHPO). SHPO consultation is initiated when sufficient information is provided by the CWSRF applicant. The City must retain a consultant that meets the Secretary of the Interior's Professional Qualifications Standards (http://www.nps.gov/history/local-law/arch_stnds_9.htm) to prepare a Section 106 compliance report. A-1 Cont'd

Note that the City will need to identify the Area of Potential Effects (APE), including construction and staging areas, and the depth of any excavation. The APE is three-dimensional and includes all areas that may be affected by the Project. The APE includes the surface area and extends below ground to the depth of any Project excavations. The records search request should extend to a 1/2-mile beyond project APE. The appropriate area varies for different projects but should be drawn large enough to provide information on what types of sites may exist in the vicinity. A-1 Cont'd

Other federal environmental requirements pertinent to the Project under the CWSRF Program include the following (for a complete list of all environmental requirements please visit: http://www.waterboards.ca.gov/water_issues/programs/grants_loans/srf/docs/forms/application_environmental_package.pdf): A-1 Cont'd

- A. Compliance with the Federal Clean Air Act: (a) Provide air quality studies that may have been done for the Project; and (b) if the Project is in a nonattainment area or attainment area subject to a maintenance plan; (i) provide a summary of the estimated emissions (in tons per year) that are expected from both the construction and operation of the Project for each federal criteria pollutant in a nonattainment or maintenance area, and indicate if the nonattainment designation is moderate, serious, or severe (if applicable); (ii) if emissions are above the federal de minimis levels, but the Project is sized to meet only the needs of current population projections that are used in the approved State Implementation Plan for air quality, quantitatively indicate how the proposed capacity increase was calculated using population projections. A-1 Cont'd
- B. Compliance with the Coastal Zone Management Act: Identify whether the Project is within a coastal zone and the status of any coordination with the California Coastal Commission. A-1 Cont'd
- C. Protection of Wetlands: Identify any portion of the proposed Project area that should be evaluated for wetlands or United States waters delineation by the United States Army Corps of Engineers (USACE), or requires a permit from the USACE, and identify the status of coordination with the USACE. A-1 Cont'd

- | | |
|---|---------------|
| D. Compliance with the Farmland Protection Policy Act: Identify whether the Project will result in the conversion of farmland. State the status of farmland (Prime, Unique, or Local Statewide Importance) in the Project area and determine if this area is under a Williamson Act Contract. | A-1
Cont'd |
| E. Compliance with the Migratory Bird Treaty Act: List any birds protected under this act that may be impacted by the Project and identify conservation measures to minimize impacts. | A-1
Cont'd |
| F. Compliance with the Flood Plain Management Act: Identify whether or not the Project is in a Flood Management Zone and include a copy of the Federal Emergency Management Agency flood zone maps for the area. | A-1
Cont'd |
| G. Compliance with the Wild and Scenic Rivers Act: Identify whether or not any Wild and Scenic Rivers would be potentially impacted by the Project and include conservation measures to minimize such impacts. | A-1
Cont'd |

Following are specific comments on the City draft IS/MND:

- | | |
|--|-----|
| 1. On page 1-3, please indicate the Project Location using clear symbology to distinguish the area from the City Locations within the General Location Map (Figure 1). | A-2 |
| 2. On page 3-7, the Estimated Proposed Project/Action Construction Emissions are listed in Table 4. Please also include the estimated operating emissions of the Proposed Project/Action in the City's IS/MND. | A-3 |
| 3. Page 3-16 of the City's IS/MND states that a records search was conducted by staff at the Northwestern Information Center (NWIC) on July 14, 2014. Page 28 of the Cultural Resources Investigation Report (Appendix D), however, states that a records search was conducted by staff at the NWIC on July 14, 2012. Which of these two dates is accurate, or are they both correct? | A-4 |
| a. In addition, there are two dates listed stating when a field level reconnaissance survey was conducted. August 7, 2014 and August 9, 2014 are both mentioned. Please specify which of these dates is correct. | A-5 |
| 4. Page 3-20 mentions that the state of California has mapped the distribution of liquefaction hazards in Hayward as part of the Seismic Hazards Mapping Act. Please include this map or include reference to it in the IS/MND. | A-6 |
| 5. The Hazards and Hazardous Waste section references a records search of the state of California Department of Toxic Substance Control's Envirostor Database and GIS Mapping System which identified hazardous waste or materials within the proposed Project area. Please include a visual indicating that the proposed pipe alignment does not pass through any identified hazardous waste sites or materials, as indicated on page 3-24 of the IS/MND. | A-7 |
| 6. Page 3-36 indicates that the Proposed Project/Action is located within two miles of the Hayward Executive Airport, but will not adversely affect the airport or its operations. Please explain how this conclusion was reached. | A-8 |
| 7. Please make sure to include a Mitigation Monitoring and Reporting Program (MMRP) with the City's IS/MND. | A-9 |

Please provide us with the following documents applicable to the proposed Project following the City's CEQA process: (1) one copy of the draft and final IS/MND, (2) the resolution certifying the IS/MND and a MMRP making CEQA findings, (3) all comments received during the review period and the City's response to those comments, (4) the adopted MMRP, and (5) the Notice of Determination filed with the Alameda County Clerk and the Governor's Office of Planning and Research, State Clearinghouse. In addition, we would appreciate notices of any hearings or meetings held regarding environmental review of any projects to be funded by the State Water Board.

Thank you for the opportunity to review the City's draft IS/MND. If you have any questions or concerns, please feel free to contact me at (916) 341-5855 or by email at Ahmad.Kashkoli@waterboards.ca.gov, or contact Elysar Naja at (916) 341-5799 or by email at Elysar.Naja@waterboards.ca.gov.

Sincerely,



Ahmad Kashkoli
Senior Environmental Scientist

Enclosures (3)

1. Clean Water State Revolving Fund Environmental Review Requirements
2. Quick Reference Guide to CEQA Requirements for State Revolving Fund Loans
3. Basic Criteria for Cultural Resources Reports

cc: State Clearinghouse
(Re: SCH# 2014102065)
P.O. Box 3044
Sacramento, CA 95812-3044

Basic Criteria for Cultural Resources Report Preparation

State Water Resources Control Board
Division of Financial Assistance

For Section 106 Consultation with the State Historic Preservation Officer (SHPO)
under the National Historic Preservation Act

CULTURAL RESOURCES REPORT

The Cultural Resources Report must be prepared by a qualified researcher that meets the Secretary of the Interior's Professional Qualifications Standards. Please see the Professional Qualifications Standards at the following website at: http://www.cr.nps.gov/local-law/arch_stnds_9.htm

The Cultural Resources Report should include one of the four "findings" listed in Section 106. These include:

"No historic properties affected"

(no properties are within the area of potential effect (APE; including below the ground).

"No effect to historic properties"

(properties may be near the APE, but the project will not have any adverse effects).

"No adverse effect to historic properties"

(the project may affect "historic properties", but the effects will not be adverse).

"Adverse effect to historic properties"

Note: Consultation with the SHPO will be required if a "no adverse effect to historic properties" or an "adverse effect to historic properties" determination is made, to develop and evaluate alternatives or modifications to the proposed project that could avoid, minimize or mitigate adverse effects on "historic properties."

RECORDS SEARCH

- A records search (less than one year old) extending to a half-mile beyond the project APE from a geographically appropriate Information Center is required. The records search should include maps that show all recorded sites and surveys in relation to the APE for the proposed project, and copies of the confidential site records included as an appendix to the Cultural Resources Report.
- The APE is three-dimensional (depth, length and width) and all areas (e.g., new construction, easements, staging areas, and access roads) directly affected by the proposed project.



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NATIVE AMERICAN and INTERESTED PARTY CONSULTATION

- Native American and interested party consultation should be initiated at the planning phase of the proposed project to gather information to assist with the preparation of an adequate Cultural Resources Report.
- The Native American Heritage Commission (NAHC) must be contacted to obtain documentation of a search of the Sacred Lands Files for or near the project APE.
- All local Native American tribal organizations or individuals identified by the NAHC must be contacted by certified mail, and the letter should include a map and a description of the proposed project.
- Follow-up contact should be made by telephone and a phone log maintained to document the contacts and responses.
- Letters of inquiry seeking historical information on the project area and local vicinity should be sent to local historical societies, preservation organizations, or individual members of the public with a demonstrated interest in the proposed project.

Copies of all documents mentioned above (project description, map, phone log and letters sent to the NAHC and Native American tribal organizations or individuals and interested parties) must be included in the Cultural Resources Report.

Contact Information: For more information related to the CWSRF Program Cultural Resources and Requirements, please contact Mr. Ahmad Kashkoli at 916-341-5855 or Ahmad.Kashkoli@waterboards.ca.gov

PRECAUTIONS

A finding of **“no known resources”** without supporting evidence is unacceptable. The Cultural Resources Report must identify resources within the APE or demonstrate with sufficient evidence that none are present.

“The area is sensitive for buried archaeological resources,” followed by a statement that **“monitoring is recommended.”** Monitoring is not an acceptable option without good-faith effort to demonstrate that no known resource is present.

If **“the area is already disturbed by previous construction”** documentation is still required to demonstrate that the proposed project will not affect “historic properties.” An existing road can be protecting a buried archaeological deposit or may itself be a “historic property.” Additionally, previous construction may have impacted an archaeological site that has not been previously documented.

SHPO CONSULTATION LETTER

Submit a draft consultation letter prepared by the qualified researcher with the Cultural Resources Report to the State Water Resources Control Board. A draft consultation letter template is available for download on the State Water Board webpage at: http://www.waterboards.ca.gov/water_issues/programs/grants_loans/cwsrf_requirements.shtml



STATE WATER RESOURCES CONTROL BOARD
REGIONAL WATER QUALITY CONTROL BOARDS

waterboards.ca.gov

California Environmental Quality Act Requirements

State Water Resources Control Board
Division of Financial Assistance

The State Water Resources Control Board (State Water Board), Division of Financial Assistance, administers the Clean Water State Revolving Fund (CWSRF) Program. The CWSRF Program is partially funded by grants from the United States Environmental Protection Agency. All applicants seeking CWSRF financing must comply with the California Environmental Quality Act (CEQA), and provide sufficient information so that the State Water Board can document compliance with federal environmental laws. The "Environmental Package" provides the forms and instructions needed to complete the environmental review requirements for CWSRF Program financing. It is available at:
http://www.waterboards.ca.gov/water_issues/programs/grants_loans/srf/srf_forms.shtml



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Contact Information: For more information related to the CWSRF Program environmental review process and requirements, please contact your State Water Board Project Manager or Mr. Ahmad Kashkoli at 916-341-5855 or Ahmad.Kashkoli@waterboards.ca.gov

LEAD AGENCY

The applicant is usually the "Lead Agency" and must prepare and circulate an environmental document before approving a project. Only a public agency, such as a local, regional or state government, may be the "Lead Agency" under CEQA. If a project will be completed by a non-governmental organization, "Lead Agency" responsibility goes to the first public agency providing discretionary approval for the project.

RESPONSIBLE AGENCY

The State Water Board is generally a "Responsible Agency" under CEQA. As a "Responsible Agency," the State Water Board must make findings based on information provided by the "Lead Agency" before financing a project.

ENVIRONMENTAL REVIEW

The State Water Board's environmental review of the project's compliance with both CEQA and federal cross-cutting regulations must be completed before a project can be financed by the CWSRF Program.

DOCUMENT REVIEW

Applicants are encouraged to consult with State Water Board staff early during preparation of CEQA document if considering CWSRF financing. Applicants shall also send their environmental documents to the State Water Board, Environmental Review Unit during the CEQA public review period. This way, any environmental concerns can be addressed early in the process.

REQUIRED DOCUMENTS

The Environmental Review Unit requires the documents listed below to make findings and complete its environmental review. Once the State Water Board receives all the required documents and makes its own findings, the environmental review for the project will be complete.

- ✓ Draft and Final Environmental Documents: Environmental Impact Report, Negative Declaration, and Mitigated Negative Declaration as appropriate to the project
- ✓ Resolution adopting/certifying the environmental document, making CEQA findings, and approving the project
- ✓ All comments received during the public review period and the "Lead Agency's" responses to those comments
- ✓ Adopted Mitigation Monitoring and Reporting Plan, if applicable
- ✓ Date-stamped copy of the Notice of Determination or Notice of Exemption filed with the County Clerk(s) and the Governor's Office of Planning and Research
- ✓ CWSRF Evaluation Form for Environmental Review and Federal Coordination with supporting documents



STATE WATER RESOURCES CONTROL BOARD
REGIONAL WATER QUALITY CONTROL BOARDS

waterboards.ca.gov

ADDITIONAL INFORMATION

If your project has the potential to affect biological resources or historic properties, the consultation process can be lengthy. Please contact the State Water Board staff early in your planning process to discuss what additional information may be needed for your specific project.

Please contact your State Water Board Project Manager or Mr. Ahmad Kashkoli at (916) 341-5855 or Ahmad.Kashkoli@waterboards.ca.gov for more information related to the CWSRF Program environmental review process and requirements.



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National Historic Preservation Act (NHPA)

Section 106 of the NHPA requires an analysis of the effects on "historic properties." The Section 106 process is designed to accommodate historic preservation concerns for federal actions with the potential to affect historic properties. Early consultation with appropriate government agencies, Indian tribes, and members of the public, will ensure that their views and concerns are addressed during the planning phase.

Historic properties (i.e., buildings, structures, objects, and archaeological sites 50 years or older) are properties that are included in the National Register of Historic Places or meet the criteria for the National Register.

Required Documents:

- ✓ A draft State Historic Preservation Officer consultation request letter, and
- ✓ A cultural resources report on historic properties conducted according to the Secretary of the Interior's Standards, including:
 - A clearly defined Area of Potential Effect (APE), specifying the length, width, and depth of excavation, with a map clearly illustrating the project APE;
 - A records search, less than one year old, extending to a half-mile beyond the project APE;
 - Written description of field methods;
 - Identification and evaluation of historic properties within the project's APE, and
 - Documentation of consultation with the Native American Heritage Commission and local Native American tribes.

CLEAN WATER STATE REVOLVING FUND

Environmental Review Requirements

State Water Resources Control Board
Division of Financial Assistance

REVISED: FEB. 2014



www.waterboards.ca.gov

ENVIRONMENTAL REVIEW REQUIREMENTS

The Clean Water State Revolving Fund (CWSRF) Program is partially funded by the United States Environmental Protection Agency (EPA), and is subject to federal environmental regulations as well as the California Environmental Quality Act (CEQA). All applicants seeking CWSRF financing must comply with both CEQA and the federal cross-cutting regulations. The "Environmental Package" provides the forms and instructions needed to complete the environmental review requirements for CWSRF financing. The forms and instructions are available at: http://www.waterboards.ca.gov/water_issues/programs/grants_loans/srf/srf_forms.shtml.

Lead Agency/Applicant

The applicant will generally act as the "Lead Agency" for environmental review. It will prepare, circulate, and consider the environmental documents prior to approving the project. It also provides the State Water Board with copies of the CEQA documents, and a completed "Environmental Evaluation Form for Environmental Review and Federal Coordination" (http://www.waterboards.ca.gov/water_issues/programs/grants_loans/srf/docs/forms/application_environmental_package.pdf) with supporting documents as part of the "Environmental Package."

Responsible Agency/State Water Board

The State Water Board acts on behalf of EPA to review and consider the environmental documents before approving financing. The State Water Board may require additional studies or documentation to make its own CEQA findings, as well as circulate CEQA documents and other environmental reports to relevant federal agencies for consultation before making a determination about the project financing. The Applicant must address all relevant federal agencies' comments before project financing is approved.

FEDERAL CROSS-CUTTING REGULATIONS

The CWSRF Program requires consultation with relevant federal agencies on the following federal environmental regulations, if applicable to the project:

- Clean Air Act
- Coastal Barriers Resources Act
- Coastal Zone Management Act
- Endangered Species Act
- Environmental Justice
- Farmland Protection Policy Act
- Floodplain Management
- Magnuson-Stevens Fishery Conservation and Management Act
- Migratory Bird Treaty Act
- National Historic Preservation Act
- Protection of Wetlands
- Safe Drinking Water Act
- Sole Source Aquifer Protection
- Wild and Scenic Rivers Act

The following is a brief overview of requirements for some of the key regulations.

Clean Air Act (CAA)

The CAA general conformity analysis only applies to projects in areas not meeting the National Ambient Air Quality Standards or subject to a maintenance plan.

If project emissions are below the federal "de minimis" levels then:

- A general conformity analysis is not required.

If project emissions are above the federal "de minimis" levels then:

- A general conformity determination for the project must be made. A general conformity determination can be made if facilities are sized to meet the needs of current population projections used in an approved State Implementation Plan for air quality.

- Using population projections, applicants must explain how the proposed capacity increase was calculated.

An air quality modeling analysis is necessary of all projects for the following criteria pollutants, regardless of attainment status:

- Carbon monoxide
- Lead
- Oxides of nitrogen
- Ozone
- Particulate matter (PM2.5 and PM10)
- Sulfur dioxide

Endangered Species Act (ESA)

The ESA requires an analysis of the effects on federally listed species. The State Water Board will determine the projects potential effects on federally listed species, and will initiate informal/formal consultation with the United States Fish and Wildlife Service (USFWS) and/or the National Marine Fisheries Service, as necessary under Section 7 of the ESA.

Required Documents:

- ✓ A species list, less than one year old, from the USFWS and the California Department of Fish and Wildlife's Natural Diversity Database;
- ✓ A biological survey conducted during the appropriate time of year;
- ✓ Maps or documents (biological reports or biological assessments, if necessary); and
- ✓ An assessment of the direct or indirect impacts to any federally listed species and/or critical habitat. If no effects are expected, explain why and provide the supporting evidence.





State of California – The Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
 Bay Delta Region
 7329 Silverado Trail
 Napa, CA 94558
 (707) 944-5500
www.wildlife.ca.gov

EDMUND G. BROWN JR., Governor
 CHARLTON H. BONHAM, Director



Comment Letter B

November 20, 2014

Ms. Suzan England
 City of Hayward
 3700 Enterprise Avenue
 Hayward, CA 94545

Dear Ms. England:

Subject: City of Hayward Recycled Water Project Initial Study/Mitigated Negative Declaration, SCH #20141022065, Alameda County

The California Department of Fish and Wildlife (CDFW) has reviewed the Initial Study/Mitigated Negative Declaration (IS/MND) and Environmental Assessment/Finding of No Significant Impact (EA/FONSI) for the proposed City of Hayward’s Recycled Water Project (Project). CDFW is submitting comments on the IS/MND as a means to inform the City of Hayward (City), as the Lead Agency, of our concerns regarding potentially significant impacts to sensitive resources associated with the proposed Project.

B-1

CDFW is a Trustee Agency pursuant to the California Environmental Quality Act (CEQA) Section 15386. Pursuant to Fish and Game Code Section 1802, CDFW has jurisdiction over the conservation, protection and management of the fish, wildlife, native plants and the habitat necessary for biologically sustainable populations of such species.

B-2

CDFW has regulatory authority over projects that could result in take of any species listed, or is a candidate for listing by the state as threatened or endangered, pursuant to the California Endangered Species Act (CESA). If the proposed Project could result in take of any state listed species, the Project developer should apply for an Incidental Take Permit (ITP), pursuant to Fish and Game Code Section 2080 *et seq.*, for the Project.

B-3

CDFW has regulatory authority over projects that could divert or obstruct the natural flow, or substantially change or use any material from the bed, bank or channel (which may include associated riparian, wetland and pond habitat) of a river or stream. CDFW may require a Lake and Streambed Alteration Agreement (LSAA), pursuant to Section 1600 *et seq.* of the Fish and Game Code, with the Project developer.

B-4

CDFW has jurisdiction over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs and nests include 3503 (regarding unlawful take, possession or needless destruction of the nests or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory non-game bird). Fully protected species may not be taken or possessed at any time (Fish and Game Code Section 3511).

B-5

Project Location and Description

The proposed Project is located at the Water Pollution Control Facility (WPCF), 3700 Enterprise Avenue and at various other customer and distribution line locations within the City of Hayward, in Alameda County.

B-6

The proposed Project site includes installation of a new Recycled Water Facility located at the existing WPCF and 1.5 miles of distribution lines to the north and south of the WPCF, rehabilitation and connection to an existing and abandoned Shell Oil Pipeline, and over three miles of laterals to customers including installation of customer connections.

B-7

The IS/MND and EA/FONSI provide only a vague description of the environmental setting in the overall Project area. The MND document should clearly define the baseline vegetation communities, impacts to habitat and species, including direct and indirect impacts. The MND should include impacts to vegetation, differentiating between impacts to tidal marsh; brackish marsh; freshwater marsh; native and non-native botanical species; disclosing the number, size (diameter at breast height, linear feet, and percent canopy cover) distribution, and species identification of any trees removed, if any, as a result of the Project; and quantifying impacts to vegetation community and habitat types.

B-8

Special-Status Species

Chapter 3.4, Biological Resources, of the IS/MND, does not describe the habitat types that occur within the proposed Project site, but indicates there is a small potential for the Project to affect the federally and state threatened Alameda whipsnake (*Masticophis lateralis euryxanthus*), also known as Alameda striped racer (*Coluber lateralis euryxanthus*).

B-9

Mitigation Measure BIO-1, p.3-12, recommends preconstruction surveys and exclusion fencing at all project sites/areas within or directly adjacent to areas identified as having high potential for whipsnake occurrence. The Mitigation Measure goes on to state that any site that cannot be entirely contained within fencing would require hand-excavation of animal burrows and relocation of any whipsnakes, or other species found, outside of the project area.

B-10

Relocation of a state listed species is considered a form of "take," as defined by Fish and Game Code Section 86. If "take" or adverse impacts to Alameda whipsnake or any other species listed under CESA cannot be avoided either during Project activities or over the life of the Project, please be advised that a CESA Permit must be obtained (pursuant to Fish and Game Code Section 2080 *et seq.*). Issuance of a CESA permit is subject to CEQA documentation; therefore, the CEQA document should specify impacts, mitigation measures, and fully describe a mitigation, monitoring and reporting program. If the proposed Project will impact any CESA-listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA permit. More information on the CESA permitting process can be found on the CDFW website at <https://www.wildlife.ca.gov/Conservation/CESA>.

B-10
Cont'd

The IS/MND (p. 3-14) discusses potential impacts to migratory birds due to the presence of mature trees located within and adjacent to the proposed pipeline construction activities. Also, portions of the pipeline could be located adjacent to the Hayward Regional Shoreline (East Bay Regional Park District) at Depot Road and West Winton Avenue. The IS/MND states potential

B-11

impacts from construction activities could affect the western burrowing owl (*Athene cunicularia*), the California clapper rail (*Rallus longirostris obsoletus*), and the California least tern (*Sternula antillarum*). The California Natural Diversity Database (CNDDDB) also shows occurrence of California black rail (*Laterallus jamaicensis coturniculus*) in the general project vicinity, but this species was not included in the assessment or in the Appendix B, Potential for Special-Status Species to Occur in the Proposed Project/Action Study Area. The California clapper rail, California least tern, and California black rail are considered fully protected under the Fish and Game Code Section 3511. "Take" of any fully protected species is prohibited and CDFW cannot authorize their "take" for this type of project.

B-11
Cont'd

Mitigation Measure BIO-2 recommends pre-construction breeding bird surveys within 250 feet from construction activities occurring between February 1 and August 31. Mitigation Measure BIO-3 recommends preconstruction nesting bird surveys within 250 feet from construction activities occurring between March 15 and September 1. Breeding bird and nesting bird surveys are advised to be conducted no less than the minimum accepted buffer for birds known or expected to be in the area; or preferably, survey a sufficient area around the work site to identify any nests that are present and determine their status. 'Sufficient' in this context means any nest within an area that could potentially be affected by the Project. For example, the survey zone for California clapper rail would presumably include all marsh within approximately 700 feet of the proposed Project site boundaries or other distance based on site-specific information. Site-specific surveys of clapper rail home ranges can provide additional useful information about patterns of clapper rail travel, potential nest sites, and preferred sensitive locations of high tide escape cover.

B-12

If nests of any bird are observed a buffer needs to be established at a distance wide enough to prevent nest abandonment due to Project-related activities. Even within species, disturbance distances can vary according to time of year or geographical location. Once work begins, the survey effort should continue to ensure any nest starts established after the work commences are identified. In addition to direct impacts, such as nest destruction, nests might be affected by noise, vibration, odors and movement of workers or equipment. Identified nests are advised to be continuously surveyed for the first 24 hours prior to any construction related activities to establish a behavioral baseline. Once work commences, continuous monitoring of identified nests will detect behavioral changes as a result of the Project. If behavioral changes are observed, the work causing that change should cease and CDFW should be contacted for guidance.

B-12
Cont'd

Mitigation Measure BIO-3 recommends a minimum buffer of 50 feet around any nest found outside the breeding season. CDFW recommends that if an active nest is found outside the breeding season, a buffer wide enough to prevent nest abandonment is generally more appropriate to be established.

B-13

Appendix B, Potential for Special-Status Species to Occur in the Proposed Project/Action Study Area provides a tabulated list of species, status, habitat, and potential for occurrence. Some of the information in the table is outdated, inaccurate, or missing. It is unclear why some species were included in the table (e.g. Lahontan cutthroat trout, native to the drainages of the Truckee River and Northern spotted owl which inhabits old-growth forests) yet other species known to

B-14

occur in the area were not included [e.g. Congdon's tarplant (*Centromadia parryi* ssp. *Congdonii*) and California black rail]. The table should be updated to more accurately represent the species potentially occurring in the area and their status.

Appendix C Federally-Listed Biological Resources Assessment Report, section 4.2, p.32, describes the potential impacts to burrowing owls and includes "CDFW guidelines" describing three types of impacts. No citation is included in this section but it appears the author is referring to the 1995 Staff Report on Burrowing Owl Mitigation. The 1995 Staff Report has been superseded by the 2012 Staff Report on Burrowing Owl Mitigation (2012 Staff Report). CDFW recommends that burrowing owl surveys be conducted by a CDFW-approved biologist within and surrounding the proposed Project site according to the methodology described in Appendix D: Breeding and Non-breeding Season Surveys of the 2012 Staff Report, which is available at http://www.dfg.ca.gov/wildlife/nongame/survey_monitor.html. This methodology is used to maximize the likelihood of detecting owls and determining the type and extent of habitat potentially used by owls. CDFW recommends that surveys be conducted in any features that may be used by burrowing owls for nesting, roosting or cover. If suitable owl nest sites are documented during surveys, CDFW recommends that owl take avoidance and minimization measures be developed and included in the MND. Please refer to the 2012 Staff Report (section on Mitigation Methods) on avoiding disturbance of occupied burrows through establishment of exclusion zones.

B-15

Special-Status Plants

The CNDDDB lists several occurrences of Congdon's tarplant, (California Native Plant Society List 1B.1) in the project vicinity. CDFW recommends that plant surveys be conducted by a CDFW-approved biologist within and surrounding the Project site according to the methodology described in the Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities, which is available at http://www.dfg.ca.gov/wildlife/nongame/survey_monitor.html. The purpose of these protocols is to facilitate a consistent and systematic approach to the survey and assessment of special-status native plants and natural communities to occur within a project area so that reliable information is produced and the potential of locating a special-status plant species or natural community is maximized.

B-16

Lake and Streambed Alteration Program

The IS/MND indicates that creek crossings will be constructed using trenchless techniques or microtunneling and will be conducted during the dry season.

B-17

CDFW advises that for any activity that will divert or obstruct the natural flow, or substantially change or use any material from the bed, bank or channel (which may include associated riparian, wetland and pond habitat) of a river or stream, CDFW may require an LSAA, pursuant to Section 1600 *et seq.* of the Fish and Game Code, with the Project developer. Issuance of an LSAA is subject to CEQA. CDFW, as a Responsible Agency under CEQA, will consider the MND for the proposed Project. The MND should fully identify the potential impacts to the stream and/or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for completion of the agreement. To obtain information about the LSAA notification process, please access our website at <https://www.wildlife.ca.gov/Conservation/LSA> or to request a notification package, contact CDFW's Bay Delta Regional Office at (707) 944-5500.

B-17
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Conclusion

Compliance with CEQA is predicated on a complete and accurate description of the environmental setting that may be affected by the proposed Project and, without that description, the analysis of Project related impacts may be incomplete. In our view, the description of the environmental setting in this case is inadequate because it does not contain complete information as to the presence or absence of habitat types which could support special-status species on the property or what their expected use patterns might be. CEQA also requires that all direct and reasonably foreseeable indirect impacts occurring as a result of the project must be disclosed, evaluated and mitigated. Deferring the surveys of special-status species to the preconstruction stage means that these impacts are not identified, evaluated or mitigated in the public environmental review process.

B-18

In this case, the open question of whether special-status species occupy the site affects the ability of the MND to substantively analyze impacts to those species and provide appropriate mitigation measures. Because the Project will occur in several areas where there is appropriate habitat and vegetation for nesting, denning, foraging, or colonization opportunities for several special-status species, it is advised a reconnaissance-level assessment be conducted by a qualified biologist during the appropriate survey period(s). Survey results can then be used to identify any mitigation, minimization, and avoidance measures that need to be implemented as well as any potential permitting needs. We recommend that this section of the MND be re-written after surveys have been completed to include sufficient material to adequately describe the environmental baseline, identify impacts, and provide appropriate mitigations, rather than deferring this to a later time.

B-18
Cont'd

CDFW appreciates the opportunity to provide comments to the City on the IS/MND for the Project. CDFW supports the development of recycled water projects which are in compliance with existing state and federal laws and acts, and when measures are implemented which effectively avoid or reduce impacts to native species and their habitats to levels less-than-significant levels. CDFW staff is available to meet with you to ensure that potential impacts to sensitive species are avoided, minimized or mitigated. If you have any questions, please contact Ms. Marcia Grefsrud, Environmental Scientist, at (707) 644-2812 or marcia.grefsrud@wildlife.ca.gov; or Ms. Annee Ferranti, Senior Environmental Scientist (Supervisory), at (707) 944-5554 or annee.ferranti@wildlife.ca.gov.

B-18
Cont'd

Sincerely,



Scott Wilson
Regional Manager
Bay Delta Region

cc: State Clearinghouse

Chapter 3 Responses to Comments

This chapter evaluates the comments received during the 30-day public review period (October 24, 2014 through November 24, 2014). The City received a total of two (2) comment letters on the Proposed Project. The City has reviewed and considered the comments from each agency and provides a response to each of those comments as provided for below.

STATE WATER RESOURCES CONTROL BOARD

Comment A-1. Comment Noted. Yes, the City is contemplating formally applying for funding under the Clean Water State Revolving Fund (CWSRF). The City appreciates the State Water Board's role in administering the CWRSF program and fully understands that the program is partially funded by the United States Environmental Protection Agency (USEPA) and requires the additional CEQA-Plus environmental documentation and review. We appreciate the detailed information provided which will be required for formally applying for these funds. We have prepared the Public Draft IS/MND and EA/FONSI in such a way that the State Water Board and/or the U.S. Bureau of Reclamation (USBR) can use this document as a basis for complying with the necessary CEQA-Plus and/or NEPA requirements. If and when we formally apply for CWSRF or federal funds under USBR's Title XVI Water Reclamation and Reuse Program (Title XVI Program), we will gladly work with the State Water Board and/or USBR to work through any remaining issues. However, at this time, the City is moving forward with its CEQA process and responsibilities as the CEQA Lead Agency. As requested, the City will provide the State Water Board with any and all necessary documents when it formally applies for funding under the CWSRF Program.

Comment A-2. Comment Noted. The purpose of Figure 1 was/is to provide the reader with a general understanding of where the City of Hayward is in relation to the rest of the San Francisco Bay Area. We feel that this figure accomplishes that goal and provides an indication as to where the project is located within the City of Hayward area. In addition, Figure 2 provides a perhaps more useful depiction as to where the project is located within the City of Hayward. At this time and the stage in the CEQA process, we do not feel that any revisions to Figure 1 are necessary. However, in the future, we will seek to modify Figure 1 in any future documents to further distinguish the Project area from the City locations as you suggest.

Comment A-3. Comment Noted. The estimated emissions from the project operations would be limited primarily to vehicle operations for periodically inspecting project facilities. The total emissions have not been estimated, but would be on the order of less than 3-5 pounds per day for the Bay Area Air Quality Management District's (BAAQMD) criteria pollutants of ROG, NO_x, and PM₁₀. As BAAQMD's Threshold of Significance for these criteria pollutants is 80 pounds per day or 15 tons per year, the Proposed Project's operations would not have any significant impacts to air quality.

Comment A-4. Comment Noted. The date on Page 28 of the Cultural Resources Investigation Report (Appendix D) is incorrect. The correct date is and should be July 14, 2014. Please see revised text to the date on Page 28 of the Cultural Report (Appendix D) of the Public Draft IS/MND and EA/FONSI in Chapter 4 – Revisions to the Public Draft IS/MND and EA/FONSI.

Comment A-5. Comment Noted. The correct date of the field reconnaissance level investigations was conducted on August 7, 2014 and not August 9, 2014. Please see revised text to Page 29 of Appendix D, Section 106 Cultural Resources Investigation Report to the Public Draft IS/MND and EA/FONSI in Chapter 4 – Revisions to the Public Draft IS/MND and EA/FONSI.

Comment A-6. Comment Noted. A map of liquefaction zones in the City of Hayward can be found on Figure 9-2 – Liquefaction Zones, of the November 2013 Public Review Background Report for the City’s 2040 General Plan. The link for this Report can be found on the City’s website located at <http://www.hayward-ca.gov/GENERALPLAN/>. Please see revised text to Section 3.6 – Geology and Soils, Subsection iii) on Page 3-20 of the Public Draft IS/MND and EA/FONSI in Chapter 4 – Revisions to the Public Draft IS/MND and EA/FONSI.

Comment A-7. Comment Noted. Unfortunately, the State of California Department of Toxic Substance Control’s Envirostor Database and GIS Mapping System does not have the ability to let on-line users to copy or print-screen copy the online maps they provide through their database. Numerous conversations with their tech support were not productive or useful. However, if you go to <http://www.envirostor.dtsc.ca.gov/public/> and type in 3700 Enterprise Avenue, City of Hayward, CA 94541, the database will provide a very useful map that depicts hazardous sites within or near the Project Area. Please note that the Proposed Project would be located within existing roadways and would not cross any known contaminated site. As a precaution, **Mitigation HAZ-2, Properly Dispose of Contaminated Soil and/or Groundwater** provides a conservative approach to reduce any potential environmental issues if contaminated soil and/or groundwater is unexpectedly encountered during construction.

Comment A-8. Comment Noted. The City’s construction and/or operation activities will not affect airport operations. Specifically, our construction activities will not affect flight paths or patterns, provide light or glare that could affect pilot’s vision, and/or provide areas of standing water that would attract birds/water fowl that would provide a hazard to planes as they take off or land. Once constructed operations would not be noticeable as all of the pipeline would be underground.

Comment A-9. Comment Noted. Please see Appendix A of this Final IS/MND as it includes a Mitigation Monitoring and Reporting Program (MMRP) for the City’s Proposed Recycled Water Project.

Comment A-10. Comment Noted. As requested, the City will provide the State Water Board with any and all necessary documents when it formally applies for funding under the CWSRF Program.

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

Comment B-1. Comment Noted. The City appreciates CDFW submitting comments on the IS/MND as a means to inform the City, as the Lead Agency, of your concerns regarding potentially significant impacts to sensitive resources associated with the proposed Project.

Comment B-2. The City understands that CDFW is a Trustee Agency pursuant to the California Environmental Quality Act (CEQA) Section 15386. We further understand that pursuant to Fish and Game Code Section 1802, CDFW has jurisdiction over the conservation, protection and management of the fish, wildlife, native plants and the habitat necessary for biologically sustainable populations of such species.

Comment B-3. The City understands that CDFW has regulatory authority over projects that could result in take of any species listed, or is a candidate for listing by the state as threatened or endangered, pursuant to the California Endangered Species Act (CESA). The City further understands that if the proposed Project could result in take of any state listed species, the City should apply for an Incidental Take Permit (ITP), pursuant to Fish and Game Code Section 2080 *et seq.*, for the Project.

Comment B-4. The City understands that CDFW has regulatory authority over projects that could divert or obstruct the natural flow, or substantially change or use any material from the bed, bank or channel (which may include associated riparian, wetland and pond habitat) of a river or stream. CDFW may require a Lake and Streambed Alteration Agreement (LSAA), pursuant to Section 1600 *et seq.* of the Fish and Game Code, if the City's Proposed Project would affect these resources.

Comment B-5. Comment Noted. The City understands that CDFW has jurisdiction over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. The City further understands that Fish and Game Code sections protecting birds, their eggs and nests include 3503 (regarding unlawful take, possession or needless destruction of the nests or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory non- game bird). The City also understands that fully protected species may not be taken or possessed at any time (Fish and Game Code Section 3511).

Comment B-6. Comment Noted. CDFW correctly points out that the proposed Project is located at the Water Pollution Control Facility (WPCF), 3700 Enterprise Avenue and at various other customer and distribution line locations within the City of Hayward, in Alameda County.

Comment B-7. Comment Noted. CDFW correctly points out that the proposed Project site includes installation of a new Recycled Water Facility located at the existing WPCF and 1.5 miles of distribution lines to the north and south of the WPCF, rehabilitation and connection to an existing and abandoned Shell Oil Pipeline, and over three miles of laterals to customers including installation of customer connections.

Comment B-8. Comment Noted. The City appreciates CDWF's concern that the IS/MND and EA/FONSI provide only a vague description of the environmental setting in the overall Project area. As described in Section 2 – Proposed Project Description and Alternatives, the Proposed Project would be constructed within existing paved roadways. As a result, the Proposed Project would not have any impacts to habitat and species, including direct and indirect impacts. In addition, the Proposed Project does not have any impacts to vegetation, nor impacts to tidal marsh; brackish marsh; freshwater marsh; native and non-native botanical species. Further, the Proposed Project would not remove any trees.

Comment B-9. See Comment B-8 above. The Proposed Project would be constructed within existing paved roadways and where habitat does not exist. However, as the Proposed Project is still in a preliminary design/concept phase and is located in areas near where special status species have been observed (i.e. Alameda whipsnake), the City has correctly pointed out that this specie and possibly others could be potentially affected by construction activities, especially if through final design, the proposed pipeline alignments and/or construction techniques change. As a result, the City has taken a precautionary and conservative approach and has proposed adequate mitigation measures to help avoid or minimize any of potential impacts. It is also important to point out that the City cannot proceed with final design and construction until after the CEQA process has been completed. In addition, the City will still need to do pre-construction surveys immediately prior to construction activities, which is not expected until the spring/summer of 2016 and likely continue for 18 months into the summer of 2017. Therefore, it does not make sense to conduct these surveys now as things will change and we will have to redo the pre-construction surveys again when construction is about to begin in the spring/summer of 2016.

Comment B-10. Comment Noted. The City understands that relocation of a state listed species is considered a form of "take," as defined by Fish and Game Code Section 86 and if "take" or adverse impacts to Alameda whipsnake or any other species listed under CESA cannot be avoided either

during Project activities or over the life of the Project, a CESA Permit must be obtained (pursuant to Fish and Game Code Section 2080 *et seq.*). Please see revised text to Section 3.4 – Biological Resources of the Public Draft IS/MND and EA/FONSI in Chapter 4 – Revisions to the Public Draft IS/MND and EA/FONSI.

The City also understands that the issuance of a CESA permit is subject to CEQA documentation and should specify impacts, mitigation measures, and fully describe a mitigation monitoring and reporting program. If and when the Proposed Project is approved by the City, the pre-construction surveys will provide much more detail as to any specific impacts and details that CDFW would need to issue a CESA permit – if needed. As stated in Response to Comment B-9, these precautionary pre-construction surveys need to be conducted during the appropriate season and after CEQA approval, final design, and immediately prior to actual construction activities. Also, the Mitigation Monitoring and Reporting Program (MMRP) is part of the CEQA document and is an integral part of the terms and conditions of the CEQA document if/when approved by the City. Please see the MMRP in Appendix A of this document.

Comment B-11. Comment Noted. CDFW correctly points out that the California black rail was inadvertently left out of the table in Appendix B, Potential for Special-Status Species to Occur Within the Proposed Project Action Area. It was also inadvertently left off Table 3 - Potential for Special-Status Species to Occur Within the Proposed Project Action Area in Appendix D, Federally-Listed Biological Resources Assessment Report. Please see revised text to Appendix B, Potential for Special-Status Species to Occur Within the Proposed Project Action Area and Table 3 Potential for Special-Status Species to Occur Within the Proposed Project Action Area in Appendix D, Federally-Listed Biological Resources Assessment Report of the Public Draft IS/MND and EA/FONSI in Chapter 4 – Revisions to the Public Draft IS/MND and EA/FONSI. As shown in Appendix D, Federally-Listed Biological Resources Assessment Report, the City did in fact evaluate the potential effects of the proposed construction and operation of the Proposed Project on this species. Further, the City understands that the California black rail, California clapper rail, and California least tern are considered fully protected under the Fish and Game Code Section 3511 and that "Take" of any fully protected species is prohibited and CDFW cannot authorize their "take" for this type of Project.

Comment B-12. Comment Noted. Please see revised text to Mitigation Measures BIO-2 of the Public Draft IS/MND and EA/FONSI in Chapter 4 – Revisions to the Public Draft IS/MND and EA/FONSI.

Comment B-13. Comment Noted. Please see revised text to Mitigation Measures BIO-3 of the Public Draft IS/MND and EA/FONSI in Chapter 4 – Revisions to the Public Draft IS/MND and EA/FONSI.

Comment B-14. Comment Noted. In July 2014 when the California Natural Diversity Database and the USFWS Species list database were accessed, the Congdon's tarplant was not listed on either of those databases. Nevertheless, the City understands CDFW's concern and we have updated the table to include the Condon's tarplant and the California black rail in the IS/MND and EA/FONSI, the Appendix B, Potential for Special-Status Species to Occur Within the Proposed Project Action Area, and in Appendix C, Federally-Listed Biological Resources Assessment Report. Please see revised text to the IS/MND, Appendix B, Potential for Special-Status Species to Occur Within the Proposed Project Action Area, and Appendix C, Federally-Listed Biological Resources Assessment Report of the Public Draft IS/MND and EA/FONSI in Chapter 4 – Revisions to the Public Draft IS/MND.

Comment B-15. Comment Noted. Please see revised text to Appendix C, Federally-Listed Biological Resources Assessment Report of the Public Draft IS/MND and EA/FONSI in Chapter 4 – Revisions to the Public Draft IS/MND and EA/FONSI.

Comment B-16. Comment Noted. Please see revised text to Section 3.4 – Biological Resources of the Public Draft IS/MND and EA/FONSI in Chapter 4 – Revisions to the Public Draft IS/MND and EA/FONSI.

Comment B-17. Comment Noted. The City understands that for any activity that will divert or obstruct the natural flow, or substantially change or use any material from the bed, bank or channel (which may include associated riparian, wetland and pond habitat) of a river or stream, CDFW may require an LSAA, pursuant to Section 1600 *et seq.* of the Fish and Game Code. As stated in Chapter 2 – Proposed Project Description and Alternatives, any creek crossings will be constructed in the dry season using trenchless construction techniques including micro-tunneling. Specifically, this issue is only likely to occur if the City cannot, for whatever reason, use the existing Shell Oil pipeline and has to construct a new pipeline to cross the flood control channel near the intersection of Depot Road and West Winton Avenue. Specifically, the City will first seek to find an alternative pipeline alignment to avoid crossing the flood control channel or any other water body. If that is not possible, then the City will cross it using trenchless construction techniques such as micro-tunneling. Therefore, the City does not anticipate any impacts that will obstruct the natural flow, or substantially change or use any material from the bed, bank or channel (which may include associated riparian, wetland and pond habitat) of a river or stream.

Comment B-18. Comment Noted. The City understands CDFW’s concerns and appreciates its desire to have additional detail. However, the City is still in the preliminary design phase and needs to complete the CEQA process to begin and develop the final design which will have much more precise data that CDFW is looking for and would be sufficient to obtain any permits from CDFW, if even necessary. The Proposed Project would be located in a highly urbanized environment and the construction of the pipelines would be located within existing paved roadways and is unlikely to have any impacts to any habitat and/or special-status species. The City has conducted a reconnaissance site investigation and did not find any presence of habitat types that would support special-status species. However, due to the fact that there are known occurrences of several special-status species near the location of the Proposed Project and that final design has not been complete and can not be completed until after CEQA approval, the City has proposed several precautionary pre-construction mitigation measures to help ensure that not significant impacts will occur to these special-status species and/or habitat. In addition, the City will still need to do pre-construction surveys immediately prior to construction activities, which is not expected until the spring/summer of 2016 and will likely continue for 18 months into the summer of 2017. Therefore, it does not make sense to conduct these surveys now as things will change and we will have to redo the pre-construction surveys again when construction is about to begin in the spring/summer of 2016. Please be assured that the City will develop this Proposed Project in compliance with existing state and federal laws and acts and if any mitigation measures are implemented, the City will seek to effectively avoid or reduce impacts to native species and their habitats to less-than-significant levels.

Chapter 4 Revisions to the Public Draft IS/MND and EA/FONSI

This chapter shows revisions to the October 24, 2014 Public Draft IS/MND, subsequent to the document's publication and public review. The revisions are presented in the order in which they appear in the Public Draft IS/MND and are identified by section and page number in respective chapters. These revisions are shown as excerpts from the Public Draft IS/MND, with strikethrough (~~strikethrough~~) text to indicate deletions and underlined (underlined) text to indicate additions.

3.4 Biological Resources

Section 3.4 – Biological Resources is hereby revised as follows.

Would the Proposed Project/Action:	<u>Potentially Significant Impact</u>	<u>Less Than Significant With Mitigation Incorporation</u>	<u>Less Than Significant Impact</u>	<u>No Impact</u>
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or U.S. Fish and Wildlife Service (USFWS)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the CDFW or USFWS?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Conservation Community Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

A record search of CDFW's California Natural Diversity Database (CNDDDB) and USFWS' Species List was conducted for the area within a five-mile radius of the Project area to identify previously reported occurrences of state and federal special-status plants and animals. In addition, a field visit of the pipeline alignment was conducted on August 7, 2014 to determine the potential for special-status species to occur within the general vicinity of the Proposed Project/Action Study Area (i.e. Construction Area) as described in Chapter 2 – Project Description. These field visits were not intended to be protocol-level surveys to determine the actual absence or presence of special-status species, but were conducted to determine the potential for special-status species to occur within the Proposed Project/Action Area. No special-status species were observed during the field visits. Figure 4 (**Note: As there are no changes to Figure 4 it is not included in this Final IS/MND**) shows the location of known state and federal listed species within the Project/Action Area. Appendix B provides a summary of the potential for state and federal special status species to occur within the Proposed Project/Action Study Area. Appendix C provides an analysis of the potential for the Proposed Project/Action to adversely effect federal special status species in order to satisfy the requirements for CEQA-Plus and NEPA and the federal resource agencies.

- (a) **Less-than Significant Impact with Mitigation.** The Proposed Project/Action would be primarily constructed within existing roadways in the City and within the City's existing WPCF. While the Proposed Project/Action would occur in a highly urban area, the potential exists that construction activities could have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW and USFWS.

A review of the CDFW's CNDDDB and USFWS' Species List and indicates that there is ~~not~~ potentially suitable potential habitat for Congdon's tarplant (*Centromadia parryi* ssp. *Congdonii*) potentially in or near the Proposed Project Area. There is the potential (albeit very minor) for the construction activities of the Proposed Project/Action to affect the Congdon's tarplant which is a special status plant species California Native Plant Society List 1B.1 (See Appendix B and Figure 4). As a precautionary measure due to the fact that final design has not been established, these potential impacts to the Congdon's tarplant would be minimized to less-than-significant levels with the incorporation of the following mitigation measures and procedures:

BIO-1: Conduct Pre-construction Protocol Level Plant Surveys. Prior to construction the City shall conduct two protocol-level rare plant surveys during the blooming period for these species during the months of May and June. These surveys shall be conducted by a CDFW-approved biologist within and surrounding the Project site according to the methodology described in the Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities. Should any of the Congdon's tarplant or other special-status plant species be present within the construction footprint, CDFW and/or USFWS shall be consulted to develop appropriate mitigation and avoidance measures.

~~However,~~ In addition, there is the potential (albeit very minor) for the construction activities of the Proposed Project/Action to affect the Alameda whipsnake (*Masticophis lateralis euryxanthus*), which is both a federal and state listed species (i.e Threatened). As a precautionary measure due to the fact that final design has not been established, these potential impacts to the Alameda whipsnake would be minimized to less-than-significant levels with the incorporation of the following mitigation measures and procedures:

BIO-1 BIO-2: Conduct Alameda whipsnake Pre-construction Surveys. Prior to construction, the City shall conduct focused pre-construction surveys for the Alameda

whipsnake at all project sites/areas within or directly adjacent to areas identified as having high potential for whipsnake occurrence. Project sites within high potential areas shall be fenced to exclude snakes prior to project implementation. Methods for pre-construction surveys, burrow excavation, and site fencing shall be developed prior to implementation of any project located within or adjacent to areas mapped as having high potential for whipsnake occurrence. Such methods would be developed in consultation or with approval of USFWS for any development taking place in USFWS officially designated Alameda whipsnake critical habitat. Pre-construction surveys of such project sites shall be carried out by a permitted biologist familiar with whipsnake identification and ecology. These are not intended to be protocol-level surveys but designed to clear an area so that individual whipsnakes are not present within a given area prior to initiation of construction. At sites where the project footprint would not be contained entirely within an existing developed area footprint and natural vegetated areas would be disturbed any existing animal burrows shall be carefully hand-excavated to ensure that there are no whipsnakes within the project footprint. Any whipsnakes found during these surveys shall be relocated according to the Alameda Whipsnake Relocation Plan and may require obtaining a “take” permit. Snakes of any other species found during these surveys shall also be relocated out of the project area. Once the site is cleared it shall then be fenced in such a way as to exclude snakes for the duration of the construction activities. Fencing shall be maintained intact throughout the duration of the construction activities. All construction activities shall be performed during daylight hours, or with suitable lighting so that snakes can be seen. Vehicle speed on the construction site shall not exceed 5 miles per hour. In addition, there are numerous mature trees within and adjacent to the proposed pipeline construction activities. Mature trees can serve as perching or nesting sites for migratory birds, including raptors, and their removal can adversely affect breeding behavior.

Also portions of the pipeline could be located adjacent to the Hayward Regional Shoreline wildlife refuge near the intersection of Depot Road and West Winton Avenue). As a result, construction activities could affect the western burrowing owl (*Athene cunicularia*), the California black rail (*Laterallus jamaicensis coturniculus*), the California Clapper rail (*Rallus longirostris obsoletus*), and the California least tern (*Sternula antillarum*). These species may occur within the area, which are protected under the U.S. Fish and Wildlife Service, the California Fish and Wildlife Code and/or the Federal Migratory Bird Treaty Act. Potential impacts to special status birds would be minimized to less-than-significant levels with the incorporation of the following mitigation measures and procedures:

Mitigation Measure ~~BIO-2~~-BIO-3: Conduct Breeding and Nesting Surveys. For construction activities that occur between February 1 and August 31, preconstruction breeding bird surveys shall be conducted by a qualified biologist prior to and within 10 days of any initial ground-disturbance activities. Surveys shall be conducted within all suitable nesting habitat within ~~250~~ 700 feet of the activity. All active, non-status passerine nests identified at that time shall be protected by a 50-foot radius minimum exclusion zone or a wide enough buffer to prevent nest abandonment. Active raptor or special-status species nests shall be protected by a buffer with a minimum radius of ~~200~~ 500 feet. ~~CDFW and USFWS recommend that a minimum 500 foot exclusion buffer be established around active white tailed kite and golden eagle nests.~~ The following considerations apply to this mitigation measure:

- Survey results are valid for 14 days from the survey date. Should ground disturbance commence later than 14 days from the survey date, surveys should be repeated. If no breeding birds are encountered, then work may proceed as planned.
- Exclusion zone sizes may vary, depending on habitat characteristics and species, and are generally larger for raptors and colonial nesting birds. Each exclusion zone would remain in place until the nest is abandoned or all young have fledged.
- The non-breeding season is defined as September 1 to January 31. During this period, breeding is not occurring and surveys are not required. However, if nesting birds are encountered during work activities in the non-breeding season, disturbance activities within a minimum of 50 feet (or wide enough prevent nest abandonment) of the nest should be postponed until the nest is abandoned or young birds have fledged.

~~**Mitigation Measure BIO-3: Conduct Nesting Surveys.** For any construction activities initiated between March 15 and September 1 February 1 and August 31, surveys for nesting special status species are required within 250-700 feet of areas of disturbance. If an active nest is found, a qualified biologist shall monitor the nest during construction activities within 250 feet of the nest to determine whether project construction may result in abandonment. The biologist shall continue monitoring the nest until construction within 250 feet of the nest is completed, or until all chicks have completely fledged. If the monitor determines that construction may result in abandonment of the nest, all construction activities within 250 feet shall be halted until the nest is abandoned or all young have fledged.~~

The implementation of the above mitigation measures would reduce impacts associated with the Proposed Project/Action to a level of less-than-significant. No additional mitigation measures are required.

- (b) **No Impact.** The Proposed Project/Action would not have a substantial adverse effect on riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS. As described in Chapter 2 – Proposed Project Description and Alternatives, the Proposed Project would be located within a highly disturbed urban area and within existing paved roadways. In addition, any creeks or stream crossing would be done using trenchless technologies such as microtunneling, which would avoid any riparian, wetland, or sensitive water body. As a result, no substantial adverse effect on riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS are expected ~~impact is expected~~ and no specific mitigation is required.
- (c) **No Impact.** The Proposed Project/Action would not have an adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means. As described in Chapter 2 – Proposed Project Description and Alternatives, the Proposed Project would be located within a highly disturbed urban area and within existing paved roadways. In addition, any creeks or stream crossing would be done using trenchless technologies such as micro-tunneling, which would avoid any riparian, wetland, or sensitive water body. As a result, no impacts are is expected on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means and no specific mitigation is required.
- (d) **Less-than-Significant Impact with Mitigation.** The Proposed Project/Action would not interfere substantially with the movement of any native resident or migratory fish or wildlife corridors, or impede the use of native wildlife nursery sites. As stated above, the Proposed

Project/Action would be constructed primarily within existing roadways within the City. However, construction activities could adversely affect the Alameda whipsnake, the western Burrowing Owl, the California clapper rail, and the California least tern, and non-listed special-status nesting raptors. Many raptors are sensitive to loud construction noise such as that associated with grading and demolition. Such activities could cause nest abandonment or destruction of individual active raptor nests. Because the Alameda whipsnake is a threatened species under the state and federal lists and the western burrowing owl as well as all raptors and their nests are protected under 3503.5 of the California Fish and Wildlife Code, construction of the Proposed Project/Action could result in a significant impact to these species. However, with the implementation of **Mitigation Measures BIO-1, BIO-2, and BIO-3**, these potential impacts would be reduced to less-than-significant levels.

- (e) **No Impact.** The Proposed Project/Action is not expected to conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. As a result, no impact is expected and no specific mitigation is required.
- (f) **No Impact.** The Proposed Project/Action would not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Conservation Community Plan, or other approved local, regional, or state habitat conservation plan. Therefore, there is no impact and no mitigation is required.

3.6 Geology and Soils

On Page 3-20 Subsection iii) is hereby revised as follows.

- iii) Seismic-related ground failure, including liquefaction. Liquefaction is defined as the transformation of a granular material from a solid state into a liquefied state as a consequence of increased pore pressure and decreased effective stress. Liquefaction typically is caused by strong ground shaking during an earthquake. The potential for liquefaction to occur depends on both the susceptibility of near-surface deposits to liquefaction, and the likelihood that ground motions will exceed a specified threshold level. Much of the city is adjacent to the Hayward fault and thus will be exposed to strong ground shaking during a large earthquake on the fault. The State of California has mapped the distribution of liquefaction hazard within the Hayward area as part of ongoing efforts to implement the statewide Seismic Hazards Mapping Act. A map of liquefaction zones in the City of Hayward can be found on Figure 9-2 – Liquefaction Zones, of the November 2013 Public Review Background Report for the City’s 2040 General Plan. The link for this Report can be found on the City’s website located at <http://www.hayward-ca.gov/GENERALPLAN/>. Areas most susceptible to liquefaction in Hayward are underlain by granular sediments within younger alluvium and include low-lying lands adjacent to creeks and estuaries. However, the Proposed Project/Action does not expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death due to an event causing liquefaction over existing conditions.

3.7 Hazards and Hazardous Materials

On Page 3-24, item (d) is hereby revised as follows.

- (d) **Less than Significant Impact with Mitigation.** The Proposed Project/Action is not located on a site that is known to be included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and therefore would not create a significant hazard to the public or the environment. However, a records search was

conducted using the State of California Department of Toxic Substance Control’s Envirostor Database and GIS mapping system and there are identified hazardous waste or materials within the Proposed Project/Action Area. See website at <http://www.envirostor.dtsc.ca.gov/public/>. However, the Proposed Project/Action pipeline alignment does not appear to pass through any identified hazardous wastes sites or materials. In addition, with the incorporation of **Mitigation Measure HAZ-2**, any potential impacts would be reduced to less than significant levels.

Appendix B – Potential for Special-Status Species to Occur in Project Action Area

The table provided in Appendix B – Potential for Special-Status Species to Occur in Project Action Area is hereby revised as follows.

Appendix B Potential for Special-Status Species to Occur in the Proposed Project/Action Study Area				
Species	Status	Habitat	Potential for Occurrence	Recommendations
Plants				
<i>Amsinckia grandiflora</i> large-flowered fiddleneck	FE, FX, SE	The last remaining native populations are on the grasslands near Lawrence Livermore National Laboratory in Alameda County, California. Other populations have been established in nearby protected areas.	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.
<i>Arctostaphylos myrtifolia</i> lone manzanita	FT	It is endemic to the Sierra Nevada foothills of California . It grows in the chaparral and woodland plant community on a distinctive acidic soil series in western Amador and Calaveras Counties .	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.
<i>Arctostaphylos pallida</i> pallid manzanita (=Alameda or Oakland Hills manzanita)	FT, SE	The plants are found in manzanita chaparral habitat of the montane chaparral and woodlands ecosystem, and is frequently surrounded by oak woodlands and other chaparral shrubs.	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.
<i>Atriplex joaquinana</i> San Joaquin spearscale	1B.2	It is endemic to California, where it grows in alkaline soils in the Sacramento-San Joaquin River Delta and adjacent parts of the Central Valley and eastern Central Coast Ranges.	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.
<i>Castillija campestris</i> Owl’s-clover	FT	It is found only in vernal pools along the rolling lower foothills and valleys along the eastern San Joaquin Valley in the Southern Sierra Foothills Vernal Pool Region.	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.
<i>Centromadia parri</i> ssp. <i>Congdonii</i> Congdon’s tarplant	1b.1	It is an annual herb that is native and limited to California .	Moderate. Suitable habitat may be present in or near the Study	Conduct Pre-construction surveys.

Appendix B Potential for Special-Status Species to Occur in the Proposed Project/Action Study Area				
Species	Status	Habitat	Potential for Occurrence	Recommendations
<i>Chorizanthe robusta</i> var. <i>robusta</i> robust spineflower	FE	Known only from southern Santa Cruz and Monterey Counties.	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.
<i>Clarkia franciscana</i> Presidio clarkia	FE, SE	It is endemic to the San Francisco Bay Area of California, where it is known only from two populations at the Presidio of San Francisco and three occurrences in Oakland.	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.
<i>Cordylanthus palmatus</i> palmate-bracted bird's-beak	FE, SE	It is endemic to the Central Valley of California, where it is known from a few remaining occurrences in the rare alkali sink habitat type. The plant is limited to seasonally-flooded flats with saline and alkaline soils, where it grows with other halophytes such as iodine bush and alkali heath.	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.
<i>Eriogonum apricum</i> lone Buckwheat	FE	lone buckwheat is only known to occur in Amador County. One occurrence is on Bureau of Land Management land, and one is on CDFW-owned Apricum Hill Ecological Reserve. The remaining occurrences are on privately owned land and are not afforded any permanent protections.	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.
<i>Eriogonum prostratum</i> Irish Hill Buckwheat	FE	Can be found on barren surfaces, and sometimes colonizes disturbed sites, often with little, if any other vegetation present. At the time of this webpage posting, the California Natural Diversity Database lists two occurrences of Irish Hill buckwheat, one at Irish Hill in Amador County and one to the north of Irish Hill. Both of these occurrences are on private property and their status is largely unknown.	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.
<i>Holocarpha macradenia</i> Santa Cruz tarplant	FT, FX, SE	Inhabits terraced locations of coastal or valley prairie grasslands with underlying sandy clay soils.	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.

Appendix B				
Potential for Special-Status Species to Occur in the Proposed Project/Action Study Area				
Species	Status	Habitat	Potential for Occurrence	Recommendations
<i>Lasthenia conjugens</i> Contra Costa goldfields	FE, RP, List 1B	Mesic sites in cismontane woodland, alkaline playas, valley and foothill grassland. Vernal pools, swales, or low depressions. 1-445 m. Blooms March-June.	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.
<i>Layia carnosa</i> beach layia	FE, SE	It is endemic to California, where it lives in beach habitat.	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.
<i>Orcuttia viscida</i> Sacramento Orcutt grass	FE, FX	It is endemic to Sacramento County, California , where it grows only in vernal pools , a rare and declining type of habitat. As of 1997, two of the nine known populations had been extirpated as habitat has been consumed for urban development, and it was federally listed as an endangered species . Since it's listing, one additional occurrence of the plant has been discovered, for a total of eight extant populations.	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.
<i>Plagiobothrys glaber</i> hairless popcornflower	1A	Presumed Extinct in California	Unlikely. Presumed extinct in California	No further actions are recommended for this species.
<i>Suaeda californica</i> California sea blite	FE	Confined to saline or alkaline soil habitats, such as coastal salt-flats and tidal wetlands.	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.
Mammals				
<i>Martes pennanti</i> fisher	FC	The fisher is a forest-dwelling creature whose range covers much of the boreal forest in Canada to the northern fringes of the United States .	Unlikely. Site is regularly disturbed by human activity.	No further actions are recommended for this species.
<i>Reithrodontomys raviventris</i> Salt-marsh Harvest Mouse	FE, SE	Primary habitat in pickleweed dominated saline emergent marshes of San Francisco Bay. Require adjacent upland areas for escape from high tides.	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.
<i>Vulpes macrotis mutica</i> San Joaquin kit fox	FE	Kit foxes favor arid climates, such as desert scrub, chaparral, and grasslands. Good examples of common	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.

Appendix B Potential for Special-Status Species to Occur in the Proposed Project/Action Study Area				
Species	Status	Habitat	Potential for Occurrence	Recommendations
		habitats are sagebrush <i>Artemisia tridentata</i> and saltbrush <i>Atriplex polycarpa</i> . They can be found in urban and agricultural areas, too.		
Birds				
<i>Athene cunicularia</i> burrowing owl	CSC	Burrowing Owls can be found in grasslands, rangelands, agricultural areas, deserts, or any other open dry area with low vegetation.	Moderate. Potential exists that they could be located in open spaces near construction activities.	Conduct Pre-construction nesting and breeding surveys.
<i>Charadrius alexandrinus nivosus</i> Western Snowy Plover	FT, CSC, BCC, RP	(Nesting) Federal listing applies only to the Pacific coastal population. Found on sandy beaches, salt pond levees and shores of large alkali lakes. Requires sandy, gravelly or friable soils for nesting.	Unlikely. Suitable open nesting habitat is not present in the Study Area.	No further actions are recommended for this species.
<i>Laterallus Jamaicensis coturniculus</i> California black rail	FE, ST	Usually found in coastal salt marshes but also in some freshwater marshes.	Moderate. Suitable habitat may be present near the Study Area and in the Hayward Regional Shoreline wildlife refuge.	Conduct Pre-construction surveys.
<i>Pelecanus occidentalis californicus</i> California Brown Pelican	FE, SE	Found in estuarine, marine subtidal, and marine pelagic waters along the coast. Nest on rocky or low brushy slopes of undisturbed islands.	Unlikely. Suitable estuarine and subtidal areas not present in the Study Area.	No further actions are recommended for this species.
<i>Rallus longirostris obsoletus</i> California Clapper Rail	FE, SE	Found in tidal salt marshes of the San Francisco Bay. Requires mudflats for foraging and dense vegetation on higher ground for nesting.	Moderate. Suitable habitat may be present near the Study Area and in the Hayward Regional Shoreline wildlife refuge.	Conduct Pre-construction surveys.
<i>Sternula antillarum</i> (=Sterna, =albifrons) <i>browni</i> California least tern	FE	The California Least Tern hunts primarily in shallow estuaries and lagoons, where smaller fishes are abundant.	Moderate. Suitable habitat may be present near the Study Area and in the Hayward Regional Shoreline wildlife refuge.	Conduct Pre-construction surveys.
<i>Strix occidentalis caurina</i> Northern spotted owl	FT	The northern spotted owl primarily inhabits old growth forests . The species' range is the Pacific coast from extreme southern British Columbia	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.

Appendix B Potential for Special-Status Species to Occur in the Proposed Project/Action Study Area				
Species	Status	Habitat	Potential for Occurrence	Recommendations
		to Marin County in northern California.		
Reptiles				
<i>Masticophis lateralis euryxanthus</i> Alameda whipsnake	FT, ST, X	The California whipsnake, <i>Masticophis lateralis</i> , is known to utilize a wide range of habitat types including open desert, California oak woodland, pine forest, chaparral, and associated open landscape habitats.	Moderate. Suitable habitat may be present in the Study Area.	Conduct Pre-construction surveys.
<i>Thamnophis gigas</i> Giant garter snake	FT	Generally inhabits marshes, sloughs, ponds, slow moving streams, ditches, and rice fields which have water from early spring through mid-fall, emergent vegetation, open areas and high ground for hibernation and escape cover.	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.
<i>Thamnophis sirtalis tetrataenia</i> San Francisco garter snake	FE	It is endemic to San Mateo County and the extreme northern part of coastal Santa Cruz County in California.	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.
Amphibians				
<i>Ambystoma californiense</i> California Tiger Salamander	FT, FX, CSC	Inhabits annual grass habitat and mammal burrows. Seasonal ponds and vernal pools crucial to breeding.	Unlikely. Annual grassland habitat is limited in the Study Area.	No further actions are recommended for this species.
<i>Anaxyrus canorus</i> Yosemite toad	FPX	Endemic to the Sierra Nevada of California, the species ranges from the montane forests of El Dorado County near Lake Tahoe south to subalpine Fresno County near Tehipite Valley in Kings Canyon. Yosemite toads show a narrow elevational distribution from 6,200 feet to 11,300 feet.	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.
<i>Rana aurora draytonii</i> California Red-legged Frog	FT, FX, CSC	Associated with quiet perennial to intermittent ponds, stream pools and wetlands. Prefers shorelines with extensive vegetation. Documented to disperse through upland habitats after rains.	Unlikely. Freshwater habitat in the Study Area is unlikely to provide suitable habitat for this species.	No further actions are recommended for this species.

Appendix B Potential for Special-Status Species to Occur in the Proposed Project/Action Study Area				
Species	Status	Habitat	Potential for Occurrence	Recommendations
<i>Rana sierrae</i> Mountain yellow legged frog	FPX	Occurs in the mountain ranges of Southern California up to the southern Sierra Nevada .	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.
Fish				
<i>Acipenser medirostris</i> Green sturgeon	FT, NMFS	Adults spawn in freshwater and then return to estuarine or marine environments. Preferred spawning habitat occurs in the lower reaches of large rivers with swift currents and large cobble.	Unlikely. No suitable habitat occurs within the Study Area.	No further actions are recommended for this species.
<i>Eucyclogobius newberryi</i> Tidewater goby	FE	Shallow waters of bays and estuaries.	Unlikely. No suitable habitat occurs within the Study Area.	No further actions are recommended for this species.
<i>Hypomesus transpacificus</i> Delta smelt	FT, FX	Found in large, main channels and open areas of the Bay. Occur from tidal freshwater reaches of the Delta west to eastern San Pablo Bay.	Unlikely. No suitable habitat occurs within the Study Area.	No further actions are recommended for this species.
<i>Oncorhynchus clarki henshawi</i> Lahontan cutthroat trout	FT	The Lahontan cutthroat is native to the drainages of the Truckee River , Humboldt River , Carson River , Walker River , Quinn River and several smaller rivers in the Great Basin of North America .	Unlikely. No suitable habitat occurs within the Study Area.	No further actions are recommended for this species.
<i>Oncorhynchus kisutch</i> Coho salmon - central CA coast	FE, NMFS	Central and northern Calif. Coastal rivers and drainages.	Unlikely. Believed to be extirpated from San Francisco Bay drainages.	No further actions are recommended for this species.
<i>Oncorhynchus mykiss</i> Steelhead, Central California Coast and Central Valley	FT, FX, CSC	Drainages of San Francisco and San Pablo bays, central Calif. Coastal rivers.	Unlikely. No suitable habitat occurs within the Study Area.	No further actions are recommended for this species.
<i>Oncorhynchus tshawytscha</i> Central Valley spring-run chinook salmon	FT, FX NMFS	Spawns in the Sacramento and San Joaquin Rivers and their tributaries.	Unlikely. No suitable habitat occurs within the Study Area.	No further actions are recommended for this species.
<i>Oncorhynchus tshawytscha</i> Winter-run chinook salmon, Sacramento River	CSC, FE, FX, NMFS	Populations spawning in the Sacramento and San Joaquin Rivers and their tributaries. Adults migrate upstream to spawn in cool, clear, well-oxygenated streams. Juveniles remain in fresh water for 1 or more years before migrating	Unlikely. No suitable habitat occurs within the Study Area.	No further actions are recommended for this species.

Appendix B Potential for Special-Status Species to Occur in the Proposed Project/Action Study Area				
Species	Status	Habitat	Potential for Occurrence	Recommendations
		downstream to the ocean.		
Invertebrates				
<i>Branchinecta conservatio</i> Conservancy fairy shrimp	FE	Inhabit highly turbid water in vernal pools. Known from six populations in the northern central valley.	Unlikely. Suitable vernal pool habitat is not present in the Study Area.	No further actions are recommended for this species.
<i>Branchinecta longiantenna</i> Longhorn pool fairy shrimp	FE, FX	Inhabit small, clear-water sandstone depression pools, grassy swales, slumps, or basalt-flow depression pools.	Unlikely. Suitable vernal pool habitat is not present in the Study Area.	No further actions are recommended for this species.
<i>Branchinecta lynchi</i> Vernal pool fairy shrimp	FT	Inhabit small, clear-water sandstone depression pools, grassy swales, slumps, or basalt-flow depression pools.	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.
<i>Desmocerus californicus dimorphus</i> Valley elderberry longhorn beetle	FT	Occurs in the Central Valley region in association with blue elderberry shrubs. Prefers to lay eggs in elderberry stems greater than 1" in diameter.	Unlikely. No elderberry shrubs were identified in the Study Area and suitable habitat is not present.	No further actions are recommended for this species.
<i>Euphydryas editha bayensis</i> bay checkerspot butterfly	FT	Today the only populations known inhabit areas of Santa Clara County.	Unlikely. Suitable habitat is not present in the Study Area.	No further actions are recommended for this species.
<i>Icaricia icarioides missionensis</i> Mission Blue butterfly	FE	The Mission Blue depends on a very specific host plant called the lupine.	Unlikely. Suitable habitat is not present in the Study Area.	No further actions are recommended for this species.
<i>Lepidurus packardii</i> Vernal pool tadpole shrimp	FE	Pools commonly found in grass bottomed swales of unplowed grasslands. Some pools are mudbottomed and highly turbid.	Unlikely. Suitable vernal pool habitat is not present in the Study Area.	No further actions are recommended for this species.
<i>Speyeria callippe callippe</i> Callippe silverspot butterfly	FE	Historically inhabited grasslands ranging over much of the northern San Francisco Bay region, but eventually was known to occur on the east and western sides of San Francisco Bay.	Unlikely. The only known colony now is on San Bruno Mountain on the San Francisco peninsula.	No further actions are recommended for this species.

Key to status codes:

FE Federal Endangered

FT Federal Threatened

FX Federal Critical Habitat

- FC Federal Candidate
- FD Federal De-listed
- FPD Federal Proposed for De-listing
- FPT Federal Proposed Threatened
- FPX Federal Proposed Critical Habitat
- NMFS Species under the Jurisdiction of the National Marine Fisheries Service
- BCC USFWS Birds of Conservation Concern
- RP Sensitive species included in a USFWS Recovery Plan or Draft Recovery Plan
- SE State Endangered
- ST State Threatened
- SR State Rare
- CSC CDFW Species of Special Concern
- Draft CSC 4 April 2000 Draft CDFW Species of Special Concern
- CFP CDFW Fully Protected Animal
- WBWG Western Bat Working Group High Priority species
- SLC Species of Local Concern
- List 1A CNPS List 1A: Plants presumed extinct in California
- List 1B CNPS List 1B: Plants rare, threatened or endangered in California and elsewhere
- List 2 CNPS List 2: Plants rare, threatened, or endangered in California, but more common elsewhere
- List 3 CNPS List 3: Plants about which CNPS needs more information (a review list)

Appendix C – Federally-Listed Biological Resources Assessment Report

Starting on Page 22, Table 3- Potential for Special-Status Species to Occur in the Proposed Project/Action Study Area is hereby revised as follows.

Species	Status	Habitat	Potential for Occurrence	Recommendations
Plants				
<i>Amsinckia grandiflora</i> large-flowered fiddleneck	FE, FX, SE	The last remaining native populations are on the grasslands near Lawrence Livermore National Laboratory in Alameda County, California. Other populations have been established in nearby protected areas.	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.
<i>Arctostaphylos myrtifolia</i> lone manzanita	FT	It is <u>endemic</u> to the Sierra Nevada foothills of California . It grows in the chaparral and woodland plant community on a distinctive acidic soil series in western Amador and Calaveras Counties .	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.
<i>Arctostaphylos pallida</i> pallid manzanita (=Alameda or Oakland Hills manzanita)	FT, SE	The plants are found in manzanita chaparral habitat of the montane chaparral and woodlands ecosystem, and is frequently surrounded by oak woodlands and other chaparral shrubs.	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.
<i>Atriplex joaquinana</i> San Joaquin spearscale	1B.2	It is endemic to California, where it grows in alkaline	Unlikely. Suitable habitat not present in	No further actions are recommended

Table 3 Potential for Special-Status Species to Occur in the Proposed Project/Action Study Area				
Species	Status	Habitat	Potential for Occurrence	Recommendations
		soils in the Sacramento-San Joaquin River Delta and adjacent parts of the Central Valley and eastern Central Coast Ranges.	the Study Area.	for this species.
<i>Castilleja campestris</i> Owl's-clover	FT	It is found only in vernal pools along the rolling lower foothills and valleys along the eastern San Joaquin Valley in the Southern Sierra Foothills Vernal Pool Region.	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.
<i>Centromadia parri</i> ssp. <i>Congdonii</i> Congdon's tarplant	1b.1	It is an annual herb that is native and limited to California.	Moderate. Suitable habitat may be present in or near the Study Area.	Conduct Pre-construction surveys.
<i>Chorizanthe robusta</i> var. <i>robusta</i> robust spineflower	FE	Known only from southern Santa Cruz and Monterey Counties.	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.
<i>Clarkia franciscana</i> Presidio clarkia	FE, SE	It is endemic to the San Francisco Bay Area of California, where it is known only from two populations at the Presidio of San Francisco and three occurrences in Oakland.	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.
<i>Cordylanthus palmatus</i> palmate-bracted bird's-beak	FE, SE	It is endemic to the Central Valley of California, where it is known from a few remaining occurrences in the rare alkali sink habitat type. The plant is limited to seasonally-flooded flats with saline and alkaline soils, where it grows with other halophytes such as iodine bush and alkali heath.	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.
<i>Eriogonum apricum</i> lone Buckwheat	FE	lone buckwheat is only known to occur in Amador County. One occurrence is on Bureau of Land Management land, and one is on CDFW-owned Apricum Hill Ecological Reserve. The remaining occurrences are on privately owned land and are not afforded any permanent protections.	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.
<i>Eriogonum prostratum</i> Irish Hill Buckwheat	FE	Can be found on barren surfaces, and sometimes colonizes disturbed sites, often with little, if any other vegetation present. At the time of this	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.

Table 3 Potential for Special-Status Species to Occur in the Proposed Project/Action Study Area				
Species	Status	Habitat	Potential for Occurrence	Recommendations
		webpage posting, the California Natural Diversity Database lists two occurrences of Irish Hill buckwheat, one at Irish Hill in Amador County and one to the north of Irish Hill. Both of these occurrences are on private property and their status is largely unknown.		
<i>Holocarpha macradenia</i> Santa Cruz tarplant	FT, FX, SE	Inhabits terraced locations of coastal or valley prairie grasslands with underlying sandy clay soils.	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.
<i>Lasthenia conjugens</i> Contra Costa goldfields	FE, RP, List 1B	Mesic sites in cismontane woodland, alkaline playas, valley and foothill grassland. Vernal pools, swales, or low depressions. 1-445 m. Blooms March-June.	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.
<i>Layia carnosa</i> beach layia	FE, SE	It is endemic to California, where it lives in beach habitat.	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.
<i>Orcuttia viscida</i> Sacramento Orcutt grass	FE, FX	It is endemic to Sacramento County, California , where it grows only in vernal pools , a rare and declining type of habitat. As of 1997, two of the nine known populations had been extirpated as habitat has been consumed for urban development, and it was federally listed as an endangered species . Since it's listing, one additional occurrence of the plant has been discovered, for a total of eight extant populations.	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.
<i>Plagiobothrys glaber</i> hairless popcornflower	1A	Presumed Extinct in California	Unlikely. Presumed extinct in California	No further actions are recommended for this species.
<i>Suaeda californica</i> California sea blite	FE	Confined to saline or alkaline soil habitats, such as coastal salt-flats and tidal wetlands.	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.
Mammals				
<i>Martes pennanti</i> fisher	FC	The fisher is a forest-dwelling creature whose range covers much of the boreal forest in Canada to	Unlikely. Site is regularly disturbed by human activity.	No further actions are recommended for this species.

Table 3 Potential for Special-Status Species to Occur in the Proposed Project/Action Study Area				
Species	Status	Habitat	Potential for Occurrence	Recommendations
		the northern fringes of the United States .		
<i>Reithrodontomys raviventris</i> Salt-marsh Harvest Mouse	FE, SE	Primary habitat in pickleweed dominated saline emergent marshes of San Francisco Bay. Require adjacent upland areas for escape from high tides.	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.
<i>Vulpes macrotis mutica</i> San Joaquin kit fox	FE	Kit foxes favor arid climates, such as desert scrub, chaparral, and grasslands. Good examples of common habitats are sagebrush <i>Artemisia tridentata</i> and saltbrush <i>Atriplex polycarpa</i> . They can be found in urban and agricultural areas, too.	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.
Birds				
<i>Athene cunicularia</i> burrowing owl	CSC	Burrowing Owls can be found in grasslands, rangelands, agricultural areas, deserts, or any other open dry area with low vegetation.	Moderate. Potential exists that they could be located in open spaces near construction activities.	Conduct Pre-construction nesting and breeding surveys.
<i>Charadrius alexandrinus nivosus</i> Western Snowy Plover	FT, CSC, BCC, RP	(Nesting) Federal listing applies only to the Pacific coastal population. Found on sandy beaches, salt pond levees and shores of large alkali lakes. Requires sandy, gravelly or friable soils for nesting.	Unlikely. Suitable open nesting habitat is not present in the Study Area.	No further actions are recommended for this species.
<i>Laterallus Jamaicensis coturniculus</i> California black rail	<u>FE, ST</u>	Usually found in coastal salt marshes but also in some freshwater marshes.	Moderate. Suitable habitat may be present near the Study Area and in the Hayward Regional Shoreline wildlife refuge.	Conduct Pre-construction surveys.
<i>Pelecanus occidentalis californicus</i> California Brown Pelican	FE, SE	Found in estuarine, marine subtidal, and marine pelagic waters along the coast. Nest on rocky or low brushy slopes of undisturbed islands.	Unlikely. Suitable estuarine and subtidal areas not present in the Study Area.	No further actions are recommended for this species.
<i>Rallus longirostris obsoletus</i> California Clapper Rail	FE, SE	Found in tidal salt marshes of the San Francisco Bay. Requires mudflats for foraging and dense vegetation on	Moderate. Suitable habitat may be present near the Study Area and in the Hayward Regional Shoreline	Conduct Pre-construction surveys.

Table 3 Potential for Special-Status Species to Occur in the Proposed Project/Action Study Area				
Species	Status	Habitat	Potential for Occurrence	Recommendations
		higher ground for nesting.	wildlife refuge.	
<i>Sternula antillarum</i> (= <i>Sterna</i> , = <i>albigrons</i>) <i>browni</i> California least tern	FE	The California Least Tern hunts primarily in shallow estuaries and lagoons, where smaller fishes are abundant.	Moderate. Suitable habitat may be present near the Study Area and in the Hayward Regional Shoreline wildlife refuge.	Conduct Pre-construction surveys.
<i>Strix occidentalis caurina</i> Northern spotted owl	FT	The northern spotted owl primarily inhabits old growth forests . The species' range is the Pacific coast from extreme southern British Columbia to Marin County in northern California.	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.
Reptiles				
<i>Masticophis lateralis euryxanthus</i> Alameda whipsnake	FT, ST, X	The California whipsnake, <i>Masticophis lateralis</i> , is known to utilize a wide range of habitat types including open desert, California oak woodland, pine forest, chaparral, and associated open landscape habitats.	Moderate. Suitable habitat may be present in the Study Area.	Conduct Pre-construction surveys.
<i>Thamnophis gigas</i> Giant garter snake	FT	Generally inhabits marshes, sloughs, ponds, slow moving streams, ditches, and rice fields which have water from early spring through mid-fall, emergent vegetation, open areas and high ground for hibernation and escape cover.	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.
<i>Thamnophis sirtalis tetrataenia</i> San Francisco garter snake	FE	It is endemic to San Mateo County and the extreme northern part of coastal Santa Cruz County in California.	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.
Amphibians				
<i>Ambystoma californiense</i> California Tiger Salamander	FT, FX, CSC	Inhabits annual grass habitat and mammal burrows. Seasonal ponds and vernal pools crucial to breeding.	Unlikely. Annual grassland habitat is limited in the Study Area.	No further actions are recommended for this species.
<i>Anaxyrus canorus</i> Yosemite toad	FPX	Endemic to the Sierra Nevada of California, the species ranges from the montane forests of El Dorado County near Lake Tahoe south to subalpine Fresno County near	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.

Table 3 Potential for Special-Status Species to Occur in the Proposed Project/Action Study Area				
Species	Status	Habitat	Potential for Occurrence	Recommendations
		Tehipite Valley in Kings Canyon. Yosemite toads show a narrow elevational distribution from 6,200 feet to 11,300 feet.		
<i>Rana aurora draytonii</i> California Red-legged Frog	FT, FX, CSC	Associated with quiet perennial to intermittent ponds, stream pools and wetlands. Prefers shorelines with extensive vegetation. Documented to disperse through upland habitats after rains.	Unlikely. Freshwater habitat in the Study Area is unlikely to provide suitable habitat for this species.	No further actions are recommended for this species
<i>Rana sierrae</i> Mountain yellow legged frog	FPX	Occurs in the mountain ranges of Southern California up to the southern Sierra Nevada .	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.
Fish				
<i>Acipenser medirostris</i> Green sturgeon	FT, NMFS	Adults spawn in freshwater and then return to estuarine or marine environments. Preferred spawning habitat occurs in the lower reaches of large rivers with swift currents and large cobble.	Unlikely. No suitable habitat occurs within the Study Area.	No further actions are recommended for this species.
<i>Eucyclogobius newberryi</i> Tidewater goby	FE	Shallow waters of bays and estuaries.	Unlikely. No suitable habitat occurs within the Study Area.	No further actions are recommended for this species.
<i>Hypomesus transpacificus</i> Delta smelt	FT, FX	Found in large, main channels and open areas of the Bay. Occur from tidal freshwater reaches of the Delta west to eastern San Pablo Bay.	Unlikely. No suitable habitat occurs within the Study Area.	No further actions are recommended for this species.
<i>Oncorhynchus clarki henshawi</i> Lahontan cutthroat trout	FT	The Lahontan cutthroat is native to the drainages of the Truckee River , Humboldt River , Carson River , Walker River , Quinn River and several smaller rivers in the Great Basin of North America .	Unlikely. No suitable habitat occurs within the Study Area.	No further actions are recommended for this species.
<i>Oncorhynchus kisutch</i> Coho salmon - central CA coast	FE, NMFS	Central and northern Calif. Coastal rivers and drainages.	Unlikely. Believed to be extirpated from San Francisco Bay drainages.	No further actions are recommended for this species.
<i>Oncorhynchus mykiss</i> Steelhead, Central California Coast and Central Valley	FT, FX, CSC	Drainages of San Francisco and San Pablo bays, central Calif. Coastal rivers.	Unlikely. No suitable habitat occurs within the Study Area.	No further actions are recommended for this species.
<i>Oncorhynchus</i>	FT, FX	Spawns in the	Unlikely. No suitable	No further actions

Table 3 Potential for Special-Status Species to Occur in the Proposed Project/Action Study Area				
Species	Status	Habitat	Potential for Occurrence	Recommendations
<i>tshawytscha</i> Central Valley spring-run chinook salmon	NMFS	Sacramento and San Joaquin Rivers and their tributaries.	habitat occurs within the Study Area.	are recommended for this species.
<i>Oncorhynchus tshawytscha</i> Winter-run chinook salmon, Sacramento River	CSC, FE, FX, NMFS	Populations spawning in the Sacramento and San Joaquin Rivers and their tributaries. Adults migrate upstream to spawn in cool, clear, well-oxygenated streams. Juveniles remain in fresh water for 1 or more years before migrating downstream to the ocean.	Unlikely. No suitable habitat occurs within the Study Area.	No further actions are recommended for this species.
Invertebrates				
<i>Branchinecta conservatio</i> Conservancy fairy shrimp	FE	Inhabit highly turbid water in vernal pools. Known from six populations in the northern central valley.	Unlikely. Suitable vernal pool habitat is not present in the Study Area.	No further actions are recommended for this species.
<i>Branchinecta longiantenna</i> Longhorn pool fairy shrimp	FE, FX	Inhabit small, clear-water sandstone depression pools, grassy swales, slumps, or basalt-flow depression pools.	Unlikely. Suitable vernal pool habitat is not present in the Study Area.	No further actions are recommended for this species.
<i>Branchinecta lynchi</i> Vernal pool fairy shrimp	FT	Inhabit small, clear-water sandstone depression pools, grassy swales, slumps, or basalt-flow depression pools.	Unlikely. Suitable habitat not present in the Study Area.	No further actions are recommended for this species.
<i>Desmocerus californicus dimorphus</i> Valley elderberry longhorn beetle	FT	Occurs in the Central Valley region in association with blue elderberry shrubs. Prefers to lay eggs in elderberry stems greater than 1" in diameter.	Unlikely. No elderberry shrubs were identified in the Study Area and suitable habitat is not present.	No further actions are recommended for this species.
<i>Euphydryas editha bayensis</i> bay checkerspot butterfly	FT	Today the only populations known inhabit areas of Santa Clara County.	Unlikely. Suitable habitat is not present in the Study Area.	No further actions are recommended for this species.
<i>Icaricia icarioides missionensis</i> Mission Blue butterfly	FE	The Mission Blue depends on a very specific host plant called the lupine.	Unlikely. Suitable habitat is not present in the Study Area.	No further actions are recommended for this species.
<i>Lepidurus packardii</i> Vernal pool tadpole shrimp	FE	Pools commonly found in grass bottomed swales of unplowed grasslands. Some pools are mudbottomed and highly turbid.	Unlikely. Suitable vernal pool habitat is not present in the Study Area.	No further actions are recommended for this species.

Species	Status	Habitat	Potential for Occurrence	Recommendations
<i>Speyeria callippe callippe</i> Callippe silverspot butterfly	FE	Historically inhabited grasslands ranging over much of the northern San Francisco Bay region, but eventually was known to occur on the east and western sides of San Francisco Bay.	Unlikely. The only known colony now is on San Bruno Mountain on the San Francisco peninsula.	No further actions are recommended for this species.

Key to status codes:

- FE Federal Endangered
- FT Federal Threatened
- FX Federal Critical Habitat
- FC Federal Candidate
- FD Federal De-listed
- FPD Federal Proposed for De-listing
- FPT Federal Proposed Threatened
- FPX Federal Proposed Critical Habitat
- NMFS Species under the Jurisdiction of the National Marine Fisheries Service
- BCC USFWS Birds of Conservation Concern
- RP Sensitive species included in a USFWS Recovery Plan or Draft Recovery Plan
- SE State Endangered
- ST State Threatened
- SR State Rare
- CSC CDFW Species of Special Concern
- Draft CSC 4 April 2000 Draft CDFW Species of Special Concern
- CFP CDFW Fully Protected Animal
- WBWG Western Bat Working Group High Priority species
- SLC Species of Local Concern
- List 1A CNPS List 1A: Plants presumed extinct in California
- List 1B CNPS List 1B: Plants rare, threatened or endangered in California and elsewhere
- List 2 CNPS List 2: Plants rare, threatened, or endangered in California, but more common elsewhere
- List 3 CNPS List 3: Plants about which CNPS needs more information (a review list)

4.1 Effects to Federally Listed Species and Habitat

Starting on Page 30, the text in this section is hereby revised as follows.

This section describes the potential direct, indirect, and cumulative effects the Proposed Action may have to those species identified in Section 3.0 as having a medium or higher potential to occur within the Action Area. Potential species and habitats deemed to be absent or unlikely to occur are not discussed further below. Possible interrelated and interdependent actions to the Proposed Action are also discussed. Potential effects are defined as follows.

- **Direct Effect.** Those effects generated directly from the Proposed Action, such as an incidental take during construction and elimination of suitable habitat due to construction (50CFR 402.02)

- **Indirect Effect.** Those effects that are caused by the Proposed Action and are later in time, such as the discharge of sediment or chemicals that may adversely affect water quality downstream of the Action Area (50 CFR 402.02).
- **Cumulative Effect.** Effects of future state or private activities that are reasonably certain to occur within the Proposed Action Area (50 CFR 402.02).
- **Interrelated Actions.** Those actions that are part of, and dependent upon, a larger action (50 CFR 402.02).
- **Interdependent Actions.** Actions that have no independent utility apart from the Proposed Action (50 CFR 402.02).

Construction of the Proposed Action could likely have temporary direct effects to federal threatened and endangered species and habitat. The Proposed Action could also incidentally take listed species if they are present in the Action Area during construction activities. However, following construction, the Proposed Action would not have any adverse effects on federally listed species and habitats. Summarized below are the potential effects on federally listed species and recommended measures to reduce and/or avoid these potential adverse effects.

Birds

Athene cunicularia - burrowing owl

Species Overview

The burrowing owl occurs in dry, open grasslands on flat or rolling terrain; desert; scrubland or any other terrain dominated by low-growing vegetation. Burrowing owls use the abandoned burrows of ground-dwelling mammals such as ground squirrels, badgers, prairie dogs or hares. The CNDDDB indicates an occurrence within the immediate vicinity of the project area. The burrowing owl is listed by the CDFW as a species of special concern and is also covered by the Federal Migratory Bird Treaty Act.

Direct and Indirect Effects

If construction is required to replace the Shell Oil Pipeline, construction activities could directly or indirectly impact owls or their burrows if they are near the site. The CDFW guidelines describe three types of impacts:

- Disturbance or harassment within 50 meters (approx. 160 ft.) of occupied burrows.
- Destruction of burrows and burrow entrances. Burrows include structures such as culverts, concrete slabs and debris piles that provide shelter to burrowing owls.
- Degradation of foraging habitat adjacent to occupied burrows.

To mitigate for potential impacts to burrowing owls, mitigation measures are presented below that would bring the potential impact to this species to a less-than-significant level.

- **Conduct Breeding and Nesting Surveys.** For construction activities that occur between February 1 and August 31, preconstruction breeding bird surveys shall be conducted by a qualified biologist prior to and within 10 days of any initial ground-disturbance activities. Surveys shall be conducted within all suitable nesting habitat within ~~250~~ 700 feet of the activity. All active, non-status passerine nests identified at that time shall be protected by a 50-foot radius minimum exclusion zone or a wide enough buffer to prevent nest abandonment. Active raptor or special-status species nests shall be protected by a buffer

with a minimum radius of ~~200~~ 500 feet. ~~CDFW and USFWS recommend that a minimum 500-foot exclusion buffer be established around active white-tailed kite and golden eagle nests.~~ The following considerations apply to this mitigation measure:

- Survey results are valid for 14 days from the survey date. Should ground disturbance commence later than 14 days from the survey date, surveys should be repeated. If no breeding birds are encountered, then work may proceed as planned.
 - Exclusion zone sizes may vary, depending on habitat characteristics and species, and are generally larger for raptors and colonial nesting birds. Each exclusion zone would remain in place until the nest is abandoned or all young have fledged.
 - The non-breeding season is defined as September 1 to January 31. During this period, breeding is not occurring and surveys are not required. However, if nesting birds are encountered during work activities in the non-breeding season, disturbance activities within a minimum of 50 feet (or wide enough prevent nest abandonment) of the nest should be postponed until the nest is abandoned or young birds have fledged.
- ~~• **Conduct Nesting Surveys.** For any construction activities initiated between March 15 and September 1, surveys for nesting western burrowing owls and/or raptors are required within 250 feet of areas of disturbance. If an active nest is found, a qualified biologist shall monitor the nest during construction activities within 250 feet of the nest to determine whether project construction may result in abandonment. The monitor shall continue monitoring the nest until construction within 250 feet of the nest is completed, or until all chicks have completely fledged. If the monitor determines that construction may result in abandonment of the nest, all construction activities within 250 feet should be halted until the nest is abandoned or all young have fledged.~~

The implementation of the above mitigation measures would reduce impacts associated with the Proposed Action to a level of less-than-significant. No additional mitigation measures are required.

Cumulative Effects

Further, the Proposed Action is unlikely to have significant cumulative effects on this species or its supporting habitat. No other known development is currently planned in the Proposed Action Area that would remove or further degrade habitat in the vicinity of Proposed Action Area. In addition, the Proposed Action would not have any long-term effects to habitat quality in the region after construction is completed.

Interdependent and Interrelated Effects

The Proposed Action is considered to be an action that has independent utility apart from other projects in the City and Alameda County and would not have any additional adverse interrelated effects on this species or its supporting habitat.

***Rallus longirostris obsoletus* - California Clapper Rail**

Species Overview

The California Clapper Rail is a federally endangered species and is covered by the Federal Migratory Bird Treaty Act. It is found in tidal salt marshes of the San Francisco Bay and requires mudflats for foraging and dense vegetation on higher ground for nesting. The species could be located within or adjacent to the Hayward Regional Shoreline wildlife refuge area.

Direct and Indirect Effects

If construction is required to replace the Shell Oil Pipeline and if construction activities are required along Depot Road and/or West Winton Avenue, this species could be adversely affected.

To mitigate for potential impacts, mitigation measures are presented below that would bring the potential impact to this species to a less-than-significant level.

- **Conduct Breeding and Nesting Surveys.** For construction activities that occur between February 1 and August 31, preconstruction breeding bird surveys shall be conducted by a qualified biologist prior to and within 10 days of any initial ground-disturbance activities. Surveys shall be conducted within all suitable nesting habitat within ~~250~~ 700 feet of the activity. All active, non-status passerine nests identified at that time shall be protected by a 50-foot radius minimum exclusion zone or a wide enough buffer to prevent nest abandonment. Active raptor or special-status species nests shall be protected by a buffer with a minimum radius of ~~200~~ 500 feet. ~~CDFW and USFWS recommend that a minimum 500-foot exclusion buffer be established around active white tailed kite and golden eagle nests.~~ The following considerations apply to this mitigation measure:
 - Survey results are valid for 14 days from the survey date. Should ground disturbance commence later than 14 days from the survey date, surveys should be repeated. If no breeding birds are encountered, then work may proceed as planned.
 - Exclusion zone sizes may vary, depending on habitat characteristics and species, and are generally larger for raptors and colonial nesting birds. Each exclusion zone would remain in place until the nest is abandoned or all young have fledged.
 - The non-breeding season is defined as September 1 to January 31. During this period, breeding is not occurring and surveys are not required. However, if nesting birds are encountered during work activities in the non-breeding season, disturbance activities within a minimum of 50 feet (or wide enough prevent nest abandonment) of the nest should be postponed until the nest is abandoned or young birds have fledged.
- ~~**Conduct Nesting Surveys.** For any construction activities initiated between March 15 and September 1, surveys for nesting western burrowing owls and/or raptors are required within 250 feet of areas of disturbance. If an active nest is found, a qualified biologist shall monitor the nest during construction activities within 250 feet of the nest to determine whether project construction may result in abandonment. The monitor shall continue monitoring the nest until construction within 250 feet of the nest is completed, or until all chicks have completely fledged. If the monitor determines that construction may result in abandonment of the nest, all construction activities within 250 feet should be halted until the nest is abandoned or all young have fledged.~~

The implementation of the above mitigation measures would reduce impacts associated with the Proposed Action to a level of less-than-significant. No additional mitigation measures are required.

Cumulative Effects

Further, the Proposed Action is unlikely to have significant cumulative effects on this species or its supporting habitat. No other known development is currently planned in the Proposed Action Area that would remove or further degrade habitat in the vicinity of Proposed Action Area. In

addition, the Proposed Action would not have any long-term effects to habitat quality in the region after construction is completed.

Interdependent and Interrelated Effects

The Proposed Action is considered to be an action that has independent utility apart from other Projects in the City and Alameda County and would not have any additional adverse interrelated effects on this species or its supporting habitat.

***Sternula antillarum (=Sterna, =albifrons) browni* - California least tern**

Species Overview

The California least tern is a federally endangered species and is covered by the Federal Migratory Bird Treaty Act. It is found in tidal salt marshes of the San Francisco Bay. Requires mudflats for foraging and dense vegetation on higher ground for nesting. The species could be located with or adjacent to the Hayward Regional Shoreline wildlife refuge area.

Direct and Indirect Effects

If construction is required to replace the Shell Oil Pipeline and if construction activities are required along Depot Road and/or West Winton Avenue, this species could be adversely affected.

To mitigate for potential impacts, mitigation measures are presented below that would bring the potential impact to this species to a less-than-significant level.

- **Conduct Breeding and Nesting Surveys.** For construction activities that occur between February 1 and August 31, preconstruction breeding bird surveys shall be conducted by a qualified biologist prior to and within 10 days of any initial ground-disturbance activities. Surveys shall be conducted within all suitable nesting habitat within ~~250~~ 700 feet of the activity. All active, non-status passerine nests identified at that time shall be protected by a 50-foot radius minimum exclusion zone or a wide enough buffer to prevent nest abandonment. Active raptor or special-status species nests shall be protected by a buffer with a minimum radius of ~~200~~ 500 feet. ~~CDFW and USFWS recommend that a minimum 500-foot exclusion buffer be established around active white-tailed kite and golden eagle nests.~~ The following considerations apply to this mitigation measure:
 - Survey results are valid for 14 days from the survey date. Should ground disturbance commence later than 14 days from the survey date, surveys should be repeated. If no breeding birds are encountered, then work may proceed as planned.
 - Exclusion zone sizes may vary, depending on habitat characteristics and species, and are generally larger for raptors and colonial nesting birds. Each exclusion zone would remain in place until the nest is abandoned or all young have fledged.
 - The non-breeding season is defined as September 1 to January 31. During this period, breeding is not occurring and surveys are not required. However, if nesting birds are encountered during work activities in the non-breeding season, disturbance activities within a minimum of 50 feet (or wide enough prevent nest abandonment) of the nest should be postponed until the nest is abandoned or young birds have fledged.
- ~~**Conduct Nesting Surveys.** For any construction activities initiated between March 15 and September 1, surveys for nesting western burrowing owls and/or raptors are required within~~

~~250 feet of areas of disturbance. If an active nest is found, a qualified biologist shall monitor the nest during construction activities within 250 feet of the nest to determine whether project construction may result in abandonment. The monitor shall continue monitoring the nest until construction within 250 feet of the nest is completed, or until all chicks have completely fledged. If the monitor determines that construction may result in abandonment of the nest, all construction activities within 250 feet should be halted until the nest is abandoned or all young have fledged.~~

Cumulative Effects

Further, the Proposed Action is unlikely to have significant cumulative effects on this species or its supporting habitat. No other known development is currently planned in the Proposed Action Area that would remove or further degrade habitat in the vicinity of Proposed Action Area. In addition, the Proposed Action would not have any long-term effects to habitat quality in the region after construction is completed.

Interdependent and Interrelated Effects

The Proposed Action is considered to be an action that has independent utility apart from other Projects in the City and Alameda County and would not have any additional adverse interrelated effects on this species or its supporting habitat.

Reptiles

Masticophis lateralis euryxanthus – Alameda whipsnake

Species Overview

The Alameda whipsnake (*Masticophis lateralis euryxanthus*) is a member of the family Colubridae, which includes most of the species of snakes found in the western United States. It is a federally listed species. It is a slender, fast-moving, diurnally active snake with a slender neck, broad head and large eyes. Another common name for the Alameda whipsnake is the "Alameda striped racer." The Alameda whipsnake currently inhabits the inner coast range mostly in Contra Costa and Alameda counties, with additional occurrence records in San Joaquin and Santa Clara counties.

Direct and Indirect Effects

If construction is required to replace the Shell Oil Pipeline, construction activities of the Proposed Action have the potential to have direct and indirect adverse impacts to the Alameda whipsnake. However, these potential impacts to the Alameda whipsnake would be minimized to less-than-significant levels with the incorporation of the following mitigation measures and procedures:

- **Conduct Alameda whipsnake Pre-construction Surveys.** Prior to construction, the City shall conduct focused pre-construction surveys for the Alameda whipsnake at all project sites/areas within or directly adjacent to areas identified as having high potential for whipsnake occurrence. Project sites within high potential areas shall be fenced to exclude snakes prior to project implementation. Methods for pre-construction surveys, burrow excavation, and site fencing shall be developed prior to implementation of any project located within or adjacent to areas mapped as having high potential for whipsnake occurrence. Such methods would be developed in consultation or with approval of USFWS for any development taking place in USFWS officially designated Alameda whipsnake critical habitat. Pre-construction surveys of such project sites shall be carried out by a permitted biologist familiar with whipsnake identification and ecology (Swaim, 2002). These are not

intended to be protocol-level surveys but designed to clear an area so that individual whipsnakes are not present within a given area prior to initiation of construction. At sites where the project footprint would not be contained entirely within an existing developed area footprint and natural vegetated areas would be disturbed any existing animal burrows shall be carefully hand-excavated to ensure that there are no whipsnakes within the project footprint. Any whipsnakes found during these surveys shall be relocated according to the Alameda Whipsnake Relocation Plan and may require obtaining a “take” permit. Snakes of any other species found during these surveys shall also be relocated out of the project area. Once the site is cleared it shall then be fenced in such a way as to exclude snakes for the duration of the construction activities. Fencing shall be maintained intact throughout the duration of the construction activities. All construction activities shall be performed during daylight hours, or with suitable lighting so that snakes can be seen. Vehicle speed on the construction site shall not exceed 5 miles per hour.

Cumulative Effects

The Proposed Action is unlikely to have significant cumulative effects on this species or its supporting habitat. No other known development is currently planned in or near the Proposed Action Area that would remove or further degrade habitat. In addition, the Proposed Action would not have any long-term effects to habitat quality in the region once construction is complete.

Interdependent and Interrelated Effects

The Proposed Action is considered to be an action that has independent utility apart from other Projects in the City of Hayward and Alameda County and would not have any additional adverse interrelated effects on this species or its supporting habitat.

Attachment A – Species List for City of Hayward Recycled Water Project

Attachment A, in Appendix C, Federally-Listed Biological Resources Assessment Report was inadvertently left out and is provided in this Final IS/MND on the following pages.

Appendix D – Cultural Resources Investigation Report

On Page 28, the first paragraph under Section 5 – Investigation Methodology and Results, 5.1-Northwest Information Center (NWIC) Record Search is hereby revised as follows.

On July 14, ~~2012~~ 2014, a records search was conducted by staff at the NWIC, Sonoma State University, Rohnert Park, California (NWIC File # 14-0048). The record search included the project Area of Potential Effect (APE) and a 0.50 -mile radius outside the project boundaries. The record search included reviewing pertinent NWIC base maps that reference cultural resources records and reports, historic period maps, and literature for Alameda County including current inventories of the National Register of Historic Places (NRHP), the California Register of Historical Resources (CRHP), the California Inventory of Historical Resources, California State Historic Landmarks, and the California Points of Historical Interest.

On Page 29, the paragraph under 5.2-Survey Methods is hereby revised as follows.

The cultural resources investigation also included a field reconnaissance of the Project APE on ~~August 9, 2014~~ August 7, 2014 and no cultural resources, including archeological resources were identified within the Proposed Project/Action’s proposed alignment and construction corridor.

United States Department of the Interior



FISH AND WILDLIFE SERVICE

Sacramento Fish and Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, California 95825



July 14, 2014

Document Number: 140714110357

Steve Brown
SMB Environmental Inc.
P.O. Box 381
Roseville, CA 95661

Subject: Species List for City of Hayward - Recycled Water Project

Dear: Interested party

We are sending this official species list in response to your July 14, 2014 request for information about endangered and threatened species. The list covers the California counties and/or U.S. Geological Survey 7½ minute quad or quads you requested.

Our database was developed primarily to assist Federal agencies that are consulting with us. Therefore, our lists include all of the sensitive species that have been found in a certain area *and also ones that may be affected by projects in the area*. For example, a fish may be on the list for a quad if it lives somewhere downstream from that quad. Birds are included even if they only migrate through an area. In other words, we include all of the species we want people to consider when they do something that affects the environment.

Please read Important Information About Your Species List (below). It explains how we made the list and describes your responsibilities under the Endangered Species Act.

Our database is constantly updated as species are proposed, listed and delisted. If you address proposed and candidate species in your planning, this should not be a problem. However, we recommend that you get an updated list every 90 days. That would be October 12, 2014.

Please contact us if your project may affect endangered or threatened species or if you have any questions about the attached list or your responsibilities under the Endangered Species Act. A list of Endangered Species Program contacts can be found http://www.fws.gov/sacramento/es/Branch-Contacts/es_branch-contacts.htm.

Endangered Species Division

U.S. Fish & Wildlife Service
Sacramento Fish & Wildlife Office
Federal Endangered and Threatened Species that Occur in
or may be Affected by Projects in the Counties and/or
U.S.G.S. 7 1/2 Minute Quads you requested

Document Number: 140714110357

Current as of: July 14, 2014

Quad Lists

Listed Species

Invertebrates

- Branchinecta lynchi*
vernal pool fairy shrimp (T)
- Lepidurus packardii*
vernal pool tadpole shrimp (E)

Fish

- Acipenser medirostris*
green sturgeon (T) (NMFS)
- Eucyclogobius newberryi*
tidewater goby (E)
- Hypomesus transpacificus*
delta smelt (T)
- Oncorhynchus kisutch*
coho salmon - central CA coast (E) (NMFS)
- Oncorhynchus mykiss*
Central California Coastal steelhead (T) (NMFS)
Central Valley steelhead (T) (NMFS)
Critical habitat, Central California coastal steelhead (X) (NMFS)
- Oncorhynchus tshawytscha*
Central Valley spring-run chinook salmon (T) (NMFS)
winter-run chinook salmon, Sacramento River (E) (NMFS)

Amphibians

- Ambystoma californiense*
California tiger salamander, central population (T)
- Rana draytonii*
California red-legged frog (T)
Critical habitat, California red-legged frog (X)

Reptiles

- Masticophis lateralis euryxanthus*
Alameda whipsnake [=striped racer] (T)
Critical habitat, Alameda whipsnake (X)
- Thamnophis sirtalis tetrataenia*
San Francisco garter snake (E)

Birds

- Charadrius alexandrinus nivosus*
western snowy plover (T)
- Pelecanus occidentalis californicus*
California brown pelican (E)
- Rallus longirostris obsoletus*
California clapper rail (E)
- Sternula antillarum* (=Sterna, =albifrons) browni
California least tern (E)

Mammals

- Reithrodontomys raviventris*
salt marsh harvest mouse (E)

Plants

- Holocarpha macradenia*
Santa Cruz tarplant (T)
- Lasthenia conjugens*
Contra Costa goldfields (E)
- Suaeda californica*
California sea blite (E)

Quads Containing Listed, Proposed or Candidate Species:

- HAYWARD (447A)
SAN LEANDRO (447B)
REDWOOD POINT (447C)
NEWARK (447D)

County Lists**Listed Species****Invertebrates**

- Branchinecta conservatio*
Conservancy fairy shrimp (E)
S
- Branchinecta lynchi*
Critical habitat, vernal pool fairy shrimp (X)
vernal pool fairy shrimp (T)
S
- Desmocerus californicus dimorphus*
valley elderberry longhorn beetle (T)
S
- Lepidurus packardii*
Critical habitat, vernal pool tadpole shrimp (X)
vernal pool tadpole shrimp (E)

S

Fish

Hypomesus transpacificus
delta smelt (T)

S

Oncorhynchus (=Salmo) clarki henshawi
Lahontan cutthroat trout (T)

S

Oncorhynchus mykiss
Central Valley steelhead (T) (NMFS)
Critical habitat, Central Valley steelhead (X) (NMFS)

S

Oncorhynchus tshawytscha
Central Valley spring-run chinook salmon (T) (NMFS)
winter-run chinook salmon, Sacramento River (E) (NMFS)

S

Amphibians

Ambystoma californiense
California tiger salamander, central population (T)
Critical habitat, CA tiger salamander, central population (X)

S

Rana draytonii
California red-legged frog (T)
Critical habitat, California red-legged frog (X)

S

Rana sierrae
Mountain yellow legged frog (PX)

S

Reptiles

Thamnophis gigas
giant garter snake (T)

S

Plants

Arctostaphylos myrtifolia
Ione manzanita (T)

S

Castilleja campestris ssp. succulenta
succulent (=fleshy) owl's-clover (T)
S

Eriogonum apricum var. apricum
Ione buckwheat (E)
S

Eriogonum apricum var. prostratum
Irish Hill buckwheat (E)
S

Orcuttia viscida
Critical habitat, Sacramento Orcutt grass (X)
Sacramento Orcutt grass (E)
S

Proposed Species

Amphibians

Anaxyrus canorus
Yosemite toad (PX)
S

Candidate Species

Amphibians

Bufo canorus
Yosemite toad (C)
S

Rana muscosa
mountain yellow-legged frog (C)
S

Mammals

Martes pennanti
fisher (C)
S

Key:

(E) *Endangered* - Listed as being in danger of extinction.

(T) *Threatened* - Listed as likely to become endangered within the foreseeable future.

(P) *Proposed* - Officially proposed in the Federal Register for listing as endangered or threatened.

(NMFS) Species under the Jurisdiction of the [National Oceanic & Atmospheric Administration Fisheries Service](#). Consult with them directly about these species.

Critical Habitat - Area essential to the conservation of a species.

(PX) *Proposed Critical Habitat* - The species is already listed. Critical habitat is being proposed for it.

(C) *Candidate* - Candidate to become a proposed species.

(V) *Vacated* by a court order. Not currently in effect. Being reviewed by the Service.

(X) *Critical Habitat* designated for this species

Important Information About Your Species List

How We Make Species Lists

We store information about endangered and threatened species lists by U.S. Geological Survey 7½ minute quads. The United States is divided into these quads, which are about the size of San Francisco.

The animals on your species list are ones that occur within, **or may be affected by** projects within, the quads covered by the list.

- Fish and other aquatic species appear on your list if they are in the same watershed as your quad or if water use in your quad might affect them.
- Amphibians will be on the list for a quad or county if pesticides applied in that area may be carried to their habitat by air currents.
- Birds are shown regardless of whether they are resident or migratory. Relevant birds on the county list should be considered regardless of whether they appear on a quad list.

Plants

Any plants on your list are ones that have actually been observed in the area covered by the list. Plants may exist in an area without ever having been detected there. You can find out what's in the surrounding quads through the California Native Plant Society's online [Inventory of Rare and Endangered Plants](#).

Surveying

Some of the species on your list may not be affected by your project. A trained biologist and/or botanist, familiar with the habitat requirements of the species on your list, should determine whether they or habitats suitable for them may be affected by your project. We recommend that your surveys include any proposed and candidate species on your list. See our [Protocol](#) and [Recovery Permits](#) pages.

For plant surveys, we recommend using the [Guidelines for Conducting and Reporting Botanical Inventories](#). The results of your surveys should be published in any environmental documents prepared for your project.

Your Responsibilities Under the Endangered Species Act

All animals identified as listed above are fully protected under the Endangered Species Act of 1973, as amended. Section 9 of the Act and its implementing regulations prohibit the take of a federally listed wildlife species. Take is defined by the Act as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect" any such animal.

Take may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding,

feeding, or shelter (50 CFR §17.3).

Take incidental to an otherwise lawful activity may be authorized by one of two procedures:

- If a Federal agency is involved with the permitting, funding, or carrying out of a project that may result in take, then that agency must engage in a formal [consultation](#) with the Service.

During formal consultation, the Federal agency, the applicant and the Service work together to avoid or minimize the impact on listed species and their habitat. Such consultation would result in a biological opinion by the Service addressing the anticipated effect of the project on listed and proposed species. The opinion may authorize a limited level of incidental take.

- If no Federal agency is involved with the project, and federally listed species may be taken as part of the project, then you, the applicant, should apply for an incidental take permit. The Service may issue such a permit if you submit a satisfactory conservation plan for the species that would be affected by your project.

Should your survey determine that federally listed or proposed species occur in the area and are likely to be affected by the project, we recommend that you work with this office and the California Department of Fish and Game to develop a plan that minimizes the project's direct and indirect impacts to listed species and compensates for project-related loss of habitat. You should include the plan in any environmental documents you file.

Critical Habitat

When a species is listed as endangered or threatened, areas of habitat considered essential to its conservation may be designated as critical habitat. These areas may require special management considerations or protection. They provide needed space for growth and normal behavior; food, water, air, light, other nutritional or physiological requirements; cover or shelter; and sites for breeding, reproduction, rearing of offspring, germination or seed dispersal.

Although critical habitat may be designated on private or State lands, activities on these lands are not restricted unless there is Federal involvement in the activities or direct harm to listed wildlife.

If any species has proposed or designated critical habitat within a quad, there will be a separate line for this on the species list. Boundary descriptions of the critical habitat may be found in the Federal Register. The information is also reprinted in the Code of Federal Regulations (50 CFR 17.95). See our [Map Room](#) page.

Candidate Species

We recommend that you address impacts to candidate species. We put plants and animals on our candidate list when we have enough scientific information to eventually propose them for listing as threatened or endangered. By considering these species early in your planning process you may be able to avoid the problems that could develop if one of these candidates was listed before the end of your project.

Species of Concern

The Sacramento Fish & Wildlife Office no longer maintains a list of species of concern. However, various other agencies and organizations maintain lists of at-risk species. These

lists provide essential information for land management planning and conservation efforts.

[More info](#)

Wetlands

If your project will impact wetlands, riparian habitat, or other jurisdictional waters as defined by section 404 of the Clean Water Act and/or section 10 of the Rivers and Harbors Act, you will need to obtain a permit from the U.S. Army Corps of Engineers. Impacts to wetland habitats require site specific mitigation and monitoring. For questions regarding wetlands, please contact Mark Littlefield of this office at (916) 414-6520.

Updates

Our database is constantly updated as species are proposed, listed and delisted. If you address proposed and candidate species in your planning, this should not be a problem. However, we recommend that you get an updated list every 90 days. That would be October 12, 2014.

Chapter 5 CEQA Findings and Determination:

On the basis of this Final IS/MND for the City of Hayward’s Recycled Water Project:

- I find that the Proposed Project WOULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the Proposed Project COULD have a significant effect on the environment, there will NOT be a significant effect in this case because revisions in the Project and/or mitigation measures have been made by or agreed to by the City. As a result, a MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the Proposed Project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the Proposed Project MAY have a “potentially significant impact” or “potentially significant unless mitigated” impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the Proposed Project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the Proposed Project, nothing further is required.

Signature

Date

Alex Ameri
Printed Name

Director of Utilities and Environmental Services
Title

Appendix A

Mitigation Monitoring and Reporting Program

MITIGATION MONITORING AND REPORTING PROGRAM

**City of Hayward
Recycled Water Project
Final Initial Study / Mitigated Negative Declaration**

SCH #2014102065

Prepared for:

City of Hayward
777 B Street
Hayward, CA 94541

Prepared by:



SMB Environmental, Inc.

December 2014

INTRODUCTION

Pursuant to the California Environmental Quality Act (CEQA; Public Resources Code Section 21000, et seq. and CEQA Guidelines), the City of Hayward, California (City) prepared a Public Draft Initial Study/Mitigated Negative Declaration (IS/MND) to evaluate potential environmental impacts associated with the City's proposed Recycled Water Project (Proposed Project/Action).

The City proposes to construct and operate a recycled water project located within the City of Hayward. The City has prepared a Recycled Water Facility Plan to identify potential users for recycled water within the City, including a conceptual distribution system and an estimate of project costs. The initial phase of the project consists of installing a new Recycled Water Facility (RWF) located at the City's Water Pollution Control Facility (WPCF) at 3700 Enterprise Avenue, Hayward, California. The RWF would deliver an estimated 290 acre-feet per year of recycled water to 24 customers within the City of Hayward. The RWF will be served by approximately 1.5 miles of new distribution lines (ranging in diameter from 6 to 8 inches) to the north and south of the WPCF, rehabilitation and connection to an existing and abandoned Shell Oil Pipeline, and over 3 miles of laterals to customers, including installation of customer connections. The majority of recycled water customers will utilize the recycled water for irrigation, with some industrial uses for cooling towers and boilers. The City is pursuing an agreement with Shell Oil to purchase and use the existing abandoned 8-inch diameter pipeline that runs through the City. However, the environmental document assumes both the reuse of the existing abandoned 8-inch Shell Oil Pipeline as well as the construction of a new recycled water pipeline (in the event an agreement with Shell Oil is not reached or the use is otherwise determined infeasible). As a result, we have assumed a worst-case scenario and assumed approximately 3 miles of a new 8-inch pipeline paralleling portions of the Shell Oil Pipeline in existing roadways.

CEQA Guidelines require public agencies to adopt a Mitigation Monitoring and Reporting Program (MMRP) for changes to the project, which it has adopted or made a condition of project approval in order to mitigate or avoid significant effects on the environment. A MMRP is required for the proposed project because the IS/MND identifies potentially significant adverse impacts

related to project implementation, and mitigation measures have been identified to reduce those impacts.

On October 24, 2014, to initiate public review of the Draft IS/MND, the City filed a Notice of Completion (NOC) for the project with the Governor's Office of Planning and Research (State Clearinghouse or SCH) and Notice of Availability (NOA) with the County of Alameda and released the Draft IS/MND for a 30-day public review. The State Clearinghouse identified the project with SCH #2014102065. The 30-day public review period was established between October 24 and November 24, 2014, with copies of the Draft IS/MND available for review on the City's website at www.hayward-ca.gov and at the City's office of the City Clerk, 777 B Street Hayward, CA 94541, the City of Hayward Main Library, 835 C Street, Hayward, CA 94541, and at the Weekes Library, 27300 Patrick Avenue, Hayward, CA 94544.

In December 2014, the City prepared a Final IS/MND according to CEQA Guidelines and incorporated all comments received by the State Clearinghouse and the City during the 30-day public review period. As a result, some of the mitigation measures identified in the Public Draft IS/MND have been revised to reflect those comments. Based on the Final IS/MND, the Proposed Project/Action would not result in new significant impacts, substantially increase the severity of previously disclosed impacts, or involve any of the other conditions related to changed circumstances or new information that can require a subsequent or supplemental EIR under Public Resources Code section 21166 and CEQA Guidelines section 15162 beyond those impacts and conditions already identified in the City's Public Draft IS/MND.

PURPOSE OF MITIGATION MONITORING AND REPORTING PROGRAM

This MMRP has been prepared to ensure that all required mitigation measures are implemented and completed in a satisfactory manner before and during project construction and operation. The MMRP may be modified by the City during project implementation, as necessary, in response to changing conditions or other refinements. Table A (included at the end of this document) has been prepared to assist the responsible parties in implementing the mitigation measures. The table identifies individual

mitigation measures, monitoring/mitigation timing, responsible person/agency for implementing the measure, monitoring and reporting procedure, and space to confirm implementation of the mitigation measures. The numbering of mitigation measures follows the numbering sequence found in the Public Draft IS/MND.

ROLES AND RESPONSIBILITIES

Unless otherwise specified herein, the City is responsible for taking all actions necessary to implement the mitigation measures under its jurisdiction according to the specifications provided for each measure and for demonstrating that the action has been successfully completed. The City, at its discretion, may delegate implementation responsibility or portions thereof to a licensed contractor or other designated agent. The City would be responsible for overall administration of the MMRP and for verifying that City staff members and/or the construction contractor has completed the necessary actions for each measure.

The City would designate a project manager to oversee implementation of the MMRP. The City of Hayward's Department of Public Works – Utilities and Environmental Services is primarily responsible for implementing the mitigation measures for the Proposed Project as described in this MMRP. Duties of the project manager include the following:

- Ensure that routine inspections of the construction site are conducted by appropriate City staff; check plans, reports, and other documents required by the MMRP; and conduct report activities.
- Serve as a liaison between the City and the contractor or project applicant regarding mitigation monitoring issues.
- Complete forms and maintain reports and other records and documents generated by the MMRP.
- Coordinate and ensure that corrective actions or enforcement measures are taken, if necessary.

The responsible party for implementation of each item shall identify the staff members responsible for coordinating with the City on the MMRP.

REPORTING

The City's project manager shall prepare a monitoring report, upon completion of the project, on the compliance of the activity with the required mitigation measures. Information regarding inspections and other requirements shall be compiled and explained in the report. The report shall be designed to simply and clearly identify whether mitigation measures have been adequately implemented. At a minimum, each report shall identify the mitigation measures or conditions to be monitored for implementation, whether compliance with the mitigation measures or conditions has occurred, the procedures used to assess compliance, and whether further action is required. The report shall be presented to the City Council.

MITIGATION MONITORING AND REPORTING PLAN TABLE

The categories identified in Table A are described below.

- **Mitigation Measure** – This column provides the text of the mitigation measures identified in the IS/MND.
- **Timing** – This column identifies the time frame in which the mitigation will take place.
- **Implementation** – This column identifies the party responsible for implementing compliance with the requirements of the mitigation measure
- **Enforcement** – This column identifies the party responsible for enforcing compliance with the requirements of the mitigation measure.
- **Dated Signature for Verification of Compliance** – This column is to be dated and signed by the person (either project manager or his/her designee) responsible for verifying compliance with the requirements of the mitigation measure.

**Table A
Mitigation Monitoring and Reporting Plan for the City of Hayward's Recycled Water Project IS/MND**

Mitigation Measure	Timing	Implementation ¹	Enforcement ¹	Dated Signature for Verification of Compliance
3.3 AIR QUALITY				
<p>Mitigation Measure AIR-1: Basic Construction Mitigation Measures Recommended for ALL Proposed Projects. During all phases of construction, the following procedures shall be implemented:</p> <ul style="list-style-type: none"> • All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day. • All haul trucks transporting soil, sand, or other loose material off-site shall be covered. • All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. • All vehicle speeds on unpaved roads shall be limited to 15 mph. • All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. • Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points. • All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator. • Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations. 	Prior to construction of The Proposed Project/Action.	City of Hayward	City of Hayward Bay Area Air Quality Management District	
Mitigation Measure AIR-2: Additional Construction Mitigation Measures	Prior to	City of Hayward	City of Hayward	

¹ The City of Hayward's Department of Public Works – Utilities and Environmental Services is primarily responsible for implementing the mitigation measures for the Proposed Project/Action as described in this MMRP.
Recycled Water Project

**Table A
Mitigation Monitoring and Reporting Plan for the City of Hayward's Recycled Water Project IS/MND**

Mitigation Measure	Timing	Implementation ¹	Enforcement ¹	Dated Signature for Verification of Compliance
<p>for Projects with Emissions over the Thresholds. During all phases of construction, the following procedures shall be implemented as appropriate:</p> <ul style="list-style-type: none"> • All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe. • All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph. • Windbreaks (e.g., trees, fences) shall be installed on the windward side(s) of actively disturbed areas of construction. Windbreaks should have at maximum 50 percent air porosity. • Vegetative ground cover (e.g., fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible and watered appropriately until vegetation is established. • The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time. • All trucks and equipment, including their tires, shall be washed off prior to leaving the site. • Site accesses to a distance of 100 feet from the paved road shall be treated with a 6 to 12 inch compacted layer of wood chips, mulch, or gravel. • Sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways from sites with a slope greater than one percent. • Minimizing the idling time of diesel powered construction equipment to five (5) minutes. • The project shall develop a plan demonstrating that the off-road equipment (more than 50 horsepower) to be used in the construction project (i.e., owned, leased, and subcontractor vehicles) would achieve a project wide fleet-average 20 percent NOx reduction and 45 percent PM reduction compared to the most recent Air Resources Board (ARB) 	<p>construction of The Proposed Project/Action.</p>		<p>Bay Area Air Quality Management District</p>	

**Table A
Mitigation Monitoring and Reporting Plan for the City of Hayward's Recycled Water Project IS/MND**

Mitigation Measure	Timing	Implementation ¹	Enforcement ¹	Dated Signature for Verification of Compliance
<p>fleet average. Acceptable options for reducing emissions include the use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, add-on devices such as particulate filters, and/or other options as such become available.</p> <ul style="list-style-type: none"> • Use low volatile organic compounds (VOC) (i.e., ROG) coatings beyond the local requirements (i.e., Regulation 8, Rule 3: Architectural Coatings). • Requiring that all construction equipment, diesel trucks, and generators be equipped with Best Available Control Technology for emission reductions of NOx and PM. • Requiring all contractors use equipment that meets the California Air Resources Board's (CARB) most recent certification standard for off-road heavy-duty diesel engines. 				
3.4 BIOLOGICAL RESOURCES				
<p>BIO-1: Conduct Pre-construction Protocol Level Plant Surveys. Prior to construction the City shall conduct two protocol-level rare plant surveys during the blooming period for these species during the months of May and June. These surveys shall be conducted by a CDFW-approved biologist within and surrounding the Project site according to the methodology described in the Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities. Should any of the Congdon's tarplant or other special-status plant species be present within the construction footprint, CDFW and/or USFWS shall be consulted to develop appropriate mitigation and avoidance measures.</p>	<p>Prior to and during construction of the Proposed Project/Action.</p>	<p>City of Hayward</p>	<p>City of Hayward California Department of Fish and Wildlife U.S. Fish and Wildlife Service</p>	
<p>BIO-2: Conduct Alameda whipsnake Pre-construction Surveys. Prior to construction, the City shall conduct focused pre-construction surveys for the Alameda whipsnake at all project sites/areas within or directly adjacent to areas identified as having high potential for whipsnake occurrence. Project sites within high potential areas shall be fenced to exclude snakes prior to project implementation. Methods for pre-construction surveys, burrow excavation, and site fencing shall be developed prior to implementation of any project located within or adjacent to areas mapped as having high potential for whipsnake occurrence. Such methods would be developed in consultation or with approval of USFWS for any development taking place in USFWS officially designated Alameda whipsnake critical habitat. Pre-construction surveys of such project sites shall be carried out by a permitted biologist familiar with whipsnake</p>	<p>Prior to and during construction of the Proposed Project/Action.</p>	<p>City of Hayward</p>	<p>City of Hayward California Department of Fish and Wildlife U.S. Fish and Wildlife Service</p>	

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<p>identification and ecology. These are not intended to be protocol-level surveys but designed to clear an area so that individual whipsnakes are not present within a given area prior to initiation of construction. At sites where the project footprint would not be contained entirely within an existing developed area footprint and natural vegetated areas would be disturbed any existing animal burrows shall be carefully hand-excavated to ensure that there are no whipsnakes within the project footprint. Any whipsnakes found during these surveys shall be relocated according to the Alameda Whipsnake Relocation Plan and may require obtaining a “take” permit. Snakes of any other species found during these surveys shall also be relocated out of the project area. Once the site is cleared it shall then be fenced in such a way as to exclude snakes for the duration of the construction activities. Fencing shall be maintained intact throughout the duration of the construction activities. All construction activities shall be performed during daylight hours, or with suitable lighting so that snakes can be seen. Vehicle speed on the construction site shall not exceed 5 miles per hour.</p>				
<p>Mitigation Measure BIO-3: Conduct Breeding and Nesting Surveys. For construction activities that occur between February 1 and August 31, preconstruction breeding bird surveys shall be conducted by a qualified biologist prior to and within 10 days of any initial ground-disturbance activities. Surveys shall be conducted within all suitable nesting habitat within 700 feet of the activity. All active, non-status passerine nests identified at that time shall be protected by a 50-foot radius minimum exclusion zone or a wide enough buffer to prevent nest abandonment. Active raptor or special-status species nests shall be protected by a buffer with a minimum radius of 500 feet. The following considerations apply to this mitigation measure:</p> <ul style="list-style-type: none"> • Survey results are valid for 14 days from the survey date. Should ground disturbance commence later than 14 days from the survey date, surveys should be repeated. If no breeding birds are encountered, then work may proceed as planned. • Exclusion zone sizes may vary, depending on habitat characteristics and species, and are generally larger for raptors and colonial nesting birds. Each exclusion zone would remain in place until the nest is abandoned or all young have fledged. • The non-breeding season is defined as September 1 to January 31. During this period, breeding is not occurring and surveys are not required. However, if nesting birds are encountered during work activities in the non-breeding season, disturbance activities within a minimum of 50 feet (or wide enough prevent nest abandonment) of the 	<p>Prior to and during construction of the Proposed Project/Action.</p>	<p>City of Hayward</p>	<p>City of Hayward California Department of Fish and Wildlife U.S. Fish and Wildlife Service</p>	

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nest should be postponed until the nest is abandoned or young birds have fledged.				
3.5 CULTURAL RESOURCES				
<p>Mitigation Measure CR-1: Halt work if cultural resources are discovered. In the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 100 feet of the resources shall be halted and after notification, the City shall consult with a qualified archaeologist to assess the significance of the find. If any find is determined to be significant (CEQA Guidelines 15064.5[a][3] or as unique archaeological resources per Section 21083.2 of the California Public Resources Code), representatives of the City and a qualified archaeologist shall meet to determine the appropriate course of action. In considering any suggested mitigation proposed by the consulting archaeologist in order to mitigate impacts to historical resources or unique archaeological resources, the lead agency shall determine whether avoidance is necessary and feasible in light of factors such as the nature of the find, project design, costs, and other considerations. If avoidance is infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while mitigation for historical resources or unique archaeological resources is carried out.</p>	Upon discovery of cultural resources	City of Hayward	City of Hayward	
<p>Mitigation Measure CR-2: Stop work if paleontological remains are discovered. If paleontological resources, such as fossilized bone, teeth, shell, tracks, trails, casts, molds, or impressions are discovered during ground-disturbing activities, work will stop in that area and within 100 feet of the find until a qualified paleontologist can assess the significance of the find and, if necessary, develop appropriate treatment measures in consultation with the City.</p>	Before and during ground-disturbing activities.	City of Hayward	City of Hayward	
<p>Mitigation Measure CR-3: Halt work if human remains are found. If human remains are encountered during excavation activities conducted for the Proposed Project/Action, all work in the adjacent area shall stop immediately and the Alameda County Coroner's office shall be notified. If the Coroner determines that the remains are Native American in origin, the Native American Heritage Commission shall be notified and will identify the Most Likely Descendent, who will be consulted for recommendations for treatment of the discovered human remains and any associated burial goods.</p>	Upon the discovery of suspected human remains.	City of Hayward	City of Hayward For actions taken to satisfy the requirements of Section 106: the State Historic Preservation Office (SHPO)	
3.6 GEOLOGY AND SOILS				
<p>Mitigation Measure GEO-1: Perform Geotechnical Investigation. The City shall require a design-level geotechnical study to be prepared prior to project implementation to determine proper design and construction methods, including design of any soil remediation measures as required to reduce hazards caused by landslides, liquefaction, and/or lateral spreading.</p>	Prior to completion of engineering plans for the Proposed Project/Action.	City of Hayward	City of Hayward	

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3.7 HAZARDS AND HAZARDOUS MATERIALS				
<p>Mitigation Measure HAZ-1: Store, Handle, Use Hazardous Materials in Accordance with Applicable Laws. The City shall ensure that all construction-related and operational hazardous materials and hazardous wastes shall be stored, handled, and used in a manner consistent with relevant and applicable federal, state, and local laws. In addition, construction-related and operational hazardous materials and hazardous wastes shall be staged and stored away from stream channels and steep banks to keep these materials a safe distance from near-by residents and prevent them from entering surface waters in the event of an accidental release.</p>	<p>Prior to construction and operation of the Proposed Project/Action</p>	<p>City of Hayward</p>	<p>City of Hayward</p>	
<p>Mitigation Measure HAZ-2: Properly Dispose of Contaminated Soil and/or Groundwater. If contaminated soil and/or groundwater is encountered or if suspected contamination is encountered during project construction, work shall be halted in the area, and the type and extent of the contamination shall be identified. A contingency plan to dispose of any contaminated soil or groundwater will be developed through consultation with appropriate regulatory agencies.</p>	<p>Prior to construction and operation of the Proposed Project/Action</p>	<p>City of Hayward</p>	<p>City of Hayward</p>	
<p>Mitigation Measure HAZ-3: Properly Dispose of Hydrostatic Test Water. Dewatering of the pipeline during hydrostatic testing during construction, as well as any dewatering as a result of operations and maintenance activities, shall be discharged to land or the sanitary sewer system and not into any creeks, drainages, or waterways and shall require prior approval from the San Francisco Bay Regional Water Quality Control Board.</p>	<p>Prior to construction and operation of the Proposed Project/Action</p>	<p>City of Hayward</p>	<p>City of Hayward</p>	
<p>Mitigation Measure HAZ-4: Develop and Maintain Emergency Access Strategies. In conjunction with Mitigation Measure Traffic-1: Develop a Traffic Control Plan identified below in the Traffic and Transportation section, comprehensive strategies for maintaining emergency access shall be developed. Strategies shall include, but not limited to, maintaining steel trench plates at the construction sites to restore access across open trenches and identification of alternate routing around construction zones. Also, police, fire, and other emergency service providers shall be notified of the timing, location, and duration of the construction activities and the location of detours and lane closures.</p>	<p>Prior to construction and operation of the Proposed Project/Action.</p>	<p>City of Hayward</p>	<p>City of Hayward</p>	
<p>Mitigation Measure HAZ-5 Fire Prevention and Control: The City shall comply with all federal, state, county and local fire regulations pertaining to burning permits and the prevention of uncontrolled fires. The following measures shall be implemented to prevent fire hazards and control of fires:</p>	<p>Prior to construction and operation of the Proposed Project/Action.</p>	<p>City of Hayward</p>	<p>City of Hayward</p>	

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<ul style="list-style-type: none"> • A list of relevant fire authorities and their designated representative to contact shall be maintained on site by construction personnel. • Adequate firefighting equipment shall be available on site in accordance with the applicable regulatory requirements. • The level of fire hazard shall be posted at the construction office (where visible for workers) and workers shall be made aware of the hazard level and related implications. • The City or its contractor shall provide equipment to handle any possible fire emergency. This shall include, although not be limited to, water trucks; portable water pumps; chemical fire extinguishers; hand tools such as shovels, axes, and chain saws; and heavy equipment adequate for the construction of fire breaks when needed. Specifically, the City or its contractor shall supply and maintain in working order an adequate supply of fire extinguishers for each crew engaged in potentially combustible work such as welding, cutting, and grinding. • All equipment shall be equipped with spark arrestors. • In the event of a fire, the City or its contractor shall immediately use resources necessary to contain the fire. The City or contractor shall then notify local emergency response personnel. • Any and all tree-clearing activities (if any) are to be carried out in accordance with local rules and regulations for the prevention of forest fires. • Burning shall be prohibited. • Flammable wastes shall be removed from the construction site on a regular basis. • Flammable materials kept on the construction site must be stored in approved containers away from ignition sources. • Smoking shall be prohibited on the construction site. 				

3.8 HYDROLOGY AND WATER QUALITY

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<p>Mitigation Measure HWQ-1: Implement Construction Best Management Practices. To reduce potentially significant erosion and siltation, the City and/or its selected contractor(s) shall obtain a Stormwater Pollution Prevention Permit (SWPPP) and implement Best Management Practices and erosion control measures as required by the San Francisco RWQCB. Best Management Practices to reduce erosion and siltation shall include the following measures: Avoidance of construction activities during inclement weather; limitation of construction access routes and stabilization of access points; stabilization of cleared, excavated areas by providing vegetative buffer strips, providing plastic coverings, and applying ground base on areas to be paved; protection of adjacent properties by installing sediment barriers or filters, or vegetative buffer strips; stabilization and prevention of sediments from surface runoff from discharging into storm drain outlets; use of sediment controls and filtration to remove sediment from water generated by dewatering; and returning all drainage patterns to pre-existing conditions.</p>	<p>Develop SWPPP prior to and throughout construction.</p>	<p>City of Hayward</p>	<p>City of Hayward San Francisco Bay Regional Water Quality Control Board</p>	
<p>Mitigation Measure HWQ-2: Avoid cutting through the creeks. As described in the Proposed Project/Action description, all creek crossings will be crossed by using trenchless technologies such as micro tunneling, directional drilling, or suspending the pipeline on the downstream side of a bridge. Construction crews shall avoid entering the stream channels during installation. With these mitigation measures in place, the Proposed Project/Action is unlikely to have a direct and/or indirect adverse effect on water quality standards and/or waste discharge requirements. Once constructed, the operation and maintenance of the Proposed Project/Action will not adversely affect water quality standards and/or waste discharge requirements.</p>	<p>Incorporation measures into SWPPP prior to construction and implementation throughout construction, as appropriate</p>	<p>City of Hayward</p>	<p>City of Hayward San Francisco Bay Regional Water Quality Control Board</p>	
<p>Mitigation Measure HWQ-3: Implement Recycled Water Best Management Practices. In order to help reduce the potential effects of increased salt loading potential as a result of using recycled water, the City shall:</p> <ul style="list-style-type: none"> • Apply water consistent with Title 22 requirements and in amounts (frequency and intensity) which meet the demands of the plant (agronomic rates), but not in excessive amounts such that salts buildup in the soil beyond the root zone and/or otherwise are leached to groundwater; • Ensure that adequate soil drainage is maintained; • Ensure that salt-sensitive plants (e.g. Colonial bentgrass) are not to be spray wet; 	<p>Prior to construction and operation of the Proposed Project/Action.</p>	<p>City of Hayward</p>	<p>City of Hayward San Francisco Bay Regional Water Quality Control Board</p>	

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<ul style="list-style-type: none"> • Replace salt-sensitive plants with salt-tolerant plants (e.g., Bermudagrass); • Addressing sodium and alkalinity concerns through addition of water and soil amendments, including addition of gypsum; and • Comply with the State Board's General Waste Discharge Requirements of Recycled Water Use (Water Quality Order 2014-0090). 				
3.11 NOISE				
Mitigation Measure NOI-1: Limit Construction Hours. Construction activities will be limited to the least noise-sensitive times and will comply with the City's noise ordinances. Construction, alteration, and other related activities shall be allowed on weekdays between the hours of 7 a.m. and 7 p.m., and on Saturdays between the hours of 10 a.m. and 6 p.m. Construction activities shall not exceed the outdoor ambient sound level (dBA) of 86 dBA.	Prior to and during construction of the Proposed Project/Action.	City of Hayward	City of Hayward	
Mitigation Measure NOI-2: Locate Staging Areas away from Sensitive Receptors. The City's construction specification shall require that the contractor select staging areas as far as feasibly possible from sensitive receptors. Currently, planned staging areas are at the City's WPCF and the Hesperia Pump Station.	Prior to and during construction of the Proposed Project/Action.	City of Hayward	City of Hayward	
Mitigation Measure NOI-3: Maintain Mufflers on Equipment. The City's construction specifications shall require the contractor to maintain all construction equipment with manufacturer's specified noise-muffling devices.	Prior to and during construction of the Proposed Project/Action.	City of Hayward	City of Hayward	
Mitigation Measure NOI-4: Idling Prohibition and Enforcement. The City shall prohibit and enforce unnecessary idling of internal combustion engines. In practice, this would mean turning off equipment if it will not be used for five or more minutes.	Prior to and during construction of the Proposed Project/Action.	City of Hayward	City of Hayward	
Mitigation Measure NOI-5: Equipment Location and Shielding. Locate all stationary noise-generating construction equipment such as air compressors and standby power generators as far as possible from homes and businesses.	Prior to and during construction of the Proposed Project/Action.	City of Hayward	City of Hayward	
3.16 TRAFFIC AND TRANSPORTATION				
Mitigation Measure TRA-1: Prepare and Implement Traffic Control Plan. As is consistent with existing policy, the City shall require the contractor to prepare and implement effective traffic control plans in the areas of City and County streets to show specific methods for maintaining traffic flows. Examples of traffic control measures to be considered include: 1) use of flaggers to maintain alternating one-way traffic while working on one-half of the street; 2) use of advance construction signs and other public notices to alert drivers of	Prior to and during construction of the Proposed Project/Action.	City of Hayward	City of Hayward	

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activity in the area; 3) use of "positive guidance" detour signing on alternate access streets to minimize inconvenience to the driving public; 4) provisions for emergency access and passage; and 5) designated areas for construction worker parking.				
Mitigation Measure TRA-2: Return Roads to Pre-construction Condition. Following construction, the City shall ensure that road surfaces that are damaged during construction are returned to their pre-construction condition or better.	Prior to and during construction of the Proposed Project/Action.	City of Hayward	City of Hayward	