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Renewable Placer: Waste Action Plan Environmental Impact Report Appendices

Western Placer Management Authority
Project No. P2683386
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Appendix D
Project-Applicable Conditions on Covered Activities
from the PCCP

Appendix D. Project-Applicable Conditions on Covered Activities from the Placer County Conservation Program

D.1 General Condition 1: Watershed Hydrology and Water Quality

All Covered Activities will comply with the State of California General Construction Permit—including requirements to develop a project-based Storm Water Pollution Prevention Plan (SWPPP)—and applicable National Pollutant Discharge Elimination System (NPDES) program requirements as implemented by the County and the City of Lincoln.

The site design requirements, source control measures, and best management practices (BMPs) required by this Condition will cumulatively benefit Covered Species by doing the following:

- a) Minimizing the potential impacts on Covered Species that are most likely to be affected by changes in hydrology and water quality
- b) Reducing stream pollution by removing pollutants from surface runoff before it reaches local streams
- c) Minimizing degradation of streams and maintaining or improving the hydrograph to maintain populations of Covered Species and enhance recovery
- d) Reducing the potential for scour at stormwater outlets to streams by controlling the rate of flow into the streams

D.1.1 State Water Board Construction General Permit

Project applicants whose projects disturb 1 or more acres of soil or whose project disturbs less than 1 acre but the project is part of a larger common plan of development that in total disturbs 1 or more acres, are required to obtain coverage under the *General Permit for Discharges of Storm Water Associated with Construction Activity* (Construction General Permit Order 2009-0009-DWQ). Construction activity subject to this permit includes clearing, grading, and disturbances to the ground such as stockpiling or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility.

A component of the Construction General Permit requires the development of a SWPPP by a certified Qualified SWPPP Developer. The General Permit also aims to match post-construction runoff to preconstruction runoff for the 85th percentile storm event. However, the runoff reduction requirements only apply to projects that lie outside of jurisdictions covered by Standard Urban Storm Water Management Plan (or other more protective) post-construction requirements in either a Phase I or Phase II municipal separate storm sewer system (MS4) NPDES permit. The County and City are subject to such a permit. That program is described in the following section.

D.1.2 West Placer Storm Water Quality Design Manual

In 2013, the State Water Board established the Phase II Small MS4 General Permit (Order 2013-0001-DWQ). This now-current permit modified the previous permit (General Permit, Order 2003-0005-DWQ) by establishing stormwater management program requirements in the Order and defining the minimum acceptable elements of the municipal stormwater management program. Minimum permit requirements

Renewable Placer: Waste Action Plan Environmental Impact Report
Appendix D Project-Applicable Conditions on Covered Activities from the Placer County
Conservation Program

were established at the time of permit issuance and are no longer left to be determined later through Regional Water Board review and approval of Storm Water Management Plans.

Small MS4s are those owned or operated by the United States, a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or a Native American tribe or an authorized Native American tribal organization, or a designated and approved management agency under section 208 of the *Clean Water Act* that discharges to waters of the United States. Small MS4s typically support a population less than 100,000, based on the 1990 Decennial Census. The County, the City, Granite Bay Census Designated Place, the Town of Loomis, and North Auburn Census Designated Place are all identified as Permittees to Order 2013-0001-DWQ.

To comply with Order 2013-0001-DWQ, the County, the City of Roseville, the City, the City of Auburn, and the Town of Loomis jointly developed the *West Placer Storm Water Quality Design Manual* (Design Manual). The goal of the Design Manual is to provide standards that both conform to the mandates of the 2013 MS4 General and achieve the objectives of the Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP) (Placer County 2020).

The Design Manual includes requirements for Low-Impact Development (LID) strategies that focus on preserving key elements of a project site's pre-development hydrologic function. LID is a design strategy where storm water runoff is treated as a valuable resource that can recharge groundwater supplies, protect and enhance natural habitat and biodiversity, and add value to new development or redevelopment projects. Rather than discharging storm water runoff as a waste product, projects are designed to include a diverse set of post-construction storm water controls or BMPs that infiltrate, evapotranspire, or biotreat storm water runoff. By retaining storm water runoff on site, downstream receiving waters are provided with protection from increased pollutant loads and alterations of hydrologic functions otherwise affected by increased impervious surfaces and human activities.

D.1.3 HCP/NCCP Watershed Hydrology and Water Quality BMPs

The following BMPs are related to water quality objectives contained in the NPDES programs but are more targeted to avoidance and minimization of effects on Covered Species and go beyond the typical requirements of an SWPPP. These BMPs apply to all Covered Activities:

- 1) When possible, vehicles and equipment will be parked on pavement, existing roads, and previously disturbed areas. When vehicle parking areas are to be established as a temporary facility, the site will be recovered to pre-project or ecologically improved conditions within 1 year of start of groundbreaking so that effects are temporary (see General Condition 4, Temporary Effects, for the process to demonstrate temporary effects in the HCP/NCCP [Placer County, 2020]).
- 2) Trash generated by Covered Activities will be promptly and properly removed from the site.
- 3) Appropriate erosion-control measures (for example, fiber rolls, filter fences, vegetative buffer strips) will be used onsite to reduce siltation and runoff of contaminants into avoided wetlands, ponds, streams, or riparian vegetation.
 - a) Erosion-control measures will be of material that will not entrap wildlife (that is, no plastic monofilament). Erosion-control blankets will be used as a last resort because of their tendency to biodegrade slowly and trap reptiles and amphibians.

- b) Erosion-control measures will be placed between the area of disturbance and any avoided aquatic feature, within an area identified with highly visible markers (for example, construction and erosion-control fencing, flagging, silt barriers) prior to commencement of construction activities. Such identification will be properly maintained until construction is completed and the soils have been stabilized.
 - c) Fiber rolls used for erosion control will be certified by the California Department of Food and Agriculture or any agency that is a successor or receives delegated authority during the permit term as weed free.
 - d) Seed mixtures applied for erosion control will not contain California Invasive Plant Council–designated invasive species (<http://www.cal-ipc.org/paf/>) but will be composed of native species appropriate for the site or sterile non-native species. If sterile non-native species are used for temporary erosion control, native seed mixtures must be used in subsequent treatments to provide long-term erosion control and slow colonization by invasive non-native species.
- 4) If the runoff from the development will flow within 100 feet of a wetland or pond, vegetated storm water filtration features, such as rain gardens, grass swales, tree box filters, infiltration basins, or similar LID features to capture and treat flows, will be installed in a manner consistent with local programs and ordinances.

D.2 General Condition 3: Land Conversion

Covered Activities that would result in permanent conversion of natural land cover must pay fees or otherwise contribute to establishing the Reserve System and are subject to the maximum extent of take proposed under the Plan.

Land conversion refers broadly to an activity or process that results in the permanent conversion of a natural or semi-natural land cover to an urban, suburban, rural residential, or other artificial, built-up, or otherwise non-natural condition. It is not meant to apply when one natural or semi-natural land-cover type is converted to another natural or semi-natural land-cover type. It is also not meant to apply to changes in agricultural crop types, which is not a Covered Activity addressed by the Plan. Application of this condition is a key provision of the Plan. Land conversion allowable under the permits will be subject to an overall maximum extent of take. The proposed extent of take sets a maximum acreage of cumulative land conversion from all Covered Activities. Proposed maximums are set for several communities and are listed in Table 4-1 for permanent effects. Proposed maximums are also set for geographical Plan subareas, with some provision for flexibility in shifting allowable take between subareas.

The conservation strategy outlined in Chapter 5, Conservation Strategy, serves at a regional scale as conservation in perpetuity for Covered Species and mitigation for the effects of Covered Activities (Placer County 2020). Fees collected for land conversion will fund land acquisition, restoration, and long-term management and monitoring of similar or higher-quality land than those lands affected by Covered Activities.¹

Covered Activities will be assessed fees based on the parameters described in Chapter 9, Costs and Funding, and summarized in Table 9-6 of the HCP/NCCP (Placer County 2020). In the Valley, the fees will

¹ The HCP/NCCP also provides additional conservation beyond mitigation. The fees, however, apply to the mitigation component of the conservation strategy.

Renewable Placer: Waste Action Plan Environmental Impact Report
Appendix D Project-Applicable Conditions on Covered Activities from the Placer County
Conservation Program

be applied when projects affect natural, semi-natural, and other agricultural communities. These communities include the following land-cover types:

- a) Grassland
- b) Vernal pool complex
- c) Aquatic or wetland complex
- d) Riverine or riparian complex
- e) Oak woodland
- f) Valley Oak woodland
- g) Rice agriculture
- h) Field agriculture
- i) Orchard and vineyard agriculture
- j) Rural residential

In the Valley, the land conversion fee will not apply to ground disturbance in urban (non-natural) communities except if a special habitat fee applies. Special habitat fees for restoration and enhancement will apply to any ground disturbance to a constituent habitat regardless of community type (see Chapter 3, Physical and Biological Setting, Table 3-6 of the HCP/NCCP for a list of constituent habitats [Placer County 2020]). In urban (non-natural) communities, the land conversion fee would apply to the same area of ground disturbance as the special habitat fee.

In the Foothills, an open space fee will be assessed on ground disturbance of urban (non-natural) communities to reflect the open space and fuels management benefits of the Plan to all Foothills development. As with the Valley, special habitat fees will apply to ground disturbance in any community where a constituent habitat is present.

Chapter 9, Costs and Funding, describes how fees will be applied based on the parcel or the development area, depending on the type of Covered Activity and whether the project applicant is a Permittee or not. For projects where fees are based on the entire parcel, the project applicant can demonstrate that parts of the parcel will be fully avoided, as described in the following section (Section 6.3.1.3.1, Permanent Effect Avoidance in the PFG [Placer County 2020]) and in other conditions on Covered Activities described in this chapter. Fees will not be levied on lands that are completely avoided per the terms of this chapter. The fee calculation is described in further detail in Chapter 9 of the HCP/NCCP, Costs and Funding (Placer County 2020).

D.2.1 Permanent Effect Avoidance in the Potential Future Growth Area

The past trend toward large projects is expected to continue in the Valley and to a lesser extent, in the Foothills in the portion of the Plan Area designated as Potential Future Growth (PFG) (Components A1 and A3). These projects typically involve large tracts of undeveloped land converted to fairly dense urban or suburban uses. Open space areas may be left within the project site, but these serve mainly aesthetic, flood control, or recreational purposes rather than biological conservation. Such small, avoided areas are subject to indirect effects so that any original habitat values are difficult to manage and protect. For this reason, any open space proposed as part of a Covered Activity will be considered part of the project effects and, therefore, assumed to be permanently affected and not exempted from the Plan fees unless the open space meets avoidance criteria described as follows. See Chapter 9, Section 9.4.1.8, Timing of Development Fee Payment, for application of fees to multi-phase projects.

To qualify as "avoided," land within the PFG must meet all the applicable natural community and Covered Species habitat requirements in Section 6.3.2, Conditions to Avoid and Minimize Effects on Specific

Natural Communities, and Section 6.3.5, Conditions to Minimize Effects on Covered Species. Avoided lands must also meet at least one of the following criteria:

- 1) It is a minimum of 200 contiguous acres.
- 2) It is located adjacent to the Reserve Acquisition Area (RAA) or adjacent to an existing reserve that together totals at least 200 acres (either a HCP/NCCP reserve or a non-HCP/NCCP reserve protected in perpetuity).
- 3) It is located in or abuts the Stream System boundary.
- 4) It contributes to meeting the goals and objectives of the Plan as described in Chapter 5, Conservation Strategy, and as determined by the Placer Conservation Authority (PCA) (that is, the PCA may want to acquire the avoided area for the Reserve System).
- 5) It is set aside to avoid occurrences of certain Covered Species or sensitive land-cover types per the conditions in this chapter.
- 6) It is required to be avoided by PCA.

The avoidance determination, including an evaluation of direct and indirect effects, will be made by the Permittee with jurisdiction over the project in consultation with PCA and will take into account such factors as the avoidance area's relationship to existing or potential reserves, edge-to-area ratio, and Stream System boundary. The Permittee may consult with PCA for guidance in determining the extent of the reduction of effects.

Any part of a project site that is deemed to have avoided take is not subject to the application of fees, and establishment of a conservation easement is not required. Avoidance does not necessarily mean that the excluded land is suitable to be credited as land to be incorporated into the Reserve System in lieu of fees (see sub-section X.2.3 for additional discussion on land in lieu of fees). If the avoided land is to be included as part of the Reserve System, the Wildlife Agencies must review and approve such inclusion.

D.2.2 Permanent Effect Avoidance for Low-Density Rural Development

Low-density rural development comprises (1) new rural residential use, (2) appurtenant or accessory activities or structures for existing rural residential uses, and (3) activities or structures for rural nonresidential land uses. The following considerations will apply to low-density rural development that is anticipated to include most non-public Covered Activities in the Conservation and Rural Development portion of the Plan Area (components A2 and A4, comprising the RAA and Existing Reserves) and in the Foothills portion of the PFG, plus some limited non-public Covered Activities in the Valley portion of the PFG.

Because low-density rural development may leave a large portion of a parcel undisturbed and where these Covered Activities occur on existing parcels already subject to fragmentation and indirect effects, fees for new rural residential development are graduated based on whether subdivision of an existing parcel occurs and the number of resulting parcels (see Chapter 9, Costs and Funding). PCA will track the estimated actual impact of rural residential development, and the graduated fee may be adjusted if impacts in the aggregate differ from the assumptions used to set the fee. For structures or activities that are appurtenant or accessory to rural residential uses, and activities or structures that support rural nonresidential land uses, land conversion fees will apply to the disturbed area footprint.

D.2.3 Land Provided In Lieu of Fees

Project applicants wishing to receive full or partial credit toward their fee obligations may offer land in lieu of fees. Details regarding land in lieu of fees are provided in Section 9.4.1.10 of the HCP/NCCP, Land Provided in Lieu of Development Fees (Placer County 2020).

D.3 General Condition 4: Temporary Effects

Covered Activities that result in temporary effects on natural land cover must pay fees and are subject to the maximum extent of take proposed under the Plan.

In addition to verifying the land cover on the project site as described in Item 3: Community and Constituent Habitat Types on Site and Baseline Land-cover Map Consistency of the HCP/NCCP, project applicants of Covered Activities that have temporary effects are required to provide documentation related to the nature of the effects (Placer County 2020). To qualify for the temporary effect fee, applicants must document pre-project conditions and propose performance standards for the affected natural community as part of their participation package. The purpose of these performance standards is to demonstrate to the local jurisdiction that temporary impact sites will be returned to pre-project conditions within 1 year of starting ground disturbance at that location. Performance standards will vary based on the natural community type affected, but they should include metrics such as percentage vegetative cover, vegetation height, restored topography, or restored hydrology. One year after project groundbreaking, the applicant will provide the Permittee with jurisdiction over the project with a written assessment of how the performance standards were met. Based on this information, the Permittee will determine whether the project impacts were actually temporary. If it is determined the effects remain 1 year after groundbreaking activities have commenced, the effects will be considered permanent, and fees will be reassessed based on those effects, as described in General Condition 3 of the HCP/NCCP, Land Conversion (Placer County 2020).

Temporary effects allowable under the permits will be subject to overall maximum effects. If a plot of land is subjected to temporary disturbance more than once, that temporary effect is only counted once in the cumulative tally of maximum effects. Proposed temporary effect limits are set for several communities and are listed in Table 4-3 of the HCP/NCCP (Placer County 2020). Proposed maximum temporary effects under the permits are established for geographical Plan subareas, with some provision for flexibility between subareas.

Within 2 years of permit issuance, PCA will provide guidelines to all applicants on recommended performance standards for each affected natural community that, if met, would meet the intent of the temporary impacts. At any time, Permittees may confer with PCA in the review and approval of the performance standards.

D.4 General Condition 5: Conduct Worker Training

If project-specific conditions for avoidance or minimization apply during construction, all project construction personnel will participate in a worker environmental training program that will educate workers regarding the Covered Species and their habitats, the need to avoid impacts, state and federal protection, and the legal implications of violating environmental laws and regulations.

This condition applies to projects where compliance with the conditions on Covered Activities would result in one or more avoidance and minimization requirements applied during construction (for example,

maintenance of an avoidance buffer, placement of exclusion fencing). At a minimum, this training may be accomplished through "tailgate" presentations at the project site and the distribution of informational brochures, with descriptions of sensitive biological resources and regulatory protections, to construction personnel prior to initiation of construction work.

D.5 Regional Public Projects Condition 3: Operations and Maintenance Best Management Practices

Operations and maintenance (O&M) BMPs for applicable transportation or other infrastructure projects in the rural portion of the Plan Area will be implemented where appropriate and feasible to reduce the effects of construction on natural communities and native species.

This condition applies to O&M activities (1) on public lands and (2) on private lands where the activities are authorized pursuant to land use approvals granted by the Permittees and governed by conditions of approval. O&M activities include utility line and facilities maintenance, public or private road maintenance, vegetation management, and mitigation monitoring. Road and utility maintenance activities have the potential to affect Covered Species directly through management activities such as mowing or resurfacing and may indirectly affect Covered Species by introducing sediment and other pollutants into downstream waterways or by spreading invasive species.

- Most O&M will occur as ongoing activities. The determination regarding which BMPs will be required and how they will be monitored will be made as part of the HCP/NCCP participation package described in Section 6.2, Program Participation: Receiving Take Authorization under the Plan.
- Projects occurring in streams or the Stream System will also comply with Stream System Condition 1, Stream System Avoidance and Minimization; and Stream System Condition 2, Stream System Mitigation: Restoration, as appropriate (Placer County 2020).

D.5.1 Operations and Maintenance Best Management Practices

- a) Silt fencing or other sediment control devices will be installed down-slope from maintenance activities that disturb soil to minimize the transport of sediment offsite.
- b) In the course of rural road maintenance, no erodible materials will be deposited into watercourses. Brush, loose soils, or other debris material will not be stockpiled within stream channels (including road-side drainage ditches) or on adjacent banks where it could be washed into the channel or drainage ditch.
- c) Alternatives, such as mechanical control, will be considered to substantially lessen any significant effect on the environment before the use of pesticides. Integrated pest-management BMPs will be used for all vegetation control. Limitations may occur because of fire management requirements and local integrated pest-management ordinances.
- d) Herbicides and other pesticides will be used only when necessary and applied in strict compliance with label requirements and state and federal regulations. Herbicides and pesticides will be applied only when weather conditions minimize drift and effects on nontarget sites. Herbicide and pesticide use is not a Covered Activity under the federal permits.
- e) Maintenance activities on rural roads adjacent to natural land-cover types will be seasonally timed, when safety permits and regulatory restrictions allow, avoiding or minimizing adverse effects on active nests of resident and migratory birds, including bird Covered Species. This measure is particularly relevant for right-of-way mowing, brush clearing, and tree trimming. Project applicants will coordinate

with PCA to develop work schedules that optimize logistic, safety, and financial needs while minimizing potential effects on nesting birds.

- f) Mowing equipment will be thoroughly cleaned before use, so it is free of noxious weeds (as defined by the U.S. Department of Agriculture in cooperation with the California Department of Food and Agriculture) and does not introduce such weeds to new areas.
- g) Ground-disturbing road-maintenance activities, such as regrading, will be timed so that the moisture content of the soil will support soil re-compaction and reduce the need for an imported water source to achieve soil compaction. Similarly, activities will be timed so that the use of heavy equipment will not result in the creation of mud puddles and ruts.
- h) Regularly scheduled visual inspection of all roads will be conducted to identify sites where erosion is contributing sediment to local streams and stabilize eroding areas.
- i) Annual clearing of flow lines (for example, culverts and ditches) will be conducted such that flow lines are maintained free of debris.
- j) Existing roads will be used for access and disturbed areas for staging as site constraints allow. Off-road travel will avoid sensitive communities.
- k) Utility pole or line replacement and maintenance will follow the suggested practices of the Avian Power Line Interaction Committee's publication *Reducing Avian Collisions with Power Lines: The State of the Art in 2012* (Avian Power Line Interaction Committee 2012).

D.6 Species Condition 1, Swainson's Hawk

Conditions for the Swainson's hawk are based on avoidance, minimization, and mitigation guidelines from the Draft Staff Report: Recommended Mitigation Strategies for the Swainson's Hawk (*Buteo swainsoni*) within the California Breeding Range (California Department of Fish and Game 1994) and measures developed to avoid and minimize effects on Swainson's hawks by activities covered by the East Contra Costa County HCP/NCCP (2006).

D.6.1 Survey Requirements

Surveys for Swainson's hawk nests are required on the following communities in the Valley, within 0.25 mile (1,320 feet) of the project site:

- Valley oak woodland
- Grassland (if trees are present)
- Riparian
- Semi-natural (if trees are present)
- Other agricultural (if trees are present)
- Rural residential (if trees are present)
- Urban (if trees are present)

In addition, a California Natural Diversity Database (CNDDDB) record search is required to determine whether any active nests are present within 1,320 feet of the project site. A nest is assumed active if it has been used within the previous 5 years.

Swainson's Hawk 1. Swainson's hawk surveys and CNDDDB record searches are required well in advance of project construction to determine whether Swainson's hawk are nesting on or within 1,320 feet of the project site. If the project cannot be designed to avoid active Swainson's hawk nest trees, and construction

must occur during the nesting season (approximately February 1 to September 15), a preconstruction survey must be conducted no more than 15 days prior to ground disturbance. Surveys will be conducted in a manner consistent with current guidelines (Swainson's Hawk Technical Advisory Committee 2000), with the following exceptions:

- Surveys will be required within a 1,320-foot radius around the project site. In instances where an adjacent parcel is not accessible to survey because the qualified biologist was not granted permission to enter, the qualified biologist will scan all potential nest tree(s) from the adjacent property, road sides, or other safe, publicly accessible viewpoints, without trespassing, using binoculars or a spotting scope to look for Swainson's hawk nesting activity.
- Surveys will be required from February 1 to September 15 (or sooner if it is found that birds are nesting earlier in the year).
- If a Swainson's hawk nest is located and presence confirmed, only one follow-up visit is required (to avoid disturbing the nest with repeated visits).

D.6.2 Applicable Measures

If surveys determine that a Swainson's hawk nest is occupied, the project must adopt the minimization measure listed as follows:

Swainson's Hawk 2. During the nesting season (approximately February 1 to September 15 or sooner if it is found that birds are nesting earlier in the year), ground-disturbing activities within 1,320 feet of occupied nests or nests under construction will be prohibited to minimize the potential for nest abandonment. While the nest is occupied, activities outside the buffer can take place, provided they do not stress the breeding pair.

If the active nest site is shielded from view and noise from the project site by other development, topography, or other features, the project applicant can apply to PCA for a reduction in the buffer distance or waiver of this avoidance measure. A qualified biologist would be required to monitor the nest and determine that the reduced buffer does not cause nest abandonment. If a qualified biologist determines nestlings have fledged, Covered Activities can proceed normally.

Swainson's Hawk 3. Active (within the last 5 years) nest trees on a project site will not be removed during the nesting season. If a nest tree must be removed (as determined by PCA), tree removal will occur only between September 15 and February 1, after any young have fledged and are no longer dependent on the nest and before breeding activity begins.

D.6.3 Construction Monitoring

Swainson's Hawk 4. Construction monitoring will be conducted by a qualified biologist and will focus on confirming that activities do not occur within the buffer zone. The qualified biologist performing the construction monitoring will verify that effects on Swainson's hawks are minimized. If monitoring indicates that construction outside of the buffer is affecting nesting, the buffer will be increased if space allows (for example, move staging areas farther away). If space does not allow, construction will cease until the young have fledged from the nest (as confirmed by a qualified biologist).

Monitoring frequency will be approved by PCA and based on the frequency and intensity of construction activities and the likelihood of disturbance of the active nest. In most cases, monitoring will occur at least every other day, but in some cases, daily monitoring may be appropriate to minimize direct effects on

Swainson's hawks. The qualified biologist will train construction personnel on the avoidance procedures and buffer zones.

D.7 Species Condition 3, Western Burrowing Owl

The following measures will be implemented to avoid or minimize effects of Covered Activities on western burrowing owls. This condition is based on the *Staff Report on Burrowing Owl Mitigation* (California Department of Fish and Game 2012) and measures to avoid and minimize effects in the East Contra Costa County HCP/NCCP (Jones & Stokes Associates 2006).

D.7.1 Survey Requirements

Surveys for burrowing owl must be conducted for projects that occur on the following communities and features in the Valley, or as determined by a qualified biologist, so that occupied burrowing owl nests are not taken:

- Grassland
- Vernal pool complex
- Semi-natural (agriculture)
- Other agricultural
- Rural residential and urban community if potential burrow sites are available
- Human-made structures such as underground pipes, irrigation canal banks, ditches
- Banks of intermittent drainages if potential burrow sites are available

Burrowing Owl 1. Two surveys will be conducted within 15 days prior to ground disturbance to establish the presence or absence of burrowing owls. The surveys will be conducted at least 7 days apart (if burrowing owls are detected on the first survey, a second survey is not needed) for both breeding and nonbreeding season surveys. All burrowing owls observed will be counted and mapped.

During the breeding season (February 1 to August 31), surveys will document whether burrowing owls are nesting in or within 250 feet of the project area.

During the nonbreeding season (September 1 to January 31), surveys will document whether burrowing owls are using habitat in or directly adjacent to any area to be disturbed. Survey results will be valid only for the season (breeding or nonbreeding) during which the survey was conducted.

The qualified biologist will survey the proposed footprint of disturbance and a 250-foot radius from the perimeter of the proposed footprint to determine the presence or absence of burrowing owls. The site will be surveyed by walking line transects, spaced 20 to 60 feet apart, adjusting for vegetation height and density. At the start of each transect and at least every 300 feet, the surveyor, with use of binoculars, will scan the entire visible project area for burrowing owls. During walking surveys, the surveyor will record all potential burrows used by burrowing owls, as determined by the presence of one or more burrowing owls, pellets, prey remains, whitewash, or decoration. Some burrowing owls may be detected by their calls; therefore, observers will also listen for burrowing owls while conducting the survey. Adjacent parcels under different land ownership will be surveyed only if access is granted. If portions of the survey area are on adjacent sites for which access has not been granted, the qualified biologist will get as close to the inaccessible area as possible and use binoculars to look for burrowing owls.

The presence of burrowing owl or their sign anywhere on the site or within the 250-foot accessible radius around the site will be recorded and mapped. Surveys will map all burrows and occurrence of sign of

burrowing owl on the project site. Surveys must begin 1 hour before sunrise and continue until 2 hours after sunrise (3 hours total) or begin 2 hours before sunset and continue until 1 hour after sunset. Additional time may be required for large project sites.

D.7.2 Applicable Measures

If a burrowing owl or evidence of presence at or near a burrow entrance is found to occur within 250 feet of the project site, the following measures must be implemented:

Burrowing Owl 2. If burrowing owls are found during the breeding season (approximately February 1 to August 31), the project applicant will do the following:

- Avoid nest sites that could be disturbed by project construction during the remainder of the breeding season or while the nest is occupied by adults or young (occupation includes individuals or family groups foraging on or near the site following fledging).
- Establish a 250-foot nondisturbance buffer zone around nests. The buffer zone will be flagged or otherwise clearly marked. Should construction activities cause the nesting bird to vocalize, make defensive flights at intruders, or otherwise display agitated behavior, then the exclusionary buffer will be increased such that activities are far enough from the nest so that the bird(s) no longer display this agitated behavior. The exclusionary buffer will remain in place until the chicks have fledged or as otherwise determined by a qualified biologist. Construction may only occur within the 250-foot buffer zone during the breeding season only if a qualified raptor biologist monitors the nest and determines that the activities do not disturb nesting behavior, or the birds have not begun egg-laying and incubation, or that the juveniles from the occupied burrows have fledged and moved offsite. Measures such as visual screens may be used to further reduce the buffer with Wildlife Agency approval, provided a biological monitor confirms that such measures do not cause agitated behavior.

Burrowing Owl 3. If burrowing owls are found during the nonbreeding season (approximately September 1 to January 31), the project applicant will establish a 160-foot buffer zone around active burrows. The buffer zone will be flagged or otherwise clearly marked. Measures such as visual screens may be used to further reduce the buffer with Wildlife Agency approval, provided a biological monitor confirms that such measures do not cause agitated behavior.

Burrowing Owl 4. During the nonbreeding season only, if a project cannot avoid occupied burrows after all alternative avoidance and minimization measures are exhausted, as confirmed by the Wildlife Agencies, a qualified biologist may passively exclude birds from those burrows. A burrowing owl exclusion plan must be developed by a qualified biologist, consistent with the most recent guidelines from the Wildlife Agencies (for example, California Department of Fish and Game 2012), and submitted to and approved by PCA and the Wildlife Agencies. Burrow exclusion will be conducted for burrows located in the project footprint and within a 160-foot buffer zone as necessary.

D.7.3 Construction Monitoring

Burrowing Owl 5. A biological monitor will be present onsite daily to verify that no Covered Activities occur within the buffer zone. The qualified biologist performing the construction monitoring will confirm that effects on burrowing owls are minimized. If monitoring indicates that construction outside of the buffer is affecting nesting, the buffer will be increased if space allows (for example, move staging areas farther away). If space does not allow, construction will cease until the young have fledged from the nests in the

colony (as confirmed by a qualified biologist) or until the end of the breeding season, whichever occurs first.

A biological monitor will conduct training of construction personnel on the avoidance procedures, buffer zones, and protocols in the event that a burrowing owl flies into an active construction zone (that is, outside the buffer zone).

D.8 Species Condition 4, Tricolored Blackbird

The following measures will be implemented to avoid or minimize effects of Covered Activities on tricolored blackbird nesting colonies and actively used foraging habitat.

D.8.1 Survey Requirements

PCA will provide a map of active colony sites to help determine where a survey for tricolored blackbird must occur. A colony site is considered active if it has been used for nesting in the prior 10 years. Surveys for nesting tricolored blackbird must occur if the PCA-provided map indicates an active colony site occurs on the project site or within 1,300 feet of a colony site. Surveys for nesting tricolored blackbird must also be conducted for project sites below 300 feet elevation, within the following communities:

- Aquatic/Wetland Complex
- Field Agriculture when planted in wheat, grain, triticale, or similar crop
- Patches of thorny or spiny vegetation such as blackberry, nettle, or thistle (blackberry is often associated with the riparian constituent habitat)

If an active colony site is within 3 miles of the project site, and construction will occur within the nesting season (March 15 to July 31), then a survey of foraging habitat at and immediately surrounding the project site will be conducted within the following communities:

- Grassland
- Rice agriculture
- Field agriculture
- Aquatic or wetland complex
- Vernal pool complex

Tricolored Blackbird 1. Preconstruction Surveys – Nest Colony Sites. Prior to initiation of Covered Activities in project work areas and within 1,300 feet of project work areas, the qualified biologist(s) will conduct preconstruction surveys to evaluate the presence of tricolored blackbird nesting colonies. In instances where an adjacent parcel is not accessible to survey because the qualified biologist was not granted permission to enter, the qualified biologist will scan potential nest colony site(s) from the adjacent property, road sides, or other safe, publicly accessible viewpoints, without trespassing, using binoculars or a spotting scope to look for tricolored blackbird nesting activity.

Surveys should be conducted at least twice with at least 1 month between surveys during the nesting season 1 year prior to initial ground disturbing for the Covered Activity, if feasible, and during the year of ground disturbing for the Covered Activity (required). If Covered Activities will occur in the project work area during the nesting season, three surveys will be conducted within 15 days prior to the Covered Activity, with one of the surveys occurring within 5 days prior to the start of the Covered Activity. The

survey methods will be based on Kelsey (2008) or a similar protocol approved by PCA and the Wildlife Agencies based on site-specific conditions.

If the first survey indicates that suitable nesting habitat is not present on the project site or within 1,300 feet of the project work area, additional surveys for nest colonies are not required. Preconstruction surveys are still required, however, as described in the following sub-section, Tricolored Blackbird 2.

Tricolored Blackbird 2. Preconstruction Surveys – Foraging Habitat. If an active colony is known to occur within 3 miles of the project site, a qualified biologist will conduct two surveys of foraging habitat within the project site and within a 1,300-foot radius around the project site to determine whether foraging habitat is being actively used by foraging tricolored blackbirds. The qualified biologist will map foraging habitat, as defined by the land cover types listed previously, within a 1,300-foot radius around the project site to delineate foraging habitat that will be surveyed. The surveys will be conducted approximately 1 week apart, with the second survey occurring no more than 5 calendar days prior to ground-disturbing activities. Two surveys are required because tricolored blackbirds may not visit a site during a single survey period, as they may be foraging elsewhere.

Each survey will last 4 hours and begin no later than 8:00 a.m. The qualified biologist will survey the entire project site and a 1,300-foot radius around the project site by observing and listening from accessible vantage points that provide views of the entire survey area. If such vantage points are not available, the qualified biologist will survey from multiple vantage points so that the entire survey area is surveyed. In instances where an adjacent parcel is not accessible to survey because the qualified biologist was not granted permission to enter, the qualified biologist will scan all foraging habitat from the adjacent property, road sides, or other safe, publicly accessible viewpoints, without trespassing, by using binoculars or a spotting scope to look for tricolored blackbird foraging activity. The qualified biologist will map the locations on the site and within a 1,300-foot radius around the project site where tricolored blackbirds are observed and record an estimate of the numbers of tricolored blackbirds observed (estimated by 10s, 100s, or 1,000s), the frequency of visits (for example, if individuals or a flock makes repeated foraging visits to the site during the survey period), whether tricolored blackbirds are leaving the site with food in their bills, and the direction they fly to and from.

D.8.2 Applicable Measures

If a tricolored blackbird nesting colony is found, the project applicant will abide by the following measures:

Tricolored Blackbird 3. Nesting Colony – Avoidance and Minimization. Construction activity or other Covered Activities that may disturb an occupied nest colony site, as determined by a qualified biologist, will be prohibited during the nesting season (March 15 through July 31 or until the chicks have fledged or the colony has been abandoned on its own) within a 1,300-foot buffer zone around the nest colony, to the extent practicable. The intent of this condition is to prevent disturbance to occupied nest colony sites on or near project sites so they can complete their nesting cycle. This condition is not intended to preserve suitable breeding habitat on project sites; rather, it allows impacts to active colony sites to only take place once the site is no longer occupied by the nesting colony. The buffer will be applied to extend beyond the nest colony site as follows:

- If the colony is nesting in a wetland, the buffer must be established from the outer edge of hydric vegetation associated with the colony.
- If the colony is nesting in nonwetland vegetation (for example, Himalayan blackberry), the buffer must be established from the edge of the colony substrate.

This buffer may be modified to a minimum of 300 feet, with written approval from the Wildlife Agencies, in areas with dense forest, buildings, or other features between the Covered Activities and the occupied active nest colony; where there is sufficient topographic relief to protect the colony from excessive noise or visual disturbance; where sound curtains have been installed; or other methods developed in consultation with the Wildlife Agencies where conditions warrant reduction of the buffer distance. If tricolored blackbirds colonize habitat adjacent to Covered Activities after the activities have been initiated, the project applicant will reduce disturbance through establishment of buffers or noise reduction techniques or visual screens, as determined in consultation with the Wildlife Agencies and PCA. The buffer must be clearly marked to prevent project-related activities from occurring within the buffer zone.

Tricolored Blackbird 4. Actively Used Foraging Habitat – Avoidance and Minimization. Construction activity or other Covered Activities that may disturb foraging tricolored blackbirds, as determined by a qualified biologist, will be prohibited within 1,300-feet of the foraging site to the extent feasible during the nesting season (March 15 through July 31 or until the chicks have fledged or the colony has been abandoned on its own) if the foraging habitat was found to be actively used by foraging tricolored blackbirds during at least one of the two foraging habitat surveys conducted under Tricolored Blackbird 2. If survey results indicate that the area provides marginal foraging habitat (for example, tricolored blackbirds were observed foraging, but only briefly, and most were not successfully capturing prey), or site-specific conditions may warrant a reduced buffer, PCA technical staff will consult with the Wildlife Agencies to evaluate whether the project needs to avoid the foraging habitat or whether a reduced buffer may be appropriate. In such cases, additional surveys may be needed to assess site conditions and the value of the foraging habitat.

The buffer must be clearly marked to prevent project-related activities from occurring within the buffer zone. This buffer may be modified to a minimum of 300 feet, with written approval from the Wildlife Agencies, in areas with dense forest, buildings, or other features between the Covered Activities and the actively used foraging habitat; where there is sufficient topographic relief to protect foraging birds from excessive noise or visual disturbance; or in consultation with the Wildlife Agencies if other conditions warrant reduction of the buffer distance. If tricolored blackbird begin using foraging habitat adjacent to Covered Activities after the activities have been initiated, the project applicant will reduce disturbance by establishing buffers or noise reduction techniques or visual screens, as determined in consultation with the Wildlife Agencies and PCA.

Similar to Tricolored Blackbird 3, the intent of this condition is to allow actively nesting colonies on or near project sites to complete their nesting cycle prior to the loss of the foraging habitat onsite. Protecting actively used foraging habitat during the nesting season will help the tricolored blackbird nesting colony complete its nesting cycle, as loss of valuable foraging habitat could cause the nesting colony to fail. (This condition is not intended to preserve suitable foraging habitat on project sites in the long term.)

D.8.3 Construction Monitoring

Tricolored Blackbird 5. Nesting Colony – Construction Monitoring. Active nesting colonies that occur within the no-disturbance buffer will be monitored by the qualified biologist(s) to verify the Covered Activity is not disrupting the nesting behavior of the colony. The frequency of monitoring will be approved by PCA and based on the frequency and intensity of construction activities and the likelihood of disturbance of the active nest. In most cases, monitoring will occur at least every other day, but in some cases, daily monitoring may be appropriate to confirm that direct effects on tricolored blackbird are minimized. The biologist will train construction personnel on the avoidance procedures and buffer zones.

If the qualified biologist(s) determines that the Covered Activity is disrupting nesting or foraging behavior, the qualified biologist(s) will notify the project applicant immediately, and the project applicant will notify PCA within 24 hours to determine additional protective measures that can be implemented. The qualified biologist(s) will have the authority to stop Covered Activities until additional protective measures are implemented. Additional protective measures will remain in place until the qualified biologist(s) determine(s) tricolored blackbird behavior has normalized. If additional protective measures are ineffective, the qualified biologist(s) will have the authority to stop Covered Activities as needed until the additional protective measures are modified and nesting behavior of tricolored blackbird returns to normal.

Additional protective measures may include increasing the size of the buffer (within the constraints of the project site), delaying Covered Activities (or the portion of Covered Activities causing the disruption) until the colony is finished breeding and chicks have left the nest site, temporarily relocating staging areas, or temporarily rerouting access to the project work area. The project proponent will notify PCA and Wildlife Agencies within 24 hours if nests or nestlings are abandoned. If the nestlings are still alive, the qualified biologist(s) will work with the Wildlife Agencies to determine appropriate actions for salvaging the eggs or nestlings. Notification to PCA and Wildlife Agencies will be via telephone or email, followed by a written incident report. Notification will include the date, time, location, and circumstances of the incident.

Tricolored Blackbird 6. Actively Used Foraging Habitat – Construction Monitoring. Foraging habitat within the buffer will be monitored by the qualified biologist(s) to verify that the Covered Activity is not disrupting tricolored blackbird foraging behavior. The frequency of monitoring will be approved by PCA and based on the frequency and intensity of construction activities and the likelihood of disturbance of foraging tricolored blackbirds. In most cases, monitoring will occur at least every other day, but in some cases, daily monitoring may be appropriate to confirm that effects on tricolored blackbird are minimized. The biologist will train construction personnel on the avoidance procedures and buffer zones.

If the qualified biologist(s) determines that the Covered Activity is disrupting foraging behavior, the qualified biologist(s) will notify project applicant immediately, and the project applicant will notify PCA within 24 hours to determine additional protective measures that can be implemented. The qualified biologist(s) will have the authority to stop Covered Activities until additional protective measures are implemented. Additional protective measures will remain in place until the qualified biologist(s) determine(s) tricolored blackbird behavior has normalized. If additional protective measures are ineffective, the qualified biologist(s) will have the authority to stop Covered Activities as needed until the additional protective measures are modified and foraging behavior of tricolored blackbird returns to normal. Additional protective measures may include increasing the size of the buffer (within the constraints of the project site), temporarily relocating staging areas, or temporarily rerouting access to the project work area.

D.9 Species Condition 8, Valley Elderberry Longhorn Beetle

The following measures will be implemented to avoid or minimize effects of Covered Activities on valley elderberry longhorn beetle.

Surveys for valley elderberry longhorn beetle are required for Covered Activities within the following habitat features when below 650 feet elevation (above mean sea level):

- a) Riparian constituent habitat
- b) Valley oak woodland community

- c) Stream system (excluding frequently disked or flooded agricultural lands, such as rice, that would not likely support elderberry shrubs)

The project applicant will apply avoidance and minimization measures as specified in the U.S. Fish and Wildlife Services' (USFWS's) *Conservation Guidelines for the Valley Elderberry Longhorn Beetle* (USFWS 1999b) or the current Wildlife Agency-approved avoidance and minimization protocol. When take is authorized, the project applicant must coordinate with PCA to provide transplants and seedlings or cuttings for planting in suitable habitat on the Reserve System, consistent with the USFWS Guidelines and Framework. Project-by-project mitigation requirements for valley elderberry longhorn beetle cannot be applied to the restoration requirements of 6.3.2.2.3 (Community Condition 2.3, Riverine and Riparian Restoration) for a project's associated riparian native tree and shrub impacts to be planted as replacement habitat (that is, mitigation for impacts to valley elderberry longhorn beetle [transplants and plantings of seedlings and cuttings] does not count as mitigation for impacts to riverine and riparian [restoration of riverine and riparian]). The distinction between valley elderberry longhorn beetle impacts and riverine and riparian impacts will be addressed through project-specific mitigation requirements that provide for restoration of natural communities, including riverine and riparian complex (that is, restoration dependent on effects; see Table 5-4 of the HCP/NCCP [Placer County 2020]).

D.10 Species Condition 10: Vernal Pool Fairy Shrimp and Vernal Pool Tadpole Shrimp

Surveys are required in vernal pools that will be lost to Covered Activities to determine the occupancy rate of vernal pool fairy shrimp and vernal pool tadpole shrimp in these wetlands. These occupancy rates will be used to calculate the Occupancy Rate Standards² for these species. The Occupancy Rate Standards will help PCA protect, restore, and create vernal pools that are occupied by vernal pool fairy shrimp and vernal pool tadpole shrimp at a rate and quality equal to or greater than vernal pools lost to Covered Activities. The Occupancy Rate Standards will be determined after at least 37 wetted acres of vernal pools have been surveyed. Existing data (that is, data collected prior to issuance of the state and federal permits) collected within the PFG will count toward the requirement to survey a minimum of 37 wetted acres of vernal pools if the surveys were conducted using USFWS-established or -approved protocols, and data are sufficient to quantify occupancy rates. Once the Occupancy Rate Standards are established and approved by the Wildlife Agencies, no further vernal pool occupancy surveys will be required for sites to be affected under the Plan. See HCP/NCCP Section 5.3.1.6.10, Vernal Pool Branchiopods, for more details on the Occupancy Rate Standards and the Plan's requirements to protect, enhance, restore, and create habitat on the Reserve System occupied by vernal pool fairy shrimp and vernal pool tadpole (Placer County 2020).

D.10.1 Survey Requirements

Wet-season surveys to determine occupancy of vernal pools by vernal pool fairy shrimp and vernal pool tadpole shrimp will be required during the Initial Survey Phase. PCA will inform the applicant if the Plan is in the Initial Survey Phase and surveys are required.

Vernal Pool Fairy Shrimp and Tadpole Shrimp 1. Wet-season surveys will be conducted for vernal pool fairy shrimp and vernal pool tadpole shrimp in vernal pools, as determined by wetland delineation (See Section 6.2.4.4, Item 4: Mapping HCP/NCCP Aquatic Features for details [Placer County 2020]). The

² The Occupancy Rate Standard is the proportion of occupied vernal pools relative to all vernal pools sampled, expressed as a percentage. The Occupancy Rate Standard will be represented in two ways: as an Area-Based Occupancy Rate Standard and a Pool-Based Occupancy Rate Standard. See the following footnotes for more details.

qualified biologist will conduct protocol-level wet-season surveys, using modified Guidelines, as approved by USFWS. Modifications include requiring that all vernal pools at a site be surveyed, rather than allowing for the survey to be terminated when presence on a project site is confirmed. This modification is necessary to obtain data on presence and absence in all of the available vernal pools, to facilitate the determination of the Occupancy Rate Standards. This, and other exceptions and additions to the Guidelines, are as follows:

- If presence is confirmed for vernal pool fairy shrimp and vernal pool tadpole shrimp in an individual vernal pool, surveys may be stopped for that vernal pool.
- All vernal pools on the project site must be surveyed. Surveys cannot be suspended prior to completion, as allowed by the Guidelines, if one or more of the six listed large branchiopods, identified in the Guidelines is determined to be present.
- The Guidelines define a complete survey as consisting of one wet-season and one dry-season survey conducted and completed in accordance with the Guidelines within a 3-year period. For the purposes of the Plan, only one wet-season survey is required; dry-season surveys are not required. Applicants must plan ahead to allow sufficient time to complete these surveys.
- Data that will be collected at each vernal pool surveyed during the wet-season survey will include the presence or absence of vernal pool fairy shrimp and vernal pool tadpole shrimp, species identity and the estimated abundance (10s, 100s, 1,000s) of immature and mature vernal pool fairy shrimp and vernal pool tadpole shrimp present, and estimated maximum surface area of the vernal pool. Other information on the USFWS data sheet are not required to be collected (that is, air and water temperature, average and estimated maximum depth of the vernal pool, presence of nontarget crustaceans, insects, and platyhelminths, and habitat condition). This will allow surveys to be conducted more efficiently, while providing the essential information necessary to calculate the Pool-based Occupancy Rate Standard³ and the Area-based Occupancy Rate Standard⁴. Because these vernal pools will be affected by Covered Activities, collection of additional information is not necessary.
- Information will be recorded on the PCA-provided data sheet, which will be the USFWS data sheet (included as Appendix A to the Guidelines), modified to include the previously noted information.
- Voucher specimens will not be collected during wet-season surveys unless the identity of the mature shrimp is uncertain and cannot be identified in the field. The Guidelines allow for a limited number of voucher specimens to be collected for each vernal pool. For the purpose of the Plan, the modified survey protocol further limits the collection of voucher specimens to instances where identity is uncertain.

The biologist conducting a survey for vernal pool fairy shrimp and vernal pool tadpole shrimp should participate in the wetland delineation to map the area of each vernal pool. If the biologist cannot participate in the wetland delineation, and the wetland delineation does not provide area for each vernal pool, the biologist will conduct follow-up surveys to map the perimeter of each vernal pool with a global

³ The Pool-based Occupancy Rate Standard is defined as the total number of vernal pools occupied by a covered branchiopod species divided by the total number of vernal pools surveyed and expressed as the percentage of occupied pools and seasonal swales. A pool-based Occupancy Rate Standard will be set for vernal pool fairy shrimp and for vernal pool tadpole shrimp individually.

⁴ The Area-based Occupancy Rate Standard is defined as the total wetted area of vernal pools occupied by a covered branchiopod species divided by the total wetted area of vernal pools surveyed and is expressed as the percentage of the wetted area occupied. An Area-based Occupancy Rate Standard will be set for vernal pool fairy shrimp and for vernal pool tadpole shrimp individually.

positioning system. Each vernal pool will be given a unique identification number that will be used to track survey data collected during wet-season surveys.

D.10.2 Applicable Measures

The applicant must submit completed data sheets to the PCA prior to ground disturbance activities.

D.11 References

Avian Power Line Interaction Committee. 2012. *Reducing Collisions with Power Lines: The State of the Art in 2012*. Edison Electric Institute and Avian Power Line Action Committee. Washington, D.C.

Jones & Stokes Associates. 2006. *East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan*. Prepared for the East Contra Costa County Habitat Conservation Planning Association, Martinez, CA. October.

Kelsey, R. 2008. *Results of the tricolored blackbird 2008 census*. Prepared for the U.S. Fish and Wildlife Service, Portland, OR.

Placer County. 2020. "Appendix A: Western Placer County Habitat Conservation Plan and Natural Community Conservation Plan." *Placer County Conservation Program*. (ICF 04406.04.) Prepared by ICF, San Francisco, CA. February.

Swainson's Hawk Technical Advisory Committee. 2000. *Recommended timing and methodology for Swainson's hawk nesting surveys in California's Central Valley*. California Department of Fish and Game 2012. May 31.