



Dillard Groundwater Recharge and Solar Array Project

Responses to Comments

prepared by

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Responses to Comments on the Draft IS-MND

This section includes comments received during public circulation of the Draft Initial Study Mitigated Negative Declaration (IS-MND) prepared for the Dillard Groundwater Recharge and Solar Array Project.

The Draft IS-MND was circulated for a 30-day public review period that began on March 13, 2026 and ended on April 13, 2026. The Rosedale-Rio Bravo Water Storage District (Rosedale) received two comment letters on the Draft IS-MND. The commenters and the page number on which each commenter’s letter appear are listed below.

Table 1 **Comment Letters Received**

Letter No.	Commenter	Page No.
1	Mark Montelongo, Director of Policy and Government Affairs, San Joaquin Valley Air Pollution Control District	3
2	Julia A. Vance, Regional Manager, California Department of Fish and Wildlife	5

The comment letters and responses follow. The comment letters are numbered sequentially and each separate issue raised by the commenter has been assigned a number; Response 1.1, for example, indicates that the response is for the first issue raised in Comment Letter 1.

Where a comment resulted in a change to the Draft IS-MND text, a notation is made in the response indicating that the text is revised. Changes in text are signified by strikeout font (~~strikeout font~~) where text was removed and by underlined font (underlined font) where text was added.

Several comments resulted in a change to a mitigation measure from the Draft IS-MND. The mitigation measures included in the Draft IS-MND, and revisions to mitigation measures included herein, would reduce potential impacts to less than significant levels. Revised mitigation measures are consistent with the impact determinations of the Draft IS-MND, and do not result in new impact or substantial increase in the severity of a previously identified significant impact. Rather, the mitigation measures are being replaced with equal or more effective measures, and pursuant to CEQA Guidelines Section 15073.5, recirculation of the Draft IS-MND is not required.

Letter 1

COMMENTER: Mark Montelongo, Director of Policy and Government Affairs, San Joaquin Valley Air Pollution Control District

DATE: April 9, 2026

Response 1.1

The commenter summarizes the project description.

The commenter's summary is accurate.

Response 1.2

The commenter recommends that the project should use the cleanest available off-road construction equipment to reduce impacts from diesel exhaust emissions.

This comment is noted.

Response 1.3

The commenter states that the SJVAPCD issues permits for many types of air pollution sources and provides information on SJVAPCD rules and regulations that may apply to the project.

This comment is noted. As discussed under Methodology in Section 3, *Air Quality*, of the Draft IS-MND, the project would comply with all applicable regulatory standards including SJVAPCD rules.

Response 1.4

The commenter provides an overview of District Rule 9510, and states the project would require an Air Impact Assessment.

This comment is noted. Rosedale shall comply with SJVAPCD requirements and complete an Air Impact Assessment application, if required, prior to commencement of solar array and BESS facility construction activities as District Rule 9510 applies to this portion of the project.

Response 1.5

The commenter provides an overview of District Rule 4002, and states the project requires an inspection for asbestos.

This comment is noted. Rosedale shall comply with SJVAPCD requirements and complete an inspection prior, if required, to demolition activities.

Response 1.6

The commenter provides an overview of District Regulation VIII and Rule 8021, which require submittal of a Construction Notification Form and preparation of a Dust Control Plan.

This comment is noted. As discussed under Methodology in Section 3, *Air Quality*, of the Draft IS-MND, the project would comply with all applicable regulatory standards including Rule 8201.

Response 1.7

The commenter states the project may be subject to other District rules.

This comment is noted. Rosedale shall comply with SJVAPCD requirements as applicable to the project.

Letter 2

COMMENTER: Julia A. Vance, Regional Manager, California Department of Fish and Wildlife

DATE: April 17, 2026

Response 2.1

The commenter summarizes CDFW's roles as a trustee and responsible agency for the project. The commenter states CDFW may need to exercise regulatory authority over the project pursuant to the Fish and Game Code, including lake and streambed alteration regulatory authority, and recommends Rosedale obtain appropriate authorization for the project.

This comment is noted. If required, Rosedale would obtain appropriate authorization from CDFW under the Fish and Game Code for the project.

Response 2.2

The commenter describes CDFW's regulatory authority over fully protected species, nesting birds, and unlisted species under the Fish and Game Code and CEQA, noting that the project area supports a fully protected white-tailed kite. The commenter explains recent statutory changes allowing CDFW to authorize take of fully protected species under limited circumstances and emphasizes the need to consider impacts to nesting birds and CEQA-significant unlisted species. The commenter also outlines CDFW's trustee role in the water rights process, advising that groundwater recharge using surface flows requires SWRCB approval and consultation with CDFW to ensure protection of fish, wildlife, and instream flows.

This comment is noted. The commenter's specific comments related to protected species are addressed in detail below.

Response 2.3

The commenter provides a summary of the project description and location, including the biological setting. The commenter states they are offering comments and recommendations to assist Rosedale in avoiding and/or mitigating project impacts on biological resources.

The commenter's summary is accurate. Please refer to Responses 2.4 through 2.16 for responses to the specific comments, recommendations, and suggested measures provided by the commenter.

Response 2.4

The commenter states that habitat suitable for the Tipton kangaroo rat may be present in and near the project area and that project activities could result in impacts to the species. The commenter recommends incorporation of additional mitigation measures, including completion of a habitat assessment within and adjacent to the project area to support the conclusions of the Draft IS-MND. The commenter recommends that protocol-level trapping surveys be conducted in areas of suitable habitat by a biologist permitted by the USFWS and CDFW to determine the species' presence or absence. In the absence of trapping surveys,

the commenter recommends establishment of a 50-foot avoidance buffer around all small mammal burrows. The commenter also recommends that, if the species is determined to be present or if burrows cannot be avoided, take authorization be obtained from the appropriate regulatory agencies.

Tipton kangaroo rat are discussed in Section 4, *Biological Resources*, of the Draft IS-MND. Although Tipton kangaroo rat has a low potential to occur in the project site, any impacts to individuals would be significant. Accordingly, the Draft IS-MND includes Mitigation Measure BIO-1(g) that will require measures to avoid and minimize impacts to Tipton kangaroo rat. The project area consists of a regularly disked, disturbed agricultural area, and power lines would be located along existing easement roads and in disturbed agricultural areas. These areas lack the soil structure, vegetation, and intact natural communities that support suitable habitat for Tipton kangaroo rat, and project activities are not expected to result in take of Tipton kangaroo rat. However, to further minimize potential impacts to Tipton kangaroo rat, Mitigation Measure BIO-1(g) has been revised to require a preconstruction survey as suggested by CDFW.

Revisions to Mitigation Measure BIO-1(g) are shown below. Other revisions have been made to Mitigation Measure BIO-1(g) in response to Comment 2.5. For clarity, all revisions to Mitigation Measure BIO-1(g) made in response to all comments are shown together.

BIO-1(g) Tipton kangaroo Rat and San Joaquin Kit Fox Avoidance and Minimization

During all construction and decommissioning activities, the following avoidance and minimization measures shall be implemented:

- No less than seven days prior to the start of any construction and decommissioning activities including mobilization, demolition, staging, etc., a qualified biologist with demonstrated experience identifying Tipton kangaroo rat and San Joaquin kit fox habitat, sign, and burrow/den features shall perform a focused pre-construction survey of the entire work area and a 100-foot buffer. If any kangaroo rat burrows or potential kit fox dens are observed, they shall be mapped and an avoidance buffer of no less than 50 feet around each burrow or potential den where no ground-disturbing activity shall occur unless otherwise authorized by resource agencies.
- If more than 14 days elapses between the survey and the start of work, or if work is delayed for more than 14 days, the qualified biologist shall re-survey the area.
- All avoidance buffers shall be clearly marked in the field (flagging, signage, or temporary fencing) and shown on contractor maps.
- A biological monitor shall be present during initial ground-disturbing activities within or adjacent to avoidance buffers and shall have authority to stop work if a listed species is observed or if a previously undocumented burrow/den is discovered.
- If work must occur within a buffer due to unavoidable safety or engineering constraints, the District shall consult with the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW) to determine appropriate additional avoidance, monitoring, or permitting measures. No handling, harassment, relocation, or exclusion of listed species shall occur without prior written authorization from the appropriate agency.

- If a San Joaquin kit fox den is determined to be active, contains pups, or is a natal/pupping den, work within 100 feet of the den shall cease and the project proponent shall immediately notify and consult with USFWS and CDFW.
- If at any time a Tipton kangaroo Rat or San Joaquin Kit Fox is observed, all work shall stop until the individual leaves the work area. If the individual does not leave the work area, or an active burrow complex or den is observed, all work shall be suspended until the USFWS has been consulted.
- Project-related vehicles shall observe a 20-mph speed limit within the vicinity of the project area, except on county roads and State and Federal highways. To the extent possible, night-time construction should be minimized. However, if night work does occur, then the speed limit shall be reduced to 10-mph. Off-road traffic outside of designated work areas shall be prohibited.
- To prevent inadvertent entrapment of wildlife during construction, all excavated, steep-walled holes or trenches more than 2 feet deep shall either be covered at the close of each working day with plywood or similar materials, or one or more escape ramps within the trench shall be constructed of earth fill or wooden planks. Before holes or trenches are filled, they shall be thoroughly inspected for trapped animals.
- Any pipes greater than 3" in diameter shall be capped when not in use to prevent entrapment or mortality of individuals.
- All food-related trash items such as wrappers, cans, bottles, and food scraps shall be disposed of in closed containers and removed at least once a week from the project area.
- No firearms or pets should be allowed in the project area.
- Use of rodenticides and herbicides in the project area shall be restricted. This is necessary to prevent primary or secondary poisoning of kit foxes and the depletion of prey populations on which they depend. If rodent control must be conducted, zinc phosphide should be used because of proven lower risk to kit fox.

Additionally, as part of the biological resources analysis, a Special Status Species Evaluation Table was prepared. The table identifies special status species, provides their listing status and habitat requirements, and provides a rationale for their potential to occur in the project area. The Draft IS-MND is revised to include the Special Status Species Evaluation Table, which is attached to this document as Attachment 1. As discussed therein, Tipton kangaroo rat have low potential to occur in the project area due to the lack of saltbrush scrub and sink scrub communities and existing disturbance. Accordingly, the potential for impacts to occur to Tipton kangaroo rat is low, and Mitigation Measure 1(g) has been sufficiently revised to further reduce potential impacts.

Response 2.5

The commenter expresses concern that the Draft IS-MND's proposed mitigation measures for San Joaquin kit fox are insufficient, noting the species' known use of disturbed, agricultural, and linear habitats and its potential to occupy the project area despite periodic absences. The commenter explains that project-related ground disturbance could attract kit fox and result in habitat loss, den collapse, entrapment, or mortality, leading to potential unauthorized take. The commenter recommends additional measures, including preconstruction surveys consistent with USFWS protocols, establishment of no-disturbance

buffers around dens, and consultation with CDFW. The commenter further states that if take cannot be avoided, an Incidental Take Permit under CESA would be required.

This comment is noted. As discussed in Section 4, *Biological Resources*, of the Draft IS-MND, San Joaquin kit fox has a low potential to occur within the project area, although any impacts to individuals would be significant. As discussed in the Draft IS-MND, there is no suitable natural habitat for San Joaquin kit fox in the project site. While individual kit foxes may sometimes occur in agricultural fields, ongoing agricultural disturbance, regular human presence, and elevated numbers of predators (coyote, red fox, hawks, etc.) make agricultural lands only marginally suitable for the species.

However, to further minimize potential impacts to San Joaquin kit fox, Mitigation Measure BIO-1(g) has been revised. Refer to Response 2.4 for revisions to Mitigation Measure BIO-1(g); as shown therein, a measure has been added to require project work to cease if an active den is within 100 feet and Rosedale will immediately notify and consult with USFWS and CDFW. In addition, as discussed in the Special Status Species Evaluation Table (Attachment 1), San Joaquin kit fox have low potential to occur in the project area due to heavy site disturbance and a lack of recent occurrences in the area. Accordingly, the potential for project impacts to occur to San Joaquin kit fox is low, and Mitigation Measure 1(g) has been sufficiently revised to further reduce potential impacts.

Response 2.6

The commenter states that Swainson's hawk is known to occur in the project area and may nest nearby or forage within the site. The commenter states, the proposed mitigation lacks species-specific avoidance buffers and does not provide a biological justification for determining adequate no-disturbance distances. The commenter expresses concern that the current measures may not be sufficient to avoid significant impacts or unauthorized take. The commenter recommends additional mitigation measures, including protocol-level surveys prior to construction, establishing a minimum 0.5-mile no-disturbance buffer around active nests during the breeding season, and consulting with CDFW if buffers are not feasible, with incidental take authorization required if take cannot be avoided.

As discussed in Section 4, *Biological Resources*, of the Draft IS-MND, Swainson's hawk has a high potential to occur within the project area. The Draft IS-MND includes Mitigation Measure BIO-1(e), which requires construction to occur outside of the breeding season (September 1 through February 15) to the extent feasible, or for a pre-construction survey to occur prior to any work conducted during the breeding season. Mitigation Measure BIO-1(e) requires a qualified biologist to establish an appropriate non-disturbance buffer based on species-specific behavior, nest status, and site conditions. This approach is consistent with standard CEQA practice and agency guidance, which recognize that fixed buffer distances are not always biologically appropriate for all species or all site conditions. Allowing a qualified biologist to determine the buffer ensures that avoidance distances are tailored to the sensitivity of the species, the level of disturbance associated with the activity, and the surrounding environmental context. However, to further minimize potential impacts to Swainson's hawk, Mitigation Measure BIO-1(e) has been revised to require a minimum non-disturbance buffer of no less than 600 feet, and, if complete avoidance is not feasible, Rosedale will coordinate with CDFW to develop additional measures.

Revisions to Mitigation Measure BIO-1(e) are shown below.

BIO-1(e) Swainson's Hawk Pre-construction Survey and Avoidance

To prevent the loss of active Swainson's hawk nests, construction will be conducted outside of the breeding season, from September 1 through February 15, to the extent feasible.

If construction occurs during the Swainson's hawk nesting season (February 15 through September 15), ne pre-construction survey shall be conducted by a qualified biologist to search for Swainson's hawk nests within 0.25-mile of the project area, generally following guidance established by the *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley* (Swainson's Hawk Technical Advisory Committee 2000).

If active nests are found within 0.25 mile during the pre-construction survey and construction activities will occur during the Swainson's hawk nesting season (February 15 through September 15), a qualified biologist shall be present daily during any activities within the project area, including access routes, that are within 0.25 mile of the active nests to monitor the behavior of the potentially affected Swainson's hawks. An appropriate avoidance buffer around active nests shall be established within which no work activity would be allowed. The avoidance buffer shall be established by the qualified biologist on a case-by-case basis based on site conditions, but shall not be less than 600 feet. The qualified biologist shall have the authority to order the cessation of all project activities if the bird(s) exhibits distress and/or abnormal nesting behavior (swooping/stooping, excessive vocalization [distress calls], agitation, failure to remain on nest, failure to deliver prey items for an extended time period, failure to maintain nest, etc.), which may cause reproductive failure (nest abandonment and loss of eggs and/or young). If avoidance is not feasible, the District shall consult with CDFW to determine appropriate next steps, which may include additional avoidance measures, further modifications to project design, or determination of whether an Incidental Take Permit is required.

Response 2.7

The commenter states that tricolored blackbird occurs within the geographic range of the project, has been documented in the vicinity, and that portions of the project area may provide suitable nesting and foraging habitat. The commenter states, while the Draft IS-MND acknowledges this potential and includes general nesting bird measures with limited survey distances, the analysis does not provide a biological basis for determining appropriate no-disturbance buffers to avoid significant impacts or unauthorized take. The commenter expresses concern that the proposed mitigation measures may be insufficient and therefore recommends additional measures, including expanded pre-construction surveys during the nesting season, consultation with CDFW to establish avoidance and minimization measures when nests are detected, and obtaining incidental take authorization if avoidance is not feasible.

As discussed under *Special-Status Species and Impact Analysis* in Section 4, *Biological Resources*, of the Draft IS-MND, there is a moderate potential for tricolored blackbird to occur in the project area. The Draft IS-MND includes Mitigation Measure BIO-1(f), which requires an appropriate avoidance buffer around any active nests within the project area and buffer. The avoidance buffer shall be established by the qualified biologist on a case-by-case basis based on the species and site conditions, and larger buffers may be required

depending upon the status of the nest and the construction activities occurring near the nest. To further minimize potential impacts to tricolored blackbird, Mitigation Measure BIO-1(f) has been revised to require a survey buffer of 500 feet and to specify the conditions under which the qualified biologist shall order a cessation of project activities.

Revisions to Mitigation Measure BIO-1(f) are shown below. Other revisions have been made to Mitigation Measure BIO-1(f) in response to Comment 2.8. For clarity, all revisions to Mitigation Measure BIO-1(f) made in response to all comments are shown together.

BIO-1(f) Pre-construction Nesting Bird Survey and Avoidance

If project activities commence during the nesting season for birds (February 1 through August 31). A general pre-construction nesting bird survey shall be conducted by a qualified biologist within seven days prior to the initiation of construction and decommissioning activities. If construction is stopped for more than seven days during the nesting season, the pre-construction survey shall be repeated prior to the re-start of construction activities. Surveys shall include the disturbance area plus a minimum 100-foot buffer for passerine species, ~~250~~500-foot buffer for tricolored blackbird, ~~and a 300~~600-foot buffer for white-tailed kite, and 300 feet for other raptors.

If active nests are located, an appropriate avoidance buffer shall be established within which no work activity would be allowed which would impact these nests. The avoidance buffer shall be established by the qualified biologist on a case-by-case basis based on the species and site conditions. Larger buffers may be required depending upon the status of the nest and the construction activities occurring near the nest, but shall not be less than the buffers specified for each bird species above. The buffer area(s) shall be closed to all construction personnel and equipment until juveniles have fledged and/or the nest is inactive. A qualified biologist shall confirm that breeding/nesting is complete, and the nest is no longer active prior to removal of the buffer and resuming work in the area.

If work within a buffer area cannot be avoided, then a qualified biologist shall be present to monitor all project activities that occur within the buffer. ~~The biological monitor should evaluate the nesting avian species for signs of disturbance and should have the ability to stop work.~~ The qualified biologist shall have the authority to order the cessation of all project activities if the bird(s) exhibits distress and/or abnormal nesting behavior (swooping/stooping, excessive vocalization [distress calls], agitation, failure to remain on nest, failure to deliver prey items for an extended time period, failure to maintain nest, etc.), which may cause reproductive failure (nest abandonment and loss of eggs and/or young). If avoidance is not feasible, the District shall consult with CDFW to determine appropriate next steps, which may include additional avoidance measures, further modifications to project design, or determination of whether an Incidental Take Permit is required.

Response 2.8

The commenter states that white-tailed kite occurs within the geographic range of the project and has been documented in the vicinity. The commenter states that the analysis does not provide a biological basis for determining adequate no-disturbance buffers to avoid significant impacts or unauthorized take. The commenter expresses concern that the proposed mitigation measures may be insufficient and recommends focused

pre-construction surveys within the project area and a surrounding buffer, establishment of a minimum 0.5-mile no-disturbance buffer around active nests, and consultation with CDFW if buffers are not feasible to avoid take.

As discussed under *Special-Status Species and Impact Analysis* in Section 4, *Biological Resources*, of the Draft IS-MND, there is a moderate potential for white-tailed kite to occur in the project area. The Draft IS-MND includes Mitigation Measure BIO-1(f), which requires an appropriate avoidance buffer around any active nests within the project area and buffer. The avoidance buffer shall be established by the qualified biologist on a case-by-case basis based on the species and site conditions, and larger buffers may be required depending upon the status of the nest and the construction activities occurring near the nest. To further minimize potential impacts to white-tailed kite, Mitigation Measure BIO-1(f) has been revised to require a survey buffer of 600 feet for white-tailed kite, and to specify the conditions under which the qualified biologist shall order a cessation of project activities. Refer to Response 2.7 for changes to Mitigation Measure BIO-1(f).

A 600-foot minimum buffer is appropriate to avoid impacts to white-tailed kite as they are a moderately disturbance tolerant raptor species, commonly nesting in agricultural landscapes and the edges of suburban development. A 0.5-mile buffer is typically implemented for highly-sensitive raptors (e.g., golden eagle). Further, additional revisions have been made to Mitigation Measure BIO-1(f), which specify the conditions under which the qualified biologist shall order the cessation of project activities (e.g., indications of distress or agitation). Accordingly, Mitigation Measure BIO-1(f) as revised is sufficient to avoid significant impacts to white-tailed kite and other nesting birds.

Response 2.9

The commenter states that western burrowing owl is a CESA candidate species and therefore receives the same legal protections as a listed species, and that the project area contains suitable habitat with documented occurrences nearby. The commenter expresses concern that the proposed avoidance buffers in the Draft IS-MND are not clearly defined or supported by a biological rationale, and may allow construction activities to occur too close to burrows. The commenter states that the current mitigation measures may be insufficient to avoid significant impacts or unauthorized take, and recommends implementing no-disturbance buffers consistent with the 2012 Burrowing Owl Mitigation guidance for both breeding and wintering owls, consulting with CDFW if buffers are not feasible, and obtaining incidental take authorization if take cannot be avoided.

The Draft IS-MND includes Mitigation Measure BIO-1(d), Burrowing Owl Impact Avoidance and Minimization. This measure specifies a protocol for habitat assessment, pre-construction surveys, burrowing owl and burrow avoidance, and compensatory mitigation consistent with the 2012 CDFW *Staff Report on Burrowing Owl Mitigation*. The proposed avoidance buffers in Mitigation Measure BIO-1(d) are consistent with buffers recommended in the CDFW Staff Report.

Response 2.10

The commenter states that the project area is within the range of Crotch's bumblebee and may contain suitable nesting and overwintering habitat, including grasslands, ruderal vegetation, small mammal burrows, and thatched or bunch grasses. The commenter states that project activities could affect these habitat features and result in potential take if the

species is present. The commenter recommends additional mitigation measures, including a habitat assessment to identify suitable conditions, focused surveys conducted during the blooming period following CDFW guidance, and establishment of avoidance buffers around potential nesting features. The commenter recommends consultation with CDFW if ground disturbance occurs during the overwintering period or if Crotch's bumblebee is detected, and notes that incidental take authorization would be required if take cannot be avoided.

The literature review and database queries conducted for the Draft IS-MND evaluated the potential for Crotch's bumble bee to occur within the project area. Although the species has been documented in portions of the southern San Joaquin Valley, its occurrence is strongly associated with intact grassland, scrub, and forbland communities that provide both diverse, season-long floral resources and suitable nesting substrates such as undisturbed rodent burrows or dense vegetative thatch. These habitat features are absent from the project site. Project activities would be limited to existing roads and staging areas, a fallow field, and the powerline right of way. Additionally, agricultural lands in the project area have a long history of pesticide and herbicide application, which further reduces the likelihood that sensitive bumble bee species would persist or forage within the site. Therefore this species is not expected to occur within the project site or be impacted by the project.

Additionally, the Draft IS-MND is revised to include the Special Status Species Evaluation Table, which is attached to this document as Attachment 1. The table presents the results of a biological resources literature review, including the findings for the potential for Crotch's bumble bee to occur in the project area.

Response 2.11

The commenter states that the project area is within the geographic range of western spadefoot and that suitable breeding and upland habitat may be present on and near the site, including seasonal wetlands, agricultural sumps, and irrigation features. The commenter states that ground-disturbing activities could affect occupied refugia or breeding habitat if the species is present. The commenter recommends additional mitigation measures, including a habitat assessment and focused breeding-season surveys conducted by a qualified biologist prior to ground disturbance. The commenter also recommends establishment of 50-foot no-disturbance buffers around occupied burrows, refugia, and potential breeding habitat, cessation of work if individuals are encountered, and avoidance of potential breeding areas even when dry to prevent take or significant impacts.

As discussed in Section 4, *Biological Resources*, in the Draft IS-MND, western spadefoot has a high potential to move through the project site. The Draft IS-MND includes Mitigation Measure BIO-1(c), which requires a qualified biologist to conduct a pre-construction survey for western spadefoot within suitable habitat no less than seven days prior to the start of any construction or decommissioning activity, including mobilization, demolition, staging, and similar work. Where suitable habitat occurs adjacent to but outside work areas, Mitigation Measure BIO-1(c) requires installation of exclusion fencing at the direction of the biologist to prevent ingress into active work areas, and relocation of any individuals found within the work area to suitable habitat outside the disturbance zone. These measures are appropriate and consistent with standard practice because they address the species' potential for upland movement through disturbed and developed areas and provide site-specific, biologist-directed avoidance and minimization. With implementation of Mitigation Measure BIO-1(c), no impacts to suitable upland or aquatic habitat would occur

and the risk of take or injury to western spadefoot during project activities would be avoided or reduced.

Response 2.12

The commenter notes that northwestern pond turtle may occur within the project area and that suitable aquatic, riparian, and upland habitats used for nesting, basking, overwintering, and dispersal are present on and near the site. The commenter states that project-related noise, vegetation removal, and ground disturbance could result in significant impacts to the species, including nest disturbance, entrapment, reduced reproductive success, or mortality if avoidance measures are not implemented. The commenter recommends additional mitigation measures, including focused pre-construction surveys for adults and nests during the nesting season, protection of discovered nests with no-disturbance buffers until hatching is complete, and allowing individual turtles encountered during project activities to move out of the area without interference.

As discussed in Section 4, *Biological Resources*, of the Draft IS-MND, northwestern pond turtle has moderate potential to occur in or move through the project area where suitable aquatic or riparian habitat is present. The Draft IS-MND includes Mitigation Measure BIO-1(c), which requires a qualified biologist to conduct a pre-construction survey for northwestern pond turtle within suitable habitat no less than seven days prior to the start of any construction or decommissioning activity, including mobilization, demolition, staging, and similar work. Where suitable habitat occurs adjacent to but outside work areas, Mitigation Measure BIO-1(c) requires installation of exclusion fencing at the direction of the biologist to prevent ingress into active work areas, and relocation of any individuals found within the work area to suitable habitat outside the disturbance zone. These measures are appropriate and consistent with standard practice because they address the species' potential for upland movement through disturbed and developed areas and provide site-specific, biologist-directed avoidance and minimization. With implementation of Mitigation Measure BIO-1(c), no impacts to suitable upland or aquatic habitat would occur and the risk of take or injury to northwestern pond turtle during project activities would be avoided or reduced.

Response 2.13

The commenter discusses potential future regulatory requirements for western spadefoot, noting that a petition to list the species under CESA is under consideration and that, if the species becomes a candidate or is formally listed, incidental take authorization would be required where full avoidance cannot be achieved. The commenter advises early consultation with CDFW to assess feasibility of avoidance and potential permitting needs, and clarifies that implementation of recommended measures would minimize impacts under CEQA but may not fully avoid take. The commenter also provides recommendations for nesting bird protection, emphasizing seasonal avoidance where feasible and outlining survey, monitoring, and buffer requirements if work occurs during the nesting season. The commenter advises preconstruction surveys, establishment of biologically appropriate no-disturbance buffers, continuous monitoring where necessary, and consultation with CDFW if behavioral changes or buffer variances are proposed, to ensure compliance with the Migratory Bird Treaty Act and Fish and Game Code.

This comment is noted. Rosedale is aware of the September 24, 2025 petition to list the northern population of western spadefoot as threatened under CESA, and recognizes that if

the Commission designates western spadefoot as a Candidate or lists the species under CESA, Fish and Game Code section 2081(b) would require take authorization (e.g., an ITP) if full avoidance cannot be achieved. The project's current mitigation measures provide immediate, site-specific avoidance and minimization. Additionally, CDFW does not typically provide project-specific avoidance measures where it lacks regulatory jurisdiction or has not been engaged through its permitting or fee-funded review process, because formal recommendations and enforceable conditions typically arise only through consultation or permit issuance when the agency has authority and access to project-level information.

As discussed in Responses 2.6 through 2.8, several nesting bird species have the potential to occur within the project site and vicinity. Mitigation Measure BIO-1(f), as revised, establishes sufficient minimum avoidance buffers for passerine species, tricolored blackbird, white-tailed kite, and other raptors. The measure requires buffers to be determined by the qualified biologist on a case-by-case basis to allow consideration of site-specific conditions, species sensitivity, nest status, and the nature and intensity of nearby construction activities. When work within a buffer area cannot be avoided, the qualified biologist shall have the authority to order the cessation of all project activities if the bird(s) exhibits distress and/or abnormal nesting behavior. Accordingly, Mitigation Measure BIO-1(f) would sufficiently minimize and avoid disturbances to nesting birds and impacts would be less than significant.

Response 2.14

The commenter states that project activities involving diversion and storage of surface flows may be subject to CDFW's Lake and Streambed Alteration jurisdiction under Fish and Game Code section 1600 et seq., including notification requirements for activities that alter the flow, bed, bank, or channel of rivers, streams, lakes, or modified features such as canals and basins. The commenter advises coordination with CDFW prior to ground-disturbing activities and notes that issuance of a Lake or Streambed Alteration Agreement must rely on an adequate CEQA analysis, with additional CEQA review potentially required if impacts are not fully described in the approved document. The commenter also states that groundwater recharge using unallocated surface flows requires water rights approval from the SWRCB and recommends that the Draft IS-MND fully describe applicable water rights and any pending applications or change petitions. The commenter notes CDFW's trustee role in the water rights process and recommends early consultation with CDFW to address potential impacts to sensitive species and habitats before initiating SWRCB water rights review.

As described in Section 7, *Description of Project*, the purpose of the project is to facilitate groundwater recharge in the Kern County subbasin. The project would allow Rosedale to provide capacity for upwards of an additional 6,000 acre-feet of groundwater recharge capacity per year. As described in Section 10, *Hydrology and Water Quality*, on page 76 of the Draft IS-MND, the project would not modify existing water diversion rights related to Rosedale's Conjunctive Use Program and would not involve diverting additional water from the Kern River, the Central Valley Project, or the State Water Project beyond existing permitted operations.

Response 2.15

The commenter states CEQA requires environmental data collected for the project to be incorporated into statewide databases. The commenter states any special-status species

and natural communities detected during surveys must be reported to the CNDDDB and information regarding special-status plants and natural communities should be submitted to CDFW's Vegetation Classification and Mapping Program. The commenter states adoption of the project would require payment of environmental document filing fees.

As indicated in Mitigation Measure BIO-1(c) in Section 4, *Biological Resources*, of the Draft IS-MND and in accordance with the requirements of Public Resources Code Section 21003(e), "CNDDDB Field Survey Forms will be submitted to the CDFW for all special-status animal species observed." Environmental document filing fees shall be paid if the Final IS-MND is adopted and the project is approved.

Response 2.16

The commenter provides a draft Mitigation Monitoring and Reporting Plan, which tabulates CDFW's suggested mitigation measures.

Refer to comment responses above for specific responses to suggested mitigation measures. The Final IS-MND includes a Mitigation Monitoring and Reporting Plan that identifies mitigation measures, their timing and frequency, and responsible parties for implementation.