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**FINAL ENVIRONMENTAL ASSESSMENT (EA/IS-09-080)**

*BUENA VISTA WASTER STORAGE DISTRICT  
BV8 STATE WATER PROJECT TURNOUT*

**Appendix C**

**Notice of Determination and Signed Mitigated Negative  
Declaration and Mitigation Monitoring and Reporting Program  
(Page 12-24)**

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December 2011

- If the American badger burrows are found to be unoccupied, then they will be plugged, and no further mitigation for American badger will be required.
- If the American badger burrows are found to be occupied, then CDFG will be consulted prior to disturbing any occupied American badger burrow. With permission from CDFG, the burrow(s) will be carefully excavated, and the badger(s) will be allowed to escape.

**Responsible Party:** District Representative

**Implementation Period:** Prior to Project Construction

**7. BIO 7: Blunt-nosed leopard lizard (*Gambelia sila*) is listed as Endangered by both USFWS and CDFG. Habitat suitable for blunt-nosed leopard lizards (BNLL) is present at the Project site. The following measures will be implemented in order to avoid, or reduce to a level less than significant, adverse impacts to BNLL:**

- Prior to commencement of construction at the Project site, qualified biologists will conduct spring surveys to determine the presence of BNLL on the Project site or in the vicinity. These surveys will be conducted in accordance with Approved Survey Methodology for the Blunt-Nosed Leopard Lizard (CDFG 2004). The surveys will be conducted between April 15 and July 15. During this 90-day period, a minimum of eight surveys will be conducted prior to disturbance for maintenance activities, and a minimum of twelve surveys will be conducted prior to habitat removal.
- If the surveys result in a negative finding for the presence of BNLL, then BVWSD will submit a report to CDFG, prior to commencing construction, detailing the results of the surveys.

- If the surveys result in a positive finding for BNLL at the site, then BVWSD will submit a report to CDFG detailing the results of the surveys. BVWSD will commence construction only after appropriate mitigation measures have been developed in consultation with CDFG. BVWSD will incorporate all mitigation necessary to avoid significant adverse impacts upon BNLL.

**Responsible Party:** District Representative

**Implementation Period:** Prior to Project Construction

8. **BIO 8: The San Joaquin antelope squirrel (*Ammospermophilus nelsoni*) is listed as Threatened by CDFG. Suitable habitat for San Joaquin antelope squirrel (SJAS) is present on the Project site.**

Based on surveys conducted at the Project site, LOA concluded that SJAS were not present on the Project site. LOA notes, however, that SJAS have been identified within one mile of the Project site, in the California Aqueduct ROW. Therefore, the following measures will be implemented by the District in order to avoid or reduce adverse impacts upon SJAS to a level less than significant:

- Surveys to determine the presence of SJAS will be conducted concurrent with the surveys that will be conducted to determine the presence of BNLL at the Project site. The survey parameters specified for BNLL are also within the parameters for aboveground activity by SJAS.
- Upon completion of the SJAS surveys, BVWSD will submit a survey report to CDFG.
- If the SJAS surveys result in a negative finding for the presence of SJAS within the Project site, then construction may commence with no further mitigation for SJAS.

- If the SJAS surveys result in a determination that SJAS is present onsite or in the vicinity, then BVWSD will commence construction only after consulting with CDFG to develop appropriate impact avoidance measures and receiving CDFG's authorization to proceed.

**Responsible Party:** District Representative

**Implementation Period:** Prior to Project Construction

9. **BIO 9: A wetland delineation was not conducted at the Project site; however, wetland resources are sparse or absent at the Project site and at the Kern River Flood Channel (KRFC). According to the LOA Report, the KRFC is not identified as a wetland in the Project vicinity; however, the United States Army Corps of Engineers (USACE) and CDFG have each asserted jurisdiction over the KRFC in the past at locations approximately four miles southeast and approximately 22 miles north of the Project site.**

Prior to commencement of construction activities within the bed or banks of the KRFC, the District will apply for and obtain (unless permitting agency states that a permit is not required) all permits necessary for construction of facilities pursuant to the Project. The District expects to apply for the following permits:

- Streambed Alteration Agreement (Section 1601) from CDFG
- Department of the Army Permit (Section 404) from USACE
- Section 401 Water Quality Certification (or waiver) from the Regional Water Quality Control Board, Central Valley Region (RWQCB)
- Encroachment Permit (to tie in to the California Aqueduct) from DWR
- Encroachment Permit (to work on the KRFC levees) from DWR's Floodway Protection Division

**Responsible Party:** District Engineer-Manager

**Implementation Period:** Prior to Project Construction

## 10. **BIO 10: Best Management Practices**

District implementation of the following BMPs is intended to avoid or reduce significant adverse impacts upon sensitive species and habitats during construction activities at the Project site.

### **BMP 1**

Prior to commencement of construction, a qualified wildlife biologist will conduct a sensitive species education program ("tailgate briefing") for all personnel involved with construction pursuant to the Project. Topics that will be discussed during the tailgate briefing include the occurrence and distribution of sensitive species in the Project area, take avoidance measures to be implemented during construction, reporting requirements in the event that incidental take occurs, and applicable definitions and prohibitions under the Endangered Species Act.

### **BMP 2**

One or more biological monitors will be onsite during all ground-disturbing activities within sensitive habitats. While onsite, the biological monitor(s) will aid construction crews in implementing mitigation measures and satisfying take avoidance criteria.

The biological monitor(s) will also assist in minimizing adverse effects of construction activities on sensitive species and will document all pertinent information concerning impacts of construction on sensitive species and habitats.

### **BMP 3**

Biological monitors are empowered to halt or divert construction activities in order to protect sensitive species or if take avoidance measures or mitigation measures are being violated. If this occurs, a biological monitor will notify BVWSD's District representative (refer to BMP 10 below). Construction activities may resume only with written or verbal approval from BVWSD.

#### **BMP 4**

Unless biological monitors allow alterations to construction routes, all construction-related vehicles and equipment, including workers' private vehicles, will remain on existing roads or previously designated access routes.

#### **BMP 5**

All observed sensitive species and their habitat features, such as dens, burrows, or specific habitats, will be flagged as necessary to alert construction personnel to their presence. All flagging will be collected and removed upon completion of construction.

#### **BMP 6**

To prevent inadvertent entrapment of species, excavation will include only that amount of trenching that will allow for installation of the pipeline and backfill within a single workday. If this is not possible, then all open holes, steep-walled holes, or trenches more than two feet deep will be covered at the close of each working day with plywood or other similar materials, or provided with one or more ramps constructed of earthen fill or wooden planks. Wooden planks will be no less than ten inches in width and will reach the bottom of the trench. Before such holes or trenches are filled, they will be thoroughly inspected for trapped animals.

#### **BMP 7**

Any spills of hazardous materials (e.g., gasoline) will be cleaned up immediately.

#### **BMP 8**

Pets and firearms will be prohibited on the construction site.

### **BMP 9**

All food-related trash (such as wrappers, cans, bottles, bags, and food scraps) will be disposed of daily in containers with secure covers and will be removed from the Project site regularly.

### **BMP 10**

BVWSD will appoint a District representative who will be the contact for any employee, contractor, or other personnel who inadvertently kills or injures a special status species or who finds a dead, injured, or trapped special status species. The District representative will be identified during the preconstruction educational "tailgate briefing".

### **BMP 11**

All construction-related vehicles will observe a maximum speed of 25 miles per hour (mph), except as posted on state and county highways and roads.

### **BMP 12**

Motorized vehicles are prohibited within occupied special status species habitat. If disturbance by motorized vehicles is not avoidable, then the disturbed area will be limited in size to a width of 25 feet (12.5 feet on each side of the traveled way center line) and will be considered temporarily disturbed.

### **BMP 13**

Signs will be posted to help prevent entry by unauthorized vehicles to off-road survey routes in sensitive habitat areas.

#### **BMP 14**

Vehicles related to the Project will be confined to existing primary or secondary roads or to specifically delineated construction sites (i.e. areas that have been surveyed and designated for such use). Off-road vehicle travel is not otherwise permitted.

#### **BMP 15**

Any contractor, employee, or other personnel who inadvertently kills, injures, or traps a special status species, or who discovers a dead, injured, or trapped special status species will immediately report the incident to his or her supervisor or to the onsite biological monitor, who will, in turn, contact the District representative.

In the event of a dead, injured, or trapped special status species, the District will immediately contact CDFG. The CDFG contact for immediate assistance is **State Dispatch at (916) 445-0045**. State Dispatch will contact the local warden or qualified biologist. The qualified biologist will document all circumstances of death, injury, and entrapment of special status species. The biologist will also do the following, as applicable:

- (1) In the case of a dead animal, the biologist will document the circumstances of death in writing and, if possible, photograph the dead animal *in situ* prior to moving.
- (2) In the case of an injured animal, the biologist will contact CDFG or other appropriate authorities to identify an approved rehabilitation center and appropriate capture and transport techniques.
- (3) In the case of a trapped animal, the biologist will take all reasonable steps to enable the animal to escape.

#### **BMP 16**

BVWSD will notify USFWS and CDFG, in writing, within three working days in the event of accidental death or injury of a San Joaquin kit fox, blunt-nosed leopard lizard, or San Joaquin antelope squirrel. Additionally, BVWSD will notify USFWS and CDFG in writing within three working days of the discovery of a dead, injured, or trapped individual of the species listed above.

Written notification will include the date, time, and location of the incident or finding, as well as any other pertinent information. USFWS and CDFG contact information is listed below.

USFWS Endangered Species Program Field Office  
2800 Cottage Way, Room W-2605  
Sacramento CA 95825  
(916) 414-6600

California Department of Fish and Game  
1416 9th Street  
Sacramento CA 95814  
(916) 654-4262

At CDFG's request, any dead or injured San Joaquin kit fox, blunt-nosed leopard lizard, or San Joaquin antelope squirrel will be turned over to the CDFG Environmental Services Division, Fresno Regional Headquarters (209-445-6152).

With CDFG approval, dead animals may be transported for storage and research to California State University at Bakersfield or to the Endangered Species Recovery Team in Bakersfield.

**Responsible Party:** District Representative and District Engineer-Manager

**Implementation Period:** Prior to and Throughout Project Construction

### **Section III – Cultural Resources Mitigation Measures and Mitigation Monitoring Program**

Three Girls and a Shovel, LLC (TG&S) conducted a cultural resources assessment for the Project site, a copy of which is available from BVWSD upon request.

Based upon the findings and recommendations contained in the cultural resources assessment report, the District will implement the following mitigation measures (Nos. 11 through 17) in order to ensure that construction of facilities pursuant to the Project does not result in a significant adverse impact upon archaeological or historical resources (collectively, cultural resources). Each measure is attended by a notation of the party responsible for its implementation and of the period for which it will be in effect.

**11. CUL 1: Retain a Qualified Professional Archaeologist**

Prior to commencing construction activities pursuant to the Project, the District will retain a qualified professional archaeologist as the Cultural Resources Specialist (CRS) for the Project. The CRS will be primarily responsible for implementing Mitigation Measures CUL 2 through CUL 7 herein.

**Responsible Party:** District Engineer-Manager

**Implementation Period:** Prior to Project Construction

**12. CUL 2: Construction Monitoring**

Because of the archaeological sensitivity of the Project site and vicinity, all trenching and excavation activities pursuant to the Project will be monitored by a qualified cultural resources monitor (CRM). The CRM will have the authority to halt or divert construction activities in order to salvage artifactual material, to salvage sediments that may contain artifactual material, or to protect sensitive resources that may be present. Construction activities may resume upon written or verbal authorization of the CRS.

**Responsible Party:** Cultural Resources Specialist

**Implementation Period:** Throughout Project Construction

**13. CUL 3: Discovery of Human Remains**

Recorded sites, as well as previously undiscovered sites, situated within the vicinity of the Project site may contain human remains. Human remains are often fragile and should be treated with care and respect at all times. The discovery of human remains involves both legal and archaeological issues. Discovery of any human remains in the vicinity of the Project site is subject to criteria set forth by CEQA and by the Native American Graves Protection and Repatriation Act, 43 CFR Part 10, as amended. Therefore, the following procedures will be implemented immediately upon the discovery of human remains:

- Stop all excavation work and, using appropriate safety precautions, with a minimum of further disturbance to the remains, allow the Cultural Resources Monitor (CRM) to verify

that the discovery is, in fact, human skeletal material. If the remains are determined to be other than human remains, then construction activities may resume upon written or verbal authorization by BVWSD.

- If the remains are determined to be human, the CRM will immediately contact, by telephone, the Kern County Public Works Department, the Kern County Sheriff Department, and the Kern County Coroner to report the discovery. After notifying the appropriate authorities, the CRM will then immediately notify BVWSD.
- In the event that the County Coroner determines that the human remains are Native American, the CRM will immediately notify the California Native American Heritage Commission (NAHC), who shall appoint a Most Likely Descendant (MLD) (Public Resources Code, Section 5097.98). BVWSD, the CRM, the MLD, and the owner of the property on which the remains were discovered shall make all reasonable efforts to develop an agreement for the treatment of, with appropriate dignity, human remains and associated or unassociated funerary objects (CEQA Guidelines Section 15064.5(d)). The agreement should take into consideration the appropriate excavation, removal, recordation, analysis, custodianship, curation, and final disposition of the human remains and associated or unassociated funerary objects.
- Work within the immediate vicinity of the find shall remain halted until BVWSD provides written authorization for work to resume in the vicinity of the discovery.

**Responsible Party:** Cultural Resources Specialist and Cultural Resources Monitor

**Implementation Period:** Throughout Project Construction

#### 14. **CUL 4: Avoidance**

If a potentially significant cultural resource is discovered during construction, the construction plans will be modified, if feasible, to avoid that resource. For any important or potentially important cultural resource that can be avoided by modification of the Project plans, the resource will be temporarily fenced or otherwise demarcated on the ground, and the area will be designated environmentally sensitive and will be avoided during construction.

Construction equipment will be directed away from the cultural resource, and construction personnel will be directed to avoid entering the area. Where resource boundaries are unknown, the protected area will include a buffer zone with a radius of 100 feet. In some cases, additional archaeological work could be required to determine the boundaries of the cultural resource and to assure avoidance.

If there are no feasible means for avoiding the resource, then the resource will be tested as described in CUL 5 below. If the resource is found to be significant, then the measures described in CUL 5 and CUL 6 will be implemented, as applicable.

**Responsible Party:** Cultural Resources Specialist and District Engineer-Manager

**Implementation Period:** Prior to and Throughout Project Construction

#### **15. CUL 5: Archaeological Testing**

The CRM or qualified archaeologist will conduct testing and, if necessary, data recovery, on important or potentially important cultural resources that cannot be practicably avoided during construction. Testing may include one or more of the following:

- Determining the presence or absence of archaeological or historical resources;
- Determining the boundaries of the archaeological or historical resources found;
- Identifying the archaeological or historical resources found; and
- Evaluating the historical significance of the archaeological or historical resources found.

Upon completion of the archaeological testing, the CRM or qualified archaeologist will issue a written report to BVWSD. If the CRM or archaeologist has determined that an important cultural resource is present and may be significantly and adversely impacted by the Project, then BVWSD may do one or both of the following:

- Redesign all or part of the Project facilities, as practicable, in order to avoid adverse impacts upon important cultural resources; or

- Implement a Data Recovery Program, as set forth in CUL 6, below.

**Responsible Party:** Cultural Resources Specialist and Cultural Resources Monitor

**Implementation Period:** Prior to and Throughout Project Construction

## 16. CUL 6: Data Recovery

Data recovery will be implemented in the event that adverse impacts to an important cultural resource cannot be avoided. Data recovery is intended to preserve significant information that the resource is expected to contain, will be conducted by a qualified archaeologist, and consists of one or more of the following:

- Identifying the scientific or historical research questions that apply to the resource;
- Identifying the data classes that the resource is expected to possess; and
- Identifying how the expected data classes would address the applicable research questions.

Data recovery will generally be limited to the portions of the potential resource areas on the Project site that could be adversely impacted by the Project. Further, destructive data recovery methods will not be applied to cultural resources, potential cultural resources, or portions of cultural resources if nondestructive methods are practical. If the resource being subject to data recovery is associated with Native American inhabitation of the region, then the District may request that a Native American Monitor be present during implementation of this mitigation measure.

**Responsible Party:** Cultural Resources Specialist

**Implementation Period:** Throughout Project Construction

## 17. CUL 7: Construction Crew Education

Prior to commencing construction, all construction crews will be advised of the regulatory protections afforded to cultural resources. The crews will also be informed of procedures relating to the inadvertent exposure of archaeological or cultural resources. The crews will be cautioned

not to collect artifacts and will be advised to immediately inform a supervisor if apparent cultural remains or human remains are uncovered.

**Responsible Party:** Cultural Resources Specialist

**Implementation Period:** Prior to Project Construction

#### **Section IV – Paleontological Resources Mitigation Measures and Mitigation Monitoring Program**

A paleontological sensitivity analysis was conducted for the Project and is described in the report, Paleontological Sensitivity Analysis for Buena Vista Water District New Canal Construction, dated November 22, 2008 (Paleontological Analysis), a copy of which is included in Appendix F of the Feasibility Study Report for New Turnout from State Water Project Aqueduct (Kennedy/Jenks Consultants 2008), and is available for review at the District's office upon request.

The Paleontological Analysis describes various sediments in the Project area, some of which may be likely to contain vertebrate or significant invertebrate fossils. Based upon the findings and recommendations of the Paleontological Analysis, mitigation measure PALEO 1 below will be implemented in order to ensure that construction of facilities pursuant to the Project does not result in a significant adverse impact upon paleontological resources.

#### **18. PALEO 1: Paleontological Monitoring**

During Project construction, a qualified paleontologist will be present during all excavation activities to identify paleontological resources that may be uncovered. In the event that a potential paleontological resource is uncovered at the Project site, the paleontologist has the authority to temporarily halt construction activities in order to determine whether or not the potential resource should be salvaged for further study relating to the geological and biological history of the area. Construction will resume upon written or verbal authorization of the District.

**Responsible Party:** District Engineer-Manager

**Implementation Period:** Throughout Project Construction