DOCKETED	
Docket Number:	24-SPPE-01
Project Title:	AVAIO Pittsburg Backup Generating Facility
TN #:	267708
Document Title:	AVAIO Pittsburg Backup Generating Facility Final Initial Study_Mitigated Negative Declaration
Description:	N/A
Filer:	Marichka Haws
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	11/21/2025 2:07:23 PM
Docketed Date:	11/21/2025

AVAIO Pittsburg Backup Generating Facility

Final Initial Study/Mitigated Negative Declaration

CALIFORNIA
ENERGY
COMMISSION
Gavin Newsom,
Governor

November 2025
CEC-700-2025-006-F

DOCKET NUMBER 24-SPPE-01

Final Initial Study/
Mitigated Negative Declaration

AVAIO Pittsburg Backup Generating Facility

(24-SPPE-01)

Lead Agency

California Energy Commission

November 2025

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Preface

This document, along with the Initial Study (IS)/Mitigated Negative Declaration (MND) filed on October 14, 2025 (TN 266581 available on the project docket; State Clearinghouse Number 2025100607), comprises the Final IS/MND for the AVAIO Pittsburg Backup Generating Facility. The IS/MND was circulated for public review and comment from October 14, 2025, to November 13, 2025. Eleven comment letters were received on the IS/MND, including nine letters of support. While not required, CEC staff's written responses to comments received on the IS/MND from 1) California Department of Fish and Wildlife, and 2) Contra Costa Water District are included in Appendix E of the Final IS/MND, along with copies of the comment letters. Changes to the IS/MND text are identified by strikethrough for deleted text and underline to indicate where new text is added and minor revisions provided in response to written or verbal comments on the project's effects identified in the proposed negative declaration which are not new avoidable significant effects and do not require recirculation per Section 15073.5(c)(2) of the California Environmental Quality Act (CEQA) Guidelines (Cal. Code Regs., tit. 14, § 15073.5(c)(2)). The only sections included in this document are those that have been revised from the IS/MND circulated in October 2025. Those sections are as follows:

5.4 Biological Resources

5.20 Mandatory Findings of Significance

Appendix C: Mitigation Monitoring and Reporting Program

Appendix E: Response to Comments (Added)

Section 5

CEQA Checklist

5.4 Biological Resources

This section describes the environmental setting and regulatory background and discusses impacts associated with the construction and operation of the project with respect to biological resources that occur in the project area.

BIOLOGICAL RESOURCES Would the project:	**Potentially Significant Impact**	**Less Than Significant with Mitigation Incorporated**	**Less Than Significant Impact**	**No Impact**
a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	☐	☒	☐	☐
b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	☐	☒	☐	☐
c. Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☒	☐	☐
d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of wildlife nursery sites?	☐	☒	☐	☐
e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☒	☐
f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Communities Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☒	☐

Environmental checklist established by CEQA Guidelines, Appendix G, biological resources.

5.4.1 Environmental Setting

The proposed project site encompasses approximately 22.31 acres located at 2232 Golf Club Road in the city of Pittsburg, Assessor Parcel Numbers 095-160-001 and 095-160-002 (PBGF 2024). The project would be located south of the intersection of West Leland

and Golf Club Roads and within the eastern portion of the abandoned Delta View Golf Course.

The project site, previously owned by the City of Pittsburg, was historically operated as the Delta View Golf Course, which has been closed for over seven years. Existing structures are limited to a water storage tank and an associated one-story building located in the southeastern corner. The only remnants of the golf course include associated building foundations, concrete slabs, parking lot, driving range barrier netting, golf cart paths and fencing.

The project site is located within the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (ECCC HCP/NCCP) Inventory Area. The ECCC HCP/NCCP protects and enhances ecological diversity and function within eastern Contra Costa County, and provides measures to avoid, minimize, and mitigate impacts on covered species and their habitats, while allowing for expansion of urban infrastructure.

Vegetation and Habitat

Existing Vegetative Communities

The project site is located at the south edge of the city of Pittsburg and located within the Honker Bay 7.5' United States Geological Survey topographic quadrangle map. The project site is bordered to the south and west by additional portions of the former golf course, which remain undeveloped as of 2025, to the east by open space supporting a PG&E transmission line corridor, and to the north by low-medium density residential housing. Within 1,000 feet of the project site is the entrance to the Delta De Anza Regional Trail, a multi-use hiking, bicycling, and equestrian trail accessed at Golf Club Road. Two remnant golf course ponds are located on the western portion of the site, outside of the project footprint; however, an emergency vehicle access road would be located between the two ponds connecting the project site to Leland Road. Stoneman Park and the John Henry Johnson Parkway are located to the west of the project site. The Contra Costa Canal, owned and operated by the U.S. Bureau of Reclamation as part of the federal Central Valley Project, bisects the southern portion of the 250-foot buffer of the project site. Chain link fencing surrounds the north, west, and southern boundaries of the project site, and along both sides of the Contra Costa Canal.

The 75.9-acre study area, which encompasses the project site and surrounding 250-foot-wide buffer, includes 68.9 acres of upland habitat. The majority of the project site supports 49.3 acres of annual grasslands that were subject to intensive management from the late 1940s until the golf course closed in 2018. During this period, native soils were replaced, or amended, and a wide range of trees, shrubs, and grasses were imported and maintained via irrigation, mowing, and pruning. Following closure of the golf course and cessation of management activities, invasive species have taken over the site. In June 2024, a wildfire burned to the west and southwest of the project site

but was contained prior to entering the site. The project site has also been used by the fire department for controlled burns and training.

The project site is currently dominated by non-native grasslands including wild oats and brome grasslands, upland mustard, and star-thistle (Sawyer et al. 2009). The oat and brome grasslands are dominated by non-native annual species, including Italian rye grass (*Festuca perennis*), ripgut brome (*Bromus diandrus*), and soft chess (*B. hordeaceus)*, as well as wild oat (*Avena fatua*), Mediterranean barley (*Hordeum marinum* ssp. *gussoneanum*), wall barley (*H. murinum*), horseweed (*Erigeron canadensis*), Italian thistle (*Carduus pycnocephalus* ssp. *pycnocephalus*), and bristly ox-tongue (*Helminthotheca echioides*). The upland mustard or star-thistle fields are dominated by black mustard (*Brassica nigra*) with cheeseweed (*Malva parviflora*) and yellow star-thistle (*Centaurea solstitialis*). The areas within the 250-foot buffer of the study area, that were not managed as part of the former golf course, along the east and southwest edges of the project site support more diverse vegetation. This includes native wildflowers such as several species of lupine (*Lupinus affinis*, *L. bicolor*, *L. formosus* var. *formosus*, and *L. nanus*), California poppy (*Eschscholzia californica*), purple owl's clover (*Castilleja exserta* ssp. *exserta*), and common fiddleneck (*Amsinckia menziesii*). The wild oats and brome grasslands and upland mustards or star-thistle fields are also present in the 250-foot buffer of the project site.

Common Wildlife

The project site provides suitable habitat for nesting and foraging birds and some common wildlife species. Species detected during field surveys included common and special-status species, such as red-tailed hawk (*Buteo jamaicensis*), white-tailed kite (*Elanus leucurus)*, Cooper's hawk (*Accipiter cooperii),* turkey vulture (*Cathartes aura*), American crow (*Corvus brachyrhynchos*), common raven (*Corvus corax*), great horned owl (*Bubo virginianus*) and wild turkey (*Meleagris gallopavo*). In addition, Anna's hummingbird (*Calypte anna*), killdeer (*Charadrius vociferus*), house finch (*Haemorhous mexicanus*), California towhee (*Melozone crissalis*), northern mockingbird (*Mimus polyglottos*), red-winged blackbird (*Agelaius phoeniecus*), mallard (*Anas platyrynchos*), California scrub-jay (*Aphelocoma californica*), rock pigeon (*Columba livia*), American kestrel (*Falco sparverius*), purple finch (*Haemorhous purpureus*), Bullock's oriole (*Icterus bullockii*), brown-headed cowbird (*Molothrus ater*), ash-throated flycatcher (*Myiarchus cinerascens*), band-tailed pigeon (*Patagioenas fasciata*), spotted towhee (*Pipilo maculatus*), bushtit (*Psaltriparus* minimus), black phoebe (*Sayornis nigricans*), Say's phoebe (*Sayornis saya*), yellow-rumped warbler (*Setophaga coronata*), western bluebird (*Sialia mexicana*), Eurasian-collard dove (*Streptopelia decaocto*), western meadowlark (*Sturnella neglecta*), European starling (*Sturnus vulgaris*), tree swallow (*Tachycineta bicolor*), American robin (*Turdus migratorius*), Western kingbird (*Tyrannus verticalis*), mourning dove (*Zenaida macroura*), golden-crowned sparrow (Z*onotrichia atricapilla*), and white-crowned sparrow (Z*onotrichia leucophrys*) (DayZenLLC2024b).

The project area likely supports a variety of common wildlife including coyotes (*Canis latrans*) and California ground squirrels (*Otospermophilus beecheyi*). Ground squirrel

burrows and complexes are present on gentle slopes within the former golf course and surrounding 250-foot buffer of the project site.

Sensitive Natural Communities/Aquatic Resources

The applicant conducted a total of ten surveys between February 6 and June 25, 2018, to document hydrologic conditions within the basins that hold ponded water (DayZenLLC 2024b). An initial field survey was conducted on April 19, 2019 (DayZenLLC 2024a). Reconnaissance-level habitat assessment surveys were conducted from April 2022 to July 2023. A formal wetland delineation of the project site was conducted on December 2, 2022, with an additional survey of the 250-foot buffer on July 10, 2023.

The site contains natural community vegetation alliances as described in A Manual of California Vegetation (Sawyer et al., 2009) or listed on the California Department of Fish and Wildlife (CDFW) California Natural Community List (CDFW 2025). The site supports several sensitive natural communities, including potentially jurisdictional waters, including wetlands, as well as riparian habitat consisting of Himalayan blackberry thickets and Valley Foothill Riparian areas.

Riparian Habitat

Riparian habitat in the study area totals approximately 1.87 acres, consisting of 0.44 acres of Himalayan blackberry thickets and 1.43 acres of Valley Foothill Riparian areas (DayZenLLC 2024b). The Himalayan blackberry thickets are located along the northeast portion of the study area adjacent to seasonal and perennial wetland drainages.

The Valley Foothill Riparian area is comprised of riparian trees along the seasonal wetlands and seasonal wetland drainages located in the eastern portion of the study area and is dominated by Fremont cottonwood (*Populus fremontii*), Siberian elm (*Ulmus pumila*), Mexican fan palm (*Washingtonia robusta*), northern California black walnut (*Juglans hindsii*), olive (*Olea europa*), and occasional Bishop pine (*Pinus muricata*). Riparian areas in the south portion of the project site are primarily composed of Peruvian pepper trees (*Schinus molle*) (DayZenLLC 2024b).

Both the Himalayan blackberry thickets and Valley Foothill Riparian areas are classified sensitive natural communities and may be subject to CDFW jurisdiction under the California Fish and Game Code.

Aquatic Habitat, Wetlands, and Other Waters

The study area encompasses a variety of natural, created, and enhanced wetlands and other waters. While there are natural drainages, the study area has been significantly altered to support the former golf course landscaping.

There are a total of approximately 1.91 acres of potentially jurisdictional wetlands and waters, including wetlands identified during the 2023 wetland delineation surveys. In the northern portion of the study area there are 0.17 acres of perennial wetlands within an existing drainage. These wetlands are dominated by broad-leaved cattail (*Typha*

latifolia), curly dock (*Rumex crispus*), dallis grass (*Paspalum dilatatum*), alkali mallow (*Malvella leprosa*), and rescue grass (*Bromus catharticus* var. c*atharticus*).

Throughout the study area there are three seasonal wetlands within existing drainages that total 0.95 acres. These wetlands are dominated by lamb's quarters (*Chenopodium album*), curly dock, cocklebur (*Xanthium strumarium*), tall annual willowherb (*Epilobium brachycarpum),* horseweed, dallis grass, tall flatsedge (*Cyperus eragrostis*), and barnyard grass (*Echinochloa crus-galli*).

A seasonal stream consisting of 0.787 acre of jurisdictional habitat runs along the eastern transmission corridor and southwestern portion of the study area. In addition, there is a short reach of unvegetated channel approximately 0.1 acre in size within the former golf course at the south edge of the project site (DayZenLLC 2024b). This area is south of the Contra Costa Canal and appears to be a natural feature modified for golf course construction.

These natural aquatic habitats are all considered to be sensitive communities by CDFW. These habitats may be subject to CDFW jurisdiction under the California Fish and Game Code. In addition, they may also be jurisdictional waters of the state under the Porter-Cologne Water Quality Act and jurisdictional waters of the United States under Section 401 and Section 404 of the Clean Water Act.

Artificial Features Constructed in Upland

Ponds. There are two ponds totaling 1.67 acres in the northwest portion of the project site that were constructed as part of the golf course landscaping (DayZenLLC 2024b). These ponds have transitioned into rain-fed seasonal features. Dominant species within the pond basins include dotted smartweed (*Persicaria punctata*), Mediterranean barley, knotweed (*Polygonum* sp.), and Italian rye grass. Other common species within the ponds include rattail sixweeks grass (*Festuca myuros*), stinkwort (*Dittrichia graveolens*), and lamb's quarters. The margins of the ponds have been invaded primarily by non-native species common in the annual grasslands on the project site.

Contra Costa Canal. The Contra Costa Canal parallels the south boundary of the project site. The canal is within the 250-foot survey buffer of the project site and comprises approximately 1.60 acres of the study area. This canal is an aqueduct constructed in the 1930s to 1940s. In the project site and immediate vicinity, the Contra Costa Canal is an open unvegetated trapezoidal channel about 25 feet wide at the top of the bank, bordered on its north bank by a public-access paved trail. The canal is fenced along both sides (DayZenLLC 2024b).

Special-Status Species

Special-status species are plant and wildlife species that have been afforded special recognition by federal, state, or local resource agencies or organizations. Staff reviewed the results of the biological surveys performed on the project site and surrounding 250-foot buffer of the project site and the results of queries from the U.S. Fish and Wildlife

Service (USFWS) Information for Planning and Consultation (IPaC) on-line database, California Natural Diversity Database (CNDDB) RareFind 5, California Native Plant Society (CNPS) Rare Plant Inventory, California Consortium of Herbaria, iNaturalist, eBird, and species listed in the ECCC HCP/NCCP.

Special-status Plants

The project site provides little or no habitat for the special-status plant species known to be present in the region. With the exception of a few planted oaks (*Quercus* spp.) and remnant cottonwoods and willows (*Salix* spp.), all of the dominant plant species throughout the area are exotic.

Protocol-level surveys for plants and a floristic inventory of the project site and a 250-foot buffer of the project site were conducted on April 12, May 19, and July 12, 2023. Surveys were conducted within the known blooming period for special-status plants with the potential to occur in the project vicinity. No special-status plants were found within the study area during surveys.

Special-status Wildlife

The applicant conducted planning surveys based on the requirements of the ECCC HCP/NCCP, which requires surveys be conducted for all covered projects to identify the resources (species and habitats) potentially affected by the project. Planning surveys were conducted between 2018 through 2024 (February, June and November 2018, April and June 2019, April and December 2022, April, May and July 2023). In addition, reconnaissance-level habitat assessment surveys were conducted from April 2022 to July 2023. These surveys were conducted to assess the location, quantity, and quality of suitable habitat for ECCC HCP/NCCP covered wildlife species, special-status non-covered animal species and sensitive habitats within the study area. Additionally, CEC staff conducted a site visit and field review on June 18, 2024. The Planning Survey Report was submitted to the Conservancy in September 2025.

Trees and nearby transmission line towers within the project area also provide potential nesting habitat for birds, including special-status species and those protected under the Migratory Bird Treaty Act (MBTA) and California Fish and Game Code, sections 3503, 3503.5, 3513, and 3800. The following special status birds have a low potential to nest or forage either in or near the project site. These include tricolored blackbird (*Agelaius tricolor*; state threatened), grasshopper sparrow (*Ammodramus savannarum*; CDFW species of special concern), golden eagle (*Aquila chrysaetos*; state fully protected species), short-eared owl (*Asio flammeus*; CDFW species of special concern), burrowing owl (*Athene cunicularia*; state candidate species), ferruginous hawk (*Buteo regalis*; CDFW watch list), northern harrier (*Circus hudsonius*; CDFW species of special concern), California horned lark (*Eremophila alpestris actia*; CDFW watch list), merlin (*Falco columbarius;* CDFW watch list), prairie falcon (*Falco mexicanus*; CDFW watch list), and American peregrine falcon (*Falco peregrinus anatum*; CDFW special animal list previously delisted). The applicant stated that Swainson's hawk (*Buteo swainsoni*) is not expected within the study area; however, CEC staff determined that while Swainson's

hawk are not common breeders in Contra Costa County, there are CNDDB occurrences to the east and south of the project area and therefore, there is potential for Swainson's hawk to forage or migrate through the project site. Two special-status wildlife species have been observed foraging in the vicinity of the study area. These include white-tailed kite (CDFW fully protected), and Cooper's hawk (CDFW watch list) which were detected during the applicant's surveys.

In addition, the project area has the potential to support a variety of special status amphibians. One of the remnant golf course ponds may provide potential breeding habitat for California tiger salamander (*Ambystoma californiense*; state and federally threatened). The project site also provides suitable migration and aestivation habitat for both California tiger salamander and California red-legged frog (*Rana draytonii*; federally threatened and CDFW species of special concern). Although no western pond turtles (*Emys marmorata*) were observed during surveys, suitable habitat is present and the species has the potential to occur on site.

No suitable habitat is present for Townsend's western big-eared bat (*Corynorhinus townsendii*), Longhorn fairy shrimp (*Branchinecta longiantenna*), Vernal pool fairy shrimp (*Branchinecta lynchi*), Midvalley fairy shrimp (*Branchinecta mesovallensis*), Vernal pool tadpole shrimp (*Lepidurus packardi*), or giant garter snake (*Thamnophis gigas*), which are all covered under the ECCC HCP/NCCP. This is due to a lack of suitable caves or other roosting habitat or aquatic habitats, such as freshwater marshes or vernal pools.

Critical Habitat

Critical habitat is a specific geographic area designated by the USFWS or National Marine Fisheries Service (NMFS) that contains physical or biological features essential to the conservation of a federally listed species. The project site is located within designated critical habitat for Delta smelt (*Hypomesus transpacificus*). However, the project site provides no habitat suitable for the species, as Delta smelt require year-round flow and the drainages on site are seasonal or ephemeral. No other designated or proposed critical habitat for federally listed species is identified within the project site by the USFWS or NMFS (USFWS 2025).

Wildlife Movement and Nursery Sites

Wildlife Corridors

As per the California Essential Habitat Connectivity Project (Spencer et al., 2010) accessed through CDFW BIOS, the nearest Natural Landscape Block is approximately 3 miles to the southeast. A designated Small Natural Area is located approximately 0.4 miles to the southwest. The project site is separated from these areas by the Contra Costa Canal. According to the CDFW BIOS Terrestrial Connectivity layer, the project site and surrounding vicinity are located in a Limited Connectivity Opportunity area and provides limited potential for wildlife movement across the landscape due to existing development and infrastructure constraints.

The project site is located at the south edge of the urbanized city of Pittsburg. To the north is suburban development and State Route (SR) 4. Immediately to the south and west of the project site is the Contra Costa Canal and the southwest extent of the former golf course. The project site is surrounded by fencing from the former golf course and the Contra Costa Canal is fenced precluding wildlife movement from adjacent open areas to the south. Remnant golf course netting still remains on site towards the eastern portion of the project site.

The PG&E Pittsburg-Eastshore 230 kilovolt (kV) transmission line corridor to the east is accessible from the project site. This corridor provides direct connectivity from the Diablo Range hills to the edge of Suisun Bay. As such, it represents a potentially important wildlife movement corridor. Other than this corridor, the project site itself provides little opportunity for wildlife movement due to the barriers along the north, west, and south. The north-south habitat connectivity is partially obstructed by the Contra Costa Canal, which has relatively few crossings accessible to wildlife. One of the largest crossings is present where the PG&E transmission corridor crosses the Canal. This crossing may provide important opportunities for wildlife movement along the transmission corridor, such as San Joaquin kit fox, American badger, ground squirrels, coyotes, and western pond turtle. The project as designed would avoid new structures or barriers to movement near this crossing.

Wildlife Nursery Sites

Nursery sites are locations or areas where animals breed, lay eggs, or rear their young, such as rookeries, fawning areas, or fish spawning habitats. Wildlife nursery sites also may include amphibian breeding ponds or bat maternity roosts. At least one of the constructed golf course ponds to the northeast provides potential breeding habitat for California tiger salamander. Hydrologic surveys conducted during the 2018 wet season found that the pond retained water from February through June. This long hydroperiod, combined with the presence of potential prey species for California tiger salamander and a lack of predator species, suggests that the pond could support breeding California tiger salamander. The second pond provides sub-optimal breeding conditions for the species as it does not hold water long enough (well under 3 months) and supports dense vegetation and/or predators such as non-native mosquitofish (*Gambusia affinis*) or bullfrogs (*Lithobates catesbeianus*). The study area lacks ponds or pools that hold water long enough to support breeding California red-legged frog. Trees in the project area as well as an existing one-story mechanical equipment storage building located in the southeastern corner of the site may also offer maternity roost opportunities for bats. The existing building would remain on site. No other wildlife nursery sites are present within the study area.

Existing Trees

Trees in the study area consist primarily of non-native species that were originally planted as part of the golf course landscaping. Trees throughout the surveyed areas are in varying degrees of decline, dead, or are overgrown. Fire damage and water deprivation have caused distress and/or death to a vast number of trees (Anderson's

2023). A total of 75 living and dead standing trees were inventoried by the applicant. Of these 75 trees inventoried, 25 of them are considered protected trees by the City of Pittsburg tree ordinance.

The dominant species identified is the non-native Peruvian pepper tree. Also identified were several pine species, including Bishop pine, lodgepole pine (*P. Contorta* ssp. *murrayana*) and ponderosa pine (*P. ponderosa*), which while native to California, are not native to the project region. Other species present include shamel ash (*Fraxinus uhdei*), Italian stone pine (*P. pinea*), deodar cedar (*Cedrus deodara*), and gum trees (*Eucalyptus camaldulensis* and *E. globulus*). A few coast live oaks (*Quercus agrifolia* var. *agrifolia*) and valley oaks (*Q. lobata*) were also identified; however historic aerial photography suggests these oaks may not have been present prior to development of the golf course.

Regulatory Background

Federal

Endangered Species Act (16 U.S.C., § 1530 et seq., and 50 C.F.R., part 17.1 et seq.). The Endangered Species Act (ESA) designates and provides for protection of threatened and endangered plant and animal species, and their critical habitat. Its purpose is to protect and recover imperiled species and the ecosystems for which they depend. It is administered by the USFWS and the NMFS. The USFWS is responsible for terrestrial and freshwater organisms while NMFS is responsible for marine wildlife such as whales and anadromous fish (such as salmon). Species may be listed as endangered or threatened. All species of plants and animals, except pest insects, are eligible for listing. Species are defined to include subspecies, varieties, and for vertebrates, distinct population segments. The ESA protects endangered and threatened species and their habitats by prohibiting the "take" of listed animals and the interstate or international trade in listed plants and animals, including their parts and products, except under federal permit. "Take" is broadly defined in ESA to include "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or attempt to engage in any such conduct" (16 U.S.C., §1532 (19)). Take can also include significant habitat modification or degradation that directly results in death or injury to a listed wildlife species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 C.F.R., §17.3). Take of federally listed species as defined in the ESA is prohibited without incidental take authorization, which may be obtained through Section 7 consultation (between federal agencies) or a Section 10 Habitat Conservation Plan. The administering agencies are the USFWS, National Oceanic Atmospheric Administration /NMFS.

The Bald and Golden Eagle Protection Act (16 U.S.C. § 668–668c). The Bald and Golden Eagle Protection Act (BGEPA) prohibits the "taking" of bald and golden eagles, including their parts, nests, or eggs. To take is defined as to "pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, destroy, molest, or disturb" any bald

or golden eagle, whether “alive or dead…unless authorized by permit”. The administering agency is USFWS.

Migratory Bird Treaty Act (16 U.S.C., §§ 703–711). The Migratory Bird Treaty Act makes it illegal to take, possess, import, export, transport, sell, purchase, barter, or offer for sale, any migratory bird, or the parts, nests, or eggs of such a bird except under the terms of a valid federal permit. The USFWS has authority and responsibility for enforcing the MBTA. The administering agency is USFWS.

Clean Water Act Sections 401 and 404 (33 U.S.C., §§ 1251–1376). The Clean Water Act requires the permitting and monitoring of all discharges to surface water bodies. Section 404 (33 U.S.C., § 1344) requires a permit from the United States Army Corps of Engineers for a discharge from dredged or fill materials into a water of the United States, including wetlands. Section 401 (33 U.S.C., § 1341) requires a permit from the regional water quality control board for the discharge of pollutants. By federal law, every applicant for a federal permit or license for an activity that may result in a discharge into a California water body, including wetlands, must request state certification that the proposed activity will not violate state and federal water quality standards. The administering agency is the U.S. Army Corps of Engineers (Section 404) and the State or Regional Water Quality Control Board (Section 401).

State

California Endangered Species Act (Fish and G. Code, §§ 2050–2098). The California Endangered Species Act (CESA) of 1984 states that all native species of fish, amphibians, reptiles, birds, mammals, invertebrates, and plants, and their habitats, threatened with extinction and those experiencing a significant decline which, if not halted, would lead to a threatened or endangered designation, will be protected and preserved. CESA prohibits the take of any species of wildlife designated by the California Fish and Game Commission as endangered, threatened, or candidate species. The CDFW may authorize the take of any such species if certain conditions are met. These criteria are listed in Title 14 of the California Code of Regulations, Section 783.4 subdivisions (a) and (b). For purposes of CESA “take” means to hunt, pursue, catch, capture, or kill (Fish and G. Code, § 86). The administering agency is CDFW.

Fully Protected Species (Fish and G. Code, §§ 3511, 4700, 5050, and 5515). These sections designate certain species as fully protected and prohibit the take of such species or their habitat unless for scientific purposes (see also Cal. Code Regs., tit. 14, §670.7). The incidental take of fully protected species may also be authorized in an approved natural community conservation plan (Fish and Game Code, § 2835). The administering agency is CDFW.

California Fish and Game Code, Subsections 3503, 3503.5, 3513, and 3800. The following sections of the Fish and Game Code designate protections for birds and/or their nests or eggs. The administering agency is CDFW.

Section 3503: This section makes it unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by this code or any regulation made pursuant thereto.

Section 3503.5: This section makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes and Strigiformes or to take, possess, or destroy the nest or eggs of any such bird.

Section 3513: This section protects California's migratory birds by making it unlawful to take or possess any migratory nongame bird as designated in the Migratory Bird Treaty Act or any part of such migratory nongame birds.

Section 3800: All birds occurring naturally in California that are not resident game birds, migratory game birds, or fully protected birds are nongame birds. It is unlawful to take any nongame bird except as provided in this code or in accordance with regulations of the commission or, when relating to mining operations, a mitigation plan approved by the department.

California Lake and Streambed Alteration Notification/Agreement (Fish and G. Code, §§ 1600 et seq.). These sections stipulate that an entity shall not substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake, or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake. The administering agency is CDFW.

Native Plant Protection (Fish and G. Code, § 1900 et seq.). The Native PlantProtection Act was enacted in 1977 and designates state rare and endangered plants and provides specific protection measures for identified populations. Those laws prohibit the take of endangered or rare native plants but include some exceptions for agricultural and nursery operations; for emergencies; after properly notifying CDFW, for vegetation removal from canals, roads, and other sites; due to changes in land use; and in certain other situations. The administering agency is CDFW.

Porter-Cologne Water Quality Control Act. The State Water Resources Control Board (SWRCB) and the nine Regional Water Quality Control Boards (RWQCBs have jurisdiction over all surface water and groundwater in California, including wetlands, headwaters, and riparian areas. The SWRCB or applicable RWQCB must issue waste discharge requirements for any activity that discharges waste that could affect the quality of waters of the state.

Local

Pittsburg Municipal Code, Chapter 15.108, Sections 15.108.040 through 15.108.070 (Habitat Conservation Plan/Natural Community Conservation Plan Ordinance). The City of Pittsburg (City) Habitat Conservation Plan/Natural Community Conservation Plan Implementation Ordinance (ECCC HCP/NCCP Ordinance;

Municipal Code Chapter 15.08), establishes procedures to implement the ECCC HCP/NCCP at the City level. It applies to all development projects within the City's urban development area, with the exception of those that:

- Would result in permanent disturbance of less than 1 acre
- Are entirely within an area mapped by the ECCC HCP/NCCP as urban, turf, landfill and/or aqueduct
- Are not "covered projects" as defined by the ECCC HCP/NCCP
- Are exempt under any provision of law

Under the ECCC HCP/NCCP Ordinance, the City Planner administers ECCC HCP/NCCP implementation, reviews applications for completeness, and verifies fee payments (Municipal Code Section 15.108.040). All development applications for non-exempt projects must include an HCP application that includes the following (Municipal Code Sections 15.108.050-060).

- The City's standard ECCC HCP/NCCP application form, completed for the project
- A written description of the project (including construction and O&M), a grading plan, and a site plan
- A survey report summarizing the results of the planning surveys required by the ECCC HCP/NCCP
- Evidence of compliance with ECCC HCP/NCCP avoidance and minimization measures
- Quantification of permanent project-related land disturbance
- Estimated ECCC HCP/NCCP development and wetland mitigation fees due, and/or documentation of alternate approaches to offset these fees, plus an administrative fee to cover the City's review and processing costs (Municipal Code Section 15.108.070).

City of Pittsburg 2040 General Plan. The Pittsburg City Council adopted the 2040 General Plan and certified the Final Environmental Impact Report on May 6, 2024 under resolution 24-14463 and 24-14464. The goals and policies applicable to biological resources and natural habitats and relevant to the project include the following:

- **Goal-10-2:** Conserve biological and ecological resources, particularly the health of Suisun Bay and Marsh (Bay) and the Sacramento-San Joaquin Delta (Delta), special status species, including species that are State and Federally listed as endangered, threatened, or rare, habitats that support special status species, and sensitive habitats.
- **Policy 10-P-2.8:** Require new development projects and expansion of existing uses to conserve sensitive habitat, including special status species.
- **Policy 10-P-2.11:** Encourage the preservation of wildlife corridors to ensure the integrity of habitat linkages.

- **Policy 10-P-2.12:** Continue to support and implement the East Contra Costa County Habitat Conservation Plan (ECCC HCP/NCCP)
- **Policy 10-P-2.15:** Protect and restore threatened natural resources, such as wildlife, estuaries, tidal zones, marine life, wetlands, and waterfowl habitat.
- **Policy 10-P-2.18:** Recognize that climate change impacts may influence future guidance, and best available data, and continue to ensure that up-to-date information is consulted when reviewing projects for potential impacts to biological resources, including the Bay, Delta, and sensitive habitats.

City of Pittsburg Tree Preservation and Protection

The City regulates tree preservation, removal, and replacement through its Tree Preservation and Protection Code (Pittsburg Municipal Code, Title 18, Chapter 18.84, Article XIX, Section 18.84.835). The code is administered by the City's Planning Division.

Protected Tree Definition (Pittsburg Municipal Code § 18.84.835). A tree is classified as a Protected Tree under any of the following conditions:

- A California native tree, as identified in the Calflora online database of wild California plants, that measure at least 50 inches in circumference (15.6 inches diameter) at 4.5 feet above grade, regardless of location or health; or
- A tree of a species other than a California native that measures at least 50 inches in circumference at 4.5 feet above grade and is either on undeveloped property, located on public property or within the right-of-way, or located on private property and is found to provide benefits to the subject property as well as neighboring properties, subject to determination by the city planner; or
- A tree required to be planted, relocated, or preserved as a condition of approval of a tree removal permit or other discretionary permit, and/or as environmental mitigation for a discretionary permit.

Section 18.84.845 Permit Required. The removal or relocation of a Protected Tree on private property or non-City public property within City limits requires a Tree Removal Permit unless it is an emergency posing immediate danger or was previously approved under an existing development entitlement or permit.

Section 18.84.850 Tree Removal Permit Procedure and Requirements. The removal of Protected Trees requires a permit, submitted with development applications, if applicable. The application process includes submission of an arborist report, site plan, justification for removal, and may require public notice and review by the Planning Division.

Section 18.84.855 Replacement Trees. If tree removal is approved, the applicant must provide replacement trees per City standards. Options include planting new trees (at 4-to-1 or 12-to-1 ratios depending on tree size), paying in-lieu fees, or a

combination of both. Trees should be planted on-site unless that's not feasible, and native trees must be replaced with the same species when possible. Any in-lieu fees collected must be used for tree planting and maintenance in public areas.

5.4.2 Environmental Impacts

a. Would the project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

Construction

Less Than Significant with Mitigation Incorporated. Based on the review of the ECCC HCP/NCCP and on the results of the database searches and conditions observed during field surveys, 199 special-status species (97 plants, 102 wildlife species) were evaluated as potentially occurring on or in the vicinity of the project. Suitable habitat within the proposed project site includes primarily non-native annual grassland.

The ECCC HCP/NCCP does not require a determination of presence/absence for covered species because under the ECCC HCP/NCCP covered species are assumed to occupy suitable habitat in impact areas, and mitigation is based on the assumption of take. Activities covered under the ECCC HCP/NCCP are considered to have received Incidental Take authorization from the USFWS and CDFW. Results of the planning surveys were used to determine which preconstruction and construction monitoring surveys were necessary (see Section 5.4.3). The proposed project and any impacts to covered species would be covered by the ECCC HCP/NCCP; therefore, measures from ECCC HCP/NCCP would be used to mitigate impacts to covered species. The ECCC HCP/NCCP Appendix D distribution maps of the covered species were reviewed as part of this analysis. Analysis and mitigation measures for special-status species not covered under the ECCC HCP/NCCP are also provided.

Plants

A literature review of the project site and adjoining area, including a nine-quad search of CNDDB (CNDDB 2025), IPaC (USFWS 2025), and CNPS (CNPS 2023, CNPS 2024), determined there are 97 special-status plant species that potentially occur regionally within the greater Pittsburg area surrounding the project site. Of these 97 species, 73 were determined to have no potential to occur due to a lack of suitable habitat within the site (e.g., forest, scrub, prairie, chaparral or cismontane woodland, soil types, vernal pools, etc.), or because they are considered extirpated from the vicinity. Potentially suitable habitat is present for 24 special-status plant species. Most of these species are associated with the valley and foothill grassland found in the project vicinity.

The study area is dominated by the former golf course site, which was intensively managed for more than 70 years and features amended or imported soils over extensive areas. In addition, following the cessation of golf course management, much of the formerly groomed and managed turf area was colonized by invasive non-native weedy vegetation, which now forms tall, dense stands. Steeper slopes within the fenced portion of the study area, which were never managed as part of the golf course, feature semi-natural habitats, with scattered planted trees and annual grassland. These areas support tall, dense growth of exotic grasses with scattered invasive weeds. Where native soils remain, heavy clay soils are present, but in general soils on the site are not derived from serpentine or limestone rock, and are not sandy, gravelly, or alkaline.

No special-status plants were found during protocol-level surveys or the floristic inventory conducted for the study area. Although protocol-level surveys conducted during the 2023 blooming period did not identify any special-status plants within the study area, and the study area is considered generally unlikely to support special-status plants, several species may have some potential to occur. The species with the greatest potential to be present are big tarplant (*Blepharizonia plumosa*), Mt. Diablo fairy-lantern (*Calochortus pulchellus*), and Diablo helianthella (*Helianthella castanea*). None of these plants are state or federally listed or candidate for listing, but all are assigned California Rare Plant Rank (CRPR) 1B by the CNPS, indicating they are rare throughout their native ranges. Although the loss of a small number of individuals might not increase risks to these or other special-status plants substantially, removal of an entire occurrence could represent a threat to the population at a regional level and thus would represent a significant impact.

The project would incorporate all applicable ECCC HCP/NCCP requirements, and proposes to implement a measure that includes seeking coverage under the ECCC HCP/NCCP (with payment of development fees to support long-term habitat conservation), conducting an updated survey for special-status plants, and coordinating with the East Contra Costa County Habitat Conservancy (Conservancy), to allow for salvage, replanting, and active monitoring of any special-status plants affected by the project.

In addition, the applicant has proposed to implement a measure that would explicitly prohibit removal of plants considered “no take” under the ECCC HCP/NCCP due to their extreme rarity. These include, large-flowered fiddleneck (*Amsinckia grandiflora*), alkali milkvetch (*Astragalus tener* ssp. t*ener*), Mt. Diablo buckwheat (*Eriogonum truncatum*), diamond-petaled poppy (*Eschscholzia rhombipetala*), Contra Costa goldfields (*Lasthenia conjugens*), and caper-fruited tropidocarpum (*Tropidocarpum capparideum*). If detected, the applicant would be required to initiate prompt consultation with the Conservancy to determine next steps and to define the applicant’s responsibility in the unlikely event one of these species is observed on site.

Staff evaluated these measures and determined that they are adequate to reduce impacts to less than significant. Staff proposes mitigation measure **BIO-1** (Project Coverage under ECCC HCP/NCCP), which would require the applicant to obtain

coverage for the project under the ECCC HCP/NCCP and implement ECCC HCP/NCCP measures. In addition, staff proposes **BIO-5** (Rare Plant Survey & and Protection), which would prohibit take of "no take" species.

Implementation of mitigation measures **BIO-1** and **BIO-5** would reduce potential impacts to protected plant species to less than significant.

Wildlife

A literature review of the project site and adjoining area, including a nine-quad search of CNDDB (CNDDB 2025) and IPaC (USFWS 2025) determined there are 102 special-status wildlife species that potentially occur regionally within the greater Pittsburg area surrounding the project site. Of these 102 species, 73 were determined to have no potential to occur due to a lack of suitable habitat within the site (e.g., forest, tidal, brackish marsh, etc.), or because they are considered extirpated from the vicinity. Potentially suitable habitat is present for 29 special-status wildlife species. Most of these species are associated with the valley and foothill grassland and trees found in the project vicinity.

ECCC HCP/NCCP Covered Species

All special-status wildlife species covered under the ECCC HCP/NCCP that may be affected by the project have impact avoidance, minimization, and mitigation measures that have already been determined through prior consultation with the USFWS and the CDFW under the ECCC HCP/NCCP. Those measures applicable to the project, as well as any other necessary avoidance or minimization efforts for non-covered species are provided below.

California Tiger Salamander

California tiger salamander, a state and federal threatened species, has the potential to be present within the study area, including the project site. The study area offers both aquatic breeding habitat and upland migration/aestivation habitat for California tiger salamander. Hydrologic surveys conducted in 2018 found that this pond retained water from February through June. The long hydroperiod, combined with the presence of potential prey species and absence of known predators, suggests it could support California tiger salamander reproduction. A second pond provides suboptimal conditions because it does not hold water long enough (less than three months) and/or supports dense vegetation and non-native predators such as mosquitofish (*Gambusia affinis*) or bullfrogs (*Lithobates catesbeianus*). In addition to aquatic breeding habitat, the project site provides suitable upland habitat for California tiger salamander migration and aestivation.

Direct injury or mortality affecting California tiger salamander would be considered a significant impact. In addition, the loss or degradation of suitable habitat, including aquatic breeding areas, upland migration and aestivation sites, and habitat connectivity, would also be considered a significant impact.

California tiger salamander is a covered species under the ECCC HCP/NCCP. The ECCC HCP/NCCP considers the needs of California tiger salamander in allocating use of development fees paid under the ECCC HCP/NCCP and preserve lands are selected and managed for the long-term success of the species. This regional approach is generally held to be more effective in addressing the needs of at-risk species than isolated permittee-responsible mitigation projects.

The applicant proposed to implement several measures to offset and minimize project impacts to California tiger salamander. The applicant's payment of ECCC HCP/NCCP fees would provide an offset for project impacts to habitat and species. The applicant also proposes to implement a project-specific Worker Environmental Awareness Program (WEAP), which requires all construction and operation personnel and project staff to undergo environmental awareness training prior to conducting work on the project. In addition, the applicant proposes adherence to species-level avoidance and minimization measures for California tiger salamander.

Staff evaluated these measures and determined that they are adequate to reduce potential impacts to California tiger salamander. Staff proposes mitigation measures **BIO-1** (Project Coverage under ECCC HCP/NCCP), **BIO-2** (WEAP), and **BIO-4** (Adherence to ECCC HCP/NCCP Requirements), which include measures to ensure the project would comply with regulatory permit requirements under the ECCC HCP/NCCP. In addition, based on CDFW comments, staff included **BIO-14** and **BIO-15** to include measures to further avoid or minimize these impacts.

With the implementation of mitigation measures **BIO-1**, **BIO-2**, **BIO-4, BIO-14** and **BIO-15,** impacts to California tiger salamander would be less than significant.

California Red-legged Frog

California red-legged frog, a state species of special concern and a federal threatened species, has the potential to be present within the study area, including the project site. While the study area includes appropriate upland aestivation habitat for California red-legged frog, it does not contain aquatic features capable of supporting breeding. The study area lacks ponds or pools holding water long enough to support breeding California red legged frog. Direct injury or mortality affecting California red-legged frog would be considered a significant impact. In addition, the loss of habitat, including out-migration, aestivation, and habitat connectivity would also be considered a significant impact.

The California red-legged frog is a covered species under the ECCC HCP/NCCP. The ECCC HCP/NCCP considers the needs of the species in allocating use of development fees paid under the ECCC HCP/NCCP and preserve lands are selected and managed for the long-term success of the species.

The applicant proposed to implement several measures to offset and minimize project impacts to California red-legged frog. The applicant's payment of ECCC HCP/NCCP fees

would provide an offset for project impacts to habitat and species. The applicant also proposes to implement a project-specific WEAP, which requires all construction and operation personnel and project staff to undergo environmental awareness training prior to conducting work on the project. In addition, the applicant proposes adherence to the ECCC HCP/NCCP requirements which include avoidance and minimization measures for the species.

Staff evaluated these measures and determined that they are adequate to reduce potential impacts to California red-legged frog. Staff proposes mitigation measures **BIO-1** (Project Coverage under ECCC HCP/NCCP), **BIO-2** (WEAP), and **BIO-4** (Adherence to ECCC HCP/NCCP Requirements) which include measures to ensure the project would comply with regulatory permit requirements under the ECCC HCP/NCCP. In addition, based on CDFW comments, staff included **BIO-14** and **BIO-15** to include measures to further avoid or minimize these impacts.

With the implementation of **BIO-1**, **BIO-2, BIO-4**, **BIO-14** and **BIO-15,** impacts on California red-legged frog would be less than significant.

San Joaquin Kit Fox

San Joaquin kit fox, a state threatened and federal endangered species, has the potential to occur within the study area, including the project site. The study area is located just north of the known range of San Joaquin kit fox; however, the ECCC HCP/NCCP identifies the project area and vicinity as suitable core habitat for the species. While it is unlikely that the species would occur within the study area, there is potential for San Joaquin kit fox to wander outside its expected range and to occur within the project site. No individuals were observed and no evidence of resident or breeding use was found during surveys. If individuals move through the project area during construction, they may be injured or killed by equipment or vehicle traffic. Although unlikely, kit foxes could also temporarily occupy a den within the study area, making them vulnerable to disturbance or direct harm. Beyond the potential for temporary or permanent habitat loss, the presence of San Joaquin kit fox during construction could result in the mortality of individual animals. These would be potentially significant impacts.

The applicant proposed to implement several measures to offset and minimize project impacts to San Joaquin kit fox. To reduce impacts to this species the applicant is seeking coverage under the ECCC HCP/NCCP. The applicant's payment of ECCC HCP/NCCP fees would provide an offset for project impacts to habitat and species. In addition, information on the San Joaquin kit fox would be included in a project-specific WEAP, and the applicant would adhere to species-level measures for San Joaquin kit fox under the ECCC HCP/NCCP. As part of the ECCC HCP/NCCP requirements, if preconstruction surveys determine that the species is present on the site or within a distance they could be disturbed by construction activity, the approved biologist may recommend construction monitoring as per Section 6.3.3 of the ECCC HCP/NCCP. This includes the submittal of a Construction Monitoring Plan (CMP) to the Conservancy for

approval. The CMP must be submitted and approved prior to issuance of the grading permit, or, if no grading permit is required, the building permit, for the project.

Staff evaluated these measures and determined that they are adequate to reduce potential impacts to San Joaquin kit fox. Staff proposes mitigation measures **BIO-1** (Project Coverage under ECCC HCP/NCCP), **BIO-2** (WEAP), and **BIO-4** (Adherence to ECCC HCP/NCCP Requirements), which include measures to ensure the project would comply with regulatory permit requirements under the ECCC HCP/NCCP.

With the implementation of **BIO-1**, **BIO-2** and **BIO-4** impacts on San Joaquin kit fox would be less than significant.

Golden Eagle

Golden eagle, a fully protected species protected by the federal BGEPA and, has the potential to be present within the study area, including the project site. The study area provides suitable foraging habitat, but no natural nesting habitat is present. However, golden eagles have been documented nesting on transmission towers in neighboring counties, and similar structures within the study area could provide potential nesting opportunities. The site is mapped as suitable habitat in the ECCC HCP/NCCP.

Construction activities could impact golden eagle through noise, vibration, and increased human presence, which may disrupt foraging behavior or displace individuals from the area. If golden eagles were to establish a nest on nearby transmission towers, construction could result in nest disturbance or abandonment, which would be a significant impact given the species' protected status.

The applicant proposed to implement several measures to offset and minimize project impacts to golden eagle. To reduce impacts to this species, the applicant is seeking coverage under the ECCC HCP/NCCP. The applicant's payment of ECCC HCP/NCCP fees would provide an offset for project impacts to habitat and species. In addition, information on the golden eagle would be included in a project-specific WEAP, and the applicant would adhere to species-level measures for golden eagle under the ECCC HCP/NCCP. The ECCC HCP/NCCP includes specific measures to avoid impacts on migratory birds, including Conservation Measure 1.11. As part of the ECCC HCP/NCCP requirements, if preconstruction surveys determine that the species is present on the site or within a distance they could be disturbed by construction activity, the approved biologist may recommend construction monitoring as per Section 6.3.3 of the ECCC HCP/NCCP. This includes the submittal of a CMP to the Conservancy for approval. The CMP must be submitted and approved prior to issuance of the grading permit, or, if no grading permit is required, the building permit, for the project.

Staff evaluated these measures and determined that they are adequate to reduce potential impacts to golden eagle and comply with the ECCC HCP/NCCP requirements. Staff proposes mitigation measures **BIO-1** (Project Coverage under ECCC HCP/NCCP), **BIO-2** (WEAP), and **BIO-4** (Adherence to ECCC HCP/NCCP Requirements).

With the implementation of **BIO-1**, **BIO-2** and **BIO-4** impacts on golden eagle would be less than significant.

Western Burrowing Owl

Western burrowing owl (*Athene cunicularia*) is a CDFW candidate species for listing under CESA. The project site is located within modeled habitat by the ECCC HCP/NCCP and this species is covered under the ECCC HCP/NCCP. Ground squirrel complexes within the project study area could provide suitable habitat. No evidence of burrowing owls was observed during field surveys. The nearest known occurrence is approximately 2.2 miles west of the study area.

Construction activities could impact western burrowing owl through direct disturbance or destruction of potential burrow sites, temporary or permanent loss of foraging habitat, and increased human presence that may reduce site suitability. If individuals were to occupy burrows within the study area prior to or during construction, impacts could include nest abandonment, reduced reproductive success, or direct mortality which would be a potentially significant impact.

The applicant proposed to implement several measures to offset and minimize project impacts to western burrowing owl. To reduce impacts to this species the applicant would seek coverage under the ECCC HCP/NCCP. The applicant's payment of ECCC HCP/NCCP fees would provide an offset for project impacts to habitat and species, including loss of potential habitat. In addition, information on the western burrowing owl would be included in a project-specific WEAP, and the applicant would adhere to species-level measures for burrowing owl under the ECCC HCP/NCCP. The ECCC HCP/NCCP includes specific measures to avoid impacts on migratory birds, including Conservation Measure 1.11. As part of the ECCC HCP/NCCP requirements, if preconstruction surveys determine that the species is present on the site or within a distance they could be disturbed by construction activity, the approved biologist may recommend construction monitoring as per Section 6.3.3 of the ECCC HCP/NCCP. This includes the submittal of a CMP to the Conservancy for approval. The CMP must be submitted and approved prior to issuance of the grading permit, or if no grading permit is required, the building permit, for the project.

Staff evaluated these measures and determined that they are adequate to reduce potential impacts to western burrowing owl and comply with the ECCC HCP/NCCP requirements. Staff proposes mitigation measures **BIO-1** (Project Coverage under ECCC HCP/NCCP), **BIO-2** (WEAP), and **BIO-4** (Adherence to ECCC HCP/NCCP Requirements).

With the implementation of **BIO-1**, **BIO-2**, and **BIO-4** impacts on western burrowing owl would be less than significant.

Swainson's Hawk

Swainson's hawk, a state threatened species, has the potential to be present within the study area, including the project site. The study area provides suitable foraging habitat for Swainson's hawk, however no suitable nesting habitat is present in the project study area. The site is not mapped as suitable nesting or foraging habitat in the ECCC HCP/NCCP. Construction activities could impact Swainson's hawk through temporary or permanent loss of foraging habitat and increased disturbance from human presence, equipment operation, and noise, which may disrupt foraging behavior or displace individuals from the area. Although the project site does not support nesting habitat, if Swainson's hawks are foraging nearby, construction-related habitat disturbance could reduce prey availability and foraging efficiency. These would be significant impacts.

The applicant proposed to implement several measures to offset and minimize project Swainson's hawk. To reduce impacts to this species the applicant is seeking coverage under the ECCC HCP/NCCP. The applicant's payment of ECCC HCP/NCCP fees would provide an offset for project impacts to habitat and species. In addition, information on the Swainson's hawk would be included in a project-specific WEAP, and the applicant would adhere to species-level measures for Swainson's hawk under the ECCC HCP/NCCP. The ECCC HCP/NCCP includes specific measures to avoid impacts on migratory birds, including Conservation Measure 1.11. As part of the ECCC HCP/NCCP requirements, if preconstruction surveys determine that the species is present on the site or within a distance they could be disturbed by construction activity, the approved biologist may recommend construction monitoring as per Section 6.3.3 of the ECCC HCP/NCCP. This includes the submittal of a CMP to the Conservancy for approval. The CMP must be submitted and approved prior to issuance of the grading permit or, if no grading permit is required, the building permit for the project.

Staff evaluated these measures and determined that they are adequate to reduce potential impacts to Swainson's hawk and comply with the ECCC HCP/NCCP requirements. Staff proposes mitigation measures **BIO-1** (Project Coverage under ECCC HCP/NCCP), **BIO-2** (WEAP), and **BIO-4** (Adherence to ECCC HCP/NCCP Requirements).

With the implementation of **BIO-1**, **BIO-2** and **BIO-4** impacts on Swainson's hawk would be less than significant.

Western Pond Turtle

Western pond turtle, a state species of special concern and a federal proposed threatened species, has the potential to be present within the study area, including the project site. The ECCC HCP/NCCP models the former golf course ponds as core habitat for western pond turtle. However, site-specific studies conducted for the project determined that the ponds provide low-quality habitat for the species (DayZenLLC 2024b). There would be no direct impacts to aquatic habitat for this species as neither pond would be directly affected by construction. However, construction of an

emergency road between the ponds could indirectly impact the western pond turtle, including potential mortality from vehicle collisions if individuals are present.

The seasonal stream corridors in the study area also provide low-quality habitat for the species. The ECCC HCP/NCCP identifies a movement corridor for the species via the stream within the PG&E transmission line corridor along the east edge of the study area. The habitat within the transmission line corridor is not high quality but it is important since it represents the only through-going habitat corridor for the species within the project vicinity. The project effects on the transmission line corridor would be minimal and does not involve impacts to the stream. No western pond turtles were observed during field surveys. Due to the low quality of available habitat, the species is not expected to occur on the project site. However, if individuals were to occur within the project site during construction, they could still be subject to disturbance, displacement, or direct mortality, particularly from vehicle traffic associated with construction of the emergency access road. This would be a significant impact.

The applicant proposed to implement several measures to offset and minimize project impacts to western pond turtle. The applicant's payment of ECCC HCP/NCCP fees would provide an offset for project impacts to habitat and species. In addition, information on the western pond turtle would be included in a project-specific WEAP. The applicant also proposed a measure for a qualified biologist to implement pre-construction surveys for the western pond and relocate any individuals detected on site, as necessary. In addition, the proposed measures specify that, if the biologist determines that it is warranted, exclusion measures would be put in place to prevent individuals from returning to the active work area.

Staff evaluated these measures and determined that they are adequate to reduce potential impacts to western pond turtle. Staff proposes mitigation measures **BIO-1** (Project Coverage under ECCC HCP/NCCP), **BIO-2** (WEAP), and **BIO-8** (Western Pond Turtle Avoidance and Minimization Measures). In addition, based on CDFW comments, staff included **BIO-14** and **BIO-15** to include measures to further avoid or minimize these impacts.

With implementation of **BIO-1**, **BIO-2, BIO-8, BIO-14** and **BIO-15**, impacts to western pond turtle would be less than significant.

Non ECCC HCP/NCCP Covered Species

The applicant proposed measures for potential impacts to American bumble bee *(B. pensylvanicus).* However, CEC staff and CDFW concluded that this species is not present within the project vicinity and therefore it is not included in this analysis (CDFW 2025). Therefore, the following measures are limited to addressing obscure bumble bee and Crotch's bumble bee.

Obscure Bumble Bee

Obscure bumble bee (*Bombus caliginosus*), a CDFW Special Animals species, has the potential to be present within the study area. The nearest documented occurrence is approximately 9 miles to the east near Mount Diablo. Potential pollinator resources present within the study area are milkweed (*Asclepias* sp.), lupines (*Lupinus* sp.), and great valley gumweed (*Grindelia camporum*). Construction activities could impact this species through temporary loss of foraging habitat, reduction of nectar resources, and disturbance from vegetation removal if individuals are present during project implementation.

The applicant proposed to implement several measures to offset and minimize project impacts to obscure bumble bee. This includes providing information on the obscure bumble bee in a project-specific WEAP to ensure construction personnel are informed of the species and the need to avoid injury or mortality if individuals are encountered onsite. The applicant also proposed protocol-level surveys by a qualified entomologist to identify the species during peak activity periods and establish avoidance buffers if nests or colonies are found.

Staff evaluated these measures and determined that they are adequate to reduce potential impacts to obscure bumble bee with additional modifications. These modifications include adopting new CDFW survey methodology if available. Staff proposes mitigation measures **BIO-2** (WEAP) and **BIO-6** (Crotch's Bumble Bee and Obscure Bumble Bee Avoidance and Minimization Measures).

With implementation of **BIO-2** and **BIO-6**, impacts on obscure bumble bee would be less than significant.

Crotch's Bumble Bee

Crotch's bumble bee (*B. crotchii*), a state candidate species, has the potential to be present within the study area. The study area provides suitable grassland habitat for the species and plants accessible to short-tongued bees. Specifically, milkweed and multiple species of lupine provide food for the bee. Though there are historical occurrences from 1926 and 1951 with the closest being 7.7 miles south of the study area, both areas have similar habitat to the study area and the plant species present could provide foraging habitat for Crotch's bumble bee. Crotch's bumble bee nest in underground colonies or above ground in tufts of grass, old bird nests, rock piles, and cavities in dead trees. Ground disturbing activities and loss of annual grassland habitat could negatively impact nesting bees.

The applicant proposed to implement several measures to offset and minimize project impacts to Crotch's bumble bee. This includes incorporating information on Crotch's bumble bee into a project-specific WEAP. The applicant also proposed protocol-level surveys by a qualified entomologist to evaluate habitat suitability, survey for foraging individuals, and identify any active nests or colonies. If any nests are found, they will be avoided and protected through the active season.

Staff evaluated these measures and determined that they are adequate to reduce direct and indirect impacts to Crotch's bumble bee to the extent feasible and in a manner consistent with current best practices for the species conservation. However, revisions were made by staff, in coordination with CDFW, that recommend milkweed removal be avoided until after the plant goes to seed in order to further reduce impacts, that the project adopt new CDFW survey methodology if available; consulting with CDFW if Crotch's bumble bees are located during surveys, rather than if nests, which are difficult to detect, are located; and requiring photo vouchers of bumble bees. Staff proposes mitigation measures **BIO-2** (WEAP) and **BIO-6** (Crotch's Bumble Bee and Obscure Bumble Bee Avoidance and Minimization Measures).

With the implementation of **BIO-2** and **BIO-6**, impacts to the Crotch's bumble bee would be avoided and reduced to less than significant.

Monarch Butterfly

The monarch butterfly (*Danaus plexippus*) is a candidate for federal listing as threatened. The monarch feeds on various flowers and lays eggs on milkweed (*Asclepias sp.*) stands. They can be found roosting in eucalyptus, Monterey pines and Monterey cypress trees. In grasslands they prefer to be in areas with predominately grass and forbs. The study area could provide spring/summer breeding habitat based on the presence of milkweed and flowering plants. However, the project site and surrounding areas do not provide the microclimates necessary for overwintering. Because the monarch feeds on various flowers and lays eggs on milkweed (*Asclepias sp.*) stands and since milkweed is present in the study area, there is a potential for monarch butterflies and their larvae to be present. Construction activities could impact monarch butterflies through removal of nectar sources and milkweed host plants, leading to temporary loss of foraging and breeding habitat if individuals are present.

The applicant proposed to implement several measures to offset and minimize project impacts to monarch butterfly. This includes incorporating information on monarch butterfly into a project-specific WEAP. The applicant also proposed pre-construction surveys for the species' larval host plants, followed by inspection for eggs, larvae, and pupae if the larval host plant is present. If eggs, larvae, or pupae are observed, the host plants would be protected in place until the approved biologist has determined that the breeding season has concluded and no more eggs, larvae, or pupae are present. Workers would be directed to avoid injury and mortality to monarch butterfly. If pre-construction surveys are positive for monarch butterflies, the applicant would coordinate with the city of Pittsburg and USFWS.

Staff evaluated these measures and determined that they are adequate to reduce potential direct and indirect impacts to the monarch butterfly to the extent feasible and consistent with current best practices. However, revisions were made by staff, in coordination with CDFW, that recommend milkweed removal be avoided until after the plant goes to seed in order to further reduce impacts. Staff proposes mitigation

measures **BIO-2** (WEAP) and **BIO-7** (Monarch Butterfly Avoidance and Minimization Measures).

With the implementation of **BIO-2** and **BIO-7**, impacts to monarch butterflies would be less than significant.

San Joaquin Pocket Mouse

San Joaquin pocket mouse (*Perognathus inornatus*), a CDFW species of special concern, inhabits grasslands and scrub areas, often favoring friable soils for burrowing. While the study area does not contain the characteristic friable soils typically associated with this species, suitable habitat may still be present. Overall, soils within the project area are not considered highly suitable; however, the species has been documented in the immediate vicinity. Therefore, the potential for the San Joaquin pocket mouse to occur on site is considered low. Impacts could include temporary disturbance or displacement from vegetation clearing, ground disturbance, and construction noise associated with project construction. If individuals are present, these activities could result in direct mortality, reduced foraging opportunities, or loss of burrow sites.

The applicant proposed to implement several measures to offset and minimize project impacts to San Joaquin pocket mouse. This includes incorporating information on the species into a project-specific WEAP. The applicant also proposed measures requiring vegetation removal, clearing, grubbing, and grading which could result in injury or mortality of San Joaquin pocket mouse to be conducted in a manner that allows the species to escape into adjacent undisturbed habitat outside the construction area. It would also prohibit the creation of fragmented areas of remaining habitat where mice could become isolated and trapped.

Staff evaluated these measures and determined that they are adequate to reduce direct and indirect impacts to San Joaquin pocket mouse and determined that they are adequate to reduce potential impacts. Staff proposes mitigation measures **BIO-2** (WEAP) and **BIO-12** (San Joaquin Pocket Mouse Protection).

With the implementation of **BIO-2** and **BIO-12**, impacts to San Joaquin pocket mouse would be less than significant.

American Badger

American badger (*Taxidea taxus*), a CDFW species of special concern, inhabits grasslands, open scrub, and agricultural areas where it relies on loose soils for digging burrows and foraging. No individuals or dens were observed during field surveys; however, the species is known to occur within the region, and suitable habitat conditions are present, indicating some potential for American badger to den on site. Soils in the study area are not highly suitable and the species has not been documented in the immediate vicinity of the project site. There is a low potential for this species to be present.

To reduce potential project impacts on the American badger, the applicant has proposed several avoidance and minimization measures. This includes incorporating information on the species into a project-specific WEAP and requiring a qualified biologist to conduct pre-construction surveys for dens prior to ground-disturbing activities. If active dens are identified, avoidance measures would be implemented to prevent disturbance. Should occupied dens be found but young are not present, badgers may be excluded or may be trapped and relocated to suitable habitat. The applicant would coordinate with the City and CDFW prior to implementation. If young are present, exclusion or relocation would not occur, and a biologist would establish a 50-foot buffer until the biologist has determined that young are no longer dependent on the mother and the den site.

Staff evaluated these measures and determined that they are adequate to reduce potential impacts to the species. Staff proposes mitigation measures **BIO-2** (WEAP) and **BIO-13** (American Badger Survey and Protection).

With the implementation of **BIO-2** and **BIO-13**, impacts to American badger would be less than significant.

Cooper's Hawk

Cooper's hawk, a CDFW Watch List species, was observed foraging in the vicinity of the study area during field surveys. Scattered landscape trees within the study area could provide nesting opportunities. This species is tolerant of suburban development and may nest in the project vicinity. Trees located within the study area provide potential nesting habitat for numerous bird species protected under the MBTA, including this species. Construction activities could impact this species, and other protected bird species, through disturbance or loss of potential nesting trees if clearing occurs during the breeding season.

The applicant proposed to implement several measures to offset and minimize project impacts to Cooper's hawk. This includes incorporating information on the species into a project-specific WEAP. The applicant also proposed a measure which requires pre-construction surveys by a qualified biologist to identify potential nesting sites prior to the initiation of work. If active nests are detected, avoidance measures would be implemented to prevent disturbance during the breeding season.

Staff evaluated this measure and determined that minor revisions were necessary to reduce potential impacts to Cooper's hawk. The timing of the measure was revised from August 31 to September 15 to account for species that may attempt multiple nesting efforts, and the buffer distance was increased from 300 to 500 feet following coordination with CDFW to provide additional protection for nesting birds. Staff proposes mitigation measures **BIO-2** (WEAP) and **BIO-9** (Nesting Bird Protection).

With implementation of **BIO-2** and **BIO-9**, impacts to Cooper's hawk would be less than significant.

Loggerhead Shrike

Loggerhead shrike (*Lanius ludovicianus*), a CDFW species of special concern was not observed during field surveys; however, suitable nesting and foraging habitat is present. Trees located within the study area provide potential nesting habitat for numerous bird species protected under the MBTA, including this species. Construction activities could impact this species through disturbance or loss of potential nesting trees if clearing occurs during the breeding season.

The applicant proposed to implement several measures to offset and minimize project impacts to loggerhead shrike. This includes incorporating information on the species into a project-specific WEAP. The applicant also proposed a measure which requires pre-construction surveys by a qualified biologist to identify potential nesting sites prior to the initiation of work. If active nests are detected, avoidance measures would be implemented to prevent disturbance during the breeding season.

Staff evaluated this measure and determined that minor revisions were necessary to reduce potential impacts to loggerhead shrike. The timing of the measure was revised from August 31 to September 15 to account for species that may attempt multiple nesting efforts, and the buffer distance was increased from 300 to 500 feet following coordination with CDFW to provide additional protection for nesting birds. Staff proposes mitigation measures **BIO-2** (WEAP) and **BIO-9** (Nesting Bird Protection).

With the implementation of **BIO-2** and **BIO-9**, impacts to loggerhead shrike would be less than significant.

White-Tailed Kite

White-tailed kite, a fully protected species, was observed foraging in the vicinity of the study area during field surveys. Suitable nesting and foraging habitat is present within the study area. Trees located within the study area provide potential nesting habitat for numerous bird species protected under the MBTA, including this species. Construction activities could impact this species through disturbance or loss of potential nesting trees if clearing occurs during the breeding season.

The applicant proposed to implement several measures to fully avoid impacts to the species. This includes incorporating information on the species into a project-specific WEAP. The applicant also proposed a measure which requires pre-construction surveys by a qualified biologist prior to the initiation of work.

Staff evaluated this measure and determined that minor revisions were necessary to reduce potential impacts to white-tailed kite. The applicant identified the nesting/breeding season as February 1 to August 31; however, CEC staff, in coordination with CDFW, extended the window to September 15 to account for species known to attempt multiple nesting efforts, such as the white-tailed kite. In addition, the buffer distance was increased from 300 to 500 feet to provide greater protection for

nesting birds. Staff proposes mitigation measures **BIO-2** (WEAP) and **BIO-9** (Nesting Bird Protection).

With the implementation of **BIO-2** and **BIO-9**, impacts to white-tailed kite would be less than significant.

Bald Eagle

Bald eagle, a fully protected species protected by the federal BGEPA and state listed as endangered, has low potential to be present within the study area, including the project site. No large bodies of water are within the study area, and no suitable nesting habitat is present in the project study area except for transmission towers, which are rarely as a nesting substrate. No CNDDB occurrences of bald eagle are within ten miles of the project site, however bald eagles are wide-ranging predators and may intermittently forage within or pass through the project area. As such, despite the low probability of occurrence, the applicant has proposed avoidance and minimization measures.

Direct impacts to eagles could include disruption of foraging activity or loss or degradation of foraging habitat due to increased dust, noise and disturbance, and the release of hazardous materials. Work conducted in proximity to active nests can also result in nest failure or added vigilance which may limit the foraging time of these species. Indirect impacts include habitat removal and degradation of adjacent habitat due to increased human presence.

The applicant proposed to implement several measures to avoid and minimize impacts to bald eagle. These include incorporating information on bald eagle into a project-specific WEAP and requiring pre-construction surveys by a qualified biologist prior to the initiation of project activities. If active nests are identified, avoidance and protection measures would be implemented.

Staff evaluated these measures and determined that they are adequate to reduce potential impacts to bald eagle. Staff proposes mitigation measures **BIO-1** (Project Coverage under ECCC HCP/NCCP), **BIO-2** (WEAP) and **BIO-4** (Adherence to ECCC HCP/NCCP Requirements), and **BIO-10** (Nesting Bird Protection (Bald Eagle).

With the implementation of **BIO-1**, **BIO-2**, **BIO-4**, and **BIO-10**, impacts on bald eagle would be less than significant.

Other Nesting Birds

Trees and other vegetation on site provide potential nesting habitat for numerous bird species protected under the MBTA and the California Fish and Game Code. Construction activities could impact protected bird species through disturbance or loss of potential nesting trees if clearing occurs during the breeding season.

The applicant proposed to implement several measures to avoid and minimize impacts to nesting birds. These include incorporating information on special-status birds into a

project-specific WEAP and requiring pre-construction surveys by a qualified biologist prior to the initiation of project activities. If active nests are identified, avoidance and protection measures would be implemented.

Staff evaluated this measure and determined that minor revisions were necessary to reduce potential impacts to nesting birds. In coordination with CDFW, the nesting season window was extended from August 31 to September 15, and the buffer distance was increased from 300 to 500 feet to provide additional protection. Staff therefore proposes mitigation measures **BIO-1** (Project Coverage under ECCC HCP/NCCP), **BIO-2** (WEAP) and **BIO-4** (Adherence to ECCC HCP/NCCP Requirements), and **BIO-9** (Nesting Bird Protection).

With the implementation of **BIO-1**, **BIO-2**, **BIO-4**, and **BIO-9** impacts on nesting birds would be less than significant.

Operation

Direct impacts from operation and maintenance activities, which include noise and lighting from operation of the data center, human presence, and site maintenance such as landscape, irrigation, and building maintenance, may result in an increase in disturbance relative to existing conditions. The site has been unused for approximately seven years, during which reduced human activity may have allowed wildlife to utilize portions of the property. However, the site is located within a developed residential neighborhood, where ambient noise, lighting, and human activity are already present. Given the site's past use as a golf course, its existing disturbed condition, and the surrounding residential areas, operation activities are not expected to result in significant impacts on biological resources.

PG&E would construct a "looped" transmission interconnection to the existing Pittsburg-Eastshore 230 kV transmission line located to the east of the project site. This would involve two overhead transmission line extensions from the PG&E switching station to two new steel monopoles installed within the existing PG&E right-of-way and that will replace one of the existing steel lattice towers. The PG&E switching station would be constructed adjacent to the project substation and will be built in a Breaker and a Half configuration. Access to the switching station would be from a separate entrance from the public right-of-way on Golf Club Road. (PBGF 2024).

Bird collisions typically occur when transmission lines intersect flight paths at low altitudes, especially in poor lighting, strong winds, or near wetlands and valleys (Brown 1993; APLIC 1994). The project site is not immediately adjacent to known flight paths or geographic features that increase collision risk. In addition, bird electrocution risk is highest for lines energized between 1 kV and 60 kV, while 230 kV lines typically provide sufficient phase-to-phase and phase-to-ground clearance to prevent electrocutions (APLIC 2006). Based on these factors, avian collision and electrocution impacts are not likely to occur. Therefore, there would be a less than significant impact.

Operational impacts that could potentially affect biological resources are indirect impacts resulting from project-related nitrogen deposition on nitrogen-sensitive habitats.

Nitrogen Emission and Deposition Impacts. The project would include 37 2.75-MW diesel fired backup generators. Operation of these generators would result in the emission of oxides of nitrogen (NOx) and ammonia (NH3).

Nitrogen deposition is the input of NOx and ammonia (NH_3) "atmospherically derived pollutants", primarily nitric acid (HNO_3), from the atmosphere to the biosphere. The primary sources of these pollutants are vehicle and industrial emissions, including power generation. Increased nitrogen deposition in nitrogen-poor habitat allows the proliferation of non-native species, which crowds out native species (Fenn et al. 2003; Weiss 2006). Nitrogen fertilization has the potential to exacerbate threats to sensitive species habitat, and the deposition of additional nitrogen in an already stressed ecosystem would be a potentially significant indirect impact.

For power generation projects, staff evaluates nitrogen deposition impacts by considering protected areas within a 6-mile radius of the project site. These areas include CDFW sensitive natural communities and USFWS designated critical habitat. CEC staff have found that by the time the emissions plume from a utility-scale power plant has traveled this distance, in-plume concentrations become indistinguishable from background concentrations. In addition, for backup generators associated with a data center, the plume(s) often touches down immediately adjacent to the site since the stacks are low, depending on the terrain and other factors. Due to the small generation capacity and low stacks of the proposed on site generators, nearly all nitrogen deposition is expected to occur in the immediate vicinity of the project (DayZenLLC 2024b). Reports on similar projects have found that any nitrogen plume produced would quickly dilute and become indistinguishable from background levels by the time it reaches 6 miles from the site (CEC 2022). In addition, data centers are relatively well controlled for NOx and operate under restricted runtimes, limited to readiness testing, maintenance, and emergency use.

Staff considers habitat modification to protected areas and designated critical habitat to be a potentially significant effect if these communities are known to be sensitive to nitrogen deposition. In previous Northern California power plant cases licensed by the Energy Commission (e.g., CEC 2007) as well as a California-wide study of nitrogen deposition (Weiss 2006), 5 kilograms per hectare per year (kg/ha/yr) has been used as a benchmark for analyzing nitrogen deposition impacts to plant communities. In nitrogen sensitive communities, exceeding 5 kg/ha/yr of nitrogen deposition can cause adverse biological effects, including loss of native plant diversity and shifts in community composition.

There is designated or proposed critical habitat for several federally listed species within 6 miles of the project site. This includes USFWS-designated critical habitat for Delta smelt (*Hypomesus transpacificus*), Alameda whipsnake (*Masticophis lateralis*

euryxanthus), and the federally listed species at the USFWS Antioch Dunes National Wildlife Refuge. Critical load estimates for aquatic habitats such as those supporting Delta smelt are relatively high (30–40 kg N/ha/yr or greater), while critical load for Alameda whipsnake habitat is lower, ranging from approximately 7.8–14 kg N/ha/yr (Pardo et al. 2010). The listed species at the Antioch Dunes are considered sensitive to nitrogen deposition and would have a critical load of 5 kg/ha/yr.

For a baseline nitrogen deposition estimate, CEC staff used the Community Multiscale Air Quality (CMAQ) modeling system, which provides estimates of ozone, particulates, toxics, and acid deposition. Staff considered the most recent CMAQ-predicted value (CMAQ 2019) as the best available data to determine baseline nitrogen deposition, which ranges from 4.52 kg/ha/yr to 8.01 kg/ha/yr within 6 miles of the project area. Potentially significant impacts could occur if nitrogen deposition from the project in conjunction with existing baseline deposition exceeded the critical load for sensitive communities.

Project-related nitrogen deposition is expected to occur within approximately 0.5 miles of the project. Conservative modeling for comparable projects before the CEC (e.g., CA3, McLaren, and Laurelwood data centers) found nitrogen deposition contributions ranging from 0.01 to 0.20 kg N/ha/yr at distances up to 5 miles. The addition of the proposed project-related deposition of up to up to 0.2 kg/ha/yr would result in a combined deposition rate far below the conservative critical load estimates (30-40 kg N/ha/yr) of any of the sensitive aquatic habitats in the region. While baseline critical load exceeds 5 kg/ha/yr at critical habitat for Alameda whipsnake as well as the listed species at the Antioch Dune National Wildlife Refuge, their locations are well outside the range of where impacts could occur from this project, with Alameda whipsnake critical habitat at 5.92 miles and Antioch Dunes National Wildlife Refuge at 5.97 miles from the project site.

As a result, the project would not affect nearby critical habitat or sensitive natural communities. Therefore, impacts would be less than significant.

b. Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

Construction

Less Than Significant with Mitigation Incorporated. The study area includes 1.87 acres of riparian habitat. This includes 0.44 acres of Himalayan blackberry thickets and 1.43 acres of Valley Foothill Riparian habitat. Both areas are classified as a sensitive habitat due to their status as riparian areas and may be subject to CDFW jurisdiction under the California Fish and Game Code. These habitats occur along the stream located within the PG&E transmission line corridor along the eastern edge of the project site. The

project may result in direct impacts to 0.03 acre of Himalayan blackberry thickets. There would be no impact to Valley Foothill Riparian habitat.

The applicant proposed to implement several measures to offset and minimize project impacts to riparian habitat. This includes implementation of WEAP training and compliance with all applicable requirements of the ECCC HCP/NCCP. The applicant would follow the ECCC *HCP/NCCP Conservation Measure 2.12 (Wetland, Pond, and Stream Avoidance and Minimization)* which requires riparian areas to be staked and delineated for avoidance by a qualified biologist before the construction contractor mobilizes, and WEAP training will be provided to ensure all construction staff understands the importance of avoiding damage to the riparian habitat.

Staff evaluated these measures and determined that they are adequate to reduce impacts to riparian habitat. Staff proposes mitigation measures **BIO-2** (WEAP and **BIO-4** (Adherence to ECCC HCP/NCCP Requirements).

In addition, the project may require a Section 404 U.S. Army Corps of Engineers (USACE) permit, a Section 401 RWQCB certification, and a CDFW Lake and Streambed Alteration Agreement. These permits are expected to include measures such as delineating work boundaries, ensuring equipment is cleaned prior to use, and implementing best management practices to prevent siltation, pollution, and the spread of invasive weeds. Staff has proposed a measure, **BIO-3** (Regulatory Permits for Jurisdictional Waters), which requires the applicant to obtain any necessary permits from the USACE, RWQCB, and CDFW, and to implement all associated conditions to avoid or minimize impacts to riparian habitats.

With implementation of **BIO-2**, **BIO-3**, and **BIO-4**, impacts to riparian habitat during construction are expected to be less than significant.

Operation

Less Than Significant with Mitigation Incorporated. The project has the potential to increase degradation of the riparian habitat due to human incursions, windblown trash, and other effects of nearby development over the long term. Coverage under the ECCC HCP/NCCP would require the project to implement ECCC *HCP/NCCP Conservation Measure 1.7 (Establish Stream Setback)*, which requires maintenance of a protective buffer between new development and existing stream corridors. This measure would protect the riparian corridor at the east edge of the study area by decreasing the potential for damaging incursions and trash accumulation. In addition, the San Francisco Bay Regional Water Quality Control Board requires new development projects that disturb one or more acres of land to contain and treat stormwater runoff from the site.

The project would construct a new stormwater outfall directed toward the stream. The existing undersized pipe (22-inch diameter corrugated metal pipe that discharges upslope from the stream) would be replaced with dual pipes sized appropriately for site

flows to the existing stormwater drainage outlet (DayZenLLC 2024g). The outfall would be located fully in upland areas, and rip-rap or other stabilization materials would be installed at the discharge point to prevent erosion and minimize the potential for sediment transport into the stream. The project's stormwater infrastructure would be configured to ensure that flows delivered offsite are not increased by comparison with existing conditions. This would include stormwater retention features incorporated into landscaping, and would include trash racks or other capture devices to prevent trash entering the stream and riparian corridor. With this design approach, the replacement stormwater system would avoid worsening discharge impacts on the riparian corridor and would likely provide improvements compared to existing conditions.

Staff evaluated these measures and determined that they are adequate to reduce impacts to riparian habitat. Staff proposes mitigation measures **BIO-2** (WEAP) and **BIO-4** (Adherence to ECCC HCP/NCCP Requirements), as discussed above under construction impacts. In addition, as discussed in **Section 5.10, Hydrology and Water Quality**, the project design would adhere to Contra Costa Clean Water Program (CCCWP) hydromodification requirements in compliance with the Municipal NPDES permit, per staff's proposed mitigation measure **HYD-1.**

With the implementation of **BIO-2** and **BIO-4**, the ECCC HCP/NCCP conservation measures, design features discussed above, and **HYD-1,** the impacts on riparian habitat during operation activities would be less than significant.

c. Would the project have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

Construction

Less Than Significant with Mitigation Incorporated. The study area includes a total of 0.17 acres of perennial wetlands within an existing drainage, and a total of 1.73 acres of seasonal wetlands. The project would result in a permanent impact of 0.12 acres of seasonal wetlands and 0.15 acres of perennial wetlands (DayZenLLC 2024b).

The applicant has proposed to implement several measures to offset and minimize project impacts to wetlands. This includes seeking coverage under the ECCC HCP/NCCP which requires a per-acre fee for wetland impacts in addition to a per-acre development fee, which helps to support acquisition, restoration, and long-term management of aquatic resources on compensatory preserve lands.

In addition, wetland impacts may also require resource and regulatory agency authorization; including, Section 404 USACE permit, Section 401 RWQCB certification, and a CDFW Lake and Streambed Alteration Agreement.

The applicant would also implement WEAP training, seek resource agency permits and implement their conditions, and comply with to the ECCC HCP/NCCP requirements. In addition, the ECCC HCP/NCCP *Conservation Measure 2.12 (Wetland, Pond, and Stream Avoidance and Minimization)* would be implemented to reduce impacts.

Staff reviewed these measures and determined they are adequate to reduce potential impacts to wetlands. Staff therefore proposes mitigation measures **BIO-1** (Project Coverage under ECCC HCP/NCCP), **BIO-2** (WEAP), **BIO-3** (Resource Agency Permits), and **BIO-4** (Adherence to ECCC HCP/NCCP Requirements).

With the implementation of **BIO-1**, **BIO-2,** and **BIO-4**, and with the applicant obtaining any necessary permits, impacts to wetlands are expected to be less than significant.

d. Would the project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of wildlife nursery sites?

Construction and Operation

Less Than Significant with Mitigation Incorporated.

Wildlife Corridors

Less than Significant. The project site offers limited, if any, wildlife passage due to remaining golf course fencing along the north, west and southern boundaries of the project site, and the presence of the Contra Costa Canal.

The most important movement corridor for wildlife in the project vicinity is the PG&E transmission line corridor immediately to the east of the project site. This corridor is generally open, contains a through-flowing ephemeral stream and provides direct connectivity to the edge of Suisun Bay. This corridor connects to the south via a crossing over the Contra Costa Canal at the southeast corner of the study area which is also fenced.

The ECCC HCP/NCCP identifies a movement corridor for western pond turtle via the stream in the PG&E transmission line corridor at the east edge of the study area (HCP/NCCP 2006), and while this habitat is not of high quality, it is important since it represents the only through-going habitat corridor for western pond turtle in the project vicinity.

The applicant proposed to implement several measures to offset and minimize project impacts from the project, including wildlife corridors. The applicant would seek coverage under the ECCC HCP/NCCP which would offset project impacts to habitat and species. The applicant also proposes to implement a project-specific WEAP which requires all construction and operation personnel and project staff to undergo

environmental awareness training prior to conducting work on the project. In addition, the applicant proposes to adhere to avoidance and minimization measures for covered species as well as conduct pre-construction surveys of the site and adjacent corridor for western pond turtle.

The project would result in a minor encroachment on the corridor with the replacement of the existing stormwater drainage pipe. Replacing the storm drainage pipe would not alter the existing canal crossing. *ECCC HCP/NCCP Conservation Measure 1.7 (Establish Stream Setback)*, stipulates maintenance of a protective buffer between new development and existing stream corridors. These setback buffers are intended primarily to protect water quality and instream habitat, but would also protect the riparian corridor at the east edge of the study area by decreasing the potential for damaging incursions and trash accumulation.

Staff evaluated these measures and determined they are adequate to reduce impacts to wildlife corridors. Staff proposes mitigation measures **BIO-1** (Project Coverage under ECCC HCP/NCCP), **BIO-2** (WEAP), **BIO-4** (Adherence to ECCC HCP/NCCP Requirements), and **BIO-8** (Western Pond Turtle Avoidance and Minimization Measures).

With the implementation of **BIO-1**, **BIO-2**, **BIO-4**, and **BIO-8** impacts to wildlife corridors are expected to be less than significant.

Wildlife Nursery Sites

The former golf course pond located in the northeast portion of the project site provides potential breeding habitat for California tiger salamander. Hydrologic surveys conducted during the wet season found that this pond retained water from February through June. This long hydroperiod, combined with the presence of potential prey species for California tiger salamander and a lack of predator species, suggests the pond could support breeding California tiger salamander. Other ponded basins within the study area provide sub-optimal breeding conditions for California tiger salamander either because they do not hold water long enough (hydroperiods under 3 months) or because they support dense vegetation and/or predators such as non-native mosquitofish or bullfrog (DayZenLLC 2024b). The study area lacks ponds or pools holding water long enough to support breeding California red-legged frog. There would be no direct impacts to aquatic habitat for this species as neither pond would be directly affected by construction.

Trees and an existing single-story building which will remain in place, may also offer potential maternity roost opportunities for bats, and the project area contains suitable foraging habitat. Several special-status bat species may be present in the study are, including pallid bat (*Antrozous pallidus*), western red bat (*Lasiurus frantzii* [*L. blossevillii*]), and hoary bat (*L. cinereus*). None of these species are covered by the ECCC HCP/NCCP. No suitable habitat is present for Townsend's big-eared bat;

therefore, no preconstruction surveys or construction monitoring are required for this species.

The applicant proposed to implement measures to avoid and minimize potential impacts to special-status bats. This includes incorporating information on bat species into a project-specific WEAP. In addition, the applicant proposed a measure that requires a qualified biologist to conduct habitat evaluations and focused pre-construction roost surveys where suitable habitat is present. If suitable roosting habitat is identified, a qualified biologist shall conduct focused occupancy surveys at least two weeks prior to construction. Surveys would include daytime visual inspections, evening emergence counts, and acoustic monitoring. If roosting bats are confirmed, the species, number of individuals, and roost type (maternity vs. non-maternity) shall be documented and reported to the City and CDFW.

For non-maternity roosts, a non-disturbance buffer would be established based on species and construction activity. If a buffer cannot be maintained, construction within the buffer will be limited to daylight hours when the biologist has confirmed the roost is unoccupied. The biologist would remain on site during construction to monitor and ensure that bats are not disturbed or harmed.

For maternity roosts, a non-disturbance buffer appropriate to the species and type of construction would be implemented for the duration of the breeding/non-volant season (April–August). If a buffer cannot be maintained, the applicant would coordinate with the City and CDFW to develop and implement additional protective measures.

Staff evaluated these measures and determined that they are adequate to reduce potential impacts to special-status bats. Staff therefore proposes mitigation measures **BIO-2** (WEAP) and **BIO-11** (Special Status Bat Survey and Protection). In addition, based on CDFW comments, staff revised **BIO-11** to include measures to further avoid or minimize these impacts.

With the implementation of **BIO-2** and **BIO-11**, impacts to bat species are expected to be less than significant.

e. Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

Construction and Operation

Less Than Significant. A tree survey was conducted by Dave Laczko, ISA Certified Arborist #1233A PN with Anderson's Tree Care Specialists on February 10, and November 28, 2023 (DayZenLLC 2024b). In addition, a follow up survey for two additional trees near the entrance of the project site was conducted by Kaitlyn Shelton, ISA Certified Arborist #WE-12733A, on August 13, 2024 (DayZenLLC 2025a). The surveyors inventoried 75 living and dead standing trees on the project site. Of these,

only three were native tree species, including one living valley oak and two dead cottonwood trees. Nearly one quarter of the total inventoried trees were documented as dead standing trees. All 75 trees would be removed as part of the project, subject to City of Pittsburg Municipal Code (PMC) 18.84.850 Tree Removal Permit Procedure and Requirements, subsection (E)(1)(a-c).

For the removal of 58 living trees, the applicant has proposed to replace them with 232 24-inch boxed specimen trees. The final number of replacement trees is subject to Chapter 18.84.855 Replacement trees (A), (B), (C), and (D). Some portion of the 58 living trees planned for removal may prove to be suitable for preservation. Suitability for preservation would be determined for individual trees after final grading, drainage, and infrastructure plans are reviewed by a certified arborist. The certified arborist would review final plan sets depicting beginning and finished grade elevations, changes to existing drainage characteristics, as well as exact locations of proposed structures and associated infrastructure.

Should particular trees be deemed suitable for preservation, an addendum to the Arborists report would be required to be submitted to the City of Pittsburg Community Development Director recommending specific tree protection and preservation efforts as part of review and approval of tree removal permit.

The applicant has committed to replacing 58 living trees that would be removed by the project with 232 24-inch boxed specimen trees. Replacement requirements would be enforced pursuant to Chapter 18.84 Special Land Use Regulations Applicable to Specific Uses, Article XIX Tree Preservation and Protection, Chapter 18.84.855 Replacement trees (A-D). If any replacement tree fails to survive for a period of one year from the date of installation, then the applicant shall replace the tree at the applicant's expense.

Therefore, since the applicant would adhere to tree removal permit conditions and municipal code requirements, project construction would not conflict with local policies or ordinances protecting biological resources and impacts would be less than significant.

f. Would the project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Communities Conservation Plan, or other approved local, regional, or state habitat conservation plan?

Construction and Operation

Less Than Significant with Mitigation Incorporated. The project is located within the planning area for the ECCC HCP/NCCP. The Final ECCC HCP/NCCP was approved by seven member agencies, including the City of Pittsburg and Contra Costa County, in October 2006. In 2007, the City of Pittsburg approved ordinances requiring future development projects to comply with the ECCC HCP/NCCP. It intended to provide an effective framework to protect natural resources in eastern Contra Costa County, while improving and streamlining the environmental permitting process for impacts on

endangered species. The ECCC HCP/NCCP also provides for comprehensive species, wetlands, and ecosystem conservation and contribute to the recovery of endangered species in northern California. A total of 28 species are covered under the ECCC HCP/NCCP, including California tiger salamander, California red-legged frog, Western burrowing owl, Swainson's hawk, San Joaquin kit fox, among others. The ECCC HCP/NCCP provides streamlined permits from the USFWS and CDFW for covered species.

The applicant would be seeking coverage under the ECCC HCP/NCCP and, as such, would be required to pay development fees, implement avoidance and minimization measures, and adhere to species-level requirements established in the plan. The project would not conflict with the provisions of an adopted Habitat Conservation Plan (HCP/NCCP), Natural Communities Conservation Plan, or other approved local, regional, or state habitat conservation plan, or result in a significant direct or indirect impact after mitigation. Therefore, impacts would be less than significant.

5.4.3 Mitigation Measures

BIO-1: Project Coverage under ECCC HCP/NCCP. The applicant shall obtain coverage for the project under the ECCC HCP/NCCP. This shall include the submittal of all required application materials per ECCC HCP/NCCP Section 6.2.1 and payment of a Development Fee consistent with current ECCC HCP/NCCP requirements. Alternatively, the applicant may, in accordance with the terms of the Pittsburg Municipal Code Chapter 15.108, offer to dedicate land in lieu of some or all of the ECCC HCP/NCCP Development Fee.

All applicable fees shall be paid, and/or an "in-lieu-of-fee" agreement fully executed, prior to the issuance of a grading permit for the project. If a grading permit is not required, fee payment and/or an "in-lieu-of-fee" agreement shall be fully executed prior to issuance of the project's building permit. Proof of applicable fees and/or "in-lieu-of-fee" agreement shall be provided to the City of Pittsburg Community Development Director or Director's designee.

BIO-2: Worker Environmental Awareness Program (WEAP). The applicant shall develop and implement a project-specific WEAP. The WEAP shall include a presentation on sensitive habitats on the project site, special-status species known or potentially present on the site, including their listing status and causes of decline, their habitat preferences and any distinguishing physical characteristics. In addition, the measures required to protect sensitive habitats and special-status species shall be explained, including next steps and notifications in the event of a special-status species sighting.

The WEAP shall include a hard copy handout that summarizes information presented in the training and include photographs of habitat resources and species to facilitate identification in the field by construction personnel.

The applicant shall ensure that all construction personnel undergo WEAP training before they begin work. Training shall be delivered by a qualified biologist approved by the City of Pittsburg Community Development Director or Director's designee and shall be provided bilingually in English and Spanish, if appropriate. The WEAP shall include a training acknowledgment form to be signed by each worker indicating that they received training and shall abide by the guidelines.

The applicant shall secure approval for the WEAP from the City of Pittsburg Community Development Director or Director's designee. The applicant shall also provide the Conservancy a copy of all portions of the WEAP for review and comment.

BIO-3: Regulatory Permits for Jurisdictional Waters. Prior to project activities that would result in impacts to jurisdictional waters, the applicant shall seek a Section 404 permit from the U.S. Army Corps of Engineers (USACE), a Section 401 Water Quality Certification from the Regional Water Quality Control Board (RWQCB), and a Lake or Streambed Alteration Agreement from the California Department of Fish and Wildlife (CDFW). The project shall be constructed and operated in compliance with all terms and conditions of these permits, if issued.

BIO-4: Adherence to ECCC HCP/NCCP Requirements. The applicant shall ensure that the project adheres to all applicable ECCC HCP/NCCP requirements. Planning surveys per ECCC HCP/NCCP Section 6.3.1 were completed in 2018 to 2023 and copies shall be submitted to the Conservancy. Based on the outcomes of the planning surveys, preconstruction surveys by USFWS and CDFW-approved biologists shall be conducted for the following species per ECCC HCP/NCCP Sections 6.3.2 and 6.3.4: Golden eagle (*Aquila chrysaetos*); Western burrowing owl (*Athene cunicularia*); Swainson's hawk (*Buteo swainsonii*) and San Joaquin kit fox (*Vulpes macrotis mutica*).

If pre-construction surveys determine that any of the above species is present on the site (or, for the bird species, within a distance where they could be disturbed by construction activity – see **BIO-8**), the Best Management Practices and Construction Monitoring requirements in the ECCC HCP/NCCP Table 6-1 shall apply. The applicant shall ensure that construction monitoring is conducted per ECCC HCP/NCCP Section 6.3.3 (ECCC HCP/NCCP pages 6-12 to 6-13). This shall include the submittal of a Construction Monitoring Plan (CMP) to the City of Pittsburg Community Development Director or Director's designee for approval. The CMP must be submitted and approved prior to site mobilization.

The applicant shall also comply with all applicable provisions of the ECCC HCP/NCCP Section 6.4, Specific Conditions on Covered Activities (beginning on ECCC HCP/NCCP page 6-14), as follows.

Section 6.4.1: Landscape-Level Measures:

- Conservation Measure 1.7 - Establish stream setbacks (ECCC HCP/NCCP pages 6-15 – 6-18)

- Conservation Measure 1.10 - Maintain hydrologic conditions and minimize erosion (ECCC HCP/NCCP pages 6-21 – 6-22)
- Conservation Measure 1.11 - Avoid direct impacts on extremely rare plants, fully protected wildlife species and covered migratory birds (ECCC HCP/NCCP pages 6-23 – 6-25)

Section 6.4.2: Natural Community-Level Measures:

- Conservation Measure 2.12 - Wetland, pond and stream avoidance and minimization (ECCC HCP/NCCP pages 6-33 – 6-35)

Section 6.4.3: Species-Level Measures for the following species:

- California tiger salamander (begins on ECCC HCP/NCCP page 6-45; see also Table 6-1)
- California red-legged frog (begins on ECCC HCP/NCCP page 6-46; see also Table 6-1)
- Burrowing Owl (begins on ECCC HCP/NCCP page 6-39; see also Table 6-1)
- Golden Eagle (begins on ECCC HCP/NCCP page 6-38; see also Table 6-1)
- Swainson's Hawk (begins on ECCC HCP/NCCP page 6-41; see also Table 6-1)
- San Joaquin kit fox (begins on ECCC HCP/NCCP page 6-37; see also Table 6-1)

BIO-5: Rare Plant Survey and Protection. An updated protocol-level rare plant survey shall be conducted by a qualified biologist/botanist who is familiar with the rare plants of the project region and has been approved by the City of Pittsburg Community Development Director or Director's designee. Surveys shall be conducted prior to construction, with enough lead time to allow for the follow-up actions described below, if they are warranted. Surveys shall be conducted during the peak blooming periods of the target species and shall cover all potentially suitable habitats within the project site and surrounding 250-foot-wide buffer. If no special-status plants are documented within the area to be disturbed for project construction (including staging and access), no further action is required.

If special-status plants covered by the ECCC HCP/NCCP, or plants designated as "no take" by the ECCC HCP/NCCP, are present on the site, the relevant survey report(s) shall be submitted to the Conservancy per ECCC HCP/NCCP Section 6.3.1 (see page 6-9).

If any of the following species covered by the ECCC HCP/NCCP is found to be present, the applicant shall promptly notify the Conservancy of the species' presence and the planned construction schedule, to enable the Conservancy to salvage the occurrence(s) in accordance with ECCC HCP/NCCP Conservation Measure 3.10 (Plant Salvage when Impacts are Unavoidable). The applicant shall confirm with the Conservancy that the

take limits established by the ECCC HCP/NCCP for the species in question have not been breached:

- Big tarplant (*Blepharizonia plumosa*)
- Mount Diablo fairy lantern (*Calochortus pulchellus*)
- Diablo helianthella (*Helianthella castanea*)
- Showy golden madia (*Madia radiata*)
- Adobe navarretia (*Navarretia nigelliformis* ssp. *nigelliformis*)

Under no circumstance shall any of the following ECCC HCP/NCCP "no-take" plants be harmed:

- Large-flowered fiddleneck (*Amsinckia grandiflora*)
- Alkali milkvetch (*Astragalus tener* ssp. *tener*)
- Mt. Diablo buckwheat (*Eriogonum truncatum*)
- Diamond-petaled poppy (*Eschscholzia rhombipetala*)
- Contra Costa goldfields (*Lasthenia conjugens*)
- Caper-fruited tropidocarpum (*Tropidocarpum capparideum*)

Due to their extreme rarity, none of these species is expected to be present on the project site, but if any of them are found, the applicant shall notify the Conservancy immediately and shall work with the Conservancy to determine and execute the appropriate course of action.

If any special-status plant not covered by the ECCC HCP/NCCP is found to be present, the plant(s) shall be avoided and protected in place to the extent feasible. If the occurrence(s) cannot be entirely avoided, then a Plant Salvage and Mitigation Plan shall be prepared and submitted to the City of Pittsburg Community Development Director or Director's designee. The plan shall be prepared by a qualified biologist/botanist who is familiar with the rare plants of the project region and has experience conducting rare plant salvage operations. Plant salvage techniques shall be consistent with those outlined in ECCC HCP/NCCP Conservation Measure 3.10. The plan shall, at a minimum, include the following:

- Quantity and species of plants to be planted or transplanted
- Location of the mitigation/transplant site(s)
- Salvage methods, such as relocation/transplantation, seed collection, etc., including storage locations and methods to preserve the plants
- Procedures for propagating collected seed, including storage methods
- Planting procedures, including the use of soil preparation and irrigation

- Schedule and action plan to maintain and monitor the mitigation/transplant site for a minimum 3-year period
- Interim and final success criteria and corrective action thresholds (e.g., growth, plant cover, survivorship)
- Potential corrective actions/contingency measures in the event interim success criteria are not being met (e.g., weed removal, supplemental irrigation, supplemental plantings, etc.)
- Reporting requirements and procedures, including the contents of annual progress reports, report submittals, review/approval responsibilities, etc.

The applicant shall implement the Plant Salvage and Mitigation Plan. The Plan shall be implemented under the oversight of the biologist/botanist who prepared it or another individual with equivalent qualifications. The biologist shall be approved by the City of Pittsburg Community Development Director or Director's designee.

BIO-6: Crotch's Bumble Bee and Obscure Bumble Bee Avoidance and Minimization Measures. No more than 1 year prior to the initiation of vegetation removal and grading at the project site, the applicant shall retain an appropriately qualified biologist (see next paragraph) who has been approved by the City of Pittsburg Community Development Director or Director's designee to conduct surveys for Crotch's bumble bee and obscure bumble bee. CDFW has issued preliminary survey guidance for candidate bumble bee species in the Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species (CDFW 2023). Consequently, there are no official requirements for bumble bee surveyor qualifications. If CDFW issues new guidance or protocol for bumble bee surveys, then biologist qualifications and survey methodology for bumble bee surveys shall conform to the CDFW guidance published at the time surveys are performed.

Surveys shall be performed by a qualified biologist or entomologist familiar with the species' behavior and life history and shall include both habitat evaluations and foraging bee surveys consistent with the recommendations in Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species (CDFW 2023). Surveys shall be conducted during the Crotch's bumble bee colony active period of April 1 to September 31 and the obscure bumble bee colony active period of April 20 to August 20, and shall be conducted during the active period prior to the initiation of vegetation removal and grading at the project site. Surveys shall cover all areas of onsite habitat determined by the biologist to be suitable for any of the two target bumble bee species, based on habitat mapping conducted for the project to date. A minimum of 3 to 4 surveys shall be conducted, spaced 2 weeks apart; the total number, timing, and duration of surveys performed shall depend on the biologist's judgment, in consideration of weather, site conditions, and protocol requirements. Surveys shall be designed to identify all foraging bumble bees to species level.

If Crotch's bumble bee individual or multiple bees are observed onsite during the surveys, the applicant shall consult with CDFW to determine additional measures necessary for full avoidance of Crotch's bumble bee or to seek an Incidental Take Permit under CESA for take authorization. Additional measures may include an additional survey or surveys to be conducted to determine whether a nest or colony is present. All workers shall be required to avoid injury and mortality to bumble bees they may encounter; this requirement shall be discussed during the WEAP training (Mitigation Measure BIO-2) and shall be reiterated to all workers if special-status bumble bees are confirmed onsite.

If a Crotch's bumble bee nest or colony is present onsite, the applicant shall consult with CDFW to determine appropriate next steps, and shall ensure that the City of Pittsburg Community Development Director or Director's designee is informed of consultation outcomes. At a minimum, the biologist shall establish an avoidance buffer of 100 feet in diameter. No entry into the buffer shall be permitted. The buffer shall be delineated in the field using orange construction fencing or another appropriate medium, under the biologist's oversight, and shall remain in place until the end of the nesting species' gyne flying season, or until the qualified biologist determines that the nest has been abandoned. If the nest cannot be avoided the applicant shall coordinate with the City of Pittsburg Community Development Director or Director's designee and CDFW to obtain an Incidental Take Permit under CESA for take authorization.

Survey results, including negative findings, shall be submitted to the City of Pittsburgh Community Development Department and CDFW at least 30 days prior to implementing project-related ground-disturbing activities. At a minimum, the survey report shall include the following information.

(1) A description and map of the survey area

(2) A habitat assessment focusing on areas that could provide suitable foraging, nesting, and overwintering habitat for Crotch bumble bee or obscure bumble bee

(3) Field survey conditions, including name(s) of qualified entomologist(s) and brief qualifications; date(s) and time(s) of survey; survey duration; number of surveyors per acre; number of acres surveyed; amount of time of focused survey; general weather conditions; survey goals; species observed; and photo vouchers of bumble bees

(4) Map(s) showing the location of nests/colonies, if any; a description of physical (e.g., soil, moisture, slope) and biological (e.g., plant composition) conditions where each nest/colony is found, including native plant composition (e.g., density, cover, and abundance) within impacted habitat (e.g., species list separated by vegetation class; density, cover, and abundance of each species)

(5) The measures that will be implemented to avoid adverse effects on the bumble bee species present

(6) An assessment of potential project effects on special-status bumble bees during project construction and project operation/maintenance.

BIO-7: Monarch Butterfly Avoidance and Minimization Measures. No more than 2 days prior to the initiation of construction-related vegetation trimming or removal, the applicant shall ensure that a qualified biologist approved by the City of Pittsburg Community Development Director or Director's designee surveys all areas of potentially suitable habitat for monarch butterfly larval host plants. If host plants are found, the biologist shall survey all host plants for monarch eggs, larvae, and pupae. If no eggs, larvae, or pupae are found, plants may be removed within 2 days. If eggs, larvae, or pupae are present, host plants shall be protected in place until the biologist has determined that the breeding season has concluded, or coordination with the City and USFWS occurs. It is recommended that milkweed removal should be avoided until after the plant has gone to seed.

BIO-8: Western Pond Turtle Avoidance and Minimization Measures. Prior to the start of construction activities, the applicant shall ensure that a qualified biologist approved by the City of Pittsburg Community Development Director or Director's designee conducts a preconstruction survey of the project site and adjacent suitable habitat for western pond turtle. The survey shall be conducted no more than 24 hours prior to the start of work. If individuals are found, the biologist shall relocate them to suitable habitat outside the disturbance area and far enough away that they would not be expected to return. If the biologist determines that exclusion measures are warranted, exclusion measures identified by the biologist shall be implemented to prevent individuals from returning to the project site.

BIO-9: Nesting Bird Protection. If project-related disturbance (e.g., vegetation removal or trimming, clearing/grubbing, grading) commences any time during the nesting/breeding season of native bird species potentially nesting in or near the study area (February 1 through September 15 for most species; January 1 through August 31 for golden eagle; March 15 through September 15 for Swainson's hawk), a qualified biologist approved by the City of Pittsburg Community Development Director or Director's designee shall conduct a preconstruction survey using binoculars. The survey shall take place no more than 2 weeks prior to the initiation of work. If active nests are found in areas that could be directly affected or are within 500 feet of disturbance activities and would be subject to prolonged construction-related noise, a no disturbance buffer zone shall be created around active nests for the remainder of the breeding season or until the biologist determines that all young have fledged or that the nest has been abandoned. No entry into the no-activity buffer zone shall be permitted. The no-activity buffer zone shall be delineated in the field by or under the supervision of the biologist, using temporary construction fencing or another suitable low-impact medium. The size of the buffer zone(s) shall be determined by the biologist based on the species involved, the amount of vegetative and other screening between the nest and areas where construction activity shall take place, and, if appropriate, other site-specific factors. The minimum buffer width shall be 50 feet for species other than raptors, and a minimum of 500 feet for raptor species. The biologist may enlarge the minimum buffer width by taking into account factors such as the following:

- Noise and human disturbance levels at the construction site at the time of the survey and the noise and disturbance expected during the construction activity
- Sensitivity of nesting species and behaviors of the individual nesting birds

If nesting Swainson's Hawk or Golden Eagle are observed, buffers and other avoidance measures shall conform to Species-Level Measures for these species as laid out in ECCC HCP/NCCP Section 6.4.3. Buffers stipulated in the ECCC HCP/NCCP for these species are as follows.

- Swainson's Hawk: nest survey – 1,000 feet; no-project-activity nest protection buffer –1,000 feet.
- Golden Eagle: nest survey – not specified; no-project-activity nest protection buffer – 0.5 mile.
- If site-specific conditions (e.g., steep topography, dense vegetation) or the nature of the covered activity (e.g., limited activities or limited potential for disturbance due to low noise levels) indicate that a smaller nest protection buffer could be used, the applicant will coordinate with the Conservancy as the ECCC HCP/NCCP Implementing Entity (for both species). The City of Pittsburg will be notified of any resulting adjustments to nest protection buffers.

BIO-10: Nesting Bird Protection (Bald Eagle). The applicant shall retain a qualified biologist approved by the City of Pittsburg Community Development Director or Director's designee to conduct a preconstruction survey for nesting Bald Eagles prior to the initiation of work at the site (including vegetation removal or trimming, clearing/grubbing, grading, etc.). The survey shall be conducted using binoculars and shall take place no more than 2 weeks prior to the initiation of work.

If an occupied or active nest is present, construction-related activity shall be prohibited within 0.5 mile of the nest unless the biologist determines that site-specific conditions or the nature of the construction activity (e.g., dense vegetation, limited noise generation, limited activities) indicate that a smaller buffer could be appropriate or that a larger buffer should be implemented. The biologist shall coordinate with CDFW and/or USFWS to determine the appropriate buffer size.

The buffer shall be delineated in the field using temporary construction fencing or another suitable low-impact medium. Construction shall be monitored by the qualified biologist to ensure the buffer remains in place and that no construction activities occur within the buffer zone until the biologist has determined that the young have fledged or that the nest has been abandoned.

BIO-11: Special Status Bat Survey and Protection. Prior to the initiation of construction activities that could disturb roosting bats (including vegetation trimming/removal), a qualified biologist shall conduct a habitat evaluation for special-status bats, focusing on the needs of pallid bat (*Antrozous pallidus*), western red bat (*Lasiurus frantzii* [*L. blossevillii*], and hoary bat (*L. cinereus*), the species identified by

planning surveys as having potential to be present on the site. Surveys shall include the entirety of the project site plus a 400-foot wide buffer. If no roosting habitat suitable for these species is present, no further action shall be required.

If roosting habitat is present, the following additional requirements shall apply. Any potential roost trees or other potential roosting habitat shall also be considered potential bat maternity roosts.

- ~~Before the initiation of construction activities with the potential to disturb roosting bats, a City and CDFW-approved biologist shall conduct focused surveys for roost occupancy. These shall be conducted at least 2 weeks prior to the start of work and shall include~~ If tree removal cannot be avoided during sensitive maternity roosting or hibernation periods as described above, before the initiation of construction activities with the potential to disturb roosting bats, a qualified biologist shall conduct bat activity surveys to determine site occupancy. A qualified biologist shall have at least two years' experience conducting the survey methodology. Surveys shall be designed to maximize detection of bats, shall take into consideration seasonal and daily periods of bat activity, and shall include:

  - Daytime visual surveys for bats and evidence of bat presence such as guano or urine staining
  - Evening emergence and acoustic surveys

  If bat presence is confirmed, the species, number of individuals, and roost type (maternity/non-maternity) shall be documented and reported to the CNDDB. Bats shall not be disturbed or relocated during the surveys.

- The removal of any trees within riparian zones or those that contain roosting habitat should be limited to the periods from March 1 through April 15 and September 1 through October 15 to avoid disturbing roosting bats during maternity and hibernation seasons, to the extent feasible.
- The removal of any trees with potential roosting habitat shall occur over the course of two days to ensure that special-status bats have left potential roosting refugia. On the first day, smaller limbs or items from the trees containing suitable roosting habitat shall be brushed back or modified in the late afternoon. This disturbance should cause any potential roosting bats to seek other roosts during their nighttime foraging. The remainder of the tree can then be further limbed or removed as needed on the second day as late in the afternoon as feasible. Tree limbing, modification, removal shall not be performed under any of the following conditions; during any precipitation events, when ambient temperatures are below 4.5 degrees Celsius (40.1 degrees Fahrenheit), when windspeeds exceed 11 miles per hour, and/or any other condition which may lead to bats seeking refuge.
- Confirmed non-maternity roosts shall be protected by buffers determined by the qualified biologist in accordance with the matrix that follows. Buffers shall be delineated in the field with temporary construction fencing or another suitable measure, installed under the qualified biologist oversight. Note that buffer distances

vary depending on the species and the type of noise/disturbance involved. The biologist shall coordinate with construction staff to determine the appropriate buffer width; if there is uncertainty, the more conservative buffer width shall prevail.

Disturbance Source	Pallid Bat	Other Bat Species
Construction trucks and heavy equipment	120 feet	100 feet
Smaller vehicles	90 feet	65 feet
Drilling, trenching, and small equipment	150 feet	150 feet
Unshielded light source	400 feet	300 feet
Pedestrian traffic	65 feet	65 feet
Stationary source of diesel/gasoline exhaust operating for more than 2 minutes	250 feet	250 feet
Any equipment generating high-frequency (20 kHz – 50 kHz) sound (laser survey transits, drilling, etc.), as identified by the biologist	Buffer shall be determined on a case-by case basis by identifying the distance at which high-frequency sound generated by the equipment becomes indistinguishable from background levels, using one of the acoustic methods described on pp. 7-16 – 7-18 of the California Department of Transportation bat mitigation guidelines (H.T. Harvey & Associates 2019), or updated equivalent.	

- If a confirmed roost must be removed or trimmed for construction, or if work must occur within the buffers laid out above, work shall be restricted to daylight hours when the qualified biologist has confirmed that the roost is not occupied and work shall be overseen by the biologist to prevent injury or mortality. The biologist shall have authority to divert or stop work in the event of excessive risk to bats.
- Confirmed maternity roosts shall be protected by the same buffers identified above. Maternity roosts shall not be removed unless removal cannot be avoided, and in no case shall a confirmed maternity roost be removed during the breeding/non-volant season (April – August). If removal of a maternity roost is necessary, the applicant shall consult with the City and CDFW to determine appropriate compensatory mitigation such as the provision of bat boxes and shall submit a Bat Habitat Mitigation Plan (Plan) for City and CDFW approval. Consultation and submittal of the Plan shall occur prior to the removal, and the removal shall not take place until the City and CDFW has approved the Plan. The applicant shall then be responsible for implementing City and CDFW-approved mitigation for removal of bat maternity roost habitat.

BIO-12: San Joaquin Pocket Mouse Protection. All vegetation removal, clearing/grubbing, and grading activities shall be conducted in a uniform direction to allow mobile animals such as San Joaquin pocket mouse the ability to escape the disturbed area into adjacent undisturbed habitat. Project construction activities shall avoid the creation of fragmented islands of habitat where individuals may become trapped, isolated from resources, and at risk from eventual clearing/grading activities.

BIO-13: American Badger Survey and Protection. No more than 4 weeks before the commencement of ground disturbance at the site, a qualified biologist approved by the City of Pittsburg Community Development Director or designee shall conduct a survey for American badger den sites. If an occupied den is found, and young are not present, any badgers present shall be removed from the den either by the use of appropriate exclusionary devices or by trapping and relocation. The removal method shall be approved by CDFW prior to implementation. If trapping and relocation are necessary, it shall be carried out by biologist(s) with all required permits for badger handling. Any trapped badgers shall be relocated to other suitable habitat at least 500 feet outside the project site boundary. Once any badgers are excluded or trapped and relocated, den(s) shall be excavated by hand and backfilled to prevent reoccupation. Exclusion shall continue until the badgers are successfully removed from the site, as determined by the biologist.

Badgers shall not be excluded or relocated if it is determined by the biologist that young are or may be present. Any occupied dens shall be protected by a 50-foot-wide non-disturbance buffer. The buffer shall be delineated in the field by a qualified biologist, using temporary construction fencing or another appropriate low-impact medium, and shall remain in place until the biologist has determined that the young are no longer dependent on their mother and den site. No entry into the buffer area shall be permitted.

BIO-14. Wildlife-Friendly Curb Design and Construction. Curbs adjacent to storm drains shall be offset by a distance sufficient to allow volitional passage for wildlife around the storm drains. Curbs on the edge of any road, sidewalk, or trail within the project area shall be slanted at no more than a 45-degree angle; alternatively, slanted sections shall be provided at regular intervals of no more than 100 linear feet.

BIO-15. Wildlife-Friendly Storm Water Infrastructure Designs and Construction. Storm water-related infrastructure (e.g. storm drains, storm drain grates, v-ditches, catchment basins, and/or detention basins) shall be designed and constructed in a manner that minimizes and avoids take of wildlife to the maximum extent feasible. Designs shall include the following measures; however, compliance with this mitigation measure is contingent upon the existence of the necessary structures:

- Storm drain grates shall be offset from any adjacent curb by a distance that will allow for volitional passage of wildlife to go around the grate, along the curb.
- Openings in storm drain grates shall be no more than 16 mm (0.6 inches) in width or as narrow as feasible to allow necessary water throughput while preventing wildlife from entering.
- Catchment basins and drop inlets shall be fitted with escape ramps or ladders that will allow wildlife to volitionally escape. Ramps and/or ladders shall be placed along a wall of the catchment basin and must span the distance from the lowest point in the basin to the grate covering. Ramps and/or ladders shall be placed at a slope no steeper than 45 degrees. Escape ramps or ladders shall be fashioned from

perforated metal sheeting covered with an open structured synthetic matting material that will allow for sufficient traction for wildlife to volitionally escape from the catchment basin if entrained. Alternatively, catchment basins shall be designed to have walls that are slanted outward and the walls shall be covered with open structured synthetic matting material together with an escape ramp or ladder that allows for volitional escape of wildlife.

- Vehicle entry/exit points of access to the detention basins shall have crossing structures installed (e.g. grated trenches) to prevent road mortality of wildlife.
- Detention basin outfall structures shall have one-way gates installed (e.g. flapper gates) or similar devices that will serve to prevent wildlife from entering the basin via the structure.

5.4.4 References

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Anderson's 2024 – Tree Protection and Preservation Report Addendum. Prepared by Anderson's Tree Care Specialists, August 19, 2024. Accessed online at: https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=24-SPPE-01

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City of Pittsburg's Municipal Code: Chapter 18.84 Special Land Use Regulations Applicable to Specific Uses/Article XIX Tree Preservation and Protection. Accessed online at: https://www.codepublishing.com/CA/Pittsburg/#!/Pittsburg18/Pittsburg1884.html#18.84.825

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5.20 Mandatory Findings of Significance

This section describes impacts specific to mandatory findings of significance associated with the construction and operation of the project.

MANDATORY FINDINGS OF SIGNIFICANCE	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☒	☐	☐
b. Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☒	☐	☐
c. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☒	☐

Environmental checklist established by CEQA Guidelines, Appendix G, mandatory findings of significance.

a. Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

Less Than Significant with Mitigation Incorporated.

Biological Resources

Less Than Significant with Mitigation Incorporated. With mitigation, the project would not substantially degrade the quality of the environment, reduce the existing habitat of any fish or wildlife species, cause any fish or wildlife population to drop below self-sustaining levels, threaten to eliminate any plant or animal community, or substantially reduce the number or restrict the range of a rare, threatened, or endangered species.

The project would occupy a 22.31-acre site within the Pittsburg Technology Park Specific Plan area. The Specific Plan has a General Plan land use designation of Employment Center Industrial (ECI) and a zoning of Planned Development (PD) district. The project site lies within the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (ECCC HCP/NCCP) Inventory Area. The surrounding area consists of commercial and industrial buildings, residences, a church, a water treatment facility, a junior high school, open space areas consisting of hiking, mountain biking, and equestrian trails, and areas of the former Delta View Golf Course. Historically, the Specific Plan area was owned by the city of Pittsburg and was used as the public Delta View Golf Course, which has been closed for seven years. The only structures left on the project site include a water storage tank and an associated one-story building located in the southeastern corner. The only remnants of the golf course are associated building foundations, concrete slabs, parking lot, driving range barrier netting, golf cart paths and fencing. Two remnant golf course ponds are located on the western portion of the site, outside of the project footprint; however, an emergency vehicle access road would be located between the two ponds connecting the project site to Leland Road. The Contra Costa Canal parallels the south boundary of the project site.

The majority of the study area includes upland habitat. Most of the project site supports annual grasslands that were managed from the late 1940s until 2018 when the golf course closed. Native soils were replaced or amended and a wide range of trees, shrubs, and grasses were imported and maintained via irrigation, mowing, and pruning. Invasive species have taken over the site since the closure of the golf course. The site is dominated by non-native grasslands including wild oat and brome grasslands, upland mustard, and star-thistle. The areas within the 250-foot survey buffer, that were not managed as part of the former golf course, along the east and southwest edges of the project site support more diverse vegetation that includes native wildflowers along with oat and brome grassland and upland mustard/star-thistle fields.

The project site provides suitable habitat for nesting and foraging birds and some common wildlife species. Numerous special-status bird species were observed onsite during field surveys. The site supports several sensitive natural communities, comprising potentially jurisdictional waters, including wetlands, as well as riparian habitat consisting of Himalayan blackberry thickets and Valley Foothill Riparian areas. There were no special-status plants found during protocol-level surveys conducted on the project site and buffer zone. With the exception of a few planted oaks and remnant

cottonwoods and willows, all of the dominant plant species throughout the area are exotic. Although not observed during surveying attempts, the project area has the potential to support a variety of special status amphibians. The project site is located within designated critical habitat for Delta smelt; however, the project site provides no habitat suitable for the species.

The nearest Natural Landscape Block, part of the California Essential Habitat Connectivity Project, is approximately 3 miles to the southeast. A designated Small Natural Area is located approximately 0.4 miles to the southwest. The project site is separated from these areas by the Contra Costa Canal. According to the CDFW BIOS Terrestrial Connectivity layer, the project site and surrounding vicinity provide Limited Connectivity Opportunity for wildlife movement. However, the PG&E transmission line corridor to the east is accessible from the project site and provides direct connectivity from the Diablo Range hills to the edge of Suisun Bay. As such, it represents a potentially important wildlife movement corridor.

Staff concluded that in addition to several special-status nesting and migratory birds found to have a low potential to be nesting or foraging onsite, there was a low potential for western burrowing owl to occur onsite. Staff concluded that there is potential for Swainson's hawk to occur in or near the project site. Furthermore, the study area provides suitable habitat for San Joaquin kit fox, California red-legged frog, California tiger salamander, suitable foraging habitat (does not provide nesting habitat) for golden eagle, and the former golf course ponds in the area provide only low-quality opportunities for western pond turtle.

The applicant included **Project Design Measures (PDMs) BIO-1** through **BIO-12**. Staff evaluated these measures and determined overall were adequate to reduce impacts to less than significant and included as proposed mitigation measures (MMs). Staff made modifications to **BIO-6**, **BIO-7**, and **BIO-9** to ensure impacts were reduced to less than significant. In addition, staff developed **MM BIO-3**. Staff has proposed mitigation measures **MM BIO-1** through **MM BIO-13** to ensure that no significant impacts to special-status plants or wildlife would occur during construction and operation of the project. In addition, based on CDFW comments, staff revised **MM BIO-11**, and added **MM BIO-14** and **MM BIO-15** to include measures to further avoid or minimize these impacts.

With implementation of the above mitigation measures, the project would not substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal.

Additional measures that would ensure ongoing viability of wildlife movement corridors such as the PG&E transmission line corridor include control of stormwater or pollutant runoff (discussed further in **Section 5.10, Hydrology and Water Quality**) via a

National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Construction General Permit). Additionally, adherence to the ECCC HCP/NCCP conservation measures, specifically Measure 1.7 that establishes a stream setback to maintain a protective buffer between new development and existing stream corridors to protect water quality and instream habitat. This measure would also protect the riparian corridor at the east edge of the study area by decreasing the potential for damage incursions and trash accumulation.

Cultural and Tribal Cultural Resources

Less Than Significant with Mitigation Incorporated. Important examples of the major periods of California history or prehistory represented by historical, unique archaeological, or tribal cultural resources are known to be present in the project area. The two built-environment resources that meet CEQA's criteria for historical resources that are in the project area of analysis (PAA) are the Pittsburg-Tesla Transmission and Distribution Line and the Contra Costa Canal. Although the PAA has been partially disturbed by construction of a golf course, telephone line, and the Pittsburg-Tesla Transmission/Distribution Line, geologic research indicates that there is a low-moderate potential that the project site could contain buried archaeological resources. The northern portion of the project site has a moderate potential to contain these resources due to its proximity to seasonal streams and waterways. No archaeological or ethnographic resources meeting CEQA's criteria for a unique archaeological resource were identified. Nevertheless, the extent of proposed ground disturbance has the potential to damage unknown, buried archaeological resources in the project area. If these resources were to be exposed or destroyed, it would result in a significant impact. With the inclusion of **PDM CUL-1** through **PDM CUL-4**, and the implementation of mitigation measures **MM CUL-1** through **MM CUL-5**, included in **Section 5.5, Cultural and Tribal Cultural Resources,** impacts to buried cultural resources would be reduced to a less-than-significant level.

With implementation of above mitigation measures, the proposed project is unlikely to eliminate important examples of major periods of California history or prehistory and the impact would be less than significant.

Geology and Soils

Less Than Significant with Mitigation Incorporated. As described in **Section 5.7, Geology and Soils**, CEC staff and the applicant's preliminary site-specific geotechnical investigation (DayZenLLC 2024c), identify and propose mitigation for, geologic hazards that could have a significant impact on the safety of people and property during project grading, construction, and operation. Nearby active faults have ruptured in the recent past and will produce significant earthquakes again (USGS 2015, 2016). There is a 72 percent chance that the San Francisco Bay Region, including Contra Costa County and the project site, will experience a $M \geq 6.7$ earthquake between 2014 and 2043 (USGS 2016). The project site is in a California Geological Survey mapped Zone of Required

Investigation for liquefaction (CDOC 2019ab). The preliminary site-specific geotechnical investigation concluded liquefaction potential at the project site is negligible (DayZenLLC 2024c). In addition, CEC staff presume that artificial fill deposits at the project site are liquefiable and require mitigation. DayZenLLC (2024c) identified potential impacts from, and proposed mitigation for, unstable geologic units or soils, soil settlement, and expansive soils. During grading, construction, and design, compliance with the 2022 California Building Code (CBC) Section 1803, as detailed in MM **GEO-1**, and applicable Contra Costa County and City of Pittsburg LORS, would mitigate potential impacts from geologic hazards on the safety of people and property to less than significant.

The project is sited on two existing stream channels. During project grading, construction, and grading, there is an ongoing potential for impacts related to soil erosion. Compliance with the 2022 CBC, the applicant's proposed best management practices (**PD-HYD-1.1**), and applicable Contra Costa County and City of Pittsburg LORS would mitigate potential impacts related to soil erosion to less than significant. **PD-HYD-1.1** is described in **Section 5.10, Hydrology and Water Quality**.

There are no known paleontological resources within the project site. A search of the University of California Museum of Paleontology database failed to identify any paleontological resources onsite but did indicate there were resources within two miles of the site (UCMP 2025). As described in **Section 5.7, Geology and Soils**, Pleistocene alluvial fan deposits at the project site have a high paleontological sensitivity. Ground-disturbing activities have the potential to impact undiscovered paleontological resources. The project would require excavation trenching of depths of up to 15 feet below the existing grade. Foundations would be augured piles, likely to exceed depths of 30 feet below the existing grade. Paleontological resources could be encountered during construction of the project. Exposure, damage to, or destruction of, significant paleontological resources would be a significant impact.

Adherence to the County of Contra Costa 2045 General Plan (Contra Costa 2024) policies (COS-P10.6 and COS-P10.7) and the City of Pittsburg 2040 General Plan (General Plan)(Pittsburg 2024a) policies (10-P-7.3), and implementation of **MM PAL-1** through **MM PAL-8**, which protect significant paleontological resources during grading and construction, included in **Section 5.7, Geology and Soils,** would reduce the impacts to buried paleontological resources to a less-than-significant level. With mitigation incorporated, the proposed project will have a less than significant impacts on important paleontological resources that are part of the California's prehistory.

b. Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

Less Than Significant with Mitigation Incorporated. California Environmental Quality Act (CEQA) Guidelines 15130(b) state that an adequate discussion of significant cumulative impacts can employ one of two methods to establish the effects of other past, current, and probable future projects. A lead agency may select a list of projects, including those outside the control of the agency, or, alternatively, a summary of projections. These projections may be from an adopted the City of Pittsburg 2040 General Plan or related planning document, or from a prior environmental document that has been adopted or certified, and these documents may describe or evaluate the regional or area-wide conditions contributing to the cumulative impact.

Pittsburg Technology Park Specific Plan Projection

This analysis evaluates cumulative impacts using the first method, which considers the proposed project's effects in conjunction with past, current, and probable future projects in the vicinity of the proposed data center and generation facility. The list of cumulative projects (Table 5.20-1) was developed based on the City of Pittsburg Technology Park Specific Plan Draft Program Environmental Impact Report (Specific Plan Draft PEIR) (SCH # 2024030184). Because the project would be consistent with applicable land use plans and policies (Pittsburg 2024b), the Specific Plan Draft PEIR serves as the basis for this cumulative analysis. The Draft PEIR concluded that buildout of the Specific Plan area would result in a less than cumulatively considerable contribution to significant cumulative impacts, with mitigation incorporated.

TABLE 5.20-1 CUMULATIVE PROJECTS IN VICINITY OF PITTSBURG TECHNOLOGY PARK SPECIFIC PLAN

Map ID Number	Project Name	Description	Location	Distance to Project	Latitude	Longitude	Status
1	T-Mobile Cell Tower Modification	Cell Tower/Antenna Modification	2222 Golf Club Rd, Pittsburg, CA	Approximately 340 feet east of the site's northeastern corner	38.01264	-121.90989	Completed
2	AT&T Backup Generator	Installation of a backup generator at an existing AT&T Cell Tower/Antenna	2222 Golf Club Rd, Pittsburg, CA	Directly adjacent to site's northeastern corner	38.012640	-121.909890	Completed
3	Stoneman Park Subdivision	342 Unit Residential Subdivision	Southwest corner of John Henry Johnson Pkwy and Ripple Rouge Rd	Approximately ½ mile southwest or the project site	38.009031	-121.920436	Pending

TABLE 5.20-1 CUMULATIVE PROJECTS IN VICINITY OF PITTSBURG TECHNOLOGY PARK SPECIFIC PLAN

Map ID Number	Project Name	Description	Location	Distance to Project	Latitude	Longitude	Status
4	Pittsburg Premier Fields Project	Develop a portion of the former Delta View Golf Course into three multi-purpose natural turf sports fields	Southeast corner of John Henry Johnson Pkwy and W Leland Rd	Approximately ¼ mile west of the project site	38.012335	-121.918318	Under Construction
5	Los Médanos Industrial Park	Development of an industrial park	Approximately 300 feet south of intersection of W Leland Rd and Golf Club Rd	Adjacent to site's northwest boundary	38.013237	-121.912169	Approved
6	Montreux Residential Subdivision	356-unit residential subdivision	West side of Kirker Pass Rd, approximately 0.25 mile south of city limits	Approximately 1.6 miles southeast of the site	37.990261	-121.897217	Approved
7	Dreamcourts	39,779 square-foot gymnasium	North of, and adjacent to, the intersection of John Henry Johnson Pkwy and W Leland Rd.	Approximately 0.4 mile west of the project site	38.014421	-121.919406	Approved
8*	Interstate 680 (I-680) Northbound Express Lane Completion Project	Express lane to improve corridor-wide congestion, travel delays, and operational challenges	I-680 post mile (PM) limits between realignment (R) 10.7 at the southern limit to PM 23.1 at the northern limit	8.4 miles west of the project site	37.990676	-122.067935	Pending

** = not included in the Specific Plan Draft PEIR, but it is included here due to its proximity to the project site.*

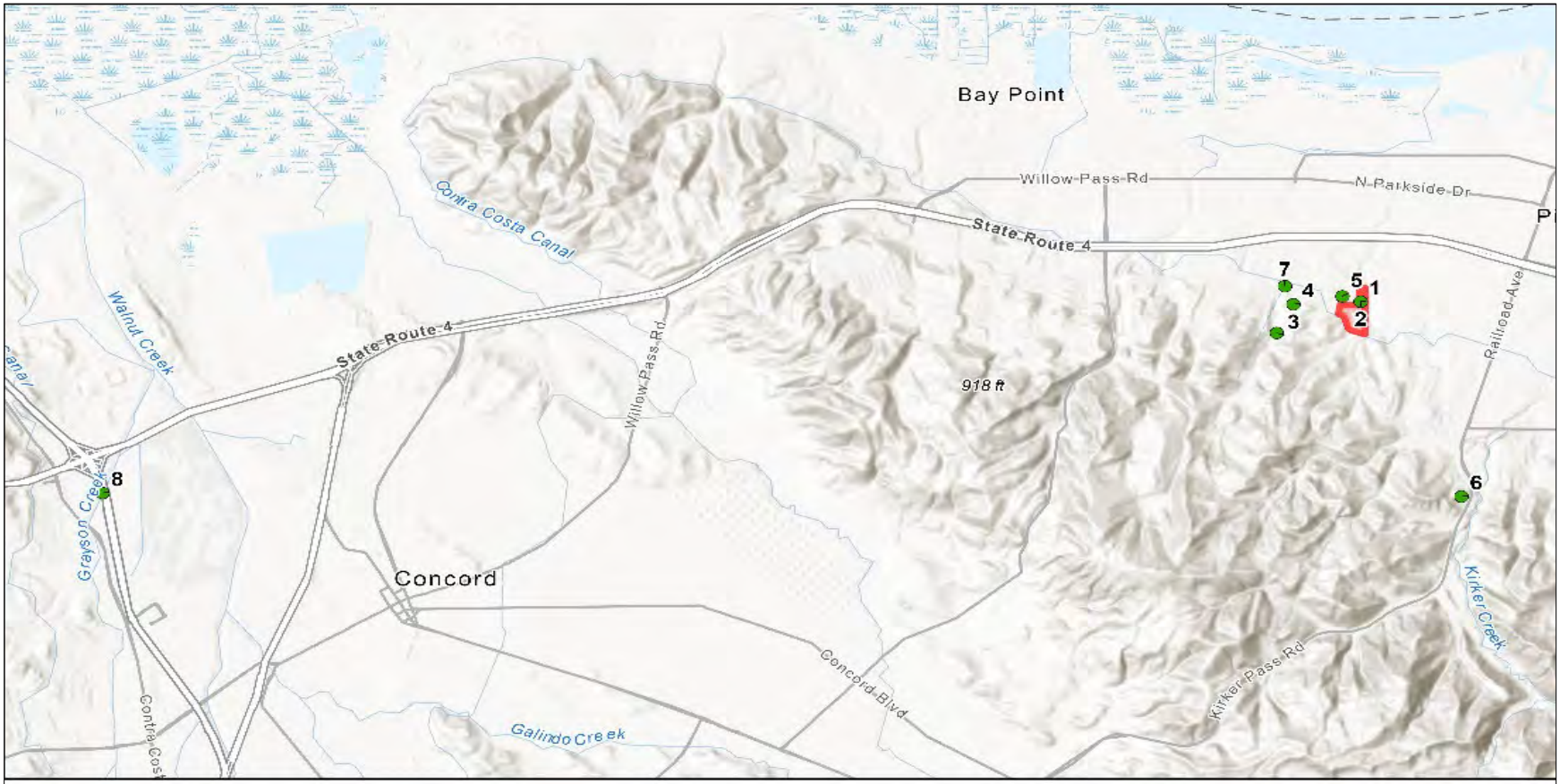

Figure 5.20-1
Cumulative Projects in Vicinity of Pittsburg Technology Park Specific Plan

Sources: CEC Staff

Specific Plan Significant Unavoidable Impacts

The Specific Plan Draft PEIR concluded that implementation of the Specific Plan would result in less than significant environmental impacts with the incorporation of mitigation measures. Although the proposed project, in combination with future development within the City of Pittsburg Technology Park Specific Plan area, could conceivably contribute to significant cumulative impacts on certain environmental resources, the following analysis demonstrates that the project's individual contribution to these impacts would be less than cumulatively considerable and, therefore, less than significant, with incorporation of the mitigation measures identified in this Initial Study/Mitigated Negative Declaration.

Greenhouse Gas Emissions

Less Than Significant Impact with Mitigation Incorporated. The Bay Area Air Quality Management District (BAAQMD) CEQA Air Quality Guidelines do not identify a greenhouse gas (GHG) emissions threshold for construction-related emissions. Instead, BAAQMD recommends that GHG emissions from construction be quantified and disclosed. The BAAQMD further recommends incorporation of best management practices (BMPs) to reduce GHG emissions during construction, as feasible and applicable. The project's construction emissions would be in conformance with state and local GHG emissions reduction goals, so impacts would be less than significant.

For operation, including readiness testing and maintenance-related emissions, the BAAQMD CEQA Air Quality Guidelines states that for stationary-source projects, the threshold to determine the significance of an impact from GHG emissions is 10,000 metric tons per year of carbon dioxide equivalent ($MTCO_2e/yr$).

Other project-related emissions from mobile sources, area sources, energy use, and water use would not be included for comparison to the threshold of significance for stationary sources of GHG, based on guidance in the BAAQMD CEQA Guidelines (BAAQMD 2023, Section 6.4). Instead, in April 2022, the BAAQMD updated thresholds of significance to assist lead agencies when evaluating the indirect and "non-stationary" source emissions of land use development projects. Under the BAAQMD's 2022 CEQA thresholds of significance for land use projects, a CEQA lead agency can conclude that a project would not make a cumulatively considerable contribution to global climate change if the project is designed and built to be consistent with the requirements of either Option A or Option B of the BAAQMD thresholds. In Option A, projects must include, at a minimum, the project design elements of buildings and transportation. In Option B, projects must be consistent with a local GHG reduction strategy that meets the criteria under CEQA Guidelines Section 15183.5(b) (BAAQMD 2023, p. 2). The proposed project would meet the climate impact thresholds adopted by the BAAQMD by incorporating design elements in "Option A" as recommended by the BAAQMD and as shown in **Table 5.8-3** in **Section 5.8, Greenhouse Gas Emissions**.

Staff proposes implementation of mitigation measure **MM GHG-1** which would require the applicant to use renewable diesel for 100 percent of total energy use by the emergency backup generators, and only use ultra-low sulfur diesel (ULSD) as a secondary fuel in the event of supply challenges or disruption in obtaining renewable diesel. Staff also proposes implementation of **MM GHG-2** which would require the applicant to participate in PG&E's Renewable Energy Program or other renewable energy program that accomplishes the same objective as the PG&E Renewable Energy Program for 100 percent carbon-free electricity, such as an agreement with the Pittsburg Power Company (PPC), or purchase carbon offsets renewable energy credits or similar instruments that accomplish the same goals of 100 percent carbon-free electricity. With the implementation of the mitigation measures described in **Section 5.8, Greenhouse Gas Emissions** of this analysis (**MM GHG-1** and **MM GHG-2**), the project would ensure that the project-related emissions would not significantly add to the global problem of climate change, nor would the project hinder California's ability to reach its GHG reduction goals in any significant way, even when considered cumulatively. Additionally, the project would implement efficiency measures to meet California green building standards, and additional voluntary efficiency and use reduction measures. As such, with implementation of **MM GHG-1** and **MM GHG-2**, GHG emissions related to the project would not conflict with the City's Climate Action Plan or other plans, policies, or regulations adopted for the purpose of reducing the emissions of GHGs. Therefore, the project's GHG emissions would not be considered cumulatively significant.

Noise

Less Than Significant Impact. Construction activities would increase existing noise levels at the adjacent land uses, but they would be temporary and intermittent. In addition, construction activities would occur during daytime hours from 8:00 a.m. to 5:00 p.m., in compliance with Pittsburg City Code, Section 18.82.040. While construction of the proposed project would temporarily increase noise levels in the immediate neighboring areas of the project site, there are no noise-sensitive land uses in the immediate vicinity of the project (the closest sensitive receptor is about 800 feet north of the project site center). Noise levels experienced at the nearest receptor would be 62 dBA, a 6 dBA increase above existing ambient levels. Since project construction would occur during daytime hours and are temporary in nature, these increases are less than significant. Thus, construction activities would result in a less than significant noise impact.

Sources of operational noise for the project would include the 37 backup generators and noise from standard operations of a data center building. During standard operations, the nearest residential receptor would experience an increase of 3 dBA Ldn, which is barely perceptible and would be considered less than significant. The operational noise levels would comply with the City's noise limits and would not significantly elevate the existing ambient noise levels at the nearest residences. Furthermore, since the project is not adjacent to, or near a residential land use, no

noise reduction measures would be required, and operation of the project would have a less than significant impact and would not be cumulatively considerable.

Population and Housing

Less Than Significant Impact. The Specific Plan Draft PEIR did not identify any significant impacts associated with implementation of the proposed Specific Plan. The Draft PEIR explained that no specific development projects were proposed as part of the Plan; rather, the Plan serves as a framework to guide future development within the Plan Area. The Draft PEIR further noted that while uses permitted under the Specific Plan could attract new residents and increase economic activity – potentially inducing growth – such growth would be consistent with the the City of Pittsburg 2040 General Plan's intent to foster economic opportunity. Moreover, the Specific Plan is specifically designed to accommodate the population and employment projections established in the General Plan, ensuring that the anticipated growth remains consistent with the city's long-term planning objectives. As described in **Section 5.14, Population and Housing**, the project would not displace any people or housing, or necessitate construction of replacement housing elsewhere. Operation of the project is anticipated to require 20 to 30 full-time operation workers. The project's construction and operation workforce would not directly or indirectly induce a substantial population growth in the project area. Therefore, the project's contribution to the jobs-housing imbalance would not be cumulatively considerable.

Transportation

No Impact. The General Plan FEIR anticipates significant traffic impacts from the build-out of the General Plan. As discussed in **Section 5.17, Transportation**, implementation of **PDM TRANS-1** and **PDM TRANS-2** would be incorporated into the design of the project. **PDM TRANS-1** would include a Construction Traffic Management Plan to minimize impacts to the transportation system. **PDM TRANS-2** requires the project implement a Transportation Demand Management program sufficient to demonstrate that vehicle miles travelled (VMT) associated with the project would be reduced to 12.8 or less per employee. Further, the project would be consistent with the city's Transportation Impact Analysis Guidelines that provide VMT screening criteria. The project would meet the requirements to be screened out of providing a deeper VMT analysis. With implementation of **PDM TRANS-1** and **PDM TRANS-2**, the project's contribution to cumulative transportation impacts during project construction and operation would not be cumulatively considerable.

Solid Waste Impacts (Utilities and Service Systems)

Less Than Significant Impact. As determined in **Section 5.18, Utilities and Service Systems**, adequate water supply, as well as wastewater treatment capacity, are available to serve the project. Likewise, there are adequate electricity and telecommunication services in the vicinity to meet the project's needs. Natural gas resources would not be used on the project as proposed.

The nearby Keller Canyon Landfill has available landfill capacity and is anticipated to cease operation in 2050 (CalRecycle 2025). The project would generate minimal operational waste because data centers typically require very little equipment turnover. Additionally, the project does not include a residential development component and would not substantially increase the supply and demand of utility services and infrastructure from the influx of 20 to 30 employees. Therefore, the project's contribution to this cumulative impact would not be considerable.

Other Technical Areas

Although the Specific Plan Draft PEIR did not identify significant effects in the areas of air quality, cultural and tribal resources, utilities and service systems and geology (paleontology), the CEC staff concluded that the project's impacts in these areas are *less than significant with mitigation*. Thus, staff has considered whether the project would contribute to cumulatively considerable impacts in these areas. Staff has also included an analysis of potential cumulative impacts for the other technical areas where project impacts would be *less than significant*.

Aesthetics

Less Than Significant Impact. The proposed project would be constructed on relatively flat land in a highly developed urban area in the southcentral portion of the city of Pittsburg, California, on land that has been historically used as a golf course. The segment of Interstate 680 (I-680) that is officially designated as a state scenic highway is located over 11.5 miles to the south. San Francisco International Airport is located approximately 50 miles southwest of the proposed data center.

As discussed in **Section 5.1, Aesthetics**, there is no recognized scenic resource on the site or in the vicinity that the project would block its public view.

The project and new or foreseeable projects in the Specific Plan area are within an "urbanized area" as defined per Public Resources Code section 21071. At this location they would be consistent with policies in the Specific Plan and conform with applicable zoning and other regulations governing scenic quality.

The project would include pole mounted site light fixtures along the site perimeter, as well as along the perimeter of the PBGF utility yard, outdoor security lighting along the PDH building and driveway entrances and would not incorporate large glass panels that would significantly increase glare. Security lighting would be indirect and diffused and parking lot lighting would be in compliance with Pittsburg Municipal Code 18.78.05(F).

The project site does not border residential uses. The nearest residential area by line of sight is approximately 400 feet north of the project site. For these reasons, project impacts with respect to aesthetics would be less than significant and not cumulatively considerable.

Air Quality

Less Than Significant with Mitigation Incorporated. The proposed project would be located in Contra Costa County in the San Francisco Bay Area Air Basin (SFBAAB), under the jurisdiction of the BAAQMD. The SFBAAB is designated as a nonattainment area for ozone and particulate matter with a diameter of 2.5 microns or less (called PM2.5) under both California Ambient Air Quality Standards (CAAQS) and National Ambient Air Quality Standards (NAAQS). The SFBAAB is also designated as nonattainment for particulate matter with a diameter of 10 microns or less (called PM10) under CAAQS, but not NAAQS.

SFBAAB's nonattainment status is attributed to the region's development history. Past, present, and future development projects contribute to the region's adverse air quality impacts on a cumulative basis. In developing thresholds of significance for air pollutants, BAAQMD considers the emission levels for which a project's individual emissions would be cumulatively considerable. If a project exceeds the identified significance thresholds, its emissions would be cumulatively considerable, resulting in significant adverse air quality impacts to the region's existing air quality conditions. CEQA would then require implementation of all feasible mitigation measures.

The demolition and construction emissions of the project would be lower than the thresholds of significance from the BAAQMD CEQA Air Quality Guidelines. There is no numerical threshold for fugitive dust generated during construction in BAAQMD. BAAQMD considers fugitive dust emissions to be potentially significant without incorporation of basic construction mitigation measures, also referred to as BMPs. The applicant would be required to incorporate the BAAQMD's recommended BMPs and staff identifies this as mitigation measure **MM AQ-1**. Therefore, the project's construction emissions would not be cumulatively considerable.

For project operation, including readiness testing and maintenance, with the NOx emissions fully offset through the permitting process with BAAQMD, criteria air pollutant emissions of the emergency standby generators are not estimated to exceed the BAAQMD significance thresholds for average daily or maximum annual emissions. As discussed in **Section 5.3, Air Quality**, the daily average and annual emissions of criteria air pollutants and precursors during total project operation would not exceed any applicable threshold of significance, and the project would not result in a cumulatively significant emissions increase. Therefore, the project emissions during operation, including readiness testing and maintenance would not be cumulatively considerable.

The criteria pollutant air quality impact analysis found that the concentrations from construction and readiness testing and maintenance of the gensets would not cause any exceedance of ambient air quality standards. Therefore, the project's criteria air pollutant impacts from genset readiness testing and maintenance would be less than significant.

The health risk assessment shows that the project's health risk impacts would not exceed BAAQMD significance thresholds during construction. During backup generator readiness testing and maintenance, which includes operation at partial loads, the project could exceed the BAAQMD CEQA significance threshold for cancer risk and the more health protective cancer risk limit for permitting set by BAAQMD Regulation 2, Rule 5. Staff recommends mitigation measure **MM AQ-2** to ensure all scenarios of readiness and maintenance testing do not exceed the cancer risk limit of 6 in one million for the protection of Overburdened Communities. Mitigation would ensure that all readiness and maintenance testing at partial engine loads (75% or lower) do not exceed 17 hours per year per engine. With **MM AQ-2**, the project would not expose sensitive receptors to substantial toxic air contaminant (TAC) concentrations during construction or emergency backup generator readiness testing and maintenance.

Due to the infrequent nature of emergency conditions and the record of highly reliable electric service available to the project (see **Appendix B**), the project's emergency operations would be unlikely to expose sensitive receptors to substantial concentrations of criteria air pollutants or TACs.

Therefore, the project's air quality impacts would not be cumulatively significant.

Biological Resources

Less Than Significant Impact with Mitigation Incorporated. One operational impact that could potentially affect biological resources, and be cumulatively significant, is an indirect impact resulting from project-related nitrogen deposition on nitrogen-sensitive habitats resulting from emergency testing and sporadic (undefined) emergency operation of the diesel backup generators. Using California Natural Diversity Database Rarefind and BIOS, and the USFWS Environmental Conservation Online System, CEC staff identified several areas of protected habitat sensitive to nitrogen deposition within a six-mile radius of the project (the typical deposition zone for NOx with reliable modeling results). These include USFWS-designated critical habitat for Delta smelt (*Hypomesus transpacificus*) and Alameda whipsnake (*Masticophis lateralis euryxanthus*), as well as the federally listed species at the Antioch Dunes National Wildlife Refuge. Coastal brackish marsh habitat was also identified as a CDFW-designated sensitive habitat with potential to be impacted from the project. CEC staff utilized Community Multiscale Air Quality modeling system data to provide a baseline nitrogen deposition estimate for the potential deposition zone around the project area. CEC staff then assessed potential project-related nitrogen deposition by using modeled data from comparable SPPE projects with similar distances to sensitive habitats. As described for the proposed project, staff concluded that project-related nitrogen deposition is expected to occur within approximately 0.5 miles of the project and would be considered to have a less than significant impact. Based on the modeling and distance from known sensitive habitats the projects emissions are not expected to be cumulatively considerable and would not result in a significant cumulative impact to sensitive biological resources or their habitat.

Cultural and Tribal Cultural Resources

Less Than Significant Impact with Mitigation Incorporated. The Specific Plan Draft PEIR addresses impacts on cultural and tribal resources. Historical resources and unique archaeological resources, as defined by CEQA, share several of the impact vulnerabilities that tribal cultural resources face, especially the effects of ground-disturbing activities. In addition, historical and unique archaeological resources can also qualify as tribal cultural resources. The suite of mitigation measures for cultural and tribal resources presented in the Specific Plan Draft PEIR would reduce the severity of some impacts on these resources. No known tribal cultural resources have been found on the project site, although ground disturbance associated with the proposed project could result in the exposure and destruction of buried cultural and tribal resources. Implementation of mitigation measures **MM CUL-1** through **MM CUL-5** would prevent, minimize, or compensate for impacts on buried, tribal cultural resources. Project impacts to tribal cultural resources, therefore, would not be cumulatively considerable.

Energy and Energy Resources

Less Than Significant Impact. The project would use 37 Tier 4 renewable diesel-fired gensets for emergency backup generation, administration, and life safety service needs. BAAQMD and CARB's Airborne Toxic Control Measures limit the total number of hours of operation from each genset for operational reliability purposes to no more than 50 hours annually. Actual testing and maintenance of each genset is anticipated not to exceed 34 hours per year (DayZenLLC 2024a, Section 2.2.12).

At a rate of 50 hours, the total quantities of renewable diesel or ULSD fuel used for all the gensets operating at full load would approximate 6,140 barrels per year (bbl/yr). California has a renewable diesel and ULSD fuel supply of approximately 27,200,000 bbl/yr and 229,000,000 bbl/yr, respectively. The project's use of fuel constitutes a small fraction of the renewable diesel and ULSD's available resources (less than 0.023 and 0.003 percent, respectively)—the supply from the combination of these two resources is more than sufficient to meet the project's necessary demand. For these reasons, the project's use of fuel would be less than significant.

The project's consumption of energy resources during operation would not be inefficient or wasteful, as discussed in **Section 5.6, Energy and Energy Resources**. Project operation would have a less than significant adverse effect on local or regional energy supplies and energy resources and likewise, would not be cumulatively considerable.

Geology and Soils

Less Than Significant with Mitigation Incorporated. The Contra Costa County General Plan identified two policies (COS-P10-6 and COS-P10.7) that specifically address impacts on paleontological resources (Contra Costa County 2024); the city of Pittsburg General Plan identified one policy (10-P-7.3 [Pittsburg 2024a); and the Specific Plan for the project area identified a goal and two actions that aim to protect archaeological and paleontological resources (Goal 10-7 and actions 10-P-7.3 and 10-A-7.i [Pittsburg

2024b]). Paleontological resources can be impacted by the effects of ground-disturbing activities. A search of the University of California Museum of Paleontology database did not identify any paleontological resources at the project site. The database search did however indicate fossil discoveries have been documented in geologic formations that are within two miles of the project, such as the Neroly Formation (UCMP 2025). Additionally, layers of historic artificial fill, late Holocene to modern (<150 years) stream channel deposits, and early to late Pleistocene alluvial fan deposits were discovered during the geotechnical borings conducted for the site. There is no potential for paleontological resources being discovered in the historic artificial fill, while the likelihood of discovering paleontological resources increases with depth within Holocene stream channel deposits, and the early to late Pleistocene alluvial fan deposits that were found to be at the surface level and below are classified as high paleontological sensitivity. Ground-disturbing activities have the potential to impact undiscovered paleontological resources. The project would require excavation trenching of depths of up to 15 feet below the existing grade. Although unlikely, paleontological resources could be encountered during construction of the project.

Adherence to the city and county general plans, the Specific Plan, and implementation of **MM PAL-1** through **MM PAL-8**, included in **Section 5.7, Geology and Soils,** would reduce the impacts to buried paleontological resources to a less-than-significant level. The proposed project is unlikely to eliminate important examples of paleontological resources that are part of the prehistory of California and project impacts to paleontological resources therefore would not be cumulatively considerable.

Hazards and Hazardous Materials

Less Than Significant with Mitigation Incorporated. As discussed in **Section 5.9, Hazards and Hazardous Materials**, the project would use hazardous materials in small quantities associated with demolition and construction. When not in use, any hazardous material would be stored in designated construction staging areas in compliance with local, state, and federal requirements. Diesel fuel transport would comply with all appropriate regulations regarding transport of hazardous materials on California roads and highways. The project would use diesel fuel for routine testing and maintenance and during emergency operation of the generators. Although diesel fuel would be stored onsite, it would be stored in dedicated diesel fuel storage tanks for each generator, with each genset having a 9,800-gallon tank for the bottom generator in the stacked pair and a 570-gallon tank for the upper generator in the stacked configuration. The design features of the storage tanks would ensure that the diesel fuel generators meet the secondary containment requirements of the California Health and Safety Code for the aboveground petroleum storage tank program. The risk of a fire onsite would be reduced to less than significant through adherence to applicable codes and the use of effective safety management practices. In addition, the project would implement procedures, safety features, and precautions that would reduce the risk of accidental hazardous materials release. The incorporation of **MM HAZ-1** would ensure the testing and removal of lead-based paint contaminated materials prior to

building demolition. With incorporation of **MM HAZ-2** and **MM HAZ-3**, soil and groundwater samples would be taken, and any contaminated soil and groundwater encountered would be handled and disposed of properly. Therefore, the impact from the use, transport, disposal, or accidental release of hazardous materials would not be considered cumulatively significant.

Hydrology and Water Quality

Less Than Significant Impact. The project would be required to comply with the Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan) by implementing the requirements of the Construction General Permit, which includes preparing a Storm Water Pollution Prevention Plan, the Municipal National Pollutant Discharge Elimination System (NPDES) permits, and the Contra Costa Clean Water Program Stormwater C.3 Guidebook. The plans and permits work together to establish specific requirements to reduce storm water pollution from new and redevelopment projects, singularly and cumulatively. If implemented as described in **Section 5.10, Hydrology and Water Quality** of this analysis, these standards would protect the watershed receiving discharge from the project from a cumulatively considerable impact to the basin's hydrology. Similarly, these same plans and permits would be protective of water quality. These standards, along with BMPs contained in **PDM HYD-1**, would be protective of the quality of both surface water and groundwater bodies receiving discharge from the project and impacts would not be cumulatively significant.

Land Use and Planning

Less Than Significant Impact. A land use impact could occur if a project would physically divide an established community. Project construction and operation would occur mostly onsite and would not prevent pedestrian, bike, or vehicular movement between different areas of the community, and therefore, the project would not physically divide an established community.

A land use impact could also occur if a project would cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. Staff assessed consistency of the proposed project with relevant policies and regulatory requirements contained in the city of Pittsburg 2040 General Plan (General Plan) and the Draft PEIR for the Pittsburg Technology Park Specific Plan. The Specific Plan Area has a General Plan land use designation of Employment Center Industrial (ECI), which includes data centers as an allowable use, and a zoning of Planned Development (PD) district (Pittsburg 2024b). The project would be consistent with the city's General Plan policies (2-P-4.2, 2-P-4.10, 6-P-2.7, and 6-P-2.14 specifically [Pittsburg 2024a]). The proposed project would also be consistent with the Pittsburg Zoning Code, with the city's approval of a conditional use permit for the data center use, and approval of a Vesting Tentative Subdivision Map for the three parcels to become one. With these City approvals, the project would be consistent with the uses and standards associated with the site's Planned Development zoning designation. The proposed project would also be consistent with the Specific

Plan, which is intended to support the development of industrial, office, and technology park uses. A data center is identified as a permitted land use within the Specific Plan. For these reasons, project impacts due to conflicts with land use plans, policies, or regulations adopted for the purpose of avoiding or mitigating an environmental effect would be less than significant, and there would be no cumulative impacts from conflicts with land use regulations. See **Section 5.11, Land Use and Planning** for details.

Public Services

Less Than Significant Impact. As discussed in **Section 5.15, Public Services**, the construction and operation of the project would not result in substantial adverse physical environmental impacts associated with the provision of new or physically altered fire and police service facilities to maintain acceptable service ratios, response times, or other performance objectives. The project would be consistent with the planned growth in the general plan and Specific Plan for the area. The project plans would be reviewed by the Contra Costa County Fire Protection District to ensure appropriate safety features are incorporated to reduce fire hazards.

In accordance with Section 17620 of the Education Code, as well as Sections 65995 and 66001 of the Government Code, Assembly Bill ("AB") 181, and subdivision (e) of Section 17621 of the Education Code, which is enacted through the District Board Policy (BP 7211 Facilities: Developer Fees) as a means of mitigating impacts related to residential and commercial/industrial development, the project would be required to pay the appropriate school impact fees to the Pittsburg Unified School District. Operation of the project is anticipated to require approximately 20 to 30 employees, which the applicant anticipates would be drawn from the greater Bay Area. Even if all of the operation workforce would relocate closer to the project site, the additional population would be consistent with growth projections and service ratios in the General Plan, and thus, the project would not cause significant environmental impacts associated with the provision of new or physically altered park and other public facilities in order to maintain acceptable service ratios or other performance objectives. The project's impacts to the public services would not be cumulatively considerable.

Recreation

Less Than Significant Impact. As discussed in **Section 5.16, Recreation**, the project does not require or propose the construction or expansion of recreation facilities. Operation of the project is anticipated to require 20 to 30 employees. The project's operation workforce would be consistent with growth projections and service ratios in the General Plan and, thus, the project would not increase the use of existing parks or recreational facilities to the extent that substantial physical deterioration of the park or facility would result. The project's impacts to recreation would not be cumulatively considerable.

Wildfire

Less Than Significant Impact. As determined in **Section 5.19, Wildfire**, the project would not be located in or near a State Responsibility Area (SRA) or very high Fire Hazard Severity Zone (FHSZ), or land classified as having a fire threat by the California Public Utilities Commission (CPUC). Additionally, the project would not impair an adopted emergency response plan or emergency evacuation plant. The project infrastructure would not constitute a possible ignition source for local vegetation, nor would it block access to any road or result in traffic congestion. Therefore, the project's impact to wildfire would not be considered cumulatively significant.

c. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

Less Than Significant Impact. The proposed project would not cause substantial adverse effects on human beings either directly or indirectly. The proposed project would result in less than significant impacts to human health during construction and operation, including changes to air and water quality, and exposure to geologic hazards, noise, and hazardous materials, as well as from GHG emissions. As discussed in **Section 5.3, Air Quality**, with implementation of **MM AQ-1**, which includes the BAAQMD's recommended BMPs for fugitive dust and construction equipment emissions, and **MM AQ-2** to limit certain scenarios of readiness and maintenance testing, the project would result in a less than significant impact related to human health. As discussed in **Section 5.7, Geology and Soils**, with the inclusion of **PDMs GEO-1** and **GEO-2**, impacts to people or property associated with geologic or seismic conditions onsite would be less than significant. As discussed in **Section 5.8, Greenhouse Gas Emissions**, direct GHG emissions from maintenance and testing of the project gensets would be less than significant with implementation of **MM GHG-1**, and indirect GHG emissions from the project's energy usage, mobile sources, and building operation (electricity use) would be less than significant with implementation of **MM GHG-2**. The project would result in temporary noise impacts to humans during construction and intermittently during operation. As discussed in **Section 5.13, Noise**, noise impacts would be less than significant. As discussed in **Section 5.9, Hazards and Hazardous Materials**, hazards impacts would be less than significant with the implementation of **PDM HAZ-1**, **MM HAZ-1**, **MM HAZ-2**, and **MM HAZ-3**. As discussed in **Section 5.10, Hydrology and Water Quality**, water quality impacts would be less than significant with the inclusion of the BMPs contained in **PDM HYD-1**. No additional impacts to human beings would occur during construction, operation and maintenance activities.

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Appendix C

Mitigation Monitoring and Reporting Program

MITIGATION MONITORING AND REPORTING PROGRAM

AVAIO Pittsburg Backup Generating Facility (PBGF)
24-SPPE-01

~~October~~ November 2025

PREFACE

Section 21081.6 of the California Environmental Quality Act (CEQA) requires a Lead Agency to adopt a Mitigation Monitoring and Reporting Program (MMRP) whenever it approves a project for which measures have been required to mitigate or avoid significant effects on the environment. The purpose of the monitoring and reporting program is to ensure compliance with the mitigation measures during project implementation.

While the CEC is the lead agency in assessing the exemption application, the CEC is not the jurisdiction that will be approving the project for construction and operations. Such authority will be with the City of Pittsburg. Therefore, the MMRP will be implemented and enforced by the City upon its approval of the project.

The Initial Study/Mitigated Negative Declaration prepared for the AVAIO Pittsburg Backup Generating Facility concluded that the implementation of the project would not result in significant effects on the environment with the incorporation of mitigation measures. This MMRP addresses those measures in terms of how and when they will be implemented.

This document does *not* discuss those subjects for which the Initial Study/Mitigated Negative Declaration concluded that the impacts from implementation of the project would be less than significant.

I, _____, the applicant, on the behalf of _____, hereby agree to fully implement the mitigation measures described below which have been developed in conjunction with the preparation of an Initial Study/Mitigated Negative Declaration for my proposed project. I understand that these mitigation measures or substantially similar measures will be adopted as conditions of approval with my development permit request to avoid or significantly reduce potential environmental impacts to a less than significant level.

Project Applicant's Signature _____

Date_____

MITIGATION	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Local Approval Agency Responsibility]		
	Method of Compliance Or Mitigation Action	**Timing of Compliance**	**Oversight Responsibility**	**Actions/Reports**	**Monitoring Timing or Schedule**
AIR QUALITY					
Impact 5.3-b. Would the project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?					
Impact 5.3-c. Would the project expose sensitive receptors to substantial pollutant concentrations?					
AQ-1. To ensure that fugitive dust impacts are minimized, the Project will implement the BAAQMD's recommended BMPs during the construction phase. A fugitive dust control plan shall be reviewed and approved by the director, or director's designee, of the City of Pittsburg Community and Economic Development Department prior to the issuance of any grading or building permits, whichever occurs earliest. These BMPs are incorporated into the design of the project and will include: • Water all exposed areas (e.g. parking areas, graded areas, unpaved access roads) twice a day. • Maintain a minimum soil moisture of 12% in exposed areas by maintaining proper watering frequency.	Implement the BAAQMD's recommended BMPs to control fugitive dust and additional measures to control exhaust emissions.	During construction phase.	City of Pittsburg Community and Economic Development Department Director or Director's designee.	Receive and approve the fugitive dust control measures and exhaust control measures during construction.	Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).

MITIGATION	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Local Approval Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
AIR QUALITY					
• Cover all haul trucks carrying sand, soil or other loose material. • Suspend excavation, grading and/or demolition activities when average wind speed exceeds 20 miles per hour. • Pave all roadways, driveways and sidewalks as soon as possible. Lay building pads as soon as grading is completed, unless seeding or soil binders are used. • Install wind breaks (e.g., trees, fences) on the windward side(s) of actively disturbed areas of construction with a maximum 50 percent air porosity. • Use a power vacuum to sweep and remove any mud or dirt-track next to public streets, if visible soil material is carried onto the streets. • Limit vehicle speeds on unpaved roads to 15 miles per hour (mph). • Minimize idling time for all engines by shutting engines when					

MITIGATION	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Local Approval Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
AIR QUALITY					
not in use or limiting idling time to a maximum of 5 minutes. Provide clear signage for construction workers at all access points. • Properly tune and maintain construction equipment in accordance with manufacturer's specifications. Check all equipment against a certified visible emissions calculator. • Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. • Install vegetative ground cover in disturbed areas as soon as possible and water appropriately until vegetation is established. • Limit simultaneous occurrence of excavation, grading, and ground-disturbing construction activities. • Install water washers to wash all trucks and equipment prior to leaving site.					

MITIGATION	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Local Approval Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
AIR QUALITY					
• Treat site access to a distance of 100 feet from the paved road with a 6 to 12-inch compacted layer of wood chip, mulch or gravel. • Install sandbag or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent. • Minimize idling time of diesel-powered construction vehicles to two minutes • Develop a plan demonstrating that off-road equipment (more than 50 horsepower) used for construction would achieve a project wide fleet-average 20 percent NOx reduction and 45 percent PM reduction compared to the most recent ARB fleet average. These include use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, add-on devices such as particulate filters,					

MITIGATION	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Local Approval Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
AIR QUALITY					
and/or other options as such become available. • Use low Volatile Organic Compounds • (VOC) (i.e., Reactive Organic Gases • (ROG)) coatings beyond the local requirements (i.e., Regulation 8, Rule 3: Architectural Coatings). • All construction equipment, diesel trucks, and generators be equipped with Best Available Control Technology for emission reductions of NOx and PM. • All contractors use equipment that meets California Air Resources Board's • (CARB) most recent certification standard for off-road heavy-duty diesel engines.					
AQ-2. To ensure that all readiness and maintenance testing at lower loads would not exceed the Bay Area Air Quality Management District (BAAQMD) cancer risk permitting limit	Provide documentation to the director of the City of Pittsburg	Prior to commencement of project operation.	City of Pittsburg Community and Economic Development Department	Review documentation and verify the project BAAQMD permit conditions comply	Prior to commencement of project operation.

MITIGATION	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Local Approval Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
AIR QUALITY					
of 6 in one million that applies for impacts to Overburdened Communities, the Project will adopt the following limits on operation and will request that the BAAQMD adopt the following limits as permit conditions: • Generator and engine readiness and maintenance testing shall only be allowed during the 11-hour period between 7:00 a.m. and 6:00 p.m. daily. • Concurrent testing of engines shall be limited so that only a single engine operates for maintenance and testing at any given time. • Readiness and maintenance testing shall be limited to no more than 34 hours per year per engine. • Readiness and maintenance testing at generator loads less than or equal to 75 percent shall be limited to no more than 17 hours per year per engine.	Community and Economic Development Department or director's designee to verify that BAAQMD permit conditions include operating limitations.		Director or Director's designee.	with operating limitations.	

MITIGATION	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Local Approval Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
BIOLOGICAL RESOURCES					
BIO-1: Project Coverage under ECCC HCP/NCCP. The applicant shall obtain coverage for the project under the ECCC HCP/NCCP. This shall include the submittal of all required application materials per ECCC HCP/NCCP Section 6.2.1 and payment of a Development Fee consistent with current HCP/NCCP requirements. Alternatively, the applicant may, in accordance with the terms of the Pittsburg Municipal Code Chapter 15.108, offer to dedicate land in lieu of some or all of the ECCC HCP/NCCP Development Fee. All applicable fees shall be paid, and/or an "in-lieu-of-fee" agreement fully executed, prior to the issuance of a grading permit for the project. If a grading permit is not required, fee payment and/or an "in-lieu-of-fee" agreement shall be fully executed prior to issuance of the project's building permit. Proof of applicable fees and/or "in-lieu-of-fee" agreement shall be provided to the City of Pittsburg Community and	The applicant shall obtain coverage for the project under the ECCC HCP/NCCP. This shall include the submittal of all required application materials per ECCC HCP/NCCP Section 6.2.1 and payment of a Development Fee consistent with current HCP/NCCP requirements. Provide proof of applicable fees and/or 'in-lieu-of-fee agreement shall be provided to City of Pittsburg	Prior to the issuance of a grading permit for the project.	City of Pittsburg Community and Economic Development Department Director or Designee.	Review proof of applicable fees and/or in-lieu-of-fee agreement to confirm Applicant/Proponent compliance.	Prior to construction.

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Economic Development Department Director or Director's designee.	Community and Economic Development Department Director or Director's Designee.				
BIO-2: Worker Environmental Awareness Program (WEAP). The applicant shall develop and implement a project-specific WEAP. The WEAP shall include a presentation on sensitive habitats on the project site, special-status species known or potentially present on the site, including their listing status and causes of decline, their habitat preferences and any distinguishing physical characteristics. In addition, the measures required to protect sensitive habitats and special-status species shall be explained, including next steps and notifications in the event of a special-status species sighting. The WEAP shall include a hard copy handout that summarizes information presented in the training and include photographs of habitat resources and	Develop and implement WEAP, provide copies of WEAP to regulatory agencies, train construction personnel, maintain record of training acknowledgment forms.	Prior to and throughout construction.	City of Pittsburg Community and Economic Development Department Director or Director's Designee.	Approve qualified biologist. Approve WEAP.	Prior to construction.

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species to facilitate identification in the field by construction personnel. The applicant shall ensure that all construction personnel undergo WEAP training before they begin work. Training shall be delivered by a qualified biologist approved by the City of Pittsburg Community and Economic Development Department Director or Director's Designee and shall be provided bilingually in English and Spanish, if appropriate. Include a training acknowledgment form to be signed by each worker indicating that they received training and shall abide by the guidelines. The applicant shall secure approval for the WEAP from the City of Pittsburgh Community and Economic Development Department Director or Director's Designee. The applicant shall also provide the Conservancy a copy of all portions of the WEAP for review and comment.					

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BIO-3: Regulatory Permits for Jurisdictional Waters. Prior to project activities that would result in impacts to jurisdictional waters, the applicant shall seek a Section 404 permit from the U.S. Army Corps of Engineers (USACE), a Section 401 Water Quality Certification from the Regional Water Quality Control Board (RWQCB), and a Lake or Streambed Alteration Agreement from the California Department of Fish and Wildlife (CDFW). The project shall be constructed and operated in compliance with all terms and conditions of these permits, if issued.	Prepare and submit permits to resource agencies. Comply with terms of permits.	Prior to ground disturbance and throughout construction.	City of Pittsburg Community and Economic Development Department Director or Director's Designee.	Confirm Applicant/Proponent compliance.	Prior to ground disturbance and throughout construction.
BIO-4: Adherence to ECCC HCP/NCCP Requirements. The applicant shall ensure that the project adheres to all applicable ECCC HCP/NCCP requirements. Planning surveys per ECCC HCP/NCCP Section 6.3.1 were completed in 2018 to 2023 and copies shall be submitted to the Conservancy. Based on the outcomes of the planning surveys, preconstruction surveys by USFWS and CDFW approved biologists shall be conducted for the following species per ECCC HCP/NCCP Sections 6.3.2 and	Ensure that the project adheres to all applicable ECCC HCP/NCCP requirements. Conduct surveys pursuant to ECCC HCP/NCCP requirements. Submit results of surveys to ECCC, USWFS, and CDFW.	Surveys shall be conducted prior to construction. ECCC HCP/NCCP requirements based on survey results shall be implemented prior to and during construction.	City of Pittsburg Community and Economic Development Department Director or Director's Designee.	Confirm Applicant/Proponent compliance. Review CMP and approve if warranted.	Prior to site mobilization.

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6.3.4: Golden eagle (*Aquila chrysaetos*); Western burrowing owl (*Athene cunicularia)*; Swainson's hawk (*Buteo swainsonii*) and San Joaquin kit fox (*Vulpes macrotis mutica*). If pre-construction surveys determine that any of the above species is present on the site (or, for the bird species, within a distance where they could be disturbed by construction activity – see **BIO-9**), the Best Management Practices and Constructing Monitoring requirements in the ECCC HCP/NCCP Table 6-1 shall apply. The applicant shall ensure that construction monitoring is conducted per ECCC HCP/NCCP Section 6.3.3 (ECCC HCP/NCCP pages 6-12 to 6-13). This shall include the submittal of a Construction Monitoring Plan (CMP) to the City of Pittsburg Community and Economic Development Department Director or Director's Designee for approval. The CMP must be submitted and approved prior to site mobilization. The applicant shall also comply with all applicable provisions of the ECCC	Submit CMP to City of Pittsburgh Community and Economic Development Department Director or Director's Designee. Prior to site mobilization implement protective measures pursuant to ECCC HCP/NCCP requirements if species are detected during surveys.				

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HCP/NCCP Section 6.4, Specific Conditions on Covered Activities (beginning on HCP/NCCP page 6-14), as follows. Section 6.4.1: Landscape-Level Measures: • Conservation Measure 1.7 - Establish stream setbacks (HCP/NCCP pages 6-15 – 6-18) • Conservation Measure 1.10 - Maintain hydrologic conditions and minimize erosion (HCP/NCCP pages 6-21 – 6-22) • Conservation Measure 1.11 - Avoid direct impacts on extremely rare plants, fully protected wildlife species and covered migratory birds (HCP/NCCP pages 6-23 – 6-25) • Section 6.4.2: Natural Community-Level Measures • Conservation Measure 2.12 - Wetland, pond and stream avoidance					

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and minimization (HCP/NCCP pages 6-33 – 6-35) Section 6.4.3: Species-Level Measures for the following species: • California tiger salamander (begins on ECCC HCP/NCCP page 6-45; see also Table 6-1) • California red-legged frog (begins on ECCC HCP/NCCP page 6-46; see also Table 6-1) • Burrowing Owl (begins on ECCC HCP/NCCP page 6-39; see also Table 6-1) • Golden Eagle (begins on HCP/NCCP page 6-38; see also Table 6-1) • Swainson's Hawk (begins on HCP/NCCP page 6-41; see also Table 6-1) • San Joaquin kit fox (begins on HCP/NCCP page 6-37; see also Table 6-1)					
BIO-5: Rare Plant Survey and Protection. An updated protocol-level rare plant survey shall be conducted by a	Protocol-level rare plant survey.	Prior to and for duration of	City of Pittsburg Community and Economic	Approve plant biologist for surveys. Approve	Prior to and for duration of

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qualified biologist/botanist who is familiar with the rare plants of the project region and has been approved by the City of Pittsburg Community and Economic Development Department Director or Director's Designee. Surveys shall be conducted prior to construction, with enough lead time to allow for the follow-up actions described below, if they are warranted. Surveys shall be conducted during the peak blooming periods of the target species and shall cover all potentially suitable habitats within the project site and surrounding 250-foot-wide buffer. If no special-status plants are documented within the area to be disturbed for project construction (including staging and access), no further action is required. If special-status plants covered by the ECCC HCP/NCCP, or plants designated as "no take" by the ECCC HCP/NCCP, are present on the site, the relevant survey report(s) shall be submitted to the Conservancy per ECCC HCP/NCCP Section 6.3.1 (see page 6-9).	Notification of ECCC if rare plants are found. Plant avoidance or implementation of the Plant Salvage and Mitigation Plan if required.	ground disturbance.	Development Department Director or Director's Designee.	Plant Salvage and Mitigation Plan if required.	ground disturbance.

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If any of the following species covered by the ECCC HCP/NCCP is found to be present, the applicant shall promptly notify the Conservancy of the species' presence and the planned construction schedule, to enable the Conservancy to salvage the occurrence(s) in accordance with ECCC HCP/NCCP Conservation Measure 3.10 (Plant Salvage when Impacts are Unavoidable). The applicant shall confirm with the Conservancy that the take limits established by the ECCC HCP/NCCP for the species in question have not been breached: • Big tarplant (*Blepharizonia plumosa*) • Mount Diablo fairy lantern (*Calochortus pulchellus*) • Diablo helianthella (*Helianthella castanea*) • Showy golden madia (*Madia radiata*) • Adobe navarretia (*Navarretia nigelliformis* ssp. *nigelliformis*) Under no circumstance shall any of the following ECCC HCP/NCCP "no-take" plants be harmed:					

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• Large-flowered fiddleneck (*Amsinckia grandiflora*) • Alkali milkvetch (*Astragalus tener* ssp. *tener*) • Mt. Diablo buckwheat (*Eriogonum truncatum*) • Diamond-petaled poppy (*Eschscholzia rhombipetala*) • Contra Costa goldfields (*Lasthenia conjugens*) • Caper-fruited tropidocarpum (*Tropidocarpum capparideum*) Due to their extreme rarity, none of these species is expected to be present on the project site, but if any of them are found, the applicant shall notify the Conservancy immediately and shall work with the Conservancy to determine and execute the appropriate course of action. If any special-status plant not covered by the ECCC HCP/NCCP is found to be present, the occurrence(s) shall be avoided and protected in place to the					

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extent feasible. If the occurrence(s) cannot be entirely avoided, then a Plant Salvage and Mitigation Plan shall be prepared and submitted to the City of Pittsburg Community and Economic Development Department Director or Director's Designee. The Plan shall be prepared by a qualified biologist/botanist who is familiar with the rare plants of the project region and has experience conducting rare plant salvage operations. Plant salvage techniques shall be consistent with those outlined in ECCC HCP/NCCP Conservation Measure 3.10. The plan shall, at a minimum, include the following: • Quantity and species of plants to be planted or transplanted • Location of the mitigation/transplant site(s) • Salvage methods, such as relocation/transplantation, seed collection, etc., including storage locations and methods to preserve the plants					

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• Procedures for propagating collected seed, including storage methods • Planting procedures, including the use of soil preparation and irrigation • Schedule and action plan to maintain and monitor the mitigation/transplant site for a minimum 3-year period • Interim and final success criteria and corrective action thresholds (e.g., growth, plant cover, survivorship) • Potential corrective actions/contingency measures in the event interim success criteria are not being met (e.g., weed removal, supplemental irrigation, supplemental plantings, etc.) • Reporting requirements and procedures, including the contents of annual progress reports, report submittals, review/approval responsibilities, etc. The applicant shall implement the Plant Salvage and Mitigation Plan. The Plan shall be implemented under the oversight					

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of the biologist/botanist who prepared it or another individual with equivalent qualifications. The biologist shall be approved by the City of Pittsburg Community and Economic Development Department Director or Director's Designee.					
BIO-6: Crotch's Bumble Bee and Obscure Bumble Bee Avoidance and Minimization Measures. No more than 1 year prior to the initiation of vegetation removal and grading at the project site, the applicant shall retain an appropriately qualified biologist (see next paragraph) who has been approved by the City of Pittsburg Community and Economic Development Department Director or Director's designee to conduct surveys for Crotch's bumble bee and obscure bumble bee. CDFW has issued preliminary survey guidance for candidate bumble bee species in the Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species (CDFW 2023). Consequently, there are no official requirements for bumble bee surveyor qualifications. If CDFW issues new guidance or protocol	Conduct surveys. Consult with CDFW if Crotch's bumble bee is detected to implement full avoidance measures or seek take coverage. Inform City of Pittsburgh Community and Economic Development Department Director or Director's Designee of consultation outcome. Avoid	Prior to and for duration of ground disturbance.	City of Pittsburgh Community and Economic Development Department Director or Director's Designee.	Approve bumble bee biologist for surveys. Review survey report.	Prior to ground disturbance.

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for bumble bee surveys, then biologist qualifications and survey methodology for bumble bee surveys shall conform to the CDFW guidance published at the time surveys are performed. Surveys shall be performed by a qualified biologist or entomologist familiar with the species' behavior and life history and shall include both habitat evaluations and foraging bee surveys consistent with the recommendations in Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species (CDFW 2023). Surveys shall be conducted during the Crotch's bumble bee colony active period of April 1 to September 31 and the obscure bumble bee colony active period of April 20 to August 20, and shall be conducted during the active period prior to the initiation of vegetation removal and grading at the project site. Surveys shall cover all areas of onsite habitat determined by the biologist to be suitable for any of the two target bumble bee species, based on habitat mapping conducted for the project to date. A minimum of 3 to 4	nests if detected.				

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surveys shall be conducted, spaced 2 weeks apart; the total number, timing, and duration of surveys performed shall depend on the biologist's judgment, in consideration of weather, site conditions, and protocol requirements. Surveys shall be designed to identify all foraging bumble bees to species level. If Crotch's bumble bee individual or multiple bees are observed onsite during the surveys, the applicant shall consult with CDFW to determine additional measures necessary for full avoidance of Crotch's bumble bee or to seek an Incidental Take Permit under CESA for take authorization. Additional measures may include an additional survey or surveys to be conducted to determine whether a nest or colony is present. All workers shall be required to avoid injury and mortality to bumble bees they may encounter; this requirement shall be discussed during the WEAP training (Mitigation Measure BIO-2) and shall be reiterated to all workers if special-status bumble bees are confirmed onsite.					

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If a Crotch's bumble bee nest or colony is present onsite, the applicant shall consult with CDFW to determine appropriate next steps, and shall ensure that the City of Pittsburg Community and Economic Development Department Director or Director's designee is informed of consultation outcomes. At a minimum, the biologist shall establish an avoidance buffer of 100 feet in diameter. No entry into the buffer shall be permitted. The buffer shall be delineated in the field using orange construction fencing or another appropriate medium, under the biologist's oversight, and shall remain in place until the end of the nesting species' gyne flying season, or until the qualified biologist determines that the nest has been abandoned. If the nest cannot be avoided the applicant shall coordinate with the City of Pittsburg Community and Economic Development Department Director or Director's designee and CDFW to obtain an Incidental Take Permit under CESA for take authorization. Survey results, including negative findings, shall be submitted to the City of					

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Pittsburgh Community and Economic Development Department and CDFW at least 30 days prior to implementing project-related ground-disturbing activities. At a minimum, the survey report shall include the following information. (1) A description and map of the survey area (2) A habitat assessment focusing on areas that could provide suitable foraging, nesting, and overwintering habitat for Crotch bumble bee or obscure bumble bee (3) Field survey conditions, including name(s) of qualified entomologist(s) and brief qualifications; date(s) and time(s) of survey; survey duration; number of surveyors per acre; number of acres surveyed; amount of time of focused survey; general weather conditions; survey goals; species observed; and photo vouchers of bumble bees (4) Map(s) showing the location of nests/colonies, if any; a description of					

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physical (e.g., soil, moisture, slope) and biological (e.g., plant composition) conditions where each nest/colony is found, including native plant composition (e.g., density, cover, and abundance) within impacted habitat (e.g., species list separated by vegetation class; density, cover, and abundance of each species) (5) The measures that will be implemented to avoid adverse effects on the bumble bee species present (6) An assessment of potential project effects on special-status bumble bees during project construction and project operation/maintenance.					
BIO-7: Monarch Butterfly Avoidance and Minimization Measures. No more than 2 days prior to the initiation of vegetation trimming or removal for construction, the applicant shall ensure that a qualified biologist approved by the City of Pittsburg Community and Economic Development Department Director or Director's Designee surveys all	Conduct survey. Protect host plants in place if Monarch eggs, larvae, or pupae are detected. Avoid removing milkweed until plants release	Prior to and for duration of vegetation trimming or removal.	City of Pittsburg Community and Economic Development Department Director or Director's Designee.	Approve qualified biologist. Confirm Applicant/Proponent compliance.	Prior to and for duration of vegetation trimming or removal.

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areas of potentially suitable habitat for monarch butterfly larval host plants. If host plants are found, the biologist shall survey all host plants for monarch eggs, larvae, and pupae. If not eggs, larvae, or pupae are found, plants may be removed within 2 days. If eggs, larvae, or pupae are present, host plants shall be protected in place until the biologist has determined that the breeding season has concluded, or coordination with the City and USFWS occurs. It is recommended that milkweed removal should be avoided until after the plant has gone to seed.	seeds. Protect host plants in place if Monarch eggs, larvae, or pupae are detected.				
BIO-8: Western Pond Turtle Avoidance and Minimization Measures. Prior to the start of construction or operation and maintenance (O&M) activities, the applicant shall ensure that a qualified biologist approved by the City of Pittsburg Community and Economic Development Department Director or Director's Designee conducts a preconstruction survey of the project site and adjacent suitable habitat for western	Preconstruction survey; biologist to relocate turtles if found in disturbance area.	Prior to the start of construction.	City of Pittsburg Community and Economic Development Department Director or Director's Designee.	Approve qualified biologist. Confirm Applicant/Proponent compliance.	Prior to start of construction.

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pond turtle. The survey shall be conducted no more than 24 hours prior to the start of work. If individuals are found, the biologist shall relocate them to suitable habitat outside the disturbance area and far enough away that they would not be expected to return. If the biologist determines that exclusion measures are warranted, exclusion measures identified by the biologist shall be implemented to prevent individuals from returning to the project site.					
BIO-9: Nesting Bird Protection. If project-related disturbance (e.g., vegetation removal or trimming, clearing/grubbing, grading) commences any time during the nesting/breeding season of native bird species potentially nesting in or near the study area (February 1 through September 15 for most species; January 1 through August 31 for Golden Eagle; March 15 through September 15 for Swainson's Hawk), a qualified biologist approved by the City of Pittsburg Community and Economic Development Department Director or Director's Designee shall conduct a preconstruction survey using binoculars.	Preconstruction survey and nest avoidance buffers. /mplement nest avoidance buffers if nesting birds are detected. Notify City of Pittsburgh Community and Economic Development Department Director or	Prior to and during construction.	City of Pittsburgh Community and Economic Development Department Director or Director's Designee.	Approve qualified biologist. Confirm Applicant/Proponent compliance.	Prior to and during construction.

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The survey shall take place no more than 2 weeks prior to the initiation of work. If active nests are found in areas that could be directly affected or are within 500 feet of disturbance activities and would be subject to prolonged construction-related noise, a no disturbance buffer zone shall be created around active nests for the remainder of the breeding season or until the biologist determines that all young have fledged or that the nest has been abandoned. No entry into the no-activity buffer zone shall be permitted. The no-activity buffer zone shall be delineated in the field by or under the supervision of the biologist, using temporary construction fencing or another suitable low-impact medium. The size of the buffer zone(s) shall be determined by the biologist based on the species involved, the amount of vegetative and other screening between the nest and areas where construction activity shall take place, and, if appropriate, other site-specific factors. The minimum buffer width shall be 50 feet for species other than raptors, and a minimum of 500 feet for raptor species. The biologist may	Director's Designee of any changes in avoidance buffer size.				

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enlarge the minimum buffer width by taking into account factors such as the following: • Noise and human disturbance levels at the construction site at the time of the survey and the noise and disturbance expected during the construction activity • Sensitivity of nesting species and behaviors of the individual nesting birds If nesting Swainson's Hawk or Golden Eagle are observed, buffers and other avoidance measures shall conform to Species-Level Measures for these species as laid out in ECC HCP/NCCP Section 6.4.3. Buffers stipulated in the ECCC HCP/NCCP for these species are as follows. • Swainson's Hawk: nest survey – 1,000 feet; no-project-activity nest protection buffer –1,000 feet.					

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• Golden Eagle: nest survey – not specified; no-project-activity nest protection buffer – 0.5 mile. • If site-specific conditions (e.g., steep topography, dense vegetation) or the nature of the covered activity (e.g., limited activities or limited potential for disturbance due to low noise levels) indicate that a smaller nest protection buffer could be used, the applicant will coordinate with the Conservancy as the ECC HCP/NCCP Implementing Entity (for both species). The City of Pittsburg will be notified of any resulting adjustments to nest protection buffers.					
BIO-10: Nesting Bird Protection (Bald Eagle). The applicant shall retain a qualified biologist approved by the City of Pittsburg Community and Economic Development Department Director or Director's Designee to conduct a preconstruction survey for nesting Bald Eagles prior to the initiation of work at the site (including vegetation removal or trimming, clearing/grubbing, grading, etc.). The survey shall be conducted	Preconstruction survey and nest avoidance buffers. Implement nest avoidance buffers if nesting birds are detected.	Prior to and during construction.	City of Pittsburgh Community and Economic Development Department Director or Director's Designee.	Approve qualified biologist. Confirm Applicant/Proponent compliance.	Prior to and during construction.

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using binoculars and shall take place no more than 2 weeks prior to the initiation of work. If an occupied or active nest is present, construction-related activity shall be prohibited within 0.5 mile of the nest unless the biologist determines that site-specific conditions or the nature of the construction activity (e.g., dense vegetation, limited noise generation, limited activities) indicate that a smaller buffer could be appropriate or that a larger buffer should be implemented. The biologist shall coordinate with the CDFW and/or USFWS to determine the appropriate buffer size. The buffer shall be delineated in the field using temporary construction fencing or another suitable low-impact medium. Construction shall be monitored by the qualified biologist to ensure the buffer remains in place and that no construction activities occur within the buffer zone until the biologist has determined that the young have fledged or that the nest has been abandoned.					

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BIO-11: Special Status Bat Survey and Protection. Prior to the initiation of any activity that could disturb roosting bats (including vegetation trimming/removal), a qualified biologist shall conduct a habitat evaluation for special-status bats, focusing on the needs of pallid bat (*Antrozous pallidus*), western red bat (*Lasiurus frantzii* [*L. blossevillii*], and hoary bat (*L. cinereus*), the species identified by planning surveys as having potential to be present on the site. Surveys shall include the entirety of the project site plus a 400-foot wide buffer. If no roosting habitat suitable for these species is present, no further action shall be required. If roosting habitat is present, the following additional requirements shall apply. Any potential roost trees/other potential roosting habitat shall also be considered potential bat maternity roosts. If tree removal cannot be avoided during sensitive maternity roosting or hibernation periods as described above, before the initiation of construction	Habitat evaluation; occupancy survey and no-disturbance buffers if necessary.	Prior to and during construction.	City of Pittsburgh Community and Economic Development Department Director or Director's Designee.	Confirm Applicant/Proponent compliance.	Prior to and during construction.

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BIOLOGICAL RESOURCES					
activities with the potential to disturb roosting bats, a qualified biologist shall conduct bat activity surveys to determine site occupancy. A qualified biologist shall have at least two years experience conducting the survey methodology. Surveys shall be designed to maximize detection of bats, shall take into consideration seasonal and daily periods of bat activity and shall include: o Daytime visual surveys for bats and evidence of bat presence such as guano or urine staining o Evening emergence and acoustic surveys If bat presence is confirmed, the species, number of individuals, and roost type (maternity/non-maternity) shall be documented and reported to the CNDDB. Bats shall not be disturbed or relocated during the surveys. The removal of any trees within riparian zones or those that contain roosting habitat should be limited to the periods from March 1 through April 15 and					

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BIOLOGICAL RESOURCES					
September 1 through October 15 to avoid disturbing roosting bats during maternity and hibernation seasons, to the extent if feasible. The removal of any trees with potential roosting habitat shall occur over the course of two days to ensure that special-status bats have left potential roosting refugia. On the first day, smaller limbs or items from the trees containing suitable roosting habitat shall be brushed back or modified in the late afternoon. This disturbance should cause any potential roosting bats to seek other roosts during their nighttime foraging. The remainder of the tree can then be further limbed or removed as needed on the second day as late in the afternoon as feasible. Tree limbing, modification, removal shall not be performed under any of the following conditions; during any precipitation events, when ambient temperatures are below 4.5 degrees Celsius (40.1 degrees Fahrenheit), when windspeeds exceed 11 miles per hour,					

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BIOLOGICAL RESOURCES					
and/or any other condition which may lead to bats seeking refuge. Confirmed non-maternity roosts shall be protected by buffers determined by the qualified biologist in accordance with the matrix that follows. Buffers shall be delineated in the field with temporary construction fencing or another suitable measure, installed under the qualified biologist oversight. Note that buffer distances vary depending on the species and the type of noise/disturbance involved. The biologist shall coordinate with construction staff to determine the appropriate buffer width; if there is uncertainty, the more conservative buffer width shall prevail. ~~Prior to the initiation of any activity that could disturb roosting bats (including vegetation trimming/removal), a qualified biologist shall conduct a habitat evaluation for special-status bats, focusing on the needs of pallid bat (*Antrozous pallidus*), western red bat (*Lasiurus frantzii* [*L. blossevillii*], and hoary bat (*L. cinereus*), the species~~					

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BIOLOGICAL RESOURCES					
~~identified by planning surveys as having potential to be present on the site. Surveys shall include the entirety of the project site plus a 400-foot wide buffer. If no roosting habitat suitable for these species is present, no further action shall be required.~~ ~~If roosting habitat is present, the following additional requirements shall apply. Any potential roost trees/other potential roosting habitat shall also be considered potential bat maternity roosts.~~ • ~~Before any activities with the potential to disturb roosting bats begin, a City and CDFW approved biologist shall conduct focused surveys for roost occupancy. These shall be conducted at least 2 weeks prior to the start of work and shall include~~ o ~~Daytime visual surveys for bats and evidence of bat presence such as guano or urine staining~~					

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BIOLOGICAL RESOURCES					
~~o Evening emergence and acoustic surveys~~ ~~If bat presence is confirmed, the species, number of individuals, and roost type (maternity/non-maternity) shall be documented and reported to the CNDDB. Bats shall not be disturbed or relocated during the surveys~~ • ~~Confirmed non-maternity roosts shall be protected by buffers as laid out in the matrix that follows. Buffers shall be delineated in the field with temporary construction fencing or another suitable measure, installed under the qualified biologist oversight. Note that buffer distances vary depending on the species and the type of noise/disturbance involved. The biologist shall coordinate with construction staff to determine the appropriate buffer width; if there is uncertainty, the more conservative buffer width shall prevail.~~					

<table>
<tr><th rowspan="3">MITIGATION</th><th colspan="5">MONITORING AND REPORTING PROGRAM</th></tr>
<tr><th colspan="2">Documentation of Compliance [Project Applicant/Proponent Responsibility]</th><th colspan="3">Documentation of Compliance [Local Approval Agency Responsibility]</th></tr>
<tr><th>Method of Compliance Or Mitigation Action</th><th>Timing of Compliance</th><th>Oversight Responsibility</th><th>Actions/Reports</th><th>Monitoring Timing or Schedule</th></tr>
<tr><td colspan="6">BIOLOGICAL RESOURCES</td></tr>
<tr><td colspan="6">
<table>
<tr><th>Disturbance Source</th><th>Pallid Bat</th><th>Other Bat Species</th></tr>
<tr><td>Construction trucks and heavy equipment</td><td>120 feet</td><td>100 feet</td></tr>
<tr><td>Smaller vehicles</td><td>90 feet</td><td>65 feet</td></tr>
<tr><td>Drilling, trenching, and small equipment</td><td>150 feet</td><td>150 feet</td></tr>
<tr><td>Unshielded light source</td><td>400 feet</td><td>300 feet</td></tr>
<tr><td>Pedestrian traffic</td><td>65 feet</td><td>65 feet</td></tr>
<tr><td>Stationary source of diesel/gasoline exhaust operating for more than 2 minutes</td><td>250 feet</td><td>250 feet</td></tr>
<tr><td>Any equipment generating high-frequency</td><td colspan="2">Buffer shall be determined on a case-by case basis by</td></tr>
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(20 kHz – 50 kHz) sound (laser survey transits, drilling, etc.), as identified by the biologist	identifying the distance at which high-frequency sound generated by the equipment becomes indistinguishable from background levels, using one of the acoustic methods described on pp. 7-16 – 7-18 of the California Department of Transportation bat mitigation guidelines (H.T. Harvey & Associates 2019), or updated equivalent.					
• If a confirmed roost must be removed or trimmed for construction, or if work must occur within the buffers laid out above, work shall be restricted to daylight hours when the qualified biologist has confirmed that the roost is not occupied and shall be overseen by the biologist to prevent						

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injury or mortality. The biologist shall have authority to divert or stop work in the event of excessive risk to bats. • Confirmed maternity roosts shall be protected by the same buffers identified above. Maternity roosts shall not be removed unless removal cannot be avoided, and in no case shall a confirmed maternity roost be removed during the breeding/non-volant season (April – August). If removal of a maternity roost is necessary, the applicant shall consult with the City and CDFW to determine appropriate compensatory mitigation such as the provision of bat boxes and shall submit a Bat Habitat Mitigation Plan (Plan) for City and CDFW approval. Consultation and submittal of the Plan shall occur prior to the removal, and the removal shall not take place until the City and CDFW has approved the Plan. The applicant shall then be responsible for implementing City and CDFW approved mitigation for removal of bat maternity roost habitat.					

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BIO-12: San Joaquin Pocket Mouse Protection. All vegetation removal, clearing/grubbing, and grading activities shall be conducted in a uniform direction to allow mobile animals such as San Joaquin pocket mouse the ability to escape the disturbed area into adjacent undisturbed habitat. Project construction activities shall avoid the creation of fragmented islands of habitat where individuals may become trapped, isolated from resources, and at risk from eventual clearing/grading activities.	Conduct vegetation removal and grading in a uniform direction; avoid creating fragmented islands of habitat.	During vegetation removal and grading.	City of Pittsburg Community and Economic Development Department Director or Director's Designee.	Confirm Applicant/Proponent compliance.	During vegetation removal and grading.
BIO-13: American Badger Survey and Protection. No more than 4 weeks before the commencement of ground disturbance at the site, a qualified biologist approved by the City of Pittsburg Community and Economic Development Department Director or Director's Designee shall conduct a survey for American badger den sites. If an occupied den is found, and young are not present, any badgers present shall be removed from the den either by the use of appropriate exclusionary devices or by trapping and relocation. The removal method shall be approved by CDFW prior	Survey for American badger den sites. If detected, remove and relocate badgers using CDFW-approved method or implement avoidance buffers.	No more than 4 weeks prior to the beginning of ground disturbance.	City of Pittsburgh Community and Economic Development Department Director or Director's Designee.	Approve qualified biologist. Confirm Applicant/Proponent compliance.	Prior to ground disturbance.

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BIOLOGICAL RESOURCES					
to implementation. If trapping and relocation are necessary, it shall be carried out by biologist(s) with all required permits for badger handling. Any trapped badgers shall be relocated to other suitable habitat at least 500 feet outside the project site boundary. Once any badgers are excluded or trapped and relocated, den(s) shall be excavated by hand and backfilled to prevent reoccupation. Exclusion shall continue until the badgers are successfully removed from the site, as determined by the biologist. Badgers shall not be excluded or relocated if it is determined by the biologist that young are or may be present. Any occupied dens shall be protected with a 50-foot-wide non-disturbance buffer. The buffer shall be delineated in the field by a qualified biologist, using temporary construction fencing or another appropriate low-impact medium, and shall remain in place until the biologist has determined that the young are no longer dependent on					

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BIOLOGICAL RESOURCES					
their mother and den site. No entry into the buffer area shall be permitted.					
BIO-14: Wildlife-Friendly Curb Design and Construction. Curbs adjacent to storm drains shall be offset by a distance sufficient to allow volitional passage for wildlife around the storm drains. Curbs on the edge of any road, sidewalk, or trail within the project area shall be slanted at no more than a 45-degree angle; alternatively, slanted sections shall be provided at regular intervals of no more than 100 linear feet	Include wildlife-friendly curb details in final design plans. Construct curbs with required offsets, slant, or spacing. Verify compliance in the field during installation.	During design and plan approval.	City of Pittsburg Community and Economic Development Department Director or Director's designee.	Review and approve maps and drawings showing the project design.	Prior to approval of project final design. During grading and construction.
BIO-15: Wildlife-Friendly Storm Water Infrastructure Designs and Construction. Storm water-related infrastructure (e.g., storm drains, storm drain grates, v-ditches, catchment basins, and/or detention basins) shall be designed and constructed in a manner that minimizes and avoids take of wildlife to the maximum extent feasible. Designs shall include the following measures; however, compliance with this mitigation	Include wildlife-friendly storm-water features in project plans (offset grates, narrow grate openings, escape ramps/ladders, slanted walls,	During design, plan approval, and storm-water infrastructure construction.	City of Pittsburg Community and Economic Development Department Director or Director's designee.	Review and approve maps and drawings showing the project design. Final inspection report documenting compliance.	Prior to approval of project final design. During grading and construction.

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measure is contingent upon the existence of the necessary structures: • Storm drain grates shall be offset from any adjacent curb by a distance that will allow for volitional passage of wildlife to go around the grate, along the curb. • Openings in storm drain grates shall be no more than 16 mm (0.6 inches) in width or as narrow as feasible to allow necessary water throughput while preventing wildlife from entering. • Catchment basins and drop inlets shall be fitted with escape ramps or ladders that will allow wildlife to volitionally escape. Ramps and/or ladders shall be placed along a wall of the catchment basin and must span the distance from the lowest point in the basin to the grate covering. Ramps and/or ladders shall be placed at a slope no steeper than 45 degrees. Escape ramps or ladders shall be fashioned from perforated metal sheeting covered with an open	crossings, one-way gates). Build storm-water facilities consistent with approved wildlife-safe designs. Verify in the field that required offsets, ramps, grate openings, and one-way gates are correctly installed.				

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structured synthetic matting material that will allow for sufficient traction for wildlife to volitionally escape from the catchment basin if entrained. Alternatively, catchment basins shall be designed to have walls that are slanted outward and the walls shall be covered with open structured synthetic matting material together with an escape ramp or ladder that allows for volitional escape of wildlife. • Vehicle entry/exit points of access to the detention basins shall have crossing structures installed (e.g. grated trenches) to prevent road mortality of wildlife. • Detention basin outfall structures shall have one-way gates installed (e.g. flapper gates) or similar devices that will serve to prevent wildlife from entering the basin via the structure.					

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CULTURAL AND TRIBAL CULTURAL RESOURCES					
Impact 5.5.2-a. Would the project cause a substantial adverse change in the significance of a historical resource pursuant to §15064.5?					
Impact 5.5.2-b. Would the project cause a substantial adverse change in the significance of a unique archaeological resource pursuant to California Code of Regulations, title 14, §15064.5?					
Impact 5.5.2-c. Would the project disturb any human remains, including those interred outside of formal cemeteries?					
Impact 5.5.2-d. Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is a resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resource Code section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.					
CUL-1: Worker Environmental Awareness Program. Prior to the commencement of construction, the applicant shall retain a qualified archaeological specialist to prepare a Worker Environmental Awareness Program (WEAP). The name and credentials of the Secretary of the Interior qualified archaeological specialist shall be submitted to the Director or Director's designee of the City of Pittsburg Planning Division for review and approval no less than 14 days prior to the commencement of the preparation of the WEAP.	The applicant shall retain a Secretary of the Interior qualified archaeologist specialist to prepare a WEAP and submit the name and credentials of the qualified archaeologist to the City of Pittsburg Planning Director or Director's designee for review and approval.	The applicant shall submit the credentials to the City of Pittsburg no less than 14 days prior to commencement of preparing the WEAP.	City of Pittsburg Planning Director or Director's designee.	Review and, if qualified, approve the credentials of the archaeological specialist.	Prior to preparing the WEAP.

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CULTURAL AND TRIBAL CULTURAL RESOURCES					
The WEAP shall be designed to assure that construction workers are aware of the obligation to protect and preserve valuable archaeological and Native American resources. The WEAP training shall be submitted to the Director or Director's designee of the City of Pittsburg Planning Division at least 60 days prior to the start of construction for review and approval. This program will be provided to all construction workers via a recorded presentation and will include a discussion of applicable laws and penalties under the laws; samples or visual aids of resources that could be encountered in the project site and vicinity; instructions regarding the need to halt work in the vicinity of any potential archaeological and Native American resources encountered; and measures to notify their supervisor, the applicant, and the archaeological specialist.	The WEAP shall be designed to assure that construction workers are aware of the obligation to protect and preserve valuable archaeological and Native American resources. The applicant or their designee shall submit the WEAP to the City of Pittsburg Planning Director or Director's designee for review and approval.	The applicant shall submit WEAP to the City of Pittsburg at least 60 days prior to the start of construction for review and approval.	City of Pittsburg Planning Director or Director's designee.	Review and, if the WEAP is sufficiently designed to assure that construction workers are aware of the obligation to protect and preserve valuable archaeological and Native American resources, approve the WEAP.	

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CULTURAL AND TRIBAL CULTURAL RESOURCES					
	The applicant or their designee shall provide WEAP training to all construction workers via a recorded presentation per **CUL-1**.	Prior to construction.	City of Pittsburg Planning Director or Director's designee.	Document WEAP compliance training.	Prior to construction.
CUL-2: Cultural Resources Monitoring Plan. Prior to commencement of construction, the qualified archaeological specialist will develop a Cultural Resources Monitoring Plan (CRMP) to guide the procedures and protocols of a mitigation-monitoring program that shall be implemented within the project boundaries during all ground disturbing activities. The CRMP will outline the project schedule; address the methodology for grading activity observation by the monitors; and shall include a treatment plan, based on the project mitigation measures and conditions of approval, should any cultural resources be identified. The extent	The applicant shall retain a qualified archaeological consultant who shall prepare a CRMP and submit the CRMP to the Director or Director's designee of the City of Pittsburg Planning Division for review and approval.	The CRMP shall be submitted to the City of Pittsburg at least 60 days prior to the start of construction.	City of Pittsburg Planning Director or Director's designee.	Review and, if the CRMP treatment plan is written sufficiently in accordance with **CUL-2**, approve the CRMP.	Prior to construction and/or any ground disturbing activities.

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CULTURAL AND TRIBAL CULTURAL RESOURCES					
of the monitoring program will be dependent upon the project duration and complexity of ground disturbing activities. The CRMP shall be submitted to the Director or Director's designee of the City of Pittsburg Planning Division at least 60 days prior to the start of construction for review and approval.					
CUL-3: Archaeological Monitoring. Prior to commencement of construction, the applicant will secure the services of a qualified archaeological specialist to observe all new ground disturbing activity. Additionally, if requested by a consulting tribe, the applicant will secure the services of a Native American monitor to observe¬ all new ground disturbing activity. Preference in selecting Native American monitors shall be given to members of a local consulting tribe.	The applicant shall secure the services of a qualified archaeological consultant to observe all new ground disturbing activity and, if requested by a consulting tribe, the services of a Native American monitor per **CUL-3**.	Prior to construction.	City of Pittsburg Planning Director or Director's designee.	Ensure and document compliance with **CUL-3**.	Prior to construction.
CUL-4: Unanticipated Discovery. If archaeological resources are encountered during excavation or grading of the site, all activity within	In the event of an unanticipated discovery, all activity within a	During construction, upon inadvertent discovery of any	City of Pittsburg Planning Director or Director's designee.	Review the recommendation(s) of the qualified archaeologist in	During the construction phase.

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CULTURAL AND TRIBAL CULTURAL RESOURCES					
a 100-foot radius of the find shall be stopped, the Director or Director's designee of the City of Pittsburg Planning Division shall be notified, and a qualified archaeologist will examine the find. The qualified archaeologist will evaluate the find to determine if they meet the definition of a historical, unique archaeological, or tribal cultural resource and make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits for any construction occurring within the above-referenced 100-foot radius. If the finds do not meet the definition of a historical, unique archaeological, or tribal cultural resource, no further study or protection is necessary prior to project implementation. If the find does meet the definition of a historical, unique archaeological, or tribal cultural resource, then it will be avoided by project activities. If avoidance is not feasible, adverse effects to such resources will be	100-foot radius of the find shall be stopped, the City of Pittsburg Planning Director or Director's designee shall be notified, and a qualified archaeologist will examine the finds.	archaeological resource.		accordance with CUL-4 and approve recommendations if appropriate.	
	If it is determined that the find does not meet the definition of a historical, unique archaeological, or tribal cultural resource, no further study or protection is necessary prior to project implementation. The qualified archaeologist shall notify the City of Pittsburg Planning Director or Director's designee.	During the construction phase.	City of Pittsburg Planning Director or Director's designee.	Authorize construction to resume in the vicinity of the find if the find does not meet the definition of a historical, unique archaeological, or tribal cultural resource.	During the construction phase.

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mitigated in accordance with the recommendations of the qualified archaeologist. Recommendations may include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to the Director or Director's designee of the City of Pittsburg Planning Division, Native American Heritage Commission (tribal cultural resources), and the Northwest Information Center.	If it is determined that the find does meet the definition of a historical, unique archaeological, or tribal cultural resource, then it will be avoided by project activities. If avoidance is not feasible, adverse effects to such resources will be mitigated in a report of findings documenting any data recovery. This report shall be submitted to the Director or Director's designee of the City of Pittsburg Planning Division, Native American Heritage Commission (tribal cultural resources),	During the construction phase.	City of Pittsburg Planning Director or Director's designee.	If avoidance is not feasible for a find meeting the definition of a historical, unique archaeological, or tribal cultural resource, ensure preparation of a report of findings documenting any data recovery, and Document submittal of the report to the Native American Heritage Commission (tribal cultural resources), and the Northwest Information Center.	During the construction phase.

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CULTURAL AND TRIBAL CULTURAL RESOURCES					
	and the Northwest Information Center.				
CUL-5: Treatment of Human Remains. If human remains are discovered during excavation or grading of the site or other construction activities, all activity within a 100-foot radius of the find will be stopped. The Contra Costa County Coroner shall be notified immediately and will make a determination as to whether the remains are of Native American origin or whether an investigation into the cause of death is required. If the remains are determined to be Native American, the Coroner shall notify the Native American Heritage Commission (NAHC) within 24 hours of the identification. Once the NAHC identifies the most likely descendant(s) (MLD), the descendant(s) will make recommendations regarding the treatment and disposition with appropriate dignity of the Native American human remains (including the treatment of grave goods),	Immediately stop all construction within a 100-foot radius of the discovery of human remains. Notify the Contra Costa County Coroner and the City of Pittsburg Planning Director or Director's designee.	During the construction phase. If the remains are determined to be Native American, the Coroner shall notify the Native American Heritage Commission (NAHC) within 24 hours of the identification. Once the NAHC identifies the most likely descendant(s) (MLD), the descendant(s) will make recommendations regarding the	City of Pittsburg Planning Director or Director's designee.	Ensure preparation of and authorize implementation of the treatment plan by the Secretary of the Interior-qualified archaeologist, based on the recommendations of the MLD, if the remains are determined to be of Native American origin. Ensure that a report of findings documenting any data recovery shall be submitted to the CEC and the Northwest Information Center.	During the construction phase.

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CULTURAL AND TRIBAL CULTURAL RESOURCES					
which will be implemented in accordance with section 15064.5(e) of the California Code of Regulations, Title 14. The Secretary of the Interior-qualified archaeologist will recover scientifically valuable information, as appropriate and in accordance with the recommendations of the MLD. A report of findings documenting any data recovery shall be submitted to the CEC and the Northwest Information Center.		treatment and disposition of the Native American human remains.		Authorize construction to resume in the vicinity of the find as appropriate if the remains are determined to not be of Native American origin, and the Coroner has determined that an investigation to the cause of death is not required.	

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GEOLOGY AND SOILS (PALEONTOLOGY)					
Impact 5.7-a. Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving: i. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42. ii. Strong seismic ground shaking? iii. Seismic-related ground failure, including liquefaction? iv. Landslides?					
Impact 5.7-b. Result in substantial soil erosion or the loss of topsoil?					
Impact 5.7-c. Be located on geologic units or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?					
Impact 5.7-d. Be on expansive soil, as defined in Section 1803.5.3 of the California Building Code (2022), creating substantial direct or indirect risks to life or property?*					
GEO-1. As required in the California Building Code (CBC) Sections 1803.2 to 1803.5, the project applicant shall conduct a geotechnical investigation for the project site. In accordance with the California Business and Professions Code and CBC Section 1803.1, the geotechnical investigations shall be conducted by a registered design professional. As described in the CBC Section 1803.6, the applicant shall write a geotechnical report that documents	Submit geotechnical and geohazard report to the City of Pittsburg Planning Director or Director's designee. Ensure that final design, construction, and grading follows all	Prior to approval of final design and commencement of grading and construction.	City of Pittsburg Planning Director or Director's designee.	Complete required geotechnical and geohazard investigations and write geotechnical and geohazard report. Follow all report recommendations for project final design, grading, and construction.	Prior to approval of project final design. During grading and construction.

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GEOLOGY AND SOILS (PALEONTOLOGY)					
the results from the geotechnical investigations and provides project design recommendations to mitigate geologic hazards. In accordance with the CBC Section 1803.1, the geotechnical report shall be prepared and signed by a California registered geotechnical engineer, certified engineering geologist, and a registered geophysicist, where applicable. In accordance with the CBC Section 1803.7, the geotechnical investigation report shall include a geohazards report that considers seismic hazards. The geohazard report shall identify site-specific geologic and seismic conditions that may require mitigation. The report shall recommend project design criteria to mitigate geologic and seismic hazards. The applicant shall incorporate recommendations for project design criteria into the final project design. An appropriately qualified California-certified licensed engineering geologist, in consultation with a California registered	recommendations in the geotechnical and geohazard report.				

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geotechnical engineer, shall prepare the geohazards portion of the geotechnical report.					
Impact 5.7-f. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?					
PAL-1. The applicant shall provide the Director or Director's designee of the City of Pittsburg Planning Division) with the resume, qualifications, and contact information of its paleontological resource specialist (PRS) for review and approval. The PRS's resume shall demonstrate to the satisfaction of the Director or Director's designee of the City of Pittsburg Planning Division the appropriate education and experience to accomplish the required paleontological resource tasks. The PRS's resume shall also include the names and phone numbers of references that can be contacted to verify information. As determined by the Director or Director's designee of the City of Pittsburg Planning Division, the PRS shall meet the minimum qualifications for a Qualified Professional	Secure the services of a qualified PRS and PRMs.	Prior to the start of ground disturbance activities.	City of Pittsburg Planning Director or Director's designee.	Verify qualifications of the PRS and PRMs.	Prior to the start of ground disturbance activities.

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Paleontologist as defined in the Society of Vertebrate Paleontology's Standard Procedures for the Assessment and Mitigation of Adverse Impacts to Paleontological Resources (SVP 2010). The qualifications of the PRS shall include the following: 1. A graduate degree in paleontology or geology, and/or a publication record in peer reviewed journals; and demonstrated competence in field techniques, preparation, identification, curation, and reporting in the state or geologic province in which the project occurs. An advanced degree is less important than demonstrated competence and regional experience. 2. At least three years of paleontological resource mitigation and field experience in California and at least one year of experience leading paleontological resource mitigation and field activities.					

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GEOLOGY AND SOILS (PALEONTOLOGY)					
3. Proficiency in recognizing fossils in the field and determining their significance. 4. Expertise in local geology, stratigraphy, and biostratigraphy. 5. Experience collecting vertebrate fossils in the field. The applicant shall ensure that the PRS obtains qualified paleontological resource monitors (PRMs) to monitor as they deem necessary on the project. PRMs shall have the equivalent of the following qualifications: 1. B.S. or B.A. degree in geology or paleontology and a minimum of one year of relevant paleontological resource monitoring experience in California; or 2. A.S. or A.A. in geology, paleontology, or biology and a minimum of four years of relevant paleontological resource					

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GEOLOGY AND SOILS (PALEONTOLOGY)					
monitoring experience in California; or 3. Enrollment in upper division classes pursuing a bachelor's degree or a more advanced degree in the field of geology or paleontology and a minimum of three years of relevant paleontological resource monitoring experience in California. 4. Demonstrated proficiency in recognizing various types of fossils, in collection methods, and in other paleontological field techniques. If the approved PRS is replaced prior to completion of project mitigation and submittal of the paleontological resources report (PRR), the applicant shall obtain approval for the replacement PRS. The applicant shall keep resumes on file for the qualified PRSs and PRMs. The PRM's resume shall include the names and contact information of references. If a PRM is replaced, the					

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GEOLOGY AND SOILS (PALEONTOLOGY)					
resume of the replacement PRM shall also be provided to the Director or Director's designee of the City of Pittsburg Planning Division for review and approval.					
PAL-2. The applicant shall provide the PRS and the CPM, for review and approval, maps and drawings showing the footprint of the power plant, construction laydown areas, and all related facilities. Maps shall identify all areas of the project where ground disturbance is anticipated. If the PRS requests enlargements or strip maps for linear facility routes, the applicant shall provide copies to the PRS and Director or Director's designee of the City of Pittsburg Planning Division. The site grading plan and the plan and profile drawings for the utility lines would be acceptable for this purpose. The plan drawings must show the location, depth, and extent of all ground disturbances and be at a scale between 1 inch = 40 feet (1:480) and 1 inch = 100 feet (1:1,200). If the footprint of the project or its linear facilities change, the applicant shall	Provide the PRS and Director or Director's designee of the City of Pittsburg Planning Division maps and drawings showing the footprint of the power plant, construction laydown areas, and all related facilities. Ensure the PRS and PRMs consult with the project superintendent and construction field manager at least weekly to	Prior to the start of construction. Until ground disturbance activities are complete.	City of Pittsburg Planning Director or Director's designee.	Review and approve maps and drawings showing the project footprint.	Prior to the start of construction.

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GEOLOGY AND SOILS (PALEONTOLOGY)					
provide maps and drawings reflecting those changes to the PRS and Director or Director's designee of the City of Pittsburg Planning Division. If construction of the project proceeds in phases, maps and drawings may be submitted prior to the start of each phase. A letter identifying the proposed schedule of each project phase shall be provided to the PRS and Director or Director's designee of the City of Pittsburg Planning Division. Before work commences on affected phases, the applicant shall notify the PRS and Director or Director's designee of the City of Pittsburg Planning Division of any construction phase scheduling changes. At a minimum, the applicant shall ensure that the PRS or PRM consults weekly with the project superintendent and construction field manager to confirm area(s) to be worked the following week, until ground disturbance is completed.	confirm the areas that will be worked in the following week.				

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GEOLOGY AND SOILS (PALEONTOLOGY)					
PAL-3. The applicant shall ensure that the PRS prepares a Paleontological Resources Monitoring and Mitigation Plan (PRMMP) and submits it to the Director or Director's designee of the City of Pittsburg Planning Division for review and approval. Approval of the PRMMP by the Director or Director's designee of the City of Pittsburg Planning Division shall occur prior to any ground disturbance. The PRMMP shall function as the formal guide for monitoring, collecting, sampling, and reporting activities, and may be modified with approval. The PRMMP shall be used as the basis of discussion when on-site decisions or changes are proposed. Copies of the PRMMP shall include all updates and reside with the PRS, each PRM, the project's on-site manager, and the Director or Director's designee of the City of Pittsburg Planning Division. The PRMMP shall be developed in accordance with the Society of Vertebrate Paleontology's Standard Procedures for the Assessment and	The PRS shall prepare PRMMP and submit it to Director or Director's designee of the City of Pittsburg Planning Division for review and approval.	Prior to the start of ground disturbance activities.	City of Pittsburg Planning Director or Director's designee.	Review and approve the PRMMP.	Prior to the start of ground disturbance activities.

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GEOLOGY AND SOILS (PALEONTOLOGY)					
Mitigation of Adverse Impacts to Paleontological Resources (SVP 2010). The PRMMP shall include, but not be limited to, the following: 1. Procedures for, and assurance, that those procedures would be followed in the performance and sequence of project-related tasks, such as any literature searches, pre-construction surveys, worker environmental training, field work, flagging or staking, construction monitoring, mapping and data recovery, fossil preparation and collection, identification and inventory, preparation of final reports, and transmittal of materials for curation. 2. Identification of the person(s) expected to assist with each of the tasks required by the PRMMP and these MMs. 3. A thorough discussion of the geologic units expected to be encountered, the location and depth of the units relative to the					

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GEOLOGY AND SOILS (PALEONTOLOGY)					
project when known, and the known sensitivity of those units based on the occurrence of fossils either in that unit or in correlative units. 4. An explanation of why sampling is needed, a description of the sampling methodology, and how much sampling is expected to take place and in which geologic units. This should include descriptions of the sampling procedures that shall be used for fine-grained and coarse-grained units. 5. A discussion of the locations where monitoring of project construction activities is deemed necessary, and a proposed plan for monitoring and sampling at these locations. 6. A discussion of procedures to be followed: (a) in the event of a significant fossil discovery, (b) stopping construction, (c) resuming construction, and how notifications shall be performed.					

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GEOLOGY AND SOILS (PALEONTOLOGY)					
7. A discussion of equipment and supplies necessary for collection of fossil materials and any specialized equipment needed to prepare, remove, load, transport, and analyze large-sized fossils or extensive fossil deposits. 8. Procedures to inventory, prepare, and deliver fossil materials for curation in a retrievable storage collection at a public repository or museum that meet the Society of Vertebrate Paleontology's standards and requirements for the curation of paleontological resources. 9. Identification of the institution that has agreed to receive data and fossil materials collected, requirements or specifications for materials delivered for curation and how they shall be met, and the name and phone number of the contact person at the institution.					

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GEOLOGY AND SOILS (PALEONTOLOGY)					
10. A copy of the paleontological resources MMs. 11. A copy of the daily monitoring log form.					
PAL-4. Prior to ground disturbance the applicant and the PRS shall prepare an approved Worker Environmental Awareness Program (WEAP). The WEAP shall address the possibility of encountering paleontological resources in the field, the sensitivity and importance of these resources, and legal obligations to preserve and protect those resources. The purpose of the WEAP is to train project workers to recognize palaeontologic resources and identify procedures they must follow to ensure there are no impacts to sensitive palaeontologic resources. The WEAP shall include: 1. A discussion of applicable laws and penalties under the law.	The PRS shall prepare a WEAP for Director or Director's designee of the City of Pittsburg Planning Division review and approval.	Prior to the start of ground disturbance activities.	City of Pittsburg Planning Director or Director's designee.	Review and approve the WEAP.	Prior to the start of ground disturbance activities.

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GEOLOGY AND SOILS (PALEONTOLOGY)					
2. Good quality photographs or physical examples of fossils expected to be found in units of high palaeontologic sensitivity at, or near, the project site. 3. Information that the PRS and PRM have the authority to stop or redirect construction in the event of a discovery or unanticipated impact on a paleontological resource. 4. Instruction that employees are to stop or redirect work in the vicinity of a find and to contact their supervisor and the PRS or PRM. 5. An informational brochure that identifies reporting procedures in the event of a discovery. 6. A WEAP certification of completion form signed by each worker indicating that they have received the training. 7. A sticker that shall be placed on hard hats indicating that					

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GEOLOGY AND SOILS (PALEONTOLOGY)					
environmental training has been completed. The applicant shall submit the training script and, if the applicant is planning to use a video for training, a copy of the training video, with the set of reporting procedures for workers to follow that shall be used to present the WEAP and qualify workers to conduct ground disturbing activities that could impact paleontological resources.					
PAL-5. No worker shall excavate or perform any ground disturbance activity prior to receiving -approved WEAP training by the PRS, unless specifically approved by the Director or Director's designee of the City of Pittsburg Planning Division. Prior to project ground disturbance, the following workers shall be WEAP trained by the PRS in-person: project managers, construction supervisors, foremen, and all general workers involved with or who operate ground-disturbing equipment or tools. Following the start of ground	The PRS shall provide approved WEAP training to workers.	Prior to the start of ground disturbance activities.	City of Pittsburg Planning Director or Director's designee.	Review and approve the WEAP.	Prior to the start of ground disturbance activities.

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GEOLOGY AND SOILS (PALEONTOLOGY)					
disturbing activities and after the initial WEAP training conducted prior to ground disturbance, an approved video or in-person training may be used for new employees. If a video is used a qualified trainer shall be present to monitor training and respond to questions. The training program may be combined with other training programs prepared for cultural and biological resources, hazardous materials, or other areas of interest or concern. A WEAP certification of completion form shall be used to document who has received the required training.					
PAL-6. The applicant shall ensure that the PRS and PRM(s) monitor, consistent with the PRMMP, all construction-related grading and excavation in areas where potential fossil-bearing materials were identified, both at the site and along any constructed linear facilities associated with the project. If the PRS determines full-time monitoring is not necessary in locations that were identified as	The PRS and PRMs shall monitor ground disturbing activities, consistent with the PRMMP. The PRS shall keep daily monitoring logs.	During ground disturbance activities.	City of Pittsburg Planning Director or Director's designee.	Review of daily monitoring logs.	During ground disturbance activities.

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GEOLOGY AND SOILS (PALEONTOLOGY)					
potentially fossil bearing in the PRMMP, the applicant shall notify and seek the concurrence with the Director or Director's designee of the City of Pittsburg Planning Division. The applicant shall ensure that the PRS and PRM(s) have the authority to stop or redirect construction if paleontological resources are encountered. The applicant shall ensure that there is no interference with monitoring activities unless directed by the PRS. Monitoring activities shall be conducted as follows: Any change of monitoring from the accepted schedule in the PRMMP shall be proposed in a letter or email from the PRS and the applicant to the Director or Director's designee of the City of Pittsburg Planning Division prior to the change in monitoring. The letter or email shall include the justification for the change in monitoring and be submitted to the CPM for review and approval.	If suspected fossils are encountered, workers shall halt ground disturbing activities within 50 feet of any potential fossil find. The PRS or applicant shall notify the Director or Director's designee of the City of Pittsburg Planning Division within 24 hours.				

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GEOLOGY AND SOILS (PALEONTOLOGY)					
The applicant shall ensure that the PRM(s) keep a daily monitoring log of paleontological resource activities. The name and contact information of PRM(s) and PRS who were making field observations shall be included in the daily log. The PRS may informally discuss paleontological resource monitoring and mitigation activities with the Director or Director's designee of the City of Pittsburg Planning Division at any time. The applicant shall ensure that the PRS notifies the Director or Director's designee of the City of Pittsburg Planning Division within 24 hours of the occurrence of any incidents of non-compliance with any paleontological resources MMs. The PRS shall recommend corrective action to resolve the issues or achieve compliance with the MMs. For any significant paleontological resources encountered, either the applicant or the PRS shall notify the Director or Director's designee of the					

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City of Pittsburg Planning Division within 24 hours. If the resources are encountered on a weekend or holiday, notification shall occur on the morning of the next business day. In the event construction has been stopped because of a paleontological find, such notification shall be provided as soon as practical, but not later than 24 hours after a stop work order has been issued. For excavations planned in material that is classified as having a moderate to high paleontological sensitivity prior to construction additional precautions may be required. Should excavation methods be proposed that would preclude effective monitoring and examination of paleontological resources encountered during excavation, appropriate mitigation involving education of the public about the lost resources shall be proposed in the PRMMP.					
PAL-7. The applicant shall ensure preparation of a paleontological resources report (PRR) by the	The PRS shall prepare a PRR.	After completion of ground	City of Pittsburg Planning Director or	Review and approve the PRR.	After completion of ground

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GEOLOGY AND SOILS (PALEONTOLOGY)					
designated PRS. The PRR shall be prepared following the completion of ground-disturbing activities. The PRR shall include an analysis of the collected fossil materials and related information and shall be submitted to the Director or Director's designee of the City of Pittsburg Planning Division for approval. The report shall include, but not be limited to, a description and inventory of recovered fossil materials, a map showing the location of paleontological resources encountered and the PRS's description of sensitivity and significance of those resources, and notes regarding if and how the fossil material was curated in accordance with **PAL-3**. Any portions of this report that involve any independent judgment or analysis of the earth's crust, and the rocks and other materials which compose it, must be done by or under the responsible charge of a California licensed Professional Geologist.		disturbance activities.	Director's designee.		disturbance activities.

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GEOLOGY AND SOILS (PALEONTOLOGY)					
PAL-8. The applicant, through the designated PRS, shall ensure that all components of the PRMMP are adequately performed, including collection of fossil material, preparation of fossil material for analysis, analysis of fossils, identification and inventory of fossils, preparation of fossils for curation, and delivery for curation of all significant paleontological resource materials encountered and collected during project construction. The applicant shall pay all curation fees charged by the museum for fossil material collected and curated because of paleontological mitigation. The applicant shall also provide the curator with documentation showing the applicant irrevocably and unconditionally donates, gives, and assigns permanent, absolute, and unconditional ownership of the fossil material.	The PRS shall ensure that the PRMMP is implemented and that recovered fossils are appropriately transferred to an appropriate museum for curation.	After completion of ground disturbance activities.	City of Pittsburg Planning Director or Director's designee.	Verify the PRMMP is implemented. Verify recovered fossils are appropriately transferred to an appropriate museum for curation.	After completion of ground disturbance activities.

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GREENHOUSE GAS EMISSIONS					
Impact 5.8-a. Would the project generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?					
Impact 5.8-b. Would the project conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?					
GHG-1: Use renewable diesel fuel. The applicant shall use renewable diesel for 100 percent of total energy use by the emergency backup generators and only use ultra-low sulfur diesel (ULSD) as a secondary fuel in the event of supply challenges or disruption in obtaining renewable diesel. The applicant shall provide documentation of renewable diesel supply challenges or disruptions to the director, or director's designee, of the City of Pittsburg Community and Economic Development Department within 10 calendar days of occurrence and demonstrate a good faith effort to comply with the requirement and that compliance is not practicable. The applicant shall provide an annual report of the status of procuring and using renewable diesel to the director, or director's designee, of the City of Pittsburg Community and Economic	Provide documentation to the director of the City of Pittsburg Community and Economic Development Department or director's designee to verify that renewable diesel is used for 100 percent of total energy use by the generators or demonstrate a good faith effort to comply with the requirement and that compliance is not practicable.	Following commencement of project operation then annually for the life of the project and within 10 days of renewable diesel supply disruption.	City of Pittsburg Community and Economic Development Department Director or Director's designee.	Review documentation and verify the project is using renewable diesel.	Following commencement of project operation then annually for the life of the project and within 10 days of renewable diesel supply disruption.

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GREENHOUSE GAS EMISSIONS					
Development Department demonstrating compliance with the mitigation measure.					
GHG-2: Procure carbon-free electricity supply. The applicant shall participate in PG&E's Renewable Energy Program or other renewable energy program that accomplishes the same objective as the PG&E Renewable Energy Program for 100 percent carbon-free electricity, or enter into agreement with the Pittsburg Power Company (PPC) to procure 100 percent carbon-free electricity on behalf of the project, or purchase renewable energy credits or similar instruments that accomplish the same goals of 100 percent carbon-free electricity. During operation, the applicant shall provide documentation to the director, or director's designee, of the City of Pittsburg Community and Economic Development Department of initial enrollment and shall submit annual reporting to the City documenting either continued participation in PG&E's Renewable Energy Program or documentation that	Provide documentation to the director of the City of Pittsburg Community and Economic Development Department or director's designee of enrollment and annual reporting of continued participation in PG&E's Renewable Energy Program or documentation that alternative measures continue to provide 100 percent carbon-free electricity as verified by an	Prior to local approval of project entitlements and during the operational phase.	City of Pittsburg Community and Economic Development Department Director or Director's designee.	Review documentation and verify that the project is enrolled in PG&E's Renewable Energy Program or other acceptable instrument continue to provide 100 percent carbon-free electricity.	Upon commencing project operation and annually for the life of the project.

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GREENHOUSE GAS EMISSIONS					
alternative measures continue to provide 100 percent carbon-free electricity as verified by an independent third-party auditor specializing in greenhouse gas emissions.	independent third-party auditor specializing in greenhouse gas emissions.				

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HAZARDS AND HAZARDOUS MATERIALS					
Impact 5.9-a. Would the project create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?					
HAZ-1. Prior to issuance of grading permits, a lead-based paint (LBP) visual inspection and pre-demolition survey, including sampling and testing of suspect materials, shall be conducted near former structures to assess for possible lead-in-soil due to possible use of former LBP. The survey shall be conducted by a contractor with California Department of Public Health (CDPH) Lead Related Construction (LRC) certified personnel as required by CDPH regulations. The findings of the LBP survey shall be submitted to the appropriate agencies per the requirements of the Site Management Plan (SMP).	Conduct an LBP visual inspection and a pre-demolition LBP survey near the former structures. Prepare a report of LBP survey findings and submit it to the City of Pittsburg. If lead in soil or LBP materials are identified, also submit report to the Contra Costa County Health Services Hazardous Materials Department.	Prior to issuance of grading permits, and prior to start of Project construction.	City of Pittsburg. If lead in soil or LBP is identified, Contra Costa County Health Services Hazardous Materials Department.	Review submitted documentation/ report to verify presence of LBP materials or contaminated soil onsite after pre-demolition survey.	After LBP materials and lead in soil pre-demolition survey and prior to issuance of grading permits. Prior to start of Project construction.
Impact 5.9-c. Would the project emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?					

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	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
HAZARDS AND HAZARDOUS MATERIALS					
HAZ-2. Prior to issuance of demolition or grading permits, the project applicant shall prepare a SMP to guide activities during demolition, excavation and grading, and initial construction to ensure that potentially contaminated soils and unexploded ordinance (UXO) are identified, characterized, removed, and disposed of properly. The purpose of the SMP is to establish appropriate management practices for handling impacted soil, UXO, or other materials that may be encountered during construction activities. The SMP shall be reviewed and approved by the City of Pittsburg prior to any work on the site, including prior to soil and groundwater sampling. The SMP shall be implemented during project demolition and construction and shall include, but shall not be limited to, the following components: • A detailed discussion of the site background.	Prepare and implement a SMP. Submit the SMP for review and approval to the City of Pittsburg. If no soil or groundwater contaminants exceeding applicable Environmental Screening Levels (ESLs) are identified, submit the SMP for review and approval to the City of Pittsburg. If soil or groundwater contaminants exceeding applicable ESLs are identified,	Prior to issuance of demolition or grading permits, prior to soil and groundwater sampling, and prior to the start of and during construction.	If no soil or groundwater contaminants exceeding applicable ESLs are identified, City of Pittsburg. If soil or groundwater contaminants exceeding applicable ESLs are identified, California Department of Toxic Substances Control under a Site Cleanup Program, State Water Resources Control Board (SWRCB), or the Contra Costa County Health Services Hazardous	Review and approve submitted SMP. Review submitted documentation/report of results of soil and groundwater site characterization to verify presence or absence and levels of contamination. Provide regulatory oversite for site characterization and remediation in the event of identification of contaminated soil or groundwater. Provide verification of regulatory compliance to City of Pittsburg or the Contra Costa County Health Services Hazardous Materials Department.	Prior to issuance of any grading, demolition, or building permits, prior to and during handling and removal of any identified contaminated soil or groundwater, and prior to the start of and during construction.

MITIGATION	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Local Approval Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
HAZARDS AND HAZARDOUS MATERIALS					
• Prior to any onsite work, Health and Safety Plans (HSPs) for the Project shall be prepared by all contractors and subcontractors that will be working at the project site and incorporated in the SMP. The HSPs shall be prepared by a Certified Qualified Professional (CSP), such as an industrial hygienist, Professional Engineer or Professional Geologist. The HSPs shall be specific to each of the contractors' or subcontractors' scopes of work and based upon the known environmental conditions for the site prior to project construction. The HSPs shall be updated as needed if site conditions change significantly, such as the discovery of contaminated soil or groundwater or UXO. The HSPs shall be approved by the City of Pittsburg, and implemented under the direction of a Site Safety and Health Officer. Copies of the approved HSPs shall be kept at the project site.	obtain regulatory oversight from the agency with jurisdictional authority for characterization and remediation oversite. Submit the SMP and planned remedial measures for review and approval to the oversight agency. Submit a copy of the SMP to the Contra Costa County Health Services Hazardous Materials Department. The City of Pittsburg and Contra Costa County shall notify the local school of the SMP		Materials Department.		

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HAZARDS AND HAZARDOUS MATERIALS					
• Description of soil and groundwater testing, which shall include (but not be limited to) the collection of soil samples and groundwater samples and analyses for metals, Total Petroleum Hydrocarbons • (TPH), Volatile Organic Compounds • (VOCs) and any other contaminants identified in previous environmental studies in the soil and groundwater and lead and organochlorine pesticides in the soil to verify presence of absence of remnant or unknown soil or groundwater contamination. This soil and groundwater characterization shall be performed prior to initiation of project construction. • Protocols for sampling at the site to verify or rule out vapor encroachment conditions at the former leaking underground storage tank (LUST) area and/or	findings and potential effects.				

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HAZARDS AND HAZARDOUS MATERIALS					
proposed future buildings and, if verified, procedures for mitigation or remediation of vapor encroachment conditions. Note that the location of the former LUST is currently unknown but the RWQCB is anticipated to have documentation with exhibits of the former LUST location (requires additional record request to RWQCB). • Protocols for sampling of soil and groundwater to facilitate the profiling of the soil and groundwater for appropriate off-site disposal or reuse, and for construction worker safety, dust mitigation during demolition and construction and potential exposure of contaminated soil or groundwater to future users of the site prior to project construction. • Procedures to be undertaken in the event that contamination is identified above action levels or previously unknown					

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HAZARDS AND HAZARDOUS MATERIALS					
contamination is discovered prior to or during project demolition or construction; • Notification procedures if previously undiscovered significantly impacted soil or groundwater, or free fuel product, or UXO is encountered during demolition or construction; • Procedures to be undertaken in the event that UXO is identified. • Sampling and laboratory analyses of excess soil requiring disposal at an appropriate off-site waste disposal facility; • Procedures and protocols for the safe storage, stockpiling, and disposal of contaminated soils or UXO; and • Protocols to manage groundwater, including segregation or treatment of contaminated groundwater, if necessary, that may be					

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HAZARDS AND HAZARDOUS MATERIALS					
encountered during trenching or subsurface excavation activities. • If there are no contaminants identified on the project site that exceed applicable screening levels for construction workers published by the Regional Water Quality Control Board (RWQCB), California Department of Toxic Substances Control (DTSC), or California Environmental Protection Agency, the SMP does not need to be submitted to an oversight agency and instead only needs to be submitted to the City of Pittsburg for approval prior to issuance of a grading permit and prior to conducting any demolition activities. • If contaminants are identified at concentrations exceeding applicable screening levels, the project applicant shall obtain regulatory oversight from Contra Costa County Department of Environmental Health or the DTSC under a Site Cleanup Program as					

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HAZARDS AND HAZARDOUS MATERIALS					
applicable. The SMP and planned remedial measures shall be reviewed and approved by the Contra Costa County Department of Environmental Health Hazardous Materials Compliance Division or DTSC. A copy of the SMP shall be submitted to the city of Pittsburg. Copies of the approved SMP shall be kept at the project site. • Any contaminated soils identified by testing conducted in compliance with the SMP and found in concentrations above established thresholds shall either be removed and disposed of according to California Hazardous Waste Regulations or the contaminated portions of the site shall be capped beneath the planned development under the regulatory oversight of the Contra Costa County Hazardous Materials Compliance Division or the DTSC. Contaminated soil excavated from the site shall be hauled off-site					

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HAZARDS AND HAZARDOUS MATERIALS					
and disposed of at a licensed hazardous materials disposal site.					
Impact 5.9-d. Would the project be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?					
HAZ-3. Prior to the issuance of grading permits, soil, soil gas, and/or groundwater samples shall be taken in areas where disturbance is anticipated to determine if contaminated soils or groundwater with concentrations above ESLs for construction workers and commercial users may be present due to historical uses including agricultural, shooting range, golf course, and LUST. Sampling shall be conducted per the protocols outlined in the approved project SMP. Once the soil sampling analysis is complete, a report of the findings shall be submitted to the appropriate agencies per the requirements of the SMP. Any contaminated soils identified by testing conducted in compliance with the SMP and found in concentrations above ESLs shall either be removed and disposed of according to	Conduct soil, soil gas, and/or groundwater sampling in areas of anticipated disturbance per the approved SMP. Analyze samples to assess contaminant concentrations relative to applicable ESLs. Prepare a report of the findings and submit it to the City of Pittsburg. If soil or groundwater	Prior to issuance of demolition or grading permits, and prior to start of Project construction.	If no soil or groundwater contaminants exceeding applicable ESLs are identified, City of Pittsburg. If soil or groundwater contaminants exceeding applicable ESLs are identified, California Department of Toxic Substances Control under a Site Cleanup Program, State Water Resources Control Board (SWRCB), or the Contra Costa	Review submitted documentation/report of results of soil and groundwater site characterization to verify presence or absence and levels of contamination.	Prior to issuance of demolition or grading permits. Prior to start of Project construction.

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HAZARDS AND HAZARDOUS MATERIALS					
California Hazardous Waste Regulations or the contaminated portions of the site shall be capped beneath the planned development under the regulatory oversight of the agency taking lead jurisdiction. Contaminated soil excavated from the site shall be hauled off-site and disposed of at a licensed hazardous materials disposal site.	contaminants exceeding applicable ESLs are identified, submit the report for review and approval to the Contra Costa County Health Services Hazardous Materials Department. Manage any soils exceeding applicable ESLs by either off-site disposal at a licensed hazardous waste facility or capping in place, following California Hazardous Waste Regulations and SMP guidance.		County Health Services Hazardous Materials Department.		

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HYDROLOGY AND WATER QUALITY					
Impact 5.10-a. Would the project violate water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality? **Impact 5.10-b, iii.** Would the project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or through the addition of impervious surfaces in a manner which would: Create or contribute runoff water that would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?					
HYD-1: Construction Best Management Practices. The project would be required to implement the following construction best management practices (BMPs) as part of the Storm Water Pollution Prevention Plan (SWPPP) prepared for the project to ensure construction-related water quality impacts are less than significant. • Install filter materials (such as sandbags, filter fabric, etc.) at the storm drain inlet nearest the downstream side of the project site prior to: 1) start of the rainy season; 2) site dewatering activities; or 3) street washing activities; and 4) saw cutting asphalt or concrete, or to retain any debris or dirt flowing into the City storm drain system. Filter materials shall be maintained	Apply with the local RWQCB for coverage under the NPDES General Construction Permit. Prepare required SWPPP. Implement appropriate BMPs during project construction.	Apply for General Construction NPDES Permit prior to project construction.	San Francisco Bay RWQCB, City of Pittsburg Environmental Services Department.	Submit periodic stormwater monitoring reports to RWQCB.	Monitoring timing determined by General Construction NPDES Permit and submitted SWPPP.

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HYDROLOGY AND WATER QUALITY					
and/or replaced as necessary to ensure effectiveness and prevent street flooding. Dispose of filter particles in the trash. • Create a contained and covered area on the site for the storage of bags of cement, paints, flammables, oils, fertilizers, pesticides or any other materials used on the project site that have the potential for being discharged to the storm drain system through being windblown or in the event of a material spill. • Never clean machinery, tools, brushes, etc., or rinse containers into a street, gutter, storm drain or stream. See "Building Maintenance/Remodeling" flyer for more information. • Ensure that concrete/gunite supply trucks or concrete/plaster finishing operations do not discharge wash water into street gutters or drains. • The SWPPP shall also comply with C.6 provisions under Municipal					

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HYDROLOGY AND WATER QUALITY					
Regional Stormwater permit (Order R2-2022-0018). The applicant/developer shall allow site inspections from City agencies. • The applicant/developer shall immediately report any soil or water contamination noticed during construction to the City Fire Department Hazardous Materials Division, the City of Pittsburg Environmental Services Department, the Contra Costa County Department of Health and the Regional Water Quality Control Board. • No site grading shall occur during the rainy season, between October 15 and April 15, unless approved erosion control measures are in place. • Non-storm water discharges to the City storm sewer system are prohibited. Prohibited discharges include but are not limited to the following: polluted cooling water, chlorinated or chlorinated					

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HYDROLOGY AND WATER QUALITY					
swimming pool water, hazardous or toxic chemicals, grease, animal wastes, detergents, solvents, pesticides, herbicides, fertilizers, and dirt. All discharges of material other than storm water must comply with a National Pollutant Discharge Elimination System (NPDES) Permit issued for the discharge other than NPDES Permit No. CAS612008.					

Source: California Energy Commission. Initial Study for the AVAIO Pittsburgh Backup Generating Facility. October 2025.

Appendix E

Response to Comments

Appendix E: Response to Comments

On October 14, 2025, CEC staff filed an Initial Study/Mitigated Negative Declaration (IS/MND) to the AVAIO Pittsburg Backup Generating Facility docket (24-SPPE-01). The IS/MND (SCH: 2025100607) was also submitted to the State Clearinghouse for distribution to state agencies. The IS/MND was circulated for public review from October 14, 2025, to November 13, 2025. Staff received eleven comment letters on the IS/MND, including nine letters of support. While not required, staff responses to comments received on the IS/MND from 1) California Department of Fish and Wildlife (CDFW), and 2) Contra Costa Water District (CCWD) are included in this appendix.

Letter Number	TN#	Name
1	267182	Erin Chappell, California Department of Fish and Wildlife
2	267223	Mark Seedall, Contra Costa Water District

Comment Letter 1: Erin Chappell, California Department of Fish and Wildlife

State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
(707) 428-2002
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director

November 10, 2025

Ali Jahani, Senior Environmental Planner
California Energy Commission
715 P Street
Sacramento, CA 95814
Ali.Jahani@energy.ca.gov

Subject: AVAIO Pittsburg Backup Generating Facility, Initial Study/Mitigated Negative Declaration, SCH No. 2025100607, Contra Costa County

Dear Ali Jahani:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an Initial Study/Mitigated Negative Declaration (IS/MND) from the California Energy Commission for the AVAIO Pittsburg Backup Generating Facility Project (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.[1]

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As

[1] CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

proposed, for example, the Project may be subject to CDFW's Lake and Streambed Alteration (LSA) regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

REGULATORY REQUIREMENTS

California Endangered Species Act and Native Plant Protection Act

A CESA Incidental Take Permit (ITP) must be obtained from CDFW if the Project has the potential to result in "take" of plants or animals listed under CESA or the Native Plant Protection Act (NPPA), either during construction or over the life of the Project. Under CESA, "take" means "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill." (Fish & G. Code, § 86). CDFW's issuance of an ITP is subject to CEQA and to facilitate permit issuance, any project modifications and mitigation measures must be incorporated into the CEQA document analysis, discussion, and mitigation monitoring and reporting program. If the Project will impact CESA or NPPA-listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain an ITP.

Coverage under by the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (ECCC HCP/NCCP), authorizes the incidental take of the covered species as listed in the ECCC HCP/NCCP. A list of the 28 ECCC HCP/NCCP-covered species can be found in the *East Conta Costa County HCP/NCCP Covered Species List, April 2023* (available here: https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=65726&inline).

CEQA requires a mandatory finding of significance if a project is likely to substantially impact threatened or endangered species. Pub. Resources Code, §§ 21001, subd. (c) & 21083; CEQA Guidelines, §§ 15380, 15064 & 15065.) In addition, pursuant to CEQA, the Lead Agency cannot approve a project unless all impacts to the environment are avoided or mitigated to less-than-significant levels, or the lead agency makes and supports Findings of Overriding Consideration (FOC) for impacts that remain significant despite the implementation of all feasible mitigation. FOC under CEQA, however, do not eliminate the Project proponent's obligation to comply with the Fish and Game Code.

Fully Protected Species

Fully protected species, such as white-tailed kite (*Elanus leucurus*) may not be taken or possessed at any time and no licenses or permits may be issued for their take except as follows:

- Take is for necessary scientific research;
- Efforts to recover a fully protected, endangered, or threatened species;
- Live capture and relocation of a bird species for the protection of livestock; or
- They are a covered species whose conservation and management is provided for in a Natural Community Conservation Plan (Fish & G. Code, §§ 3511, 4700, 5050, & 5515).

Specified types of infrastructure projects may be eligible for an ITP for unavoidable impacts to fully protected species if certain conditions are met (Fish & G. Code §2081.15). Project proponents should consult with CDFW early in the project planning process.

Raptors and Other Nesting Birds

CDFW has authority over actions that may result in the disturbance or destruction of active bird nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include section 3503 (regarding unlawful take, possession, or needless destruction of the nests or eggs of any bird), section 3503.5 (regarding the take, possession, or destruction of any birds-of-prey or their nests or eggs), and section 3513 (regarding unlawful take of any migratory nongame bird).

Lake and Streambed Alteration Agreement

CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et seq., for Project activities affecting river, lakes or streams and associated riparian habitat. Notification is required for any activity that may substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank (including associated riparian or wetland resources); or deposit or dispose of material where it may pass into a river, lake, or stream. Work within ephemeral streams, drainage ditches, washes, watercourses with a subsurface flow, and floodplains is generally subject to notification requirements. In addition, infrastructure installed beneath such aquatic features, such as through horizontal directional drilling, is also generally subject to notification requirements. Therefore, any impact to the mainstems, tributaries, or floodplains or associated riparian habitat caused by the proposed Project will likely require an LSA Notification. CDFW may not execute a final LSA Agreement until it has considered the IS/MND and complied with its responsibilities as a responsible agency under CEQA.

PROJECT DESCRIPTION SUMMARY

Proponent: AVAIO Digital Partners I, LLC

Objective: The objective of the Project is to construct and operate a 347,740-square-foot building that will house computer servers (Pittsburg Data Hub), and an emergency backup generating facility consisting of thirty-seven (37) 3-megawatts (MW) diesel-fired backup generators on the west side of the Pittsburg Data Hub (AVAIO Pittsburg Backup Generating Facility). The Project will include the installation of a Pacific Gas and Electric Company (PG&E) Switching Station and transmission lines, construction of site access and parking, construction of stormwater controls and infrastructure, including bioretention areas, at-grade flow-through planter boxes, and a culvert undercrossing at the proposed extension of a site access road, installation of interconnections to water and sewer pipelines, and installation of fiber connections. Primary Project activities include removal of on-site shrubs and groundcover, removal of forty-two (42) trees, site grading, demolition of existing Golf Course infrastructure that will not be reused, excavation, and construction.

Location: The Project site is located at 2232 Golf Club Road, in the City of Pittsburg, within the County of Contra Costa, State of California. The approximate project centroid is 38.012222°N, -121.909722°W.

Timeframe: Construction is expected to span a total of approximately 18 months. Construction is anticipated to begin in November 2025 and continue through May 2027.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the California Energy Commission in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document. Based on the Project's avoidance of significant impacts to biological resources with implementation of mitigation measures, including those CDFW recommends below, CDFW concludes that a MND is appropriate for the Project.

I. Mitigation Measure or Alternative and Related Impact Shortcoming

COMMENT 1: Special-Status Bats

Issue: The methods for roost surveys and implementation of protective buffers proposed in Mitigation Measure BIO-11 may not be adequate to detect and protect active bat roosts. Impacts to special-status bats may therefore still be potentially significant.

Specific Impact and Why Impact Would Occur: Implementation of Mitigation Measure BIO-11, which proposes protections only to roosts that are confirmed during pre-construction surveys, may result in the unintended disturbance or mortality of special-status bats that were undetected during pre-construction

surveys. Implementation of Mitigation Measure BIO-11 may also result in the disturbance or mortality of special-status bat species during sensitive life stages, which may have a detrimental impact upon local populations.

The Project proposes to remove a total of 42 trees to prepare the site for construction. The IS/MND indicates that trees within the Project site may offer roosting opportunities for bats, including pallid bat, western red bat, and hoary bat (section 5.4, page 35). Many species of bat, including western red bat and pallid bat, exhibit frequent roost switching behavior and may not utilize the same roost each day (Andersen & Geluso, 2018; Lewis, 1996; Collins, 2023). Mitigation Measure BIO-11 proposes to conduct surveys for roost occupancy at least two weeks before the start of work, which presents ample opportunity for potential roosts that were unoccupied during surveys to become occupied in the period prior to tree removed. It is also possible that potentially occupied roosts could remain undetected due to challenges inherent to tree roost surveys, including visual constraints posed by tree height and foliage and potential safety concerns that prevent inspection of all habitat features (Collins, 2023). Any such roosts that are undetected during surveys would remain undetected and would not be afforded the roost protections prescribed by Mitigation Measure BIO-11, potentially resulting in disturbance or mortality to special-status bats.

Even low levels of human disturbance during the maternity season can cause mothers to abandon roost sites, which may result in the mortality of young bats (Beck & Rudd, 1960). Similarly, disturbance to hibernating bats or bats that have entered torpor during the winter can result in mortality. Many bat species hibernate or enter torpor to conserve energy at a time when resources are scarce, and repeated arousal during hibernation or torpor can deplete energy reserves and reduce survival (O'Shea et. al., 1977; Boyles & Brack 2009). Though Mitigation Measure BIO-11 includes specific protections for detected maternity roosts, it does not provide specific consideration for hibernating bats. If roosts are removed or disturbed during this period, bats may be forced to expend critical energy on evasion and location of a suitable replacement roost, which may not be readily available nearby.

Evidence of Significance: Project activities that result in the mortality of bats, such as the removal of occupied bat roosts or disturbance that causes the loss of a maternity colony or hibernating colony, may be considered "take" under California Fish and Game Code (Fish & G. Code, § 86). Bats are considered non-game mammals and are afforded protection by State law from take and/or harassment (Fish & G. Code, § 4150; Cal. Code of Regs, § 251.1). Furthermore, pallid bat, western red bat, and hoary bat are all California State Species of Special Concern (SSC), a status which qualifies each as rare, threatened, or endangered species under CEQA (CEQA Guidelines, § 15380).

To minimize significant impacts: To help reduce project-related impacts to special-status bat species to less-than-significant levels, CDFW recommends that Mitigation Measure BIO-11 is updated with the following potentially feasible mitigation measures in a revised IS/MND:

Recommendation 1: *If any potential roosting habitat is identified during habitat evaluations, the following additional requirements shall apply:*

- *The removal of any trees within riparian zones or those that contain roosting habitat shall be limited to the periods from March 1 through April 15 and September 1 through October 15 to avoid disturbing roosting bats during maternity and hibernation seasons.*
- *The removal of any trees with potential roosting habitat shall occur over the course of two days to ensure that special-status bats have left potential roosting refugia. On the first day, smaller limbs or items from the trees containing suitable roosting habitat shall be brushed back or modified in the late afternoon. This disturbance should cause any potential roosting bats to seek other roosts during their nighttime foraging. The remainder of the tree can then be further limbed or removed as needed on the second day as late in the afternoon as feasible. Tree limbing, modification, removal shall not be performed under any of the following conditions: during any precipitation events, when ambient temperatures are below 4.5 degrees Celsius, when windspeeds exceed 11 miles per hour, and/or any other condition which may lead to bats seeking refuge.*

Recommendation 2: *If tree removal cannot be avoided during sensitive maternity roosting or hibernation periods as described above, before the initiation of construction activities with the potential to disturb roosting bats, a qualified biologist shall conduct bat activity surveys to determine* ***site*** *occupancy. A qualified biologist shall have at least two years' experience conducting the survey methodology. Surveys shall be designed to maximize detection of bats, shall take into consideration seasonal and daily periods of bat activity, and shall include:*

- *Daytime visual surveys for bats and evidence of bat presence such as guano or urine staining; and*
- *Evening emergence and acoustic surveys.*

The qualified biologist shall not disturb bats during surveys. If bat presence is confirmed, the species, number of individuals, and roost type (maternity/non-maternity) shall be documented and reported to the California Natural Diversity Database (*CNDDB). Bats shall not be disturbed or relocated during the surveys.*

Recommendation 3: *If special-status bats are confirmed to use the Project site during site occupancy surveys, or if site occupancy surveys are not conducted, all trees containing potential roosting habitat shall be surveyed for* ***roost*** *occupancy immediately prior to removal and shall be removed under the direct supervision of a qualified biologist. The qualified biologist shall not disturb bats during surveys. If roosts are discovered by a qualified biologist during roost occupancy surveys or during tree removal, roosts shall be protected by buffers determined by the qualified biologist depending on the species, roost type, and type of disturbance. Maternity roosts shall not be removed unless removal cannot be avoided, and in no case shall a confirmed maternity roost be removed during the breeding/non-volant season (April – August). A qualified biologist shall develop a Bat Habitat Mitigation Plan to compensate for the loss of any roosting habitat used by special-status bat species.*

COMMENT 2: Special-Status Herpetofauna and Other Small Wildlife

Issue: The IS/MND evaluates potential impacts to special-status species resulting from Project operation including noise, lighting, increased human presence, site maintenance, transmission lines, and nitrogen deposition on nitrogen-sensitive habitats; however, the IS/MND does not evaluate potential impacts to wildlife from storm drain and road infrastructure associated with the Project (section 5.4, page 29). Potential impacts associated with Project operations may still be potentially significant.

Specific impact: Depending upon the design of the proposed storm drains, stormwater infrastructure associated with the Project may pose a risk of entrapment to small wildlife species, including California tiger salamander (*Ambystoma californiense*), California red-legged frog (*Rana draytonii*), and northwestern pond turtle (*Actinemys marmorata*). Semi-aquatic and terrestrial wildlife may inadvertently wander onto Project roadways or into stormwater infrastructure and become trapped, leading to subsequent mortality as a direct result of Project operations.

Why impact would occur: The Project proposes to construct road and stormwater infrastructure adjacent to aquatic features which, according to the IS/MND, may support wildlife including California tiger salamander, California red-legged frog, and northwestern pond turtle (section 5.4, page 7). Curbs, sidewalks, and drainage systems, such as those proposed within the Project site adjacent to the existing drainage, can act as strong barriers for small animals trying to cross the road and exit the roadway (Ratzel, 1993). Individuals migrating to breeding or hibernation sites may be forced to cross roads, follow curbs, and crawl over roadside drains (Smith & Sutherland, 2014). Individuals blocked from leaving the roadway may be at risk of mortality due to traffic or prolonged exposure to predators, or they may need to expend additional resources to find an exit far from the original destination.

Additionally, should individuals enter storm drain inlets or catch basins when passing over them, smooth walls may prevent their escape and lead to their subsequent mortality.

Evidence impact would be significant: CEQA Guidelines state that an Initial Study must consider all phases of a Project when evaluating its impact on the environment, including operational phases (Cal. Code Regs. Title 14, §15063). If impacts to special-status species resulting from storm drain and roadway infrastructure are not evaluated, such impacts may still be potentially significant.

The IS/MND indicates that the Project site, in its current condition, has the potential to support California tiger salamander, a threatened species under the CESA, and California red-legged frog and northwestern pond turtle, two California State SSC. The listing status of these three species qualifies each as a rare, threatened, or endangered species under CEQA (CEQA Guidelines, § 15380). If installation of road and storm water infrastructure associated with the Project has the potential to substantially degrade the quality of the environment; substantially reduce the habitat of a fish or wildlife species; cause a fish or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; or substantially reduce the number or restrict the range of an endangered, rare or threatened species, such potential impacts would be considered mandatory findings of significance.

To minimize significant impacts: CDFW recommends the following potentially feasible mitigation measures to reduce potentially significant adverse impacts to wildlife, including California tiger salamander, California red-legged frog, and northwestern pond turtle:

Wildlife-Friendly Roadside Curb Design and Construction. Curbs adjacent to storm drains shall be offset by a distance sufficient to allow volitional passage for wildlife around the storm drains. Curbs on the edge of any road, sidewalk, or trail within jurisdictional areas of this Agreement shall be slanted at no more than a 45-degree angle; alternatively, slanted sections shall be provided at regular intervals of no more than 100 linear feet.

Wildlife-Friendly Storm Water Infrastructure Designs and Construction. Storm water-related infrastructure (e.g., storm drains, storm drain grates, v-ditches, catchment basins, and/or detention basins) shall be designed and constructed in a manner that minimizes and avoids take of wildlife to the maximum extent feasible. Designs shall include the following measures:

- *Storm drain grates shall be offset from any adjacent curb by a distance that will allow for volitional passage of wildlife to go around the grate, along the curb.*
- *Openings in storm drain grates shall be no more than 16 mm in width or as narrow as feasible to allow necessary water throughput while preventing wildlife from entering.*
- *Catchment basins and drop inlets shall be fitted with escape ramps or ladders that will allow wildlife to volitionally escape. Ramps and/or ladders shall be placed along a wall of the catchment basin and must span the distance from the lowest point in the basin (sump pit) to the grate covering. Ramps and/or ladders shall be placed at a slope no steeper than 45 degrees. Escape ramps or ladders shall be fashioned from perforated metal sheeting covered with an open structured synthetic matting material that will allow for sufficient traction for wildlife to volitionally escape from the catchment basin if entrained. Alternatively, catchment basins shall be designed to have walls that are slanted outward and the walls shall be covered with open structured synthetic matting material together with an escape ramp or ladder that allows for volitional escape of wildlife.*
- *Vehicle entry/exit points of access to the detention basins shall have crossing structures installed (e.g., grated trenches) to prevent road mortality of wildlife.*
- *Detention basin outfall structures shall have one-way gates installed (e.g., flapper gates) or similar devices that will serve to prevent wildlife from entering the basin via the structure.*

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special-status species and natural communities detected during Project surveys to the CNDDB. The CNDDB field survey form can be filled out and submitted online at the following link: https://wildlife.ca.gov/Data/CNDDB/Submitting-Data. The types of information reported to CNDDB can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Plants-and-Animals.

ENVIRONMENTAL DOCUMENT FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the

Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental document filing fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

CDFW appreciates the opportunity to comment on the IS/MND to assist the California Energy Commission in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Torrey Soland, Environmental Scientist, at (707) 266-2878 or Torrey.Soland@wildlife.ca.gov; or Sara Kern, Senior Environmental Scientist, (Supervisory) at (916) 531-4465 or Sara.Kern@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Erin Chappell
B77E9A6211EF486...

Erin Chappell
Regional Manager
Bay Delta Region

ec: Office of Land Use and Climate Innovation, State Clearinghouse, Sacramento

REFERENCES

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Comment Letter 1 Summary:

CDFW states that an MND is appropriate for the project; identifies issues with the adequacy of proposed mitigation measures for special-status bats; identifies that the IS did not evaluate potential impacts to wildlife (specifically herpetofauna and other small wildlife) from storm drain and road infrastructure associated with the project; recommends revisions to mitigation measures in the IS/MND to reduce potentially significant adverse impacts to wildlife, including California tiger salamander, California red-legged frog, and northwestern pond turtle.

Response to Comment Letter 1:

COMMENT 1-1: CEC staff acknowledges CDFW's concerns regarding the proposed requirements of Mitigation Measure (MM) **BIO-11**, and that the proposed measure may not be adequate to fully detect and protect active bat roosts during tree removal activities. In response, CEC staff agrees to include the recommended mitigation measures from the CDFW comment letter "Recommendation 1" in existing MM **BIO-11** to further avoid or minimize these impacts, where feasible.

The IS, specifically Mitigation Measure **BIO-11** in section 5.4 Biological Resources and in the Mitigation Monitoring and Reporting Program (MMRP), has been updated to specify:

- The removal of any trees within riparian zones or those that contain roosting habitat should be limited to the periods from March 1 through April 15 and September 1 through October 15 to avoid disturbing roosting bats during maternity and hibernation seasons, to the extent feasible.
- The removal of any trees with potential roosting habitat shall occur over the course of two days to ensure that special-status bats have left potential roosting refugia. On the first day, smaller limbs or items from the trees containing suitable roosting habitat shall be brushed back or modified in the late afternoon. This disturbance should cause any potential roosting bats to seek other roosts during their nighttime foraging. The remainder of the tree can then be further limbed or removed as needed on the second day as late in the afternoon as feasible. Tree limbing, modification, removal shall not be performed under any of the following conditions; during any precipitation events, when ambient temperatures are below 4.5 degrees Celsius (40.1 degrees Fahrenheit), when windspeeds exceed 11 miles per hour, and/or any other condition which may lead to bats seeking refuge.

For "Recommendation 2", CEC staff also agrees to include the recommended mitigation measure as part of Mitigation Measure **BIO-11** to further avoid or minimize impacts to bats. The IS already included a proposed measure that required, "a City and CDFW-approved biologist shall conduct focused surveys for roost occupancy. These shall be conducted at least 2 weeks prior to the start of work and shall include daytime visual surveys for bats and evidence of bat presence such as guano or urine staining and

evening emergence and acoustic surveys". Staff understands CDFW concerns that focused surveys conducted at least 2 weeks prior to the start of work could leave ample time for potential roosts to become occupied. In addition, the original proposed measure did not include the biologist's experience expectations and therefore the mitigation measure has been updated as follows:

- If tree removal cannot be avoided during sensitive maternity roosting or hibernation periods as described above, before the initiation of construction activities with the potential to disturb roosting bats, a qualified biologist shall conduct bat activity surveys to determine site occupancy. A qualified biologist shall have at least two years' experience conducting the survey methodology. Surveys shall be designed to maximize detection of bats, shall take into consideration seasonal and daily periods of bat activity, and shall include:

CDFW "Recommendation 3" has been reviewed, and CEC staff determined that the referenced mitigation measure already adequately addressed CDFW's comment. CEC staff added the word "qualified" before "biologist," but made no other changes. (See Final IS/MND, Section 5.4, Biological Resources.)

COMMENT 1-2: CEC staff reviewed CDFW's concerns regarding potential impacts to wildlife, particularly herpetofauna (e.g., California tiger salamander, California red-legged frog, and northwestern pond turtle). Specific concerns include risk of entrapment and subsequent mortality in storm drains and road infrastructure. While participation in the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (ECCC HCP/NCCP) allows for incidental take of covered species in accordance with the ECCC HCP/NCCP's terms, CEC staff acknowledges CDFW's concerns and has added the recommended design measures to the Final IS/MND as Mitigation Measures **BIO-14** and **BIO-15** to further avoid or minimize impacts. The measures are specified as follows:

BIO-14: Wildlife-Friendly Curb Design and Construction. Curbs adjacent to storm drains shall be offset by a distance sufficient to allow volitional passage for wildlife around the storm drains. Curbs on the edge of any road, sidewalk, or trail within the project area shall be slanted at no more than a 45-degree angle; alternatively, slanted sections shall be provided at regular intervals of no more than 100 linear feet.

BIO-15: Wildlife-Friendly Storm Water Infrastructure Designs and Construction. Storm water-related infrastructure (e.g., storm drains, storm drain grates, v-ditches, catchment basins, and/or detention basins) shall be designed and constructed in a manner that minimizes and avoids take of wildlife to the maximum extent feasible. Designs shall include the following measures; however, compliance with this mitigation measure is contingent upon the existence of the necessary structures:

- Storm drain grates shall be offset from any adjacent curb by a distance that will allow for volitional passage of wildlife to go around the grate, along the curb.

- Openings in storm drain grates shall be no more than 16 mm (0.6 inches) in width or as narrow as feasible to allow necessary water throughput while preventing wildlife from entering.
- Catchment basins and drop inlets shall be fitted with escape ramps or ladders that will allow wildlife to volitionally escape. Ramps and/or ladders shall be placed along a wall of the catchment basin and must span the distance from the lowest point in the basin to the grate covering. Ramps and/or ladders shall be placed at a slope no steeper than 45 degrees. Escape ramps or ladders shall be fashioned from perforated metal sheeting covered with an open structured synthetic matting material that will allow for sufficient traction for wildlife to volitionally escape from the catchment basin if entrained. Alternatively, catchment basins shall be designed to have walls that are slanted outward and the walls shall be covered with open structured synthetic matting material together with an escape ramp or ladder that allows for volitional escape of wildlife.
- Vehicle entry/exit points of access to the detention basins shall have crossing structures installed (e.g. grated trenches) to prevent road mortality of wildlife.
- Detention basin outfall structures shall have one-way gates installed (e.g. flapper gates) or similar devices that will serve to prevent wildlife from entering the basin via the structure.

After consideration of public comments, minor revisions/additions to mitigation measures **BIO-11, BIO-14** and **BIO-15** have been included in the Final IS/MND, as summarized above. The SPPE Applicant has indicated to CEC that it will fully implement the revised and additional mitigation measures.

Per 14 Cal Code Regs § 15073.5 (c)(2), new mitigation measures may be adopted in response to public comments on environmental impacts already identified in the negative declaration without the need for recirculation. See also *Long Beach Sav. & Loan Ass'n v Long Beach Redev. Agency* (1986) 188 Cal. App. 3d 249, 262 (recirculation of a negative declaration not required when an agency adds minor mitigation measures in response to public comment). MM **BIO-11** in the IS/MND proposed mitigation measures for special-status bats. After public comments, CEC staff has updated **BIO-11** in the Final MND to include additional mitigation measures to further avoid or minimize impacts to bats. The IS/MND previously identified potential impacts for special-status bats and mitigation measures to reduce those impacts to less than significant levels. The additional minor mitigation measures added in response to public comments, therefore, do not trigger the need for recirculation.

Similarly, MM **BIO-14** and **BIO-15** were added to the Final IS/MND in response to public comments. While **BIO-4** proposed mitigation measures for species including the California tiger salamander, California red-legged frog, and northwestern pond turtle, the commentor pointed out that additional mitigation measures could provide enhanced protections for those species. The CEC staff, in response to public comment, have

added design measures as MM **BIO-14** and **BIO-15** regarding these concerns. As the IS/MND already identified potential impacts to these species, the addition of minor mitigation measures in response to public comment to the Final IS/MND does not trigger the need for recirculation.

Comment Letter 2: Mark Seedall, Contra Costa Water District

CONTRA COSTA WATER DISTRICT

November 13, 2025

Ali Jahani, Project Manager
Siting, Transmission and Environmental Protection Division
California Energy Commission
715 P Street
Sacramento, California 95814

Subject: AVAIO Pittsburg Backup Generating Facility (24-SPPE-01)

Dear Ali Jahani:

The following are comments from the Contra Costa Water District (CCWD) on the Initial Study/Mitigated Negative Declaration for the proposed AVAIO Pittsburg Backup Generating Facility (Project) in the City of Pittsburg. The 135-foot Contra Costa Canal right-of-way (Canal), which is owned by the U.S. Bureau of Reclamation (Reclamation) and operated and maintained by CCWD, is adjacent to the Project site and bisects the proposed Pittsburg Technology Park. On the north side of the Canal within the Reclamation right of way CCWD owns and operates the 42-inch Multipurpose Pipeline. The Contra Costa Canal and Multipurpose Pipeline provide most of the untreated and treated fresh water supply for approximately 550,000 people within Central and Eastern Contra Costa County.

CCWD has reviewed the proposed project and has the following comments:

1. CCWD understands that the Pittsburg Data Hub will be installing thirty-seven 3-megawatt back-up diesel generators in support of a 92-megawatt power demand that cannot be curtailed at any time. The site will require approximately 192,000 gallons of diesel fuel storage for a single day of backup power generation. CCWD understands that refueling the generators would take place from the south side of the generators closest to the Contra Costa Canal and that each generator will have its own fuel tank. CCWD wants to make sure that no diesel fuel escapes from the site and gets into the Canal and is concerned that the number of individual tanks that need to be filled greatly increases the possibility of a spill. CCWD recommends that all the diesel generators and fuels tanks are contained within a bermed area to better manage a spill event.
2. The Pittsburg Data Hub requires an extension of Golf Club Road that would cross the Contra Costa Canal and Multipurpose Pipeline (MPP) to access future phases of project development and to extend various utilities to those future phases. CCWD is still working with the Pittsburg Data Hub proponents to address the details of the road widening and utilities that will cross the Canal right-of-way. Since

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this road and utilities will cross Reclamation's right-of-way at the Contra Costa Canal, issuance of an easement from Reclamation is necessary. National Environmental Policy Act (NEPA) compliance is required before this easement can be obtained. To obtain NEPA approval from Reclamation will require compliance with Section 106 of the National Historic Preservation Act as well as Endangered Species Act (ESA) review.

3. CCWD understands that the U.S. Army Corps of Engineers (USACE) has jurisdiction over wetlands impacted within the Backup Generating Facility project area. Coordination between Reclamation and USACE is recommended to determine the lead federal agency for this Project and to help streamline Section 106 and ESA review. CCWD does not believe there are any ESA issues within the Canal right-of-way. However, the Canal is a historic resource under Section 106 and will require State Historic Preservation Office (SHPO) review before Reclamation can approve the NEPA action.
4. Drainage associated with the Project should be directed to an appropriate storm drain system that avoids CCWD property and facilities.
5. Per CCWD's Code of Regulations, security fencing is required to be installed along the Canal right-of-way boundary line. Standard security fencing is a six-foot-high chain-link fence.
6. CCWD needs to have a complete understanding of the proposed utilities that will be installed within the Canal right-of-way including the new power lines. CCWD needs to ensure that it can perform all required short- and long-term maintenance for the Canal and Multipurpose Pipeline following completion of the new road and utilities.

For any questions or clarifications on CCWD's comments, please contact mseedall@ccwater.com or at 925 688-8119.

Sincerely,

Mark Seedall

Mark Seedall
Principal Planner

Cc: Matt Holt, CCWD Senior Engineer
Jewel Jacobson, CCWD Real Property Agent

Comment Letter 2 Summary:

Conta Costa Water District (CCWD) provided comments concerning the Contra Costa Canal along the southwest perimeter of the project. The chief concerns include a possible diesel release from fuel tanks for the backup generators, encroachments to the canal right-of-way, road and utility crossings, historical significance of the canal, stormwater drainage, and security. Some of these comments appear to be directed toward future phases of the Pittsburg Technology Park Specific Plan and not the current Pittsburg Data Hub project (Phase I).

Response to Comment Letter 2:

COMMENT 2-1: The finish grade elevation of the generator pad is 104 feet and the top of the canal berm is 120 feet in elevation. The canal is approximately 16 feet higher than the AVAIO Pittsburg Backup Generating Facility tank pad. The diesel storage tanks are double walled with leak detection monitors, in compliance with the Aboveground Petroleum Storage Act and do not require secondary containment. The monitoring system is electronically linked to audible and visual alarms that immediately alert personnel to ensure a prompt response if a leak is detected. In the unlikely event of a diesel release, a diesel spill would flow away from the canal toward the lower-lying project site. The SPCC plan would be implemented in the event of a hazardous materials spill (i.e., fuel, coolant, oil). The facility would have spill kits readily available and worker training would be conducted as described pursuant to the SPCC Plan. Initial response to a spill would be to prevent discharge offsite and would include covering any storm drains nearby or creating berms/barriers and reporting internally and/or externally as required. To further minimize the potential of diesel fuel encountering stormwater, to the extent feasible, fueling operations would be scheduled at times when storm events are improbable. No revisions to the IS/MND's findings are warranted by the comment.

COMMENT 2-2: The extension of Golf Club Road and associated utilities that CCWD has identified are not part of the AVAIO Pittsburg Backup Generating Facility project. The Preliminary Composite Utility Plan (Drawing C5.0), included in Appendix A (TN 254728), shows that utilities and Golf Club Road would not cross the Contra Costa Canal, and therefore that no such easement would be required for this project. One of the largest existing crossings occurs where the PG&E transmission corridor intersects the Canal; this crossing predates the project and is not part of the project design. Finally, to the extent any review would be required under the National Environmental Policy Act (NEPA), approval of the IS/MND would not preclude such review. No revisions to the IS/MND's findings are warranted by the comment.

COMMENT 2-3: Section 5.5 of the IS/MND acknowledges that the Contra Costa Canal is a historic property for the purposes of Section 106 of the National Historic Preservation Act. Section 5.5 also identifies the Contra Costa Canal as a historical resource for the purposes of CEQA. The proposed project would create minor changes

in the Contra Costa Canal's historic integrity of setting, resulting in a less-than-significant impact. The proposed project would not include a bridge over the Contra Costa Canal. Finally, to the extent any review would be required under NEPA, approval of the IS/MND would not preclude such review. No revisions to the IS/MND's findings are warranted by the comment.

COMMENT 2-4: The Contra Costa Canal is situated at a significantly higher elevation than the AVAIO Pittsburg Backup Generating Facility project site, and stormwater would drain away from the canal. With the generator pad at a finished grade of 104 feet and the canal berm reaching approximately 120 feet, stormwater would naturally drain away from the canal toward the lower-lying project site and not the other way around. No revisions to the IS/MND's findings are warranted by the comment.

COMMENT 2-5: In the AVAIO SPPE Application Main Application and Appendix A - PBGF - Part I (TN 254728) (Section 2.3.3 – Project Substation), the applicant notes that an eight-foot-high chain chain-link fence would enclose three sides of the substation, with the fourth side shared with the PG&E switching station enclosure. This exceeds the CCWD minimum height requirement and is sufficient for compliance. No revisions to the IS/MND's findings are warranted by the comment.

COMMENT 2-6: As stated in the response to Comment 2-2, Appendix A shows that utilities and Golf Club Road would not cross the Contra Costa Canal for the AVAIO Pittsburg Backup Generating Facility project. No revisions to the IS/MND's findings are warranted by the comment.