

# Mitigation Monitoring and Reporting

## Chapter 8

The Mitigation Monitoring and Reporting Program (MMRP) has been prepared in compliance with State law and the Environmental Impact Report (EIR) (State Clearinghouse No. 2014071069) prepared for the project by the County of Tulare.

The California Environmental Quality Act (CEQA) Section 21081.6 requires adoption of a reporting or monitoring program for those measures placed on a project to mitigate or avoid adverse effects on the environment.<sup>1</sup> The law states that the reporting or monitoring program shall be designed to ensure compliance during project implementation. The Mitigation Monitoring and Reporting Program contains the following elements:

- **Action and Procedure.** The mitigation measures are recorded with the action and procedure necessary to ensure compliance. In some instances, one action may be used to verify implementation of several mitigation measures.
- **Compliance and Verification.** A procedure for compliance and verification has been outlined for each action necessary. This procedure designates who will take action, what action will be taken and when, and to whom and when compliance will be reported.
- **Flexibility.** The program has been designed to be flexible. As monitoring progresses, changes to compliance procedures may be necessary based upon recommendations by those responsible for the Mitigation Monitoring and Reporting Program. As changes are made, new monitoring compliance procedures and records will be developed and incorporated into the program.

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<sup>1</sup> Public Resource Code §21081.6

**Table 8-1**  
**Mitigation Monitoring Reporting Program**

Mitigation Monitoring Reporting Program							
Mitigation Measure		Monitoring Timing/ Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
					Initials	Date	Remarks
Aesthetics							
1-1	Landscape screening shall be placed and effectively maintained along the periphery of the Project site to sufficiently screen the Project’s structures and activities from the public right-of-way and views from State Routes 198 and 99, and Road 68. The landscaping plan depicted in Figure 3.1-5 shall be submitted to the Planning Department for review and approval prior to the issuance of building permits.	Prior to Issuance of Building Permit	Verification by County of incorporation of project design features subject to issuance of building permits	County of Tulare Planning Department			
1-2	The asphalt silo shall be painted in earth-toned colors to allow it to blend into the surrounding scenery to the fullest extent.	Prior to Issuance of Building Permit	Verification by County of incorporation of project design features subject to issuance of building permits	County of Tulare Planning Department			
Biological Resources							

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4-1	Pre-construction surveys shall be conducted to determine the presence of nesting birds if ground clearing or construction activities will be initiated during the breeding season (February 15 through September 15). Potential nesting areas on the proposed Project site and potential nesting areas within 500 feet of the site should be surveyed prior to June 5 <sup>th</sup> . Surveys shall be performed by a qualified biologist to verify the presence or absence of nesting birds. Construction shall not occur within a 500 foot buffer surrounding active nests of raptors or a 250 foot buffer surrounding active nests of migratory birds. If construction within these buffer areas is required or if nests must be removed to allow continuation of construction, then approval and specific removal methodologies should be obtained from California Department of Fish and Wildlife.	Prior to issuance of grading permits	Retention of professional biologist/ongoing monitoring/ submittal of Report of Findings, if applicable	County of Tulare Planning Department			
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4-2	All trees which are suitable for Swainson's hawk nesting that are within 2,640 feet of construction activities shall be inspected by a qualified biologist.	Prior to issuance of grading permits	Retention of professional biologist/ submittal of Report of Findings, if applicable.	County of Tulare Planning Department			
4-3	If potential Swainson's hawk nests are found during the inspection, then surveys shall be conducted at the following intensities, depending upon dates of initiation of construction:  See Pg. 3.4-16 for specific dates	Prior to issuance of grading permits	Retention of professional biologist/ ongoing monitoring/ submittal of Report of Findings, if applicable	County of Tulare Planning Department			
4-4	If Swainson's hawks are detected to be actively nesting in trees within 2,640 feet of the construction area, construction shall not occur within this zone until after young Swainson's hawks have fledged (this usually occurs by early June). The nest shall be monitored by a qualified biologist to determine fledging date.	Prior to issuance of grading permits	Retention of professional biologist/ ongoing monitoring/ submittal of Report of Findings, if applicable. Verification of take permit, if applicable.	County of Tulare Planning Department			

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4-5	If Ferruginous hawks (foraging) or other raptors are found actively nesting within 250 feet of the construction area, construction should be postponed until after young have fledged. The date of fledging should be determined by a qualified biologist. If construction cannot be delayed, the CDFW shall be consulted and alternative protection measures required by the CDFW shall be followed.	Prior to issuance of grading permits	Various Actions: Retention of professional biologist/ ongoing monitoring/ submittal of Report of Findings, if applicable. Verification of take permit if applicable.	County of Tulare Planning Department			
4-6	If other nesting birds (particularly non-raptor species listed on the MBTA) are found actively nesting within 250 feet of the construction area, construction should be postponed until after young have fledged. The date of fledging should be determined by a qualified biologist. If construction cannot be delayed within this zone, the CDFW and/or the USFWS shall be consulted and alternative protection measures required by the CDFW and/or the USFWS shall be followed.	Prior to issuance of grading permits  Ongoing monitoring during subsurface excavation	Various Actions: Retention of professional biologist/ ongoing monitoring/ submittal of Report of Findings, if applicable. Verification of take permit if applicable.	County of Tulare Planning Department			

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4-7	<p>A standardized pre-construction/pre-activity shall be conducted no less than 14 days and no more than 30 days prior to the beginning of ground disturbance and/or construction activities or any Project activity likely to impact the San Joaquin kit fox. Surveys shall identify kit fox habitat features on the Project site and evaluate use by kit fox and, if possible, assess the potential impacts to the kit fox by the proposed activity. The status of all dens shall be determined and mapped. Written results of pre-construction/pre-activity surveys must be received by the Service within five days after survey completion and prior to the start of ground disturbance and/or construction activities.</p>	<p>Prior to issuance of grading permits</p> <p>Ongoing monitoring during subsurface excavation</p>	<p>Verification of employee/operators State issued license to operate vehicle and construction equipment.</p>	<p>County of Tulare Planning Department</p>			
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4-8	Disturbance to all San Joaquin kit fox dens shall be avoided to the maximum extent possible.	Prior to issuance of grading permits	Various Actions: Retention of professional biologist/ ongoing monitoring/ submittal of Report of Findings, if applicable. Verification of take permits if applicable.	County of Tulare Planning Department			
4-9	If a natal/pupping den is discovered within the Project area or within 200-feet of the site boundary, USFWS shall be immediately notified and under no circumstances should the den be disturbed or destroyed without prior authorization. If the pre-construction/pre-activity survey reveals an active natal pupping or new information, the Project applicant shall contact USFWS immediately to obtain the necessary take authorization/permit.	Prior to issuance of grading permits  Ongoing monitoring during subsurface excavation	Various Actions: Retention of professional biologist/ ongoing monitoring/ submittal of Report of Findings, if applicable. Verification of take permit, if applicable.	County of Tulare Planning Department			

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4-10	Destruction of any den shall be accomplished by careful excavation until it is certain that no kit foxes are inside. The den shall be fully excavated, filled with dirt and compacted to ensure that kit foxes cannot reenter or use the den during the construction period.	Prior to issuance of grading permits  Ongoing monitoring during subsurface excavation	Construction Manager	County of Tulare Planning Department			
4-11	If at any point during excavation, a kit fox is discovered inside the den, the excavation activity shall cease immediately and monitoring of the den as described above shall be resumed. Destruction of the den may be completed when, in the judgment of the qualified biologist, the animal has escaped without further disturbance from the partially destroyed den.	Prior to issuance of grading permits  Ongoing monitoring during subsurface excavation	Retention of professional biologist/ archeologist/ ongoing monitoring/ submittal of Report of Findings, if applicable.	County of Tulare Planning Department			



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4-12	Project-related vehicles shall observe a daytime speed limit not to exceed 20-mph throughout the site in all proposed Project areas, except on county roads and State and Federal highways; this is particularly important at night when kit foxes are most active. Night-time construction shall be minimized to the extent possible. However if it does occur, then the speed limit shall be reduced to 10-mph. Off-road traffic outside of designated project areas shall be prohibited.	Prior to issuance of grading permits  Ongoing monitoring during subsurface excavation	Retention of professional biologist/ ongoing monitoring/ submittal of Report of Findings, if applicable.	County of Tulare Planning Department			
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4-13	<p>To prevent inadvertent entrapment of kit fox or other animals during the construction phase of the proposed Project, all excavated, steep-walled holes or trenches more than 2-feet deep shall be covered at the close of each working day by plywood or similar materials. If the trenches cannot be closed, one or more escape ramps constructed of earthen-fill or wooden planks shall be installed. Before such holes or trenches are filled, they shall be thoroughly inspected for trapped animals. If at any time a trapped or injured kit fox is discovered, the USFWS and the California Department of Fish and Wildlife shall be contacted as noted under Mitigation Measure 4-20 referenced below.</p>	<p>Prior to issuance of grading permits</p> <p>Ongoing monitoring during subsurface excavation</p>	<p>Retention of professional biologist/ ongoing monitoring/ submittal of Report of Findings, if applicable.</p>	<p>County of Tulare Planning Department</p>			
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4-14	<p>Kit fox are attracted to den-like structures such as pipes and may enter stored pipes and become trapped or injured. All construction pipes, culverts, or similar structures with a diameter of 4-inches or greater that are stored at a construction site for one or more overnight periods shall be thoroughly inspected for kit fox before the pipe is used or moved, buried, or capped in any way. If a kit fox is discovered inside a pipe, that section of pipe shall not be moved until the CFW has been consulted. If necessary, and under the direct supervision of a qualified biologist, the pipe may be moved only once to remove it from the path of construction activity, until the fox has escaped.</p>	<p>Prior to issuance of grading permits</p> <p>Ongoing monitoring during subsurface excavation</p>	<p>Retention of professional biologist/ ongoing monitoring/ submittal of Report of Findings, if applicable.</p>	<p>County of Tulare Planning Department</p>			
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4-15	All food-related trash outside of the enclosed facility such as wrappers, cans, bottles, and food scraps shall be disposed of daily in securely closed containers and removed at least once a week during both construction and operational phases.						
4-16	No pets, such as dogs or cats, shall be allowed on the Project site in order to prevent harassment, mortality of kit fox, or destruction of dens.	Prior to issuance of grading permits  Ongoing monitoring during subsurface excavation	Various Actions: Retention of professional biologist/ ongoing monitoring/ submittal of Report of Findings, if applicable. Verification of take permit, if applicable.	County of Tulare Planning Department			

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4-17	Use of rodenticides and herbicides in Project areas shall be restricted. If rodent control must be used it shall be limited to the use of zinc phosphide because of its demonstrated lower risk to kit fox.	Prior to issuance of grading permits  Ongoing monitoring during subsurface excavation	Various Actions: Retention of professional biologist/ ongoing monitoring/ submittal of Report of Findings, if applicable. Verification of take permit, if applicable.	County of Tulare Planning Department			
4-18	A representative shall be appointed by the Project Applicant to serve as the contact source for any employee or contractor who might inadvertently kill or injure a kit fox or who finds a dead, injured or entrapped kit fox. The representative will be identified during the employee education program and their name, telephone number, or other pertinent contact information shall be provided to the Service.	Prior to issuance of grading permits  Ongoing monitoring during subsurface excavation	Various Actions: Retention of professional biologist/ ongoing monitoring/ submittal of Report of Findings, if applicable. Verification of take permit if applicable.	County of Tulare Planning Department			

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4-19	<p>An employee education program shall be conducted to alert employees of potential impacts to kit fox or other species of concern. The program shall consist of a brief presentation by persons knowledgeable in kit fox biology and legislative protection to explain endangered species concerns to contractors, their employees, and military and/or agency personnel involved in the project. The program shall include the following: A description of the San Joaquin kit fox and its habitat needs; a report of the occurrence of kit fox in the Project area; an explanation of the status of the species and its protection under the Endangered Species Act; and a list of measures being taken to reduce impacts to the species during Project construction and implementation. A fact sheet conveying this information shall be prepared for distribution to the previously referenced people and anyone else who may enter the Project site.</p>	<p>Prior to issuance of grading permits</p> <p>Ongoing monitoring during subsurface excavation</p>	<p>Various Actions:</p> <p>Retention of professional biologist/ ongoing monitoring/ submittal of Report of Findings, if applicable. Verification of take permits if applicable.</p>	County of Tulare Planning Department			
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4-20	<p>Any contractor, employee, or military or agency personnel who are responsible for inadvertently killing or injuring a San Joaquin kit fox shall immediately report the incident to their representative. The Sacramento Fish and Wildlife Office and CFW shall be notified in writing within three working days of the accidental death or injury to a San Joaquin kit fox. Notification must include the date, time, and location of the incident or of the finding of a dead or injured animal and any other pertinent information. The Sacramento Fish and Wildlife Office contact is:</p> <p style="text-align: center;">Mr. Paul Hoffman 1701 Nimbus Road, Suite A, Rancho Cordova, California 95670 (530) 934-9309</p>	<p>Prior to issuance of grading permits</p> <p>Ongoing monitoring during subsurface excavation</p>	<p>Various Actions:</p> <p>Retention of professional biologist/ ongoing monitoring/ submittal of Report of Findings, if applicable. Verification of take permit, if applicable.</p>	County of Tulare Planning Department			
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4-21	<p>New sightings of kit fox shall be reported to the California Natural Diversity Database (CNDDDB). A copy of the reporting form and a topographic map clearly marked with the location of where the kit fox was observed shall also be provided to Fish and Wildlife at the address below.</p> <p style="text-align: center;">Endangered Species Division 2800 Cottage Way, Suite W2605 Sacramento, California 95825-1846</p> <p>(916) 414-6620 or (916) 414-6600</p>	<p>Prior to issuance of grading permits</p> <p>Ongoing monitoring during subsurface excavation</p>	<p>Verification by County of incorporation of project design features and issuance of building permits</p>	<p>County of Tulare Planning Department</p>			
<b><i>Cultural Resources</i></b>							



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5-1	<p>In the event that archaeological or paleontological resources are discovered during site excavation, the County shall require that grading and construction work on the project site be immediately suspended until the significance of the features can be determined by a qualified archaeologist or paleontologist. In this event, the property owner shall retain a qualified archaeologist/paleontologist to make recommendations for measures necessary to protect any site determined to contain or constitute an historical resource, a unique archaeological resource, or a unique paleontological resource or to undertake data recover, excavation analysis, and curation of archaeological or paleontological materials. County staff shall consider such recommendations and implement them where they are feasible in light of Project design as previously approved by the County.</p>	<p>Prior to issuance of grading permits</p> <p>Ongoing monitoring during subsurface excavation</p>	<p>Retention of professional paleontologist/ ongoing monitoring/ submittal of Report of Findings, if applicable</p>	<p>County of Tulare Planning and Public Works Department</p>			
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5-2	<p>The property owner shall avoid and minimize impacts to paleontological resources. If a potentially significant paleontological resource is encountered during ground disturbing activities, all construction within a 100-foot radius of the find shall immediately cease until a qualified paleontologist determines whether the resources requires further study. The owner shall include a standard inadvertent discovery clause in every construction contract to inform contractors of this requirement. The paleontologist shall notify the Tulare County Resource Management Agency and the project proponent of the procedures that must be followed before construction is allowed to resume at the location of the find. If the find is determined to be significant and the Tulare County Resource Management Agency determines avoidance is not feasible, the paleontologist shall design and implement a data recovery plan consistent with applicable standards. The plan</p>	<p>Prior to issuance of grading permits</p> <p>Ongoing monitoring during subsurface excavation</p>	<p>Retention of professional paleontologist/ ongoing monitoring/ submittal of Report of Findings, if applicable</p>	<p>County of Tulare Planning and Public Works Department</p>			
	<p>shall be submitted to the Tulare County Resource Management Agency for review and approval. Upon approval, the plan shall be incorporated into the project.</p>	<p>Chapter 8: MMRP February 2015 Page: 8-18</p>					

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5-3	<p>Consistent with Section 7050.5 of the California Health and Safety Code and (CEQA Guidelines) Section 15064.5, if human remains of Native American origin are discovered during project construction, it is necessary to comply with State laws relating to the disposition of Native American burials, which fall within the jurisdiction of the Native American Heritage Commission (Public Resources Code Sec. 5097). In the event of the accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, the following steps should be taken:</p> <ol style="list-style-type: none"> <li>1. There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until: <ol style="list-style-type: none"> <li>a. The Tulare County Coroner/Sheriff must be contacted to determine that no investigation of the cause of death is required; and</li> </ol> </li> </ol>						
	<ol style="list-style-type: none"> <li> <ol style="list-style-type: none"> <li>b.If the coroner determines the remains to be Native American: <ol style="list-style-type: none"> <li>i. The coroner shall contact the Native</li> </ol> </li> </ol> </li> </ol>	<p>Chapter 8: MMRP February 2015 Page: 8-19</p>					

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<b><i>Hazards and Hazardous Materials</i></b>							
8-1	The Project shall prepare a Hazardous Materials Business Plan for review and approval by the Tulare County Health & Human Services Agency, Environmental Health Services Division. The Plan shall be in effect prior to issuance of a building permit for the proposed expansion.	Prior to issuance of grading permits	Verification by County of approval	County of Tulare Planning Department and Tulare County Health & Human Services Agency			
8-2	Because the facility proposes an above ground storage capacity over 1,320 gallons of a petroleum based product, the site shall be required to prepare a Spill Prevention Control and Countermeasure (SPCC) plan in accordance with the U.S. Code of Federal Regulations, Title 40, Part 112 (40CFR112) prior to the final inspection of the building permit. The plan shall be submitted to the Tulare County Environmental Health Services Division. The applicant shall contact the TCEHSD's CUPA inspector at (559) 624-7400 for any additional questions.	Prior to issuance of grading permits	Verification by County of approval	County of Tulare Planning Department and Tulare County Environmental Health Services Division			
<b><i>Hydrology &amp; Water Quality</i></b>							

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9-1	The Project shall obtain a General Stormwater Industrial Facility Permit from the Central Valley Water Board, prior to obtaining building permits for the expansion. The facility operators shall prepare, retain on site, and implement a SWPPP as part of the General Stormwater Industrial Facility Permit.	Prior to Issuance of Building Permits	County Verification prior to Issuance of Grading Permit	County of Tulare Planning Department			
9-2	Existing and future leach fields should not be located under structures.	Prior to Issuance of Building Permits	County Verification prior to Issuance of Grading Permit	County of Tulare Planning Department			
9-3	New sewage disposal systems shall be designed by an Engineer, Registered Environmental Health Specialist, Geologist, or other competent persons, all of whom must be registered and/or licensed professionals knowledgeable and experienced in the field of sewage disposal system and design. The specifications and engineering data for the system shall be submitted to the TCEHSD for review and approval prior to the issuance of a building permit.	Prior to Issuance of Building Permits	County Verification prior to Issuance of Grading Permit	County of Tulare Planning Department			

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9-4	Truck and vehicle washing shall be conducted exclusively in the one location. Employees shall be instructed not to dump vehicle fluids, pesticides, solvents, fertilizers, organic chemicals, or toxic chemicals into catch basins.	Prior to Issuance of Building Permits	County Verification prior to Issuance of Grading Permit	County of Tulare Planning Department			
9-5	The Truck and Vehicle washing area shall have oil/water separators, sediment traps, and a collection sump large enough to handle all the wastewater. This wastewater shall not be discharged into the septic system.	Prior to Issuance of Building Permits	County Verification prior to Issuance of Grading Permit	County of Tulare Planning Department			
9-6	All new construction shall have water conserving fixtures (water closets, low flow showerheads, low flow sinks, etc.) New urinals shall also conserve water through waterless, zero flush, or other water conservation technique and/or technology.	Prior to Issuance of Building Permits	County Verification prior to Issuance of Grading Permit	County of Tulare Planning Department			
9-7	The proposed Project shall conform to the Tulare County Water Efficient Landscaping Ordinance.	Prior to Issuance of Building Permits	County Verification prior to Issuance of Grading Permit	County of Tulare Planning Department			
<b>Noise</b>							

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12-1	Construction and demolition activities (excluding emergency work and activities that would result in a safety concern to the public or construction workers) shall be limited to between the hours of 7:00 a.m. and 7:00 p.m. Construction and demolition activities shall be prohibited on Sundays and federal holidays.	During construction	Construction Manager	County of Tulare Planning Department			
12-2	Construction and demolition equipment shall be properly maintained and equipped with noise-reduction intake and exhaust mufflers and shrouds, in accordance with manufacturers' recommendations.	During construction	Construction Manager	County of Tulare Planning Department			

## **REFERENCES**

Public Resource Code §21081.6