

Mitigation Monitoring and Reporting Program

As a condition of approval of the West Fontana Channel Flood Control Improvement Project (Banana to Hickory) [proposed Project or Project], adopted mitigation measures shall be implemented as specified below in Table 1, the Mitigation Monitoring and Reporting Program (MMRP). The MMRP is implemented as a requirement of CEQA (Guidelines Section 15097).

This MMRP for the proposed Project will help ensure that Project objectives are achieved. The San Bernardino County Flood Control District (District) shall be responsible for administering the MMRP and ensuring that all parties comply with its provisions. The District may delegate monitoring activities to staff, consultants, or contractors. The District also will ensure that monitoring is documented through periodic reports and that deficiencies are promptly corrected. The District, or its designated environmental monitor, will track and document compliance with mitigation measures, note any problems that may result, and take appropriate action to rectify problems.

Responsibilities of the Parties

Responsibility for implementing adopted mitigation measures, and for reporting on the implementation of these measures, rests with the District. The District will have primary responsibility for ensuring that the measures are implemented and may use its monitoring authority by evaluating written reports and plans, and also by active field evaluation of activities at the project site to ensure compliance with the requirements of adopted measures.

Documentation and Reporting

This summarizes the District's documentation and reporting requirements during construction and maintenance as outlined in the MMRP (Table 1). In addition to any specific one-time submittals required in the MMRP, the District shall produce compliance reports during the maintenance period, as required by regulatory agencies that demonstrate compliance with the applicable mitigation measures; and shall also maintain documentation of compliance with the mitigation measures.

Table 1. Mitigation Monitoring and Reporting Program

MM #	Mitigation Measure and District Responsibilities	Timing	Agency Responsibilities
Biological Resources			
BIO-1	<p><u>Mitigation Measure</u> Burrowing Owl. The San Bernardino County Flood Control District (District) will assign a qualified biologist to conduct pre-construction surveys for burrowing owl and related tasks listed below. A "qualified biologist" is defined as a person with appropriate education, training, and experience to conduct such surveys and monitor Project activities. The Project Biologist will survey planned disturbance areas within the site in advance of all Project activities to determine burrowing owl presence or absence. If burrowing owls are present on the site outside of the nesting season (September 1 to January 31) and construction activities are planned at the occupied burrow or within 300 feet, then the California Department of Fish and Wildlife (CDFW) will be consulted and the Project Biologist may be authorized to exclude the burrowing owls from the site using passive exclusion methods described in the most recent CDFW staff report on burrowing owl mitigation (CDFG, 2012), or to monitor project activities to ensure no disturbance to the occupied burrow. If burrowing owls are present in or near planned work areas on the site during nesting season (February 1 through August 31), then Project activities will be either postponed until nesting is completed, or the Project Biologist will monitor activities in the vicinity of the burrowing owl and will establish a buffer as needed to avoid direct or indirect impacts to the burrowing owls or occupied burrows.</p> <p><u>District Responsibilities</u> The District will ensure that the Project biologist completes pre-construction burrowing owl surveys for all planned activities. If planned activities are outside of the nesting season (September 1 to January 31), the District will ensure that if burrowing owls are excluded they are done so in coordination with CDFW and according to the methods described in the most recent CDFW staff report. If planned activities are during the nesting season (February 1 through August 31) and burrowing owls are present, the District will ensure that Project activities are either postponed or that the Project biologist will monitor activities in the vicinity of the burrowing owl and will establish a buffer as needed to avoid direct impacts to the burrowing owls or occupied burrows.</p>	Prior to and During construction	The San Bernardino County Flood Control District, shall ensure compliance with this mitigation measure.
BIO-2	<p><u>Mitigation Measure</u> Nesting birds. Project activities that would disturb soil or vegetation will be completed outside the breeding season (i.e., no removal of potential nesting habitat from February 1 through August 31), or after a pre-construction nesting bird survey has confirmed that no active nests are located within the area to be disturbed. The Project Biologist will determine if birds are nesting in or adjacent to areas to be disturbed. If native birds are nesting on the site, then construction will be postponed until nesting is completed or the Project Biologist will designate appropriate avoidance buffers around nests to protect nesting birds. No Project related disturbance will be allowed within these buffers. The Project Biologist will remove the buffers and allow Project activities to continue once the nestlings have fledged or once the nest is no longer active.</p> <p><u>District Responsibilities</u> The District will ensure that the Project biologist (assigned in BIO-1) completes pre-maintenance nesting bird surveys for any planned activities during the nesting season (February 1 through August 31). If nesting birds are present, the District will ensure that Project activities are delayed, or that the Project biologist has designated appropriate avoidance buffers around nests. The District will ensure that no disturbance is allowed within these buffers and that they remain in place until the nestlings have fledged or once the nest is no longer active.</p>	Prior to and During construction	The San Bernardino County Flood Control District, shall ensure compliance with this mitigation measure.

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BIO-3	<p><u>Mitigation Measure</u> Pre-construction Surveys. Prior to the start of any Project activities that would disturb soils or vegetation, the Project Biologist will survey the work area to determine if coastal whiptail, San Diego desert woodrat, San Diego black-tailed jackrabbit, or any other special-status species are present. Special-status reptiles will be relocated out of harm’s way. San Diego black-tailed jackrabbit will be allowed to leave the site on their own, and San Diego woodrat will be actively encouraged to leave the site by deconstruction of their middens and exclusion fencing, if needed. The Project Biologist will be authorized by the County to temporarily halt Project activities if needed to prevent harm to any other special-status species.</p> <p><u>District Responsibilities</u> The District will ensure that the Project Biologist surveys the work area to determine if coastal whiptail, San Diego desert woodrat, San Diego black-tailed jackrabbit, or any other special-status species are present within the work area.</p>	Prior to construction	The San Bernardino County Flood Control District, shall ensure compliance with this mitigation measure
Cultural Resources			
CUL-1	<p><u>Mitigation Measure</u> Management of Unanticipated Historical Resources or Unique Archaeological Resources. Should unanticipated or inadvertent surface and/or subsurface prehistoric or historic archaeological resources, built environment, and/or tribal cultural resources, appear to be encountered during construction or maintenance activity associated with this project, then all work must halt within a 100-foot radius of the discovery until a qualified professional can evaluate the discovery. If the finds are archaeological or historic in nature, then an archaeologist, meeting the Secretary of the Interior’s Professional Qualification Standards for prehistoric and/or historic archaeology have evaluated the significance of the find. This archaeologist shall have the authority to modify the no-work radius as appropriate, using professional judgment. The following shall apply, depending on the nature of the find:</p> <ol style="list-style-type: none"> a) If the professional archaeologist determines that the find does not represent a cultural resource, then work may resume immediately and no agency notifications are required. b) If the professional archaeologist determines that the find does represent a cultural resource from any time or cultural affiliation then, depending on the nature of the discovery, appropriate treatment measures shall be developed. c) If the find represents a Native American or potentially Native American resource that does not include human remains, which may or may not include a Tribal Cultural Resource, then the archaeologist shall consult with appropriate Tribe[s] on whether or not the resource represents either a Tribal Cultural Resource or a Historical Resource, or both, and, if so, consult on appropriate treatment measures. Preservation in place is the preferred treatment, if feasible. Work cannot resume within the no-work radius until the County, through consultation as appropriate, determines that the site either: 1) is not a Tribal Cultural Resource or Historical Resource; or 2) that the treatment measures for the Tribal Cultural Resource or Historical Resource have been completed. <p><u>District Responsibilities</u> The District will ensure that if previously unidentified cultural resources are identified during construction activities, construction work within 100 feet of the find shall be halted and directed away from the discovery until a Secretary of the Interior qualified archaeologist or tribal representative assesses the significance of the resource. The District will consult with the archaeologist, State Historic Preservation Officer, any interested Tribes, and any other responsible public agency, regarding the necessary</p>	During construction and maintenance	The San Bernardino County Flood Control District, shall ensure compliance with this mitigation measure.

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CUL-2	<p>plans for treatment of the find(s) and for the evaluation and mitigation of impacts if the finds are found to be eligible to the National or California Registers, or qualify as a unique archaeological resource.</p> <p><u>Mitigation Measure</u></p> <p>Management of Unanticipated Human Remains. If the find during construction or maintenance activity includes human remains, or remains that are potentially human, the archaeologist shall ensure reasonable protection measures are taken to protect the discovery from disturbance (AB 2641). The archaeologist shall notify the San Bernardino County Coroner (per §7050.5 of the Health and Safety Code). The Coroner’s Office may be contacted at Coroner’s Division, County of San Bernardino, 175 South Lena Road, San Bernardino, California 92415 or by calling 909.387.2978. The provisions of §7050.5 of the California Health and Safety Code, §5097.98 of the California Public Resources Code, and Assembly Bill 2641 will be implemented. If the Coroner determines the remains are Native American, the Coroner will notify the NAHC by telephone within 24 hours. The NAHC will then immediately notify the person it believes to be the Most Likely Descendant (MLD) of the remains (§5097.98 of the Public Resources Code). The designated MLD will have 48 hours, from the time access to the property is granted, to make recommendations concerning treatment of the remains, in accordance with California Health and Safety Code §7050.5 and CEQA Guidelines §15064.5(e). If the landowner does not agree with the recommendations of the MLD, the NAHC can mediate (§5097.94 of the Public Resources Code). If no agreement is reached, the landowner must rebury the remains where they will not be further disturbed (§5097.98 of the Public Resources Code). This will also include either recording the site with the NAHC or the appropriate Information Center; using an open space or conservation zoning designation or easement; or recording a reinternment document with the county in which the property is located (AB 2641). Work may not resume within the no-work radius until the County, through consultation as appropriate, determines that the treatment measures have been completed to its satisfaction.</p> <p>If the Coroner determines that the remains are not of Native American origin and that the remains are from the historic-era, the County Coroner will make a recommendation as to the disposition of the remains. Construction may continue once compliance with all relevant sections of the California Health and Safety Code has been addressed and an authorization to proceed is issued by the County Coroner.</p> <p><u>District Responsibilities</u></p> <p>The District will ensure that if human remains are unearthed during maintenance activities, all work within the immediate area must cease immediately, nothing is to be disturbed, and the area must be secured. The District will ensure that the San Bernardino County Coroner’s Office is contacted in the event of human remains being unearthed during maintenance activities.</p>	During construction	The San Bernardino County Flood Control District, shall ensure compliance with this mitigation measure.
Geology and Soils			
GEO-1	<p><u>Mitigation Measure</u></p> <p>Incidental Discovery of Paleontological or Geological Resources. If any inadvertent or unanticipated finds in the shallow or lower part (20 or more feet below existing grade) of the basin during construction appear to be paleontological in nature, then a qualified paleontological Principal Investigator shall evaluate the finds and prepare a Paleontological Mitigation and Monitoring Plan (PMMP). The PMMP shall include a plan to address unanticipated Paleontological finds during construction. It shall also contain provisions for monitoring and sampling of sediments in the Banana Basin when work is more than 20 feet below street surface. The PMMP shall be prepared in accordance with all appropriate California Environmental Quality Act (CEQA) and County of San Bernardino guidelines. The PMMP shall then be adhered to for the remainder of any land disturbing activities for the project. If significant paleontological</p>	During construction	The San Bernardino County Flood Control District, shall ensure compliance with this mitigation measure.

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	<p>resources are recovered, a final report shall be written describing the geologic context of the finds, the methods employed while monitoring, the identification of the resources recovered, and the repository where the finds are curated.</p> <p><u>District Responsibilities</u></p> <p>The District will ensure that in the event of unanticipated paleontological resources or unique geologic resources being encountered during ground-disturbing, a paleontologist will be retained who meets the professional paleontologist qualifications and who will examine, identify, and record the specimen, and, if determined necessary, prepare for permanent curation at a repository.</p>		
Hydrology and Water Quality			
HYD-1	<p><u>Mitigation Measure</u></p> <p>Stormwater Pollution Prevention Plan (SWPPP). Prior to construction, the San Bernardino County Flood Control District shall prepare a Storm Water Pollution Prevention Plan (SWPPP) that includes all State Water Resources Control Board requirements as well as the following Best Management Practices (BMPs) to ensure that disturbed soils do not impact water quality downstream. The SWPPP shall include, but not be limited to, the following BMPs.</p> <p>BMP 1 Avoid Channel Work during the Rainy Season to the Greatest Extent Practicable. To the extent practicable, construction shall be avoided during the rainy season. In the Santa Ana watershed (Valley Areas), the rainy season is typically from October through April. If work must occur within the channel, water diversion structures shall be in place to protect water quality downstream.</p> <p>BMP 2 Clear Water Diversion. Should water be encountered during construction, clear water diversion structures such as diversion ditches, berms, dikes, cofferdams, slope drains, rock, gravel bags, filter fabric or turbidity curtains, drainage and interceptor swales, pipes or flumes shall be employed as needed to protect water quality downstream.</p> <p>BMP 3 Avoid Spills and Leaks. The District shall ensure that equipment operating in and near the facility is in good working condition and free of leaks. Equipment used during construction shall be parked outside of the channel. All construction staff working with heavy equipment shall have been trained in the use of the equipment and in spill containment and response for any unforeseeable accidents that may occur. A spill kit shall always be kept on-site while construction crews are working at the site. Any spills that occur shall be reported to California State Warning Center (Cal OES) at (800) 852-7550. Additionally, a copy of the Cal OES California Hazardous Materials Spill/Release Notification Guidance shall be kept on-site during construction.</p> <p>BMP 4 Concrete Washout Protocols. The District shall implement the appropriate waste management practices during on-site construction operations. Waste management practices shall be applied to the stockpiling of concrete, curing, and finishing of concrete as well as concrete washout operations. Waste management practices shall be adequate to ensure that all fluids associated with the curing, finishing, and washout of concrete shall not be discharged into any area with the potential to enter an aquatic resource. Further, all concrete waste shall be stockpiled separately from sediment and protected with erosion control measures to ensure that concrete dust and/or debris is not discharged into an aquatic resource. The District shall determine the appropriate waste management practices based on considerations of flow velocities, site conditions, availability of stockpile locations, availability of erosion control materials, construction costs, and other requirements that may be outlined within the District's MS4 permits.</p> <p>BMP 5 Location of Temporary Stockpiles and Staging Areas. Stockpile locations and staging areas shall be located within the disturbed/graded areas outside of the channel bottom. Silt fences, berms, or other methods of erosion control may be used if stockpiles are to remain in designated areas for longer than 10 days.</p> <p>BMP 6 Remove Debris. Remove litter and debris from the facility as necessary after construction is completed.</p>	Prior to and During construction	The San Bernardino County Flood Control District, shall ensure compliance with this mitigation measure.

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	<p>BMP 7 Wind Erosion. Prevent dust and wind erosion by applying water or other dust palliatives as necessary to reduce or alleviate dust nuisance generated by construction activities.</p> <p><u>District Responsibilities</u> The District will prepare a SWPPP and follow BMPs throughout construction to minimize water quality impacts downstream.</p>		
Tribal Cultural Resources			
TCR-1	<p><u>Mitigation Measure</u> Management of Unanticipated Discoveries of Tribal Cultural Resources. Appropriate consulting Tribe(s) shall be contacted, as detailed in CR-1, of any pre-contact cultural resources discovered during project implementation, and be provided information regarding the nature of the find, so as to provide Tribal input within 48 hours with regards to significance and treatment. Should the find be deemed significant, as defined by CEQA (as amended, 2018), a cultural resource Monitoring and Treatment Plan shall be created by the archaeologist, in coordination with consulting Tribe(s), and all subsequent finds shall be subject to this Plan. This Plan shall allow a monitor to be present that represents consulting Tribe(s) for the remainder of the project, should Tribe(s) elect to place a monitor on-site at the Tribe's cost.</p> <p>As necessary, and in accordance with Project-Specific consultations conducted with the NAHC and various Tribal entities in association with AB52, SB18, and/or any other legal guidelines relating to Native American consultations, the specific language noted in CR-1 and CR-2 may change to reflect Project-Specific needs and requirements.</p> <p><u>District Responsibilities</u> The District will ensure that if previously unidentified tribal cultural resources are discovered during construction activities, ground disturbing work within 100 feet of the find shall be halted and directed away from the discovery until a tribal representative authorized by the consulting tribes and a professional cultural resources specialist who meets the Secretary of the Interior's Professional Qualifications Standards for Archaeology assesses the significance of the resource. Should the finds be determined eligible to the California Register of Historical Resources or qualify as a unique archaeological resource under CEQA Section 21083.2, the appropriate consulting tribe and the District shall consult in order to discuss recommendations for the treatment of the find(s). If significant Native American historical resources, as defined by CEQA (as amended 2015), are discovered and avoidance cannot be ensured, an archaeologist qualified under the Secretary of the Interior's Professional Standards for Archaeology shall be retained to develop a cultural resource Monitoring and Treatment Plan.</p>	During construction	The San Bernardino County Flood Control District, shall ensure compliance with this mitigation measure.
TCR-2	<p><u>Mitigation Measure</u> If human remains or funerary objects are encountered during any activities associated with the project, work in the immediate vicinity (within a 100-foot buffer of the find) shall cease and the County Coroner shall be contacted pursuant to CR-2 and State Health and Safety Code §7050.5 and that code shall be enforced for the duration of the project.</p> <p><u>District Responsibilities</u> The District will ensure that if human remains or funerary objects are encountered during construction activities, ground-disturbing work within 100 feet of the find shall be halted, and the County Coroner shall be contacted.</p>	During construction	The San Bernardino County Flood Control District, shall ensure compliance with this mitigation measure.
TCR-3	<p><u>Mitigation Measure</u> Only the NAHC Designated MLD Tribal representative shall make all future decisions regarding the treatment of human remains of</p>	During construction	The San Bernardino County Flood Control District, shall ensure

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	<p>Native American origin within the response times outlined below. The MLD shall determine the disposition and treatment of Native American human remains and any associated grave goods following Native American Graves Protection and Repatriation Act (NAGPRA) protocols, and what constitutes "appropriate dignity" as that term is used in the applicable statutes and in the Tribe's customs and traditions.</p> <p>The MLD or his/her designee shall complete an inspection and provide written recommendations to the DPW and the landowner (if different from the DPW) within forty-eight (48) hours of being granted access to the site. If the descendant does not make recommendations within 48 hours, the landowner shall re-enter the remains in a secure area of the property where there will be no further disturbance. Should the landowner not accept the descendant's recommendations, either the owner or the MLD may request mediation by NAHC. According to the California Health and Safety Code, six (6) or more human burials at one (1) location constitute a cemetery (Section 8100), and willful disturbance of human remains in a cemetery is a felony (Section 7052).</p> <p><u>District Responsibilities</u></p> <p>The District will ensure that only the NAHC Designated MLD Tribal representative shall make all future decisions regarding the treatment of human remains of Native American origin.</p>		compliance with this mitigation measure.
TCR-4	<p><u>Mitigation Measure</u></p> <p>Any and all archaeological/cultural documents as related to documented tribal cultural resources created as a part of the project (isolate records, site records, survey reports, testing reports, etc.) shall be disseminated to appropriate consulting Tribe(s) in the form of an un-redacted report (containing DPR forms). The Lead Agency and/or applicant shall, in good faith, consult with the appropriate Tribe(s) until construction completion of the project and completion of any measures imposed to protect resources.</p> <p><u>District Responsibilities</u></p> <p>The District will ensure that any and all archaeological/cultural documents as related to documented tribal cultural resources created as a part of the project shall be disseminated to appropriate consulting Tribe(s) in the form of an un-redacted report, and in good faith, consult with the appropriate Tribe(s) until construction completion and any measures imposed to protect resources.</p>	During construction	The San Bernardino County Flood Control District, shall ensure compliance with this mitigation measure.
TCR-5	<p><u>Mitigation Measure</u></p> <p>The District shall obtain the services of a Tribal Monitor approved by the Gabrieleño Band of Mission Indians-Kizh Nation (<i>provided that the monitor meets the vendor requirements of the District</i>) to be present on-site during the construction phases of the project that involve any ground disturbing activities. The Tribal Monitor will complete monitoring logs on a daily basis that will provide descriptions of the daily activities, including construction activities, locations, soil, and any cultural materials identified.</p> <p><u>District Responsibilities</u></p> <p>The District will ensure that the services of a Tribal Monitor approved by the Gabrieleño Band of Mission Indians-Kizh Nation (<i>provided that the monitor meets the vendor requirements of the District</i>) are obtained to be present on-site during the construction phases of the project that involve any ground disturbing activities.</p>	During construction	The San Bernardino County Flood Control District, shall ensure compliance with this mitigation measure.