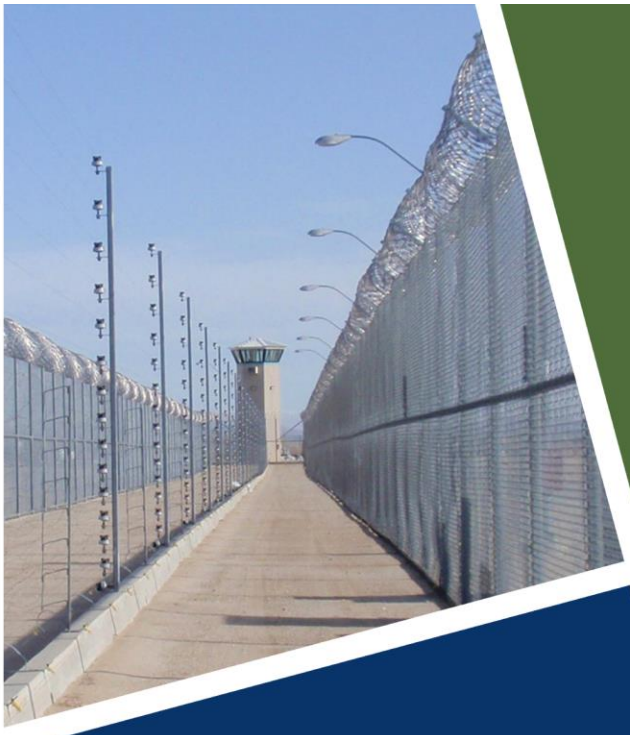

ASCENT ENVIRONMENTAL

California Department of Corrections and Rehabilitation California Health Care Facility, Stockton

2081 Permit Project

Draft Supplemental Initial Study/Proposed Mitigated Negative Declaration to the Northern California Reentry Facility and DeWitt Nelson Youth Correctional Facility EIR (2010)

(SCH#2008022133)

March 2016

PREPARED FOR:

California Department of Corrections and Rehabilitation

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Contact: Nancy MacKenzie
Environmental Planning Section
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MITIGATED NEGATIVE DECLARATION

Project: California Health Care Facility 2081 Permit

Lead Agency: California Department of Corrections and Rehabilitation

PROJECT DESCRIPTION

This Mitigated Negative Declaration (MND), supported by the attached Supplemental Initial Study (IS), evaluates the environmental effects of an incidental take permit (ITP) for Swainson's hawk due to the potential for accidental electrocution from the operation of a lethal electrified fence (LEF) at the California Health Care Facility, in Stockton, California. The project proponent, the California Department of Corrections and Rehabilitation (CDCR), has prepared the Supplemental IS/MND for the Northern California Reentry Facility (NCRF) and DeWitt Nelson Youth Correctional Facility (renamed DeWitt Nelson Correctional Annex [DNCA]) conversion projects, certified in 2010 (2010 EIR). The Supplemental IS/MND also incorporates by reference the California Health Care Facility (CHCF) Stockton project, certified in 2009 (2009 EIR).

Based on new information that was not known and could not have been known at the time the 2010 EIR was prepared, a new significant impact, the potential take of Swainson's hawk from the operation of the LEF at CHCF has been identified. CDCR will pursue an ITP under the California Endangered Species Act (CESA). No other changes to the project are considered. The Supplemental IS/MND analyzes the environmental impact of approval of a Fish and Game Code Section 2081 incidental take permit by the California Department of Fish and Wildlife (CDFW).

FINDINGS

A Supplemental IS was prepared to assess the project's potential effects on the environment and the significance of those effects. Based on the Supplemental IS, and due to environmental protection measures that CDCR has committed to before release of the proposed Supplemental MND and IS for public review, the project, with mitigation measures incorporated, would not have substantial adverse effects on the environment. This conclusion is supported by the following findings:

- The project would result in no changes to the conclusions in the Certified EIR related to aesthetics, agriculture and forest resources, air quality, cultural resources, geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, land use and planning, mineral resources, noise, population and housing, public services, recreation, transportation and traffic, and utilities and service systems.

- With the incorporation of mitigation measures, the project would result in less-than-significant impacts on biological resources.

To ensure that no potentially significant impacts occur as a result of project approval, mitigation measures identified in the Supplemental IS and Mitigation Monitoring and Reporting Program (MMRP) have been incorporated into the project to reduce potentially significant effects to a less-than-significant level. These mitigation measures include:

Biological Resources

To reduce potentially significant impacts to significant biological resources, the following mitigation measure shall be implemented:

Mitigation Measure Bio-A: Minimize mortality, provide habitat compensation, and obtain incidental take permit for Swainson's hawk.

CDCR shall obtain an ITP under CESA for Swainson's Hawk at CHCF issued by CDFW and pursuant to Fish and Game Code section 2081(b) and section 2081(c), and California Code of Regulations, title 14, subdivision 3, chapter 6, article 1, commencing with section 783. CDCR recently submitted a 2081 application to CDFW for potential take of Swainson's hawk at CHCF (see Appendix A of this document). An ITP requires that all impacts to the species are minimized and fully mitigated and that mitigation is roughly proportional to the extent of the impacts of the taking (14 CCR § 783.4). This "full mitigation" standard is intended to ensure that the status of the species is the same or better after project and mitigation implementation as it was prior to project implementation.

Implementation of the following measures will minimize or avoid take of Swainson's hawk (and other wildlife) at the LEF at CHCF and mitigate impacts to Swainson's hawk when such mortality cannot be avoided. The mitigation measures developed for the Habitat Conservation Plan (HCP) for CDCR's Statewide Electrified Fence Project shall be implemented for the LEF at CHCF to minimize the potential impact to Swainson's hawk and other native wildlife, as described in the 2010 FEIR. Consisting of a three-tiered mitigation system, the first two minimization measures shall: (1) alter the LEF perimeter to make the area less hospitable to wildlife (Tier 1) and (2) install exclusion or deterrent devices to reduce wildlife contacts with the LEF (Tier 2). Tier 3 mitigation includes habitat protection for Swainson's hawk to compensate for unavoidable mortality. All aspects of these measures involved consultation with CDFW, U.S. Fish and Wildlife Service, and technical experts during development of the HCP.

- **Tier 1: Eliminate or reduce wildlife attractants near the prison perimeter by implementing specific maintenance and operation procedures.** By making the perimeter less hospitable, wildlife will frequent this area less often, thus reducing their exposure to accidental electrocution. These measures are incorporated into a handbook (CDCR 1996b) and training module for use by each prison with a LEF. The landscape modification and urban wildlife control programs are aimed mostly at reducing the attractiveness of existing landscaping to wildlife and limiting the numbers of certain urbanized wildlife that tend to occur in large numbers at many sites. As detailed in Section 4.2 of Appendix A (2081 Permit Application), Tier 1 maintenance and operation procedures shall include minimization of vegetation in the vicinity of the LEF perimeter, minimization of standing water near the fence perimeter, timely correction of erosion gaps and spaces under fencing, proper storage of materials and waste, drainage maintenance, and removal of litter/debris.

- **Tier 2: Install exclusion and deterrent devices.** Vertical netting and anti-perching devices shall be installed at CHCF to reduce the risk of wildlife coming into contact with the LEF. Installation of three-quarter-inch mesh vertical netting enveloping both sides of the lower nine section wires of the CHCF LEF shall be installed to prevent most birds from contacting the fence. Anti-perching devices, which consist of 2- to 4-inch pieces of stiff wire connected to an aluminum base, shall be placed on the fence posts within the LEF. The anti-perching devices reduce the ability of birds to perch on the CHCF LEF, thus reducing exposure to accidental electrocutions.

- **Tier 3: Establish a permanent conservation easement for Swainson's hawk foraging habitat.** While Tier 1 and Tier 2 mitigation measures will minimize mortality of Swainson's hawk from the LEF, some mortality may still occur. Tier 3 compensatory mitigation is designed to offset this unavoidable mortality. The CHCF LEF is 13,477 feet long and 25 feet wide, for a total of 404,310 square feet or approximately 9.3 acres. CDCR shall compensate for the potential mortality of Swainson's hawk by providing a permanent conservation easement on 10 acres of high quality foraging habitat within 10 miles of CHCF and in close proximity to several documented Swainson's hawk nesting locations (see Exhibit 8 in Appendix A of this document). CDCR shall pay for the easement based on the appraised price and provide an endowment for San Joaquin County to hold and manage the easement, consistent with the County's regional habitat conservation plan (San Joaquin County Multi-Species Habitat Conservation and Open Space Plan [SJMSCP]).The funding for the 10 acres of mitigation land for the estimated Swainson's hawk mortality

shall come from funds that have been encumbered for the CHCF project. Funding is immediately available for purchase of the conservation easement.

- **Mortality Monitoring and Reporting.** Three times a year, a biologist shall visit CHCF to identify all carcasses that are collected from the LEF perimeter and stored in a freezer. The biologist shall also inspect the LEF perimeter to assess compliance with Tier 1 and Tier 2 mitigation measures. CDCR shall prepare an annual report for CDFW that includes a tally of species killed and the status of implementation of Tier 1 and Tier 2 mitigation measures. If deficiencies are observed, the report shall explain what corrective actions are being taken.

- **Measures to Ensure and Improve Performance.** To reduce wildlife mortality, CDCR shall implement the following measures at CHCF.

  1. *In-Service Training*. Biologists and CDCR Environmental Planner shall conduct an in-service training at CHCF on an annual basis, as is currently done at all other CDCR prisons with LEFs. The purpose of the training is to ensure that CDCR staff members responsible for compliance with the wildlife monitoring program at each institution are informed of measures required to reduce wildlife use of the perimeter and minimize wildlife contact with the LEF. Proper carcass retrieval and storage procedures shall also be discussed. As observed at other prisons with LEFs, the training helps improve compliance with the program requirements.

     The training program shall consist of the following elements:

     - Introduction and Description of the Monitoring and Mitigation Measures
     - Protocols for Proper Carcasses Retrieval and Storage
     - Proper Management of Tier 1 and Tier 2 Measures
     - Consequences of Improper Management and Monitoring (Corrective Action Plans)

  2. *Automated Auditing System*. CDCR shall continue to implement and maintain a preventative maintenance tracking program for routine LEF duties at CHCF. All assets associated with the LEF system and related components (including Tier 1 and Tier 2 wildlife mitigation measures) shall be entered into the State Automated Preventative Maintenance System (SAPMS), an automated facilities management system that allows CDCR facilities to generate, track, and manage its work orders for all of its assets, including labor, materials, equipment, and expense information.

  3. *Corrective Action Plans*. A Wildlife Mortality Monitoring Program Report shall be prepared after each inspection that documents wildlife mortality and compliance with Tier 1 and Tier 2 mitigation and identifies problems or recurring issues. CDCR Environmental Planning staff shall notify CHCF about any deficiencies or corrective measures they need to take to ensure compliance. If they are not complying with proper procedures in a continuous manner, CDCR Environmental Planning staff shall request that they prepare a Corrective Action Plan (CAP) to rectify the problems.

To ensure implementation of these measures, an MMRP has been made part of the condition of project approval.

Questions or comments regarding this Supplemental MND and IS may be addressed to:

Nancy MacKenzie, Chief
Environmental Planning Section
Facility Planning, Construction and Management
California Department of Corrections and Rehabilitation
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Sacramento, CA 95827
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After comments are received from the public and reviewing agencies, CDCR may (1) adopt the MND and approve the project, (2) undertake additional environmental studies, or (3) disapprove the project. If the project is approved, CDCR may proceed with project implementation.
Pursuant to Section 21082.1 of the California Environmental Quality Act, CDCR has independently reviewed and analyzed the IS and MND for the project and finds that the IS and MND reflect the independent judgment of CDCR.

I hereby approve this project:

(to be signed upon approval of the project after the public review period is complete)

Deborah Hysen
Director
Facility Planning, Construction, and Management
California Department of Corrections and Rehabilitation

Date

California Department of Corrections and Rehabilitation
California Health Care Facility, Stockton
2081 Permit Project

Draft Supplemental Initial Study/Proposed Mitigated Negative Declaration to the

Northern California Reentry Facility and DeWitt Nelson Youth Correctional Facility EIR (2010) (SCH#2008022133)

PREPARED FOR

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March 2016

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Exhibits

ACRONYMS AND ABBREVIATIONS

CCWF	Central California Women's Facility
CDCR	California Department of Corrections and Rehabilitation
CDFW	California Department of Fish and Wildlife
CESA	California Endangered Species Act
CHCF	California Health Care Facility
CHCF	combined CHCF and DNCA facilities
DEIR	Draft Environmental Impact Report
DNCA	DeWitt Nelson Youth Correctional Facility, renamed DeWitt Nelson Correctional Annex
ESA	federal Endangered Species Act
FEIR	Final Environmental Impact Report
HCP	Habitat Conservation Plan
ITP	incidental take permits
LEF	lethal electrified fence
NCRF	Northern California Reentry Facility
NCWF	Northern California Women's Facility
SJMSCP	San Joaquin County Multi-Species Habitat Conservation and Open Space Plan
USFWS	U.S. Fish and Wildlife Service
VSP	Valley State Prison

1 INTRODUCTION AND PROJECT HISTORY

The California Department of Corrections and Rehabilitation (CDCR) is the lead agency, pursuant to the Guidelines to the California Environmental Quality Act (CEQA Guidelines Section 15050) for the preparation of a Supplemental Initial Study/Proposed Mitigated Negative Declaration (Supplemental IS/MND) for the Northern California Reentry Facility (NCRF) and DeWitt Nelson Youth Correctional Facility (renamed DeWitt Nelson Correctional Annex [DNCA]) conversion projects, certified in 2010 (2010 EIR). This IS/MND also incorporates by reference the California Health Care Facility (CHCF) Stockton project, certified in 2009 (2009 EIR). This Supplemental IS/MND has been prepared by CDCR in accordance with CEQA and the CEQA Guidelines. The proposed project modification analyzed in this Supplemental IS/MND is related to CDCR seeking an incidental take permit for Swainson's hawk due to the potential for accidental electrocution from the operation of one lethal electrified fence (LEF) that encompasses both the CHCF and the DNCA in Stockton, California (Exhibit 1-1). This IS/MND incorporates by reference the 2009 EIR and supplements the 2010 EIR as both EIR's addressed operation of a LEF that now surrounds both sites. The 2010 EIR also considered operation of both fences together to provide for a more unified perimeter security operation for the adjacent prisons, and thus, the more recent EIR already evaluated the overall fence operation.

The project site is located on the grounds of the former Northern California Youth Correctional Center, a complex that once housed four separately operated youth correctional facilities. The 2009 CHCF Final Environmental Impact Report (FEIR) (SCH #2008062056) evaluated the effects of the development of a subacute medical care facility with up to 1,734 beds and a 12-foot-tall LEF that would surround the secured area. In May 2013, CDCR prepared an addendum to the 2009 CHCF EIR to consider whether additional permanent work crew (PWC) beds would result in the need for additional analysis under CEQA (SCH #2008062056). Specifically, the October 2009 Technical Memorandum identified that a PWC of 100 workers would be included in the 1,734 total beds identified in the DEIR. In the addendum, CDCR evaluated a slight reduction in health care beds, from 1,734 to 1,722, and also considered adding 96 PWC beds to the 1,722 beds, bringing the total number of beds to 1,818. This was a net increase of 84 beds to the total evaluated in the 2009 EIR.

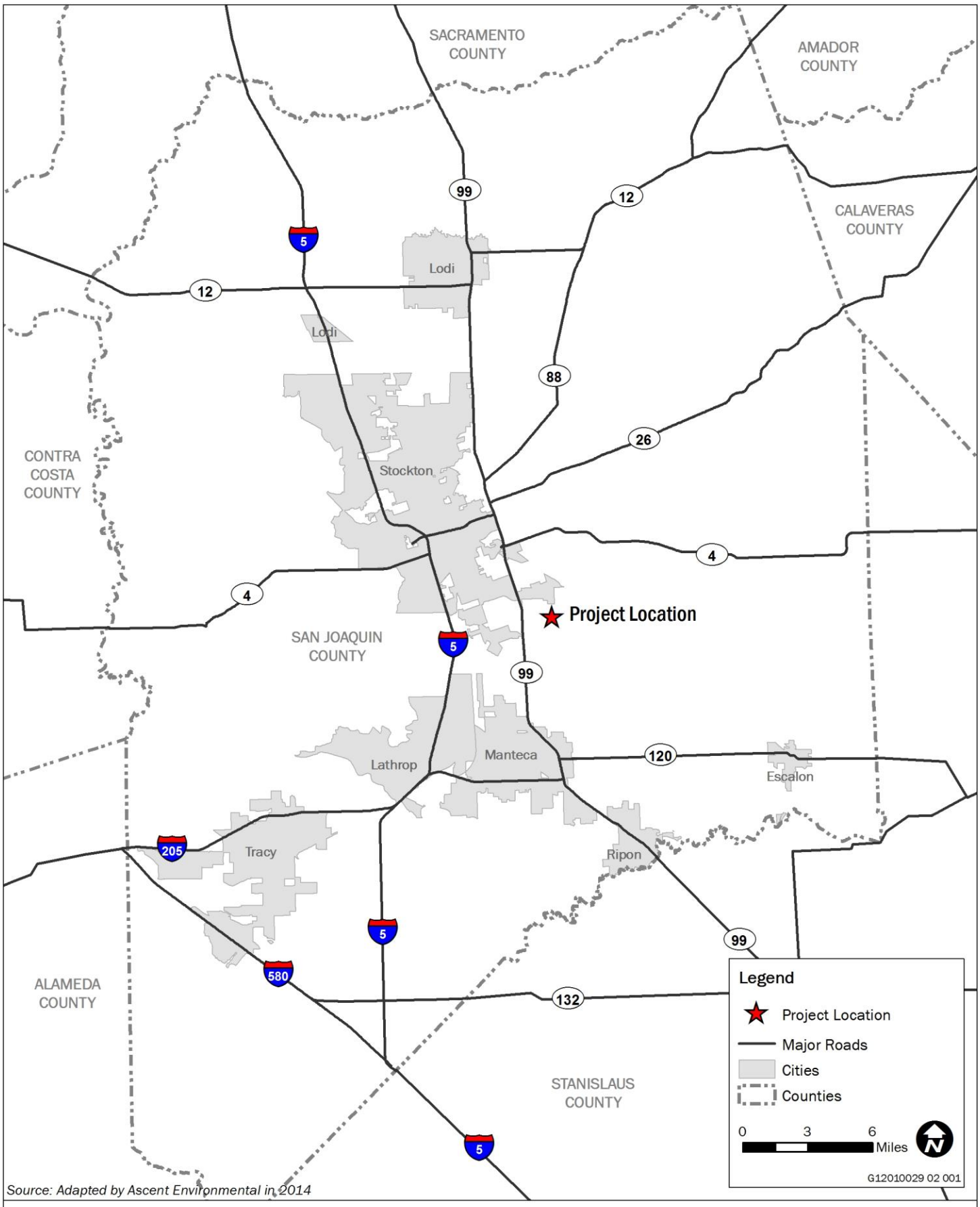
The 2010 NCRF/DNCA FEIR (SCH #2008022133) evaluated the effects of conversion and reuse of the existing DeWitt Nelson facility with a semi-autonomous adult facility that would serve mental health and medical health care needs for 1,133 adult male inmates and included a LEF, with an option to encircle both the DNCA and CHCF facilities (one fence around both) to facilitate more efficient operations between the two facilities. The NCRF conversion project component of the NCRF/DNCA project is not being considered at this time and that site (adjacent to CHCF) remains unused. Therefore, NCRF is not discussed further in this document.

Consistent with Alternative 1, Combined Perimeter Security Fence, of the 2010 FEIR, the LEF surrounds both CHCF and DNCA, which are now being managed as one facility and is hereafter referred to as one facility, CHCF. As of summer 2014, the LEF analyzed in this Supplemental IS/MND has been constructed and is in operation.

1.1 PROJECT BACKGROUND

1.1.1 Lethal Electrified Fence Program

CDCR initiated operation of its first LEF in 1993, with a prototype at Calipatria State Prison in Imperial County, and several other LEFs at other prisons throughout the state. CDCR filed a notice of exemption from CEQA for these fences, because the LEFs would be constructed on bare ground between two existing perimeter fences and no environmental impacts were expected to occur. However, upon activation of the Calipatria prototype, CDCR found that unanticipated electrocution of wildlife was occurring and initiated studies and design changes to address this issue. In 1996, CDCR completed an Environmental Impact Report (EIR) to assess impacts on wildlife resulting from operation of LEFs and to identify feasible mitigation measures (CDCR 1996a). This was called the Statewide Electrified Fence Project and included the operation of 27 LEFs at 25 prisons located throughout the state. To date, 26 of these LEFs have been constructed and activated.



Source: Adapted by Ascent Environmental in 2014

Exhibit 1-1 **Regional Location of California Health Care Facility**

Because the LEF program was new and the potential impacts were undocumented, CDCR, in consultation with U.S. Fish and Wildlife Service (USFWS) and California Department of Fish and Wildlife (CDFW), decided to seek incidental take permits for species listed under the federal Endangered Species Act (ESA) and California Endangered Species Act (CESA). CDCR prepared a Habitat Conservation Plan (HCP) for the Statewide Electrified Fence Project (CDCR 1999). USFWS, under ESA, and CDFW, under CESA, each issued to CDCR incidental take permits (ITP) covering 62 wildlife species for the 27 LEFs on June 12, 2002 (USFWS: TE058060-0; CDFW: ITP No. 2081-2001-019-10). The permits expire in 2052. The Statewide Electrified Fence Project's HCP covers mortality caused by accidental electrocution by the LEFs of species protected by ESA and CESA, and addresses other special-status species. The HCP does not cover prison construction of any kind and no habitat loss or degradation is included in the covered activities.

The approved HCP for the Statewide Electrified Fence Project includes numerous mitigation measures designed to minimize wildlife use in areas near the LEFs and to deter wildlife from making contact with the LEFs. An extensive feasibility evaluation was conducted over several years by CDCR to determine which mitigation measures were biologically effective, cost effective, and viable based on weather, security, maintenance, and operational issues. Mitigation in the HCP was organized and implemented in three tiers. Tier 1 includes operational measures designed to modify or remove habitat or other attractants to wildlife from the secured perimeter area of each prison. Tier 2 involves installing exclusion and deterrent devices on LEFs and in the perimeters. Tier 3 includes a compensatory mitigation package designed to offset the residual loss of wildlife resources at each prison as a result of electrocution risks that remain even after Tiers 1 and 2 have been implemented. The HCP also includes a wildlife mortality monitoring program. Under this program a qualified biologist visits each institution that has an operational LEF three times per year and identifies carcasses of animals collected and stored in a freezer by CDCR staff and inspects compliance with Tier 1 and Tier 2 measures. The results of this monitoring are reported on an annual basis to USFWS and CDFW.

Operation of the LEFs has been monitored intensively and regularly, in coordination with USFWS and CDFW, since 1993. In 2001, after consultation with USFWS and CDFW, CDCR constructed LEFs at four additional facilities, but did not seek a federal or state incidental take permit for their operation because take of state or federally listed species was determined to be unlikely, based on supporting biological analyses for the location of the prisons and based on monitoring data from other operational LEFs that demonstrated no listed species had been killed (CDCR 2001). In 2013, after environmental review, CDCR constructed CHCF and activated the LEF, also, without seeking an incidental take permit after consultation with USFWS and CDFW. Construction of a LEF around the adjacent DNCA and connection to the CHCF LEF was completed in 2014. CDCR implemented the same three-tier mitigation approach and the same intensive monitoring at these additional prisons as was implemented with the facilities covered by the HCP. No take of any threatened or endangered species, whether covered by the HCP or not, had occurred at any CDCR prison from the time the LEFs were activated until 2013.

In June 2013, a state-listed Swainson's hawk was killed by accidental contact with the LEF at Valley State Prison (VSP), which is adjacent to the Central California Women's Facility (CCWF) in Madera County. Both prisons' LEFs are covered by the HCP. This is the only verified mortality of a listed species due to contact with a LEF at any California state prison. Although the take of the listed species at this location is covered by the HCP, the potential for Swainson's hawks to be killed by LEFs at other prisons that are not covered in the HCP was re-evaluated, and CDCR concluded that accidental electrocution of Swainson's hawk could occur at CHCF. As such, CDCR is seeking an incidental take permit for Swainson's hawks at CHCF.

1.1.2 California Health Care Facility Project

In response to various court orders requiring alterations and upgrades to California state prison system medical, dental, and mental health care programs, various health care facilities have been developed at prisons throughout the state. The largest is CHCF in San Joaquin County, near the Stockton city limits. The CHCF EIR for a 1,734-bed health care facility was certified in October 2009, and a 2013 Addendum to that EIR increased the total number of beds (including the slight reduction in health care beds and the addition of

permanent work crew beds) to 1,818. CHCF provides sub-acute medical and mental health care for inmate-patients and replaced the closed Karl Holton Youth Correctional Facility. This portion of CHCF consists of approximately 1.2 million square feet of treatment and other prison space. As analyzed in the EIR, CHCF included construction and operation of a 12-foot-tall LEF that would surround the secured area, a vehicle sally port that would be incorporated into the fencing, and one 54-foot tall guard tower that would be located at the vehicle sally port. The CHCF project has been constructed and is now fully operational.

The southern portion of the CHCF complex, formerly referred to as the DNCA project, was authorized by the State Public Works Board (PWB) in 2010. In 2010, the CDCR certified the EIR for the proposed DNCA project, which included housing, programming, healthcare facilities, inmate visiting and some support facilities for 1,133 adult male inmates. The total area of the facility is approximately 229,000 square feet. The DNCA has been constructed and is now fully operational as part of the CHCF complex. The following discussion describes the LEF alternative that was analyzed in the DNCA EIR.

LETHAL ELECTRIFIED FENCE AT CHCF

The 2010 DNCA EIR project included a LEF that would operate independently of the CHCF LEF, although much of the fence was coterminous. The EIR evaluated an alternative, Alternative 1, which included a combined perimeter option, with a LEF that would continuously encircle both the DNCA and the CHCF facilities. This refined fence configuration was ultimately chosen because the shared continuous perimeter allows CDCR to eliminate redundant entrances and parallel perimeters and facilitates more efficient operations between the two facilities. The DNCA joined with the CHCF to create a unified health care complex allowing both facilities to efficiently transition inmate-patients between the two, while avoiding transportation and security costs as well as the need for expensive medical services in community hospitals and clinics. The LEF totals 13,477 feet in length, and includes vehicle and pedestrian sally ports and guard towers. See Exhibit 1-2 for an aerial view of the LEF at CHCF.

The LEF was constructed consistent with CDCR's standard design criteria. See Exhibit 1-3 for a detailed schematic of the LEF at CHCF. The LEF has a double-fenced enclosure that surrounds the electrified portion. The exterior cyclone fences are 12 feet high and topped with razor wire. The space between the exterior cyclone fences is 25 feet with a continuous concrete grade beam running parallel between the exterior fences. The area between the double-fenced enclosure is kept free of vegetation and structures. The LEF consists of posts spaced 30 feet apart, which support 15 to 18 electrified wires. The posts are 12 feet high with insulators mounted on them that isolate the high-voltage wires from the grounding posts, grounding brackets, and the concrete grade beam. The electrified wires are spaced closer together near the ground and farther apart near the top of the fence. The average spacing between wires is about 10 inches. The LEF design ensures that contact is made if the lower wires are spread apart during an attempted inmate escape. The design includes detection rings around the lower seven wires and grounding posts enveloping the lower wires between the fence posts. An electronic warning system is mounted on the interior fence to detect when the LEF grounds. An object grounds itself if it contacts two wires simultaneously, one wire and a detection ring or ground post, or one wire and an electrical ground. The LEF discharges a lethal level of electricity upon contact. The alarm facilitates a rapid response to inmate escape attempts or signals that an animal has contacted the fence. A 12-foot-wide paved road surrounds the secured perimeter approximately 30 feet from the exterior fence line. Refer to Appendix A, Chapter 4, of the 2081 permit application for a description of measures CDCR implements to reduce the potential for wildlife mortality.

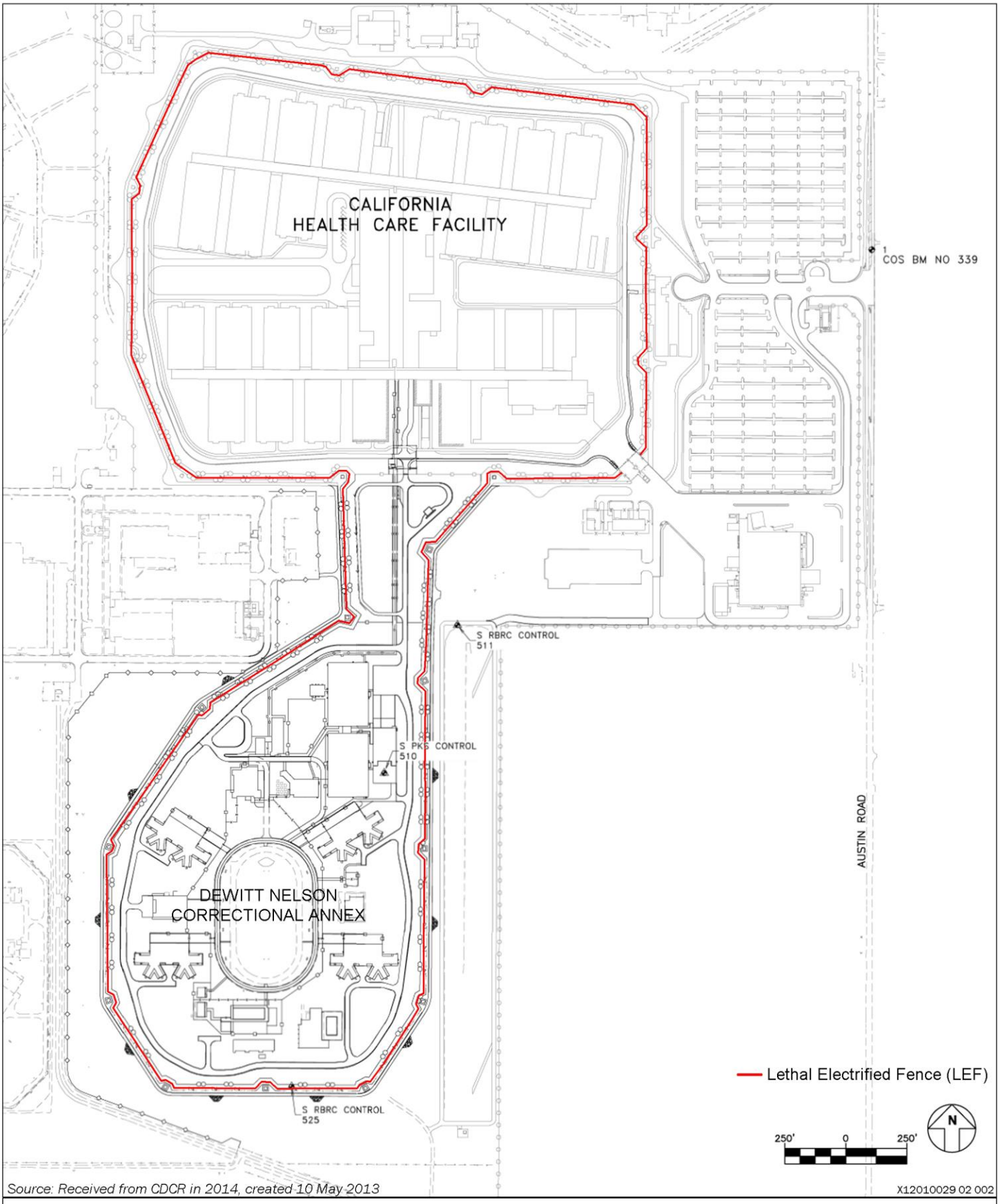
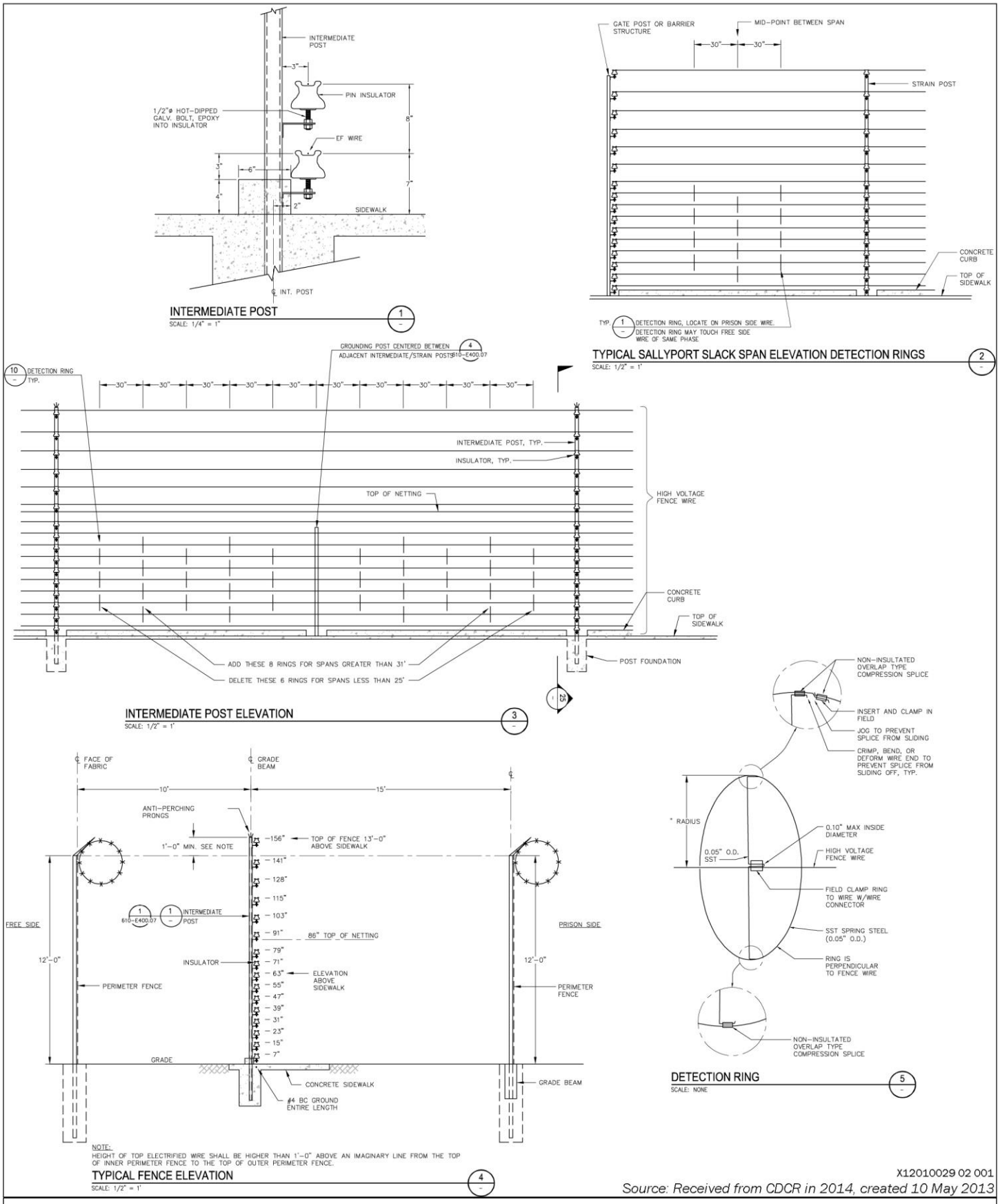


Exhibit 1-2 **Lethal Electrified Fence at California Health Care Facility**



X12010029 02 001

Source: Received from CDCR in 2014, created 10 May 2013

Exhibit 1-3 **Schematic of Lethal Electrified Fence at CHCF**

ASCENT ENVIRONMENTAL

ESTIMATED SWAINSON'S HAWK MORTALITY AT CHCF

Two prisons, VSP and CCWF, which are situated in similar land cover types as CHCF, were identified as appropriate reference sites to estimate Swainson's hawk mortality at CHCF. VSP and CCWF are located in Chowchilla (approximately 90 miles south of Stockton on State Route 99). VSP and CCWF have separate LEFs. Like CHCF, agriculture is the primary land use around VSP and CCWF. Swainson's hawk mortality at the LEF reference sites (VSP and CCWF) was one individual per 11 years or an annual rate of 0.09 per 15,720 feet of LEF (the combined lengths of LEFs at VSP and CCWF). Based on the reference sites, the expected annual mortality rate at CHCF, which has a LEF length of 13,477 feet, is one individual every 12.5 years or 0.08 individuals per year. This rate is based on an obviously limited dataset, but it recognizes that there has been only one incidence of take since 2002, when the ITP was issued. Furthermore, monitoring at VSP and CCWF has been conducted since their LEFs became operational in 1996 and 1995, respectively, and no Swainson's hawk or other listed species have been killed at either facility except for the one accidental mortality at VSP in 2013.

1.2 ENVIRONMENTAL REVIEW OF THE PROPOSED PROJECT

The original 2010 EIR analyzing the construction, operation and maintenance of the CHCF LEF, cited that no state- or federally-listed species had been killed at any prison facilities with LEFs, including prisons with similar surrounding habitat. Consequently, the documents stated that no state- or federally-listed species were expected to be killed as a result of the operation and maintenance of the LEF. Furthermore, the EIR stated that the impact to state- and federally-listed species would be less than significant with proposed mitigation and minimization measures.

In light of the new information from VSP, this Supplemental IS/MND to the 2010 EIR amends the statement regarding potential take to Swainson's hawk, now acknowledging it could occur and that CDCR will pursue an ITP under the California Endangered Species Act. No other changes to the project are considered.

As explained above, construction of CHCF, including the LEF, has been completed and is operational. CDCR has determined that, due to involvement of a new significant impact related to new information that was not and could not have been known at the time the 2010 EIR was prepared, and due to the need for discretionary action (approval of a take permit by CDFW), a Supplemental MND to the DNCA FEIR (2010) is warranted. When a new significant impact may result after certification of an EIR, a lead agency must either prepare a subsequent or supplemental EIR or, if the impact can clearly be mitigated, a supplemental or subsequent MND. See CEQA Guidelines Section 15162.

CDCR has prepared the analysis included in Chapter 3, Environmental Checklist, of this document, to support the decision to prepare a supplement MND. The new information would result in a new potentially significant impact related to biological resources. New mitigation measures, identified through environmental review and included in this Supplement, would reduce the magnitude of these impacts to less-than-significant levels.

The purpose of this checklist is to evaluate the environmental resource categories in terms of any "changed condition" (i.e., changed circumstances, project changes, or new information of substantial importance) that may result in environmental impact significance conclusions different from those found in the approved EIR. The row titles of the checklist include the full range of environmental topics, as presented in Appendix G of the CEQA Guidelines. An additional column to the checklist has been added (i.e., No Change from Certified EIR) to indicate when there is no change in the condition or status of the impact previously evaluated and disclosed to the public in the certified DNCA EIR. With the exception of Biological Resources, no other environmental resource issues are affected by CDCR seeking an incidental take permit for potential take of Swainson's hawk at CHCF.

This Supplemental IS/MND to the DNCA FEIR (2010) will be submitted to the State Clearinghouse and made available to all applicable state regulatory agencies and other interested parties on March 7, 2016. The public review period begins on March 7, 2016 and ends on April 5, 2016. During the public review period, comments and questions on this Supplemental IS/MND should be submitted to:

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Environmental Planning Section
916/255-2159
FAX 916/255-3030
E-mail: Nancy.MacKenzie@cdcr.ca.gov

2 PROJECT DESCRIPTION

2.1 PROJECT PURPOSE AND NEED

Based on new evidence, CDCR has determined that there is the potential for Swainson's hawk to be killed by the LEF at CHCF. See Section 1.1.1 of this document. In light of this new information, CDCR is seeking authorization and a permit to address and allow for the potential loss of individuals of this CESA-protected species.

2.2 PROJECT OBJECTIVES

The 2010 DNCA FEIR included overall project objectives for the two facilities. The following objectives are new and have been developed to amend the statement related to the potential impact of the LEF on Swainson's hawk. The following objectives are proposed in light of the project:

- To ensure unimpeded operation of the LEF and CDCR's public safety mission.
- Minimize and fully mitigate the potential for loss of any individual Swainson's hawk associated with operation of the LEF.
- In the unlikely event of the take of a Swainson's hawk, provide the necessary legal protections associated with incidental loss of an endangered species.

To meet these objectives, CDCR is seeking an ITP issued by CDFW and pursuant to Fish and Game Code section 2081(b) and section 2081(c), and California Code of Regulations, title 14, subdivision 3, chapter 6, article 1, commencing with section 783.

2.3 PROJECT LOCATION

CHCF is in the northern San Joaquin Valley in central San Joaquin County, approximately one-third mile south of the Stockton City limits and about two miles east of State Route 99 (Exhibit 1-1). Except in areas of higher density development associated with urban centers, the northern San Joaquin Valley is characterized by relatively flat open farmland interspersed with rivers and other tributaries, combined with industrial/warehouse uses and low-density residential farmsteads.

Land uses surrounding CHCF include predominantly agricultural fields and other prison facilities such as the Northern California Youth Correctional Center, which includes two separate youth correctional facilities, and the former Northern California Women's Facility (currently not in use). There is also an industrial warehouse park to the north and the Burlington North Santa Fe Railroad multimodal facility to the east. No natural habitats are present, and open space areas generally consist of landscaped areas, fallow fields, and ruderal areas. Littlejohns Creek is located approximately 700 feet south of southern portion of the facility.

2.4 DESCRIPTION OF THE PROPOSED PROJECT

This supplement to the DNCA FEIR (2010) amends the original EIR's analyses related to the operation of the LEF and its potential to impact Swainson's hawks at this location. Based on new information, CDCR is seeking an incidental take permit for Swainson's hawk at CHCF.

2.5 REQUIRED DISCRETIONARY ACTIONS

CDCR is the lead agency for the proposed project. A lead agency, as defined in Section 15367 of the CEQA Guidelines, is "the public agency that has the principal responsibility for carrying out or approving a project." In this case, the CDCR is requesting a 2081 permit from CDFW (see Appendix A of this document for a copy of the 2081 permit application).

The only responsible or trustee agency with discretionary approval related to the proposed project is CDFW. The CESA prohibits the take of any species of wildlife that is included in the list of endangered species, the list of threatened species or the list of candidate species. An ITP may be issued by the CDFW pursuant to Fish and Game Code section 2081)(b) and section 2081(c), and California Code of Regulations, title 14, subdivision 3, chapter 6, article 1, commencing with section 783.

3 ENVIRONMENTAL CHECKLIST

PROJECT INFORMATION

1. Project Title: California Health Care Facility 2081 Permit Project
2. Lead Agency Name and Address: California Department of Corrections and Rehabilitation, 9838 Old Placerville Road, Suite B, Sacramento, CA 95827
3. Contact Person and Phone Number: Nancy MacKenzie, 916/255-2159
4. Project Location: Central San Joaquin County, approximately one-third mile south of the City of Stockton, CA
5. Project Sponsor's Name and Address: California Department of Corrections and Rehabilitation, 9838 Old Placerville Road, Suite B, Sacramento, CA 95827
6. General Plan Designation: Public (P)
7. Zoning: Public Facilities (P-F)
8. Description of Project: (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for its implementation. Attach additional sheets if necessary.)

   See Chapter 2 of this document
9. Surrounding Land Uses and Setting: (Briefly describe the project's surroundings) Agriculture; prison facilities
10. Other public agencies whose approval is required: (e.g., permits, financing approval, or participation agreement) California Department of Fish and Wildlife

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

☐ Aesthetics	☐ Agriculture and Forest Resources	☐ Air Quality
☒ Biological Resources	☐ Cultural Resources	☐ Geology / Soils
☐ Greenhouse Gas Emissions	☐ Hazards & Hazardous Materials	☐ Hydrology / Water Quality
☐ Land Use / Planning	☐ Mineral Resources	☐ Noise
☐ Population / Housing	☐ Public Services	☐ Recreation
☐ Transportation / Traffic	☐ Utilities / Service Systems	☒ Mandatory Findings of Significance
		☐ None With Mitigation

DETERMINATION (To be completed by the Lead Agency)

On the basis of this initial evaluation:

☐ I find that the proposed project could not have a significant effect on the environment, and a **NEGATIVE DECLARATION** will be prepared.

☒ I find that although the proposed project COULD have a significant effect on the environment, there WILL NOT be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A **MITIGATED NEGATIVE DECLARATION** will be prepared.

☐ I find that the proposed project **MAY** have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.

☐ I find that the proposed project **MAY** have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An **ENVIRONMENTAL IMPACT REPORT** is required, but it must analyze only the effects that remain to be addressed.

☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier **EIR** or **NEGATIVE DECLARATION** pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier **EIR** or **NEGATIVE DECLARATION**, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Nancy MacKenzie — 2-26-2016

Signature — Date

Nancy MacKenzie — Supervising Environmental Planner

Printed Name — Title

California Department of Corrections and Rehabilitation

Agency

3.1 AESTHETICS

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact	No Change From Certified EIR
I. Aesthetics. Would the project:					
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☐	☒
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☐	☒
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☐	☐	☒
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☐	☐	☒

The proposed project modification analyzed in this IS/MND is related to CDCR seeking an incidental take permit for Swainson's hawk due to the potential for accidental electrocution from the operation of the CHCF lethal electrified fence (LEF). No physical modifications to the project are proposed, so there would be no change to the conclusions of the aesthetic resources impacts analyzed in Section 4.13 of the certified 2010 EIR. Therefore, no additional discussion is provided in this IS/MND.

3.2 AGRICULTURE AND FOREST RESOURCES

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact	No Change From Certified EIR
II. Agriculture and Forest Resources.					
In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997, as updated) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board.					
Would the project:					
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☐	☒
b) Conflict with existing zoning for agricultural use or a Williamson Act contract?	☐	☐	☐	☐	☒
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	☐	☐	☐	☐	☒
d) Result in the loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☐	☒
e) Involve other changes in the existing environment, which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☐	☒

The proposed project modification analyzed in this IS/MND is related to CDCR seeking an incidental take permit for Swainson's hawk due to the potential for accidental electrocution from the operation of the CHCF LEF. No physical modifications to the project are proposed, so there would be no change to the conclusions of the agricultural and forest resources impacts analyzed in Section 4.8 of the certified 2010 EIR would occur. Therefore, no additional discussion is provided in this IS/MND.

3.3 AIR QUALITY

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact	No Change From Certified EIR
III. Air Quality.					
Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied on to make the following determinations.					
Would the project:					
a) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☐	☐	☒
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☐	☐	☐	☒
c) 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 (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	☐	☐	☐	☐	☒
d) Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☐	☐	☒
e) Create objectionable odors affecting a substantial number of people?	☐	☐	☐	☐	☒

The proposed project modification analyzed in this IS/MND is related to CDCR seeking an incidental take permit for Swainson's hawk due to the potential for accidental electrocution from the operation of the CHCF LEF. No physical modifications to the project are proposed, so there would be no change to the conclusions of the air quality impacts analyzed in Section 4.1 of the certified 2010 EIR. Therefore, no additional discussion is provided in this IS/MND.

3.4 BIOLOGICAL RESOURCES

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact	No Change From Certified EIR
IV. Biological Resources. Would the project:					
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 the 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, or regulations or by the California Department of Fish and Wildlife or the U.S. Fish and Wildlife Service?	☐	☐	☐	☐	☒
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (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 native 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 Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	☐	☒

ENVIRONMENTAL SETTING

CHCF is in the northern San Joaquin Valley in unincorporated central San Joaquin County (Exhibits 1-1 and 1-2). The surrounding land uses of these facilities are agricultural fields and other prison facilities. There is also an industrial warehouse park to the north and the Burlington North Santa Fe Railroad multimodal facility to the east. Littlejohns Creek is located approximately 700 feet south of the southern portion of the facility. Additionally, an existing retention basin is immediately adjacent to the site which receives drainage from surrounding properties. Forward Landfill is immediately south of Littlejohns Creek.

The project site provides no natural habitat for wildlife. However, landscape vegetation and ruderal habitat on the grounds of CHCF and the adjacent agricultural fields provide habitat for some common and special-status wildlife species that are able to use modified or nonnative habitats. Scattered trees at nearby facilities provide nesting habitat for several native resident and migratory bird species, including: American kestrel (*Falco sparverius*), barn owl (*Tyto alba*), red-tailed hawk (*Buteo jamaicensis*), Swainson's hawk (*Buteo swainsonii*), western scrub-jay (*Aphelocoma coerulescens*), yellow-billed magpie (*Pica nuttalli*), mourning dove (*Zenaida macroura*), and house finch (*Carpodacus mexicanus*). Mammals common to agricultural areas in the San Joaquin Valley—California ground squirrel (*Spermophilus beecheyi*), desert cottontail (*Sylvilagus audubonii*), opossum (*Didelphis virginiana*), and striped skunk (*Mephitis mephitis*)—are also likely to inhabit the area surrounding the LEF.

The CESA prohibits the take of any species of wildlife that is included in the list of endangered, threatened, or candidate species. An ITP may be issued by CDFW pursuant to Fish and Game Code section 2081(b) and section 2081(c), and California Code of Regulations, title 14, subdivision 3, chapter 6, article 1, commencing with section 783.

CHCF is within the range of Swainson's hawk. The mortality of an individual Swainson's hawk at another prison (covered in the Statewide HCP) that is surrounded by similar terrain and agricultural land uses demonstrated that Swainson's hawk may contact a LEF in a similar setting, such as CHCF. Because there is potential for Swainson's hawk to contact and be electrocuted by the LEF at CHCF, CDCR is pursuing an ITP under CESA. Swainson's hawk is not subject to the rules and guidelines pursuant to Section 2112 and Section 2114 of the Fish and Game Code. No other state or federally listed species are expected to be killed by the CHCF LEF.

THRESHOLDS OF SIGNIFICANCE

In accordance with Appendix G and Section 15065 of the *CEQA Guidelines*, an impact of the proposed project on biological resources would be considered significant if project implementation would:

- have a substantial adverse effect, either directly or through habitat modification, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or USFWS;

METHODOLOGY

The following discussion and analysis focuses on changed conditions since the 2010 FEIR was certified that requires review or verification, or that may result in a changed or new analysis conclusion. After the 2010 FEIR was certified, ongoing monitoring of LEF wildlife mortality at CDCR facilities throughout California documented a Swainson's hawk mortality at VSP in 2013. This data presents new information about the potential for Swainson's hawk mortality at CHCF. Therefore, only changes to the impact of the project on Swainson's hawk will be analyzed. There will be no further analysis necessary for impacts to sensitive natural communities, wetlands or waters of the United States, migratory wildlife species or corridors, native nursery sites, or consistency with local plans and policies.

DISCUSSION

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 the U.S. Fish and Wildlife Service?

Less than significant with mitigation incorporated. Operation of the LEF at CHCF poses a risk of accidental Swainson's hawk mortality because it could come in contact with the LEF and could receive a lethal electric charge by simultaneously contacting two wires, one wire and a detection ring or grounding post, or one wire

and an electrical ground. No habitat loss or disturbance to nearby nesting pairs is expected as a result of the operation of the LEF.

Swainson's hawks are medium-sized raptors that hunt aerially for small mammals and reptiles within agricultural fields (Bechard et al. 2010). They soar over hayfields, grasslands, and agricultural fields when hunting for prey. They are also known to perch on sprinkler rigs or fence posts, and then pounce on rodents fleeing irrigation water, or to follow tractors after harvest or disking to capture displaced, wounded, or exposed rodents. Swainson's hawks prefer open spaces for hunting, making them unlikely to hunt for prey in small or confined spaces. The narrow 25-foot space between the cyclone fences and the electrified wires does not provide typical, open foraging habitat for Swainson's hawk. However, Swainson's hawks could use the LEF fence posts or adjacent lampposts as perches for hunting, and could enter the space between the cyclone fencing if small mammals, birds, or other prey items are present.

Only one mortality of Swainson's hawk attributed to LEF operation statewide has occurred to date, thus, it is difficult to predict future loss with certainty. Using the same general frequency of occurrence as VSP, where the single loss has occurred, the LEF at CHCF is estimated to result in mortality of four individuals over a 50-year period (1 individual per 12.5 years or 0.08 per year). This would remove four individuals from the breeding population. Any contribution to the California population of Swainson's hawk (estimated at 2,000+) from these individuals would be lost. Because the operation of the LEF would not affect potential use of nesting sites or prey populations within agricultural and ruderal fields, there would be no loss of breeding or foraging habitat as a result of the operation of the LEF.

CESA prohibits the take of any species of wildlife that is included in the list of endangered species, the list of threatened species, or the list of candidate species. Because operation of the LEF at CHCF poses a risk of Swainson's hawk mortality, listed as a threatened species in 1983 by the California Fish and Game Commission, the impact is considered **potentially significant**.

Mitigation Measure Bio-A: Minimize mortality, provide habitat compensation, and obtain incidental take permit for Swainson's hawk.

CDCR shall obtain an ITP under CESA for Swainson's Hawk at CHCF issued by CDFW and pursuant to Fish and Game Code section 2081(b) and section 2081(c), and California Code of Regulations, title 14, subdivision 3, chapter 6, article 1, commencing with section 783. CDCR recently submitted a 2081 application to CDFW for potential take of Swainson's hawk at CHCF (see Appendix A of this document). An ITP requires that all impacts to the species are minimized and fully mitigated and that mitigation is roughly proportional to the extent of the impacts of the taking (14 CCR § 783.4). This "full mitigation" standard is intended to ensure that the status of the species is the same or better after project and mitigation implementation as it was prior to project implementation.

Implementation of the following measures will minimize or avoid take of Swainson's hawk (and other wildlife) at the LEF at CHCF and mitigate impacts to Swainson's hawk when such mortality cannot be avoided. The mitigation measures developed for the HCP Statewide Electrified Fence Project shall be implemented for the LEF at CHCF to minimize the potential impact to Swainson's hawk and other native wildlife, as described in the 2010 FEIR. Consisting of a three-tiered mitigation system, the first two minimization measures shall: (1) alter the LEF perimeter to make the area less hospitable to wildlife (Tier 1) and (2) install exclusion or deterrent devices to reduce wildlife contacts with the LEF (Tier 2). Tier 3 mitigation includes habitat protection for Swainson's hawk to compensate for unavoidable mortality. All aspects of these measures involved consultation with CDFW, USFWS, and technical experts during development of the HCP.

- **Tier 1: Eliminate or reduce wildlife attractants near the prison perimeter by implementing specific maintenance and operation procedures.** By making the perimeter less hospitable, wildlife will frequent this area less often, thus reducing their exposure to accidental electrocution. These measures are incorporated into a handbook (CDCR 1996b) and training module for use by each prison with a LEF. The landscape modification and urban wildlife control programs are aimed mostly at reducing the attractiveness of existing landscaping to wildlife and limiting the numbers of certain urbanized wildlife that tend to occur in

large numbers at many sites. As detailed in Section 4.2 of Appendix A (2081 Permit Application), Tier 1 maintenance and operation procedures shall include minimization of vegetation in the vicinity of the LEF perimeter, minimization of standing water near the fence perimeter, timely correction of erosion gaps and spaces under fencing, proper storage of materials and waste, drainage maintenance, and removal of litter/debris.

- **Tier 2: Install exclusion and deterrent devices.** Vertical netting and anti-perching devices shall be installed at CHCF to reduce the risk of wildlife coming into contact with the LEF. Installation of three-quarter-inch mesh vertical netting enveloping both sides of the lower nine section wires of the CHCF LEF shall be installed to prevent most birds from contacting the fence. Anti-perching devices, which consist of 2- to 4-inch pieces of stiff wire connected to an aluminum base, shall be placed on the fence posts within the LEF. The anti-perching devices reduce the ability of birds to perch on the CHCF LEF, thus reducing exposure to accidental electrocutions.

- **Tier 3: Establish a permanent conservation easement for Swainson's hawk foraging habitat.** While Tier 1 and Tier 2 mitigation measures will minimize mortality of Swainson's hawk from the LEF, some mortality may still occur. Tier 3 compensatory mitigation is designed to offset this unavoidable mortality. The CHCF LEF is 13,477 feet long and 25 feet wide, for a total of 404,310 square feet or approximately 9.3 acres. CDCR shall compensate for the potential mortality of Swainson's hawk by providing a permanent conservation easement on 10 acres of high quality foraging habitat within 10 miles of CHCF and in close proximity to several documented Swainson's hawk nesting locations (see Exhibit 8 in Appendix A of this document). CDCR shall pay for the easement based on the appraised price and provide an endowment for San Joaquin County to hold and manage the easement, consistent with the County's regional habitat conservation plan (San Joaquin County Multi-Species Habitat Conservation and Open Space Plan [SJMSCP]).The funding for the 10 acres of mitigation land for the estimated Swainson's hawk mortality shall come from funds that have been encumbered for the CHCF project. Funding is immediately available for purchase of the conservation easement.

- **Mortality Monitoring and Reporting**. Three times a year, a biologist shall visit CHCF to identify all carcasses that are collected from the LEF perimeter and stored in a freezer. The biologist shall also inspect the LEF perimeter to assess compliance with Tier 1 and Tier 2 mitigation measures. CDCR shall prepare an annual report for CDFW that includes a tally of species killed and the status of implementation of Tier 1 and Tier 2 mitigation measures. If deficiencies are observed, the report shall explain what corrective actions are being taken.

- **Measures to Ensure and Improve Performance.** To reduce wildlife mortality, CDCR shall implement the following measures at CHCF.

  1. *In-Service Training*. Biologists and CDCR Environmental Planner shall conduct an in-service training at CHCF on an annual basis, as is currently done at all other CDCR prisons with LEFs. The purpose of the training is to ensure that CDCR staff members responsible for compliance with the wildlife monitoring program at each institution are informed of measures required to reduce wildlife use of the perimeter and minimize wildlife contact with the LEF. Proper carcass retrieval and storage procedures shall also be discussed. As observed at other prisons with LEFs, the training helps improve compliance with the program requirements.

     The training program shall consist of the following elements:

     - Introduction and Description of the Monitoring and Mitigation Measures
     - Protocols for Proper Carcasses Retrieval and Storage
     - Proper Management of Tier 1 and Tier 2 Measures
     - Consequences of Improper Management and Monitoring (Corrective Action Plans)

  2. *Automated Auditing System*. CDCR shall continue to implement and maintain a preventative maintenance tracking program for routine LEF duties at CHCF. All assets associated with the LEF

system and related components (including Tier 1 and Tier 2 wildlife mitigation measures) shall be entered into the State Automated Preventative Maintenance System (SAPMS), an automated facilities management system that allows CDCR facilities to generate, track, and manage its work orders for all of its assets, including labor, materials, equipment, and expense information.

3. *Corrective Action Plans*. A Wildlife Mortality Monitoring Program Report shall be prepared after each inspection that documents wildlife mortality and compliance with Tier 1 and Tier 2 mitigation and identifies problems or recurring issues. CDCR Environmental Planning staff shall notify CHCF about any deficiencies or corrective measures they need to take to ensure compliance. If they are not complying with proper procedures in a continuous manner, CDCR Environmental Planning staff shall request that they prepare a Corrective Action Plan (CAP) to rectify the problems.

Implementation of Mitigation Measure BIO-A would reduce this impact to a **less-than-significant** level.

3.5 CULTURAL RESOURCES

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact	No Change From Certified EIR
V. Cultural Resources. Would the project:					
a) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?	☐	☐	☐	☐	☒
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?	☐	☐	☐	☐	☒
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☐	☐	☐	☒
d) Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☐	☐	☒

The proposed project modification analyzed in this IS/MND is related to CDCR seeking an incidental take permit for Swainson's hawk due to the potential for accidental electrocution from the operation of the CHCF LEF. No physical modifications to the project are proposed, so there would be no change to the conclusions of the cultural resources impacts analyzed in Section 4.3 of the certified 2010 EIR. Therefore, no additional discussion is provided in this IS/MND.

3.6 GEOLOGY AND SOILS

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact	No Change From Certified EIR
VI. Geology and Soils. Would the project:					
a) Expose people or structures to 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 California Geological Survey Special Publication 42.)	☐	☐	☐	☐	☒
ii) Strong seismic ground shaking?	☐	☐	☐	☐	☒
iii) Seismic-related ground failure, including liquefaction?	☐	☐	☐	☐	☒
iv) Landslides?	☐	☐	☐	☐	☒
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☐	☐	☒
c) Be located on a geologic unit 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?	☐	☐	☐	☐	☒
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994, as updated), creating substantial risks to life or property?	☐	☐	☐	☐	☒
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	☐	☐	☐	☐	☒

The proposed project modification analyzed in this IS/MND is related to CDCR seeking an incidental take permit for Swainson's hawk due to the potential for accidental electrocution from the operation of the CHCF LEF. No physical modifications to the project are proposed, so there would be no change to the conclusions of the geologic resources impacts analyzed in Section 4.5 of the certified 2010 EIR. Therefore, no additional discussion is provided in this IS/MND.

3.7 GREENHOUSE GAS EMISSIONS

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact	No Change From Certified EIR
VII. Greenhouse Gas Emissions. Would the project:					
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☐	☐	☒
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☐	☐	☒

The proposed project modification analyzed in this IS/MND is related to CDCR seeking an incidental take permit for Swainson's hawk due to the potential for accidental electrocution from the operation of the CHCF LEF. No physical modifications to the project are proposed, so there would be no change to the conclusions of the air quality resources impacts analyzed in Section 4.1 of the certified 2010 EIR. Therefore, no additional discussion is provided in this IS/MND.

3.8 HAZARDS AND HAZARDOUS MATERIALS

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact	No Change From Certified EIR
VIII. Hazards and Hazardous Materials. Would the project:					
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	☐	☒
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and/or accident conditions involving the release of hazardous materials into the environment?	☐	☐	☐	☐	☒
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☐	☒
d) 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?	☐	☐	☐	☐	☒
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☐	☒
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☐	☒
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☐	☒
h) Expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☐	☐	☒

The proposed project modification analyzed in this IS/MND is related to CDCR seeking an incidental take permit for Swainson's hawk due to the potential for accidental electrocution from the operation of the CHCF LEF. No physical modifications to the project are proposed, so there would be no change to the conclusions of the hazards and hazardous materials impacts analyzed in Section 4.6 of the certified 2010 EIR. Therefore, no additional discussion is provided in this IS/MND.

3.9 HYDROLOGY AND WATER QUALITY

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact	No Change From Certified EIR
IX. Hydrology and Water Quality. Would the project:					
a) Violate any water quality standards or waste discharge requirements?	☐	☐	☐	☐	☒
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level that would not support existing land uses or planned uses for which permits have been granted)?	☐	☐	☐	☐	☒
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial on- or offsite erosion or siltation?	☐	☐	☐	☐	☒
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in on- or offsite flooding?	☐	☐	☐	☐	☒
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	☐	☐	☐	☐	☒
f) Otherwise substantially degrade water quality?	☐	☐	☐	☐	☒
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	☐	☐	☐	☐	☒
h) Place within a 100-year flood hazard area structures that would impede or redirect flood flows?	☐	☐	☐	☐	☒
i) Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam?	☐	☐	☐	☐	☒
j) Result in inundation by seiche, tsunami, or mudflow?	☐	☐	☐	☐	☒

The proposed project modification analyzed in this IS/MND is related to CDCR seeking an incidental take permit for Swainson's hawk due to the potential for accidental electrocution from the operation of the CHCF LEF. No physical modifications to the project are proposed, so there would be no change to the conclusions of the hydrology and water quality impacts analyzed in Section 4.7 of the certified 2010 EIR. Therefore, no additional discussion is provided in this IS/MND.

3.10 LAND USE AND PLANNING

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact	No Change From Certified EIR
X. Land Use and Planning. Would the project:					
a) Physically divide an established community?	☐	☐	☐	☐	☒
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, a general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☐	☒
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	☐	☒

The proposed project modification analyzed in this IS/MND is related to CDCR seeking an incidental take permit for Swainson's hawk due to the potential for accidental electrocution from the operation of the CHCF LEF. No physical modifications to the project are proposed, so there would be no change to the conclusions of the land use and planning impacts analyzed in Section 4.8 of the certified 2010 EIR Therefore, no additional discussion is provided in this IS/MND.

3.11 MINERAL RESOURCES

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact	No Change From Certified EIR
XI. Mineral Resources. Would the project:					
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☐	☒
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?	☐	☐	☐	☐	☒

The proposed project modification analyzed in this IS/MND is related to CDCR seeking an incidental take permit for Swainson's hawk due to the potential for accidental electrocution from the operation of the CHCF LEF. No physical modifications to the project are proposed, so there would be no change to the conclusions of the mineral resources impacts analyzed in Section 4.5 of the certified 2010 EIR. Therefore, no additional discussion is provided in this IS/MND.

3.12 NOISE

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact	No Change From Certified EIR
XII. Noise. Would the project result in:					
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or in other applicable local, state, or federal standards?	☐	☐	☐	☐	☒
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	☐	☐	☐	☐	☒
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☐	☒
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☐	☒
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☐	☒
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☐	☒

The proposed project modification analyzed in this IS/MND is related to CDCR seeking an incidental take permit for Swainson's hawk due to the potential for accidental electrocution from the operation of the CHCF LEF. No physical modifications to the project are proposed, so there would be no change to the conclusions of the noise impacts analyzed in Section 4.9 of the certified 2010 EIR. Therefore, no additional discussion is provided in this IS/MND.

3.13 POPULATION AND HOUSING

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact	No Change From Certified EIR
XIII. Population and Housing. Would the project:					
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☐	☐	☒
b) Displace substantial numbers of existing homes, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☐	☒
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☐	☒

The proposed project modification analyzed in this IS/MND is related to CDCR seeking an incidental take permit for Swainson's hawk due to the potential for accidental electrocution from the operation of the CHCF LEF. No physical modifications to the project are proposed, so there would be no change to the conclusions of the population and housing impacts analyzed in Section 4.4 of the certified 2010 EIR. Therefore, no additional discussion is provided in this IS/MND.

3.14 PUBLIC SERVICES

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact	No Change From Certified EIR
XIV. Public Services. Would the project:					
a) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services:					
Fire protection?	☐	☐	☐	☐	☒
Police protection?	☐	☐	☐	☐	☒
Schools?	☐	☐	☐	☐	☒
Parks?	☐	☐	☐	☐	☒
Other public facilities?	☐	☐	☐	☐	☒

The proposed project modification analyzed in this IS/MND is related to CDCR seeking an incidental take permit for Swainson's hawk due to the potential for accidental electrocution from the operation of the CHCF LEF. No physical modifications to the project are proposed, so there would be no change to the conclusions of the public services impacts analyzed in Section 4.10 of the certified 2010 EIR. Therefore, no additional discussion is provided in this IS/MND.

3.15 RECREATION

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact	No Change From Certified EIR
XV. Recreation. Would the project:					
a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☐	☐	☒
b) Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?	☐	☐	☐	☐	☒

The proposed project modification analyzed in this IS/MND is related to CDCR seeking an incidental take permit for Swainson's hawk due to the potential for accidental electrocution from the operation of the CHCF LEF. No physical modifications to the project are proposed, so there would be no change to the conclusions of the recreation impacts analyzed in in the Notice of Preparation and Chapter 2 of the certified 2010 EIR. Therefore, no additional discussion is provided in this IS/MND.

3.16 TRANSPORTATION/TRAFFIC

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact	No Change From Certified EIR
XVI. Transportation/Traffic. Would the project:					
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	☐	☐	☐	☐	☒
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	☐	☐	☐	☐	☒
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☐	☐	☒
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☐	☐	☒
e) Result in inadequate emergency access?	☐	☐	☐	☐	☒
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	☐	☐	☐	☐	☒

The proposed project modification analyzed in this IS/MND is related to CDCR seeking an incidental take permit for Swainson's hawk due to the potential for accidental electrocution from the operation of the CHCF LEF. No physical modifications to the project are proposed, so there would be no change to the conclusions of the traffic and transportation impacts analyzed in Section 4.11 of the certified 2010 EIR. Therefore, no additional discussion is provided in this IS/MND.

3.17 UTILITIES AND SERVICE SYSTEMS

	ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact	No Change From Certified EIR
XVII.	**Utilities and Service Systems. Would the project:**					
a)	Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☐	☐	☐	☒
b)	Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☐	☒
c)	Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☐	☒
d)	Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	☐	☐	☐	☐	☒
e)	Result in a determination by the wastewater treatment provider that serves or may serve the project that it has adequate capacity to serve the project's projected demand, in addition to the provider's existing commitments?	☐	☐	☐	☐	☒
f)	Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	☐	☐	☒
g)	Comply with federal, state, and local statutes and regulations related to solid waste?	☐	☐	☐	☐	☒

The proposed project modification analyzed in this IS/MND is related to CDCR seeking an incidental take permit for Swainson's hawk due to the potential for accidental electrocution from the operation of the CHCF LEF. No physical modifications to the project are proposed, so there would be no change to the conclusions of the utilities impacts and service systems analyzed in Section 4.12 of the certified 2010 EIR. Therefore, no additional discussion is provided in this IS/MND.

3.18 MANDATORY FINDINGS OF SIGNIFICANCE

	ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact	No Change From Certified EIR
XVIII.	**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, reduce the number or restrict the range of an endangered, rare, or threatened species, 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 a project are considerable 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 that will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☐	☐	☒

Authority: Public Resources Code Sections 21083, 21083.5.

Reference: Government Code Sections 65088.4.
Public Resources Code Sections 21080, 21083.5, 21095; *Eureka Citizens for Responsible Govt. v. City of Eureka* (2007) 147 Cal.App.4th 357; *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th at 1109; *San Franciscans Upholding the Downtown Plan v. City and County of San Francisco* (2002) 102 Cal.App.4th 656.

Discussion

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, reduce the number or restrict the range of an endangered, rare, or threatened species, or eliminate important examples of the major periods of California history or prehistory?

As discussed in the Biological Resources section of this IS/MND, the proposed project modification would result in a potentially significant impact as a result of potential take of state-listed Swainson's hawk due to the potential for accidental electrocution from the operation of the CHCF LEF. This impact could reduce the number of Swainson's hawks, a species listed as threatened under CESA. However, adoption and implementation of Mitigation Measure BIO-A of this IS/MND would reduce this impact to a **less-than-significant** level.

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

Cumulative environmental effects are multiple individual effects that, when considered together, would be considerable or compound or increase other environmental impacts. Individual effects may result from a single project or a number of separate projects and may occur at the same place and point in time or at different locations and over extended periods of time.

The proposed project modification would result in CDCR seeking an incidental take permit for Swainson's hawk at CHCF. This action would not combine with other projects with regard to Swainson's hawk effects, and the conservation measures in Mitigation Measure BIO-A in this IS/MND would fully mitigate the project's incremental contribution to cumulative impacts. Therefore, a **less-than-significant** impact would occur.

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

The proposed project modification (i.e., CDCR seeking an incidental take permit for Swainson's hawk at CHCF) would not have a substantial adverse effect on human beings, either directly or indirectly. Therefore, **no change from certified 2010 EIR** would occur.

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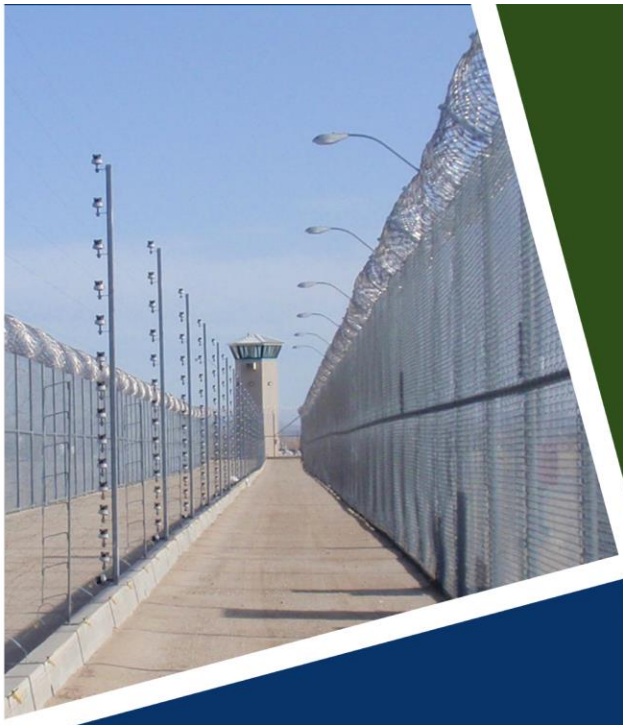
Appendix A

2081 Permit Application



ASCENT ENVIRONMENTAL

California Department of Corrections and Rehabilitation California Health Care Facility, Stockton

2081 Permit Application

February 2016

PREPARED FOR:

California Department of
Corrections and Rehabilitation

9838 Old Placerville Road, Suite B
Sacramento, CA 95827
916/255-2159 ~ FAX 916/255-3030

Contact: Nancy MacKenzie
Environmental Planning Section
Facility Planning, Construction
and Management

California Department of Corrections and Rehabilitation
California Health Care Facility, Stockton

2081 Permit Application

PREPARED FOR

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Contact: Linda Leeman, Senior Biologist

February 2016

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ACRONYMS AND ABBREVIATIONS

CCWF	Central California Women's Facility
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
CESA	California Endangered Species Act
CHCF	California Health Care Facility
DNCA	DeWitt Nelson Correction Annex
EIR	Environmental Impact Report
ESA	federal Endangered Species Act
HCP	Habitat Conservation Plan
IS/MND	Initial Study/Proposed Mitigated Negative Declaration
ITP	incidental take permit
LEF	lethal electrified fence
NCRF	Northern California Reentry Facility
NCWF	Northern California Women's Facility
USFWS	U.S. Fish and Wildlife Service
VSP	Valley State Prison

1 INTRODUCTION

1.1 APPLICANT

California Department of Corrections and Rehabilitation (CDCR)
9838 Old Placerville Road, Suite B
Sacramento, CA 95827
(916) 255-2159 FAX (916) 255-3030
Contact: Nancy MacKenzie, Environmental Planning Section
Facility Planning, Construction and Management

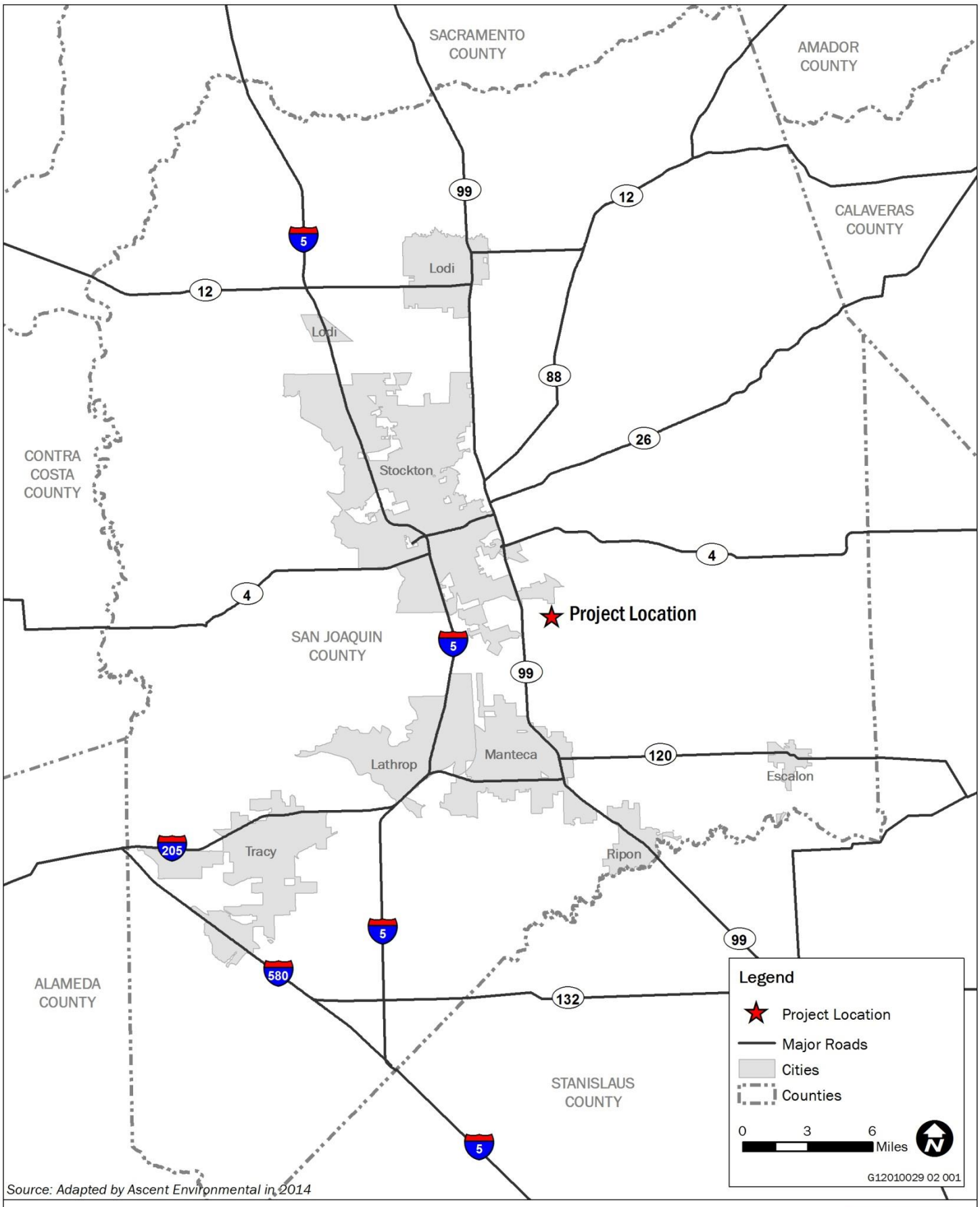
1.2 PROJECT DESCRIPTION

The project is the operation of a lethal electrified fence (LEF) that encompasses the California Health Care Facility (CHCF) near Stockton in San Joaquin County, California. See Exhibit 1 for the regional location and Exhibit 2 for a diagram of the facility. The LEF at CHCF is similar to the other 30 LEFs in operation at prison facilities located throughout California. Contact with the LEF can result in accidental wildlife electrocution and mortality, and CDCR has employed measures to reduce wildlife use of the area surrounding the LEF and to minimize wildlife from contacting the LEF. However, even with these measures in place, some mortality has occurred. A description of CDCR's program to operate LEFs at other state prisons and regulatory compliance is provided below.

1.2.1 Background of the Lethal Electrified Fence Program

CDCR initiated operation of its first LEF in 1993, with a prototype at Calipatria State Prison in Imperial County, and several other LEFs at other prisons throughout the state. CDCR filed a notice of exemption from the California Environmental Quality Act (CEQA), because the LEFs would be constructed on bare ground between two existing perimeter fences and no environmental impacts were expected to occur. However, upon activation of the Calipatria prototype, CDCR found that unanticipated electrocution of wildlife was occurring and initiated studies and design changes to address this issue. In 1996, CDCR completed an Environmental Impact Report (EIR) to assess impacts on wildlife resulting from operation of LEFs and to identify feasible mitigation measures (CDCR 1996a). This was called the Statewide Electrified Fence Project and included the operation of 27 LEFs at 25 prisons located throughout the state. Twenty-six of these LEFs were constructed and activated. The LEF at Northern California Women's Facility (NCWF) was never activated. In 2001, CDCR constructed four additional LEFs. With construction of CHCF, there are a total of 31 LEFs.

Because the LEF program was new and the potential impacts were undocumented, CDCR, in consultation with U.S. Fish and Wildlife Service (USFWS) and California Department of Fish and Wildlife (CDFW), decided to seek incidental take permits for species listed under the federal Endangered Species Act (ESA) and California Endangered Species Act (CESA). CDCR prepared a Habitat Conservation Plan (HCP) for the Statewide Electrified Fence Project (CDCR 1999). USFWS, under ESA, and CDFW, under CESA, each issued to CDCR an incidental take permit (ITP) covering 62 wildlife species for the 27 LEFs on June 12, 2002 (USFWS: TE058060-0; CDFW: ITP No. 2081-2001-019-10). The permits expire in 2052. The Statewide Electrified Fence Project's HCP covers mortality caused by accidental electrocution by the LEFs of species protected by ESA and CESA, and addresses other special-status species. The HCP does not cover prison construction of any kind and no habitat loss or degradation is included in the covered activities.



Source: Adapted by Ascent Environmental in 2014

Exhibit 1 **Regional Location of California Health Care Facility**

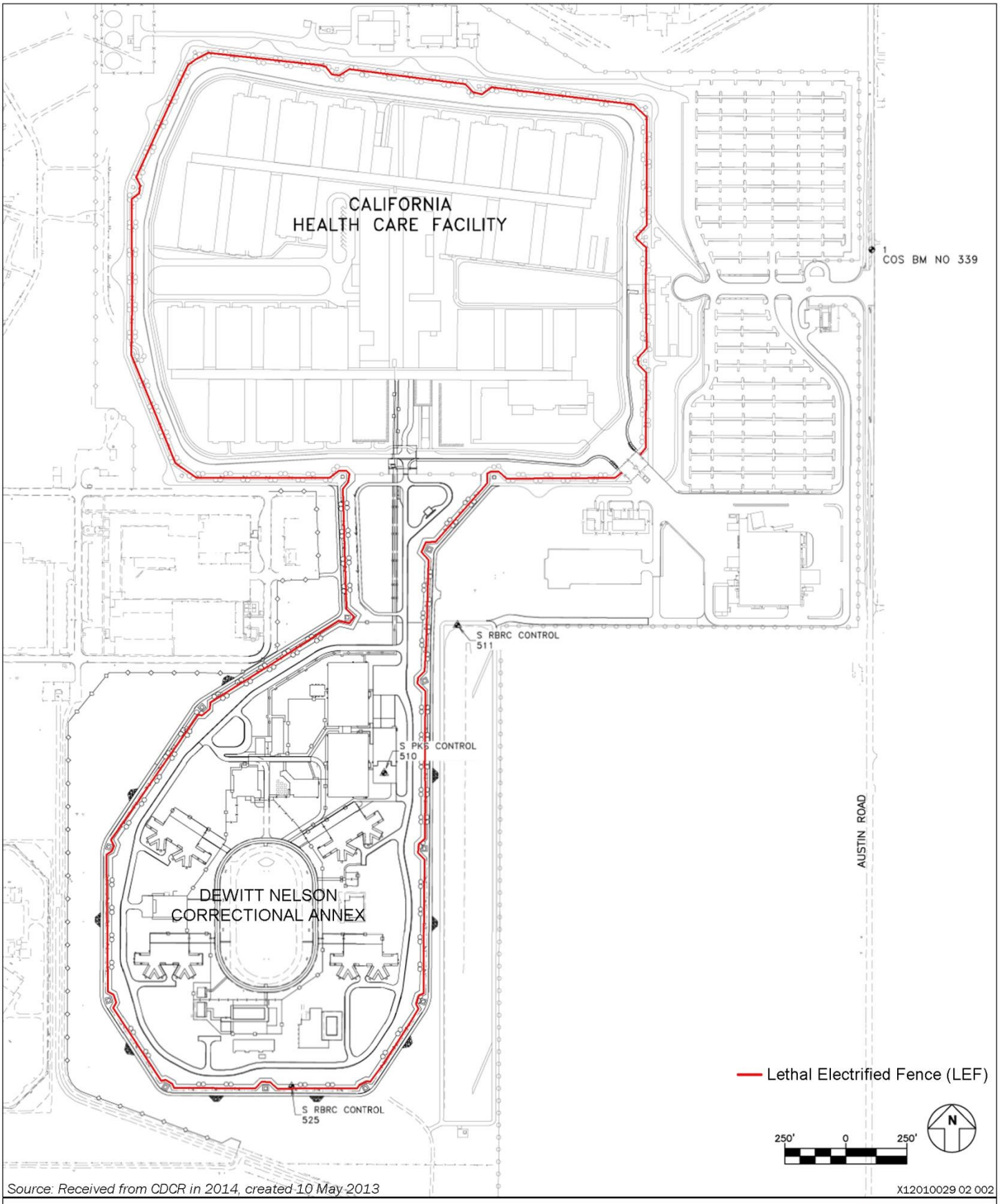


Exhibit 2 **Lethal Electrified Fence at California Health Care Facility**

ASCENT ENVIRONMENTAL

The approved HCP for the Statewide Electrified Fence Project includes numerous mitigation measures designed to minimize wildlife use in areas near the LEFs and to deter wildlife from making contact with the LEFs. An extensive feasibility evaluation was conducted over several years by CDCR to determine which mitigation measures were biologically effective, cost effective, and viable based on weather, security, maintenance, and operational issues. Mitigation in the HCP was organized and implemented in three tiers. Tier 1 includes operational measures designed to modify or remove habitat or other attractants to wildlife from the secured perimeter area of each prison. Tier 2 involves installing exclusion and deterrent devices on LEFs and in the perimeters. Tier 3 includes a compensatory mitigation package designed to offset the residual loss of wildlife resources at each prison as a result of electrocution risks that remain even after Tiers 1 and 2 have been implemented. The HCP also includes a wildlife mortality monitoring program. Under this program a qualified biologist visits each institution that has an operational LEF three times per year and identifies carcasses of animals collected and stored in a freezer by CDCR staff and inspects compliance with Tier 1 and Tier 2 measures. The results of this monitoring are reported on an annual basis to USFWS and CDFW.

Operation of the LEFs has been monitored intensively and regularly, in coordination with USFWS and CDFW, since 1993. In 2001, after consultation with USFWS and CDFW, CDCR constructed LEFs at four additional facilities, but did not seek a federal or state incidental take permit for their operation because take of state or federally listed species was determined to be unlikely, based on supporting biological analyses for the location of the prisons and based on monitoring data from other operational LEFs that demonstrated no listed species had been killed (CDCR 2001). In 2013, after environmental review, CDCR constructed CHCF and activated this LEF, also, without seeking an incidental take permit after consultation with USFWS and CDFW. Construction of a LEF around the adjacent DeWitt Nelson Correctional Annex (DNCA) and connection to the CHCF LEF was completed in 2014. CDCR implemented the same three-tier mitigation approach and the same intensive monitoring at these additional prisons as was implemented with the facilities covered by the HCP. No take of any endangered species, whether covered by the HCP or not, had occurred at any CDCR prison from the time the LEFs were activated until 2013.

In June 2013 a state-listed Swainson's hawk was killed by accidental contact with the LEF at Valley State Prison (VSP) in Madera County, which is adjacent to the Central California Women's Facility (CCWF) in Madera County. Both prisons' LEFs are covered by the HCP. This is the only verified mortality of a listed species due to contact with a LEF at any California state prison. Although the take of the listed species at this location is covered by the HCP, the potential for Swainson's hawks to be killed by LEFs at other prisons that are not covered in the HCP was re-evaluated, and CDCR concluded that accidental electrocution of Swainson's hawk could occur at CHCF. As such, CDCR is seeking an incidental take permit for Swainson's hawks at CHCF.

No other state or federally listed species are expected to be killed by LEFs at other prisons not included in the HCP. If CDCR constructs additional prisons with LEFs within the range of Swainson's hawks or other state or federally listed species, the potential for those species to be killed will be evaluated.

1.2.2 Facility and Lethal Electrified Fence Description

CHCF is a sub-acute medical and mental health care facility. The facility provides approximately 1.2 million square feet of treatment and other prison space. The adjoining DeWitt Nelson Correction Annex (DNCA) facility is a general population facility with a health care/mental health care mission. It was converted from a youth correctional facility and consists of housing, mental healthcare facilities, and support facilities to care for up to 1,818 inmates-patients. The total area of the facility is approximately 229,000 square feet.

The LEF has been constructed to encompass both facilities. This provides for high-level security while allowing efficient transport of inmates between the two prisons without having to leave secured prison grounds. The LEF totals 13,477 feet in length, and has vehicle and pedestrian sally ports and guard towers. See Exhibit 2 for an aerial view of the LEF at these facilities.

The LEF was constructed consistent with CDCR's standard design criteria. See Exhibit 3 for a detailed schematic of the LEF. The LEF has a double-fenced enclosure that surrounds the electrified portion. The exterior cyclone fences are 12 feet high and topped with razor wire. The space between the exterior cyclone fences is 25 feet with a continuous concrete grade beam running parallel between the exterior fences. The area between the double-fence enclosure is kept free of vegetation and structures. The electrified fence consists of posts spaced 30 feet apart, which support 15 to 18 electrified wires. The posts are 12 feet high with insulators mounted on them that isolate the high-voltage wires from the grounding posts, grounding brackets, and the concrete grade beam. The electrified wires are spaced closer together near the ground and farther apart near the top of the fence. The average spacing between wires is about 10 inches. The electrified fence design ensures that contact is made if the lower wires are spread apart during an attempted inmate escape. The design includes detection rings around the lower seven wires and grounding posts enveloping the lower wires between the fence posts. An electronic warning system is mounted on the interior fence to detect when the LEF grounds. An object grounds itself if it contacts two wires simultaneously, one wire and a detection ring or ground post, or one wire and an electrical ground. The LEF discharges a lethal level of electricity upon contact. The alarm facilitates a rapid response to inmate escape attempts or signals that an animal has contacted the fence. A 12-foot-wide paved road surrounds the secured perimeter approximately 30 feet from the exterior fence line. Chapter 4 of this document describes measures CDCR implements to reduce wildlife mortality.

1.2.3 Project Location

CHCF is in the northern San Joaquin Valley in unincorporated central San Joaquin County, approximately one-third mile south of the Stockton City limits and about two miles east of State Route 99 (Exhibits 1 and 2). Except in areas of higher density development associated with urban centers, the northern San Joaquin Valley is characterized by relatively flat open farmland interspersed with rivers and other tributaries, combined with industrial/warehouse uses and low-density residential farmsteads. The land uses surrounding these facilities are agricultural fields and other prison facilities such as the Northern California Youth Correctional Center, which includes two separate youth correctional facilities, and the former Northern California Women's Facility (currently not in use). There is also an industrial warehouse park to the north and the Burlington North Santa Fe Railroad multimodal facility to the east. No natural habitats are present, and open space areas generally consist of landscaped areas, fallow fields, and ruderal areas. Littlejohns Creek is located approximately 700 feet south of DNCA. There is also an existing retention basin immediately adjacent to the site which receives drainage from surrounding properties. Forward Landfill is immediately south of Littlejohns Creek.

1.2.4 California Environmental Quality Act Compliance

CDCR is the lead agency, pursuant to the CEQA Guidelines (Section 15050) for the preparation of a Supplemental Initial Study/Proposed Mitigated Negative Declaration (IS/MND) to the Northern California Reentry Facility (NCRF) and DeWitt Nelson Youth Correctional Facility (renamed DeWitt Nelson Correctional Annex [DNCA]) conversion projects, certified in 2010 (CDCR 2010). The Supplemental IS/MND has been prepared by CDCR in accordance with CEQA and the State CEQA Guidelines. The proposed project analyzed in the IS/MND is related to the operation of one LEF that encompasses both CHCF and DNCA (i.e., CHCF LEF).

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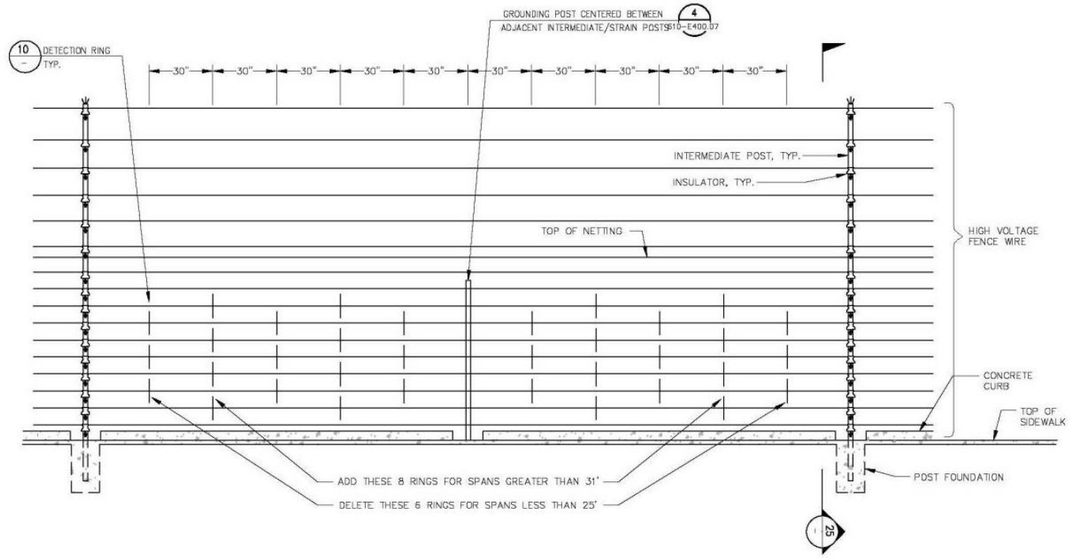
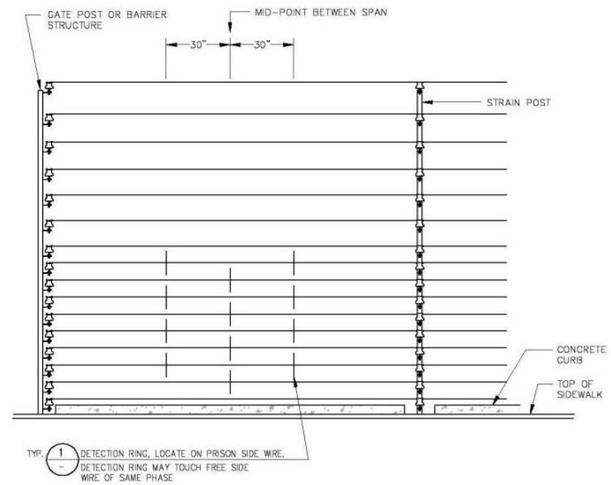


INTERMEDIATE POST ELEVATION

SCALE: 1/2" = 1'

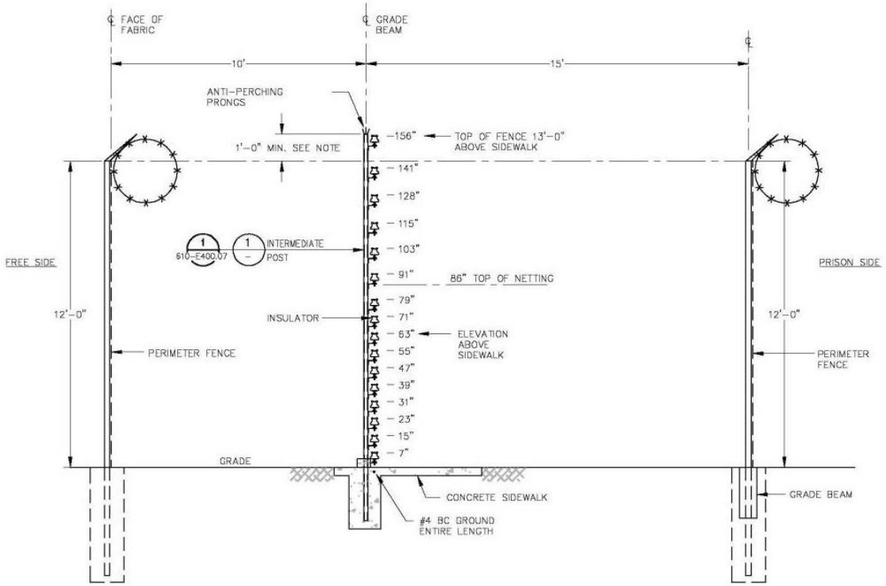
3



TYPICAL SALLYPORT SLACK SPAN ELEVATION DETECTION RINGS

SCALE: 1/2" = 1'

2



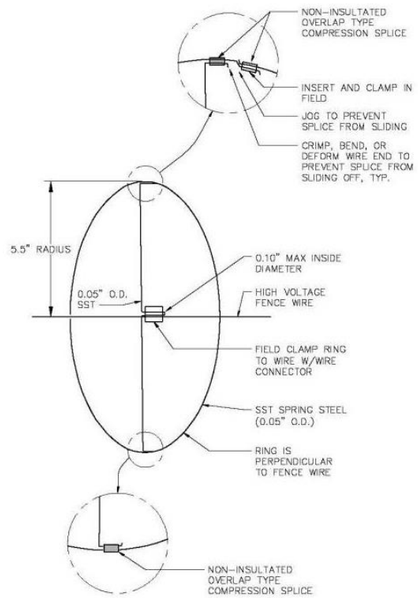
NOTE:

HEIGHT OF TOP ELECTRIFIED WIRE SHALL BE HIGHER THAN 1'-0" ABOVE AN IMAGINARY LINE FROM THE TOP OF INNER PERIMETER FENCE TO THE TOP OF OUTER PERIMETER FENCE.

TYPICAL FENCE ELEVATION

SCALE: 1/2" = 1'

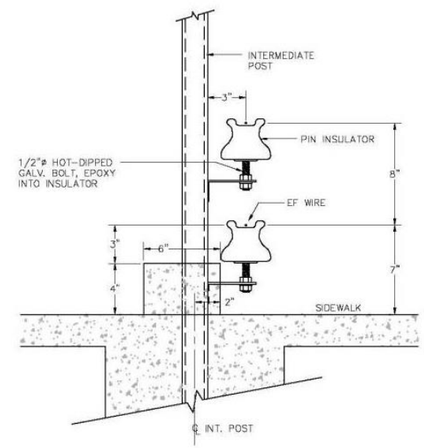
4



DETECTION RING

SCALE: NONE

5



INTERMEDIATE POST

SCALE: 1/4" = 1"

1

Exhibit 3

CHCF Lethal Electrified Fence Schematic Diagram

PLOT SCALE 1:1

Hensel Phelps Construction Co. IV
GRANITE
PO Box 194 Stockton, CA 95201
t: +1 209 982 4700
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3630 Jefferson Boulevard, Culver City, CA 90232 USA
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300 Lakeside Drive, Suite 400, Oakland, CA 94612 USA
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AECOM

Professional Seals

Signed On May 13, 2013

CALIFORNIA STATE FIRE MARSHAL APPROVED

Approval of this plan does not authorize or approve any omission or deviation from applicable regulations. Final approval is subject to field inspection. One set of approved plans shall be available on the project site at all times.

Reviewed by: _____

DEPARTMENT OF CORRECTIONS AND REHABILITATION
ACCESS COMPLIANCE REVIEW

Approval of this plan does not authorize or approve any omission or deviation from applicable regulations

CALIFORNIA HEALTH CARE FACILITY
STOCKTON, CALIFORNIA
DESIGN BUILD PACKAGE #1
SITE AND UNSECURED FACILITIES

100% CONSTRUCTION DOCUMENTS

BUILDING NAME:

SHEET TITLE:
ELECTRIFIED FENCE POST DETAILS

SCALE: AS SHOWN

REVISIONS

No.	Issue Description	YYYY-MM-DD
	90% CD/Basis of Design	2011-05-13
	Systems Confirmation	2011-07-12
	95% Construction Documents	2011-07-28
	99% Construction Documents	2011-08-22
	99% CD Addendum 1	2011-09-26
	100% Construction Documents	2011-10-13

JOB NO. 11.24009.01
DATE 05/10/2013
SHEET NUMBER 610-E400.22

DESTROY AFTER USE File Name

2 BIOLOGICAL SETTING

2.1 VEGETATION COMMUNITIES AND WILDLIFE ASSOCIATIONS

The project site provides no natural habitat for wildlife. However, landscape vegetation and ruderal habitat on the grounds of CHCF and the adjacent agricultural fields provide habitat for some common and special-status wildlife species that are able to use modified or nonnative habitats. Scattered trees at nearby facilities provide nesting habitat for several native resident and migratory bird species, including: American kestrel (*Falco sparverius*), barn owl (*Tyto alba*), red-tailed hawk (*Buteo jamaicensis*), Swainson's hawk (*Buteo swainsonii*), western scrub-jay (*Aphelocoma coerulescens*), yellow-billed magpie (*Pica nuttalli*), mourning dove (*Zenaida macroura*), and house finch (*Carpodacus mexicanus*). Mammals common to agricultural areas in the San Joaquin Valley—California ground squirrel (*Spermophilus beecheyi*), desert cottontail (*Sylvilagus audubonii*), opossum (*Didelphis virginiana*), and striped skunk (*Mephitis mephitis*)—are also likely to inhabit the area surrounding the LEF.

2.2 SPECIES COVERED BY PERMIT

CESA prohibits the take of any species of wildlife that is included in the list of endangered, threatened, or candidate species. An ITP may be issued by CDFW pursuant to Fish and Game Code section 2081(b) and section 2081(c), and California Code of Regulations, title 14, subdivision 3, chapter 6, article 1, commencing with section 783.

CHCF is within the range of Swainson's hawk. The mortality of an individual Swainson's hawk at another prison (covered in the Statewide HCP) that is surrounded by agricultural land uses demonstrated that Swainson's hawk may contact a LEF in a similar setting, such as CHCF. Because there is potential for Swainson's hawk to contact and be electrocuted by the LEF at CHCF, CDCR is pursuing an ITP under CESA. Swainson's hawk is not subject to the rules and guidelines pursuant to Section 2112 and Section 2114 of the Fish and Game Code. No other state or federally listed species are expected to be killed by the CHCF LEF.

3 RISK ASSESSMENT

3.1 SUMMARY OF MORTALITY AT CALIFORNIA STATE PRISONS

3.1.1 Overall Mortality

Monitoring data from 2002 to 2013 show that approximately 29,933 animals have been killed by approximately 30 LEFs in 11 years. (Not all 30 LEFs have been operational for those 11 years; some LEFs have been constructed more recently). Birds are, by far, the most common wildlife group electrocuted, with mammals making up a relatively small percentage. Of the animals killed, 93 percent or 27,757 were birds, with raptors accounting for 1.6 percent and non-native birds accounting for 49 percent of this mortality. Mammals represented 7 percent of the animals killed, and a small fraction (0.24 percent) included reptiles, amphibians, and arachnids (CDCR 2014, unpublished data). Overall mortality for monitoring years 1-11 is show below in Exhibit 4 for the 30 existing CDCR LEFs (not including CHCF because it only became operational in 2014).

On average, this accounts for 2,721 animals killed annually, of which 2,523 are birds. One state-listed species, a Swainson's hawk was accidentally electrocuted by the LEF at VSP in 2013. No federally threatened or endangered animals have been killed by LEFs.

Because there is no vegetation within the LEF perimeter to attract wildlife, animals associated with barren or ruderal habitats are more likely to be within the perimeter. Species that are abundant in the surrounding area are also at higher risk for mortality. Most LEF prisons are in open habitat such as agricultural, grassland, or desert areas. Thus, most LEF mortality is composed of birds that do not require dense vegetation or aquatic habitat. However, behavior and population density also dictate expected mortality rates (CDCR 1999, 2014). Small, common, and highly gregarious species such as house finch (*Haemorhous mexicanus*), house sparrow (*Passer domesticus*), yellow-rumped warbler (*Setophaga coronate*), and Brewer's blackbird (*Euphagus cyanocephalus*) tend to have high mortality at the LEFs when they are abundant nearby. Flycatchers also exhibit high mortality rates, likely due to their propensity to hunt insects from elevated perches. Secretive or roaming species such as grasshopper sparrow (*Ammodramus savannarum*) or wild turkey (*Meleagris gallopavo*), respectively, rarely contact the LEF. Similarly, raptors and other predatory birds have a low to moderate mortality, mainly due to their lower population densities, larger size, and propensity for hunting in more open areas. The larger size of these birds makes the confined space in the LEF perimeter less attractive for hunting. Likewise, some species such as bushtit (*Psaltriparus minimus)* or verdin (*Auriparus flavicepts*) may be too small to be electrocuted because they are not likely to touch two parts of the fence simultaneously. In addition, species that avoid well-lit areas or human activity are also not likely to be electrocuted such as long-eared owl (*Asio otus*) or common yellowthroat (*Geothlypis trichas*), respectively.

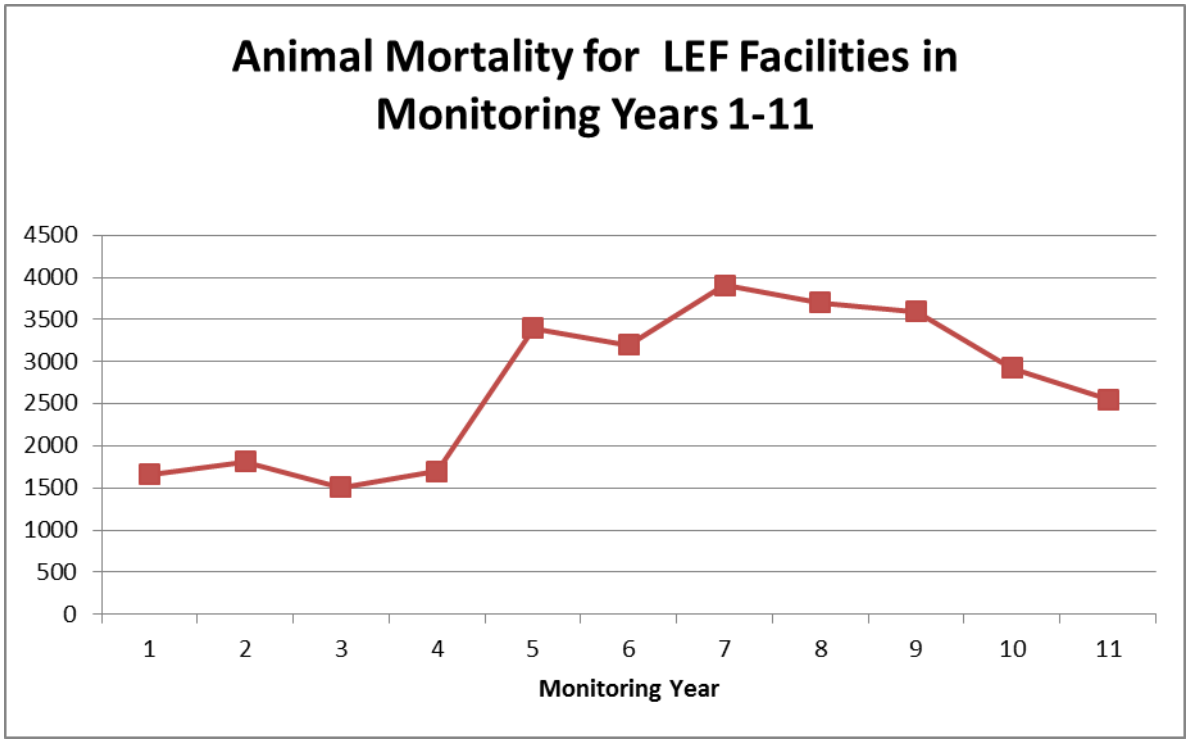


Exhibit 4 **Total Wildlife Mortality at Lethal Electrified Fences in Years 1-11**

Mortality of raptors for monitoring years 1-11 (based on annual monitoring cycle for the HCP) is shown in Table 1 and in Exhibit 5 for the 30 existing CDCR LEFs. This roughly equates to approximately one to two raptors per LEF per year, which illustrates that raptor mortality is generally low at LEFs. The most common raptors killed by contacting the LEF are American kestrel and great-horned owl.

Table 1 Mortality of Raptor Species at LEFs in Monitoring Years 1-11

Species	Grand Total
American Kestrel	116
Barn Owl	55
Burrowing Owl	55
Cooper's Hawk	13
Great Horned Owl	111
Harris's Hawk	1
Prairie Falcon	1
Red-shouldered Hawk	4
Red-tailed Hawk	45
Sharp-shinned hawk	15
Swainson's Hawk	1
Turkey Vulture	27
Grand Total	**444**

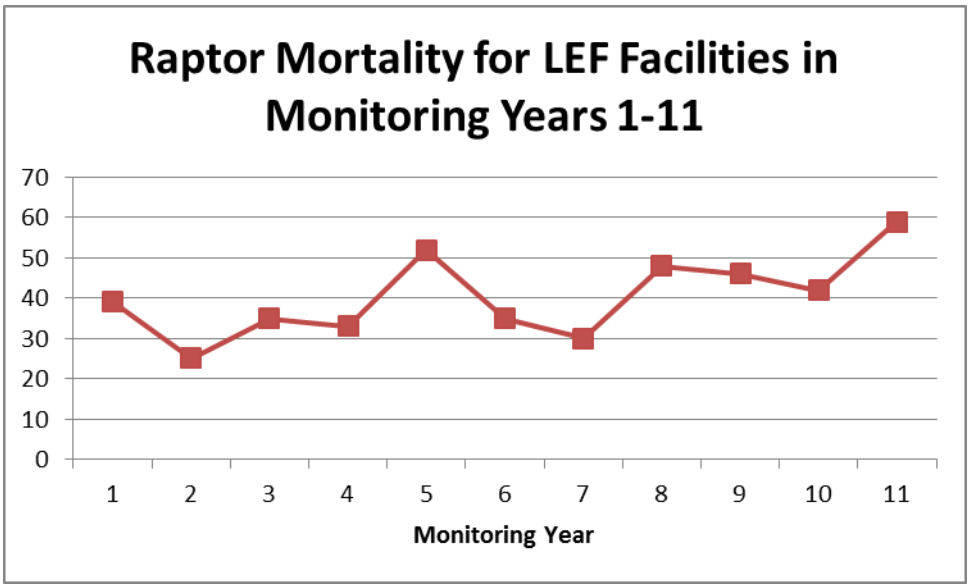


Exhibit 5 Total Raptor Mortality at Lethal Electrified Fences in Years 1-11

3.1.2 Wildlife Mortality at California Health Care Facility

The LEF at CHCF was activated in July 2013, but the portion of the LEF around DNCA was not connected until June 2014 when construction of the LEF was completed to encompass both prisons. Since activation of the LEF at CHCF in 2013, 26 wildlife individuals have been killed (as of June 2014): American crow (*Corvus brachyrhynchos*), American kestrel, barn owl, Eurasian collared dove (*Streptopelia decaocto*), European starling (*Sturnus vulgaris*), house finch, house mouse (*Mus mus*), northern mockingbird (*Mimus polyglottus*), and western kingbird (*Tyrannus verticalis*).

Except for Swainson's hawk, mortality of federal or state threatened or endangered wildlife is not expected at CHCF. As previously stated, no federally threatened or endangered animals have been killed by any of the existing California LEFs in approximately 20 years of operation and only one state listed species, a Swainson's hawk at VSP, has been killed by a LEF since its activation in 1996.

To estimate the expected number of special-status species likely to be killed at the CHCF LEF, the mortality of wildlife was examined at other operational LEFs in similar geographic locations and with similar surrounding land uses (Table 2). VSP and CCWF, both located in Chowchilla (approximately 90 miles south of Stockton), are in similar agricultural settings to CHCF and were selected as the reference sites (Exhibit 6). The CHCF LEF totals 13,477 feet in length, while the VSP and CCWF fence length are both approximately 7,850 feet, for a total of approximately 15,700 feet. See Exhibit 6 for the location of the proposed facilities and reference sites.

Table 2 below summarizes the mortality of special-status species in monitoring years 1-11 at the reference facilities.

Table 2 Mortality of Special-Status Species in Monitoring Years 1-11 at CCWF and VSP Reference Sites			
Species	Listed	Special-Status*	Grand Total
CCWF	**0**	**21**	**21**
American Kestrel	0	1	1
Barn Owl	0	3	3
Great Horned Owl	0	4	4
Red-tailed Hawk	0	4	4
Loggerhead Shrike	0	8	8
Horned Lark	0	1	1
VSP	**1**	**24**	**25**
American Kestrel	0	2	2
Barn Owl	0	2	2
Great Horned Owl	0	12	12
Loggerhead Shrike	0	6	6
Red-tailed Hawk	0	1	1
Swainson's Hawk	1	0	1
California Gull	0	1	1
Loggerhead Shrike	0	6	6
Grand Total	**1**	**45**	**46**

*Special-status species include those that are wildlife species identified by CDFW as species of special concern, species covered by the Statewide Electrified Fence HCP, and common raptor species

3.2 POTENTIAL FOR TAKE OF SWAINSON'S HAWK

Operation of the LEF at CHCF poses a risk of Swainson's hawk mortality because it could come in contact with the LEF and could receive a lethal electric charge by simultaneously contacting two wires, one wire and a detection ring or grounding post, or one wire and an electrical ground. No habitat loss or disturbance to nearby nesting pairs occurs as a result of the operation of the LEF.

Swainson's hawks are medium-sized raptors that hunt aerially for small mammals and reptiles within agricultural fields (Bechard et al. 2010). They soar over hayfields, grasslands, and agricultural fields when hunting for prey. They are also know to perch on sprinkler rigs or fence posts, and then pounce on rodents fleeing irrigation water, or to follow tractors after harvest or disking to capture displaced, wounded, or exposed rodents. Swainson's hawks prefer open spaces for hunting, making them unlikely to hunt for prey in small or confined spaces. The narrow ~~30~~25-foot space between the cyclone fences and the electrified wires does not provide typical, open foraging habitat for Swainson's hawk. However, Swainson's hawks could use the LEF fence posts or adjacent lampposts as perches for hunting, and could enter the space between the cyclone fencing if small mammals, birds, or other prey items are present.

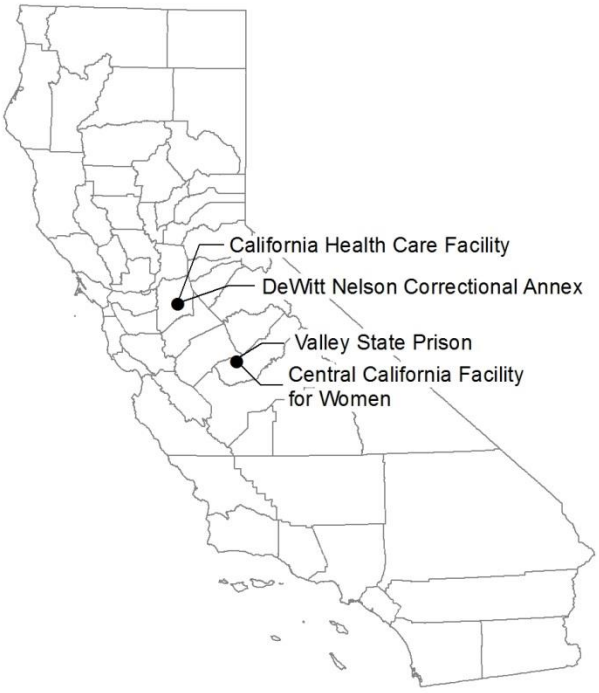
Correctional Complex with LEF

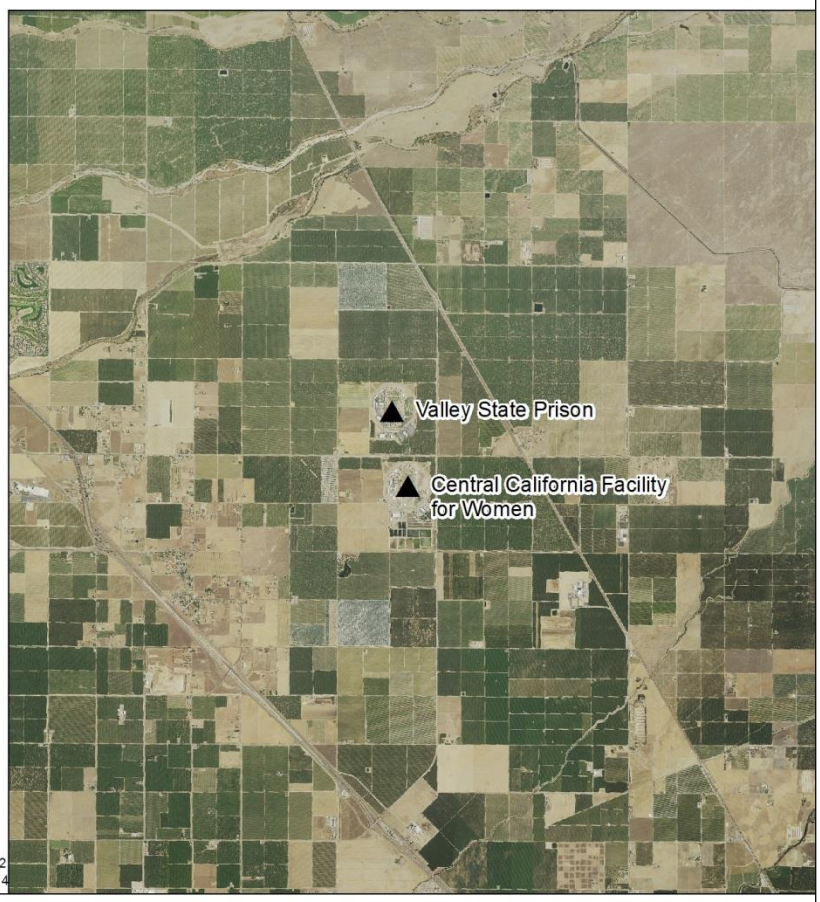
Legend

- Correctional Complex with LEF
- Reference Sites

0 1 2 Miles

Reference Sites





Source: Ascent Environmental 2015

G12010029 01 012
Aerial: NAIP 2014

Exhibit 6 **Lethal Electrified Fence Reference Sites for California Health Care Facility**

ASCENT ENVIRONMENTAL

3.2.1 Estimated Mortality at California Health Care Facility

The LEFs at VSP and CCWF are each 7,860 feet in length. The CHCF LEF is 13,477 feet in length, or 88 percent of the combined length of both VSP and CCWF. These proportions can be used to estimate mortality of Swainson's hawk at CHCF.

Swainson's hawk mortality at the LEF reference sites was one individual per 11 years or an annual rate of 0.09 per 15,720 feet of LEF (the combined lengths of LEFs at VSP and CCWF). Thus, the expected annual mortality rate at CHCF, which has a LEF length of 13,477 feet, is one individual every 12.5 years or 0.08 individuals per year. This rate is based on an obviously limited dataset, but also recognizes that there has been only one incidence of take since 2002, when the ITP was issued. Furthermore, monitoring at VSP and CCWF has been conducted since their LEFs became operational in 1996 and 1995, respectively, and no Swainson's hawks or other listed species have been killed at either facility except for the one accidental mortality in 2013.

3.2.2 Indirect Mortality

No indirect impacts to Swainson's hawk are expected from the operation of the LEF at CHCF. No indirect impacts to wildlife populations are known from operation of any LEF.

3.3 IMPACTS OF POTENTIAL SWAINSON'S HAWK TAKE

3.3.1 Population

KNOWN POPULATION TRENDS

Over 17,000 pairs of Swainson's hawks populated California in the past (Bloom 1980). From 1979, inventories and population estimates statewide have varied from 400 to 2,081. In 1979, Bloom (1980) found approximately 400 birds; in 1988, Estep (1989) found approximately 800 birds; in 1994, CDFG (Anderson et al. 2007) found 1,000 birds; in 2006, CDFW found 2,081 birds statewide (Anderson et al. 2007). Based on these figures, it is uncertain whether inventory methods are more efficient, Swainson's hawk numbers are increasing, or both. However, an increase in Swainson's hawk nests is consistent with the North American Breeding Bird Survey, which reported a 1999-2011 increase in the species throughout California (Sauer et al. 2013) and the increased nest-finding success reported by Briggs et al. (2011) in far northern California. Despite annual variability (as noted above), populations in northeastern California (Woodbridge et al. 1995) and the Central Valley (Bechard et al. 2010) are considered currently to have relatively stable populations.

Bloom (1980) reported that Swainson's hawks in the past were found to nest throughout California except in the more mountainous and forested areas such as the Sierra Nevada, Northern Coast Ranges, and Klamath Mountains. Gifford et al. (2012) found that approximately 95 percent of California's Swainson's hawks are currently found in the Central Valley. The Central Valley extends from Tehama County south to Tulare and Kings counties. The population seems to have the highest numbers in Yolo, Solano, Sacramento, and San Joaquin counties (Estep 1989, Anderson et al. 2007).

Swainson's hawk breeding pair densities vary throughout their range in California and are not coincident with land cover or habitat types. The California Swainson's Hawk Inventory of 2005-2006 stratified current ranges into three strata across the state by known breeding pair densities: dense, moderately dense and sparse strata (Anderson et al. 2007).

Dense = average density is greater than one breeding pair per 10 square miles,
Moderately Dense = average density is greater than one breeding pair per 11 to 75 square miles,
Sparse = average density is greater than one breeding pair per more than 76 square miles.

In northern California, overall density of territories was 20 pairs per 100 square kilometer, but varied from 5.7 pairs per 100 square kilometer, in irrigated pasture to 36.8 pairs per 100 square kilometer, in landscape dominated by alfalfa (Woodbridge et al. 1995).

KNOWN THREATS TO THE SPECIES

The Swainson's hawk was listed as a threatened species in 1983 by the California Fish and Game Commission. This listing was based on habitat loss and population decline within the state.

Loss of foraging and breeding grounds is the most acknowledged threat to Swainson's hawks in California. Foraging areas are being converted from agricultural lands to urban or residential areas, or areas of high quality foraging habitat like alfalfa fields have changed to less suitable foraging crop and it has become unsuitable for Swainson's hawk foraging (and thus nesting). Other threats include infrastructure placement, disease, pesticide poisoning, and electrocution by powerlines (CDFW 2013, Bechard et al. 2010). While mortality from pesticides on wintering grounds in South America was a huge problem in the 1990s, mortality has apparently decreased as Argentina and other countries have adopted stricter pesticide regulations. There is, however, some indication that mortality from pesticides still occurs and is unreported (Bechard et al. 2010).

REASONABLY FORESEEABLE IMPACTS ON SWAINSON'S HAWK

Only one mortality of Swainson's hawk attributed to LEF operation has occurred to date, thus, it is difficult to predict future loss with certainty. Using the same general frequency of occurrence as VSP, where the single loss has occurred, the LEF at CHCF is estimated to result in mortality of four individuals over a 50-year period (1 individual per 12.5 years or 0.08 per year). This would remove four individuals from the breeding population. Any contribution to the California population of Swainson's hawk (estimated at approximately 2,000) from these individuals would be lost. Because the operation of the LEF would not affect potential use of nesting sites or prey populations within agricultural and ruderal fields, there would be no loss of breeding or foraging habitat as a result of the operation of the LEF.

3.3.2 Potential for Jeopardy

The last known population estimate in California was completed in 2006 (Anderson et al. 2007). Because populations within northeastern and central California are considered relatively stable and 95 percent of the California population nests in the Central Valley, it is possible that the California population as of 2013 is approximately the same as the 2006 estimate (2,081 individuals).

If less than 0.08 Swainson's hawk individuals per year (1/12.5) were removed from the population, then approximately 0.0038 percent of the population would be removed annually (using 2006 estimate [0.08/2,081]). Based on this small number and the stable or increasing population trend, it is unlikely that the expected mortality of Swainson's hawks by this new LEF would jeopardize the Swainson's hawk population.

Nor is this loss of 0.08 adults likely to add significantly to the decrease in genetic diversity of the Central Valley population, especially since there is gene flow between this region and the Great Basin/Great Plains population. Swainson's hawks range-wide have been found to have high genetic diversity (Hull et al. 2008).

4 RISK REDUCTION AND MITIGATION MEASURES

An Incidental Take Authorization requires that all impacts to the species are minimized and fully mitigated and that mitigation is roughly proportional to the extent of the impacts of the taking (14 CCR § 783.4). This "full mitigation" standard is intended to ensure that the status of the species is the same or better after project and mitigation implementation as it was prior to project implementation.

This section describes several types of measures that are implemented to minimize or avoid take of Swainson's hawk (and other wildlife) at the LEF at CHCF (Tier 1 and 2 measures) or that mitigate impacts to Swainson's hawk when such mortality cannot be avoided (Tier 3). Considered in combination, the mitigation minimizes and fully mitigates impacts to Swainson's hawk for the CHCF LEF.

4.1 DEVELOPMENT OF MITIGATION MEASURES

During the development of the HCP for the Statewide Electrified Fence Project, extensive research, development, and field testing were performed to assess the biological effectiveness of measures to deter wildlife mortality. Because CDCR is required to house inmates in a secure correctional setting, any mitigation measure that would jeopardize security of inmates and public safety is not viable. Therefore, field testing was also conducted to ascertain whether or not mitigation devices represented a prison security risk, such as providing a potential aid to inmate escape, limiting the surveillance of the perimeter by staff, or causing false alarms. Finally, field testing was important for determining engineering and long-term maintenance issues for these devices, including materials and labor costs for periodic repair. The mitigation measures developed for the HCP are being implemented for the LEF at CHCF and minimize the potential take of Swainson's hawk.

A three-tiered mitigation system was developed to meet security requirements, maximize biological effectiveness, and to achieve feasible implementation and maintenance. The first two minimization measures were developed to: (1) alter the area in and near the LEF perimeter to make the area less hospitable to wildlife (Tier 1) and (2) install exclusion or deterrent devices to reduce wildlife contacts with the LEF (Tier 2). Since mortality could not be altogether avoided, a set of compensatory measures (Tier 3) was derived to enhance and preserve habitat for HCP covered species. All aspects of these measures involved consultation with CDFG, USFWS, and technical experts at during development of the HCP.

This three-tiered system was created from research and testing of different mortality avoidance or attraction and electrocution minimization methods. The HCP described a number of potential methods that were initially tried and found to either compromise security or to be ineffective at reducing animal attraction or mortality. Two different fence designs were proposed: complete netting of the fence and a stun-lethal fence. Initial attempts were made to completely cover the entire LEF with netting, instead of the netting stopping part way up (as it is currently). This was termed "over-the-top" or "tent" netting. Several versions were tried at Pleasant Valley State Prison and Salinas Valley State Prison in 1994 and 1995. Financial and security reasons were the primary reasons for eliminating the netting to the top: the high cost was likely to be prohibitive, netting would interfere with surveillance visibility, and netting could aid in inmates climbing the fences. Additionally, maintenance problems from large amounts of wind-blown debris in the excess netting would have been problematic and time-consuming to remove. Next, a stun-lethal fence was proposed that would first stun an inmate then subsequent contact would be lethal. This was disregarded due to the increased security risk. The reliability and maintenance was uncertain for such a complex system and a stun-lethal fence was not likely an adequate level of deterrence to discourage escapes.

Additional Tier 2 measures were tested for wildlife exclusion and deterrence. These included sound devices to discourage wildlife from the LEF perimeter, flashing tapes to visually disturb birds from roosting or perching near the LEF, chemical irritants such as sticky sprays or tacky gels on roost and perch sites, alternative food sources to lure wildlife away from the LEF, alternative lighting such as lighting reduction or

yellow color to reduce insect/prey attraction, and avian scare devices such as fake predators (e.g., owl decoys). The sound devices, chemical irritants, alternative food sources, and alternative lighting were all dismissed upon proposal due to either unsubstantiated claims of effectiveness (sound devices), prohibitive cost (chemical irritants), compromised security (lighting alternatives), or impracticality (alternative food sources). The other two tactics (avian scare devices, flashing tapes) were implemented at some facilities, but were found to be ineffective at reducing wildlife attraction or mortality. For more information on each of these alternative mitigation measures and attempts to reduce mortality, see the Statewide Electrified Fence Project HCP (CDCR 1999).

As a result of this research, the most effective Tier 1 and Tier 2 mortality minimization measures were adopted by the Statewide Electrified Fence Project in 1999. Tier 1 minimization actions to reduce attractants such as water, trash, vegetation, and cover involve: removing vegetation in or near the LEF perimeter, reducing standing water near the perimeter, preventing spaces under the cyclone perimeter fencing, improving drainage maintenance to reduce standing water, removing litter/debris from the LEF and perimeter, improving waste storage, relocating/reducing stored materials near the LEF, implementing a wildlife control program, and modifying landscaping vegetation to be unattractive to wildlife. Tier 2 minimization actions to exclude or deter wildlife included anti-perching devices (porcupine wire) on LEF posts to deter avian predators and netting on part of the LEF to exclude wildlife. Each of these measures is described in more detail below.

4.2 TIER 1

Tier 1 mitigation measures are designed to eliminate or reduce wildlife attractants near the prison perimeter by implementing specific maintenance and operation procedures. By making the perimeter less hospitable, wildlife frequent this area less often, thus reducing their exposure to accidental electrocution. These measures are incorporated into a handbook (CDCR 1996b) and training module for use by each prison with a LEF. The landscape modification and urban wildlife control programs are aimed mostly at reducing the attractiveness of existing landscaping to wildlife and limiting the numbers of certain urbanized wildlife that tend to occur in large numbers at many sites. Tier 1 maintenance and operation procedures are listed below.

4.2.1 Maintenance and Operations Activities

MINIMIZATION OF VEGETATION IN THE VICINITY OF THE LEF PERIMETER

Vegetation provides cover and food for many wildlife species. Vegetation within the perimeter of the LEF and adjacent to the cyclone fence or the perimeter road can attract wildlife to the perimeter and increase their risk of electrocution. To reduce the attractiveness of these areas, facility staff remove vegetation growing between and adjacent to cyclone fences that surround the LEF, and additionally, keep the first 100 feet of vacant land outside the perimeter and patrol road free of vegetation. Landscaping vegetation near the LEF is minimized and trimmed or mowed to reduce its attractiveness to wildlife. Alternatively, gravel can be placed in this zone. Facility landscaping is designed to provide as little cover and as few foraging and nesting opportunities as possible. Detailed information, including recommended landscape plantings that are less attractive to wildlife, can be found in the *Handbook to Reduce Wildlife Use* (CDCR 1996b).

MINIMIZATION OF STANDING WATER NEAR THE FENCE PERIMETER

Water within and near the LEF perimeter provides opportunities for wildlife to drink near the LEF or attracts aquatic dependent species. To prevent this, rainwater is not allowed to stand in or near the perimeter for more than 24 hours after a storm. Localized re-contouring, excavation of ditches, and placement of gravel occurs to prevent ponding. Weeds, grasses, or emergent vegetation is removed from ditches regularly to prevent avian species from seeking cover or food. Gravel is also used to prevent standing water from forming in areas with poor drainage.

CORRECTION OF EROSION GAPS AND SPACES UNDER FENCING

Gaps or spaces under the perimeter cyclone fences may be caused by erosion from wind, water, or burrowing animals. These small spaces underneath the fences allow access to the space immediately adjacent to the LEF for small mammals such as ground squirrels, rabbits, gophers, and mice. To prevent this, inner and outer cyclone fences are inspected weekly to ensure that no gaps or spaces have formed. All eroded areas are filled with soil or gravel as soon as feasible to prevent animals from entering LEF areas.

PROPER STORAGE OF MATERIALS AND WASTE

Urban garbage and containers can provide cover and foraging opportunities for wildlife. To the extent feasible, equipment, supplies, rubble, or pallets are not stored (temporarily or permanently) within 200 feet of either side of the LEF perimeter. Garbage cans and dumpsters are covered at all times and emptied as often as required to prevent overflow. The area within 200 feet of the LEF perimeter is kept free of all trash, litter, and loose food waste.

DRAINAGE MAINTENANCE

Ditches that do not drain properly or that have standing water provide food, water, and cover opportunities for wildlife. All man-made ditches within 200 feet of the LEF perimeter are kept free of any vegetation or standing water that would attract wildlife as cover or food. All ditches are inspected periodically to ensure that standing water and vegetation are not occurring in the channels. During the rainy season, standing water is prevented from persisting for more than 24 hours following storm events.

REMOVAL OF LITTER/DEBRIS

Trash and leaf debris provide cover and foraging opportunities for wildlife. To the extent feasible, all trash, litter, and construction debris are removed from areas within 200 feet of the perimeter of the LEF.

4.2.2 Urban Wildlife Control Program

Many species have adapted to the human environment and prosper in an urban setting. They successfully breed in buildings, on structures, and below storage containers. An urban wildlife control program helps to reduce species numbers in and around the perimeter fence and consequently reduce potential for electrocution. General procedures that have worked at existing LEF facilities include but are not limited to: instructing staff and inmates not to feed wildlife; regular inspection of all external building structures and voids for nests; removal of inactive bird nests (in the non-breeding season); installing screening, netting, and other exclusion devices to prevent future nesting; screening culvert openings to prevent small mammals or birds from using them; and localized control of excessive pest populations such as pigeons, rabbits, and ground squirrels.

4.2.3 Landscape Modification Program

Areas that provide cover for perching, roosting, and nesting and foraging opportunities may attract wildlife. Shrubs and trees that are fruit- or nut-bearing may offer wildlife foraging habitat. Saturated soils and ponding may increase insect populations and also may offer foraging habitat. To reduce the attractiveness of the surrounding landscape of the prisons, CDCR has developed a landscaping program that does not include these types of vegetation or require extensive irrigation. The landscaping plan includes a plant list that can be modified to accommodate site specific limitations or variables and can be implemented statewide. New landscaping materials are not installed or planted at LEF facilities without first consulting with CDCR's Environmental Planning Section in Sacramento to ensure that this guidance is followed.

4.3 TIER 2

Tier 2 mitigation measures consist of both exclusion and deterrent devices. These devices, described below, reduce the risk of wildlife coming into contact with the LEF.

4.3.1 Vertical netting

Past analysis of the LEF during development of the design has shown that wildlife mortality was typically the result of animals contacting the lowest nine wires, because wires are vertically closer together, resulting in more opportunities for animals to contact two lethal wires or a wire and a ground. Installation of three-quarter-inch mesh vertical netting enveloping both sides of the lower section of the LEF prevents most birds from contacting the fence. Refer to Exhibit 3 for a schematic diagram of the vertical net design.

CDCR initially investigated netting effectiveness at Statewide LEF project facilities when netting was installed in 1996 and 1997. Post-net data found that netting had reduced mortality at these facilities by 95 percent. Data from 2012 on netting replacement at five existing facilities showed a mortality reduction when new netting was installed to replace old netting that was torn and full of holes. The average mortality at these facilities was reduced by 60 percent after the new netting was installed.

4.3.2 Anti-Perching Devices

Fence posts and lampposts around the LEF may be used for perching and roosting by avian predators. Birds have been electrocuted at LEFs as a result of contacting electrified wires while perching, or attempting to perch, on the grounding brackets and fence posts of the LEF. Anti-perching devices, which consist of two- to four-inch pieces of stiff wire connected to an aluminum base, are strategically attached to the tops of perching sites in and near the perimeter. The anti-perching devices prevent birds from perching near the LEF, thus reducing exposure to the risk of accidental electrocutions.

Data show that anti-perching devices deter some avian species and reduce mortality at the LEFs (CDCR 2013). For example, mortality of American kestrels at Calipatria State Prison increased 300 percent when anti-perching devices on all lampposts and insulator poles were missing during the 2009-2010 monitoring year. At Ironwood State Prison, anti-perching devices were implemented in 2006; no kestrel mortality has occurred since these anti-perching devices were installed.

The changes in kestrel mortality show that these birds utilize the lampposts and fence posts as perching and likely, hunting opportunities. Anti-perching devices installed on fence posts decrease perching opportunities, but lampposts and other structures at locations not directly adjacent to the LEF may still be available for perching by avian predators.

4.4 TIER 3

While Tier 1 and Tier 2 mitigation measures minimize mortality of Swainson's hawk from the LEF, some mortality could still occur. Tier 3 compensatory mitigation is designed to offset unavoidable mortality. Proposed compensatory mitigation is described below.

4.4.1 San Joaquin County Multi-Species Habitat Conservation and Open Space Plan

CDCR explored the possibility of mitigating for the loss of Swainson's hawk under the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP). Most of CHCF is within the "Category A/Exempt/No Pay Zone" for the SJMSCP because it was mapped as developed land. The exception was portion of the project site, east of the LEF, which was mapped as "Category C/Agricultural Habitat Open Space/Pay Zone B," and developed for installation of drainage facilities and a parking lot. CDCR mitigated for the loss of this agricultural habitat through the SJMSCP (see CPR 2009 and CDCR 2010). After extensive evaluation of the SJMSCP and discussions with representatives from the San Joaquin Council of Governments (SJCOG), USFWS, and CDFW, it was determined that use of the SJMSCP to mitigate for the potential take of Swainson's hawk was not appropriate because the SJMSCP did not authorize take under CESA, although the habitat converted as part of the project had been already compensated through the SJMSCP.

4.4.2 Habitat Compensation

The CHCF LEF is 13,477 feet long and 25 feet wide, for a total of 404,310 square feet or approximately 9.3 acres. CDCR proposes to compensate for the potential mortality of Swainson's hawk by providing a permanent conservation easement on 10 acres of high quality foraging habitat. The conservation easement would be established on a portion of the Jaques Property, which is located within 10 miles of CHCF (Exhibit 7). The conservation easement would be within one mile of several documented Swainson's hawk nesting locations (Exhibit 8).

A permanent conservation easement would be established to preserve foraging habitat for Swainson's hawk. The terms of the easement would be consistent with the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP). SJCOG, Inc., which is the administrator of the SJMSCP, would hold and monitor the easement. CDCR would pay for the easement based on the appraised price and provide an endowment for managing the easement, consistent with the fee structure for the SJMSCP.

4.5 MORTALITY MONITORING AND REPORTING

Three times a year, a biologist visits CHCF to identify all carcasses that are collected from the LEF perimeter and stored in a freezer. The biologist also inspects the LEF perimeter to assess compliance with Tier 1 and Tier 2 mitigation measures. CDCR will prepare an annual report for CDFW that includes a tally of species killed and the status of implementation of Tier 1 and 2 mitigation measures. If deficiencies are observed, the report will explain what corrective actions are being taken.

4.6 MEASURES TO ENSURE AND IMPROVE PERFORMANCE

This section explains the actions CDCR takes to correct deficiencies and implement measures that reduce wildlife mortality at the CHCF LEF.

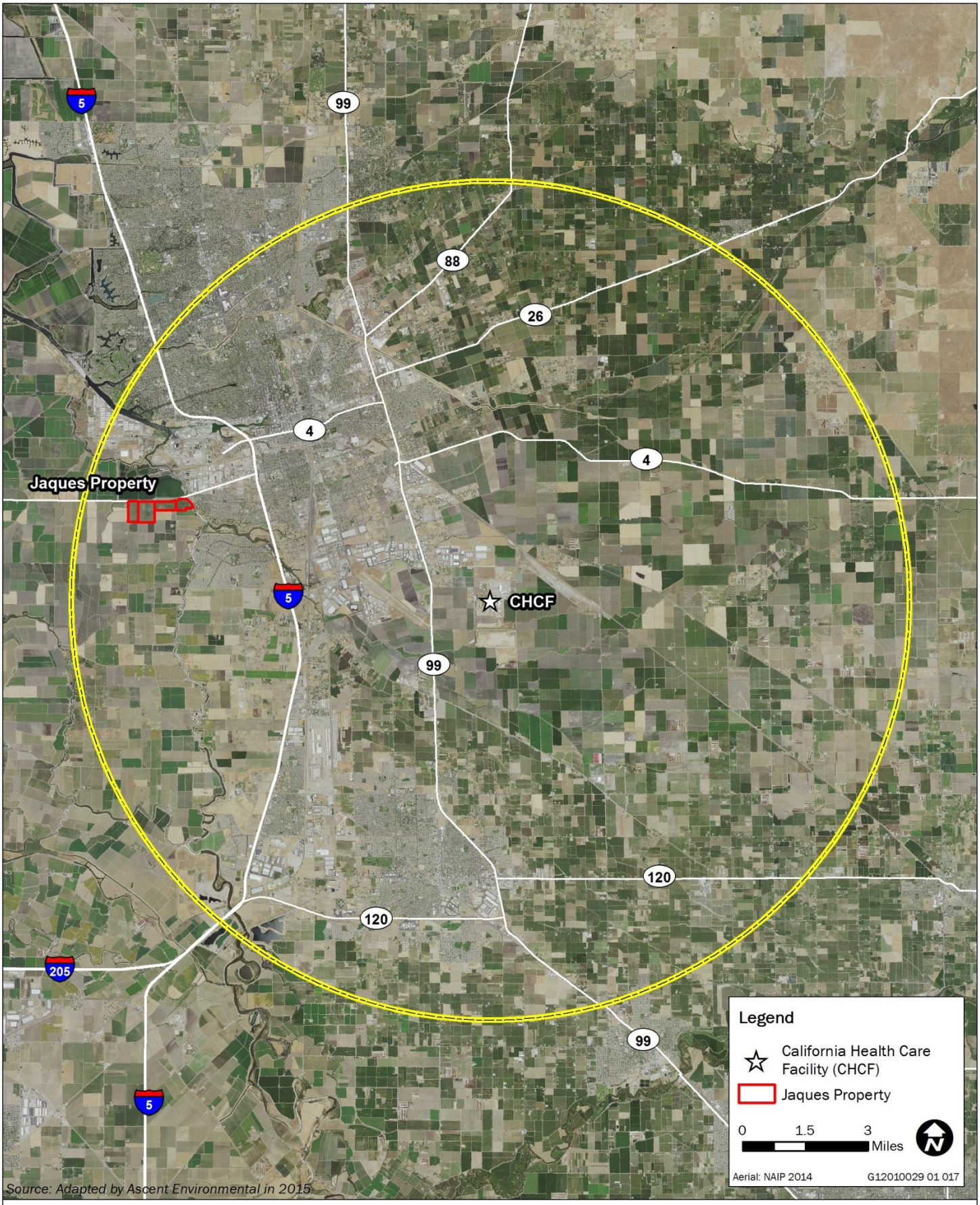


Exhibit 7 **Location of Proposed Swainson's Hawk Mitigation Site**

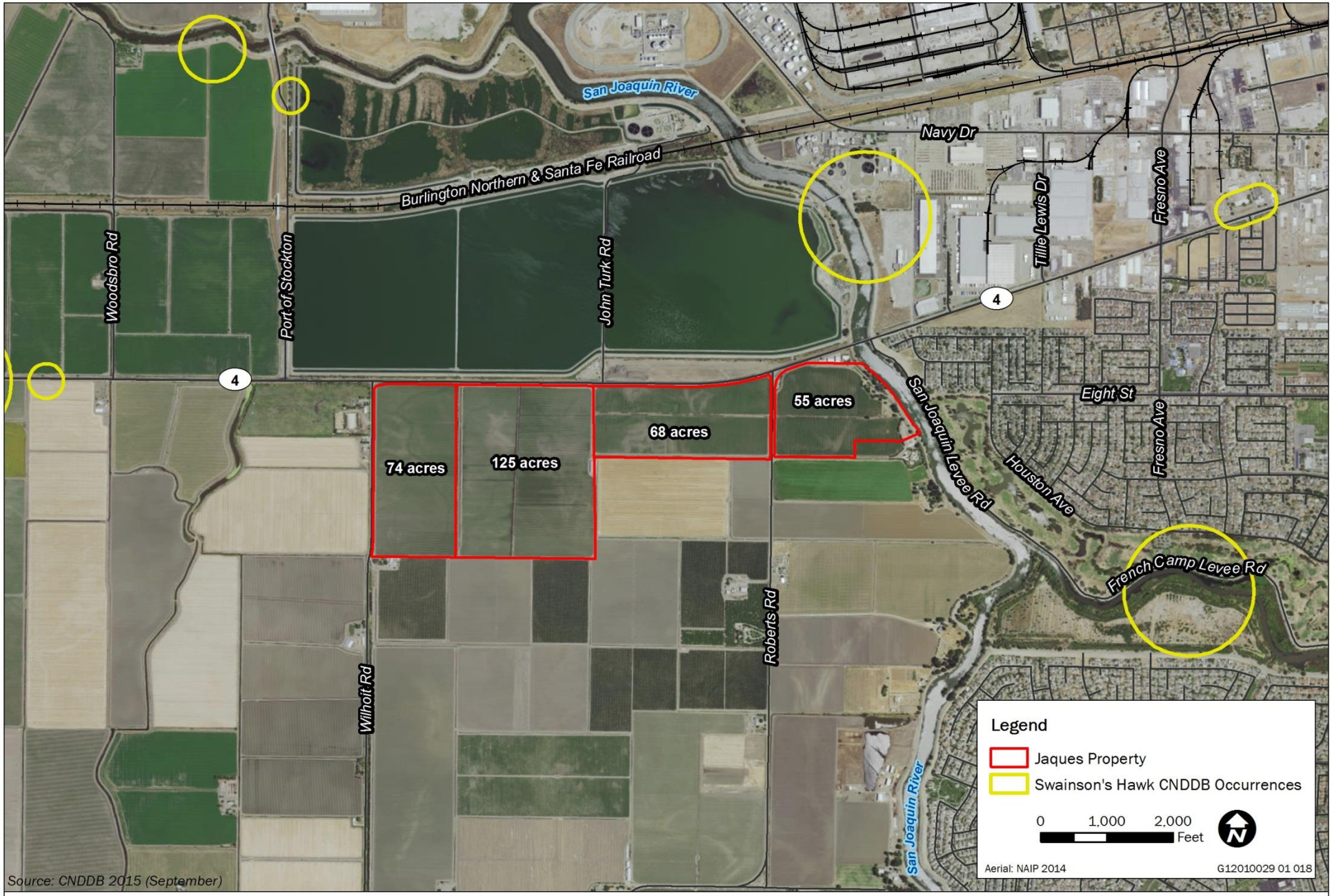


Exhibit 8

Swainson's Hawk Nesting Records Near Proposed Mitigation Site

ASCENT ENVIRONMENTAL

4.6.1 In-Service Training

Biologists conduct an in-service training at CHCF on an annual basis, as is currently done at all other CDCR prisons with LEFs. The purpose of the training is to ensure that CDCR staff members responsible for compliance with the wildlife monitoring program at each institution are informed of measures required to reduce wildlife use of the perimeter and minimize wildlife contact with the LEF. Proper carcass retrieval and storage procedures are also discussed. As observed at other prisons with LEFs, the training helps improve compliance with the program requirements.

The training program consists of the following elements:

- Introduction and Description of the Monitoring and Mitigation Measures
- Protocols for Proper Carcasses Retrieval and Storage
- Proper Management of Tier 1 and Tier 2 Measures
- Consequences of Improper Management and Monitoring (Corrective Action Plans)

4.6.2 Automated Auditing System

CDCR has implemented a preventative maintenance tracking program for routine LEF duties. All assets associated with the LEF system and related components (including Tier 1 and Tier 2 wildlife mitigation measures) are entered into the State Automated Preventative Maintenance System (SAPMS), an automated facilities management system that allows CDCR facilities to generate, track, and manage its work orders for all of its assets, including labor, materials, equipment, and expense information.

4.6.3 Corrective Action Plans

A Wildlife Mortality Monitoring Program Report is prepared after each inspection that documents wildlife mortality and compliance with Tier 1 and Tier 2 mitigation and identifies problems or recurring issues. CDCR Environmental Planning staff notify CHCF about any deficiencies or corrective measures they need to take to ensure compliance. If they are not complying with proper procedures in a continuous manner, CDCR Environmental Planning staff request that they prepare a Corrective Action Plan (CAP) to rectify the problems.

5 FUNDING

5.1 FUNDING SOURCE

The funding for 10 acres of mitigation lands for the estimated Swainson's hawk mortality will come from funds that have been encumbered for the CHCF project.

5.2 FUNDING AVAILABILITY

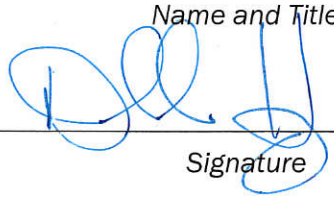
Funding is immediately available from the CHCF project to pay for a permanent conservation easement on 10 acres of the Jaques property (Exhibit 7). The funding will also include an endowment to SJCOG, Inc. to manage the easement through its Multi-Species Habitat Conservation and Open Space Plan.

6 CERTIFICATION

I certify that the information submitted in this application is complete and accurate to the best of my knowledge and belief. I understand that any false statement herein may subject me to suspension or revocation of this permit and to civil and criminal penalties under the laws of the State of California.

Deborah Hysen, Director
Facility Planning, Construction and Management
California Department of Corrections and Rehabilitation

Name and Title



Signature

2/26/16

Date

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