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GAVIN NEWSOM, Governor  
CHARLTON H. BONHAM, Director



August 4, 2023  
Sent via e-mail

Governor's Office of Planning & Research

August 4 2023

## STATE CLEARINGHOUSE

Julie Arthur  
Executive Director  
Palm Springs Unified School District  
150 District Center Drive  
Palm Springs, CA 92264

**Subject: PSUSD Response to CDFW Comments on the Draft Supplemental Environmental Impact Report, Rancho Mirage High School Field Lighting Project, SCH#: 2006011095**

Dear Ms. Arthur:

On July 14, 2023, the California Department of Fish and Wildlife (CDFW) submitted comments on the Draft Supplemental Environmental Impact Report (DSEIR) for the Rancho Mirage High School Field Lighting Project (SCH #2006011095; Project) in its capacity as Trustee and Responsible Agency (Pub. Resources Code, § 21069 & 21070; Fish & G. Code, §§ 711.7, subd. (a) & 1802). On July 28, 2023, CDFW received a response from the Palm Springs Unified School District (PSUSD) to those comments and notification that the Final SEIR is scheduled for consideration by the PSUSD Board of Directors at its meeting on August 8, 2023.

To support PSUSD in its environmental review efforts for this Project, CDFW provides the following additional guidance related to the comments identified by PSUSD in its response as “Comment 4-17” and “Comment 4-18.”

**Comment 4-17:** The response from PSUSD states “burrowing owls are a species of low conservational concern, and a year-round presence throughout southern North America and northern Central America, as well as most of South America.” It appears that this statement is based on the website “All About Birds” from the Cornell Lab; however, this source is not a recognized arbiter of state or federal conservation status or ranking systems. Moreover, the quote provided in PSUSD’s response indicates an international evaluation of this species. However, Section 15125(c) of the CEQA Guidelines states that knowledge of the *regional setting* of a project is critical to the assessment of environmental impacts. The international conservation status of burrowing owl is not an appropriate level of analysis for CEQA.

In the State of California, the conservation status of burrowing owl is as a California Species of Special Concern (CSSC). The CSSC status applies to animals generally not listed under the federal Endangered Species Act or the California Endangered Species Act, but which nonetheless are declining at a rate that could result in listing or that historically occurred in low numbers and known threats to their persistence currently exist. CSSCs should be considered during the environmental review process. Burrowing owl is in decline over much of its range, having been extirpated in many areas due to habitat destruction and development, conversion of grassland to agriculture, poisoning of ground squirrels (on which they rely for burrows), and lethal or sublethal poisoning by rodenticides and agricultural pesticides (DeSante et al. 2007<sup>1</sup>; Polite 1999<sup>2</sup>; Rosenberg et al. 2006<sup>3</sup>;

<sup>1</sup> DeSante, D. F., E. D. Ruhlen, and R. Scalf. 2007. The distribution and relative abundance of burrowing owls in California during 1991–1993: evidence for a declining population and thoughts on its conservation. Pages 1–41 in Proceedings of the California burrowing owl symposium, November 2003 (J. H. Barclay, K. W. Hunting, J. L. Lincer, J. Linthicum, and T. A. Roberts, editors). Institute for Bird Populations and Albion Environmental, Inc., Point Reyes Station, California, Bird Populations Monographs 1:1–197).

<sup>2</sup> Polite, C. Life history account for burrowing owl. 1999. California Wildlife Habitat Relationships (CWHR) System.

<sup>3</sup> Rosenberg, DK, L.A Trulio, D Catlin, D Chromczack, JA Gervais, N Ronan, and KA Haley. 2007. The ecology of the burrowing owl in California: A synthesis of demographic and space use studies. Unpublished report to Bureau of Land Management.

Wilkerson and Siegel 2011<sup>4</sup>). In California, the southeastern desert regions contain a significant portion of the remaining statewide population of burrowing owls. As development pressure increases in the desert regions, so do threats to burrowing owl.

CDFW is concerned about the potential for burrowing owls (*Athene cunicularia*) to move into the project site prior to and during construction activities. Burrowing owls frequently move into disturbed areas since they are adapted to highly modified habitats (Chipman et al. 2008<sup>5</sup>; Coulombe 1971<sup>6</sup>). Impacts to burrowing owl from the Project could include take of burrowing owls, their nests or eggs, or destroying nesting or foraging habitat, thus impacting burrowing owl populations. Take of individual burrowing owls and their nests is defined by Fish and Game Code section 86, and prohibited by sections 3503, 3503.5, and 3513. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.).

Because of the conservation status of burrowing owl in California, CDFW continues to recommend inclusion of a separate mitigation measure for burrowing owl, apart from the PSUSD-proposed MM BIO-1 for migratory birds, to ensure that impacts to this species are avoided or reduced to less than significant in the Final SEIR. CDFW recommends the PSUSD include CDFW-proposed Mitigation Measure BIO-[D] (as provided in the comment letter dated July 14, 2023) for burrowing owl into the Final SEIR prior to its adoption.

**Comment 4-18:** The response from the PSUSD states that “the District finds MM BIO-1 to be adequate given that the RMHS campus is fully developed and has no open space or vacant land, and the potential for nesting birds is low.” However, the DSEIR states the RMHS campus supports ornamental landscaping, shrubs, and bushes that may provide suitable habitat for small terrestrial and avian species. Recent aerial imagery also supports the inclusion of palo verde (*Parkinsonia* spp.) and non-native palms on the Project site. Because there is suitable habitat for nesting birds on and surrounding the Project site, project construction activities and long-term operations have the potential to directly or indirectly impact nesting birds that use these areas. Birds like hooded oriole (*Icterus cucullatus*) primarily nest in palm trees and build hanging nests on the undersides of palm fronds (Garrett and Dunn 1981<sup>7</sup>). Mourning doves (*Zenaida macroura*) (Sayre and Silvy 1993<sup>8</sup>), owls, greater roadrunner (*Geococcyx californianus*), and house finch (*Haemorhous mexicanus*) (Badyaev et al. 2020<sup>9</sup>) frequently nest in the thick skirts of palms (Cornett 2018<sup>10</sup>). Additionally, nesting birds frequently use electrical/lighting poles for perching and nesting (Ortega-Álvarez and MacGregor-Fors 2010<sup>11</sup>), several of which are on the campus of RMHS intended for replacement. CDFW is concerned about the impacts to nesting birds including disruption to nesting birds, nest failure or abandonment, loss of nesting habitat, and potential take from ground-disturbing activities and construction.

Additionally, the timing of the nesting season varies greatly depending on several factors, such as bird species, weather conditions in any given year, and long-term climate changes (e.g., drought, warming, etc.). CDFW staff have observed that climate change conditions

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<sup>4</sup> Wilkerson, RL and RB Siegel. 2011. Distribution and abundance of western burrowing owls (*Athene Cunicularia hypugaea*) in southeastern California. *The Southwestern Naturalist* 56(3): 378-384.

<sup>5</sup> Chipman, E. D., N. E. McIntyre, R. E. Strauss, M. C. Wallace, J. D. Ray, and C. W. Boal. 2008. Effects of human land use on western burrowing owl foraging and activity budgets. *Journal of Raptor Research* 42(2): 87-98.

<sup>6</sup> Coulombe, H. N. 1971. Behavior and population ecology of the Burrowing Owl, *Speotyto cunicularia*, in the Imperial Valley of California. *Condor* 73:162–176.

<sup>7</sup> Garrett, K., and J. Dunn. 1981. Birds of southern California. Los Angeles Audubon Soc., Los Angeles.

<sup>8</sup> Sayre, M. W. and N. J. Silvy. (1993). "Nesting and production." In *Ecology and management of the Mourning Dove*, edited by T. S. Baskett, M. W. Sayre, R. E. Tomlinson and R. E. Mirarchi, 81-104. Harrisburg, PA: Stackpole Books.

<sup>9</sup> Badyaev, A. V., V. Belloni, and G. E. Hill (2020). House Finch (*Haemorhous mexicanus*), version 1.0. In *Birds of the World* (A. F. Poole, Editor). Cornell Lab of Ornithology, Ithaca, NY, USA. <https://doi.org/10.2173/bow.houfin.01>

<sup>10</sup> Cornett, J. W., How did palm oases get to the California desert? A behind-the-scenes look at these 'tropical islands'. *Desert Magazine*. Sept. 13, 2018.

<sup>11</sup> Ortega-Álvarez, R., & MacGregor-Fors, I. (2010). What matters most? Relative effect of urban habitat traits and hazards on urban park birds. *Ornitología Neotropical*, 21, 519-533.

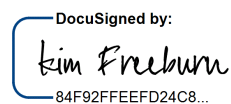
may result in nesting bird season occurring earlier and later in the year than historical nesting season dates. CDFW recommends the completion of nesting bird surveys *regardless* of the time of year to ensure compliance with all applicable laws pertaining to nesting and migratory birds.

It is the Project proponent's responsibility to comply with all applicable laws related to nesting birds and birds of prey. Fish and Game Code sections 3503, 3503.5, and 3513 afford protective measures as follows: Fish and Game Code section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.).

Because of the potential impacts to nesting birds as a result of Project activities, CDFW continues to recommend the revision of PSUSD-proposed MM BIO-1 for nesting birds, to ensure that impacts to nesting birds are avoided or reduced to less than significant in the Final SEIR. CDFW recommends the PSUSD include CDFW-proposed Mitigation Measure BIO-1 (as provided in the comment letter dated July 14, 2023) for nesting birds in the Final SEIR prior to its adoption.

CDFW appreciates the opportunity to provide additional guidance on the Rancho Mirage High School Field Lighting Project to assist PSUSD in identifying and mitigating Project impacts on biological resources to reduce impacts to below a level of significance. CDFW requests that PSUSD address CDFW's concerns prior to adoption of the Final SEIR. Questions or comments regarding this letter should be directed to Alyssa Hockaday, Senior Environmental Scientist (Specialist) at [Alyssa.Hockaday@wildlife.ca.gov](mailto:Alyssa.Hockaday@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
84F92FFEEFD24C8...

Kim Freeburn  
Environmental Program Manager

## ENCLOSURE

Copy of CDFW comment letter dated July 14, 2023:  
"2006011095\_DSEIR\_PSUSD\_RanchoMirageHighSchoolFieldLightingProject.pdf"

ec:

Heather Brashear, CDFW Inland Deserts Region  
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