



State of California – Natural Resources Agency  
 DEPARTMENT OF FISH AND WILDLIFE  
 Inland Deserts Region  
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**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



Governor's Office of Planning & Research

**June 01 2021**

**STATE CLEARINGHOUSE**

May 28, 2021  
 Send via email

Mr. Danny Friend  
 Mission Springs Water District  
 66575 Second Street  
 Desert Hot Springs, CA 92240

Subject: Initial Study and Draft Mitigated Negative Declaration (IS/MND)  
 Mission Springs Water District Vista Reservoir No. 2 Project  
 State Clearinghouse No. 2021050019

Dear Mr. Friend:

The California Department of Fish and Wildlife (CDFW) appreciates the opportunity to provide comments and recommendations on the Initial Study and draft Mitigation Negative Declaration for the Mission Springs Water District Vista Reservoir No. 2 Project (Project), State Clearinghouse No. 2021050019. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

**CDFW ROLE**

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

CDFW is also submitting comments as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish &

G. Code, § 2050 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

## **PROJECT DESCRIPTION SUMMARY**

The Project is located along Valencia Drive in the City of Desert Hot Springs. Mission Springs Water District (District) is proposing to develop a second reservoir at the existing 1.23-acre Vista Reservoir site. The proposed Vista Reservoir No. 2 Project includes a new 300,000-gallon reservoir approximately 30 feet northwest of the existing reservoir. Ultimately the installation of the new 300,000-gallon reservoir at the Vista Reservoir site will require installation of the following: retaining walls and hillside slope stabilization, stormwater management BMPs, installation of a new access road, relocation of the existing hydropneumatic station and the electrical cabinet, grading, wrought iron and chain link fence, and a new 300,000-gallon welded steel water storage reservoir and related piping. Design and construction of the Project is anticipated to be completed in approximately 6 months. Construction is anticipated to start in the third quarter of 2021.

## **COMMENTS AND RECOMMENDATIONS**

CDFW offers the comments and recommendations below to assist the District in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources.

Burrowing Owls. The Draft IS/MND identified suitable burrowing owl habitat within and adjacent to the proposed Project site. Mitigation Measure BIO-2 in the Draft IS/MND outlines actions that will be taken if a burrowing owl is found to occupy the site. CDFW recommends the following revision to Mitigation Measure BIO-2, with additions in **bold**:

BIO-2 If burrowing owls are identified during the survey period, the District shall take the following actions to offset impacts prior to ground disturbance:

**The District shall notify CDFW within three business days of determining that a burrowing owl is occupying the site to discuss the observed location, activities and behavior of the burrowing owl(s) and appropriate avoidance and minimization measures.**

Active nests within the areas scheduled for disturbance or degradation shall be avoided until fledging has occurred, as confirmed by a qualified biologist. Following fledging, owls may be passively relocated by a qualified biologist, as described below.

If impacts on occupied burrows are unavoidable, onsite passive relocation techniques may be used if approved by the CDFW to encourage owls to move to alternative burrows provided by the District outside of the impact area.

If relocation of the owls is approved for the site by CDFW, CDFW shall require

the District to hire a qualified biologist to prepare a plan for relocating the owls to a suitable site and conduct an impact assessment. A qualified biologist shall prepare and submit a passive relocation program in accordance with Appendix E (i.e., Example Components for Burrowing Owl Artificial Burrow and Exclusion Plans) of the 2012 Staff Report on Burrowing Owl Mitigation (CDFG 2012) to the CDFW for review/approval prior to the commencement of disturbance activities onsite.

The relocation plan must include all of the following and as indicated in Appendix E:

- The location of the nest and owls proposed for relocation.
- The location of the proposed relocation site.
- The number of owls involved and the time of year when the relocation is proposed to take place.
- The name and credentials of the biologist who will be retained to supervise the relocation.
- The proposed method of capture and transport for the owls to the new site.
- A description of site preparation at the relocation site (e.g., enhancement of existing burrows, creation of artificial burrows, one-time or long-term vegetation control).

The applicant shall conduct an impact assessment, in accordance with the Staff Report on Burrowing Owl Mitigation prior to commencing Project activities to determine appropriate mitigation, including the acquisition and conservation of occupied replacement habitat at no less than a 2:1 ratio.

Prior to passive relocation, suitable replacement burrows site(s) shall be provided at a ratio of 2:1 and permanent conservation and management of burrowing owl habitat such that the habitat acreage, number of burrows and burrowing owl impacts are replaced consistent with the Staff Report on Burrowing Owl Mitigation including its Appendix A within designated adjacent conserved lands identified through coordination with CDFW and the District. A qualified biologist shall confirm the natural or artificial burrows on the conservation lands are suitable for use by the owls. Monitoring and management of the replacement burrow site(s) shall be conducted and a reporting plan shall be prepared. The objective shall be to manage the replacement burrow sites for the benefit of burrowing owls (e.g., minimizing weed cover), with the specific goal of maintaining the functionality of the burrows for a minimum of 2 years.

A final letter report shall be prepared by the qualified biologist documenting the results of the passive relocation. The letter shall be submitted to CDFW.

Lake and Streambed Alteration Program.

The Draft IS/MND indicates that no intermittent or ephemeral dry washes that meet the definition of State waters occur on the site, and therefore no regulatory permit from CDFW is required (p. 27). In review of satellite imagery, there is evidence of at least two ephemeral streams extending into the Project site from the foothills located east of the Project site. Given this evidence, CDFW recommends that the Draft IS/MND is revised to indicate that a notification of streambed alteration will be submitted to CDFW for review, which includes mitigation measures to offset any unavoidable impacts to fish and wildlife resources subject to Fish and Game Code Section 1600 et seq.

Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following: Substantially divert or obstruct the natural flow of any river, stream or lake; Substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or Deposit debris, waste or other materials that could pass into any river, stream or lake. Please note that "any river, stream or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a body of water.

Upon receipt of a complete notification, CDFW determines if the proposed Project activities may substantially adversely affect existing fish and wildlife resources and whether a Lake and Streambed Alteration (LSA) Agreement is required. An LSA Agreement includes measures necessary to protect existing fish and wildlife resources. CDFW may suggest ways to modify your Project that would eliminate or reduce harmful impacts to fish and wildlife resources.

CDFW's issuance of an LSA Agreement is a "project" subject to CEQA (see Pub. Resources Code § 21065). To facilitate issuance of an LSA Agreement, if necessary, the Draft IS/MND should fully identify the potential impacts to the lake, stream, or riparian resources, and provide adequate avoidance, mitigation, and monitoring and reporting commitments. Early consultation with CDFW is recommended, since modification of the proposed Project may be required to avoid or reduce impacts to fish and wildlife resources. To obtain a Lake or Streambed Alteration notification package, please go to <https://www.wildlife.ca.gov/Conservation/LSA/Forms>.

CDFW recommends adding the following mitigation measure to the Draft IS/MND, highlighted in **bold**:

**BIO-4: Prior to the initiation of Project activities, the District shall provide to the City written correspondence from the California Department of Fish and Wildlife (CDFW) confirming that CDFW has either executed a Streambed Alteration Agreement (Agreement) or informed the Project that an Agreement is not needed.**

Coachella Valley Multiple Species Conservation Plan.

CDFW issued Natural Community Conservation Plan Approval and Take Authorization for the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP) per Section 2800, *et seq.*, of the California Fish and Game Code on September 9, 2008. The MSHCP establishes a multiple species conservation program to minimize and mitigate habitat loss and provides for the incidental take of covered species in association with activities covered under the permit.

Compliance with approved habitat plans, such as the CVMSHCP, is discussed in CEQA. Specifically, Section 15125(d) of the CEQA Guidelines requires that the CEQA document discuss any inconsistencies between a proposed Project and applicable general plans and regional plans, including habitat conservation plans and natural community conservation plans. An assessment of the impacts to the CVMSHCP as a result of this Project is necessary to address CEQA requirements.

*Land Use Adjacency Guidelines*

CVMSHCP includes Land Use Adjacency Guidelines to avoid or minimize indirect effects from Development adjacent to or within the Conservation Areas (Section 4.5 of the CVMSHCP). Indirect effects may include noise, lighting, drainage, intrusion of people, and the introduction of non-native plants and non-native predators such as dogs and cats. This project should address Land Use Adjacency Guidelines that minimize edge effects, such as lightning and noise impacts. The project site is located within 100 feet of the Upper Mission Creek/Big Morongo Canyon Conservation Area within the CVMSHCP. CDFW recommends that the Draft IS/MND is revised to include measures to avoid or minimize indirect effects of the project to the nearby Conservation Area. Avoidance and minimization measures should consider the indirect effects both during project construction activities and over the long-term operations and maintenance of the project facility. CDFW recommends the addition of the following Mitigation Measure to the Draft IS/MND, highlighted in **bold**:

**BIO-5 During both project construction activities and the long-term operations and maintenance of the Project facility, the District shall minimize indirect effects to the Upper Mission Creek/Big Morongo Canyon Conservation Area by having all artificial lighting shielded and directed away from the Conservation Area.**

**ENVIRONMENTAL DATA**

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). Information can be submitted online or via completion of the

Danny Friend, Director of Engineering and Operations  
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CNDDDB field survey form at the following link:  
<https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email address: [CNDDDB@wildlife.ca.gov](mailto:CNDDDB@wildlife.ca.gov). The types of information reported to CNDDDB can be found at the following link:  
<https://wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.


## FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.).

## CONCLUSION

CDFW appreciates the opportunity to comment on the Draft IS/MND for the Mission Springs Water District Vista Reservoir No. 2 Project, and requests that the District address CDFW's comments and concerns prior to adoption of the draft Mitigated Negative Declaration. If you should have any questions pertaining to these comments, please contact Jacob Skaggs at [jacob.skaggs@wildlife.ca.gov](mailto:jacob.skaggs@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
DF423498814B441...

For Scott Wilson  
Environmental Program Manager  
Inland Deserts Region

ec: Heather Pert, Senior Environmental Scientist, Supervisor  
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**ATTACHMENT 1**

**MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)**

**PURPOSE OF THE MMRP**

The purpose of the MMRP is to ensure compliance with mitigation measures during project implementation. Mitigation measures must be implemented within the time periods indicated in the table below.

**TABLE OF MITIGATION MEASURES**

The following items are identified for each mitigation measure: Mitigation Measure, Implementation Schedule, and Responsible Party for implementing the mitigation measure. The Mitigation Measure column summarizes the mitigation requirements. The Implementation Schedule column shows the date or phase when each mitigation measure will be implemented. The Responsible Party column identifies the person or agency that is primarily responsible for implementing the mitigation measure.

<b>Mitigation Measure</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>
BIO-2: [...] The District shall notify CDFW within three business days of determining that a burrowing owl is occupying the site to discuss the observed location, activities and behavior of the burrowing owl(s) and appropriate avoidance and minimization measures. [...]	During pre-construction surveys and during project implementation	Mission Springs Water District
BIO-4: Prior to the initiation of project activities, the District shall provide to the City written correspondence from the California Department of Fish and Wildlife (CDFW) confirming that CDFW has either executed a Streambed Alteration Agreement (Agreement), or informed the Project that an Agreement is not needed.	Prior to initiation of project activities	Mission Springs Water District

<p>BIO-5: During both project construction activities and the long-term operations and maintenance of the Project facility, the District shall minimize indirect effects to the Upper Mission Creek/Big Morongo Canyon Conservation Area by having all artificial lighting shielded and directed away from the Conservation Area.</p>	<p>During project construction activities and during long-term operations and maintenance of the project facility</p>	<p>Mission Springs Water District</p>
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