



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Inland Deserts Region
3602 Inland Empire Boulevard, Suite C-220
Ontario, CA 91764
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



May 19, 2022
Sent via email

Patricia Villagomez, Associate Planner
11999 Palm Drive
Desert Hot Springs, CA 92240



Subject: Draft Environmental Impact Report (DEIR)
Coachillin' Specific Plan Amendment Project
State Clearinghouse No. 2021080065

Dear Ms. Villagomez:

The California Department of Fish and Wildlife (CDFW) received a Draft Environmental Impact Report (DEIR) from the City of Desert Hot Springs for the Coachillin' Specific Plan Amendment Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. 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

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

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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 proposes an amendment to Specific Plan #01-17 to modify allowed land uses at the Coachillin’ Industrial Cultivation and Ancillary Canna-Business Park, which currently cultivates cannabis. The Project is in the City of Desert Hot Springs within Riverside County on Assessor’s Parcel Numbers (APNs) 666-340-008 (Parcel 1), 666-340-009 (Parcel 2), 666-340-061 (Parcel 3), 666-340-060 (Parcel 4), 666-340-036 (Parcel 29), 666-340-038 (Parcel 30), 666-340-037 (Parcel 31), and 666-340-032 (Parcel 25). The Project proposes the construction of a 4-story hotel (150,000 square feet (sq); 65 feet (ft) maximum height) on Parcel 30, a 5,000-seat amphitheater (65 ft. maximum height) on Parcel 31, a 420-space solar covered parking lot on Parcel 25, and a brewhouse (no dimensions provided) on Parcel 4.

Timeframe: Project construction is expected to take one year and be completed in 2023 or 2024.

COMMENTS AND RECOMMENDATIONS

CDFW appreciates the City’s incorporation of biological resource (BR) mitigation measures (MM) BR-1 through BR-8 in the DEIR, which seek to address CDFW’s concerns expressed in the Notice of Preparation (NOP) for a DEIR comment letter, prepared on August 31, 2021 over the Project’s potential impacts to burrowing owl (*Athene cunicularia*), desert kit fox (*Vulpes macrotis arsipus*), desert tortoise (*Gopherus agassizii*), nesting birds, Fish and Game Code section 1602 resources, and compliance with the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP).

CDFW is concerned that no recent focused surveys for species with the potential to occur on-site were conducted for the Project. Instead, biological resource surveys that were conducted to support previous CEQA documentation in 2008 and 2017 for the Project were reviewed and although field visits were conducted by a qualified biologist on September 1, 2021, September 15, 2021, and November 8, 2021, the DEIR did not provide results from the field visits. An updated search of the California Natural Diversity Data Base (CNDDDB) was also conducted in February 2022, which the DEIR states “did not reveal new species within the vicinity of the site that were not addressed in previous biological surveys or the SAA” but also does not provide a list of species with the potential to occur on-site. CDFW understands that the Project site has been graded; however, considering MM BR-2 (Burrowing Owl), MM BR-4 (Desert Kit Fox), and MM BR-6 (Employee Awareness of Wildlife Resources) and potential impacts to burrowing owl and desert kit fox that may have colonized the Project site since grading, CDFW

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offers the following revisions to MM BR-2, MM BR-4, and MM BR-6 (edits are in ~~strikethrough~~ and **bold**):

Biological Resources Mitigation Measures

Burrowing Owl (*Athene cunicularia*)

MM BR-2

Pre-construction burrowing owl surveys shall be conducted no less than 14 days prior to the start of ~~onsite construction~~ **Project** activities and within 24 hours prior to ground disturbance in accordance with the *Staff Report on Burrowing Owl Mitigation* (CDFG 2012 or most recent version). Pre-construction surveys shall be performed by a qualified biologist following the recommendations and guidelines provided in the *Staff Report on Burrowing Owl Mitigation*. If the pre-construction surveys confirm occupied burrowing owl habitat, ~~ground-disturbing~~ **Project** activities ~~within the vicinity of the burrow~~ shall be immediately halted ~~within a buffer established by a qualified biologist~~. CDFW shall be notified of positive burrowing owl survey results within ~~48~~ **24** hours of detection. The qualified biologist shall coordinate with CDFW to develop avoidance, and minimization, **and mitigation** measures **according to the Staff Report on Burrowing Owl Mitigation, including the acquisition and conservation of occupied replacement habitat at no less than a 2:1 ratio**, to be approved by CDFW prior to commencing Project activities.

Desert Kit Fox (*Vulpes macrotis arsipus*)

MM BR-4

Although the Project site is not expected to support desert kit foxes, there is a limited possibility of a desert kit fox being present prior to ground disturbance activities ~~if one can enter through one of the gates or over the fence~~. No more than 14 days prior to the beginning of ~~ground disturbance during desert kit fox breeding season (December to February)~~ **Project activities**, a qualified biologist shall conduct a pre-construction survey to determine if potential desert kit fox burrows/dens are present ~~within the limits of construction~~ **in the Project area**. Pre-construction surveys should include 100 percent visual surveys ~~of the limits of construction~~ **coverage of the Project area and cannot be combined with other surveys conducted for other species while using the same personnel**. If the pre-construction surveys confirm occupied desert kit fox presence, but no burrow, then the kit fox will be allowed to exit the site on its own accord. If an active burrow or den complex for kit fox is identified, then ~~construction~~ **Project** activities shall be immediately halted ~~in the vicinity of the burrow/den, using a buffer determined by the qualified biologist~~, and the qualified biologist shall notify CDFW to develop avoidance, minimization, and mitigation measures for the burrow and the kit foxes that are present. No disturbance of active burrows/dens shall take place if juvenile

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kit fox is present and dependent on parental care, as determined by the ~~Project~~ **qualified** biologist.

Employee Awareness of Wildlife Resources

MM BR-6

A qualified biologist shall conduct an education program for all ~~construction personnel involved in earth-moving activities within 30 days of ground disturbing activities~~ **persons employed or otherwise working on the Project site prior to performing any work onsite within 30 days of start of Project activities.** The program shall consist of a presentation that includes a discussion of the biology of the habitats and the species that may be present on the site. The qualified biologist shall also include as part of the education program information about the distribution and habitat needs of any special status species that may be present, legal protections for those species, penalties for violations, and mitigation measures. The Employee Education Program should include, but not be limited to (1) best practices for managing waste and reducing activities that can lead to increased occurrences of opportunistic species and the impacts these species can have on wildlife in the area; (2) protected species that have the potential to occur on the Project site including, but not limited to, burrowing owl, desert tortoise, desert kit fox, Le Conte's thrasher, Coachella Valley fringe-toed lizard, flat-tailed horned lizard, Palm Springs pocket mouse, and nesting birds; (3) the importance of ensuring that no refuse or pollution is left within work areas during Project activities **or enters the onsite drainage area and riparian habitat established as mitigation for permanent loss of the ephemeral stream and that encroachment into the mitigation area is not permitted during construction or other Project activities.** Interpretation shall be provided for any non-English speaking workers and the same instruction shall be provided for any new workers prior to their performing any work on the site. Workers will be notified to inform the Project biologist if there are any of the aforementioned biological resources observed within work areas that cannot leave on their own accord. The biologist will relocate species as permitted. Note that listed species can be moved only with prior approval by CDFW **through a California Endangered Species Act (CESA) Incidental Take Permit (ITP).**

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). The CNDDDB field survey form can be found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB_FieldSurveyForm.pdf. The completed form can be mailed electronically to CNDDDB at the following email address:

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CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/plants_and_animals.asp.

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 requests that the City of Desert Hot Springs include in the final EIR the suggested mitigation measures (Attachment 1) offered by CDFW to avoid, minimize, and mitigate Project impacts on California fish and wildlife resources. CDFW appreciates the opportunity to comment on the DEIR for the Coachillin' Specific Plan Amendment Project (SCH No. 2021080065) and hopes our comments will assist the City in identifying, avoiding, minimizing, and mitigating Project impacts on fish and wildlife resources.

If you should have any questions pertaining to the comments provided in this letter, please contact Corina Jimenez, Environmental Scientist at Corina.Jimenez@wildlife.ca.gov.

ATTACHMENTS

Attachment 1: MMRP for CDFW-Proposed Mitigation Measures

Sincerely,

DocuSigned by:

84FBB8273E4C480...

Alisa Ellsworth
Environmental Program Manager

ec: Office of Planning and Research, State Clearinghouse, Sacramento
state.clearinghouse@opr.ca.gov.

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REFERENCES

California Department of Fish and Game (CDFG). 2012. Staff report on burrowing owl mitigation. State of California, Natural Resources Agency. Available for download at: http://www.dfg.ca.gov/wildlife/nongame/survey_monitor.html

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. 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.

Biological Resource (BR) Mitigation Measure (MM)	Implementation Schedule	Responsible Party
<p>MM BR-2</p> <p>Pre-construction burrowing owl surveys shall be conducted no less than 14 days prior to the start of Project activities and within 24 hours prior to ground disturbance in accordance with the <i>Staff Report on Burrowing Owl Mitigation</i> (CDFG 2012 or most recent version). Pre-construction surveys shall be performed by a qualified biologist following the recommendations and guidelines provided in the <i>Staff Report on Burrowing Owl Mitigation</i>. If the pre-construction surveys confirm occupied burrowing owl habitat, Project activities shall be immediately halted. CDFW shall be notified of positive burrowing owl survey results within 24 hours of detection. The qualified biologist shall coordinate with CDFW to develop avoidance, minimization, and mitigation</p>	<p>Prior to commencing Project activities</p>	<p>Project Proponent</p>

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<p>measures according to the Staff Report on Burrowing Owl Mitigation, including the acquisition and conservation of occupied replacement habitat at no less than a 2:1 ratio, to be approved by CDFW prior to commencing Project activities.</p>		
<p>MM BR-4</p> <p>Although the Project site is not expected to support desert kit foxes, there is a limited possibility of a desert kit fox being present prior to ground disturbance activities. No more than 14 days prior to the beginning of Project activities, a qualified biologist shall conduct a pre-construction survey to determine if potential desert kit fox burrows/dens are present in the Project area. Pre-construction surveys should include 100 percent visual coverage of the Project area and cannot be combined with other surveys conducted for other species while using the same personnel. If the pre-construction surveys confirm occupied desert kit fox presence, but no burrow, then the kit fox will be allowed to exit the site on its own accord. If an active burrow or den complex for kit fox is identified, then Project activities shall be immediately halted, and the qualified biologist shall notify CDFW to develop avoidance, minimization, and mitigation measures for the burrow and the kit foxes that are present. No disturbance of active burrows/dens shall take place if juvenile kit fox is present and dependent on parental care, as determined by the qualified biologist.</p>	<p>Prior to commencing Project activities</p>	<p>Project Proponent</p>
<p>MM BR-6</p> <p>A qualified biologist shall conduct an education program for all persons employed or otherwise working on the Project site prior to performing any work onsite within 30 days of start of Project activities. The program shall consist of a presentation that includes a discussion of the biology of the habitats and the species that may be present on the site. The qualified biologist shall also include as part of the education</p>	<p>Prior to commencing Project activities</p>	<p>Project Proponent</p>

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<p>program information about the distribution and habitat needs of any special status species that may be present, legal protections for those species, penalties for violations, and mitigation measures. The Employee Education Program should include, but not be limited to (1) best practices for managing waste and reducing activities that can lead to increased occurrences of opportunistic species and the impacts these species can have on wildlife in the area; (2) protected species that have the potential to occur on the Project site including, but not limited to, burrowing owl, desert tortoise, desert kit fox, Le Conte's thrasher, Coachella Valley fringe-toed lizard, flat-tailed horned lizard, Palm Springs pocket mouse, and nesting birds; (3) the importance of ensuring that no refuse or pollution is left within work areas during Project activities or enters the onsite drainage area and riparian habitat established as mitigation for permanent loss of the ephemeral stream and that encroachment into the mitigation area is not permitted during construction or other Project activities. Interpretation shall be provided for any non-English speaking workers and the same instruction shall be provided for any new workers prior to their performing any work on the site. Workers will be notified to inform the Project biologist if there are any of the aforementioned biological resources observed within work areas that cannot leave on their own accord. The biologist will relocate species as permitted. Note that listed species can be moved only with prior approval by CDFW through a California Endangered Species Act (CESA) Incidental Take Permit (ITP).</p>		
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