



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Inland Desert Region  
3602 Inland Empire Boulevard, Suite C-220  
Ontario, CA 91764  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

GAVIN NEWSOM, Governor  
CHARLTON H. BONHAM, Director



April 13, 2023  
*Sent via email*

Kevin Snyder  
Community Development Director  
City of Indio  
100 Civic Center Mall  
Indio, CA 92201



Desert Retreat Specific Plan (PROJECT)  
DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR)  
SCH#: 2022070300

Dear Mr. Snyder:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a DEIR from the City of Indio for the Project pursuant to the California Environmental Quality Act (CEQA) and CEQA guidelines<sup>1</sup>.

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

---

<sup>1</sup>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.

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**

**Proponent:** Pulte Group, Inc.

**Objective:** The Project proposes development of a residential community containing up to 1,500 residential single-family homes on approximately 378 acres of land. Development of the Specific Plan is intended to be developed by a single developer, and the Project is expected to be built in five phases. Construction would include mass grading of the entire site and off-site street improvements. The Project would feature an integrated system of pedestrian trails/paseos and connecting on-street sidewalks and would include a perimeter public sidewalk system. Infrastructure and utility improvements would be installed as necessary to support the Project development, including water, sanitary sewer, drainage and flood retention systems, and dry utility improvements (electricity, natural gas, and telecommunications). The 100-year storm water runoff volume in the new developed condition created by impervious surfaces (roofs, pavement) would be retained on-site in open retention basins above the finished surfaces. The landscape architectural design would reflect a desertscape theme with supplemental ornamental accent landscaping including water efficient plants and an irrigation system, including the use of recycled water from Coachella Valley Water District's adjacent wastewater treatment facility. Lighting fixtures within residential areas will be hooded and directed downward to minimize light, direct glare impacts, and spillage on neighboring properties. Additional requirements of light fixtures would include illuminating areas and elements such as paths, entryways, and focal elements. Walls and fences would be constructed in various settings throughout the community to provide privacy and security. A gated community is proposed with a perimeter community wall. Tubular steel fencing may be constructed at the perimeter of the Project in place of the solid decorative wall where such fences are adjacent to open space or where necessary for drainage purposes.

**Location:** The Project Area is located north of Avenue 40, between Jefferson Street and Madison Street, City of Indio, Riverside County (APNs #: 691-110-002, -003, -004, -008, -011, -014, -015, -021; 691-100-023, -025).

**Timeframe:** The DEIR indicates that construction activities would last approximately 96 months beginning in March 2024 and ending in March 2032.

## **COMMENTS AND RECOMMENDATIONS**

CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (i.e., biological resources). CDFW offers the comments and recommendations below to assist the City Indio in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. The DEIR has not adequately identified and disclosed the Project's impacts (i.e., direct, indirect, and cumulative) on biological resources and whether those impacts are reduced to less than significant.

CDFW's comments and recommendations on the DEIR are explained in greater detail below and summarized here. CDFW is concerned that the DEIR does not adequately identify or mitigate the Project's significant, or potentially significant, impacts to biological resources. CDFW also concludes that the DEIR lacks sufficient information to facilitate a meaningful review by CDFW, including a complete and accurate assessment of biological resources on the Project site. CDFW recommends that additional information and analyses be added to a revised DEIR, along with avoidance, minimization, and mitigation measures that reduce impacts to less than significant.

### Existing Environmental Setting

Compliance with CEQA is predicated on a complete and accurate description of the environmental setting that may be affected by the proposed Project. CDFW is concerned that the assessment of the existing environmental setting has not been adequately analyzed in the DEIR. CDFW is concerned that without a complete and accurate description of the existing environmental setting, the DEIR may provide an incomplete analysis of Project-related environmental impacts.

### Mitigation Measures

CEQA requires that a DEIR include mitigation measures to avoid or reduce significant impacts. CDFW is concerned that the mitigation measures proposed in the DEIR are not adequate to avoid or reduce impacts to biological resources to below a level of significance. To support the City of Indio in ensuring that Project impacts to biological resources are reduced to a level that is less than significant, CDFW recommends revising mitigation measures for burrowing owl, nesting birds, and compliance with the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP) and adding mitigation measures for artificial nighttime lightning and lake and streambed alteration.

#### **1) *Burrowing Owl***

Burrowing owl (*Athene cunicularia*) is a California Species of Special Concern. 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.). Take is defined in Fish and Game Code section 86 as “hunt, pursue, catch, capture or kill, or attempt to hunt, pursue, catch, capture or kill.” Burrowing owl is a Covered Species under the CVMSHCP, which requires that avoidance and minimization measures be implemented for this species.

Page 5.3-14 of the DEIR indicates that the Project site has a high potential to support burrowing owl, and page 5.3-15 states that the Project site contains suitable habitat for burrowing owl. The Project’s Habitat Assessment and Coachella Valley Multiple Species Habitat Conservation Plan Consistency Analysis dated August 2022 (Habitat Assessment) indicates that field investigations were conducted on August 11, 2021 and April 7, 2022 and that a focused burrowing owl survey was conducted during the 2022 breeding season (page 16). Appendix C of the Habitat Assessment indicates that suitable burrows (>4 inches in diameter) were observed throughout the project site though no burrowing owls were observed in the 2022 focused survey. The DEIR and Habitat Assessment lack a discussion of the survey methods used for the single focused burrowing owl survey conducted over the large 378-acre property (i.e., if survey methods were consistent with the 2012 *Staff Report on Burrowing Owl Mitigation*<sup>2</sup>) and lack a burrowing owl survey report with details on timing, surveyor names, survey methods, findings, map showing potential burrows, photos, and other items recommended in the Survey Report section of the 2012 *Staff Report on Burrowing Owl Mitigation*. Without complete and accurate information on baseline biological conditions of the Project site, CDFW is unable to conduct a meaningful review of the Project’s impacts on biological resources. 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 and that special emphasis should be placed on environmental resources that are rare or unique to the region. CDFW recommends the DEIR is revised to include the findings of recent focused surveys and an impact assessment per the guidelines provided in the 2012 *Staff Report on Burrowing Owl Mitigation*. Burrowing owl surveys provide information needed to determine the potential effects of proposed

---

<sup>2</sup> California Department of Fish and Game (CDFG). 2012. Staff Report on Burrowing Owl Mitigation. State of California, Natural Resources Agency. Available for download at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843>

projects and activities on burrowing owls and to avoid or reduce impacts to less than significant. Impact assessments evaluate the extent to which burrowing owls and their habitat may be impacted, directly or indirectly, on and within a reasonable distance of the proposed Project. Burrowing owl surveys and an impact assessment will also inform appropriate avoidance, minimization, and mitigation measures for the Project and help demonstrate that impacts to burrowing owls are less than significant.

Importantly, because the Project will be constructed in phases and there may be a considerable lapse of time between phases when burrowing owls may reoccupy areas with suitable habitat, CDFW recommends that focused and pre-construction burrowing owl surveys are repeated prior to ground disturbance and vegetation removal activities for all phases of Project construction.

Although the DEIR includes Mitigation Measure BIO-1 for burrowing owl, CDFW considers the proposed measure to be insufficient in scope and timing to reduce impacts to burrowing owl to less than significant. CDFW recommends that City of Indio revise Mitigation Measure BIO-1 as indicated below, with additions in **bold** and removals in ~~strike through~~:

#### **Mitigation Measure BIO-1: Burrowing Owl**

**Suitable burrowing owl habitat has been confirmed on the Project site; therefore, focused burrowing owl surveys shall be conducted by a qualified biologist according to the *Staff Report on Burrowing Owl Mitigation* (CDFG 2012 or most recent version) prior to initiation of ground-disturbing and/or vegetation removal activities associated with each phase of the Project. If burrowing owls are detected during the focused surveys, the qualified biologist and Project proponent shall prepare a Burrowing Owl Plan that shall be submitted to CDFW for review and approval prior to commencing Project activities. The Burrowing Owl Plan shall describe proposed avoidance, minimization, and monitoring actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites, acres of burrowing owl habitat that will be impacted, details of site monitoring, and details on proposed buffers and other avoidance measures if avoidance is proposed. If impacts to occupied burrowing owl habitat or burrow cannot be avoided, the Burrowing Owl Plan shall also describe relocation actions that will be implemented. Proposed implementation of burrow exclusion and closure should only be considered as a last resort, after all other options have been evaluated as exclusion is not in itself an avoidance, minimization, or mitigation method and has the possibility to result in take. If impacts to occupied burrows cannot be avoided, information shall be provided regarding adjacent or nearby suitable habitat available to owls along with proposed**

**relocation actions. The Permittee shall implement the Burrowing Owl Plan following CDFW review and approval.**

**Preconstruction burrowing owl surveys shall be conducted no less than 14 days prior to the start of Project-related activities associated with each phase of the Project and within 24 hours prior to ground disturbance, in accordance with the *Staff Report on Burrowing Owl Mitigation*. Preconstruction surveys should be performed by a qualified biologist following the recommendations and guidelines provided in the *Staff Report on Burrowing Owl Mitigation*. If the preconstruction surveys confirm occupied burrowing owl habitat, Project activities shall be immediately halted. The qualified biologist shall coordinate with CDFW and prepare a Burrowing Owl Plan that shall be submitted to CDFW for review and approval prior to commencing Project activities. To avoid**

~~impacts to burrowing owls during construction, the following actions, which are consistent with the Burrowing Owl Mitigation prepared by the CVMSHCP on March 7, 2012, and approved and accepted by the USFWS, shall be taken:~~

~~1. Two pre-construction clearance surveys shall be conducted 14-30 days and 24 hours prior to any ground disturbance or vegetation removal activities planned between February 15 and June 15, the breeding season for burrowing owls, to determine the location of any active burrows on and within 550 yards of an approved Project Site. If no active burrows are found in the survey area, site disturbance may commence providing a biological monitor is on-site.~~

~~2. A biological monitor, with the authority to halt or redirect grading, shall be present whenever grading or construction vehicles are present and operating on the Project Site. The function of the monitor is to protect burrowing owls that arrive on or near the Project Site after the clearance survey and during the construction period.~~

~~As specified in Section 4.4 of the CVMSHCP, the applicable avoidance, minimization, and mitigation measures shall be implemented in the event an owl burrow is discovered. If either a nesting or escape burrow is occupied, owls shall be relocated pursuant to accepted Wildlife Agency protocols.~~

## **2) Nesting 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: 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.).

Page 5.3-17 of the DEIR indicates that “the entirety of the Project Site has been previously disturbed with agricultural activities and on-going disking activity. As such, native vegetation has been impacted in these areas of disturbance. Development of the Project would not result in the loss of native vegetation and habitats that support sensitive and special-status species.” Based on review of aerial and street imagery using Google Earth from June 2021, some areas of the Project site, including areas in the southwest portion of the Project site, contain native and non-native trees and shrubs that can support nesting birds. Native and non-native trees and shrubs are also identifiable along the Project margins adjacent to roads and areas previously subject to agricultural activities. Although the DEIR includes Mitigation Measure BIO-2, CDFW considers the proposed measure to be insufficient in scope and timing to reduce impacts to nesting birds to less than significant. CDFW recommends that disturbance of occupied nests of migratory birds and raptors within the Project site be avoided **any time birds are nesting on-site.**

Further, because the Project will be constructed over five phases and there may be a considerable lapse of time between phases when and shrubs and trees can reoccupy an area and create nesting habitat, CDFW recommends that nesting bird surveys are completed prior to all ground disturbance and vegetation removal activities for all phases of Project construction.

CDFW recommends the City of Indio revise Mitigation Measure BIO-2 as indicated below, with additions in **bold** and removals in ~~strikethrough~~:

#### **Mitigation Measures BIO-2: Nesting Birds**

**Regardless of the time of year, nesting bird surveys shall be performed by a qualified avian biologist no more than 3 days prior to vegetation removal or ground-disturbing activities associated with each phase of the Project. Pre-construction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified avian biologist will make every effort to avoid potential nest predation as a result of survey and monitoring efforts. If active nests are found during the pre-construction nesting bird surveys, a qualified biologist shall establish an appropriate nest buffer to be marked on the ground. Nest buffers are species specific and shall be at least 300 feet for passerines and 500 feet for raptors. A smaller or larger buffer may be determined by the qualified biologist familiar with the nesting phenology of the nesting species and based on nest and buffer monitoring results. Established buffers shall remain on-site until a qualified biologist determines the young have fledged or the nest is no longer active. Active nests and adequacy of the established buffer distance shall be**

**monitored daily by the qualified biologist until the qualified biologist has determined the young have fledged or the Project has been completed. The qualified biologist has the authority to stop work if nesting pairs exhibit signs of disturbance.** Nesting birds are protected pursuant to the Migratory Bird Treaty Act (MBTA) and California Fish and Game Code (Sections 3503, 3503.3, 3511, and 3513 of the California Fish and Game Code prohibit the take, possession, or destruction of birds, their nests, or eggs). If construction occurs between February 1st and August 31st, a pre-construction clearance survey for nesting birds should be conducted within three (3) days of the start of any vegetation removal or ground disturbing activities to ensure that no nesting birds will be disturbed during construction. The biologist conducting the clearance survey should document a negative survey with a brief letter report indicating that no impacts to active avian nests will occur. If an active avian nest is discovered during the pre-construction clearance survey, construction activities should stay outside of a 300-foot buffer around the active nest. For listed and raptor species, this buffer should be expanded to 500 feet. A biological monitor should be present to delineate the boundaries of the buffer area and monitor the active nest to ensure that nesting behavior is not adversely affected by construction activities. Once the young have fledged and left the nest, or the nest otherwise becomes inactive under natural conditions, construction activities within the buffer area can occur.

### **3) Lake and Streambed Alteration**

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. 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.

Based on review of aerial imagery, a drainage feature appears along the eastern side of the Project, and the Coachella Canal passes underground along the southeast corner of the Project. CDFW recommends the Project proponent submit a notification of streambed alteration. 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 the Project that would eliminate or reduce harmful impacts to fish and wildlife resources. Information about CDFW's Lake and Streambed Alteration Program can be found here:

<https://wildlife.ca.gov/Conservation/Environmental-Review/LSA>.



To reduce impacts to less than significant, CDFW recommends the City of Indio add the following mitigation measure to a revised DEIR:

**Mitigation Measure BIO-[A]: Lake and Streambed Alteration Program**

**Prior to construction and issuance of any grading permit, the Project Sponsor shall obtain written correspondence from the California Department of Fish and Wildlife (CDFW) stating that notification under section 1602 of the Fish and Game Code is not required for the Project, or the Project Sponsor should obtain a CDFW-executed Lake and Streambed Alteration Agreement, authorizing impacts to Fish and Game Code section 1602 resources associated with the Project.**

**4) Artificial Nighttime Lighting**

Page 2.0-6 of the DEIR discusses lighting design plans and measures to minimize light, direct glare impacts, and spillage on neighborhood properties. Page 3.0-19 of the DEIR states that the community water feature and wall signs, as well as selected accent trees, would be lighted; it is unclear if these lighting plans will include appropriate measure to minimize glare and spillover effects that can impact wildlife. The DEIR also lacks a discussion of the direct, indirect, and cumulative impacts of artificial nighttime lighting expected to adversely affect biological resources surrounding the Project site as a result of long-term operation of the Project. The DEIR also lacks a description of all types of lighting that would be used by the Project and an analysis of direct and indirect impacts on biological resources including migratory birds that fly at night, bats, and other nocturnal and crepuscular wildlife. Available research indicates that artificial nighttime lighting alters ecological processes including, but not limited to, the temporal niches of species; the repair and recovery of physiological function; the measurement of time through interference with the detection of circadian and lunar and seasonal cycles; and the detection of resources and natural enemies and navigation<sup>3</sup>. Further, many of the effects of artificial nighttime lighting on population or ecosystem-level processes are still poorly known suggesting that a precautionary approach should be taken when determining appropriate avoidance and minimization measures.

To facilitate a meaningful review by CDFW and support the City of Indio in demonstrating that impacts to biological resources are less than significant, CDFW recommends that the DEIR is revised to include lighting specifications for all artificial nighttime lighting that will be used by the Project, an analysis of the direct and indirect

---

<sup>3</sup> Gatson, K. J., Bennie, J., Davies, T., Hopkins, J. *The ecological impacts of nighttime light pollution: a mechanistic appraisal*. *Biological Reviews*, 88.4 (2013): 912-927.

impacts of artificial nighttime lighting on biological resources, and appropriate avoidance, minimization, and mitigation measures that will reduce impacts to less than significant.

CDFW recommends that the City of Indio include in a revised DEIR the following mitigation measure associated with biological resources:

#### **Mitigation Measure BIO-[B]: Artificial Nighttime Lighting**

**During Project construction and operations over the lifetime of the Project, the City of Indio shall eliminate all nonessential lighting throughout the Project area and avoid or limit the use of artificial light during the hours of dawn and dusk when many wildlife species are most active. The City shall ensure that all lighting for Project is fully shielded, cast downward, reduced in intensity to the greatest extent, and does not result in lighting trespass including glare onto other properties or upward into the night sky (see the International Dark-Sky Association standards at <http://darksky.org/>). The City shall ensure use of LED lighting with a correlated color temperature of 3,000 Kelvins or less, proper disposal of hazardous waste, and recycling of lighting that contains toxic compounds with a qualified recycler.**

#### **5) *Coachella Valley Multiple Species Habitat Conservation Plan***

Page 5.3-18 of the DEIR states that “in addition to consistency with the applicable policies presented in the CVMSHCP, the Project Applicant would pay the conservation fee identified by the CVMSHCP.” The DEIR also includes Mitigation Measure BIO-3 indicating that a CVMSHCP Conservation Fee will be paid.

Page Section 5.2.1.1 of the CVMSHCP states that “local jurisdictions will impose a mitigation fee on new Development within the Plan Area that impacts vacant land containing Habitat for Covered Species or any of the conserved natural communities in the Plan through adoption, or amendment of existing fee ordinance. In addition to large vacant areas, this also applies to small vacant lots within urban areas that still contain natural open space.” Section 6.6.1 of the CVMSHCP further discusses the obligation of Local Permittees to impose local development mitigation fees, including “collecting all revenues generated within their respective jurisdictional boundaries for the Plan implementation and transferring those revenues to CVCC within thirty (30) days of collection.” Because the Project site contains habitat for burrowing owl, a Covered Species under the CVMSHCP, the City of Indio is obligated to impose a CVMSHCP Local Development Mitigation Fee on the Project.

To accurately describe the City of Indio’s obligation to impose a local development mitigation fee for this Project, CDFW recommends the City of Indio include revised

Mitigation Measure BIO-3 in the DEIR with additions in **bold** and removals in ~~strikethrough~~:

### **Mitigation Measure BIO-3: CVMSHCP Compliance**

**Prior to construction and issuance of any grading permit, the City of Indio shall ensure compliance with the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP) and its associated Implementing Agreement and shall ensure the collection of payment of the CVMSHCP Local Development Mitigation Fee.** ~~The CVMSHCP Conservation Fee shall be paid in accordance with the provisions of the Indio Municipal Code (Section 33.090). Pre-Construction Burrowing Owl Clearance Survey. To ensure burrowing owl remain absent from the project site, it is recommended that a burrowing owl pre-construction clearance survey be conducted prior to any ground disturbing activities.~~

### **6) Landscaping**

Page 2.0-5 of the DEIR indicates that the Project's landscaping would reflect a desertscape theme, and page 3.0-20 of the DEIR indicates that landscaping in the paseos will include seasonal wildflowers and native plant materials. The DEIR lacks additional details on incorporating native plants into landscaping plans. To ameliorate the water demands of this Project, CDFW recommends incorporation of water-wise concepts in any project landscape design plans. In particular, CDFW recommends xeriscaping with locally native California species and installing water-efficient and targeted irrigation systems (such as drip irrigation). Native plants support butterflies, birds, reptiles, amphibians, small mammals, bees, and other pollinators that evolved with those plants, more information on native plants suitable for the Project location and nearby nurseries is available at CALSCAPE: <https://calscape.org/>. Local water agencies/districts and resource conservation districts in your area may be able to provide information on plant nurseries that carry locally native species, and some facilities display drought-tolerant locally native species demonstration gardens. Information on drought-tolerant landscaping and water-efficient irrigation systems is available on California's Save our Water website: <https://saveourwater.com/>. CDFW also recommends that the DEIR include recommendations regarding landscaping from Section 4.0 of the CVMSHCP "Table 4-112: Coachella Valley Native Plants Recommended for Landscaping" (pp. 4-180 to 4-182; [https://cvmshcp.org/Plan\\_Documents.htm](https://cvmshcp.org/Plan_Documents.htm)).

### **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

Kevin Snyder, Community Development Director  
City of Indio  
April 13, 2023  
Page 12

communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

## ENVIRONMENTAL DOCUMENT FILING FEES


The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document 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 environmental document filing 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.)

## CONCLUSIONS

CDFW appreciates the opportunity to comment on the DEIR to assist the City of Indio in identifying and mitigating Project impacts to biological resources. CDFW concludes that the DEIR does not adequately identify or mitigate the Project's significant, or potentially significant, impacts to biological resources. CDFW also concludes that the DEIR lacks sufficient information for a meaningful review of impacts to biological resources, including a complete and accurate assessment of biological resources on the Project site. The CEQA Guidelines (§ 15088.5) indicate that recirculation is required when insufficient information in the DEIR precludes meaningful review. CDFW recommends that a revised DEIR, including recent findings from burrowing owl focused surveys and an assessment of impacts to biological resources associated with artificial nighttime lightning, along with lightning specifications, be recirculated for public comment. CDFW also recommends that revised and additional mitigation measures as described in this letter be added to a revised DEIR.

CDFW personnel are available for consultation regarding biological resources and strategies to minimize impacts. Questions regarding this letter or further coordination should be directed to Jacob Skaggs, Environmental Scientist, at [jacob.skaggs@wildlife.ca.gov](mailto:jacob.skaggs@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
84F92FFEEFD24C8...

Kim Freeburn  
Environmental Program Manager

Kevin Snyder, Community Development Director  
 City of Indio  
 April 13, 2023  
 Page 13

**Attachment 1: MMRP for CDFW-Proposed Mitigation Measures**

ec:

Heather Brashear, Senior Environmental Scientist (Supervisor), CDFW  
[Heather.Brashear@Wildlife.ca.gov](mailto:Heather.Brashear@Wildlife.ca.gov)

Office of Planning and Research, State Clearinghouse, Sacramento  
[state.clearinghouse@opr.ca.gov](mailto:state.clearinghouse@opr.ca.gov)

Rollie White, U.S. Fish and Wildlife Service  
[rollie\\_white@fws.gov](mailto:rollie_white@fws.gov)

Vincent James, U.S. Fish and Wildlife Service  
[vincent\\_james@fws.gov](mailto:vincent_james@fws.gov)

**ATTACHMENT 1: MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)**

Mitigation Measures	Timing and Methods	Responsible Parties
<p><b>Mitigation Measure BIO-1: Burrowing Owl</b></p> <p>Suitable burrowing owl habitat has been confirmed on the Project site; therefore, focused burrowing owl surveys shall be conducted by a qualified biologist according to the <i>Staff Report on Burrowing Owl Mitigation</i> (CDFG 2012 or most recent version) prior to initiation of ground-disturbing and/or vegetation removal activities associated with each phase of the Project. If burrowing owls are detected during the focused surveys, the qualified biologist and Project proponent shall prepare a Burrowing Owl Plan that shall be submitted to CDFW for review and approval prior to commencing Project activities. The Burrowing Owl Plan shall describe proposed avoidance, minimization, and monitoring actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites, acres of</p>	<p><b>Timing:</b> Focused surveys: Prior to the start of Project-related activities for each phase of the Project. Pre-construction surveys: no less than 14 days prior to the start of Project-related activities and within 24 hours prior to ground disturbance for each phase of the Project.</p>	<p><b>Implementation:</b> Permittee</p> <p><b>Monitoring and Reporting:</b> City of Indio</p>

<p>burrowing owl habitat that will be impacted, details of site monitoring, and details on proposed buffers and other avoidance measures if avoidance is proposed. If impacts to occupied burrowing owl habitat or burrow cannot be avoided, the Burrowing Owl Plan shall also describe relocation actions that will be implemented. Proposed implementation of burrow exclusion and closure should only be considered as a last resort, after all other options have been evaluated as exclusion is not in itself an avoidance, minimization, or mitigation method and has the possibility to result in take. If impacts to occupied burrows cannot be avoided, information shall be provided regarding adjacent or nearby suitable habitat available to owls along with proposed relocation actions. The Permittee shall implement the Burrowing Owl Plan following CDFW review and approval.</p> <p>Preconstruction burrowing owl surveys shall be conducted no less than 14 days prior to the start of Project-related activities associated with each phase of the Project and within 24 hours prior to ground disturbance, in accordance with the <i>Staff Report on Burrowing Owl Mitigation</i>. Preconstruction surveys should be performed by a qualified biologist following the recommendations and guidelines provided in the <i>Staff Report on Burrowing Owl Mitigation</i>. If the preconstruction surveys confirm occupied burrowing owl habitat, Project activities shall be immediately halted. The qualified biologist shall coordinate with CDFW and prepare a Burrowing Owl Plan that shall be submitted to CDFW for review and approval prior to commencing Project activities.</p>	<p><b>Methods:</b> See Mitigation Measure</p>	
<p><b>Mitigation Measures BIO-2: Nesting Birds</b></p> <p>Regardless of the time of year, nesting bird surveys shall be performed by a qualified avian biologist no more than 3 days prior to vegetation removal or ground-disturbing activities associated with each phase of the Project. Pre-construction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified avian biologist will make every effort to avoid potential nest predation as a result of survey and monitoring efforts. If active nests are found during the pre-construction nesting bird surveys,</p>	<p><b>Timing:</b> No more than 3 days prior to vegetation removal or ground-disturbing activities for each phase of the Project.</p> <p><b>Methods:</b> See Mitigation Measure</p>	<p><b>Implementation:</b> Permittee</p> <p><b>Monitoring and Reporting:</b> City of Indio</p>

<p>a qualified biologist shall establish an appropriate nest buffer to be marked on the ground. Nest buffers are species specific and shall be at least 300 feet for passerines and 500 feet for raptors. A smaller or larger buffer may be determined by the qualified biologist familiar with the nesting phenology of the nesting species and based on nest and buffer monitoring results. Established buffers shall remain on site until a qualified biologist determines the young have fledged or the nest is no longer active. Active nests and adequacy of the established buffer distance shall be monitored daily by the qualified biologist until the qualified biologist has determined the young have fledged or the Project has been completed. The qualified biologist has the authority to stop work if nesting pairs exhibit signs of disturbance.</p>		
<p><b>Mitigation Measure BIO-[A]: Lake and Streambed Alteration Program</b></p> <p>Prior to construction and issuance of any grading permit, the Project Sponsor shall obtain written correspondence from the California Department of Fish and Wildlife (CDFW) stating that notification under section 1602 of the Fish and Game Code is not required for the Project, or the Project Sponsor should obtain a CDFW-executed Lake and Streambed Alteration Agreement, authorizing impacts to Fish and Game Code section 1602 resources associated with the Project.</p>	<p><b>Timing:</b> Prior to construction and issuance of any grading permit</p> <p><b>Methods:</b> See Mitigation Measure</p>	<p><b>Implementation:</b> Permittee</p> <p><b>Monitoring and Reporting:</b> City of Indio</p>

<p><b>Mitigation Measure BIO-[B]: Artificial Nighttime Lighting</b></p> <p>During Project construction and operations over the lifetime of the Project, the City of Indio shall eliminate all nonessential lighting throughout the Project area and avoid or limit the use of artificial light during the hours of dawn and dusk when many wildlife species are most active. The City shall ensure that all lighting for Project is fully shielded, cast downward, reduced in intensity to the greatest extent, and does not result in lighting trespass including glare onto other properties or upward into the night sky (see the International Dark-Sky Association standards at <a href="http://darksky.org/">http://darksky.org/</a>). The City shall ensure use of LED lighting with a correlated color temperature of 3,000 Kelvins or less, proper disposal of hazardous waste, and recycling of lighting that contains toxic compounds with a qualified recycler.</p>	<p><b>Timing:</b> During Project construction and over the lifetime of the Project</p> <p><b>Methods:</b> See Mitigation Measure</p>	<p><b>Implementation:</b> Permittee</p> <p><b>Monitoring and Reporting:</b> City of Indio</p>
<p><b>Mitigation Measure BIO-3: CVMSHCP Compliance</b></p> <p>Prior to construction and issuance of any grading permit, the City of Indio shall ensure compliance with the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP) and its associated Implementing Agreement and shall ensure the collection of payment of the CVMSHCP Local Development Mitigation Fee.</p>	<p><b>Timing:</b> Prior to construction and issuance of any grading permit</p> <p><b>Methods:</b> See Mitigation Measure</p>	<p><b>Implementation:</b> City of Indio</p> <p><b>Monitoring and Reporting:</b> City of Indio</p>