



State of California – Natural Resources Agency
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Inland Deserts Region
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GAVIN NEWSOM, Governor
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September 6, 2022
Sent via email

Governor's Office of Planning & Research

Sep 06 2022

STATE CLEARINGHOUSE

Jose Castaneda
Administrative Analyst III
Imperial County Department of Public Works
801 Main St.
El Centro, CA 92243

IS #22-0025 FORRESTER ROAD OVER WESTSIDE CANAL BRIDGE
REPLACEMENT (PROJECT) MITIGATED NEGATIVE DECLARATION (MND)
SCH# 2022080053

Dear Mr. Castaneda:

The California Department of Fish and Wildlife (CDFW) received a Mitigated Negative Declaration (MND) from the Imperial County Department of Public Works for the Project pursuant to the California Environmental Quality Act (CEQA) and CEQA guidelines¹.

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.

¹CEQA 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.

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

Proponent: Imperial County Department of Public Works

Objective: The project proposes the construction of a replacement bridge that would span the Westside Main Canal and Sumac Canal in the same location as the existing bridge, and a replacement culvert under the approach roadway for the Sumac Canal in the same location as the existing culvert. The project includes the demolition of the existing bridge and culvert. The proposed Forrester Road Bridge and approach roads would include two 12-foot-wide lanes and two 8-foot-wide paved shoulders. Reinforced concrete abutments on deep foundations would support a single-span steel plate girder superstructure. The grade of the roadway approaches that are approximately 1,200 feet on the south end of the bridge and 1,000 feet on the north end of the bridge would be adjusted to conform the higher bridge span with the existing roadway.

Location: The existing bridge is located on Forrester Road, approximately 10 miles north of Interstate 8, 5 miles southwest of Brawley, CA, crossing the Westside Main Canal. The bridge is approximately 1,330 feet south of the intersection of Forrester Road and Imler Road in Imperial County. The Project is located within Assessor's Parcel Numbers 040-170-004, 040-170-008, and 040-170-010.

Timeframe: The proposed Project would be constructed over four months and is scheduled to start in mid-December 2023 or early January 2024.

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). The MND has not adequately identified and disclosed the Project's impacts (i.e., direct, indirect, and cumulative) to biological resources and whether those impacts are less than significant. CDFW offers the comments and recommendations below to assist the Imperial County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

CDFW's comments and recommendations on the MND are explained in greater detail below and summarized here. The MND lacks a discussion of how impacts to ephemeral streams will be avoided and minimized, and how unavoidable impacts will be mitigated so that impacts are less than significant. Also, the MND bases analysis of impacts to burrowing owls on focused surveys that were last conducted in July 2021. CDFW generally considers field assessments for wildlife valid for a 1-year period. Recent surveys during the appropriate times of the year are needed to inform appropriate avoidance, minimization, and mitigation measures. The MND does not contain adequate avoidance and minimization measures to protect nesting birds. The MND also lacks an analysis of artificial nighttime lighting and its impacts on biological resources.

1) Avoidance, Minimization and Mitigation Measures for Impacts to Streams

The MND indicates that the Project could cause permanent impacts to stream resources associated with the installation of rock slope protection and sheet piles, and temporary impacts to stream resources associated with water diversion and earth-moving activities during removal of the existing bridge and construction of the new bridge. MND also indicates that the Project applicant will consult with CDFW to determine if a Streambed Alteration Agreement is required. However, the MND lacks information on how impacts to ephemeral streams associated with the removal and reconstruction of the bridge and culvert will be avoided, minimized, and mitigated. CDFW recommends that the MND is revised to include a detailed discussion that identifies how the Project is designed to avoid and/or minimize impacts to stream resources; what Project design alternatives were considered to this end; why a preferred alternative was selected; and how unavoidable impacts to stream resources will be mitigated so that impacts are less than significant.

CDFW recommends that the Imperial County adds the following mitigation measure to a revised MND:

MM BIO-[X]: CDFW 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.

2) Assessment of Biological Resources

Burrowing Owl (*Athene cunicularia*)

The MND indicates that burrowing owls have moderate potential to occur onsite due to the presence of suitable habitat, and that a burrowing owl habitat assessment and focused burrowing owl surveys were last conducted in July 2021, during which no burrowing owl were observed. Because suitable habitat is present onsite, and because burrowing owl could move into the area before the start of Project activities, CDFW recommends preconstruction surveys.

CDFW recommends the following revisions to Mitigation Measure BIO-1, with removals in ~~strikethrough~~ and additions in **bold**:

Mitigation Measure BIO-1: Pre-Construction Burrowing Owl Surveys

~~The County shall conduct two pre-construction burrowing owl surveys (14 days and 24 hours prior to vegetation removal and/or initial grading activities). Preconstruction surveys shall be conducted within the immediate project site and surrounding 150-meter survey area. Surveys shall occur during favorable weather conditions and either during early morning hours (one hour before sunrise until two hours after sunrise) or during late afternoon hours (two hours before sunset until one hour after sunset). After the first pre-construction survey, a report shall be submitted for CDFW review addressing survey methods, transect widths, duration, conditions, results, and any mitigation recommendations. Following the 24-hour pre-construction survey, a memo report shall be prepared for CDFW review addressing any additional required mitigation defined in this measure, which would include:~~

- ~~-Preparation and implementation of a Burrowing Owl Mitigation Plan, including but not limited to passive relocation procedures, "shelter in place" procedures, noise attenuation barriers, visual barriers, biological monitoring during construction, or other methods to avoid and minimize indirect and direct impacts to burrowing owls.~~
- ~~-Setbacks as recommended by CDFW (2012) and implemented as defined in the table below. Project construction activities will be defined as low, medium, and high disturbance activities in the Burrowing Owl Mitigation Plan.~~

Suitable burrowing owl habitat has been confirmed on the site; therefore, preconstruction burrowing owl surveys shall be conducted no less than 14 days prior to the start of Project-related activities and within 24 hours prior to ground disturbance, in accordance with the *Staff Report on Burrowing Owl Mitigation (2012 or most recent version)*. 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, and

the qualified biologist and Project Applicant 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, monitoring, relocation, minimization, and/or mitigation 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 minimization and compensatory mitigation 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. The Burrowing Owl Plan shall identify compensatory mitigation for the temporary or permanent loss of occupied burrow(s) and habitat consistent with the “Mitigation Impacts” section of the 2012 Staff Report and shall implement CDFW-approved mitigation prior to initiation of Project activities. If impacts to occupied burrows cannot be avoided, information shall be provided regarding adjacent or nearby suitable habitat available to owls. If no suitable habitat is available nearby, details regarding the creation and funding of artificial burrows (numbers, location, and type of burrows) and management activities for relocated owls shall also be included in the Burrowing Owl Plan. The Permittee shall implement the Burrowing Owl Plan following CDFW review and approval.

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.).

The MND acknowledges that the Project has the potential to affect migratory birds. CDFW is concerned about impacts to nesting birds from Project activities. Although the

MND includes a mitigation measure (BIO-2) for nesting birds, the timing and scope are insufficient. CDFW has specific concerns about impacts to swallows nesting under the existing bridge. Cliff swallows (*Petrochelidon pyrrhonota*) can build nests within a week and eggs can be laid before nests are completely finished². CDFW recommends that additional avoidance and minimization measures are used to detect nests that are active and address newly constructed nests before they become active. Additionally, CDFW recommends that additional measures are carried out to detect bats using swallow nests as roosting habitat and avoid direct impacts to these bats.

CDFW recommends the following revisions to Mitigation Measure BIO-2, with removals in ~~strikethrough~~ and additions in **bold**:

Mitigation Measure BIO-2: Nest Avoidance

Bridge removal, vegetation removal, and ground-disturbing activities should avoid the nesting bird season (generally between January 1 and August 31) to the extent practical to limit the potential need for avoidance measures. Prior to the onset of the nesting season (January 1), the County, **under the direction of a qualified biologist experienced in inspecting mud nests**, shall remove old and partially completed swallow nests from the existing bridge using hand tools or high-pressure water **only after a qualified biologist has confirmed that they are not active. Prior to removal of mud nests, a** qualified biologist shall monitor swallow behavior at the existing bridge **and inspect nests individually using a borescope (or similar device) or light depending on the size of the nest opening**. ~~immediately prior to removal activities~~ to ensure that none of the old swallow nests are active. **Inactive mud nests will be immediately removed so that they cannot be re-occupied.** Disturbance or removal of active nests shall not be conducted at any time. **If an active nest is detected, the qualified biologist shall immediately halt Project activities and coordinate with CDFW on appropriate avoidance and minimization measures.** Following the initial removal of ~~old-inactive~~ swallow nests, **a qualified biologist** ~~the County~~ shall inspect the bridge ~~weekly~~ **a minimum of once every three days** and remove new and partially constructed swallow nests before they become active.

If the qualified biologist, while inspecting mud nests, detects bats using mud nests as roosting habitat, the mud nest will not be disturbed while bats are present. Mud nests used by bats may be inspected by a qualified

² *Cliff Swallows, Integrated Pest Management around the Home*, Pest Notes Publication 7492, University of California Division of Agriculture and Natural Resources, July, 2005, <http://ipm.ucanr.edu/PDF/PESTNOTES/pncliffswallows.pdf>, accessed September 2, 2022.

bat biologist and removed at night (i.e., beginning approximately 1.5 hours after sunset to avoid disrupting the emergence) when bats typically leave the roost to forage.

A pre-construction nesting bird survey shall be conducted for MBTA- and CDFW-protected nesting birds within 500 feet of areas proposed for bridge removal, vegetation removal and/or initial grading activities regardless of time of year to ensure compliance with all applicable laws pertaining to nesting birds and birds of prey. The survey shall be conducted by a qualified biologist within three days prior to vegetation removal and/or initial grading activities.

If active nests are observed, the **qualified** biologist shall implement non-disturbance buffers (minimum 300 feet for passerines and 500 feet for raptors) and shall monitor active nest(s) weekly during construction activities to ensure nesting behavior is not being indirectly affected by construction-related noise levels. If the **qualified** biologist determines that nesting behavior is being adversely affected, a noise mitigation program (e.g., staggered work schedules, altered work locations, noise abatement barriers) shall be implemented, in consultation with the CDFW, to allow such activities to proceed. Once the **qualified** biologist has determined the young have fledged and have not returned to the nest(s), construction activities may proceed.

3) Nighttime Lightning

Page 20 of the MND indicates that Project construction may occur at night, such as temperature sensitive concrete curing, and that any lightning used at night would be shielded and directed downward in the work areas. The MND lacks a discussion on the types of artificial nighttime lightning that would be used and an analysis of direct and indirect impacts on biological resources including burrowing owls, 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 navigation³. Further, many of the effects of artificial nighttime lightning on population or ecosystem-level processes are still poorly known. CDFW recommends that the MND is updated to include a description of the artificial nighttime lightning that will be used at the Project site, a discussion of the indirect impacts of artificial lighting expected to

³ Gatson, K. J., Bennie, J., Davies, T., Hopkins, J. *The ecological impacts of nighttime light pollution: a mechanistic appraisal*. Biological Reviews, 2013.

adversely affect biological resources, and a discussion on how impacts of artificial nighttime lighting on biological resources will be avoided and minimized.

CDFW recommends that the Imperial County add the following mitigation measure to a revised MND:

MM BIO-[Y]: Artificial Nighttime Lighting

During both Project construction activities, the County 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 County shall ensure that lighting for Project activities is shielded, cast downward, and does not spill over onto other properties or upward into the night sky (see the International Dark-Sky Association standards at <http://darksky.org/>). Use LED lighting with a correlated color temperature of 3,000 Kelvins or less, properly dispose of hazardous waste, and recycle lighting that contains toxic compounds with a qualified recycler.

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 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 MND to assist the Imperial County in identifying and mitigating Project impacts to biological resources. CDFW concludes that the MND does not adequately identify or mitigate for the Project's significant, or potentially significant, impacts on biological resources. CDFW recommends that the MND include a more complete assessment of the Project's potential impacts on burrowing owls and stream resources, as well as appropriate avoidance, minimization, and mitigation measures. CDFW recommends additional avoidance and minimization measures to protect nesting birds. CDFW also recommends that artificial nighttime lightning impacts to biological resources are analyzed and avoided and/or minimized. 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.

Sincerely,

DocuSigned by:

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Kim Freeburn
Acting Environmental Program Manager

Attachment 1: MMRP for CDFW-Proposed Mitigation Measures

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Heather Brashear, Senior Environmental Scientist (Supervisor), CDFW
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Rollie White, U.S. Fish and Wildlife Service
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ATTACHMENT 1: MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

Mitigation Measures	Timing and Methods	Responsible Parties
<p>CDFW recommends that the Imperial County adds the following mitigation measure to a revised MND:</p> <p>MM BIO-[X]: CDFW Lake and Streambed Alteration Program</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>Timing: Prior to Project construction and issuance of any grading permit</p> <p>Methods: See Mitigation Measure</p>	<p>Implementation: Project applicant</p> <p>Monitoring and Reporting: Imperial County</p>
<p>CDFW recommends the following revisions to Mitigation Measure BIO-1, with removals in strike through and additions in bold:</p> <p>Mitigation Measure BIO-1: Pre-Construction Burrowing Owl Surveys</p> <p>The County shall conduct two pre-construction burrowing owl surveys (14 days and 24 hours prior to vegetation removal and/or initial grading activities). Preconstruction surveys shall be conducted within the immediate project site and surrounding 150-meter survey area. Surveys shall occur during favorable weather conditions and either during early morning hours (one hour before sunrise until two hours after sunrise) or during late afternoon hours (two hours before sunset until one hour after sunset). After the first pre-construction survey, a report shall be submitted for CDFW review addressing survey methods, transect widths, duration, conditions, results, and any mitigation recommendations.</p>	<p>Timing: Prior to Project construction</p> <p>Methods: See Mitigation Measure</p>	<p>Implementation: Project applicant</p> <p>Monitoring and Reporting: Imperial County</p>

<p>Following the 24-hour pre-construction survey, a memo report shall be prepared for CDFW review addressing any additional required mitigation defined in this measure, which would include:</p> <p>Preparation and implementation of a Burrowing Owl Mitigation Plan, including but not limited to passive relocation procedures, "shelter in place" procedures, noise attenuation barriers, visual barriers, biological monitoring during construction, or other methods to avoid and minimize indirect and direct impacts to burrowing owls. Setbacks as recommended by CDFW (2012) and implemented as defined in the table below. Project construction activities will be defined as low, medium, and high disturbance activities in the Burrowing Owl Mitigation Plan.</p> <p>Suitable burrowing owl habitat has been confirmed on the site; therefore, preconstruction burrowing owl surveys shall be conducted no less than 14 days prior to the start of Project-related activities and within 24 hours prior to ground disturbance, in accordance with the <i>Staff Report on Burrowing Owl Mitigation (2012 or most recent version)</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, and the qualified biologist and Project Applicant 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, monitoring, relocation, minimization, and/or mitigation 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 minimization and compensatory mitigation actions that will be implemented. Proposed implementation of burrow exclusion and closure should only be</p>		
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<p>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. The Burrowing Owl Plan shall identify compensatory mitigation for the temporary or permanent loss of occupied burrow(s) and habitat consistent with the “Mitigation Impacts” section of the 2012 Staff Report and shall implement CDFW-approved mitigation prior to initiation of Project activities. If impacts to occupied burrows cannot be avoided, information shall be provided regarding adjacent or nearby suitable habitat available to owls. If no suitable habitat is available nearby, details regarding the creation and funding of artificial burrows (numbers, location, and type of burrows) and management activities for relocated owls shall also be included in the Burrowing Owl Plan. The Permittee shall implement the Burrowing Owl Plan following CDFW review and approval.</p>		
<p>CDFW recommends the following revisions to Mitigation Measure BIO-2, with removals in strike through and additions in bold:</p> <p>Mitigation Measure BIO-2: Nest Avoidance</p> <p>Bridge removal, vegetation removal, and ground-disturbing activities should avoid the nesting bird season (generally between January 1 and August 31) to the extent practical to limit the potential need for avoidance measures. Prior to the onset of the nesting season (January 1), the County, under the direction of a qualified biologist experienced in inspecting mud nests, shall remove old and partially completed swallow nests from the existing bridge using hand tools or high-pressure water only after a qualified biologist has confirmed that they are not active. Prior to removal of mud nests, a qualified biologist shall monitor swallow behavior at the existing bridge and inspect nests individually using a borescope (or similar device) or light depending on the size of the nest opening-immediately prior to removal activities to ensure that none of the old swallow nests are active. Inactive mud nests will be immediately removed so that they cannot be re-occupied. Disturbance or removal of active nests shall not be conducted at any time. If an active nest is</p>	<p>Timing: Prior to and during Project construction</p> <p>Methods: See Mitigation Measure</p>	<p>Implementation: Imperial County</p> <p>Monitoring and Reporting: Imperial County</p>

<p>detected, the qualified biologist shall immediately halt Project activities and coordinate with CDFW on appropriate avoidance and minimization measures.</p> <p>Following the initial removal of old-inactive swallow nests, a qualified biologist the County shall inspect the bridge weekly a minimum of once every three days and remove new and partially constructed swallow nests before they become active.</p> <p>If the qualified biologist, while inspecting mud nests, detects bats using mud nests as roosting habitat, the mud nest will not be disturbed while bats are present. Mud nests used by bats may be inspected by a qualified bat biologist and removed at night (i.e., beginning approximately 1.5 hours after sunset to avoid disrupting the emergence) when bats typically leave the roost to forage.</p> <p>A pre-construction nesting bird survey shall be conducted for MBTA- and CDFW-protected nesting birds within 500 feet of areas proposed for bridge removal, vegetation removal and/or initial grading activities regardless of time of year to ensure compliance with all applicable laws pertaining to nesting birds and birds of prey. The survey shall be conducted by a qualified biologist within three days prior to vegetation removal and/or initial grading activities.</p> <p>If active nests are observed, the qualified biologist shall implement non-disturbance buffers (minimum 300 feet for passerines and 500 feet for raptors) and shall monitor active nest(s) weekly during construction activities to ensure nesting behavior is not being indirectly affected by construction-related noise levels. If the qualified biologist determines that nesting behavior is being adversely affected, a noise mitigation program (e.g., staggered work schedules, altered work locations, noise abatement barriers) shall be implemented, in consultation with the CDFW, to allow such activities to proceed. Once the qualified biologist has determined the young have fledged and have not returned to the nest(s), construction activities may proceed.</p>		
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<p>CDFW recommends that the Imperial County add the following mitigation measure to a revised MND:</p> <p>MM BIO-[Y]: Artificial Nighttime Lighting</p> <p>During Project construction activities, the County 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 County shall ensure that lighting for Project activities is shielded, cast downward, and does not spill over onto other properties or upward into the night sky (see the International Dark-Sky Association standards at http://darksky.org/). Use LED lighting with a correlated color temperature of 3,000 Kelvins or less, properly dispose of hazardous waste, and recycle lighting that contains toxic compounds with a qualified recycler.</p>	<p>Timing: During Project construction</p> <p>Methods: See Mitigation Measure</p>	<p>Implementation: Imperial County</p> <p>Monitoring and Reporting: Imperial County</p>
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