



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



March 24, 2023
Sent via email

Troy Strange
Director of Planning and Public Works
Desert Recreation District
45-305 Oasis Street
Indio, CA 92201



Thermal Community Park (PROJECT)
MITIGATED NEGATIVE DECLARATION (MND)
SCH# 2023020516

Dear Mr. Strange:

The California Department of Fish and Wildlife (CDFW) received a Draft Mitigated Negative Declaration (MND) from the Desert Recreation District 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.

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may

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.

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: Desert Recreation District

Objective: The Project proposes to develop the Thermal Community Park that will be a new community park with ball fields, basketball courts, tennis courts, a fitness station, a playground, horseshoe pits, a picnic area, a splash pad, pond area, and parking lots in the area of Thermal, unincorporated Riverside County, California. The site is a former palm tree nursery. The Desert Recreation District is requesting a General Plan Amendment to be adopted by the County in order to change the proposed Project site's land use designation from Light Industrial to Open Space Recreation. The proposed Project will also request for County adoption of a change of zone from the existing Manufacturing-Service Commercial to General Residential. Circulation on-site will primarily be via pedestrian access. Parking will be located around the perimeter of the site along Church Street to the north and Olive Street to the east.

Location: The Project Area is located at the southeast corner of the Olive Street and Church Street intersection in the unincorporated community of Thermal, County of Riverside, California (Assessor Parcel Numbers 757-062-003 and 757-062-002).

Timeframe: The Project proposes construction of the park to occur in one phase from mid- to late-2023 to mid- to late-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). CDFW offers the comments and recommendations below to assist the Desert Recreation District in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. The MND 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 MND are explained in greater detail below and summarized here. CDFW is concerned that the MND does not adequately

identify or mitigate the Project's significant, or potentially significant, impacts to biological resources. CDFW also concludes that the MND 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 MND, 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 MND. CDFW is concerned that without a complete and accurate description of the existing environmental setting, the MND may provide an incomplete analysis of Project-related environmental impacts.

The MND and the Project's Habitat Assessment and Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP) Consistency Analysis describes the Project site as containing rows of date palms (*Phoenix dactylifera*). Based on review of aerial and street imagery on Google Earth and site photographs in Appendix B of the MND, the majority of palm trees located on the Project site appear to be Mexican fan palms (*Washingtonia robusta*). The untrimmed frond skirts of Mexican fan palms provide valuable nesting habitat for birds, roosting habitat for bats including western yellow bat (*Lasiurus xanthinus*), a California Species of Special Concern, and other wildlife. A complete and accurate assessment of the environmental setting and Project-related impacts to biological resources is needed to both identify appropriate avoidance, minimization, and mitigation measures and demonstrate that these measures reduce Project impacts to a level that is less than significant.

Mitigation Measures

CEQA requires that an MND include mitigation measures to avoid or reduce significant impacts. CDFW is concerned that the mitigation measures proposed in the MND are not adequate to avoid or reduce impacts to biological resources to below a level of significance. To support Desert Recreation District in ensuring that Project impacts to biological resources are reduced to a level that is less than significant, CDFW recommends adding mitigation measures for an assessment of biological resources, bats, burrowing owl (*Athene cunicularia*), nesting birds, artificial nighttime lightning, and CVMSHCP compliance.

1) Assessment of 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, that special

emphasis should be placed on environmental resources that are rare or unique to the region, and that significant environmental impacts of the proposed project are adequately investigated and discussed. Page 2 of the MND indicates that the Project site was formerly used as a date palm tree farm, and the Project's Habitat Assessment and CVMSHCP Consistency Analysis in Appendix C indicates that the Project site supports rows of date palms. Based on review of aerial and street imagery on Google Earth and photos included in the Appendix B of the Project's Habitat Assessment and CVMSHCP Consistency Analysis, it appears the majority of trees on-site are Mexican fan palms with a small number of scattered date palms. Concerning the significance of the Project's impacts to biological resources, this distinction in presence and abundance palm species on-site is important. Dead palm frond skirts of Mexican fan palms provide valuable nesting habitat for birds and roosting habitat for bats including western yellow bat, a California Species of Special Concern. CDFW recommends that the MND is revised to include a complete and accurate description of biological resources at the Project site, and that appropriate avoidance, minimization, and mitigation measures are included in a revised MND based on this information. Complete and accurate information on biological resources and appropriate avoidance, minimization, and mitigation measures support the Lead Agency in demonstrating that Project impacts to biological resources are less than significant.

CDFW recommends that the Desert Recreation District include in a revised MND the following mitigation measure:

Mitigation Measure BIO-[A]: Assessment of Biological Resources

Prior to Project construction activities, a complete, recent, and accurate inventory of rare, threatened, endangered, and other sensitive species located within the Project footprint and within offsite areas with the potential to be affected, including California Species of Special Concern (CSSC) and California Fully Protected Species (Fish and Game Code § 3511), will be completed. Species to be addressed should include all those which meet the CEQA definition (CEQA Guidelines § 15380). The inventory should address seasonal variations in use of the Project area and should not be limited to resident species. Focused species-specific surveys, completed by a qualified biologist and conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable are required. Acceptable species-specific survey procedures should be developed in consultation with CDFW and the U.S. Fish and Wildlife Service, where necessary. Note that CDFW generally considers biological field assessments for wildlife to be valid for a one-year period, and assessments for rare plants may be considered valid for a period of up to three years. Some aspects of the proposed Project may warrant periodic updated surveys for certain sensitive taxa, particularly if the Project is proposed to occur over a protracted time frame, or in phases, or if surveys are completed during periods of drought.

2) Bats

Page 22 of the MND states that the Project site has a low potential to support western yellow bat and that no further surveys or additional mitigation measures are required because this species is covered under the CVMSHCP. Section 15070(b)(2) of the CEQA Guidelines states that one of the conditions under which a mitigated negative declaration shall be prepared is when there is no substantial evidence that the project as revised may have a significant effect on the environment. Section 15071(e) of the CEQA Guidelines states that a negative declaration shall include mitigation measures in the project to avoid potentially significant effects. Therefore, the Lead Agency must demonstrate that all impacts to biological resources are less than significant through appropriate avoidance, minimization, and mitigation measures. Western yellow bat is a California Species of Special Concern that meets the CEQA definition of a rare species (CEQA Guidelines § 15380), and the Lead Agency should demonstrate in the MND that impacts to western yellow bat are avoided, minimized, and mitigated to a level that impacts are less than significant.

In California, western yellow bats appear to roost exclusively in the skirt of dead fronds of both native and non-native palm trees and appear to be limited in their distribution by availability of palm habitat². Western yellow bats probably form small maternity groups in palm trees³. Some individuals or populations may be migratory, although some individuals appear to be present year-round, even in the northernmost portion of the range including southern California². Data from the California Natural Diversity Database identify an occurrence of western yellow bat within the Project site. Given the presence of suitable habitat for western yellow bat and a historical occurrence of this species on-site, CDFW is concerned about the accuracy of the determination in the MND that western yellow bat has low potential to be supported on-site. Further, the MND and the Project's Habitat Assessment do not indicate if focused surveys for western yellow bat or other palm-roosting bat species were completed. To support the Desert Recreation District in providing a complete assessment of biological resources, identifying appropriate avoidance, minimization, and mitigation measures, and reducing impacts to a level that is less than significant, CDFW recommends the Desert Recreation District include in a revised MND the findings of focused bat surveys as

² Bolster, B.C., Bolster, B.C., (ed.). 1998. Terrestrial Mammal Species of Special Concern in California. Draft Final Report. May. Sacramento, CA. Prepared by Paul W. Collins. Prepared for California Department of Fish and Game, Nongame Bird and Mammal Conservation Program, Sacramento, CA.

³ Life History Account for Western Yellow Bat, California Department of Fish and Wildlife, February 2008.

described in the measure below. CDFW also recommends that the following mitigation measure below is added to a revised MND:

Mitigation Measure BIO-[B]: Bat Surveys

Prior to the initiation of Project activities within suitable bat roosting habitat, Desert Recreation District shall retain a qualified biologist to conduct focused surveys to determine presence of daytime, nighttime, wintering (hibernacula), and maternity roost sites. Two spring surveys (April through June) and two winter surveys (November through January) shall be performed by qualified biologists. Surveys shall be conducted during favorable weather conditions only. Each survey shall consist of one dusk emergence survey (start one hour before sunset and last for three hours), followed by one pre-dawn re-entry survey (start one hour before sunrise and last for two hours), and one daytime visual inspection of all potential roosting habitat on the Project site. Surveys shall be conducted within one 24-hour period. Visual inspections shall focus on the identification of bat sign (i.e., individuals, guano, urine staining, corpses, feeding remains, scratch marks and bats squeaking and chattering). Bat detectors, bat call analysis, and visual observation shall be used during all dusk emergence and pre-dawn re-entry surveys.

Because most vegetation on the Project site comprises Mexican fan palms with partially untrimmed frond skirts that may support roosting habitat and maternity groups for western yellow bats, the Project should implement appropriate avoidance, minimization, and mitigation measures to ensure impacts to this species and other bats are less than significant. Removal of palm trees on-site that contain roosting habitat for bats can subject bats to impacts ranging from permanent loss of day roosts, including maternity roosts, to direct mortality if avoidance, minimization, and mitigation measures are not implemented. CDFW recommends that the Desert Recreation District add the following mitigation measure to a revised MND:

Mitigation Measure BIO-[C]: Avoidance of Bats during Tree Removal

Tree removal work with the potential to house roosting bats shall be performed between September 1 and October 31 to minimize direct impacts to roosting bats. This time period is after young are volant (flying) but before expected onset of torpor (wintering inactivity). Tree removal work may also be conducted between February 15 and March 31, following winter torpor and prior to the start of the maternity season. No tree removals shall occur during the hibernation season, which typically begins in November or December (depending on weather conditions) and continues through mid-February, due to the high potential for mortality of hibernating bats. Depending on weather conditions and the best professional judgement of a qualified bat biologist

approved by CDFW, tree removal work may be performed in November if the forecasted nighttime low temperatures on the evening of removal and the subsequent four evenings do not drop below 45°F. In November, if weather is cold (i.e., forecasted nighttime low temperatures reach 45°F or less for that evening and the next four evenings), then no tree removals shall be performed. All tree removals shall require a two-step removal process and the involvement of a CDFW-approved qualified bat biologist to ensure that no roosting bats are killed during this activity. The following two-step tree removal process shall be implemented over two consecutive days: on Day 1, live palm fronds located above the frond skirt, and as identified by a qualified bat biologist, will be removed. On Day 2, the remainder of the tree may be removed without supervision by a qualified bat biologist.

3) *Burrowing Owl*

Burrowing owl 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.”

Table C-1 of the Project’s Habitat Assessment and CVMSHCP Consistency Analysis indicates that “portions of the project site provide line-of-sight observations favored by burrowing owl but no suitable burrows (>4 inches) were observed during the field investigations.” The MND and Project’s Habitat Assessment and CVMSHCP Consistency Analysis lack details on if and how a habitat assessment and focused surveys for burrowing owl were conducted on-site during the site visit by a single biologist on May 16, 2022. Because the Project site contains areas that may support burrowing owl, CDFW recommends the MND is revised to include the results of a recent habitat assessment for burrowing owl, focused surveys, and an impact assessment per the guidelines provided in the *Staff Report on Burrowing Owl Mitigation* (CDFG 2012⁴). Habitat assessments are conducted to evaluate the likelihood that a site supports burrowing owl. Burrowing owl surveys provide information needed to determine the

⁴ California Department of Fish and Game (CDFG). 2012. Staff report of burrowing owl mitigation. State of California, Natural Resources Agency. Available for download at: http://www.dfg.ca.gov/wildlife/nongame/survey_monitor.html

potential effects of proposed projects and activities on burrowing owls, and to avoid take in accordance with Fish and Game Code sections 86, 3503, and 3503.5. 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.

CDFW recommends that Desert Recreation District include in a revised MND the following mitigation measure:

Mitigation Measure BIO-[D]: Burrowing Owl

No less than 60 days prior to the start of Project-related activities, a burrowing owl habitat assessment shall be conducted by a qualified biologist according to the specifications of the *Staff Report on Burrowing Owl Mitigation* (California Department of Fish and Game, March 2012 or most recent version).

If the habitat assessment demonstrates suitable burrowing owl habitat, then focused burrowing owl surveys shall be conducted by a qualified biologist according to the *Staff Report on Burrowing Owl Mitigation*. 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 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.

4) 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 11 of the Project's Habitat Assessment and CVMSHCP Consistency Analysis indicates that the Project site provides suitable foraging and nesting habitat for a variety of avian species. In terms of avoidance, minimization, and mitigation measures for nesting birds, Page 22 of the MND indicates that the Project site has a high potential to support Cooper's hawk (*Accipiter cooperii*), and a pre-construction nesting bird clearance survey should be conducted prior to ground disturbance. No other avoidance, minimization, and mitigation measures for nesting birds are discussed in the MND. All nesting birds and their nests and eggs need to be protected, and appropriate avoidance, minimization, and mitigation measures need to be identified in the MND for impacts to nesting birds to be reduced to less than significant. Birds like hooded oriole (*Icterus cucullatus*) primarily nest in palm trees and build hanging nests on the undersides of palm fronds⁵. Mourning doves (*Zenaida macroura*), owls, greater roadrunner (*Geococcyx californianus*), and house finch (*Haemorhous mexicanus*) frequently nest in the thick skirts of palms⁶. CDFW considers the proposed pre-construction nesting bird clearance survey to be insufficient in scope and timing to

⁵ Garrett, K., and J. Dunn. 1981. Birds of southern California. Los Angeles Audubon Soc., Los Angeles.

⁶ Cornett, J. W., How did palm oases get to the California desert? A behind-the-scenes look at these 'tropical islands'. Desert Magazine. Sept. 13, 2018.

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.**

CDFW recommends the Desert Recreation District add the following mitigation measure for Nesting Birds to a revised MND:

Mitigation Measures BIO-[E]: 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. 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.

5) *Artificial Nighttime Lightning*

Page 12 of the MND indicates that the Project will produce new sources of nighttime lighting through lights along its baseball fields and the tennis courts. Agricultural fields located south of and adjacent to the Project site comprise palm rows including Mexican fan palms with untrimmed frond skirts—habitat for nesting birds and bats including western yellow bat. The MND lacks a discussion of the direct, indirect, and cumulative impacts of artificial nighttime lightning expected to adversely affect biological resources surrounding the Project site as a result of construction and long-term operation of the Project. The MND also lacks a description of all types of lightning 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 navigation⁷. 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 revised to include lightning specifications for all artificial nighttime lightning that will be used by the Project, an analysis of the direct and indirect impacts of artificial nighttime lighting on biological resources, and appropriate avoidance, minimization, and mitigation measures that will reduce impacts to less than significant.

To support the Project in avoiding, minimizing, and mitigating for the Project's direct and indirect impacts of artificial nighttime lightning, CDFW recommends that the Desert Recreation District include in a revised MND the following mitigation measure:

Mitigation Measure BIO-[F]: Artificial Nighttime Lighting

During Project construction and operations over the lifetime of the Project, the Desert Recreation District 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 Desert Recreation District 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 Desert Recreation District 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.

6) Coachella Valley Multiple Species Habitat Conservation Plan

Section 5.2.1.1 of the CVMSHCP indicates 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. [...] If Development occurs on agricultural lands resulting in the conversion of the agricultural land to non-agricultural use, that Development will also pay the fee. This reflects the fact that those agricultural lands still provide some Habitat values for Covered Species, whether it be foraging Habitat, small patches of

⁷ Gatson, K. J., Bennie, J., Davies, T., Hopkins, J. *The ecological impacts of nighttime light pollution: a mechanistic appraisal*. Biological Reviews, 2013.

undisturbed Habitat embedded in the agricultural lands, or connectivity between other Habitat areas through agricultural lands.” Because the Project site contains habitat for western yellow bat and burrowing owl, which are Covered Species under the CVMSHCP, and because the Project will result in the conversion of agricultural land to non-agricultural use, the Project is subject to the CVMSHCP Local Development Mitigation Fee.

CDFW recommends the Desert Recreation District add the following mitigation measure to a revised MND:

Mitigation Measure BIO-[G]: CVMSHCP Compliance

Prior to construction and issuance of any grading permit, the County of Riverside 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.

7) Landscaping

Page 12 of the MND indicates that landscaping would include trees, shrubs, and other climate-appropriate vegetation. 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 MND 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).

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

Troy Strange, Director of Planning & Public Works
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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 Desert Recreation District in identifying and mitigating Project impacts to biological resources. CDFW concludes that the MND does not adequately identify or mitigate the Project's significant, or potentially significant, impacts to biological resources. CDFW also concludes that the MND 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 MND precludes meaningful review. CDFW recommends that a revised MND with a recent and complete assessment of impacts to biological resources, as well as mitigation to avoid and reduce those impacts to less than significant, be recirculated for public comment.

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
Environmental Program Manager

Attachment 1: MMRP for CDFW-Proposed Mitigation Measures

Troy Strange, Director of Planning & Public Works
 Desert Recreation District
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ec:

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ATTACHMENT 1: MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

Mitigation Measures	Timing and Methods	Responsible Parties
<p>Mitigation Measure BIO-[A]: Assessment of Biological Resources</p> <p>Prior to Project construction activities, a complete, recent, and accurate inventory of rare, threatened, endangered, and other sensitive species located within the Project footprint and within offsite areas with the potential to be affected, including California Species of Special Concern (CSSC) and California Fully Protected Species (Fish and Game Code § 3511), will be completed. Species to be addressed should include all those which meet the CEQA definition (CEQA Guidelines § 15380). The inventory should address seasonal variations in use of the Project area and should not be limited to resident species. Focused species-specific surveys, completed by a qualified biologist and conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable are required. Acceptable species-specific survey procedures should be developed in consultation with CDFW and the</p>	<p>Timing: Prior to Project construction activities</p> <p>Methods: See Mitigation Measure</p>	<p>Implementation: Desert Recreation District</p> <p>Monitoring and Reporting: Desert Recreation District</p>

<p>U.S. Fish and Wildlife Service, where necessary. Note that CDFW generally considers biological field assessments for wildlife to be valid for a one-year period, and assessments for rare plants may be considered valid for a period of up to three years. Some aspects of the proposed Project may warrant periodic updated surveys for certain sensitive taxa, particularly if the Project is proposed to occur over a protracted time frame, or in phases, or if surveys are completed during periods of drought.</p>		
<p>Mitigation Measure BIO-[B]: Bat Surveys</p> <p>Prior to the initiation of Project activities within suitable bat roosting habitat, Desert Recreation District shall retain a qualified biologist to conduct focused surveys to determine presence of daytime, nighttime, wintering (hibernacula), and maternity roost sites. Two spring surveys (April through June) and two winter surveys (November through January) shall be performed by qualified biologists. Surveys shall be conducted during favorable weather conditions only. Each survey shall consist of one dusk emergence survey (start one hour before sunset and last for three hours), followed by one pre-dawn re-entry survey (start one hour before sunrise and last for two hours), and one daytime visual inspection of all potential roosting habitat on the Project site. Surveys shall be conducted within one 24-hour period. Visual inspections shall focus on the identification of bat sign (i.e., individuals, guano, urine staining, corpses, feeding remains, scratch marks and bats squeaking and chattering). Bat detectors, bat call analysis, and visual observation shall be used during all dusk emergence and pre-dawn re-entry surveys.</p>	<p>Timing: Prior to Project construction activities</p> <p>Methods: See Mitigation Measure</p>	<p>Implementation: Desert Recreation District</p> <p>Monitoring and Reporting: Desert Recreation District</p>
<p>Mitigation Measure BIO-[C]: Avoidance of Bats during Tree Removal</p> <p>Tree removal work with the potential to house roosting bats shall be performed between September 1 and October 31 to minimize direct impacts to roosting bats. This time period is after young are volant (flying) but before expected onset of torpor (wintering inactivity). Tree removal work may also be conducted between February 15 and March 31, following winter torpor and prior to the start of the maternity season. No</p>	<p>Timing: See Mitigation Measure</p> <p>Methods: See Mitigation Measure</p>	<p>Implementation: Desert Recreation District</p> <p>Monitoring and Reporting: Desert Recreation District</p>

<p>tree removals shall occur during the hibernation season, which typically begins in November or December (depending on weather conditions) and continues through mid-February, due to the high potential for mortality of hibernating bats. Depending on weather conditions and the best professional judgement of a qualified bat biologist approved by CDFW, tree removal work may be performed in November if the forecasted nighttime low temperatures on the evening of removal and the subsequent four evenings do not drop below 45°F. In November, if weather is cold (i.e., forecasted nighttime low temperatures reach 45°F or less for that evening and the next four evenings), then no tree removals shall be performed. All tree removals shall require a two-step removal process and the involvement of a CDFW-approved qualified bat biologist to ensure that no roosting bats are killed during this activity. The following two-step tree removal process shall be implemented over two consecutive days: on Day 1, live palm fronds located above the frond skirt, and as identified by a qualified bat biologist, will be removed. On Day 2, the remainder of the tree may be removed without supervision by a qualified bat biologist.</p>		
<p>Mitigation Measure BIO-[D]: Burrowing Owl</p> <p>No less than 60 days prior to the start of Project-related activities, a burrowing owl habitat assessment shall be conducted by a qualified biologist according to the specifications of the <i>Staff Report on Burrowing Owl Mitigation</i> (California Department of Fish and Game, March 2012 or most recent version).</p> <p>If the habitat assessment demonstrates suitable burrowing owl habitat, then focused burrowing owl surveys shall be conducted by a qualified biologist according to the <i>Staff Report on Burrowing Owl Mitigation</i>. 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>Timing: No less than 60 days prior to the start of Project-related activities for habitat assessment and focused surveys; no less than 14 days prior to the start of Project-related activities and within 24 hours prior to ground disturbance for preconstruction surveys.</p> <p>Methods: See Mitigation Measure</p>	<p>Implementation: Desert Recreation District</p> <p>Monitoring and Reporting: Desert Recreation District</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 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>Mitigation Measures BIO-[E]: Nesting Birds</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. 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</p>	<p>Timing: No more than 3 days prior to vegetation removal or ground-disturbing activities</p> <p>Methods: See Mitigation Measure</p>	<p>Implementation: Desert Recreation District</p> <p>Monitoring and Reporting: Desert Recreation District</p>

<p>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>Mitigation Measure BIO-[F]: Artificial Nighttime Lighting</p> <p>During Project construction and operations over the lifetime of the Project, the Desert Recreation District 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 Desert Recreation District 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 Desert Recreation District 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>Timing: During Project construction and over the lifetime of the Project</p> <p>Methods: See Mitigation Measure</p>	<p>Implementation: Desert Recreation District</p> <p>Monitoring and Reporting: Desert Recreation District</p>
<p>Mitigation Measure BIO-[G]: CVMSHCP Compliance</p> <p>Prior to construction and issuance of any grading permit, the County of Riverside shall ensure compliance with the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP) and its associated Implementing Agreement and</p>	<p>Timing: Prior to construction and issuance of any grading permit</p> <p>Methods: See Mitigation Measure</p>	<p>Implementation: County of Riverside</p> <p>Monitoring and Reporting: County of Riverside</p>

Troy Strange, Director of Planning & Public Works
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shall ensure the collection of payment of the CVMSHCP Local Development Mitigation Fee.		
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