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April 17, 2023
 Sent via e-mail

David Castro
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 County of Riverside
 3525 14th Street
 Riverside, CA 92501

Governor’s Office of Planning & Research

Apr 17 2023

STATE CLEARINGHOUSE

Dear Mr. Castro:

Airport Boulevard Bridge Replacement (PROJECT)
 NEGATIVE DECLARATION (ND)
 SCH# 2023030456

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an ND from the County of Riverside for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

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

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW’s lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent 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: County of Riverside Transportation Department

Objective: The objective of the Project is to replace the bridge at Airport Boulevard with a new, wider, 2-lane bridge. Primary Project activities include replacing the existing bridge with a new bridge that is widened by about 71 feet, increasing the height profile of the bridge by about 2-3 feet, and reconstructing the connecting approaching roadways. The Project may also involve constructing retaining walls to maintain access to the mobile home community on the south side of Airport Boulevard, improving pavement grading

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

transition to the existing grade separation structure west of the bridge, and improving the intersection at Orange Street and Airport Boulevard. Utility relocations and stormwater improvements are also proposed. The Project will occur in four phases: grubbing/land clearing, grading/excavation, drainage utilities/sub-grade work, and paving.

Location: The Airport Boulevard Bridge (Federal Bridge No. 56C-0020) is located on Airport Boulevard east of Grapefruit Boulevard and west of State Route 86 and crosses over the Whitewater River. It is in the community of Thermal, in the County of Riverside, California. Latitude: 33.642017 Longitude: -116.137127. APN: 763-330-006.

Timeframe: Project timeline was not specified in the ND.

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 County of Riverside in adequately identifying and/or mitigating the project's significant, or potentially significant, direct, and indirect impacts on biological resources. The ND has not adequately identified and disclosed the Project's impacts (i.e., direct, indirect, and cumulative) on biological resources and whether those impacts are less than significant. Moreover, CDFW is concerned that a mitigated negative declaration (MND) would be more appropriate than an ND for the Project given the potential for special-status species to occur on the Project site.

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 ND. Without a complete and accurate description of the existing environmental setting, the ND likely provides an incomplete or inaccurate analysis of Project-related environmental impacts and whether those impacts can be avoided, minimized, or mitigated to a level less than significant.

The ND bases its analysis of impacts to biological resources on field assessments conducted on June 18 and July 1, 2021. Methods for the field assessment were not provided. A desk review for the IS/ND found 14 special-status plants and 19 special-status animal species as having potential to occur in or near the Project site. However, the IS/ND indicates that "the field assessments did not observe any sensitive species within the Project area and determined that due to a lack of suitable habitat within the BSA [Biological Study Area], none of the nineteen special status animal species are expected to occur within the BSA and are presumed absent" (p. 28). Similarly, the IS/ND reports that no special-status plant species were observed during field assessments. CDFW is concerned that the field assessments were not sufficient in timing and scope to determine the presence of special-status species on the project site. The field assessment included no focused surveys for special-status species, such as bats, burrowing owl, and special-status plants. In addition, CDFW is concerned that the field assessments conducted in 2021 are now out of date and may not provide a complete and accurate depiction of the existing environmental setting. 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.

Mitigation Measures

CDFW is concerned that the mitigation measures proposed in the ND are not adequate to avoid or reduce impacts to biological resources to below a level of significance. To support County of Riverside in ensuring that Project impacts to biological resources are reduced to a level that is less than significant, CDFW recommends revising or adding mitigation measures for CVMSHCP compliance, special-status plants, nesting birds, burrowing owl (*Athene cunicularia*), special-status bats, artificial nighttime lightning, construction noise,

and notifying CDFW's Lake and Streambed Alteration Program. These mitigation measures should be included in a revised CEQA document.

I. Mitigation Measure or Alternative and Related Impact Shortcoming

COMMENT #1: Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP)

Location in ND: Biological Resources, p. 25

Issue: The Project occurs within the CVMSHCP plan area and is subject to provisions and policies of the CVMSHCP.

Specific impact and why impact would occur: The County of Riverside is the Lead Agency and a Permittee of the CVMSHCP. To be considered a covered activity, Permittees should demonstrate that the proposed actions are consistent with the CVMSHCP and its associated Implementing Agreement. Specifically, Section 6.6.1 of the CVMSHCP 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" (Coachella Valley, p. 6-16).

Evidence impact is significant: Within the Inland Deserts Region, CDFW issued Natural Community Conservation Plan Approval and Take Authorization for the CVMSHCP per Section 2800, et seq., of the California Fish and Game Code on September 9, 2008. The CVMSHCP establishes a multiple species conservation program to minimize and mitigate habitat loss and provides for the incidental take of covered species in association with activities covered under the permit. Compliance with approved habitat plans, such as the CVMSHCP, is discussed in CEQA. Specifically, Section 15125(d) of the CEQA Guidelines requires that the CEQA document discuss any inconsistencies between a proposed Project and applicable general plans and regional plans, including habitat conservation plans and natural community conservation plans. An assessment of the impacts to the CVMSHCP as a result of this Project is necessary to address CEQA requirements. To obtain additional information regarding the CVMSHCP please go to: <http://www.cvmshcp.org/>.

Recommended Potentially Feasible Mitigation Measure

CDFW recommends the addition of the following mitigation measure to a revised CEQA document to reduce impacts to less than significant:

MM BIO-[A]: 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.

COMMENT #2: Special-Status Plant Surveys

Location in ND: Biological Resources, Page 28

Issue: CDFW is concerned that field assessments for the ND were not sufficient in timing or scope to detect special-status plant species, including those not covered by the CVMSHCP, that may occur on the Project site.

Specific impact and why impact would occur: The ND indicates that no special-status plants were observed during the field assessments conducted on June 18 and July 1, 2021. CDFW is concerned that the field assessment was not conducted at the appropriate time of year to detect special-status plants, including the CVMSHCP-

covered Coachella Valley milk-vetch (*Astragalus lentiginosus* var. *coachellae*) as well as special-status plants not covered under the CVMSHCP that may occur on the Project site. Floristic assessments typically involve multiple visits to the project site at appropriate times of year to detect plants in blooming seasons. If the presence of special-status plant species is not determined through floristic-based surveys, unauthorized take or disturbance of special-status plant species not covered by the CVMSHCP could occur.

Evidence impact would be significant: The California Rare Plant Rank 1B indicates plants that are rare, threatened, or endangered in California and elsewhere, and California Rare Plant Rank 2B indicates plants that are rare, threatened, or endangered in California but more common elsewhere. Impacts to these species must be analyzed during preparation of environmental documents relating to CEQA because they meet the definition of rare or endangered under CEQA Guidelines §15125 (c) and/or §15380.

Recommended Potentially Feasible Mitigation Measure

CDFW recommends that the revised CEQA document include the following mitigation measure to reduce impacts to special-status plants to less than significant:

MM BIO-[B]: Special-Status Plant Surveys

A thorough floristic-based assessment of special-status plants and natural communities, following CDFW's *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (CDFW 2018 or most recent version) shall be performed by a qualified biologist prior to commencing Project activities. Should any state-listed plant species be present in the Project area, the Project proponent shall obtain an Incidental Take Permit for those species not covered under the CVMSHCP prior to the start of Project activities.

COMMENT #3: Nesting Bird Surveys and Existing Avoidance and Minimization Measure BIO-3

Location in ND: Biological Resources, Page 29

Issue: CDFW is concerned that existing Minimization Measure BIO-3 is not sufficient in timing or scope to prevent impacts to nesting birds.

Specific impact and why impact would occur: The ND indicates that the Project site includes vegetation with “the potential to provide refuge cover from predators, perching sites, and favorable conditions for avian nesting that could be directly and indirectly impacted by construction activities.” Based on a review of the California Natural Diversity Database (CNDDDB) and Biogeographic Information and Observation System (BIOS), the Project has the potential to impact avian species that nest and forage in the region including, but not limited to: ferruginous hawk (*Buteo regalis*), southwestern willow flycatcher (*Empidonax taillii extimus*), prairie falcon (*Falco mexicanus*), black-tailed gnatcatcher (*Polioptila melanura*), vermilion flycatcher (*Pyrocephalus rubinus*), Yuma Ridgway's rail (*Rallus obsoletus yumanensis*), Crissal thrasher (*Toxostoma crissale*), LeConte's thrasher (*Toxostoma lecontei*), and least Bell's vireo (*Vireo bellii pusillus*). CDFW is concerned about the impacts to nesting birds including loss of nesting/foraging habitat and potential take from ground-disturbing activities and construction. Additionally, the timing of the nesting season varies greatly depending on several factors, such as bird species, weather conditions in any given year, and long-term climate changes (e.g., drought, warming, etc.). CDFW staff have observed that climate change conditions may result in nesting bird season occurring earlier and later in the year than historical nesting season dates. CDFW recommends the completion of nesting bird surveys regardless of the time of year to ensure compliance with all applicable laws pertaining to nesting and migratory birds.

Evidence impact would be significant: 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.).

Recommended Potentially Feasible Mitigation Measure

CDFW recommends the revised CEQA document include specific avoidance and minimization measures to ensure impacts to nesting birds do not occur. Project-specific avoidance and minimization measures may include but are not limited to: Project phasing and timing, monitoring of Project-related noise (where applicable), sound walls, and buffers, where appropriate. 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**. Preconstruction nesting bird surveys shall be performed within 3 days prior to Project activities to determine the presence and location of nesting birds. CDFW recommends replacing existing Avoidance and Minimization Measure BIO-3 with the following Mitigation Measure to reduce impacts to less than significant:

Mitigation Measure BIO-[C]: Nesting Bird Surveys

Regardless of the time of year, nesting bird surveys shall be performed by a qualified avian biologist no more than three (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 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 should be at least 300 feet for passerines and 500 feet for raptors and birds-of-prey. 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.

COMMENT #4: Burrowing Owl (*Athene cunicularia*)

Location in ND: Appendix C—*Listed, Proposed Species, Natural Communities, and Critical Habitat Potentially Occurring or Known to Occur in the Project Area*

Issue: CDFW is concerned that the ND does not sufficiently identify Project impacts to burrowing owl nor ensure impacts are mitigated to a level less than significant.

Specific impact and why impact would occur: The ND notes that no suitable habitat for burrowing owl occurs within or adjacent to the Biological Study Area and that it was determined that “no effect” to burrowing owl will occur (Appendix C). However, CDFW review of CNDDDB and BIOS data indicates that the Project site and nearby locations provide suitable habitat for burrowing owls. Burrowing owls frequently move into disturbed areas, and the Whitewater River continues to provide habitat for burrowing owls. CDFW is concerned that the field assessments conducted in 2021 were insufficient in timing and scope to detect burrowing owls and their sign on the Project site.

Given this information, impacts to burrowing owl from the Project could include take of burrowing owls, their nests, or eggs; destroying nesting or foraging habitat; or impacting burrowing owl populations through changes in vegetation via the destruction, conversion, or degradation of burrowing owl habitat. Impacts can result from grading, earthmoving, burrow blockage, heavy equipment compaction and crushing of burrows, and other activities. Changes in vegetation can result from the destruction, conversion, or degradation of nesting, foraging, or over-wintering habitats; destruction of natural burrows, and general Project disturbance that has the potential to harass owls at occupied burrows.

Evidence impact would be significant: 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, 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.

Recommended Potentially Feasible Mitigation Measure

CDFW recommends that prior to commencing Project activities, focused and preconstruction surveys for burrowing owl be conducted by a qualified biologist in accordance with the *Staff Report on Burrowing Owl Mitigation* (CDFG 2012 or most recent version). CDFW recommends the revised CEQA document include avoidance and minimization measures to ensure that impacts to burrowing owls are reduced to less than significant. CDFW recommends the revised CEQA document include the following mitigation measure to reduce impacts to less than significant:

Mitigation Measure BIO-[D]: Burrowing Owl Surveys

Prior to the start of Project activities, 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). 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* (CDFG 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. 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.

COMMENT #5: Special-Status Bat Species

Location in ND: Appendix C—Listed, Proposed Species, Natural Communities, and Critical Habitat Potentially Occurring or Known to Occur in the Project Area

Issue: CDFW is concerned that the ND does not sufficiently identify Project impacts to bat species nor ensure impacts are mitigated to a level less than significant.

Specific impact and why impact would occur: According to CNDDDB and BIOS data, special status bat species including western mastiff bat (*Eumops perotis californicus*), western yellow bat (*Lasiurus xanthinus*), and pallid bat (*Antrozous pallidus*) have the potential to occur in the Project area. However, the ND determined that bats are absent from the Project site because “there is no suitable roosting habitat (i.e., cliffs, caves, bridges) within or adjacent to the BSA” (Appendix C). CDFW is concerned about the potential for bats to roost in the existing Airport Boulevard Bridge and in the Project area. Bridges are known to provide suitable roosting habitat for bat species. Removal of the existing bridge could result in impacts to bat species through loss of roosting habitat if bat species are not properly detected prior to construction. Additionally, an increase in noise levels, vibration, and artificial light can impact bats’ sensory activity (see Comments 6 and 7). CDFW is concerned that the field assessments conducted in 2021 were insufficient in timing and scope to detect special-status bats and their sign on the Project site.

Evidence impact would be significant: It is the Project proponent’s responsibility to comply with all applicable laws relating to bats. Take and possession of bats are defined by Fish and Game Code section 86 and prohibited by sections 2000, 2002, and 4150. The Harassment of bats is defined and prohibited in California Code of Regulations, Title 14, Section 251.1. In addition, the western yellow bat is a covered species under the CVMSHCP, which requires that avoidance and minimization measures be implemented for this species.

Recommended Potentially Feasible Mitigation Measure

Mitigation Measure BIO-[E]: Surveys for Daytime, Nighttime, Wintering (Hibernacula), and Maternity Roosting Sites for Bats

Prior to the initiation of Project activities within suitable bat roosting habitat, The County of Riverside 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 reentry 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 signs (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.

If active hibernacula or maternity roosts are identified in the work area or 500 feet extending from the work area during preconstruction surveys, for maternity roosts, Project construction will only occur between October 1 and

February 28, outside of the maternity roosting season when young bats are present but are not yet ready to fly out of the roost. Maternity roosts shall not be evicted, excluded, removed, or disturbed.

A minimum 500-foot no-work buffer shall be provided around hibernacula. The buffer shall not be reduced. Project-related construction and activities shall not occur within 500 feet of or directly under or adjacent to hibernacula. Buffers shall be left in place until the end of Project construction and activities or until a qualified bat biologist determines that the hibernacula are no longer active. Project-related construction and activities shall not occur between 30 minutes before sunset and 30 minutes after sunrise. Hibernacula roosts shall not be evicted, excluded, removed, or disturbed. If avoidance of hibernacula is not feasible, the Project Biologist will prepare a relocation plan to remove the hibernacula and provide for construction of an alternative bat roost outside of the work area. A bat roost relocation plan shall be submitted for CDFW review prior to construction activities. The qualified biologist will implement the relocation plan and new roost sites shall be in place before the commencement of any ground-disturbing activities that will occur within 500 feet of the hibernacula. New roost sites shall be in place prior to the initiation of Project related activities to allow enough time for bats to relocate. Removal of roosts will be guided by accepted exclusion and deterrent techniques. The County of Riverside shall compensate no less than 2:1 for permanent impacts to roosting habitat.

COMMENT #6: Artificial Light

Location in ND: Aesthetics, p. 10

Issue: The ND does not analyze impacts to biological resources from artificial nighttime lighting.

Specific impact and why impact would occur: The ND indicates that the Project proposes the addition of permanent lighting on the bridge and that construction areas may be lit during construction. Mitigation Measure VIS-1 indicates that lighting will be shielded and be consistent with city and county lighting guidelines; however, lighting design specifications are not provided. In addition, impacts to biological resources from artificial nighttime lighting are not analyzed. The direct and indirect impacts of artificial nighttime lighting on biological resources including migratory birds that fly at night, bats, and other nocturnal and crepuscular wildlife should be analyzed, and appropriate avoidance and minimization measures to reduce impacts to less than significant should be included in the revised CEQA document.

Evidence impact would be significant: Artificial nighttime lighting often results in light pollution, which has the potential to affect fish and wildlife significantly and adversely. Artificial 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 (Gatson et al. 2013). Many species use photoperiod cues for communication (e.g., bird song; Miller 2006), determining when to begin foraging (Stone et al. 2009), behavior thermoregulation (Beiswenger 1977), and migration (Longcore and Rich 2004). Phototaxis, a phenomenon which results in attraction and movement towards light, can disorient, entrap, and temporarily blind wildlife species that experience it (Longcore and Rich 2004).

Recommended Potentially Feasible Mitigation Measure

To facilitate a meaningful review by CDFW and support the County of Riverside in demonstrating that impacts to biological resources are less than significant, CDFW recommends that the ND is revised to include lightning specifications for all artificial nighttime lighting 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.

Because of the potential for artificial lighting at night to negatively impact wildlife, CDFW recommends the revised CEQA document include the following mitigation measure:

MM BIO-[F]: Artificial Light

During Project construction and operations over the lifetime of the bridge, the County of Riverside 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/>). The County shall ensure the 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.

COMMENT #7: Construction Noise

Location in ND: Noise, p. 70

Issue: The ND does not analyze impacts to biological resources from construction noise.

Specific impact and why impact would occur: The ND states that “during construction of the Project, noise from construction activities may intermittently dominate the noise environment in the immediate area of construction” (p. 73). Furthermore, the lowest equipment related noise levels would be 55 dBA at 50 feet for a pickup truck. The highest equipment-related noise levels would be up to 85 dBA at 50 feet for excavation and drilling as part of the installation of bridge piers and footings. These values exceed exposure levels that may adversely affect wildlife species (55 to 60 dBA). Because of the potential for construction noise to negatively impact wildlife, CDFW recommends the revised CEQA document include an analysis of impacts to biological resources and specific avoidance and minimization measures to ensure that impacts to wildlife are reduced to less than significant.

Evidence impact would be significant: Construction may result in substantial noise through road use, equipment, and other Project-related activities. This may adversely affect wildlife species in several ways as wildlife responses to noise can occur at exposure levels of only 55 to 60 dB (Barber et al. 2009). Anthropogenic noise can disrupt the communication of many wildlife species including birds, and bats (Sun and Narins 2005, Patricelli and Blickley 2006, Gillam and McCracken 2007, Slabbekoorn and Ripmeester 2008). Noise can also affect predator-prey relationships as many nocturnal animals such as bats and owls primarily use auditory cues (i.e., hearing) to hunt. Additionally, many prey species increase their vigilance behavior when exposed to noise because they need to rely more on visual detection of predators when auditory cues may be masked by noise (Rabin et al. 2006, Quinn et al. 2017). Noise has also been shown to reduce the density of nesting birds (Francis et al. 2009) and cause increased stress that results in decreased immune responses (Kight and Swaddle 2011).

Recommended Potentially Feasible Mitigation Measure

Because of the potential for construction noise to negatively impact wildlife, CDFW recommends the revised CEQA document include the following mitigation measure:

MM BIO-[G]: Construction Noise

During all Project construction, the County of Riverside shall restrict use of equipment to hours least likely to disrupt wildlife (e.g., not at night or in early morning) and restrict use of generators except for temporary use in emergencies. Power to sites can be provided by solar PV (photovoltaic) systems, cogeneration systems (natural gas generator), small micro-hydroelectric systems, or small wind turbine systems. The County shall ensure use of noise suppression devices such as mufflers or enclosures for generators. Sounds generated from any means must be below the 55-60 dB range within 50-feet from the source.

COMMENT #8: CDFW's Lake and Streambed Alteration (LSA) Program

Location in ND: Permits and Approvals Needed, p. 3

Issue: The bridge replacement and associated Project activities occur along the Whitewater River. The ND states that an LSA Agreement will be obtained prior to construction.

Specific impact and why impact would occur: The proposed Project occurs along Whitewater River and may impact the river and the fish and wildlife (biological) resources that use the river. Despite disturbance, wildlife and habitat persist in and adjacent to the Whitewater River. Fish and Game Code 1602 extends to all fish and wildlife resources associated with rivers and streams, including trees, shrubs, and forbs, and nesting, foraging, refugia, and burrowing habitat for mammals, reptiles, birds, and other wildlife.

Evidence impact would be significant: 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. 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>.

Recommended Potentially Feasible Mitigation Measure

MM BIO-[H]: 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.

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

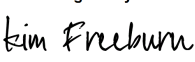
The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental 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.)

CONCLUSION

CDFW appreciates the opportunity to comment on the ND to assist the County of Riverside in identifying and mitigating Project impacts on biological resources. CDFW concludes that the ND does not adequately identify or mitigate the project's significant or potentially significant impacts on biological resources. CDFW concludes that a mitigated negative declaration (MND) would be more appropriate than an ND for the proposed Project. CDFW recommends that prior to the adoption of the CEQA document, the County of Riverside revise the document to include a more complete assessment of the project's potential impacts on biological resources and appropriate avoidance, minimization, and mitigation measures to reduce impacts to a level less than significant.

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 Claire.Sullivan@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Kim Freeburn
Environmental Program Manager

Attachment 1, MMRP for CDFW-Proposed Mitigation Measures

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Biological Resources (BIO)		
Mitigation Measure (MM) Description	Implementation Schedule	Responsible Party
<p>MM BIO-[A]: 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 shall ensure the collection of payment of the CVMSHCP Local Development Mitigation Fee.</p>	<p>Prior to construction and issuance of any grading permit</p>	<p>County of Riverside</p>
<p>MM BIO-[B]: Special-Status Plant Surveys</p> <p>A thorough floristic-based assessment of special-status plants and natural communities, following CDFW's <i>Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities</i> (CDFW 2018 or most recent version) shall be performed by a qualified biologist prior to commencing Project activities. Should any state-listed plant species be present in the Project area, the Project proponent shall obtain an Incidental Take Permit for those species not covered under the CVMSHCP prior to the start of Project activities.</p>	<p>Prior to ground disturbance and at the appropriate time of year when plants will be both evident and identifiable</p>	<p>County of Riverside</p>
<p>MM BIO-[C]: Nesting Bird Surveys</p> <p>Regardless of the time of year, nesting bird surveys shall be performed by a qualified avian biologist no more than three (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 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</p>	<p>No more than 3 days prior to vegetation removal or ground disturbing activities</p>	<p>County of Riverside</p>

<p>buffers are species specific and should be at least 300 feet for passerines and 500 feet for raptors and birds-of-prey. 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>MM BIO-[D]: Burrowing Owl Surveys</p> <p>Prior to the start of Project activities, 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). 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.</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> (CDFG 2012 or most recent version). 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>Focused Surveys: Prior to commencing Project-related activities</p> <p>Pre-construction surveys: no less than 14 days prior to the start of Project-related activities and no more than 24 hours prior to ground disturbance</p>	<p>County of Riverside</p>
<p>MM BIO-[E]: Surveys for Daytime, Nighttime, Wintering (Hibernacula), and Maternity Roosting Sites for Bats</p> <p>Prior to the initiation of Project activities within suitable bat roosting habitat, The County of Riverside 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</p>	<p>Focused surveys: Two spring surveys and two winter surveys prior to initiation of project activities</p>	<p>County of Riverside</p>

<p>pre-dawn reentry 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 signs (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>If active hibernacula or maternity roosts are identified in the work area or 500 feet extending from the work area during preconstruction surveys, for maternity roosts, Project construction will only occur between October 1 and February 28, outside of the maternity roosting season when young bats are present but are not yet ready to fly out of the roost. Maternity roosts shall not be evicted, excluded, removed, or disturbed.</p> <p>A minimum 500-foot no-work buffer shall be provided around hibernacula. The buffer shall not be reduced. Project-related construction and activities shall not occur within 500 feet of or directly under or adjacent to hibernacula. Buffers shall be left in place until the end of Project construction and activities or until a qualified bat biologist determines that the hibernacula are no longer active. Project-related construction and activities shall not occur between 30 minutes before sunset and 30 minutes after sunrise. Hibernacula roosts shall not be evicted, excluded, removed, or disturbed. If avoidance of hibernacula is not feasible, the Project Biologist will prepare a relocation plan to remove the hibernacula and provide for construction of an alternative bat roost outside of the work area. A bat roost relocation plan shall be submitted for CDFW review prior to construction activities. The qualified biologist will implement the relocation plan and new roost sites shall be in place before the commencement of any ground-disturbing activities that will occur within 500 feet of the hibernacula. New roost sites shall be in place prior to the initiation of Project related activities to allow enough time for bats to relocate. Removal of roosts will be guided by accepted exclusion and deterrent techniques. The County of Riverside shall compensate no less than 2:1 for permanent impacts to roosting habitat.</p>		
<p>MM BIO-[F]: Artificial Light</p> <p>During Project construction and operations over the lifetime of the bridge, the County of Riverside 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/). The County shall ensure the 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>During project construction and operations over the lifetime of the bridge</p>	<p>County of Riverside</p>
<p>MM BIO-[G]: Construction Noise</p> <p>During all Project construction, the County of Riverside shall restrict use of equipment to hours least likely to disrupt wildlife (e.g., not at night or in early morning) and restrict use of generators except for temporary use in emergencies. Power to sites can be provided by solar PV (photovoltaic) systems, cogeneration systems (natural</p>	<p>During Project activities.</p>	<p>County of Riverside</p>

<p>gas generator), small micro-hydroelectric systems, or small wind turbine systems. The County shall ensure use of noise suppression devices such as mufflers or enclosures for generators. Sounds generated from any means must be below the 55-60 dB range within 50-feet from the source.</p>		
<p>MM BIO-[H]: CDFW Lake and Streambed Alteration Program</p> <p>Prior to construction and issuance of any grading permit, the Project Proponent 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>Prior to construction and issuance of any grading permit</p>	<p>Project proponent and County of Riverside</p>