



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

GAVIN NEWSOM, Governor
 CHARLTON H. BONHAM, Director



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Governor's Office of Planning & Research

May 25 2023

STATE CLEARING HOUSE

Scott Nespor
 Urban/Regional Planner III
 County of Riverside Planning Department
 4080 Lemon Street, 12th Floor
 Riverside, CA 92501

**NORTH SHORE DOLLAR GENERAL (PROJECT)
 MITIGATED NEGATIVE DECLARATION (MND)
 SCH# 2023040681**

Dear Mr. Nespor:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from the County of Riverside Planning Department 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 Planning Department

Objective: The objective of the Project is to construct a one-story, 9,100-square-foot Dollar General retail store with 46 parking spaces, two stormwater basins, and landscaping on approximately 1.37 acres. Construction activities include the following: undergrounding of utilities, grading, paving, striping, excavating, and structure building; construction of two stormwater basins; landscaping; and installation of signage. Dust suppression methods will be utilized. In addition to contractor vehicles, heavy equipment will be used on-site,

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.

including pulverizers, excavators, backhoes, bulldozers, bobcats, graders, compactors, and dump trucks. All equipment will be staged on-site.

Location: The Project is located at the northern corner of West Access Road and Marina Drive at 99100 West Access Road. The Project is along the north of the Salton Sea in the unincorporated community of North Shore, Riverside County, California (33.519944°, -115.935220°). The Project encompasses Accessor's Parcel Numbers (APNs): 723-225-002, -004, -006, -008, and -010. Land surrounding the parcels is undeveloped aside from one residence that is adjacent to the southern side of the Project site. The Project's parcels are located within the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP) boundary. The Project is within the Indio subbasin of the Coachella Valley Groundwater Basin.

Timeframe: The Project is anticipating starting construction in spring 2023 and completing construction by the fall of 2023.

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

I. Project Description and Related Impact Shortcoming

COMMENT #1: Landscaping

Initial Study/Mitigated Negative Declaration (IS/MND) document, Page #2

Issue: The MND lacks a description of the type of landscaping that will be installed and maintained over the life of the Project.

Specific impact: The IS/MND states (p. 2) that landscaping with drought-tolerant native plants is planned on the Project site. However, no further details are provided.

Evidence impact would be significant: CEQA is predicated on a complete and accurate description of the proposed Project. Without a complete and accurate project description, the MND likely provides an incomplete assessment of Project-related impacts to biological resources. CDFW has identified gaps in information related to the project description.

CDFW Recommendation: 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/>).

II. Environmental Setting and Related Impact Shortcoming

COMMENT #2: Assessment of Biological Resources

IS/MND document, Section #7, Pages #24-28

Issue: The MND does not adequately identify the Project’s significant, or potentially significant, impacts to biological resources.

Specific impact: The MND bases its analysis of impacts to biological resources on a report by Hernandez Environmental Services, which conducted a general biological assessment and jurisdictional delineation of the Project site on January 5, 2021 (Appendices E and F of the MND). CDFW is concerned about the potential for special-status species, including those not covered under the CVMSHCP, to occur on the Project site. The biological resources assessment is outdated and was not conducted at the appropriate time(s) of year to detect all special-status species on-site. No focused or protocol-level surveys were performed for the detection of special-status species. CDFW generally considers 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. Recent surveys during the appropriate times of the year are needed to inform appropriate avoidance, minimization, and mitigation measures, as well as to determine whether impacts to biological resources have been mitigated to a level that is less than significant.

Evidence impact would be significant: 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 with respect to biological resources 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 likely provides an incomplete or inaccurate analysis of Project-related environmental impacts and whether those impacts have been mitigated to a level that is less than significant. 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.

CDFW Recommendation: To establish the existing environmental setting with respect to biological resources, CDFW recommends that a revised MND include the results of a complete, recent inventory of rare, threatened, endangered, and other sensitive species located within the Project footprint and within off-site areas with the potential to be affected, including California Species of Special Concern (CSSC) and California Fully Protected Species (Fish and Game Code § 3511). Species to be addressed should include all those that 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. CDFW recommends this information, and any necessary mitigation measures, be addressed in a revised MND.

III. Mitigation Measure and Related Impact Shortcoming

COMMENT #3: CDFW Lake and Streambed Alteration (LSA) Program

IS/MND document, Section #7e,f, Page #26, MM BIO-1

Issue: The Project site contains resources subject to Fish and Game Code section 1602 that would be impacted by Project activities.

Specific impact: The MND (p. 26; Appendix F, p. 10) states that “the Project site contains an approximately 114-foot-long ephemeral stream that flows from east to west and is an unnamed tributary to the Salton Sea.” The MND indicates that Project activities are expected to impact this ephemeral stream.

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.

CDFW Recommendation: CDFW’s issuance of an LSA Agreement is a “project” subject to CEQA (see Pub. Resources Code § 21065). To facilitate issuance of an LSA Agreement, if necessary, the IS/MND should fully identify the potential impacts to the lake, stream, or riparian resources, and provide adequate avoidance, mitigation, and monitoring and reporting commitments. Early consultation with CDFW is recommended since modification of the proposed Project may be required to avoid or reduce impacts to fish and wildlife resources. To submit a Lake or Streambed Alteration notification, visit: <https://wildlife.ca.gov/Conservation/Environmental-Review/LSA>.

Recommended Potentially Feasible Mitigation Measure(s)

Although the MND includes MM BIO-1, CDFW recommends adding the following mitigation measure to a revised MND:

MM BIO-[A]: Lake and Streambed Alteration (LSA) Program

Prior to Project-activities 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.

Pursuant to the CEQA Guidelines, section 15097(f), CDFW has prepared a draft mitigation monitoring and reporting program (MMRP) for proposed MM BIO- 2, and [A] through [G] (see Attachment 1).

COMMENT #4: Nesting Birds

IS/MND document, Section #7g, Page #27; Appendix F (Biological Assessment), Pages #21-44; MM BIO-2

Issue: CDFW is concerned that habitat assessments for nesting birds are outdated, and Mitigation Measure BIO-2 is not sufficient to ensure that potential impacts to nesting birds are mitigated to a level less than significant.

Specific impact: The IS/MND indicates the potential for nesting birds on the Project site. CDFW is concerned about impacts to nesting birds from ground-disturbing activities, vegetation removal, and construction.

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: Fish and Game Code 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(s)

CDFW recommends the revised MND include specific avoidance and minimization measures to ensure that 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. Although the MND includes Mitigation Measure BIO-2 for nesting birds, CDFW considers the measure to be insufficient in scope and timing to reduce impacts to a level less than significant. CDFW recommends revising it as follows (additions are shown in **bold**; deletions are shown with ~~strikethrough~~):

MM BIO-2: Avoidance of 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. ~~If vegetation removal will occur during the migratory bird season, February 1 through September 15, the Applicant shall retain a qualified biologist to perform a pre-construction nesting bird survey. The survey shall be performed within three days prior to vegetation removal. If nests are found during surveys, they shall be flagged and a 300-foot buffer to a 500-foot buffer (for raptors) shall be fenced around the nests. The buffer area shall be kept in place until the young have fledged and leave the nest.~~

COMMENT #5: Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP)

IS/MND document, Section #7a, Page #25

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

Specific impact: The Project does not occur within or share a common boundary with a Conservation Area of the CVMSHCP; however, the Mecca Hills/Orocopia Mountains Conservation Area is 2.5 miles northeast of the Project, and the Dos Palmas Conservation area is 4.1 miles southeast of the Project. Based on review of the California Natural Diversity Database (CNDDDB) and Biogeographic Information and Observation System (BIOS), the following species that are covered under the CVMSHCP have the potential to occur on the Project site: Coachella Valley milkvetch (*Astragalus lentiginosus* var. *coachellae*), triple-ribbed milkvetch (*Astragalus tricarinatus*), desert pupfish (*Cyprinodon macularius*), Coachella Valley fringe-toed lizard (*Uma inornata*), flat-tailed horned lizard (*Phrynosoma mcallii*), burrowing owl (*Athene cunicularia*), California black rail (*Laterallus jamaicensis*), Le Conte's thrasher (*Toxostoma lecontei*), Coachella Valley round-tailed ground squirrel (*Spermophilus tereticaudus chlorus*), and Palm Springs pocket mouse (*Perognathus longimembris bangsi*). To be considered a covered activity, Permittees should demonstrate that proposed actions are consistent with the CVMSHCP and its associated Implementing Agreement. The County of Riverside is the Lead Agency and a Permittee of the CVMSHCP.

Evidence impact would be 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/>.

CDFW Recommendation: In addition to the mitigation measure below, 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).

Recommended Potentially Feasible Mitigation Measure(s)

MM BIO-[B]: 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 #6: Special-Status Plants

Appendix F (Biological Assessment), Section #4.0, Pages #5-6

Issue: CDFW is concerned that the habitat assessment conducted for the IS/MND was not conducted at the appropriate time(s) of year to detect all special-status plants that could occupy the Project area.

Specific impact: The MND (Appendix F, p. 5) indicates that no special-status plants were observed during the baseline habitat assessment conducted on January 5, 2021. The desktop review states sensitive plant species were identified in literature and database searches, including species not covered by the CVMSHCP. CDFW is concerned that the baseline habitat assessment was not conducted at the appropriate time(s) of year to detect all special-status plants on the Project site. Based on a review of CNDDDB and BIOS, the following plant species that are not-covered under the CVMSHCP and with California Rare Plant Ranks of 1B and 2B have the potential to occur in the Project area: chaparral sand-verbena (*Abronia villosa* var. *aurita*) and gravel milkvetch (*Astragalus sabulonum*).

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. CDFW recommends that a thorough, recent, floristic-based assessment of special-status plants is completed at the appropriate time(s) of year before the County of Riverside adopts the MND. If any rare, threatened, endangered, or other sensitive plant species are located within the Project site, CDFW recommends that the MND be revised to include appropriate avoidance, minimization, and mitigation measures.

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(s)

MM BIO-[C]: 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 #7: Burrowing Owl Surveys

Appendix F (Biological Assessment), Section #3.3.2 and 4.1.2, Pages #5-6

Issue: The MND does not adequately analyze potential impacts to burrowing owl and includes no mitigation measures to avoid or reduce impacts to a level less than significant.

Specific impact: The IS/MND (Appendix F, p. 5) states that the Project site has approximately 0.22 acres of disturbed, non-vegetated areas. Burrowing owls have a high potential to move into disturbed sites prior to and during construction activities. Impacts to burrowing owl from the Project could include take of burrowing owls, their nests or eggs, or destroying nesting or foraging habitat; impacting burrowing owl populations through changes in vegetation via the destruction, conversion, or degradation of burrowing owl habitat. CDFW recommends that prior to commencing Project activities, 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 MND include specific avoidance and minimization measures to ensure that impacts to burrowing owls are reduced to less than significant.

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.). 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(s)

MM BIO-[D]: Burrowing Owl Surveys

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* (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 Applicant shall prepare a Burrowing Owl Plan that shall be submitted to CDFW for review and approval prior to commencing Project activities. The Burrowing Owl Plan shall describe proposed avoidance, minimization, mitigation, 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* (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 #8: Minimizing Impacts to Other Species

Issue: The MND does not analyze impacts to non-listed, non-special-status terrestrial wildlife.

Specific impact: The MND (Appendix F, p. 5) indicates “the project site has approximately 0.01 acre of upland vegetated ephemeral wash,” with dominant plant species present along the banks of the ephemeral washes. These habitat types are advantageous for terrestrial wildlife. Because of the potential for previously undetected wildlife to occur on the Project site, CDFW recommends inclusion of a mitigation measure to allow non-listed, non-special-status terrestrial wildlife to leave or be moved out of harm’s way.

Recommended Potentially Feasible Mitigation Measure(s)

MM BIO-[E]: Minimizing Impacts to Other Species

To avoid impacts to terrestrial wildlife, a qualified biologist shall be on-site prior to and during all ground- and habitat-disturbing activities to inspect the Project area prior to any Project activities. Individuals of any wildlife species found shall not be harassed and shall be allowed to leave the Project area unharmed. If needed, a qualified biologist may guide, handle, or capture an individual non-listed, non-special-status wildlife species to move it to a nearby safe location within nearby refugium, or it shall be allowed to leave the Project site of its own volition. Capture methods may include hand, dip net, lizard lasso, snake tongs, and snake hook. If the wildlife species is discovered or is caught in any pits, ditches, or other types of excavations, the qualified biologist shall release it into the most suitable habitat nearby the site of capture. Movement of wildlife out of harm’s way should be limited to only those individuals that would otherwise be injured or killed, and individuals should be moved only as far as necessary to ensure their safety. Measures shall be taken to prevent wildlife from re-entering the Project site. Only biologists with appropriate authorization by CDFW shall move CESA-listed or other special-status species.

COMMENT #9: Construction Noise

IS/MND document, Section #27a, Page #52

Issue: The MND does not analyze impacts to biological resources from construction noise and includes no mitigation measures to avoid or reduce impacts to a level less than significant.

Specific impact: The MND (p. 52) states “the Project may generate substantial temporary or permanent increase in ambient noise levels in the vicinity of the Project in excess of standards,” but includes no analysis of the impacts of construction noise on biological resources. The MND indicates noise levels have the potential to reach 45.8 to 75 dBA during the hours when construction is permitted, which exceeds 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 a revised MND 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 frogs, 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(s)

MM BIO-[F]: 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 enclosure for generators. Sounds generated from any means must be below the 55-60 dB range within 50-feet from the source.

COMMENT #10: Artificial Light

IS/MND document, Section #3a,b, Page #13

Issue: The MND does not analyze impacts to biological resources from artificial light and includes no mitigation measures to avoid or reduce impacts to a level less than significant.

Specific impact: The MND (p. 13) indicates “completion of the Project would introduce new light sources on the site associated with three exterior parking lot lights, signage, and storefront lighting”; however, impacts to biological resources are not analyzed and no mitigation measures are proposed. 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 should be included in a revised MND.

Evidence impact would be significant: Artificial nighttime lighting often results in light pollution, which has the potential to significantly and adversely affect fish and wildlife. 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; 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(s)

MM BIO-[G]: Artificial Light

During Project construction and operation, 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 use 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.

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 MND to assist the County of Riverside in identifying and mitigating Project impacts on biological resources. CDFW concludes that the MND does not adequately identify or mitigate the Project's significant, or potentially significant impacts on biological resources. CDFW recommends that prior to adoption of the MND, the County of Riverside revise the document to include a more complete assessment of the Project's potential impacts on biological resources, as well as 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 Alyssa Hockaday, Senior Environmental Scientist (Specialist) at (760) 920-8252 or Alyssa.Hockaday@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Kim Freeburn
Environmental Program Manager

Attachment 1: MMRP for CDFW-Proposed Mitigation Measures

ec: Heather Brashear, Senior Environmental Scientist (Supervisor), CDFW
Heather.Brashear@wildlife.ca.gov

Rollie White, U.S. Fish and Wildlife Service
Rollie_white@fws.gov

Vincent James, U.S. Fish and Wildlife Service
Vincent_james@fws.gov

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

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ATTACHMENT 1: MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

Biological Resources (BIO)		
Mitigation Measure (MM) Description	Implementation Schedule	Responsible Party
<p>MM BIO-[A]: Lake and Streambed Alteration Program</p> <p>Prior to construction and issuance of any grading permit, CVWD 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>County of Riverside</p>
<p>MM BIO-2: Avoidance of 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</p>	<p>No more than three (3) days prior to vegetation clearing or ground-disturbing activities.</p>	<p>County of Riverside</p>

<p>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.</p>		
<p>MM BIO-[B]: 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.</p>	<p>Prior to construction and issuance of any grading permit</p>	<p>County of Riverside</p>
<p>MM BIO-[C]: 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.</p>	<p>Prior to commencing Project activities.</p>	<p>County of Riverside</p>
<p>MM BIO-[D]: Burrowing Owl Surveys 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 (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 Staff Report on Burrowing Owl Mitigation. If burrowing owls are detected during the focused surveys, the qualified biologist and Project Applicant shall prepare a Burrowing Owl Plan that shall be submitted to CDFW for review and approval prior to commencing Project activities. The Burrowing Owl Plan shall describe proposed avoidance, minimization, mitigation, 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</p>	<p>Habitat assessment and focused surveys: No less than 60 days prior to the start of Project-related activities.</p> <p>Pre-construction surveys: No less than 14 days prior to start of Project-related activities and within 24 hours prior to ground disturbance.</p>	<p>County of Riverside</p>

<p>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> (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>MM BIO-[E]: Minimizing Impacts to Other Species To avoid impacts to terrestrial wildlife, a qualified biologist shall be on-site prior to and during all ground- and habitat-disturbing activities to inspect the Project area prior to any Project activities. Individuals of any wildlife species found shall not be harassed and shall be allowed to leave the Project area unharmed. If needed, a qualified biologist may guide, handle, or capture an individual non-listed, non-special-status wildlife species to move it to a nearby safe location within nearby refugium, or it shall be allowed to leave the Project site of its own volition. Capture methods may include hand, dip net, lizard lasso, snake tongs, and snake hook. If the wildlife species is discovered or is caught in any pits, ditches, or other types of excavations, the qualified biologist shall release it into the most suitable habitat nearby the site of capture. Movement of wildlife out of harm's way should be limited to only those individuals that would otherwise be injured or killed, and individuals should be moved only as far a necessary to ensure their safety. Measures shall be taken to prevent wildlife from re-entering the Project site. Only biologists with appropriate authorization by CDFW shall move CESA-listed or other special-status species.</p>	<p>Prior to and during Project activities.</p>	<p>County of Riverside</p>
<p>MM BIO-[F]: 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 enclosure for generators. Sounds generated from any means must be below the 55-60 dB range within 50-feet from the source.</p>	<p>During Project activities.</p>	<p>County of Riverside</p>
<p>MM BIO-[G]: Artificial Light During Project construction and operation, 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</p>	<p>During Project construction activities and operation.</p>	<p>County of Riverside</p>

<p>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 use 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>		
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