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June 12, 2023
 Sent via e-mail

Julie Arthur
 Executive Director
 Palm Springs Unified School District
 150 District Center Drive
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PALM SPRINGS UNIFIED SCHOOL DISTRICT HIGH SCHOOL FIELDS LIGHTING PROJECT (PROJECT) MITIGATED NEGATIVE DECLARATION (MND) SCH#: 2023050345

Dear Ms. Arthur:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from the Palm Springs Unified School District (PSUSD) 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: Palm Springs Unified School District

Objective: The Project is proposing high school field lighting improvements on the campuses of Palm Springs High School (PSHS), Desert Hot Springs High School (DHSHS), and Cathedral City High School (CCHS). The Project would provide additional exterior lighting to allow for use of outdoor instructional and activity areas before and after

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.

school hours, which have been extended per the passage of Senate Bill (SB) 328². The proposed Project includes trenching in order to install wiring between the poles and electrical control panels, and installation of the light fixtures.

New field lighting would be installed at PSHS on the varsity baseball and softball fields, junior varsity (JV) baseball field, tennis courts, football/track stadium, and practice field. The proposed lighting for each field would consist of a total of 35 light fixtures/poles located around the perimeters. Nineteen of the lighting poles would be located around the perimeter of the varsity baseball field, JV baseball field, varsity softball field, and practice fields and would extend 60 feet to 80 feet high. Ten lighting poles would be located around the perimeter of the tennis courts and would extend 50 feet high. The remaining six lighting poles would be located around the football/track stadium seating to the east and west and would be 80 feet high with one pole 70 feet high on the east side. Each pole would be on a pre-cast concrete base approximately 10 feet below ground (for each of the three high schools). Each lighting pole would feature between four to thirteen separate luminaires. Mounting heights for the luminaries are 50 feet (tennis courts); 15.5 feet, 60 feet, 70 feet, 80 feet (varsity baseball field, JV baseball field, varsity softball field, and practice fields); and 15.5 feet, 70 feet, 80 feet, 105 feet, and 115 feet (football/track field). The new lighting poles would result in a total of 253 luminaries with an average kilowatt (kW) of 25.9 (69.0 maximum).

New field lighting would be installed at DHSHS on the varsity baseball and softball fields, JV baseball and softball fields, tennis courts (1-6), and soccer field. The proposed lighting for each field would consist of a total of 35 light fixtures/poles located around the perimeters. Fourteen of the lighting poles would be located around the JV baseball field, varsity baseball field, and the practice soccer field and would extend 80 feet to 90 feet high. Eight of the lighting poles would be located around the perimeter of the tennis courts and would extend 40 feet high. The remaining thirteen lighting poles would be located around the perimeter of the JV softball and varsity softball field and would extend 60 feet to 80 feet high. Each lighting pole would feature between three to eighteen separate luminaries. Mounting heights for the luminaries are 15.5 feet, 80 feet, and 90 feet (JV baseball, varsity baseball, and soccer fields); 40 feet (tennis courts); and 15.5 feet, 60 feet, 70 feet, and 80 feet (softball and varsity softball fields). The new lighting poles would result in a total of 209 luminaries with an average kW of 25.9 (54.6 maximum).

New field lighting would be installed at CCHS on the varsity baseball and varsity football fields, JV baseball and softball fields, tennis courts (1-6) and multipurpose field. The proposed lighting for each field would consist of 33 light fixtures/poles located around the perimeters. Fourteen of the lighting poles would be located around the JV baseball and varsity baseball fields and would extend 70 feet to 80 feet high. Four of the lighting poles would be located around the perimeter of the multipurpose field and would extend 80 feet high. Seven of the lighting poles would be located around the perimeter of the varsity softball and JV softball fields and would extend 60 feet to 80 feet high. The remaining eight lighting poles would be located around the perimeter of the tennis courts and would be 50 feet high. Each lighting pole would feature between two to thirteen separate luminaires. Mounting heights for the luminaries are 15.5 feet, 70 feet, and 80 feet (JV baseball and varsity baseball fields); 50 feet (tennis courts); 15.5 feet, 60 feet, and 80 feet (multipurpose field); and 15.5 feet, 60 feet, 70 feet, and 80 feet (JV and varsity softball fields). The new lighting poles would result in a total of 206 luminaires with an average kW of 28.0 (55.9 maximum).

Location: The Project is located across three high school campuses in Riverside County, California. The PSHS campus is located at 2401 E. Baristo Road, Palm Springs, California 92262. The DHSHS campus is located at 65850 Pierson Boulevard, Desert Hot Springs, California 92240. The CCHS campus is located at 69250 Dinah Shore Drive, Cathedral City, California 92234. PSHS encompasses Accessor's Parcel Numbers (APNs) 502-200-009, 502-200-010, 502-200-012, 502-230-006, and Master Parcel No. 009-607-789. DHSHS encompasses APN 664-190-040, and CCHS encompasses APNs 673-030-014

² Senate Bill (SC) 328 - Local educational agencies: before and after school programs: middle school and high school start time. An act to amend Section 46148 of, and to add Section 8203.4 to, the Education Code, relating to local educational agencies.

and 673-030-015. Land surrounding the PSHS campus includes residential and commercial use with open space to the west. Land surrounding the DHSHS campus is vacant with residential developments to the northeast, south, and west. Land surrounding the CCHS campus is vacant to the east and north with residential and commercial uses to the northeast, south, and west. The campuses are within the boundary of the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP).

Timeframe: It is anticipated that construction activities would begin in December of 2023 and end in fall of 2024. Construction activities would take 6 to 9 months at each school and would be staggered among the various high schools.

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 PSUSD 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. Moreover, CDFW is concerned that an MND may not be appropriate for the Project because of the potentially significant impact to biological resources from artificial nighttime lighting. CDFW's comments and recommendations on the MND are explained in greater detail below and summarized here.

Project Description

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 and discrepancies related to the project description.

CDFW is concerned that trenching may pose a hazard to wildlife that may become entrapped or drown, depending on the depth of trenching below ground level. The IS/MND includes no analysis of the impacts of trenching on wildlife or avoidance, minimization, and mitigation measures. CDFW recommends that an analysis of trenching, including trench depths, be included in a revised IS/MND.

In addition, CDFW has identified inaccurate information included on p. 39 and 40 of the MND, which states that "Burrowing Owls are a species of low conservational concern." Section 15125(c) of the CEQA Guidelines states that knowledge of the regional setting of a project is critical to the assessment of environmental impacts and that special emphasis should be placed on environmental resources that are rare or unique to the region. Burrowing owl is a California Species of Special Concern (CSSC). The CSSC status applies to animals that are declining at a rate that could result in listing or that historically occurred in low numbers and known threats to their persistence currently exist. CSSCs should be considered during the environmental review process. The regional conservation status and current threats (e.g., development, rodenticides, and auto strikes) to burrowing owl in Southern California should be described accurately in a revised MND.

Existing Environmental Setting

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

The analysis of environmental conditions is based on the desktop review of the Palm Springs, Desert Hot Springs, and Cathedral City quadrangles and surrounding

quadrangles. CDFW is concerned that no biological field assessment was conducted for the MND. The Project sites have the potential to support wildlife including special-status species because of the presence of vegetation and open fields and because the sites are adjacent to vacant land or open space. A complete and accurate assessment of the environmental setting and Project-related impacts to biological resources is needed to both identify appropriate avoidance, minimization, and mitigation measures and demonstrate that these measures reduce Project impacts to less than significant.

Mitigation Measures

CDFW is concerned that the mitigation measures proposed in the MND are not adequate to avoid or reduce impacts to biological resources to less than significant. To support the PSUSD in ensuring that Project impacts to biological resources are reduced to a level that is less than significant, CDFW recommends adding mitigation measures for assessment of biological resources, artificial nighttime light, burrowing owl, and construction noise, as well as revising the mitigation measure for nesting birds.

I. Environmental Setting and Related Impact Shortcoming

COMMENT #1: Assessment of Biological Resources

IS/MND document, Pages #35-48

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 the desktop review of the Palm Springs, Desert Hot Springs, and Cathedral City quadrangles and surrounding quadrangles. The MND lacks a recent general field assessment of biological resources located within the Project footprint and surrounding areas. CDFW is concerned about the potential for special-status species to occur on the Project 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.

Recommended potentially feasible mitigation measure: To establish the existing environmental setting with respect to biological resources, CDFW recommends that a revised MND include the results of recent biological surveys as described in the following mitigation measure, as well as any necessary mitigation measures:

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

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

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

II. Mitigation Measure or Alternative and Related Impact Shortcoming

COMMENT #2: California Endangered Species Act (CESA)

IS/MND document, Section 5.4

Issue: The MND acknowledges that species listed under CESA have the potential to occur in or near the Project site. However, no field assessments were performed for the MND, and no mitigation measures have been included in the MND to reduce potential impacts to listed species to less than significant or to address take authorization for CESA-listed species.

Specific impact: CESA prohibits the take (under Fish & G. Code, § 86, “take” means to hunt, pursue, catch, capture, or kill, or to attempt to hunt, pursue, catch, capture, or kill) of any endangered, threatened, or candidate species that results from a proposed project, except as authorized by state law (Fish & G. Code, §§ 2080, 2085). The MND acknowledges the potential for CESA-listed species to occur in the Project area but does not include any mitigation measures to reduce potential impacts to a level less than significant. The Project occurs within the boundary of the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP); however, the PSUSD is not a participant in the Plan. Section 11.7 of the CVMSHCP Implementing Agreement states “any public service provider, such as a utility company or a public district, including, but not limited to, a school, water, or irrigation district, that operates facilities and/or owns lands within the Plan Area may request Take Authorization for its activities pursuant to the Permits as a Participating Special Entity.” Upon approval by the Coachella Valley Conservation Commission, the Participating Special Entity would contribute to the Plan through payment of a fee based on the type of proposed activity and must comply with all the terms and requirements of the Permits, the MSHCP, and its Agreement. Alternatively, take authorization may be obtained through an Incidental Take Permit (ITP) or consistency determination.

Evidence impact would be significant: Take of any California Endangered Species Act (CESA) listed species is prohibited except as authorized by state law (Fish and G. Code, §§ 2080 & 2085). CDFW is responsible for ensuring appropriate conservation of fish and wildlife resources including threatened, endangered, and/or candidate plant and animal species, pursuant to CESA. CDFW recommends that the Project applicant seek appropriate take authorization which may include an ITP, a consistency

determination, or other permitting options (Fish and G. Code, §§ 2080.1, 2081, subds. (b), (c)) if the Project has the potential to result in “take” (California Fish and Game Code section 86 defines “take” as hunt, pursue, catch, capture or kill or attempt to hunt, pursue, catch, capture or kill”) of state-listed CESA species over the life of the Project. CESA ITPs are issued to conserve protect, enhance, and restore state-listed CESA species and their habitats. More information on ITPs can be found at:
<https://wildlife.ca.gov/Conservation/CESA/Permitting/Incidental-Take-Permits>.

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: CDFW recommends that results of the biological surveys recommended in the “Assessment of Biological Resources” section be included in a revised MND and that impacts to CESA-listed species be analyzed in the revised MND. If Project construction or any Project-related activity during the life of the proposed Project may result in take of CESA-listed species, CDFW recommends that the Project proponent seek appropriate take authorization prior to project implementation. This may include an incidental take permit (ITP) or a Natural Community Conservation Plan (NCCP) (Fish & G. Code, §§ 2081 & 2800).

COMMENT #3: Artificial Nighttime Lighting

IS/MND document, Pages #35-48

Issue: The MND lacks adequate analysis of impacts to biological resources from artificial nighttime light and includes no mitigation measures to avoid or reduce impacts to a level less than significant.

Specific impact: The IS/MND (p. 38) acknowledges that the introduction of lighting would be a potentially significant impact to wildlife such as nesting birds. Although the IS/MND (p. 39) indicates that lighting “hoods” will be utilized to reduce light-spillage, no mitigation measures are proposed to ensure that impacts to biological resources are reduced to a level less than significant. In addition, the MND lacks a substantive analysis of the impacts of artificial lighting on biological resources. 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: Light intensity, light color, and duration of ‘light-on’ periods have the potential to significantly and adversely affect fish and wildlife (Syposz et al. 2021). 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: Because of the potential for artificial nighttime light to negatively impact wildlife, CDFW recommends a revised MND include specific avoidance and minimization measures to ensure that impacts to wildlife are reduced to less than significant.

MM BIO-[B]: Artificial Nighttime Light

During Project construction and operation, the PSUSD 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 PSUSD 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 PSUSD shall ensure use of LED lighting with a correlated color temperature of 3,000 Kelvins or less, proper disposal of hazardous waste, and recycling of lighting that contains toxic compounds with a qualified recycler.

COMMENT #4: Burrowing Owl Surveys

IS/MND document, Pages #35-43, MM BIO-1

Issue: CDFW is concerned that no surveys were conducted for burrowing owl (*Athene cunicularia*) and that Mitigation Measure BIO-1 is not sufficient to ensure that potential impacts to burrowing owls are mitigated to a level less than significant.

Specific impact: The IS/MND (p. 37, 39, and 42) indicates that sightings of burrowing owls have been documented within 0.5 miles from PSHS, 0.25 miles from DSHS, and an open field adjacent to CCHS would provide adequate habitat for the species. Additionally, 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 and impacting burrowing owl populations through changes in vegetation via the destruction, conversion, or degradation of burrowing owl habitat.

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 also a Covered Species under the CVMSHCP.

Recommended potentially feasible mitigation measure: Although the MND includes MM BIO-1, CDFW considers the measure to be insufficient in scope and timing to reduce impacts to burrowing owls to a level less than significant and recommends inclusion of separate mitigation measure for burrowing owl. CDFW recommends that prior to commencing Project activities for all phases of Project construction, 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), which includes the following steps: (1) habitat assessment, (2) surveys, and (3) an impact assessment. The three progressive steps are effective in evaluating whether a project will result in impacts to burrowing owls. CDFW also recommends preconstruction surveys for burrowing owl prior to Project activities. CDFW recommends a revised MND include the following mitigation measure:

MM BIO-[C]: 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 in accordance with the *Staff Report on Burrowing Owl Mitigation* (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, monitoring, relocation, minimization, and/or mitigation actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites, acres of burrowing owl habitat that will be impacted, details of site monitoring, and details on proposed buffers and other avoidance measures if avoidance is proposed. If impacts to occupied burrowing owl habitat or burrow cannot be avoided, the Burrowing Owl Plan shall also describe minimization and compensatory mitigation actions that will be implemented. Proposed implementation of burrow exclusion and closure should only be considered as a last resort, after all other options have been evaluated as exclusion is not in itself an avoidance, minimization, or mitigation method and has the possibility to result in take. The Burrowing Owl Plan shall identify compensatory mitigation for the temporary or permanent loss of occupied burrow(s) and habitat consistent with the "Mitigation Impacts" section of the 2012 Staff Report and shall implement CDFW-approved mitigation prior to initiation of Project activities. If impacts to occupied burrows cannot be avoided, information shall be provided regarding adjacent or nearby suitable habitat available to owls. If no suitable habitat is available nearby, details regarding the creation and funding of artificial burrows (numbers, location, and type of burrows) and management activities for relocated owls shall also be included in the Burrowing Owl Plan. The Project proponent 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 USFWS to conduct an impact assessment to develop avoidance, minimization, and mitigation measures to be approved by CDFW prior to commencing Project activities. ~~If ground disturbance is proposed between February 1st and August 31st, a qualified biologist shall conduct a nesting bird survey within 7 to 10 days of initiation of grading on site, focusing on covered species. If active nests are reported, species-specific measures shall then be prepared. At a minimum, grading in the vicinity of a nest shall be postponed until the young birds have fledged. For construction between September 1st and January 31st, no pre-removal nesting bird survey is required. Additionally, pre-construction surveys for burrowing owls should be undertaken between 14 and 30 days prior to any kind of ground disturbance related to modifications to facilities and properties. If breeding activities and/or an active bird nest is located, the breeding habitat/nest site shall be fenced and/or flagged a minimum of 200 feet, and 500 feet for raptors and burrowing owls around the nest until such time as nestlings have fledged as buffer from the active construction areas. This area shall not be disturbed by construction crews until the nest becomes inactive, the young have fledged, the young are no longer being fed by the parents, the young have left the area, and the~~

~~young will no longer be impacted by the Project between September 1 and January 31 shall be exempt from this requirement.~~

COMMENT #5: Nesting Birds

IS/MND document, Pages #35-43, MM BIO-1

Issue: CDFW is concerned that no field assessments were conducted for nesting birds and that Mitigation Measure BIO-1 is not sufficient to ensure that potential impacts to nesting birds are mitigated to a level less than significant.

Specific impact: The IS/MND (p. 35-43) indicates that nesting birds are likely to occur in and near the Project sites and that Project impacts would be potentially significant to nesting birds. CDFW is concerned about impacts to nesting birds from ground-disturbing activities, vegetation removal, construction noise, and artificial light. Project implementation could result in disturbance to nesting birds, nest abandonment or failure, and the loss of nesting habitat.

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: 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-1 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 Mitigation Measure BIO-1 be revised as follows, with additions in **bold** and removals in ~~strikethrough~~:

MM BIO-1: ~~Pre-Construction Surveys for Migratory Birds~~ 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 ground disturbance is proposed between February 1st and August 31st, a qualified biologist shall conduct a nesting bird survey within 7 to 10 days of initiation of grading on site, focusing on covered species. If active nests are reported, species-specific measures shall then be prepared. At a minimum, grading in the vicinity of a nest shall be postponed until the young birds have fledged. For construction between September 1st and January 31st, no pre-removal nesting bird survey is required. Additionally, pre-construction surveys for burrowing owls should be undertaken between 14 and 30 days prior to any kind of ground disturbance related to modifications to facilities and properties. If breeding activities and/or an active bird nest is located, the breeding habitat/nest site shall be fenced and/or flagged a minimum of 200 feet, and 500 feet for raptors and burrowing owls around the nest until such time as nestlings have fledged as buffer from the active construction areas. This area shall not be disturbed by construction crews until the nest becomes inactive, the young have fledged, the young are no longer being fed by the parents, the young have left the area, and the young will no longer be impacted by the Project between September 1 and January 31 shall be exempt from this requirement.~~

COMMENT #6: Construction Noise

IS/MND document, Pages #109-118

Issue: The MND does not include sufficient mitigation measures to avoid or reduce impacts to biological resources to a level less than significant.

Specific impact: The MND (p. 116 and 117) states construction activities over an approximate continuous 18-month period would constitute a temporary noise impact with levels reaching up to 88.9 dBA. These levels exceed exposure levels that may adversely affect wildlife species at 55 to 60 dBA. The MND (p. 38 to 42) states that bird species would be acclimated to this noise because of the use of a tractor-mounted mower on high school sites; however, no data are provided to substantiate this claim. Impacts to other wildlife from Project-related construction noise are not analyzed in the MND. Furthermore, the mitigation measures in Section 5.13 of the MND are not sufficient to reduce impacts to wildlife to a level 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: 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. Although the MND includes MM N-1 through 9, CDFW considers the measures to be insufficient in scope and timing to reduce impacts to a level less than

significant for biological resources. CDFW recommends adding the following mitigation measure to a revised MND:

MM BIO-[D]: Construction Noise

During all Project construction, the PSUSD 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 PSUSD 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.

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

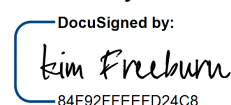
The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental 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 PSUSD 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. The CEQA Guidelines indicate that recirculation is required when insufficient information in the MND precludes a meaningful review (§ 15088.5) or when a new significant effect is identified and additional mitigation measures are necessary (§ 15073.5). CDFW recommends that a revised MND with a recent and complete assessment of impacts to biological resources, as well as mitigation to avoid and reduce those impacts to less than significant, be recirculated for public comment. If the revised MND cannot demonstrate that impacts to biological resources are mitigated to a level that is less than significant, CDFW recommends that an Environmental Impact Report be prepared by the PSUSD for the Project.

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

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ATTACHMENT 1: MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

Biological Resources (BIO)		
Mitigation Measure (MM) Description	Implementation Schedule	Responsible Parties
<p>MM BIO-[A]: Assessment of Biological Resources</p> <p>Prior to Project construction activities, a complete and recent inventory of rare, threatened, endangered, and other sensitive species located within the Project footprint and within offsite areas with the potential to be affected, including California Species of Special Concern (CSSC) and California Fully Protected Species (Fish and Game Code § 3511), will be completed. Species to be addressed should include all those which meet the CEQA definition (CEQA Guidelines § 15380). The inventory should</p>	<p>Prior to Project construction activities</p>	<p>PSUSD</p>

<p>address seasonal variations in use of the Project area and should not be limited to resident species. Focused species-specific surveys, completed by a qualified biologist and conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable are required. Acceptable species-specific survey procedures should be developed in consultation with CDFW and the U.S. Fish and Wildlife Service, where necessary. Note that CDFW generally considers biological field assessments for wildlife to be valid for a one-year period, and assessments for rare plants may be considered valid for a period of up to three years. Some aspects of the proposed Project may warrant periodic updated surveys for certain sensitive taxa, particularly if the Project is proposed to occur over a protracted time frame, or in phases, or if surveys are completed during periods of drought.</p>		
<p>MM BIO-[B]: Artificial Nighttime Light During Project construction and operation, the PSUSD 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 PSUSD 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 PSUSD shall ensure use of LED lighting with a correlated color temperature of 3,000 Kelvins or less, proper disposal of hazardous waste, and recycling of lighting that contains toxic compounds with a qualified recycler.</p>	<p>During Project construction activities and operation.</p>	<p>PSUSD</p>
<p>MM BIO-[C]: 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 in accordance with the <i>Staff Report on Burrowing Owl Mitigation</i> (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, monitoring, relocation, minimization, and/or mitigation actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites, acres of burrowing owl habitat that will be impacted, details of site monitoring, and details on proposed buffers and other avoidance measures if avoidance is proposed. If impacts to occupied burrowing owl habitat or burrow cannot be avoided, the Burrowing Owl Plan shall also describe minimization and compensatory mitigation actions that will be implemented. Proposed implementation of burrow exclusion and closure should only be considered as a last resort, after all other options have been evaluated as exclusion is not in itself an avoidance, minimization, or mitigation method and has the possibility to result in take. The Burrowing Owl Plan shall identify compensatory mitigation for the temporary or permanent loss of occupied burrow(s) and habitat consistent with the “Mitigation</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>PSUSD</p>

<p>Impacts” section of the 2012 Staff Report and shall implement CDFW-approved mitigation prior to initiation of Project activities. If impacts to occupied burrows cannot be avoided, information shall be provided regarding adjacent or nearby suitable habitat available to owls. If no suitable habitat is available nearby, details regarding the creation and funding of artificial burrows (numbers, location, and type of burrows) and management activities for relocated owls shall also be included in the Burrowing Owl Plan. The Project proponent 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 USFWS to conduct an impact assessment to develop avoidance, minimization, and mitigation measures to be approved by CDFW prior to commencing Project activities.</p>		
<p>MM BIO-1: 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.</p>	<p>No more than three (3) days prior to vegetation clearing or ground-disturbing activities.</p>	<p>PSUSD</p>
<p>MM BIO-[D]: Construction Noise During all Project construction, the PSUSD 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 PSUSD 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>PSUSD</p>