



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



July 24, 2023  
 Sent via e-mail

Andrea Montano  
 Associate Planner  
 City of El Centro  
 1275 W Main Street  
 El Centro, CA 92243

**TOWN CENTER VILLAGE II SINGLE-FAMILY RESIDENTIAL AND INDUSTRIAL  
 PROJECT (PROJECT)  
 MITIGATED NEGATIVE DECLARATION (MND)  
 SCH#: 2023060636**

Dear Ms. Montano:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from the City of El Centro for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

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:** YK America Group

**Objective:** The Project proposes future development of a 35.8-acre site for single-family residential and light industrial development. The western portion of the site, approximately 18.5 acres, is proposed for single-family residential development with 104 total lots. The eastern portion of the site, approximately 17.3 acres, is proposed for future light manufacturing uses. The Project would be constructed in two phases. Phase 1 would include construction of the residential units and Phase 2 would involve construction of the

<sup>1</sup> 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.

light manufacturing uses. Development would also include ornamental landscaping with irrigation systems along street frontage, entry drives, building entries and within parking areas.

The Project would require a General Plan Amendment to change the existing General Plan land use designation on a portion of the site from General Commercial (GC) and Light Manufacturing (LM) to Single-Family Residential (R2-Single-Family Residential). Additionally, the application proposes reordination of a subdivision map to divide a portion of Remainder Lot A (APN 044-620-053) and Lots 12 through 16 (APNs 044-620-032, -037 through -041, and -064) into 115 lots. A portion of Remainder Lot A and Lots 12 through 16 would be divided into 104 lots. The other portion of Remainder Lot A (APN 044-620-053) would remain zoned for light manufacturing use and would be divided into 12 lots.

**Location:** The Project is located in the northern portion of the City of El Centro in south-central Imperial County, California (32.816063°, -115.565111°). The site is bounded by Cruickshank Drive, North Imperial Avenue/South State Route 86, and North 8<sup>th</sup> Street. The affected county Assessor Parcel Numbers (APNs) are 044-620-032, -037 through -041, -053, and -064. Lands surrounding the parcels to the north, east, and south are vacant. Lands to the southwest and west are developed. Other surrounding land uses include Central Drain that bounds the Project site to the north.

**Timeframe:** Construction of Phase 1 is anticipated to begin in January 2024, with Phase 2 commencing in January 2025. Each phase would last approximately 20 months.

## 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 City of El Centro 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 City of El Centro in adequately identifying and mitigating the Project's significant, or potentially significant, impacts to biological resources.

### I. Mitigation Measure or Alternative and Related Impact Shortcoming

#### COMMENT #1: Nesting Birds

##### IS/MND document, Pages #21-24, MM BIO-1

**Issue:** CDFW is concerned 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. 23) indicates that the Project site has potential nesting bird habitat and lands in the Project vicinity support vegetation that could potentially provide nesting habitat for migratory bird species, and in some locations for raptors. 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:**

CDFW appreciates the inclusion of MM BIO-1 and offers the following recommendations to reduce impacts to nesting birds. 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 the City of El Centro include a revised Mitigation Measure BIO-1 in a revised MND as follows, with additions in **bold** and removals in ~~strikethrough~~:

**MM BIO-1: ~~Compliance with Migratory Bird Treaty Act~~ Avoidance of Nesting Birds**

~~If construction activities (for example, but not limited to staging, site preparation, grading) commence during the breeding season (January 1 through July 31 for raptors and March 1 through September 15 for songbirds), a preconstruction nesting bird survey shall be conducted by a qualified biologist. The survey shall be performed within three days prior to the commencement of construction activities.~~ **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.** Surveys shall include the construction area plus a 500-foot buffer. Survey findings would be documented prior to initiating any construction activities. **The qualified avian biologist will make every effort to avoid potential nest predation as a result of survey and monitoring efforts.**

If no nesting birds are observed during the survey, implementation of project activities may begin. If nesting birds (including nesting raptors) are found to be present, avoidance or minimization measures shall be undertaken. Measures shall include establishment of an avoidance buffer **to be marked on the ground** until nesting has been completed. ~~The width of the buffer will be determined by the biologist based on California Department of Fish and Wildlife recommendations.~~ **Nest buffers are species specific and shall be at least 300 feet for passerines and 500 feet for raptors.** The qualified biologist ~~will~~ **may** determine the appropriate buffer size and level of nest monitoring necessary for species not listed under the federal or California Endangered Species Acts based on the species' life history, the species' sensitivity to disturbances (e.g., noise, vibration, human activity), individual behavior, status of nest, location of nest and site conditions, presence of screening vegetation, anticipated project activities, ambient noise levels compared to project-related noise levels, existing non-project-related disturbances in vicinity, and ambient levels of human activity. ~~Buffers will be marked (flagged or fenced with environmentally sensitive area fencing) around any active nests and periodic monitoring by the qualified biologist will occur to ensure the project does not result in the failure of the nest.~~ **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 buffer(s) will be maintained around each nest until the nest becomes inactive as determined by the qualified biologist.~~ At the discretion of the qualified biologist, if a nesting bird appears to be stressed as a result of project activities and the buffer does not appear to provide adequate protection, additional minimization measures

may need to be implemented. **The qualified biologist has the authority to stop work if nesting pairs exhibit signs of disturbance.**

Construction may continue outside of the no-work buffers. The qualified biologist will ensure that restricted activities occur outside of the delineated buffers, check nesting birds for any potential indications of stress, and ensure that installed fencing or flagging is properly maintained during nest monitoring and any additional site visits. Buffer sizes may be adjusted (either increased or reduced), or the extent of nest monitoring may be adjusted, at the discretion of the qualified biologist based on the conditions of the surrounding area and/or the behavior of the nesting bird. Any changes to buffer sizes and/or nest monitoring frequency will be documented. If **ESA- or CESA-**listed species are found to be nesting in the survey area, construction activity ~~should~~ **shall be halted and the qualified biologist shall immediately notify CDFW and USFWS** ~~not occur without coordination with regulating agencies and may require an agency-approved bird management plan.~~

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).

## **COMMENT #2: Burrowing Owl Surveys**

### **IS/MND document, Pages #21-24**

**Issue:** CDFW is concerned that Mitigation Measure BIO-1 is not sufficient to ensure that potential impacts to burrowing owls (*Athene cunicularia*) are mitigated to a level less than significant.

**Specific impact:** The IS/MND (p. 21) indicates that the Project site provides suitable habitat for burrowing owls. Additionally, burrowing owls have been reported within 1.3 miles of the Project site. A habitat assessment and focused survey was conducted by ECORP on February 1, 2022. However, the western portion of the Project site (i.e., APNs 044-620-037 through -041) was not included in that habitat assessment and focused survey. The MND also states (p. 21) that “although no burrowing owl or potential burrows were identified during the field survey, conditions could change by the time project construction activities begin.” 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.).

### **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 a separate mitigation measure for burrowing owl. CDFW recommends that prior to commencing Project activities for all phases of Project construction, focused surveys for burrowing owl be conducted for the entirety of the Project site by a qualified biologist in accordance with the *Staff Report on Burrowing Owl Mitigation* (CDFG 2012 or most recent version). CDFW recommends a revised MND include the following mitigation measure:

### **MM BIO-[A]: Burrowing Owl Surveys**

Suitable burrowing owl habitat has been confirmed on the site; therefore, 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 Applicant shall prepare a Burrowing Owl Plan that shall be submitted to CDFW for review and approval prior to commencing Project activities. The Burrowing Owl Plan shall describe proposed avoidance, monitoring, relocation, minimization, and/or mitigation actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites, acres of burrowing owl habitat that will be impacted, details of site monitoring, and details on proposed buffers and other avoidance measures if avoidance is proposed. If impacts to occupied burrowing owl habitat or burrow cannot be avoided, the Burrowing Owl Plan shall also describe minimization and compensatory mitigation actions that will be implemented. Proposed implementation of burrow exclusion and closure should only be considered as a last resort, after all other options have been evaluated as exclusion is not in itself an avoidance, minimization, or mitigation method and has the possibility to result in take. The Burrowing Owl Plan shall identify compensatory mitigation for the temporary or permanent loss of occupied burrow(s) and habitat consistent with the “Mitigation Impacts” section of the 2012 Staff Report and shall implement CDFW-approved mitigation prior to initiation of Project activities. If impacts to occupied burrows cannot be avoided, information shall be provided regarding adjacent or nearby suitable habitat available to owls. If no suitable habitat is available nearby, details regarding the creation and funding of artificial burrows (numbers, location, and type of burrows) and management activities for relocated owls shall also be included in the Burrowing Owl Plan. The Project proponent shall implement the Burrowing Owl Plan following CDFW and USFWS 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.

### **COMMENT #3: Construction Noise**

#### **IS/MND document, Pages #54-63**

**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. 58 and 59) states the Project will increase noise levels from the operation of off-road equipment for on-site construction activities which can reach up to 67.6 dBA but includes no analysis of the impacts of construction noise on biological resources. These levels exceed exposure levels that may adversely affect wildlife species at 55 to 60 dBA.

**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.

**MM BIO-[B]: Construction Noise**

**During all Project construction, the City of El Centro 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 City 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 #4: Artificial Nighttime Light**

**IS/MND document, Page #6**

**Issue:** The MND does not analyze 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 MND (p. 6) indicates the Project would result in the introduction of new nighttime lighting sources and/or potential sources of glare in the area. The document also states (p. 6) “nighttime lighting levels on the Project site would increase over current levels with the proposed development and could result in adverse effects to adjacent land uses,” 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:**

Because of the potential for artificial nighttime light 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.

**MM BIO-[C]: Artificial Nighttime Light**

**During Project construction and operation, the City of El Centro 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 City 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 City 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.**

**COMMENT #5: CDFW Lake and Streambed Alteration (LSA) Program**

**IS/MND document, Page #3**

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

**Specific impact:** The MND (p. 3) indicates that the Central Drain occurs adjacent to the Project site on the north; however, direct and indirect impacts to Central Drain and associated fish and wildlife resources resulting from Project construction have not been analyzed and no mitigation measures are proposed.

**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's issuance of an LSA Agreement is a "project" subject to CEQA (see Pub. Resources Code § 21065). 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:**

**MM BIO-[D]: Lake and Stream 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**

**shall obtain a CDFW-executed Lake and Streambed Alteration Agreement, authorizing impacts to Fish and Game Code section 1602 resources associated with the Project.**

## **ENVIRONMENTAL DATA**

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

## **ENVIRONMENTAL DOCUMENT FILING FEES**

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental document filing fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

## **CONCLUSION**

CDFW appreciates the opportunity to comment on the MND to assist the City of El Centro 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 include an analysis of impacts to biological resources from construction noise and artificial nighttime lighting, as well as a revised mitigation measure for nesting birds and additional mitigation measures for burrowing owl, construction noise, artificial nighttime lighting, and CDFW's Lake and Streambed Alteration Program to avoid or reduce impacts to biological resources to 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](mailto:Alyssa.Hockaday@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
84F92FFEEFD24C8...

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](mailto:Heather.Brashear@wildlife.ca.gov)

Angel Hernandez, Community Development Director  
[angel\\_hernandez@cityofelcentro.org](mailto:angel_hernandez@cityofelcentro.org)

Office of Planning and Research, State Clearinghouse, Sacramento

[State.clearinghouse@opr.ca.gov](mailto: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 Parties
<p><b>MM BIO-1: Avoidance of Nesting Birds</b>            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. Surveys shall include the construction area plus a 500-foot buffer. Survey findings would be documented prior to initiating any construction activities. The qualified avian biologist will make every effort to avoid potential nest predation as a result of survey and monitoring efforts.</p> <p>If no nesting birds are observed during the survey, implementation of project activities may begin. If nesting birds (including nesting raptors) are found to be present, avoidance or minimization measures shall be undertaken. Measures shall include establishment of an avoidance buffer to be marked on the ground until nesting has been completed. Nest buffers are species specific and shall be at least 300 feet for passerines and 500 feet for raptors. The qualified biologist may determine the appropriate buffer size and level of nest monitoring necessary for species not listed under the federal or California Endangered Species Acts based on the species' life history, the species' sensitivity to disturbances (e.g., noise, vibration, human activity), individual behavior, status of nest, location of nest and site conditions, presence of</p>	<p>No more than three (3) days prior to vegetation clearing or ground-disturbing activities.</p>	<p>City of El Centro</p>

<p>screening vegetation, anticipated project activities, ambient noise levels compared to project-related noise levels, existing non-project-related disturbances in vicinity, and ambient levels of human activity. 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. At the discretion of the qualified biologist, if a nesting bird appears to be stressed as a result of project activities and the buffer does not appear to provide adequate protection, additional minimization measures may need to be implemented. The qualified biologist has the authority to stop work if nesting pairs exhibit signs of disturbance.</p> <p>Construction may continue outside of the no-work buffers. The qualified biologist will ensure that restricted activities occur outside of the delineated buffers, check nesting birds for any potential indications of stress, and ensure that installed fencing or flagging is properly maintained during nest monitoring and any additional site visits. Buffer sizes may be adjusted (either increased or reduced), or the extent of nest monitoring may be adjusted, at the discretion of the qualified biologist based on the conditions of the surrounding area and/or the behavior of the nesting bird. Any changes to buffer sizes and/or nest monitoring frequency will be documented. If ESA- or CESA-listed species are found to be nesting in the survey area, construction activity shall be halted and the qualified biologist shall immediately notify CDFW and USFWS.</p>		
<p><b>MM BIO-[A]: Burrowing Owl Surveys</b>          Suitable burrowing owl habitat has been confirmed on the site; therefore, 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 Applicant shall prepare a Burrowing Owl Plan that shall be submitted to CDFW for review and approval prior to commencing Project activities. The Burrowing Owl Plan shall describe proposed avoidance, monitoring, relocation, minimization, and/or mitigation actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites, acres of burrowing owl habitat that will be impacted, details of site monitoring, and details on proposed buffers and other avoidance measures if avoidance is proposed. If impacts to occupied burrowing owl habitat or burrow cannot be avoided, the Burrowing Owl Plan shall also describe minimization and compensatory mitigation actions that will be implemented. Proposed implementation of burrow exclusion and closure should only be considered as a last resort, after all other options have been evaluated as exclusion is not in itself an avoidance, minimization, or mitigation method and has the possibility to result in take. The Burrowing Owl Plan shall identify compensatory mitigation for the temporary or permanent loss of occupied burrow(s) and habitat consistent with the "Mitigation Impacts" section of the 2012 Staff Report and shall implement CDFW-approved mitigation prior to initiation of Project activities. If impacts to occupied burrows cannot be avoided, information shall be provided regarding adjacent or nearby suitable habitat available to owls. If no suitable habitat is available nearby, details regarding the creation and funding of artificial burrows (numbers, location, and</p>	<p><b>Focused surveys:</b> Prior to the start of Project-related activities.</p> <p><b>Pre-construction surveys:</b> No less than 14 days prior to start of Project-related activities and within 24 hours prior to ground disturbance.</p>	<p>City of El Centro</p>

<p>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 and USFWS 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><b>MM BIO-[B]: Construction Noise</b>        During all Project construction, the City of El Centro 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 City 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>City of El Centro</p>
<p><b>MM BIO-[C]: Artificial Nighttime Light</b>        During Project construction and operation, the City of El Centro 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 City 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 <a href="http://darksky.org/">http://darksky.org/</a>). The City 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>	<p>During Project construction activities and operation.</p>	<p>City of El Centro</p>
<p><b>MM BIO-[D]: Lake and Stream Alteration (LSA) Program</b>        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 shall 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 Project activities and issuance of any grading permit.</p>	<p>City of El Centro</p>