



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



August 31, 2023

Carol Thomas-Keefer  
Indian Wells Valley Groundwater Authority  
100 West California Avenue  
Ridgecrest, California 93555

Subject: Imported Pipeline Project (Project)  
Notice of Preparation (NOP)  
State Clearinghouse No. 2023080020

Dear Carol Thomas-Keefer:

The California Department of Fish and Wildlife (CDFW) received a NOP for an Environmental Impact Report (EIR) from the Indian Wells Valley Groundwater Agency, as Lead Agency 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, CDFW appreciates 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 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.

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<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.

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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.), related authorization as provided by the Fish and Game Code will be required.

**Nesting Birds:** CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs, and nests include section 3503 (regarding unlawful take, possession or needless destruction of the nest or eggs of any bird), section 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and section 3513 (regarding unlawful take of any migratory nongame bird).

**Water Rights:** The NOP describes the construction of facilities to carry water originating from the Antelope Valley-East Kern California City Feeder pipeline. CDFW, as Trustee Agency, is consulted by the State Water Resources Control Board during the water rights change petition process to provide terms and conditions designed to protect fish and wildlife prior to appropriation of the State's water resources. Certain fish and wildlife are reliant upon aquatic and riparian ecosystems, which in turn are reliant upon adequate flows of water. CDFW therefore has a material interest in assuring that adequate water flows within streams for the protection, maintenance, and proper stewardship of those resources. CDFW provides, biological expertise to review and comment on environmental documents and impacts arising from Project activities.

## **PROJECT DESCRIPTION SUMMARY**

**Proponent:** Indian Wells Valley Groundwater Agency

**Description and Objective:** The Project is proposed to comply with the Sustainable Groundwater Management Act, which requires the Indian Wells Valley Groundwater Basin (Basin) to be sustainably managed by the year 2040. The Indian Wells Valley Groundwater Agency proposes a maximum 24-inch diameter and 50-mile long imported water pipeline, three booster pump stations, and a regulating station. The pipeline would start at the Antelope Valley-East Kern Water Agency California City Feeder pipeline in California City and end at a new receiving water storage tank at the Indian Wells Valley Water District Ridgecrest Heights Water Storage Tank southwest of Ridgecrest. The goal of the imported water pipeline is to bring an estimated 6,431 acre-feet per year of water to the Indian Wells Valley Groundwater Basin, to reduce groundwater pumping

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and help achieve basin sustainability. Project activities include construction of up to three booster pump stations and a regulating station, transmission and distribution power line facilities, access roads, trenched pipeline installation, and trenchless pipeline installation. The booster pump stations and proposed regulation station would be necessary to pump the water over the El Paso Mountains located between California City and Ridgecrest. The route would traverse or be adjacent to 29 parcels of private owners or trusts, 23 parcels owned by either companies or corporations, and seven private conservation parcels. It also is proposed to traverse 26 parcels of U.S. Bureau of Land Management land and two parcels of the CDFW Fremont Valley Ecological Reserve.

**Timeframe:** Unspecified

## COMMENTS AND RECOMMENDATIONS

The NOP lacks detailed information with regard to the actual footprint of the Project and does not address methods and materials, ground disturbance related to each activity, staging and laydown areas, and other specific Project-related activities that could threaten biological resources and result in potentially significant environmental impacts within the Project area. CDFW anticipates these details to be provided in the EIR, in addition to details such as specific locations of activities relative to private or public property and adjacent roads and the need for any night work.

Special-status species are known to exist in the vicinity of the Project, and the Project could potentially impact State and federally listed species. Aerial imagery of the Project boundary and its surroundings confirms that the Project area supports all scale saltbush and creosote bush habitats. Records from the California Natural Diversity Database (CNDDDB) document species that could potentially be impacted by Project activities. Special-status animal species that could be impacted include the State protected furbearing mammal desert kit fox (*Vulpes macrotis arsipus*); the State fully-protected golden eagle (*Aquila chrysaetos*); the State candidate endangered Crotch's bumble bee (*Bombus crotchii*); the State and Federally threatened desert tortoise (*Gopherus agassizii*); the State threatened Swainson's hawk (*Buteo swainsoni*), Mohave ground squirrel (*Xerospermophilus mohavensis*), and tricolored blackbird (*Agelaius tricolor*); the State watch list prairie falcon (*Falco mexicanus*); and the State species of special concern American badger (*Taxidea taxus*), Tulare grasshopper mouse (*Onychomys torridus tularensis*), pallid bat (*Antrozous pallidus*), Townsend's big-eared bat (*Corynorhinus townsendii*), spotted bat (*Euderma maculatum*), loggerhead shrike (*Lanius ludovicianus*), long-eared owl (*Asio otus*), burrowing owl (*Athene cunicularia*), Bender's thrasher (*Toxostoma bendirei*), Crissal thrasher (*Toxostoma crissale*), gray vireo (*Vireo vicinior*), coast horned lizard (*Phrynosoma blainvillii*), Southern Sierra legless lizard (*Anniella campi*), and California legless lizard (*Anniella pulchra*).

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The Project alignment is also within the geographic range of several special status plant species, including but not limited to the State candidate threatened western Joshua tree (*Yucca brevifolia*); the State endangered and California Rare Plant Rank (CRPR) 1B.3 Mojave tarplant (*Deinandra mohavensis*); the CRPR 1B.1 pale-yellow layia (*Layia heterotricha*) and Red Rock Canyon monkeyflower (*Erythranthe rhodopetra*); the CRPR 1B.2 Red Rock tarplant (*Deinandra arida*); Barstow woolly sunflower (*Eriophyllum mohavense*), Clokey's cryptantha (*Cryptantha clokeyi*), Charlotte's phacelia (*Phacelia nashiana*), alkali mariposa-lily (*Calochortus striatus*), Red Rock poppy (*Eschscholzia minutiflora* ssp. *twisselmannii*), desert cymopterus (*Cymopterus deserticola*), Barstow woolly sunflower (*Eriophyllum mohavense*), and recurved larkspur (*Delphinium recurvatum*); the CRPR 1B.3 Spanish Needle onion (*Allium shevockii*) and Creamy blazing star (*Mentzelia tridentata*); the CRPR 2B.3 Booth's evening-primrose (*Eremothera boothii* ssp. *boothii*); the CRPR 3 prickle-leaf (*Hecastocleis shockleyi*); the CRPR 4.2 Mojave fish-hook cactus (*Sclerocactus polyancistrus*), Death Valley sandmat (*Euphorbia vallis-mortae*), solitary blazing star (*Mentzelia eremophila*), Mojave spineflower (*Chorizanthe spinosa*), white pygmy-poppy (*Canbya candida*), and crowned muilla (*Muilla coronate*); and the CRPR 4.3 Limestone dudleyi (*Dudleya abramsii* ssp. *calicicole*), Kern County evening-primrose (*Camissonia kernensis* ssp. *kernensis*), Inland gilia (*Gilia interior*), and Coville's green-gentian (*Frasera tubulosa*).

### **Mohave Ground Squirrel**

The Project is within the historical range of Mohave ground squirrel and is located within the species' current distribution. Based on aerial imagery, the Project area contains suitable habitat (CDFW 2023a), which comprises all broadly described plant communities in the western Mojave Desert including saltbush scrub, creosote bush scrub, western Joshua tree woodland, and sagebrush scrub (Gustafson 1993).

CDFW recommends that a qualified biologist conduct a Mohave ground squirrel habitat assessment for a biological study report to be included with the EIR. If suitable habitat is identified, consultation with CDFW is recommended for guidance on developing a Project-specific survey methodology in advance of Project activity. CDFW recommends that the EIR require consultation regarding surveys and, if the surveys reveal the presence of Mohave ground squirrel, additional consultation with CDFW for guidance on whether the Project can avoid take of Mohave ground squirrel or for guidance on obtaining an Incidental Take Permit, pursuant to Fish and Game Code section 2081, subdivision (b).

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## **Swainson's Hawk**

Swainson's hawks exhibit high nest-site fidelity (CDFW 2016) and the Project may involve noise, groundwork, and movement of workers that could affect any nests that are present and potentially result in nest abandonment or other forms of reduced productivity. CDFW recommends that a qualified biologist conduct a habitat assessment for nest sites suitable for the species within the Project area and a 0.5-mile buffer, for a biological study report to be included with the EIR. CDFW recommends that the EIR describe protocol surveys to be conducted following the survey methods developed by the Swainson's Hawk Technical Advisory Committee (2000) within the nesting season immediately prior to Project activity in areas of suitable nesting habitat within the Project area and a 0.5-mile buffer. CDFW recommends maintaining a minimum no-disturbance buffer of 0.5 mile around active nests until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest site for survival. If an active Swainson's hawk nest is detected during surveys and a 0.5-mile buffer is not feasible, it is also recommended that consultation with CDFW occur for guidance on how to implement the Project and avoid take or to obtain an Incidental Take Permit, pursuant to Fish and Game Code section 2081, subdivision (b).

CDFW also recommends compensation for the loss of Swainson's hawk foraging habitat as described in the "Staff Report Regarding Mitigation for Impacts to Swainson's Hawks" (Staff Report) (CDFG 1994) to reduce impacts to foraging habitat to less than significant. The Staff Report recommends that mitigation for habitat loss occur within a minimum distance of 10 miles from known nest sites; CDFW has the following recommendations for the EIR:

- For projects within one mile of an active nest tree, a minimum of one acre of habitat management (HM) land for each acre of development is advised.
- For projects within five miles of an active nest but greater than one mile, a minimum of 0.75 acre of HM land for each acre of development is advised.
- For projects within 10 miles of an active nest tree but greater than five miles from an active nest tree, a minimum of 0.5 acre of HM land for each acre of development is advised.

## **Desert Tortoise**

The Project area is within the known geographic range of desert tortoise (CDFW 2023a). Desert tortoise is most common in desert scrub, desert wash, and Joshua tree habitats (CDFW 2018a). Based on aerial imagery, the Project alignments contain desert scrub communities. CDFW recommends that a qualified biologist conduct a desert tortoise habitat assessment, for a biological study report to be included with the EIR.

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Within areas of suitable habitat, CDFW recommends that the EIR require protocol surveys conducted following the United States Fish and Wildlife Service (2019) “Preparing for Any Action That May Occur Within the Range of the Desert Tortoise (*Gopherus agassizii*)” prior to the start of Project activity, with survey results submitted to CDFW prior to Project activity. If the surveys reveal the presence of desert tortoise, it is also recommended that consultation with CDFW occur for guidance on how to implement the Project and avoid take of the species or for guidance on obtaining an Incidental Take Permit, pursuant to Fish and Game Code section 2081, subdivision (b).

### **Crotch’s Bumble Bee**

Crotch’s bumble bee has been documented in the vicinity of the Project (CDFW 2023a). The species is known to inhabit areas of grasslands and scrub that contain requisite habitat elements for nesting, such as small mammal burrows and bunch or thatched grasses. Based on aerial imagery, the Project appears to contain habitat suitable to support Crotch’s bumble bee.

CDFW recommends that a qualified biologist conduct a habitat assessment for Crotch’s bumble bee for a biological study report to be included with the EIR. Foraging resources and potential nesting sites, which include all small mammal burrows, perennial bunch grasses, thatched annual grasses, brush piles, old bird nests, dead trees, and hollow logs are advised to be documented as part of the assessment. In areas of suitable habitat, CDFW recommends that the EIR require a qualified biologist to conduct a bumble bee survey using a protocol developed according to the CDFW (2023) “Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species,” to identify bumble bees and potential nesting sites during the vegetation blooming period prior to activities at Project sites. If any Crotch’s bumble bees or a nest are detected, CDFW advises consultation with CDFW to develop adequate take avoidance measures, and if a nest is observed at any time, avoidance would include protection for underground overwintering queens. If avoidance of take is not feasible, CDFW advises take authorization via an Incidental Take Permit, pursuant to Fish and Game Code section 2081, subdivision (b).

### **Burrowing Owl**

Burrowing owls have been documented to occur near the Project alignment (CDFW 2023a). Burrowing owls inhabit open grassland or adjacent canal banks, rights-of-way, vacant lots, and other landscape features containing small mammal burrows, a requisite habitat feature for nesting and cover. Burrowing owls rely on burrow habitat year-round for their survival and reproduction. Based on aerial photography, potential habitat occurs both within and bordering the Project alignment.

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CDFW recommends that a qualified biologist conduct a habitat assessment for burrowing owls, for a biological study report to be included with the EIR. In areas of suitable habitat, CDFW recommends that the EIR require presence/absence surveying for burrowing owl by a qualified biologist following the California Burrowing Owl Consortium (1993) "Burrowing Owl Survey Protocol and Mitigation Guidelines" and CDFW's "Staff Report on Burrowing Owl Mitigation" (CDFG 2012). If burrowing owls are detected, CDFW recommends no-disturbance buffers as outlined in the Staff Report on Burrowing Owl Mitigation during any ground-disturbing activities, as shown in the following table.

Location	Time of Year	Level of Disturbance		
		Low	Med	High
Nesting sites	April 1-Aug 15	200 m*	500 m	500 m
Nesting sites	Aug 16-Oct 15	200 m	200 m	500 m
Nesting sites	Oct 16-Mar 31	50 m	100 m	500 m

\* meters (m)

In the event that burrowing owls are found within these recommended buffers and avoidance is not possible, CDFW recommends that the EIR analyze the potentially significant impact of excluding owls from a burrow. CDFW recommends that any burrow exclusion be conducted by qualified biologists and only during the non-breeding season, before breeding behavior is exhibited and after the burrow is confirmed empty through non-invasive surveillance methods. CDFW also recommends replacement of occupied burrows with artificial burrows at a ratio of 1 burrow collapsed to 1 artificial burrow constructed (1:1) as mitigation for evicting owls.

### **Desert Kit Fox**

The Project is within the known geographic range of desert kit fox and this species is known to inhabit sparsely vegetated scrub habitats within the California desert that support small mammal populations (McGrew 1979). Based on aerial imagery, the Project area appears to have suitable habitat for desert kit fox denning and foraging.

Desert kit fox is protected under the California Code of Regulations, Chapter 5, Section 460, which prohibits take of the species for any reason. CDFW recommends that a qualified biologist conduct a desert kit fox habitat assessment for the Project area, for a biological study report to be included with the EIR. In areas of suitable habitat, CDFW recommends that the EIR prescribe focused field surveys for the species and any sign, such as potential dens, prior to the start of Project activity. If any individuals or any active or potential dens are found, CDFW recommends consultation with CDFW for guidance on take avoidance measures for desert kit fox.

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### **Special Status and Other Bat Species**

The Project area is within the known geographic range of Townsend's big-eared bat, pallid bat, and spotted bat, and suitable habitat may be present for these species within the Project alignment (CDFW 2023a). CDFW recommends that a qualified biologist conduct a habitat assessment for day-roosting roosting bats in areas that could be impacted by Project activities, for a biological study report to be included with the EIR. CDFW recommends that for any suitable roosting sites, the EIR prescribe development of a robust study design by a qualified biologist to survey for bats. If roosting bats are found, CDFW recommends avoidance of occupied roosts, and consultation with CDFW for guidance on eviction of bats, if roost structures cannot be avoided, while avoiding nursery/maternal roosts where dependent young could be present.

### **Other Special Status Animal Species**

The Project is within the known geographic range of American badger, Tulare grasshopper mouse, coast horned lizard, Southern Sierra legless lizard, and northern California legless lizard. Suitable habitat may be present for these species within the habitat located within the Project (CDFW 2023a). CDFW recommends that a qualified biologist conduct a habitat assessment for these species, for a biological study report to include with the EIR. If potential habitat is present, CDFW recommends that the EIR direct a qualified biologist to conduct focused surveys for applicable species and their requisite habitat features to evaluate potential Project impacts, and describe avoidance, minimization, and mitigation as warranted to address potentially significant impacts.

### **Western Joshua Tree**

The Project is within the known geographic range of western Joshua tree, and the Project area provides habitat that is suitable for the species. CDFW recommends that a qualified botanist conduct focused surveys to identify the locations, number, and health of individuals as part of the biological technical studies conducted in support of the EIR. If any western Joshua trees are identified at any time, CDFW recommends that the EIR require a 290-foot no-disturbance buffer, which is warranted to avoid impacts to individual trees as well as potential impacts to the seed bank. Vander Wall et al. (2006) documented 290 feet as the maximum distance of seed dispersal when carried by rodents. If 290-foot buffers cannot be maintained to avoid trees and seeds, consultation with CDFW would be warranted regarding take authorization as allowed under CESA or the Western Joshua Tree Conservation Act.

### **Other Special-Status Plant Species**

Other plants listed pursuant to federal Endangered Species Act, CESA, and the Native Plant Protection Act, as well as other special status plants, may also occur in the Project



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area. Special-status plant species are threatened with habitat loss and habitat fragmentation resulting from development, vehicle and foot traffic, and introduction of non-native plant species (CNPS 2023). The Project has the potential to significantly impact populations of the species mentioned above if present.

CDFW recommends that a qualified botanist conduct a habitat assessment for special-status plant species, for a biological study report to include with the EIR. If suitable habitat is present, CDFW recommends that the EIR prescribe individual Project sites to be surveyed for special-status plants by a qualified botanist following the “Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities” (CDFW 2018b) during the blooming season prior to Project activities. If non-listed special-status plants are detected, CDFW recommends that they be avoided using a no-disturbance buffer of at least 50 feet from the outer edge of the plant population(s) or specific habitat type(s) required by special-status plant species. If buffers cannot be maintained, consultation with CDFW is recommended to determine appropriate minimization or mitigation measures. If a State-listed plant species is identified during botanical surveys, consultation with CDFW would be warranted to determine if the Project can avoid take or to obtain take authorization under CESA or Fish and Game Code section 1900 and California Code of Regulations, title 14, section 786.9, subdivision (b).

## **EDITORIAL COMMENTS AND/OR SUGGESTIONS**

**Impacts to CDFW Lands:** The NOP states that the Project would traverse two properties within the CDFW Fremont Valley Ecological Reserve. The NOP also mentions construction of the pipeline within the right-of way of certain roads but not all roads along the installation alignments. It is therefore not clear from the materials provided where work would occur relative to the Fremont Valley Ecological Reserve, which supports both Mohave ground squirrel and desert tortoise and is managed by CDFW for the protection of these and many other special status species.

California Code of Regulations, Title 14, section 630 states “All ecological reserves are maintained for the primary purpose of developing a statewide program for protection of rare, threatened, or endangered native plants, wildlife, aquatic organisms, and specialized terrestrial or aquatic habitat types” and therefore, public access on these lands is restricted. CDFW requests that the EIR clearly describe the locations of pipeline installation or other Project activity that is proposed on or adjacent to the properties, in addition to the details of any right-of-way or an easement that may exist on CDFW properties in the Project alignment. Absent an existing easement, encroachment onto the Fremont Valley Ecological Reserve would not be allowed. Ongoing coordination with CDFW is necessary to address the Project alignment and work areas.

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**Water Rights:** The NOP describes the importation of up to 6,431 acre-feet per year of water from the Antelope Valley-East Kern Water Agency California City Feeder pipeline but does not provide more specific information about the water. CDFW recommends that the EIR discuss the source of the water, including whether it is currently unallocated stream flow or if the Antelope Valley-East Kern Water Agency or another entity already possesses a water right. CDFW recommends providing a detailed description of all water rights and water entitlements that would pertain to the Project, including any applications or change petitions that may be filed to transfer water. If a new water allocation would occur specifically for transfer to the Indian Wells Valley Groundwater Agency, CDFW recommends that the EIR also include an analysis of the impacts of diverting currently unallocated flows, including such details for the point(s) of diversion as a hydrologic study, water availability analysis, and other information that identifies and analyzes the impacts to aquatic ecosystems and fish and wildlife resources.

As Trustee Agency, CEQA is consulted by the SWRCB during the water rights process to provide terms and conditions designed to protect fish and wildlife prior to appropriation of the State's water resources. Given the potential for impacts to special status species and their habitats, it is advised that details be disclosed during the CEQA process and that required consultation with CDFW occur well in advance of any SWRCB water right application process.

**Sustainable Groundwater Management Act (SGMA) and Groundwater Dependent Ecosystems:** Many sensitive ecosystems and public trust resources such as streams, springs, riparian areas, and wetlands are dependent on groundwater and interconnected surface waters. The Project boundary overlaps the boundary for the Indian Wells Valley Groundwater Basin (Basin No. 6-054). A Groundwater Sustainability Plan (GSP) was prepared for the Indian Wells Valley Groundwater Basin by the Indian Wells Valley Groundwater Authority and approved by the Department of Water Resources on January 13, 2022. The Indian Wells Valley Groundwater Basin is listed as critically overdrafted and designated a high priority Basin by the Department of Water Resources. The Department of Water Resources mentioned in its approval of the Indian Wells Groundwater Authority GSP that the GSP does not propose to end overdraft during the initial 20-year planning period or the 50-year planning horizon. CDFW recommends that the EIR detail how the Project will address and correct overdraft conditions for the groundwater basin and how this will affect groundwater dependent ecosystems.

**Lake and Streambed Alteration:** Based on aerial imagery, the Project area contains multiple streams and drainages, and the NOP estimates 15 pipeline installation crossings of ephemeral streams. CDFW recommends that the EIR include mapping and describe the methodology used in determining the extent of all streams in the Project area. Jurisdictional activities are subject to CDFW's authority pursuant to Fish and Game Code section 1600 et seq. Fish and Game Code section 1602 requires an entity

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to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake (including the removal of riparian vegetation); (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral, intermittent, or episodic, as well as those that are perennial, regardless of the duration, frequency, or volume of flow.

CDFW is required to comply with CEQA in the issuance of a Lake or Streambed Alteration Agreement; therefore, if the CEQA document approved for the Project does not adequately describe the Project and its impacts to lakes or streams, a subsequent CEQA analysis may be necessary for a Lake or Streambed Alteration Agreement issuance. For information on notification requirements, please refer to CDFW's website (<https://wildlife.ca.gov/Conservation/LSA>) or contact CDFW staff in the Central Region Lake and Streambed Alteration Program at (559) 243-4593 or [R4LSA@wildlife.ca.gov](mailto:R4LSA@wildlife.ca.gov).

**California Natural Diversity Database (CNDDDB):** Please note that the CNDDDB is populated by and records voluntary submissions of species detections. As a result, species may be present in locations not depicted in the CNDDDB but where there is suitable habitat and features capable of supporting species. A lack of an occurrence record in the CNDDDB does not mean that a species is not present. In order to adequately assess any potential Project-related impacts to biological resources, surveys conducted by a qualified biologist during the appropriate survey period(s) and using the appropriate protocol survey methodology are warranted in order to determine whether or not any special status species are present.

**Wildlife Movement and Connectivity:** The Project area supports significant biological resources and contains habitat connections and migratory pathways for many wildlife species. The Project area supports movement across the broader landscape, sustaining both transitory, migratory, and permanent wildlife populations. CDFW recommends that on-site features that contribute to habitat connectivity should be evaluated and maintained, and that aspects of the Project that could create physical barriers to wildlife movement and migration, including direct or indirect Project-related activities, be identified and addressed in the EIR.

**Project Alternatives Analysis:** CDFW recommends that the information and results obtained from the biological technical surveys, studies, and analyses conducted in support of the EIR be used to develop and modify the Project's alternatives to avoid and minimize impacts to biological resources to the maximum extent possible. When efforts to avoid and minimize have been exhausted, remaining impacts to sensitive biological resources may need to be mitigated to reduce impacts to a less than significant level, if feasible.

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**Cumulative Impacts:** CDFW recommends that a cumulative impact analysis be conducted for all biological resources that will either be significantly or potentially significantly impacted by implementation of the Project, including those whose impacts are determined to be less than significant with mitigation incorporated or for those resources that are rare or in poor or declining condition and will be impacted by the Project, even if those impacts are relatively small (i.e., less than significant). CDFW recommends that cumulative impacts be analyzed using an acceptable methodology to evaluate the impacts of past, present, and reasonably foreseeable future projects on resources and be focused specifically on the resource, not the Project. An appropriate resource study area identified and utilized for this analysis is advised. CDFW staff is available for consultation in support of cumulative impacts analyses as a trustee and responsible agency under CEQA.

**Federally Listed Species:** CDFW recommends consulting with the USFWS on potential impacts to federally listed species, including but not limited to desert tortoise. Take under the federal Endangered Species Act (FESA) is more broadly defined than CESA; take under FESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS in order to comply with FESA is advised well in advance of any ground-disturbing activities.

**Nesting birds:** CDFW encourages that Project implementation occur outside the bird nesting season; however, if ground-disturbing or vegetation-disturbing activities must occur during the breeding season of February through mid-September, the Project applicant is responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Codes as referenced above.

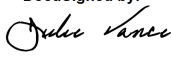
To evaluate Project-related impacts on nesting birds, CDFW recommends that a qualified wildlife biologist conduct pre-activity surveys for active nests no more than 10 days prior to the start of ground or vegetation disturbance to maximize the probability that nests that could potentially be impacted are detected. CDFW also recommends that surveys cover a sufficient area around the Project site to identify nests and determine their status. A sufficient area means any area potentially affected by the Project. In addition to direct impacts (i.e. nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. Prior to initiation of construction activities, CDFW recommends that a qualified biologist conduct a survey to establish a behavioral baseline of all identified nests. Once construction begins, CDFW recommends having a qualified biologist continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends halting the work causing that change and consulting with CDFW for additional avoidance and minimization measures.

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If continuous monitoring of identified nests by a qualified wildlife biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or on-site parental care for survival. Variance from these no-disturbance buffers is possible when there is compelling biological or ecological reason to do so, such as when the construction area would be concealed from a nest site by topography. CDFW recommends that a qualified wildlife biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

CDFW appreciates the opportunity to comment on the NOP to assist the Indian Wells Valley Groundwater Agency in identifying and mitigating Project impacts to biological resources. If you have any questions, please contact Annette Tenneboe, Senior Environmental Scientist Specialist, at (559) 580-3202 or by email at [Annette.Tenneboe@wildlife.ca.gov](mailto:Annette.Tenneboe@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
FAB3F09FE08945A  
Julie A. Vance  
Regional Manager

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