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 DEPARTMENT OF FISH AND WILDLIFE  
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GAVIN NEWSOM, Governor  
 CHARLTON H. BONHAM, Director



September 19, 2023  
 Sent via email

William Patterson  
 Environmental Supervisor  
 Coachella Valley Water District  
 75-515 Hovley Lane East  
 Palm Desert, CA 92211

Water Reclamation Plant No. 7 Phase 1 Non-Potable Water Improvements (PROJECT)  
 Mitigated Negative Declaration (MND)  
 SCH# 2023080439

Dear William Patterson:

The California Department of Fish and Wildlife (CDFW) received a Mitigated Negative Declaration (MND) from the Coachella Valley Water District (CVWD) for the Project pursuant to 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.

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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.

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:** Coachella Valley Water District

**Objective:** The Project proposes improvements to the existing tertiary treatment plant processes and an existing canal pump station at WRP 7. The Project would reduce the usage of non-potable water (NPW) from the Coachella Canal by generating additional recycled water (RW). The WRP 7 Tertiary Treatment Improvements and MP 113.2 Pump Station Rehabilitation Project includes the following upgrades:

- Retrofit the existing dual media filter basins with cloth disk filters to improve tertiary treatment to match the rated capacity of the plant within the same footprint.
- Construct a low-pressure ultraviolet (UV) system with 12 lamps and 2 channels (100 ml/cm<sup>2</sup>) to match the rated capacity of the plant in accordance with Title 22 regulations, in an enclosed 44-foot by 61-foot building and with an electrical building to substitute use of chlorine gas.
- Abandon the existing chlorine gas system and maintain the existing chlorine contact basin for potential future use by operations for effluent/backwash holding.
- Upgrade of the existing systems associated with the tertiary process includes the in-kind replacement of the following:
  - Secondary effluent flocculation system.
  - Tertiary process chemical feed systems, including sodium hypochlorite storage in fiber reinforced plastic-coated steel tanks. Includes replacement of existing feed pumps for additional capacity due to increased tertiary flows and feed piping.
  - In-plant secondary effluent, and NPW delivery pumping systems capacity increase for a 5.5 MGD system (2.5 MGD existing).
  - Tertiary Process electrical motor control centers (MCCs). A new electrical control building would house existing and new components.

CVWD is also replacing the aged infrastructure at canal water delivery pump station MP 113.2 as part of this Project. To maintain the current capacity of the pump station, the two existing pumps and MCC's are being replaced with pumps that are more efficient and drives requiring less horsepower. The motors would be approximately 10 percent more efficient, and horsepower (HP) would be reduced from 150-HP to 100-HP per pump. A third pump is being added to allow operations to perform routine maintenance

while maintaining facility capacity in a typical two-duty and one-standby configuration. All improvements to the pump station are within the existing MP 113.2 site located on the southwest corner of the Madison Street and Avenue 40 intersection.

The Proposed Project would also install approximately 2,500 linear feet of NPW pipeline to connect Young's Farmland to the existing NPW pipeline on Avenue 38. Young's Farmland currently uses groundwater for irrigation. The Project would convert the primary irrigation source from groundwater to recycled water. The Young's Farmland NPW pipeline would be installed within the right-of-way of Jefferson Street and on Young's Farmland property (APN 691-060-010, 691-050-010, and 691-050-012).

**Location:** The proposed Project area includes the northwest portion of CVWD's Water Reclamation Plant (WRP) 7, located south of Avenue 38 along Madison Street in the City of Indio in Riverside County, California. The Mile Post (MP) 113.2 pump station is located on the southwest corner of the Madison Street and Avenue 40 intersection. The proposed pipeline would be located in the existing roadway of Jefferson Street and on private property north of Young Way. The Project Area includes seven parcels: APNs 691-100-029 and 691-100-030, which are located south of Avenue 38, north of Lindy Lane, west of Madison Street, and east of Burr Street; APN 691-180-006, which is south of Avenue 40 and west of Madison Street, adjacent to the canal; APN 691-050-021, which is at the western end of Young's Way; and APNs 691-060-010, 691-050-010, and 691-050-012, the Young's Farmland property.

**Timeframe:** The MND indicates that construction would begin in June 2024, last approximately 18 months, reach substantial completion in 2025, and that the new systems would be online in late 2025.

## **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 CVWD in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. CDFW's comments and recommendations on the MND are explained in greater detail below and summarized here. CDFW is concerned that the MND does not adequately identify or mitigate the Project's significant, or potentially significant, impacts to biological resources.

### Mitigation Measures

CEQA requires that an MND include mitigation measures to avoid or reduce significant impacts. CDFW is concerned that the mitigation measures proposed in the MND are not adequate to avoid or reduce impacts to biological resources to below a level of

significance. To support the CVWD in ensuring that Project impacts to biological resources are reduced to less than significant, CDFW recommends revising the mitigation measures for nesting birds and nighttime work avoidance, replacing and revising mitigation measures for bats, and replacing measures for burrowing owl.

### **1) Nesting Birds**

It is the Project proponent's responsibility to comply with all applicable laws related to nesting birds and birds of prey. Fish and Game Code sections 3503, 3503.5, and 3513 afford protective measures as follows: section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.).

Page 4-31 of the MND indicates that "the Study Area has the potential to support various avian species and raptor nests due to the presence of existing structures, shrubs, and trees onsite. Active bird nests were identified within the Project Area during the biological survey including an active red-tailed hawk nest located in a communications tower and greater than 100 active cliff swallow nests located underneath an overhang of a concrete building." The MND includes Mitigation Measure BIO-5 for nesting birds, which indicates that "if activities with the potential to disrupt nesting birds are scheduled to occur during the bird breeding season (January 1 through July 31 for raptors and March 1 through September 15 for songbirds), a pre-construction nesting bird survey shall be conducted by a qualified biologist within the project area and adjacent areas where project activities have the potential to cause nest failure." Conducting work outside the peak breeding season is an important avoidance and minimization measure. However, CDFW also recommends the completion of nesting bird surveys *regardless* of the time of year to ensure that impacts are avoided or reduced to a level that is less than significant. The timing of the nesting season varies greatly depending on several factors, such as bird species, weather conditions in any given year, and long-term climate changes (e.g., drought, warming, etc.). In response to warming, birds have been reported to breed earlier, thereby reducing temperatures that nests are exposed to during breeding and tracking shifts in availability of resources

(Socolar et al., 2017<sup>2</sup>). CDFW staff have observed that climate change conditions may result in the nesting bird season occurring earlier and later in the year than historical nesting season dates. CDFW recommends that disturbance of occupied nests of migratory birds and raptors within the Project site and surrounding area be avoided **any time birds are nesting on-site**. CDFW considers the Mitigation Measure BIO-5 to be insufficient in scope and timing to reduce impacts to nesting birds to less than significant. CDFW recommends the CVWD revise Mitigation Measure BIO-5, with additions in **bold** and removals in ~~strikethrough~~:

### **Mitigation Measure BIO-5: Nesting Birds**

Construction activities of projects shall be conducted **outside of the peak breeding** during the ~~non-breeding~~ season for birds (September 16 through December 31). ~~This will avoid violations of the MBTA and CFGC Sections 3503, 3503.5 and 3513.~~  
**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 activities with the potential to disrupt nesting birds are scheduled to occur during the bird breeding season (January 1 through July 31 for raptors and March 1 through September 15 for songbirds), a pre-construction nesting bird survey shall be conducted by a qualified biologist within the project area and adjacent areas where project activities have the potential to cause nest failure. If no nesting birds are observed during the survey, implementation of project activities may begin. If nesting birds (including**

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<sup>2</sup> Socolar JB, Epanchin PN, Beissinger SR and Tingley MW (2017). Phenological shifts conserve thermal niches. Proceedings of the National Academy of Sciences 114(49): 12976-12981.

~~nesting raptors) are found to be present, then avoidance or minimization measures shall be undertaken in consultation with CDFW. Measures shall include establishment of an avoidance buffer until nesting has been completed. The width of the buffer will be determined by the biologist in consultation with CDFW. Typically, this is a minimum of 300 feet from the nest site in all directions (500 feet is typically recommended by CDFW for raptors), until the juveniles have fledged and there has been no evidence of a second attempt at nesting.~~

Pursuant to the CEQA Guidelines, section 15097(f), CDFW has prepared a draft mitigation monitoring and reporting program (MMRP) for revised MM BIO-5, MM BIO-PS-3 and MM BIO-PS-4 and recommended replacement of MM BIO-3, MM BIO-PS-1, MM BIO-PS-2, and MM BIO-PS-5 discussed below (see Attachment 1).

## **2) *Burrowing Owl***

Burrowing owl (*Athene cunicularia*) is a California Species of Special Concern. Take of individual burrowing owls and their nests is defined by Fish and Game Code section 86, and prohibited by sections 3503, 3503.5, and 3513. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.). Take is defined in Fish and Game Code section 86 as “hunt, pursue, catch, capture or kill, or attempt to hunt, pursue, catch, capture or kill.”

Page 4-31 of the MND indicates that “one burrowing owl was observed within the Project Area at a burrow located on the wall of one of the water basins (Figure 6). Burrowing owl sign in the form of whitewash was present at the burrow entrance. Additionally, the Project Area contains suitable habitat, and multiple suitable size burrows were observed during the biological survey. The areas in the vicinity could also provide suitable foraging habitat as well as breeding habitat for burrowing owl.” Although the MND includes Mitigation Measures BIO-3 and BIO-PS-1 for burrowing owl, CDFW considers these measures to be inadequate in scope and timing to reduce impacts to less than significant. CDFW recommends that CVWD replace Mitigation Measures BIO-3 and BIO-PS-1, with the following mitigation measure:

### **Mitigation Measure BIO-3: Burrowing Owl Avoidance**

**Suitable burrowing owl habitat, suitable burrows, and a burrowing owl have been confirmed on the site; therefore, focused burrowing owl surveys shall be conducted by a qualified biologist according to the *Staff Report on Burrowing Owl Mitigation* (Department of Fish and Game, March 2012 or most recent version). If burrowing owls are detected during the focused surveys, the qualified biologist and Project proponent shall prepare a Burrowing Owl Plan that shall be submitted to CDFW for review and approval prior to commencing Project**

**activities. The Burrowing Owl Plan shall describe proposed avoidance, minimization, mitigation, and monitoring actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites, acres of burrowing owl habitat that will be impacted, details of site monitoring, and details on proposed buffers and other avoidance measures if avoidance is proposed. If impacts to occupied burrowing owl habitat or burrow cannot be avoided, the Burrowing Owl Plan shall also describe minimization and relocation actions that will be implemented. Proposed implementation of burrow exclusion and closure should only be considered as a last resort, after all other options have been evaluated as exclusion is not in itself an avoidance, minimization, or mitigation method and has the possibility to result in take. If impacts to occupied burrows cannot be avoided, information shall be provided regarding adjacent or nearby suitable habitat available to owls along with proposed relocation actions. The 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 prepare a Burrowing Owl Plan that shall be submitted to CDFW and USFWS for review and approval prior to commencing Project activities.**

### **3) Bats**

Page 4-33 of the MND indicates that the “Project Area and adjacent area has the potential to support two special-status bat species due to the presence of existing structures and tree species (i.e., palm trees with intact thatch). These bat species include western mastiff bat and western yellow bat. Western mastiff bat is primarily a cliff-dwelling species; however, it can also be found roosting in crevices such as those found on man-made structures such as buildings. Western yellow bat is a foliage-roosting species that is known to roost in native and non-native palm trees and other broadleaf trees.” The MND includes Mitigation Measures BIO-PS-2 (Pre-construction Bat Surveys) and BIO-PS-5 (Tree Avoidance and Removal Process). While these mitigation measures include important components to avoid and minimization impacts to bats, they lack protection for bats using the Project Area and adjacent areas as hibernacula (where one or more bats hibernate in the winter), and CDFW considers these measures to be inadequate in scope and timing to reduce impacts to less than

significant. CDFW recommends replacing Mitigation Measure BIO-PS-2 with the following mitigation measure:

**Mitigation Measure BIO-PS-2: Surveys for Daytime, Nighttime, Wintering (Hibernacula), and Maternity Roosting Sites for Bats**

**Prior to the initiation of Project activities within suitable bat roosting habitat, the Project proponent shall retain a qualified biologist to conduct focused surveys to determine presence of daytime, nighttime, wintering (hibernacula), and maternity roost sites. Two spring surveys (April through June) and two winter surveys (November through January) shall be performed by qualified biologists. Surveys shall be conducted during favorable weather conditions only. Each survey shall consist of one dusk emergence survey (start one hour before sunset and last for three hours), followed by one pre-dawn re-entry survey (start one hour before sunrise and last for two hours), and one daytime visual inspection of all potential roosting habitat on the Project site. Surveys shall be conducted within one 24-hour period. Visual inspections shall focus on the identification of bat sign (i.e., individuals, guano, urine staining, corpses, feeding remains, scratch marks and bats squeaking and chattering). Bat detectors, bat call analysis, and visual observation shall be used during all dusk emergence and pre-dawn re-entry surveys.**

**If active hibernacula or maternity roosts are identified in the work area or 500 feet extending from the work area during preconstruction surveys, for maternity roosts, Project construction will only occur between October 1 and February 28, outside of the maternity roosting season when young bats are present but are not yet ready to fly out of the roost. Maternity roosts shall not be evicted, excluded, removed, or disturbed. A minimum 500-foot no-work buffer shall be provided around wintering roosts (hibernacula). The buffer shall not be reduced. Project-related construction and activities shall not occur within 500 feet of or directly under or adjacent to hibernacula. Buffers shall be left in place until the end of Project construction and activities or until a qualified bat biologist determines that the hibernacula are no longer active. Project-related construction and activities shall not occur between 30 minutes before sunset and 30 minutes after sunrise. Hibernacula roosts shall not be evicted, excluded, removed, or disturbed. If avoidance of a hibernacula is not feasible, the Project Biologist will prepare a relocation plan to remove the hibernacula and provide for construction of an alternative bat roost outside of the work area. A bat roost relocation plan shall be submitted for CDFW review and approval prior to construction activities. The qualified biologist will implement the relocation plan and new roost sites shall be in place before the commencement of any ground-disturbing activities that will occur within 500 feet of the hibernacula. New roost sites shall be in place prior to the initiation of Project-related activities to allow enough time for bats to**



**relocate. Removal of roosts will be guided by accepted exclusion and deterrent techniques. The Project proponent shall compensate no less than 2:1 for permanent impacts to roosting habitat.**

Additionally, to minimize impacts of tree removal, relocation, or maintenance work on bats hibernating or entering torpor over different periods during the winter, CDFW recommends that Mitigation Measure BIO-PS-5 (Tree Avoidance and Removal Process) is replaced with following measure:

#### **Mitigation Measure BIO-PS-5: Avoidance of Bats during Tree Removal**

**Tree removal work with the potential to house roosting bats shall be performed between September 15 and October 31 to minimize direct impacts to roosting bats. This time period is after young are volant (flying) but before expected onset of torpor (wintering inactivity). Tree removal, relocation, or maintenance work may also be conducted between February 15 and March 31, following winter torpor and prior to the start of the maternity season. No tree removals, relocations, or maintenance shall occur during the hibernation season, which typically begins in November or December (depending on weather conditions) and continues through mid-February, due to the high potential for mortality of hibernating bats. Depending on weather conditions and the best professional judgement of a qualified bat biologist approved by CDFW, tree removal, relocation, or maintenance work may be performed in November if the forecasted nighttime low temperatures on the evening of removal and the subsequent four evenings do not drop below 45°F. In November, if weather is cold (i.e., forecasted nighttime low temperatures reach 45°F or less for that evening and the next four evenings), then no tree removals, relocations, or maintenance shall be performed. All tree removals shall require a two-step removal process and the involvement of a CDFW-approved qualified bat biologist to ensure that no roosting bats are killed during this activity. The following two-step tree removal process shall be implemented over two consecutive days: on Day 1, live palm fronds located above the frond skirt, and as identified by a qualified bat biologist, will be removed. On Day 2, the remainder of the tree may be removed without supervision by a qualified bat biologist.**

Additionally, to address impacts to bats using mud nests constructed by cliff swallows, the MND includes Mitigation Measure BIO-PS-4 (Cliff Swallow Nest Avoidance). While this measure includes important avoidance and minimization measures to protect bats using mud nests, CDFW recommends that additional avoidance and minimization measures are included to support the Project proponent in reducing impacts to a level that is less than significant. CDFW recommends that Mitigation Measure BIO-PS-4 is revised with the following additions in **bold**:

Mitigation Measure BIO-PS-4: Cliff Swallow Nest Avoidance

Some bat species may roost in cliff swallow nests at any time of year. The removal of cliff swallow nests shall be avoided to the greatest extent feasible. If cliff swallow nests must be removed, **prior to removal they should first be observed to confirm that cliff swallows are not using the nests in accordance with Mitigation Measure BIO-5. To avoid impacts to bats, each nest should be inspected by a CDFW-approved bat biologist experienced in inspecting mud nests, with a borescope inspection camera or similar device, which requires a Scientific Collecting Permit. If the qualified biologist, while inspecting mud nests, detects bats using mud nests as roosting habitat, the mud nests will not be disturbed while bats are present. Mud nests used by bats may be inspected by a qualified bat biologist and removed at night (i.e., beginning approximately 1.5 hours after sunset to avoid disrupting the emergence) when bats typically leave the roost to forage. Only the qualified biologist may remove mud nests. be removed by, or under the direct supervision of a CDFW-approved bat biologist with a Scientific Collecting Permit from CDFW to handle bats, and in such a way that the nest is kept intact and not dropped to the ground until it can be inspected by the biologist.** Swallow nest removal shall follow the guidance provided by the California Bat Working Group (CBWG) Bats in Swallow Nests resource (CBWG 2022). **Specific avoidance and minimization measure shall include, but are not limited to, performing mud-nest inspections and removals between September 15 and October 31, after young are volant but before expected onset of seasonal torpor; removing previously occupied nests only if that night's weather conditions exclude severe winds, precipitation, or nighttime temperatures below 45 degrees Fahrenheit; and avoiding removals during the hibernation season, which typically begins in November or December depending on weather conditions and continues through mid-February.**

#### **4) *Nighttime Work Avoidance***

Mitigation Measure BIO-PS-3 (Nighttime Work Avoidance) in the MND infers that Project construction work may be carried out at night. Mitigation Measure BIO-PS-3 includes important components to avoid and minimize impacts on bats and other wildlife; however, CDFW considers these measures to be insufficient in scope and timing to reduce impacts to less than significant. CDFW recommends revising Mitigation Measure BIO-PS-3 with the following additions in **bold**:

#### **Mitigation Measure BIO-PS-3: Nighttime Work Avoidance**

Avoid night work at all structures where night roosting has been identified. If avoiding night work is impossible, further minimization measures such as those listed below will be necessary.

- a) Night lighting shall be used only on areas actively being worked on and focused on the direct area of work.

- b) Airspace access to and from the roost features of the structure shall not be obstructed except in direct work areas.
- c) To the extent practicable, internal combustion equipment such as generators and vehicles are not to be parked or operated beneath or adjacent to the potential roosting structures unless they are required for Project-related work on that structure.
- d) Construction personnel shall not be present in non-active areas beneath the structures or vegetation designated as bat roosting habitat.
- e) Project construction activities shall avoid the period of 1.5 hours prior to dawn and the period of 1.5 hours after dusk when bats and many nocturnal and crepuscular wildlife species are most active.**

## **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.)

## **CONCLUSIONS**

CDFW appreciates the opportunity to comment on the MND to assist the CVWD in identifying and mitigating Project impacts to biological resources. CDFW concludes that the MND does not adequately identify or mitigate the Project's significant, or potentially significant, impacts to biological resources. CDFW also recommends that revised mitigation measures as described in this letter be added to a revised MND.

William Patterson, Environmental Supervisor  
Coachella Valley Water District  
September 19, 2023  
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CDFW personnel are available for consultation regarding biological resources and strategies to avoid and minimize impacts. Questions regarding this letter or further coordination should be directed to Jacob Skaggs, Environmental Scientist, at [jacob.skaggs@wildlife.ca.gov](mailto:jacob.skaggs@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
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Kim Freeburn  
Environmental Program Manager

**Attachment 1:** MMRP for CDFW-Proposed Mitigation Measures

ec:

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**ATTACHMENT 1: MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)**

Mitigation Measures	Timing and Methods	Responsible Parties
<p><b>Mitigation Measure BIO-5: Nesting Birds</b></p> <p>Construction activities of projects shall be conducted outside of the peak breeding season for birds (September 16 through December 31). 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><b>Timing:</b> No more than 3 days prior to vegetation removal or ground-disturbing activities.</p> <p><b>Methods:</b> See Mitigation Measure</p>	<p><b>Implementation:</b> Coachella Valley Water District</p> <p><b>Monitoring and Reporting:</b> Coachella Valley Water District</p>
<p><b>Mitigation Measure BIO-3: Burrowing Owl Avoidance</b></p> <p>Suitable burrowing owl habitat, suitable burrows, and a burrowing owl have been confirmed on the site; therefore, focused burrowing owl surveys shall be conducted by a qualified biologist according to the <i>Staff Report on Burrowing Owl Mitigation</i> (Department of Fish and Game, March 2012 or most recent version). If burrowing owls are detected during the focused surveys, the qualified biologist and</p>	<p><b>Timing: Focused surveys:</b> Prior to vegetation removal or ground-disturbing activities. <b>Pre-construction surveys:</b> No less than 14 days prior to start of Project-</p>	<p><b>Implementation:</b> Coachella Valley Water District</p> <p><b>Monitoring and Reporting:</b> Coachella Valley Water District</p>

<p>Project proponent shall prepare a Burrowing Owl Plan that shall be submitted to CDFW for review and approval prior to commencing Project activities. The Burrowing Owl Plan shall describe proposed avoidance, minimization, mitigation, and monitoring actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites, acres of burrowing owl habitat that will be impacted, details of site monitoring, and details on proposed buffers and other avoidance measures if avoidance is proposed. If impacts to occupied burrowing owl habitat or burrow cannot be avoided, the Burrowing Owl Plan shall also describe minimization and relocation actions that will be implemented. Proposed implementation of burrow exclusion and closure should only be considered as a last resort, after all other options have been evaluated as exclusion is not in itself an avoidance, minimization, or mitigation method and has the possibility to result in take. If impacts to occupied burrows cannot be avoided, information shall be provided regarding adjacent or nearby suitable habitat available to owls along with proposed relocation actions. The 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 prepare a Burrowing Owl Plan that shall be submitted to CDFW and USFWS for review and approval prior to commencing Project activities.</p>	<p>related activities and within 24 hours prior to ground disturbance.</p> <p><b>Methods:</b> See Mitigation Measure</p>	
<p><b>Mitigation Measure BIO-PS-2: Surveys for Daytime, Nighttime, Wintering (Hibernacula), and Maternity Roosting Sites for Bats</b></p> <p>Prior to the initiation of Project activities within suitable bat roosting habitat, the Project proponent shall retain a qualified biologist to conduct focused surveys to determine presence of daytime, nighttime, wintering (hibernacula), and maternity roost sites.</p>	<p><b>Timing:</b> Prior to initiation of Project activities</p> <p><b>Methods:</b> See Mitigation Measure</p>	<p><b>Implementation:</b> Coachella Valley Water District</p> <p><b>Monitoring and Reporting:</b> Coachella Valley Water District</p>

<p><b>Two spring surveys (April through June) and two winter surveys (November through January) shall be performed by qualified biologists. Surveys shall be conducted during favorable weather conditions only. Each survey shall consist of one dusk emergence survey (start one hour before sunset and last for three hours), followed by one pre-dawn re-entry survey (start one hour before sunrise and last for two hours), and one daytime visual inspection of all potential roosting habitat on the Project site. Surveys shall be conducted within one 24-hour period. Visual inspections shall focus on the identification of bat sign (i.e., individuals, guano, urine staining, corpses, feeding remains, scratch marks and bats squeaking and chattering). Bat detectors, bat call analysis, and visual observation shall be used during all dusk emergence and pre-dawn re-entry surveys.</b></p> <p><b>If active hibernacula or maternity roosts are identified in the work area or 500 feet extending from the work area during preconstruction surveys, for maternity roosts, Project construction will only occur between October 1 and February 28, outside of the maternity roosting season when young bats are present but are not yet ready to fly out of the roost. Maternity roosts shall not be evicted, excluded, removed, or disturbed. A minimum 500-foot no-work buffer shall be provided around wintering roosts (hibernacula). The buffer shall not be reduced. Project-related construction and activities shall not occur within 500 feet of or directly under or adjacent to hibernacula. Buffers shall be left in place until the end of Project construction and activities or until a qualified bat biologist determines that the hibernacula are no longer active. Project-related construction and activities shall not occur between 30 minutes before sunset and 30 minutes after sunrise. Hibernacula roosts shall not be evicted, excluded, removed, or disturbed. If avoidance of a hibernacula is not feasible, the Project Biologist will prepare a relocation plan to remove the hibernacula and provide for construction of an alternative bat roost outside of the work area. A bat roost relocation plan shall be submitted for CDFW review and approval prior to construction activities. The qualified biologist will implement the relocation plan and new roost sites shall be in place before the commencement of any ground-disturbing activities that will occur within 500 feet of the hibernacula. New roost sites shall be in place prior to the initiation of Project-related activities to allow enough time for bats to relocate. Removal of roosts will be guided by accepted</b></p>		
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<p>exclusion and deterrent techniques. The Project proponent shall compensate no less than 2:1 for permanent impacts to roosting habitat.</p>		
<p><b>Mitigation Measure BIO-PS-5: Avoidance of Bats during Tree Removal</b></p> <p>Tree removal work with the potential to house roosting bats shall be performed between September 15 and October 31 to minimize direct impacts to roosting bats. This time period is after young are volant (flying) but before expected onset of torpor (wintering inactivity). Tree removal, relocation, or maintenance work may also be conducted between February 15 and March 31, following winter torpor and prior to the start of the maternity season. No tree removals, relocations, or maintenance shall occur during the hibernation season, which typically begins in November or December (depending on weather conditions) and continues through mid-February, due to the high potential for mortality of hibernating bats. Depending on weather conditions and the best professional judgement of a qualified bat biologist approved by CDFW, tree removal, relocation, or maintenance work may be performed in November if the forecasted nighttime low temperatures on the evening of removal and the subsequent four evenings do not drop below 45°F. In November, if weather is cold (i.e., forecasted nighttime low temperatures reach 45°F or less for that evening and the next four evenings), then no tree removals, relocations, or maintenance shall be performed. All tree removals shall require a two-step removal process and the involvement of a CDFW-approved qualified bat biologist to ensure that no roosting bats are killed during this activity. The following two-step tree removal process shall be implemented over two consecutive days: on Day 1, live palm fronds located above the frond skirt, and as identified by a qualified bat biologist, will be removed. On Day 2, the remainder of the tree may be removed without supervision by a qualified bat biologist.</p>	<p><b>Timing:</b> During Project construction activities</p> <p><b>Methods:</b> See Mitigation Measure</p>	<p><b>Implementation:</b> Coachella Valley Water District</p> <p><b>Monitoring and Reporting:</b> Coachella Valley Water District</p>
<p><b>Mitigation Measure BIO-PS-4: Cliff Swallow Nest Avoidance</b></p> <p>Some bat species may roost in cliff swallow nests at any time of year. The removal of cliff swallow nests</p>	<p><b>Timing:</b> During Project construction activities</p>	<p><b>Implementation:</b> Coachella Valley Water District</p>



<p>shall be avoided to the greatest extent feasible. If cliff swallow nests must be removed, prior to removal they should be first be observed to confirm that cliff swallows are not using the nests in accordance with Mitigation Measure BIO-5. To avoid impacts to bats, each nest should be inspected by a CDFW-approved bat biologist experienced in inspecting mud nests, with a borescope inspection camera or similar device, which requires a Scientific Collecting Permit. If the qualified biologist, while inspecting mud nests, detects bats using mud nests as roosting habitat, the mud nests will not be disturbed while bats are present. Mud nests used by bats may be inspected by a qualified bat biologist and removed at night (i.e., beginning approximately 1.5 hours after sunset to avoid disrupting the emergence) when bats typically leave the roost to forage. Only the qualified biologist may remove mud nests. Swallow nest removal shall follow the guidance provided by the California Bat Working Group (CBWG) Bats in Swallow Nests resource (CBWG 2022). Specific avoidance and minimization measure shall include, but are not limited to, performing mud-nest inspections and removals between September 15 and October 31, after young are volant but before expected onset of seasonal torpor; removing previously occupied nests only if that night's weather conditions exclude severe winds, precipitation, or nighttime temperatures below 45 degrees Fahrenheit; and avoiding removals during the hibernation seasons, which typically begins in November or December depending on weather conditions and continues through mid-February.</p>	<p><b>Methods:</b> See Mitigation Measure</p>	<p><b>Monitoring and Reporting:</b>        Coachella Valley Water District</p>
<p><b>Mitigation Measure BIO-PS-3: Nighttime Work Avoidance</b></p> <p>Avoid night work at all structures where night roosting has been identified. If avoiding night work is impossible, further minimization measures such as those listed below will be necessary.</p> <ul style="list-style-type: none"> <li>a) Night lighting shall be used only on areas actively being worked on and focused on the direct area of work.</li> <li>b) Airspace access to and from the roost features of the structure shall not be obstructed except in direct work areas.</li> <li>c) To the extent practicable, internal combustion equipment such as generators and vehicles</li> </ul>	<p><b>Timing:</b> During Project construction activities</p> <p><b>Methods:</b> See Mitigation Measure</p>	<p><b>Implementation:</b>        Coachella Valley Water District</p> <p><b>Monitoring and Reporting:</b>        Coachella Valley Water District</p>

<p><b>are not to be parked or operated beneath or adjacent to the potential roosting structures unless they are required for Project-related work on that structure.</b></p> <p><b>d) Construction personnel shall not be present in non-active areas beneath the structures or vegetation designated as bat roosting habitat.</b></p> <p><b>e) Project construction activities shall avoid the period of 1.5 hours prior to dawn and the period of 1.5 hours after dusk when bats and many nocturnal and crepuscular wildlife species are most active.</b></p>		
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