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GAVIN NEWSOM, Governor
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Governor's Office of Planning & Research

April 24, 2024
 Sent via e-mail

Apr 24 2024

STATE CLEARINGHOUSE

Todd Campbell
 Project Manager
 Desert Community College District/College of the Desert Bond Office
 43500 Monterey Avenue
 Palm Desert, CA 92260

**DEVELOPMENT PLAN AMENDMENT NO. 1/COLLEGE OF THE DESERT WEST
 VALLEY CAMPUS (PROJECT)
 SUBSEQUENT ENVIRONMENTAL IMPACT REPORT (SEIR)
 SCH#: 2023120165**

Dear Todd Campbell:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of an SEIR from the Desert Community College District (District), for the Development Plan Amendment No. 1/College of the Desert West Valley Campus (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

Proponent: Desert Community College District

Objective: In 2016, the District approved the College of the Desert West Valley Campus Master Plan and Phase I Development Project on the subject property in its Environmental Impact Report (EIR; SCH: 2014111025). The approved master plan and phase I project include development of the 29.11± acre property to accommodate an enrollment of approximately 3,000 full-time equivalent students, allow up to 330,000 square feet of

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

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functional space to be constructed in phases, and to include core campus, academic pillar/partnership space, ancillary campus buildings, and conference/event center. The approved West Valley Campus Master Plan remains in effect. The Development Plan Amendment No. 1 proposes development of 176,640 gross square feet and 121,025 assignable square feet that would be constructed continuously over a 2- to 3-year build-out period, allowing completed portions of the campus to become operational as development progresses. The proposed Project reconfigures the distribution of buildings, parking, and other facilities, and includes new facilities not contemplated in the 2016 plan.

Location: The proposed Project is located on the southwest corner of Tahquitz Canyon Way and Farrell Drive in the city of Palm Springs, County of Riverside, State of California (33.821461, -116.519764). The Project site is currently vacant and is surrounded by housing developments to the north, east, and west, and Palm Springs High School campus to the south. The Project encompasses Accessor's Parcel Numbers (APNs) 502-190-003, -004, -008, -015, -017, -018, -019, and -020. The Project site is located within the boundaries of the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP).

Timeframe: Construction activities would occur continuously over a 2- to 3-year build-out period, allowing completed portions of the campus to become operational as development progresses.

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 District in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. The SEIR 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 District in adequately identifying and mitigating the Project's significant, or potentially significant, impacts to biological resources.

I. Environmental Setting and Related Impact Shortcoming

COMMENT #1: Assessment of Biological Resources

Subsequent Environmental Impact Report (SEIR) document, Section 2.5

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

Specific impact: The SEIR bases its analysis of impacts to biological resources on a walking survey conducted in 2019 prior to the demolition of the Palm Springs Mall that occupied the Project site prior to its current condition, and a passerine and raptor nesting survey conducted in 2013 for a different project outside of the Project area. CDFW review of recent aerial imagery confirms the following on the Project site: sediment mounds that could be utilized for burrowing, shrubs that could be utilized for nesting and/or foraging, light poles and palm trees that could be utilized for nesting, perching, or roosting, and dead vegetation that could be utilized for cover. CDFW is concerned that no focused or protocol-level surveys were performed for the detection of special-status species on the Project site and surrounding areas. CDFW generally considers field assessments for wildlife to be valid for a one-year period, and assessments for rare plants may be considered valid for a period of up to three years. Recent surveys during the appropriate times of the year are needed to inform appropriate avoidance, minimization, and mitigation measures, as well as to determine whether impacts to biological resources have been mitigated to a level that is less than significant. The Project area encompasses open and disturbed areas, as well as shrubs

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and perching structures, and there is high potential for special-status species to be impacted directly, indirectly, and cumulatively by Project activities.

The SEIR also states (p. 2.5-1) “the Initial Study determined that the Project would result in “No Impact” for threshold question b) because there are no riparian habitats on the previously fully developed Project site; question c) because the Project site is in the urban core of the City of Palm Springs and away from any natural or manmade drainages or wetlands; and question d) because the Project site is in the urban core area that essentially provides no viable native or other habitat that could support or provide a migratory or movement corridor for wildlife and that contains no aquatic resources in the vicinity that could support fish nor any native wildlife nursery sites.” Adjacency to urban areas does not necessarily determine habitat value or the use of these areas by special-status species. CDFW is concerned that the SEIR has trivialized the significance of the Project’s potential impacts on special-status species that could use such areas. Many special-status species, including burrowing owl, often utilize disturbed areas that could be directly and/or indirectly impacted by the Project. Impacts to special-status species, *regardless of habitat quality or location*, must be identified, evaluated, and mitigated to a level below significance.

The California Natural Diversity Database (CNDDDB) and Biogeographic Information and Observation System (BIOS) indicate that occurrences of ESA-listed, CESA-listed, and other special-status species have been reported near the Project area including, but not limited to, the following:

Birds: burrowing owl (*Athene cunicularia*), least Bell’s vireo (*Vireo bellii pusillus*),

Reptiles: flat-tailed horned lizard (*Phrynosoma mcallii*), Coachella Valley fringe-toed lizard (*Uma inornata*),

Plants: chaparral sand-verbena (*Abronia villosa* var. *aurita*), desert spike-moss (*Selaginella eremophila*), Coachella Valley milk-vetch (*Astragalus lentiginosus* var. *coachellae*),

Invertebrates: Coachella giant sand-treader cricket (*Macrobaenetes valgum*), Coachella Valley Jerusalem cricket (*Stenopelmatus cahuilaensis*), and Casey’s June beetle (*Dinacoma caseyi*).

Recent surveys during the appropriate times of the year are needed to identify potential impacts to biological resources; inform appropriate avoidance, minimization, and mitigation measures; and determine whether impacts to biological resources have been mitigated to a level that is less than significant.

Evidence impact would be significant: Compliance with CEQA is predicated on a complete and accurate description of the environmental setting that may be affected by the proposed Project. CDFW is concerned that the assessment of the existing environmental setting with respect to biological resources has not been adequately analyzed in the SEIR. CDFW is concerned that without a complete and accurate description of the existing environmental setting, the SEIR likely provides an incomplete or inaccurate analysis of Project-related environmental impacts and whether those impacts have been mitigated to a level that is less than significant. Section 15125(c) of the CEQA Guidelines states that knowledge of the regional setting of a project is critical to the assessment of environmental impacts, that special emphasis should be placed on environmental resources that are rare or unique to the region, and that significant environmental impacts of the proposed Project are adequately investigated and discussed.

Recommended Potentially Feasible Mitigation Measure:

To establish the existing environmental setting with respect to biological resources, CDFW recommends that a revised SEIR include the results of *recent* biological surveys

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as described in the following mitigation measure, as well as any necessary mitigation measures:

MM BIO-[A]: Assessment of Biological Resources

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

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

II. Mitigation Measure or Alternative and Related Impact Shortcoming

COMMENT #2: Nesting Birds

SEIR document, Page #2.5-5, BIO-1

Issue: CDFW is concerned that the SEIR does not sufficiently identify Project impacts to nesting birds or ensure that impacts are mitigated to a level less than significant.

Specific impact: The SEIR states (p.2.5-5) “potential for indirect impacts to nesting birds is limited,” however, as mentioned above the Project site contains shrubs and perching structures that could be utilized by nesting birds at any time during construction. Additionally, the SEIR acknowledges (p. 2.5-4) that Coachella Valley supports a wild range of bird species including golden eagle, western burrowing owl, and many others. CDFW is concerned about the impacts to nesting birds including loss of nesting/foraging habitat and potential take from ground-disturbing activities and construction. Conducting work outside the peak breeding season is an important avoidance and minimization measure. CDFW also recommends the completion of nesting bird surveys *regardless* of the time of year to ensure that impacts to nesting birds are avoided. 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). CDFW staff have observed that climate change conditions may result in 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 therefore recommends the completion of nesting bird surveys *regardless of the time of year* to ensure compliance with all applicable laws pertaining to nesting and migratory birds.

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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; however, the measure is insufficient in scope and timing to reduce impacts to nesting birds to a level less than significant. Project-specific avoidance and minimization measures for nesting birds may include, but are not limited to, Project phasing and timing, monitoring of Project-related noise (where applicable), sound walls, and buffers, where appropriate. CDFW recommends that disturbance of occupied nests of migratory birds and raptors within the Project site be avoided **any time birds are nesting on-site**. Preconstruction nesting bird surveys shall be performed within 3 days prior to Project activities to determine the presence and location of nesting birds. CDFW recommends the District revise Mitigation Measure BIO-1 as follows:

MM BIO-1: Nesting Bird Pre-construction Surveys

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 for each phase of construction. 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. Construction activities may not occur inside the established buffers, which 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 Project activities are initiated during the local nesting season (February 1 through August 31), a nesting bird survey of on-site and nearby lands and vegetation shall be conducted by a qualified biologist no more than three days prior to site disturbance. If no nests are found, construction may proceed. If active nests are found, impact avoidance measures (e.g., "no work" buffers) will be put in place around the nest until young have fledged. Buffers for nesting raptors or other birds of prey shall be a minimum of 500 feet, and 100-300 feet for other unlisted birds. Appropriate buffers shall be established on a case-by-case basis by the nesting bird biologist.~~

COMMENT #3: Burrowing Owl

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SEIR document, Page #2.5-4

Issue: CDFW is concerned that the DEIR does not identify Project impacts to burrowing owl (*Athene cunicularia*) or ensure that impacts are mitigated to a level less than significant.

Specific impact: CDFW notes that in California, preferred habitat for burrowing owl is generally typified by short, sparse vegetation with few shrubs (Haug et al. 1993), and that burrowing owls may occur in ruderal grassy fields, vacant lots, and pastures if the vegetation structure is suitable and there are useable burrows and foraging habitat proximity (Gervais et al. 2003). In addition, burrowing owls frequently move into disturbed areas prior to and during construction activities since they are adapted to highly modified habitats (Chipman et al. 2008; Coulombe 1971). The Project site contains suitable habitat for burrowing owl and the SEIR acknowledges (p. 2.5-4) that the species is active in the region.

CDFW is concerned that there have been no protocol-level surveys for the detection of burrowing owl on site since there is a high potential for current and future suitable burrows that would likely support the species at any time during construction. Impacts to burrowing owl from the Project could include take of burrowing owls, their nests, or eggs or destroying nesting, foraging, or over-wintering habitat, thus impacting burrowing owl populations. Impacts can result from grading, earthmoving, burrow blockage, heavy equipment compaction and crushing of burrows, general Project disturbance that has the potential to harass owls at occupied burrows, and other activities.

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. 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." 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.). Burrowing owl is a Covered Species under the CVMSHCP, which requires that avoidance and minimization measures be implemented for this species.

Recommended Potentially Feasible Mitigation Measure:

CDFW recommends 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) and that results be included in a revised SEIR. Deferring surveys until the time of construction may result in significant Project delays should burrowing owls be detected on-site. CDFW recommends that the District begin coordination with CDFW and USFWS immediately if burrowing owls are detected on-site. CDFW recommends the District include the following mitigation measure a revised SEIR:

MM BIO-[B]: Focused and Pre-Construction 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) prior to vegetation removal or ground-disturbing activities. If burrowing owls are

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

For each phase of construction, 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.

COMMENT #4: Artificial Nighttime Light

SEIR document, Page #2.3-16

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

Specific impact: The SEIR states (p. 2.3-16) "the Project proposes a comprehensive site/building/signage lighting plan that is designed for lighting and energy efficiency and to protect night skies from light pollution;" however, it does not include the lighting plan in the document. The SEIR also states that all lighting will be directed onto the site and away from adjacent properties which is an important design feature to minimize impacts, but the lighting designs were not disclosed and impacts to biological resources resulting from the use of artificial nighttime lighting during construction and operation of the Project 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 to reduce impacts to less than significant should be included in a revised SEIR.

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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 SEIR include lighting designs and an analysis of impacts to biological resources, as well as specific avoidance and minimization measures to ensure that impacts to wildlife are reduced to less than significant. CDFW recommends the District include the following mitigation measure in a revised SEIR:

MM BIO-[C]: Artificial Nighttime Light

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

COMMENT #5: Construction Noise

SEIR document, Section 2.13

Issue: The DEIR does not include an assessment of impacts to biological resources resulting from construction noise or mitigation measures to avoid or reduce impacts to a level less than significant.

Specific impact: The SEIR states (p. 2.13-9) the “Project would result in short-term and long-term noise impacts,” but includes no noise impact assessment or an analysis of the impacts of construction noise on biological resources. The SEIR also states (p. 2.13-10) noise levels are expected to range from 70 to 82 dBA, which exceeds 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)

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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 SEIR include a noise impact assessment and an analysis of impacts to biological resources accompanied by specific avoidance and minimization measures to ensure that impacts to wildlife are avoided or reduced to less than significant. CDFW recommends adding the following mitigation measure to a revised SEIR:

MM BIO-[D]: Construction Noise Impacts to Biological Resources

During all Project construction, the District 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 District shall ensure the use of noise suppression devices such as mufflers or enclosures for generators. Sounds generated from any means must be below the 55-60 dB range within 50-feet from the source.

ENVIRONMENTAL DATA

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

ENVIRONMENTAL DOCUMENT FILING FEES

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

CONCLUSION

CDFW appreciates the opportunity to comment on the SEIR to assist the Desert Community College District in identifying and mitigating Project impacts on biological resources. CDFW concludes that the SEIR 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 SEIR 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 SEIR, including an assessment of biological resources, be recirculated for public comment. CDFW also recommends that the revised SEIR include an analysis of impacts to biological resources from artificial nighttime lighting and construction noise, as well as mitigation measures described in this letter for assessment of biological resources, nesting birds, burrowing owl, artificial nighttime light, and construction noise.

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CDFW personnel are available for consultation regarding biological resources and strategies to minimize impacts. Questions regarding this letter or further coordination should be directed to Alyssa Hockaday, Senior Environmental Scientist (Specialist) at (760) 920-8252 or Alyssa.Hockaday@wildlife.ca.gov.

Sincerely,

DocuSigned by:

 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

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

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ATTACHMENT 1: MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

Biological Resources (BIO)

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Mitigation Measure (MM) Description	Implementation Schedule	Responsible Parties
<p>MM BIO-[A]: Assessment of Biological Resources Prior to the adoption of the CEQA document and prior to Project construction activities, a complete and recent inventory of rare, threatened, endangered, and other sensitive species located within the Project footprint and within offsite areas with the potential to be affected, including California Species of Special Concern (CSSC) and California Fully Protected Species (Fish and Game Code § 3511), will be completed. Species to be addressed should include all those which meet the CEQA definition (CEQA Guidelines § 15380). The inventory should address seasonal variations in use of the Project area and should not be limited to resident species. Focused species-specific surveys, completed by a qualified biologist and conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable are required. Acceptable species-specific survey procedures should be developed in consultation with CDFW and the U.S. Fish and Wildlife Service, where necessary. Note that CDFW generally considers biological field assessments for wildlife to be valid for a one-year period, and assessments for rare plants may be considered valid for a period of up to three years. Some aspects of the proposed Project may warrant periodic updated surveys for certain sensitive taxa, particularly if the Project is proposed to occur over a protracted time frame, or in phases, or if surveys are completed during periods of drought.</p>	<p>Prior to the adoption of the CEQA document and prior to Project construction activities.</p>	<p>Desert Community College District</p>
<p>MM BIO-1: Nesting Bird Pre-construction Surveys 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 for each phase of construction. 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. Construction activities may not occur inside the established buffers, which shall remain on site until a qualified biologist determines the young have fledged or the nest is no longer active. Active nests and adequacy of the established buffer distance shall be monitored daily by the qualified biologist until the qualified biologist has determined the young have fledged or the Project has been completed. The qualified biologist has the authority to stop work if nesting pairs exhibit signs of disturbance.</p>	<p>No more than three (3) days prior to vegetation clearing or ground-disturbing activities for each phase of construction.</p>	<p>Desert Community College District</p>
<p>MM BIO-[B]: Focused and Pre-Construction 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 <i>Staff Report on Burrowing Owl Mitigation</i> (2012 or most recent version) prior to vegetation removal or ground-disturbing activities. 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</p>	<p>Focused surveys: Prior to the start of Project-related activities. Pre-construction surveys: No less than 14 days prior to start of Project-</p>	<p>Desert Community College District</p>

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<p>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.</p> <p>For each phase of construction, 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.</p>	<p>related activities and within 24 hours prior to ground disturbance for each phase of construction.</p>	
<p>MM BIO-[C]: Artificial Nighttime Light During Project construction and operation, the District 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 District 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 District shall ensure use of LED lighting with a correlated color temperature of 3,000 Kelvins or less, proper disposal of hazardous waste, and recycling of lighting that contains toxic compounds with a qualified recycler.</p>	<p>During Project construction activities and operation.</p>	<p>Desert Community College District</p>
<p>MM BIO-[D]: Construction Noise Impacts to Biological Resources During all Project construction, the District 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),</p>	<p>During all Project construction.</p>	<p>Desert Community College District</p>

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small micro-hydroelectric systems, or small wind turbine systems. The District shall ensure the use of noise suppression devices such as mufflers or enclosures for generators. Sounds generated from any means must be below the 55-60 dB range within 50-feet from the source.		
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