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GAVIN NEWSOM, Governor  
CHARLTON H. BONHAM, Director



February 15, 2024  
Sent via email

Governor's Office of Planning & Research

**Feb 16 2024**

## STATE CLEARINGHOUSE

Jim Karpiak  
Executive Director  
Coachella Valley Mountains Conservancy  
73-710 Fred Waring Drive, Suite 112  
Palm Desert, CA 92260

Four New Coachella Valley Trails (PROJECT)  
Mitigated Negative Declaration (MND)  
SCH# 2024010248

Dear Jim Karpiak:

The California Department of Fish and Wildlife (CDFW) received a Mitigated Negative Declaration (MND) from the Coachella Valley Mountains Conservancy (CVMC) 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 appreciates the Lead Agency granting an extension for CDFW to provide comments by February 16, 2024.

### 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 Mountains Conservancy

**Objective:** The Project proposes designating four new recreational trails in Coachella Valley for pedestrian use, as well as other non-motorized uses such as equestrian, dog walking, or mountain biking where these other uses are allowed under local ordinance or landowner regulations. Each trailhead would have a visitor information sign on the edge of the parking area that would provide a map of the designated trail, applicable regulations, contact information, and information about sensitive resources in the area. No paved parking areas or trails are proposed, and no fencing would be installed around parking or trailhead areas. Trail markers and related signs would be installed, as necessary, to facilitate public use of the area and reduce resource impacts. Trail construction would be minimal as these trails use existing roads or social trails and would be completed by a trail crew utilizing hand tools and low-impact trail construction and maintenance methods/equipment. For the West Deception Canyon Trail, proposed trail construction involves adding 100 feet of switchbacks along a ridge. For the Cathedral Cove Connector Trail, land on Bankside Drive would need to be acquired for a parking and trailhead access area.

**Location:** The proposed Project includes four new recreational trails within the Coachella Valley in Riverside County, California, on land owned by various public or non-profit entities:

- The Cathedral Cove Connector Trail is located on the western boundary of the Cathedral Cove within the City of Cathedral Cove. Trailhead location: 33°46'55.25"N, 116°28'18.88"W. A portion of this trail is located within and adjacent to the Santa Rosa and San Jacinto Mountains Conservation Area.
- The West Deception Canyon Trail is located on the northern edge of the unincorporated community of Sky Valley, north of I-10, and in the vicinity of the boundary of the Joshua Tree National Monument. Trailhead location: 33°54'13.98"N, 116°21'13.32"W. This trail is located within the West Deception Canyon Conservation Area.

- The Biskra Palms Trail, located near the middle of Coachella Valley, is north of the Indio City limits and on the southern slopes of the Indio Hills. Trailhead location: 33°46'22.16"N, 116°15'04.90"W. This trail is located within both the Indio Hills Palms Conservation Area and the East Indio Hills Conservation Area.
- The Chuckwalla-Overlook Connector Trail is located on the eastern boundary of the City of Rancho Mirage and on the lower slopes of the Santa Rosa Mountains; Trailhead Location: 33°46'01.53"N 116°27'30.62"W. This trail is located outside of a Conservation Area.

**Timeframe:** The Project proposes initiating Project construction activities within six months of a finalized environmental review process.

## **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 CVMC in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. The MND has not adequately identified and disclosed the Project's impacts (i.e., direct, indirect, and cumulative) on biological resources and whether those impacts are reduced to less than significant.

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. CDFW also concludes that the MND lacks sufficient information to facilitate a meaningful review by CDFW, including a complete Project description. CDFW requests that additional information and analyses be added to a revised MND, along with avoidance, minimization, and mitigation measures that avoid or reduce impacts to less than significant.

### Project Description

Compliance with CEQA is predicated on a complete and accurate description of the proposed Project. Without a complete and accurate Project description, the MND likely provides an incomplete assessment of Project-related impacts to biological resources. CDFW has identified gaps in information related to the Project description.

The MND lacks an adequate discussion of proposed trail work at the West Deception Canyon Trail and the proposed trailhead and parking location for the Cathedral Cove Connector Trail. To conduct a meaningful review and provide biological expertise on

how to protect biological resources, CDFW requires a complete and accurate Project description.

### 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 CVMC in ensuring that Project impacts to biological resources are reduced to less than significant, CDFW recommends adding mitigation measures for CVMSHCP compliance, CDFW's Lake and Streambed Alteration Program, and revised stand-alone measures for nesting birds and burrowing owl.

#### **1) Project Description**

For the West Deception Canyon Trail, page 4-5 of the MND indicates that the trail "follows an existing road and a natural canyon wash for approximately 1.25 miles before traversing over a small ridge. Approximately 100 feet of trail switchbacks will be needed at this ridge to enhance hiker safety and avoid erosion. The trail then loops back to the trailhead." Based on review of aerial imagery, it appears that established trails do not exist along the portion of this proposed trail that loops around a hill within the trail's northern extent. Within this loop portion of the trail, which is approximately one mile in length, the MND does not clearly indicate what trail work will be required beyond the installation of 100 feet of switchbacks. Without a complete and accurate description of the proposed trail work associated with the West Deception Canyon Trail, CDFW is unable to conduct a meaningful review and provide biological expertise to support CVMC in avoiding and minimizing impacts to fish and wildlife resources. CDFW recommends the MND is revised to clearly identify what trail work is being proposed over the entire loop portion of the West Deception Canyon Trail.

For the Cathedral Cove Connector Trail, page 4-11 of the MND indicates that "[v]acant and disturbed land on Bankside Drive would need to be acquired for parking and trailhead access." The MND does not identify a specific location where parking and trailhead access is proposed for the Cathedral Cove Connector Trail. Without a complete and accurate description of the proposed location of parking and trailhead for the Cathedral Cove Connector Trail, CDFW is unable to conduct a meaningful review and provide biological expertise to support CVMC in avoiding and minimizing impacts to fish and wildlife resources. CDFW recommends the MND is revised to identify the proposed location of the trailhead and parking area.

#### **2) 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 5.4-14 of the MND indicates that the “proposed trail designations are in areas of suitable nesting habitat for numerous resident and migratory bird species.” The MND includes Mitigation Measure BIO-4, which describes pre-trail development surveys for a number of species. Regarding surveys for nesting birds, Mitigation Measures BIO-4 indicates that an “acceptable biologist (according to CVMSHCP requirements) will conduct pre-activity clearance surveys for [...] nesting birds (at trail and trailhead sites where trail development activities are scheduled from January 1 to August 31). [...] Construction activities outside of the breeding season for nesting birds would not require nesting bird surveys.” Conducting work outside the peak breeding season is an important avoidance and minimization measure. CDFW also recommends the completion of pre-construction nesting bird surveys regardless of the time of year. 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-4, specifically as it relates to surveys for nesting birds, to be insufficient in scope and timing to reduce impacts to nesting birds to less than significant. To support CVMC in avoiding and reducing impacts to nesting birds to a level less than significant, CDFW recommends CVMC add to a revised MND the

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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.

stand-alone mitigation measure below for nesting birds, and revise Mitigation Measure BIO-4 to be consistent with this new measure.

### **Mitigation Measure BIO-[A]: Nesting Birds**

**Regardless of the time of year, nesting bird surveys shall be performed by a qualified avian biologist no more than 3 days prior to vegetation removal or ground-disturbing activities. Pre-construction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified avian biologist will make every effort to avoid potential nest predation as a result of survey and monitoring efforts. If active nests are found during the pre-construction nesting bird surveys, a qualified biologist shall establish an appropriate nest buffer to be marked on the ground. Nest buffers are species specific and shall be at least 300 feet for passerines and 500 feet for raptors. A smaller or larger buffer may be determined by the qualified biologist familiar with the nesting phenology of the nesting species and based on nest and buffer monitoring results. 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.**

### **3) *Burrowing Owl***

Burrowing owl is a California Species of Special Concern. Take of individual burrowing owls and their nests is defined by Fish and Game Code section 86, and prohibited by sections 3503, 3503.5, and 3513. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.). 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 5.4-2 of the MND indicates that “a burrowing owl habitat assessment was conducted in accordance with CDFW’s Staff Report on Burrowing Owl Mitigation (CDFG, 2012). All suitable owl burrows, owl sign (tracks, molted feathers, pellets, whitewash, and possible owl perches), and live owls were mapped. A focused burrowing owl survey was not completed (CDFG, 2012).” Page 5.4-7 of the MND states that “[n]o burrowing owls or burrowing owl sign were observed on the proposed trails or at the proposed trailheads.” The MND does not indicate if suitable habitat for burrowing owl or suitable burrows and/or burrow surrogates were identified within the Project areas and/or surrounding areas. Without details on the presence of suitable habitat and

suitable burrows and/or burrow surrogates, it is unclear if focused surveys for burrowing owls are needed. CDFW recommends the MND is revised to include the results of the habitat assessment for burrowing owl including details on the presence of suitable burrowing owl habitat and the locations of any suitable burrows and/or burrow surrogates within the Project sites and adjoining areas within a 150-meter buffer per guidelines in the CDFW Staff Report for Burrowing Owl Mitigation<sup>3</sup>. If suitable burrowing owl habitat or sign are encountered on or adjacent to the Project sites, CDFW recommends that MND is revised to include the results of focused surveys for burrowing owl.

As indicated in the Project Description section of this letter, the MND does not identify the location of the proposed trailhead and parking area for the Cathedral Cove Connector Trail. CDFW recommends the MND is revised to identify the location of this trailhead and parking area and include the results of a burrowing owl habitat assessment, and focused surveys if burrowing owl habitat or sign is encountered, for this specific area of the Project.

Focused surveys for burrowing owl provide information needed to determine the potential effects of proposed projects and activities on burrowing owls, and to avoid take in accordance with Fish and Game Code sections 86, 3503, 3503.5, and 3513. If focused surveys confirm occupied burrowing owl habitat in or adjacent to the Project area, CDFW recommends that the MND is revised to include an impact assessment per guidelines in the Staff Report on Burrowing Owl Mitigation. Impact assessments evaluate the extent to which burrowing owls and their habitat may be impacted, directly or indirectly, on and within a reasonable distance of the proposed Project. Focused surveys and an impact assessment will also inform appropriate avoidance, minimization, and mitigation measures for the Project and help demonstrate that impacts to burrowing owls are less than significant.

The MND includes Mitigation Measure BIO-4, describing pre-trail development surveys for a number of species. Regarding surveys for burrowing owl, Mitigation Measures BIO-4 indicates that “surveys for [...] burrowing owl [...] will be conducted according to the avoidance and minimization measures in Section 4.4 of the CVMSHCP. Pre-activity surveys will be conducted no more than 7 days in advance of any ground- or vegetation-disturbing activities in any location.” CDFW notes that CVMSHCP Section 4.4 (Required Avoidance, Minimization, and Mitigation Measures) under Burrowing Owl indicates that “for other projects that are subject to CEQA, the Permittees will require burrowing owl surveys in the Conservation Areas using an accepted protocol (as

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<sup>3</sup> California Department of Fish and Game (CDFG). 2012. Staff report on burrowing owl mitigation. State of California, Natural Resources Agency.

determined by the CVCC in coordination with the Permittees and the Wildlife Agencies).” CDFW considers Mitigation Measure BIO-4, specifically as it relates to burrowing owl surveys, to be insufficient in scope and timing to reduce impacts to burrowing owl to less than significant. CDFW recommends that CVMC add to a revised MND the stand-alone mitigation measure below for burrowing owl, and revise Mitigation Measure BIO-4 to be consistent with this new measure.

### **Mitigation Measure BIO-[B]: Burrowing Owl Surveys**

**No less than 60 days prior to the start of Project-related activities, a burrowing owl habitat assessment shall be conducted by a qualified biologist according to the specifications of the *Staff Report on Burrowing Owl Mitigation* (Department of Fish and Game, March 2012 or most recent version).**

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



**Preconstruction burrowing owl surveys shall be conducted no less than 14 days prior to the start of Project-related activities and within 24 hours prior to ground disturbance, in accordance with the *Staff Report on Burrowing Owl Mitigation* (2012 or most recent version). Preconstruction surveys should be performed by a qualified biologist following the recommendations and guidelines provided in the *Staff Report on Burrowing Owl Mitigation*. If the preconstruction surveys confirm occupied burrowing owl habitat, Project activities shall be immediately halted. The qualified biologist shall coordinate with CDFW and prepare a Burrowing Owl Plan that shall be submitted to CDFW and USFWS for review and approval prior to commencing Project activities.**

#### ***4) Coachella Valley Multiple Species Habitat Conservation Plan***

##### CVMSHCP Consistency

Page 4-15 of the MND states that “[d]esignation of trails, including ancillary facilities is a covered activity and conditionally compatible public access use under the CVMSHCP provided they are consistent with the species conservation goals and objectives for the designated conservation areas and consistent with the guidelines for trails and public access. The proposed Project has been designed to comply with applicable requirements in the CVMSHCP.” The MND includes Mitigation Measure BIO-1 related to CVMSHCP compliance, indicating that “[a]ll applicable avoidance and minimization measures as described in section 4.4 of the CVMSHCP will be observed during construction activities, as well as payment of a fee to fund the CVMSHCP or other appropriate mechanism based on the type of proposed activity as described in Section 11.7.3 of the CVMSHCP Implementing Agreement.” Although the MND identifies that CVMSHCP guidelines exist for trails and public access, the MND does not include a discussion of how the proposed four trails and associated trailheads and parking areas are consistent with these guidelines.

Below is a discussion of the Project’s consistency with the CVMSHCP, including discussions of the three proposed trails located within Conservation Areas:

##### **Cathedral Cove Connector Trail:**

The proposed Cathedral Cove Connector Trail, located within and adjacent to the Santa Rosa and San Jacinto Mountains Conservation Area, is identified in CVMSHCP Figure 7-11 and in Section 7.3.3.2 (page 7-71) as a Perimeter Trail along its southwestern extent and a Perimeter Trail Corridor along its northeast extent. CVMSHCP Section 7.3.3.2 (page 7-70) indicates that for new perimeter trails proposed, “[a]ppropriateness of perimeter trails will be determined upon completion of the research program described in Element 2. If research results show that recreational trail use would not adversely impact bighorn sheep health, behavior, demography, and population sustainability and connectivity, construction of these perimeter trails could be initiated as

soon as feasible, depending on funding availability and acquisition of easements or other authorizations, and completion of applicable NEPA and CEQA requirements.” It is CDFW’s understanding that a research program exploring the effects of recreational trail use on Peninsular bighorn sheep (*Ovis canadensis nelsoni*; CVMSHCP Covered Species; Fully Protected Species) has been initiated, but the study and associated research paper have not been finalized. Also, CVMSHCP Section 7.3.3.2 (page 7-70) includes guidelines for development of perimeter trails, and CVMSHCP Section 7.3.3.2 (page 7-73) outlines minimum requirements for the construction of facilities for trailheads. CDFW recommends that the designation of and any trail work associated with the Cathedral Cove Connector Trail is not implemented until the following items have occurred: 1) the research program has been finalized, and 2) CVMC has completed a consistency review with the Coachella Valley Conservation Commission (CVCC; Implementing Entity for the CVMSHCP) on Cathedral Cove Connector Trail and its consistency with the findings of the research program on recreational trail use and effects on Peninsular bighorn sheep, the perimeter trail guidelines, and the minimum requirements for trailhead facilities.

CDFW recommends that CVMC add the following mitigation measure to a revised MND:

**Mitigation Measure BIO-[C]: Consistency Review for the Cathedral Cove Connector Trail**

**Prior to designation and initiation of any trail work on the Cathedral Cove Connector Trail and associated trailhead and parking area, the Coachella Valley Mountains Conservancy will complete a consistency review with the Coachella Valley Conservation Commission on topics including, but not limited to, consistency with CVMSHCP general guidelines for development of perimeter trails, minimum requirements for trailhead facilities, and findings of a research program on the effects of recreational trail use on Peninsular bighorn sheep described in Element 2 of CVMSHCP Section 7.3.3.2.**

**West Deception Canyon Trail and Biskra Palms Trail:**

CVMSHCP Section 7.3.1 indicates that Covered Activities in Conservation Area include “construction and maintenance of trails, public access facilities, and campground facilities, except on federal land, as provided for in this Plan consistent with the Species Conservation Goals and the Conservation Objectives for the Conservation Areas, and consistent with the guidelines for trails and public access in Section 7.3.4.2. As applicable, these activities are subject to the avoidance and minimization measures described in Section 4.4.”

Regarding the proposed West Deception Canyon Trail, located within the West Deception Canyon Conservation Area, MND lacks a discussion of how the proposed

Project is consistent with the Conservation Area's Conservation Objectives and Required Measures. (Based on review of aerial imagery, the West Deception Canyon Trail appears to fall exclusively within the West Deception Canyon Conservation Area, although Table 4-3 of the MND indicates that the trail also is located within the Indio Hills/Joshua Tree National Park Linkage Conservation Area.) Conservation Objective 2 for the West Deception Canyon Conservation Area is to "[m]aintain the current capacity for fluvial sand transport in the West Deception Canyon fluvial sand transport system," and Required Measure 1 indicates "[d]evelopment requirements imposed in floodplains will ensure that sand transport capacity is maintained." The MND also lacks a discussion of how the West Deception Canyon Trail is consistent with the CVMSHCP guidelines for trails and public access (CVMSHCP Section 7.3.4.2). CDFW recommends the MND is revised to discuss how the West Deception Canyon Trail will comply with applicable Conservation Objectives and Required Measures for the West Deception Canyon Conservation Area and be consistent with the CVMSHCP guidelines for trails and public access.

The Biskra Palms Trail is located in both the East Indio Hills Conservation Area and Indio Hills Palms Conservation Area. Both Conservation Areas require that Permittees comply with applicable avoidance, minimization, and mitigation measures described in Section 4.4 and the Land Use Adjacency Guidelines as described in Section 4.5. Applicable Required Avoidance, Minimization, and Mitigation Measures for the Biskra Palms Trail include, but may not be limited to, those associated with Mesquite Hummocks and Mesquite Bosque Natural Communities, burrowing owl, Le Conte's thrasher (*Toxostoma lecontei*; CVMSHCP Covered Species; Species of Special Concern). The MND lacks a discussion of how the Biskra Palms Trail is consistent with the CVMSHCP guidelines for trails and public access (CVMSHCP Section 7.3.4.2).

To support CVMC in ensuring the Project's consistency with Guidelines for Public Access and Recreation on Reserve Lands (Section 7.3.4.2) and compliance with CVMSHCP applicable Required Avoidance, Minimization, and Mitigation Measures (Section 4.4) and Land Use Adjacency Guidelines (Section 4.5), CDFW recommends CVMC complete a consistency review with CVCC for both the West Deception Canyon Trail and Biskra Palms Trail prior to initiating trail work and designating these trails. CDFW recommends CVMC add the following mitigation measure to a revised MND:

**Mitigation Measure BIO-[D]: Consistency Review for the West Deception Canyon Trail and Biskra Palms Trail**

**Prior to designation and initiation of any trail work on the West Deception Canyon Trail and Biskra Palms Trail and associated trailheads and parking areas, the Coachella Valley Mountains Conservancy will complete a CVMSHCP consistency review with the Coachella Valley Conservation Commission on topics including, but not limited to, consistency with CVMSHCP Guidelines for Public Access and Recreation on Reserve Lands and compliance with applicable Required**

## **Avoidance, Minimization, and Mitigation Measures and Land Use Adjacency Guidelines.**

### **5) CDFW Lake and Streambed Alteration Program**

Page 5.4-3 states that the “proposed West Deception Canyon Trail is located on sandy bajadas and foothills of the Little San Bernardino Mountains. The Biskra Palms trail passes through an emergent wetland and bajada located at the base of the Indio hills. Cathedral Cove and Chuckwalla-Overlook Connector trails are in the foothills of the San Jacinto Mountains and Cathedral Cove does cross over a large bajada. The proposed Chuckwalla Overlook Connector trail crosses several small ephemeral drainages. The jurisdictional limits of the washes and wetlands that may be subject to state or federal regulation under California Fish and Game Code Section 1600 or the federal Clean Water Act Sections 401 and 404 have not been delineated.” The MND includes Mitigation Measure BIO-13, stating that “although not proposed, in the unlikely event that trail improvement would disturb existing streambeds, qualified biologist or hydrologist will identify the jurisdictional boundaries of the washes, ephemeral drainages, and wetlands located at the site. If jurisdictional areas are found to be located within the impact area, permits will be obtained from CDFW, U.S. Army Corps of Engineers and Colorado River Regional Water Control Board.”

Based on review of aerial imagery, sections of the proposed alignment of the West Deception Canyon and Biskra Palms Trails cross over areas with ephemeral streams where established trails do not appear to exist. The MND lacks details on what trail maintenance activities will be conducted over these areas. Fish and wildlife resources subject to Fish and Game Code section 1600 et seq. include the bed, channel, and bank of any river, stream, or lake. Please note that "any river, stream, or lake" includes those that are dry for periods of time as well as those that flow year-round. Fish and Game Code section 1602 requires any person, state or local governmental agency, or public utility to notify CDFW prior to beginning any activity that may do one or more of the following: divert or obstruct the natural flow of any river, stream, or lake; change the bed, channel, or bank of any river, stream, or lake; use material from any river, stream, or lake; or deposit or dispose of material into any river, stream, or lake. The Project and its associated trail work has the potential to change the bed, channel, or bank of a stream; therefore, CDFW recommends that CVMC submit a notification of streambed alteration. More information on the notification process for the Lake and Streambed Alteration Program is available here: <https://wildlife.ca.gov/Conservation/Environmental-Review/LSA>.

CDFW recommends that CVMC add the following mitigation measure to a revised MND:

**Mitigation Measure BIO-[E]: CDFW Lake and Streambed Alteration Program**

**Prior to construction, the Project Sponsor shall obtain written correspondence from the California Department of Fish and Wildlife (CDFW) stating that notification under section 1602 of the Fish and Game Code is not required for the Project, or the Project Sponsor should obtain a CDFW-executed Lake and Streambed Alteration Agreement, authorizing impacts to Fish and Game Code section 1602 resources associated with the Project.**

## **ENVIRONMENTAL DATA**

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

## **ENVIRONMENTAL DOCUMENT FILING FEES**

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

## **CONCLUSION**

CDFW appreciates the opportunity to comment on the MND to assist CVMC 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 concludes that the MND lacks sufficient information for a meaningful review of impacts to biological resources, including a complete Project description. The CEQA Guidelines indicate that recirculation is required when insufficient information in the MND precludes a meaningful review (§ 15088.5) or when a new significant effect is identified and additional mitigation measures are necessary (§ 15073.5). CDFW recommends that a revised MND, including a complete Project description, be recirculated for public comment. CDFW also recommends that revised and additional mitigation measures and analysis as described in this letter be added to a revised MND.

Jim Karpiak, Executive Director  
Coachella Valley Mountains Conservancy  
February 15, 2024  
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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, Senior Environmental Scientist Specialist, at [jacob.skaggs@wildlife.ca.gov](mailto:jacob.skaggs@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
84F92FFEEFD24C8...

Kim Freeburn  
Environmental Program Manager

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

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

Mitigation Measures	Timing and Methods	Responsible Parties
<p><b>Mitigation Measure BIO-[A]: Nesting Birds</b></p> <p>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. 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><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 Mountains Conservancy</p> <p><b>Monitoring and Reporting:</b> Coachella Valley Mountains Conservancy</p>

<p><b>Mitigation Measure BIO-[B]: Burrowing Owl Surveys</b></p> <p><b>No less than 60 days prior to the start of Project-related activities, a burrowing owl habitat assessment shall be conducted by a qualified biologist according to the specifications of the <i>Staff Report on Burrowing Owl Mitigation</i> (Department of Fish and Game, March 2012 or most recent version).</b></p> <p><b>If the habitat assessment demonstrates suitable burrowing owl habitat, then focused burrowing owl surveys shall be conducted by a qualified biologist according to the <i>Staff Report on Burrowing Owl Mitigation</i> 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 review and approval prior to commencing Project activities. The Burrowing Owl Plan shall describe proposed avoidance, monitoring, relocation, minimization, and 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</b></p>	<p><b>Timing: Habitat assessment:</b> No less than 60 days prior to start of Project-related activities.</p> <p><b>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-related activities and within 24 hours prior to ground disturbance.</p> <p><b>Methods:</b> See Mitigation Measure</p>	<p><b>Implementation:</b> Coachella Valley Mountains Conservancy</p> <p><b>Monitoring and Reporting:</b> Coachella Valley Mountains Conservancy</p>
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<p><b>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.</b></p> <p><b>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.</b></p>		
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<p><b>Mitigation Measure BIO-[C]: Consistency Review for the Cathedral Cove Connector Trail</b></p> <p><b>Prior to designation and initiation of any trail work on the Cathedral Cove Connector Trail and associated trailhead and parking area, the Coachella Valley Mountains Conservancy will complete a consistency review with the Coachella Valley Conservation Commission on topics including, but not limited to, consistency with CVMSHCP general guidelines for development of perimeter trails, minimum requirements for trailhead facilities, and findings of a research program on the effects of recreational trail use on Peninsular bighorn sheep described in Element 2 of CVMSHCP Section 7.3.3.2.</b></p>	<p><b>Timing:</b> Prior to designation and initiation of any trail work</p> <p><b>Methods:</b> See Mitigation Measure</p>	<p><b>Implementation:</b> Coachella Valley Mountains Conservancy</p> <p><b>Monitoring and Reporting:</b> Coachella Valley Mountains Conservancy</p>
<p><b>Mitigation Measure BIO-[D]: Consistency Review for the West Deception Canyon Trail and Biskra Palms Trail</b></p> <p><b>Prior to designation and initiation of any trail work on the West Deception Canyon Trail and Biskra Palms Trail and associated trailheads and parking areas, the Coachella Valley Mountains Conservancy will complete a CVMSHCP consistency review with the Coachella Valley Conservation Commission on topics including, but not limited to, compliance with applicable Required Avoidance, Minimization, and Mitigation Measures and consistency with CVMSHCP Guidelines for Public Access and Recreation on Reserve Lands.</b></p>	<p><b>Timing:</b> Prior to designation and initiation of any trail work</p> <p><b>Methods:</b> See Mitigation Measure</p>	<p><b>Implementation:</b> Coachella Valley Mountains Conservancy</p> <p><b>Monitoring and Reporting:</b> Coachella Valley Mountains Conservancy</p>

<p><b>Mitigation Measure BIO-[E]: CDFW Lake and Streambed Alteration Program</b></p> <p><b>Prior to construction, the Project Sponsor shall obtain written correspondence from the California Department of Fish and Wildlife (CDFW) stating that notification under section 1602 of the Fish and Game Code is not required for the Project, or the Project Sponsor should obtain a CDFW-executed Lake and Streambed Alteration Agreement, authorizing impacts to Fish and Game Code section 1602 resources associated with the Project.</b></p>	<p><b>Timing:</b> Prior to construction</p> <p><b>Methods:</b> See Mitigation Measure</p>	<p><b>Implementation:</b> Coachella Valley Mountains Conservancy</p> <p><b>Monitoring and Reporting:</b> Coachella Valley Mountains Conservancy</p>
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