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August 8, 2024  
*Sent via e-mail*

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**IS23-0034 – Meloland Road Bridge Replacement at Central Drain (PROJECT)  
MITIGATED NEGATIVE DECLARATION (MND)  
SCH #2024070126**

Dear Jim Minnick and Rocio Yee:

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

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

**CDFW ROLE**

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

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

**PROJECT DESCRIPTION SUMMARY**

**Proponent:** County of Imperial, Public Works Department

**Objective:** The County proposes to replace the existing bridge at Meloland Road (Bridge No. 58C-0155) over Central Drain. The Project would demolish the existing bridge at Meloland Road over Central Drain and replace it with an underground pipe crossing. Meloland Road is a north–south minor collector road serving the surrounding

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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.

agricultural community and the Holtville area via Evan Hewes Highway. The Central Drain is a critical drain for the entire El Centro urban area, and discharges directly into the Rositas Waste Drain approximately 900 feet downstream and, subsequently, into the Alamo River, located 0.25 mile from Meloland Road.

The Project activities include the demolition, removal, and disposal of the existing bridge and replacement with a pipe crossing. Afterwards the Project would repave the improved approach roadway along the alignment. Imperial Irrigation District would work in tandem to dewater the drain channel, remove vegetation, and facilitate drain bypass pumping during pipe crossing construction.

**Location:** The existing bridge (Bridge No. 58C-0155) is located on Meloland Road over the Central Drain, approximately 1.9 miles north of Evan Hewes Highway and approximately 4 miles west of the city of Holtville, in Imperial County, California, and approximately 0.25 miles west of the Alamo River.

**Timeframe:** The MND does not provide specific start and end dates but proposes project construction to occur during periods of low flow in the Central Drain (i.e., mid-December to early January) to the extent practicable. Project activities are expected to be divided into four phases and last for approximately 5 months.

## COMMENTS AND RECOMMENDATIONS

CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (i.e., biological resources). CDFW offers the comments and recommendations below to assist Imperial County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document. The MND has not adequately identified and disclosed the Project's impacts (i.e., direct, indirect, and cumulative) to biological resources and whether those impacts are less than significant.

### I. Environmental Setting and Related Impact Shortcoming

#### COMMENT #1: Assessment of Biological Resources

##### Initial Study/Mitigated Negative Declaration (IS/MND) Section IV, Pages #23–24

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

**Specific impact:** The MND (p. 23) states that “a field survey and habitat assessment done by Michael Baker International on March 12, 2024 (Appendix C, Biological Resources Memorandum), revealed that no federally or State threatened, endangered, candidate, or special-status species, or sensitive natural habitats were observed at the project site. However, suitable habitat for several special status species was present, including the Yuma Ridgway's Rail.” The general field assessment included a survey of the Project site and a 100-foot buffer. CDFW is concerned that the timing and scope of the general field assessment in March 2024 was not sufficient to detect all special-status species. In addition, no focused or protocol-level surveys were performed for the detection of special-status species. CDFW is concerned about the potential for special-status species to occur on or near the Project site. The California Natural Diversity Database (CNDDDB) and data layers in the Biogeographic Information and Observation System (BIOS) indicate that ESA-listed, CESA-listed, or other special-status species have been reported or have the potential to occur in the Project area, including, but not limited to, the following: **Plants:** Abram's spurge (*Euphorbia abramsiana*), chaparral sand-verbena

(*Abronia villosa* var. *aurita*), gravel milk-vetch (*Astragalus sabulonum*), sand food (*Pholisma sonora*); **Amphibians:** Sonoran Desert toad (*Incilius alvarius*); **Birds:** burrowing owl (*Athene cunicularia*), cliff swallow (*Petrochelidon pyrrhonota*), crissal thrasher (*Toxostoma crissale*), ferruginous hawk (*Buteo regalis*), Gila woodpecker (*Melanerpes uropygialis*), loggerhead shrike (*Lanius ludovicianus*), mountain plover (*Charadrius montanus*), northern harrier (*Circus cyaneus*), yellow warbler (*Setophaga petechia*), Yuma Ridgway's rail (*Rallus obsoletus yumanensis*); **Mammals:** American badger (*Taxidea taxus*), little brown bat (*Myotis lucifugus*), Mexican free-tailed bat (*Tadarida brasiliensis*), pallid bat (*Antrozous pallidus*), Townsend's big-eared bat (*Corynorhinus townsendii*), western mastiff bat (*Eumops perotis californicus*), Yuma myotis (*Myotis yumanensis*), western yellow bat (*Lasiurus xanthinus*).

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 MND. CDFW is concerned that without a complete and accurate description of the existing environmental setting, the MND 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 MND include the results of recent biological surveys as described in the following mitigation measure, as well as mitigation measures to reduce impacts to less than significant.

#### **Mitigation Measure BIO-[A]: Assessment of Biological Resources**

**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 off-site 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 CDFW-recommended MM BIO-[A] through MM BIO-[G], as well as revised MM BIO-1 (see Attachment 1).

## **II. Mitigation Measure or Alternative and Related Impact Shortcoming**

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

#### **IS/MND, Section #IV, Page #23; Biological Resources Memorandum, Page #3**

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

**Specific impact:** The MND (p. 23) indicates that suitable foraging habitat for burrowing owl has been confirmed on the Project site. The Biological Resources Memorandum (p. 3) states, “Although canals and agricultural areas in Imperial County generally provide suitable burrowing owl (*Athene cunicularia*) habitat, no suitable burrow structures were observed in the study area, and this species was not observed during the site visit.” CDFW notes that the field assessment covered only the Project site and a 100-foot buffer, which may not be sufficient to evaluate the potential for burrowing owls in the Project area. In addition, suitable burrows have potential to be created and occupied in the interim between the initial field assessment and the beginning of Project activities, as well as during pauses in construction. 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 in proximity (Gervais et al. 2003). In addition, burrowing owls frequently move into disturbed areas prior to and during construction since they are adapted to highly modified habitats (Chipman et al. 2008; Coulombe 1971). In Imperial Valley, burrowing owls are highly dependent on irrigation canals for nesting habitat (Wilkerson and Siegel 2011). 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.

CDFW notes that impacts to burrowing owls could also occur outside of the peak nesting season because burrowing owls may start breeding earlier (in January) and because young owls may still be dependent on the adults until later in the fall. In addition, because some burrowing owls are resident in burrows year-round, impacts to this species could also occur outside of the peak nesting season. Additionally, CNDDDB/BIOS report occurrences of burrowing owl less than 3 miles from the Project site.

**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.)

**Recommended Potentially Feasible Mitigation Measure:** Because suitable habitat for burrowing owl exists within the Project site and surrounding area, CDFW recommends the MND is revised to include the findings of focused surveys for burrowing owl following guidelines outlined in the *Staff Report on Burrowing Owl Mitigation* (CDFG 2012 or most recent version). 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 site, 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 reduced to less than significant. CDFW recommends adding the measure shown below to ensure that impacts to burrowing owl are reduced to less than significant:

**MM BIO-[B]: Focused and Pre-Construction Surveys for Burrowing Owl**

**Suitable burrowing owl habitat has been confirmed on the site; therefore, focused burrowing owl surveys shall be conducted by a qualified biologist 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 detected during the focused surveys, the qualified biologist and Project proponent shall begin coordination with CDFW and USFWS immediately, and 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 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 repeated when there is a pause in construction of more than 30 days. 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 #3: Nesting Birds**

**IS/MND, Section #IV, Page #23; Biological Resources Memorandum, Page #3 and Attachment 2**

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

**Specific impact:** The Biological Resources Memorandum (p. 3) indicates that the following bird species were detected in the study area: “red-winged blackbird (*Agelaius phoeniceus*), great-tailed grackle (*Quiscalus mexicanus*), western meadowlark (*Sturnella neglecta*), American pipit (*Anthus rubescens*), great egret (*Ardea alba*), marsh wren (*Cistothorus palustris*), yellow-rumped warbler (*Setophaga coronate*), Gila woodpecker (*Melanerpes uropygialis*), Eurasian collared-dove (*Streptopelia decaocto*), northern mockingbird (*Mimus polyglottos*), house sparrow (*Passer domesticus*), black phoebe (*Sayornis nigricans*), and mourning dove (*Zenaida macroura*).” The MND (p. 23) states that a jurisdictional delineation was conducted on March 26, 2024, and that “no riparian habitat was observed during the field survey.” However, photographs included in the Biological Resources Memorandum show vegetation associated with the Central Drain, as well as trees and other vegetation in proximity to the Project site. The Biological Resources Memorandum (p. 3) indicates that “birds were observed nesting on the beams of the bridge during the field survey and there is a potential for other birds to be nesting in vegetated areas throughout the study area.” The riverine habitat associated with the Central Drain and the nearby Alamo River are suitable for multiple nesting bird species. Vegetation on the Project site itself and in nearby open areas and agricultural fields may also provide suitable nesting and foraging habitat. Agricultural fields in the Imperial Valley of California provide valuable habitat for many resident and migratory birds and are an important component of the Salton Sea ecosystem (Patten et al. 2003).

The MND (p. 23) also states, “Compliance with Migratory Bird Treaty Act California Fish and Game Code (CFGF), which requires the project must avoid impacts to birds and their active nests during the breeding season (February 1 through September 15).” CDFW clarifies that Fish and Game Code provides protection to birds and their nests and eggs *any time* they are present. CDFW is concerned about potential impacts to nesting birds including loss of nesting/foraging habitat and potential take from ground-disturbing activities and construction. Conducting work outside the peak nesting season is an important avoidance and minimization measure. CDFW also recommends the completion of preconstruction 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. Pre-construction nesting bird surveys should also be repeated if there are pauses in construction.

**Evidence impact would be significant:** It is the Project proponent's responsibility to comply with all applicable laws related to nesting birds and birds of prey. Fish and Game Code sections 3503, 3503.5, and 3513 afford protective measures as follows: 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 in the MND for protection of nesting birds; however, the measure is insufficient in scope and timing to reduce impacts to a level less than significant. CDFW recommends revising MM BIO-1 as follows (with additions in **bold** and removals in ~~strikethrough~~):

#### MM BIO-1: Nesting Bird Surveys

~~If bridge demolition and construction occurs during the bird breeding season (February 1 through September 15), A qualified biologist shall be retained to conduct a preconstruction nesting bird survey. The survey must occur three days prior to the start of bridge demolition. If an active nest is found, bridge demolition must not occur within 25 feet of the nest until nesting activity has ceased.~~ **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.** Any time that construction activities cease for more than seven days, a new nesting bird survey must be conducted.

#### **COMMENT #4: Yuma Ridgway's Rail**

##### **IS/MND, Section #IV, Page #23; Biological Resources Memorandum, Page #3**

**Issue:** CDFW is concerned that the MND does not sufficiently identify Project impacts to Yuma Ridgway's Rail or ensure that impacts are reduced to a level less than significant.

**Specific impact:** Yuma Ridgway's rail (*Rallus obsoletus yumanensis*) is state listed as a threatened species and federally listed as a fully protected species. Yuma Ridgway's rail is also a state fully protected species. The MND (p. 23) states that "suitable habitat for several special status species was present, including the Yuma Ridgway's Rail." The Biological Resources Memorandum (p. 3) indicates that "there is also potentially suitable habitat for Yuma Ridgway's Rail ... in the cattail marsh adjacent to the project site." Because suitable habitat has been identified, CDFW recommends that protocol-level surveys be conducted to determine the presence of Yuma Ridgway's rail on the Project site and a 500-foot buffer. The survey results should be included in a revised MND, along with analysis of potential adverse impacts to this CESA-listed and state fully protected species due to habitat modification, loss of foraging habitat, and/or interruption of migratory and breeding behaviors. CDFW recommends that the County include in the analysis how appropriate avoidance, minimization, and mitigation measures will reduce direct and indirect impacts to species to a level less than significant.

**Evidence impact would be significant:** CESA prohibits the take (under Fish & G. Code, § 86, "take" means to hunt, pursue, catch, capture, or kill, or to attempt to hunt, pursue, catch, capture, or kill) of any endangered, threatened, or candidate species that results from a proposed project, except as authorized by state law (Fish & G. Code, §§ 2080, 2085). Fully protected species may not be taken or possessed at any time and no licenses or permits may be issued for their take except as follows: Take is for necessary scientific research; efforts to recover a fully protected, endangered, or threatened species; live capture and relocation of a bird species for the protection of livestock; or they are a covered species whose conservation and management is provided for in a Natural Community Conservation Plan (Fish & G. Code, §§ 3511, 4700, 5050, & 5515). Specified types of infrastructure projects may be eligible for an incidental take permit for unavoidable impacts to fully protected species if certain conditions are met (see Fish & G. Code §2081.15). Project proponents should consult with CDFW early in the project planning process. Project activities described in the MND should generally be designed to completely avoid any fully protected species that have the potential to be present within or adjacent to the Project area.

**Recommended Potentially Feasible Mitigation Measure:** To reduce impacts to Yuma Ridgway's rail to a level less than significant, CDFW recommends that the County include the following mitigation measure in a revised MND:

#### **MM BIO-[C]: Rail Surveys**

**Prior to the start of Project activities, a biologist shall be designated (Designated Biologist(s)) who has a valid 10(a)(1)(A) Fish and Wildlife Service recovery permit for *Rallus obsoletus yumanensis* and a CDFW CESA Memorandum of Understanding for *Rallus obsoletus yumanensis* to perform presence/absence surveys according to the [Yuma Ridgway Rail Survey](#)**



**Protocol for Project Evaluation** within a 500-foot buffer of the Project. The survey requires 6 callback surveys between March 1 and May 15. If presence of *Rallus obsoletus yumanensis* is detected, Project activities that require the use of heavy equipment may not take place during the peak rail breeding season (February 15 to September 30). CDFW shall be notified in writing of detection of this species within three (3) days. If protocol surveys indicate this species is not present within the 500-foot buffer, Project activities may proceed subject to the other provisions of federal and state law. The results of the protocol surveys shall be provided to CDFW prior to commencement of Project activities.

#### **COMMENT #5: Special-Status Bats**

##### **Biological Resources Memorandum, Page #3, and IS/MND Section IV, Page 24**

**Issue:** CDFW is concerned that the MND does not sufficiently identify Project impacts to special-status bats or ensure that impacts are reduced to a level less than significant.

**Specific impact:** The Biological Resources Memorandum (p. 3) states that “there is a potential for common bats, such as Mexican free-tailed bat (*Tadarida brasiliensis*), Yuma myotis (*Myotis yumanensis*), and little brown bat (*Myotis lucifugus*), to occur in the study area. These species could potentially roost within the Meloland Road bridge joints and hinges. Although these species are not special-status, maternity and winter roosting habitat is rapidly declining, and a loss of occupied habitat may be significant under CEQA.” CDFW notes that in addition to multiple bat species roosting in the bridge joints and hinges, there is also potential for multiple bat species, including pallid bat (*Antrozous pallidus*), to roost in cliff swallow (*Petrochelidon pyrrhonota*) mud-nests under the bridge. Year-round occupancy of cliff swallow mud-nests by bat species has been observed throughout California, including, but not limited to, Yuma myotis (*Myotis yumanensis*), big brown bat (*Eptesicus fuscus*), Mexican free-tailed bat (*Tadarida brasiliensis*), pallid bat (*Antrozous pallidus*), and *Myotis* sp. (unidentified to species level) (California Bat Working Group, 2022). Several bat species use mud-nests located in or on bridges, cliffs, culverts, and other structures with a vertical surface protected by an overhang near a source of mud and with a nearby open area for foraging. They have been observed using the inside of cliff swallow nests as well as the interstitial crevices between nests or between the nest and the structure (California Bat Working Group, 2022). The permanent loss of roosting habitat is considered one of the primary conservation issues for bat populations (Fenton 1997, Pierson 1998). Bats roosting in cliff swallow mud-nests could be directly impacted (i.e., injured or killed) by Project activities if they are present when these nests are removed. The Biological Resources Memorandum (p. 3) indicates that “birds were observed nesting on the beams of the bridge during the field survey”; however, the species of these birds was not reported. A revised MND should include a survey of whether cliff swallow nests occur on the bridge, analysis of the potential impacts to bats that may use these nests for roosting, and appropriate avoidance, minimization, and mitigation measures to reduce impacts to less than significant.

**Evidence impact would be significant:** Take (hunt, pursue, catch, capture, or kill, or attempt to do so; Fish & G. Code §86) of nongame mammals is prohibited by Fish and Game Code §4150. Section 15070(b)(2) of the CEQA Guidelines states that one of the conditions under which a mitigated negative declaration shall be prepared is when there is no substantial evidence that the project as revised may have a significant effect on the environment. Therefore, Imperial County must demonstrate that all impacts to biological resources are less than significant through appropriate avoidance, minimization, and mitigation measures. Several special-status bats have

the potential to occur in the Project area, including pallid bat (*Antrozous pallidus*), which is a California Species of Special Concern that meets the CEQA definition of a rare species (CEQA Guidelines § 15380). Imperial County should demonstrate in the MND that impacts to pallid bat and other special-status bats are avoided, minimized, and mitigated to a level that is less than significant.

**Recommended Potentially Feasible Mitigation Measure:** CDFW appreciates the inclusion of MM BIO-2; however, it is insufficient in timing and scope to reduce impacts to special-status bats to a level less than significant. Because of the potential for harm to bats during bridge removal, CDFW recommends that Imperial County replace MM BIO-2 with the following mitigation measure in a revised MND:

**MM BIO-[D]: Bat Surveys and Avoidance**

**Prior to the start of Project activities, the County shall retain a qualified biologist to conduct a bat roosting habitat suitability assessment of the structures, trees, and vegetation that may be removed, altered, or indirectly impacted by the proposed Project. Within suitable bat roosting habitat, the qualified biologist shall 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 bats are found using any trees or structures within the Project area, including the bridge and any cliff swallow nests on the bridge, the qualified biologist shall identify the bats to the species level and evaluate the colony, if applicable, to determine its size and significance. The bat survey results shall include: 1) the exact location of all roosting sites (location shall be described and mapped); 2) the number of bats present at the time of visit (count or estimate); 3) each species of bat present (including how the species was identified); 4) the location of all signs of bats (i.e., individuals, guano, urine staining, corpses, feeding remains, scratch marks, and bats squeaking and chattering)(described and mapped); 5) the type of roost: maternity roost, winter roost (hibernacula), and night roost (resting at night while out feeding) versus a day roost (resting all day) must also be clearly stated; and 6) proposed avoidance and minimization measures, including avoidance of bats in swallow nests. The results of the survey shall be submitted to CDFW for review prior to initiating Project activities.**

**If active maternity roosts are identified in the work area or 500 feet extending from the work area, Project construction within these areas 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.**

**If active hibernacula (winter roosts) are identified in the work area or 500 feet extending from the work area, a minimum 500-foot no-work buffer shall be provided around 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 qualified 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 County shall compensate no less than 2:1 for permanent impacts to roosting habitat.**

#### **COMMENT #6: CDFW Lake and Streambed Alteration (LSA) Program**

##### **IS/MND, Table 1, Page #13; Biological Resources Memorandum, Page #4**

**Issue:** The MND does not include mitigation measures to avoid or reduce impacts to streams and their associated resources to a level less than significant.

**Specific impact:** The Biological Resources Memorandum (p. 4) indicates that “Central Drain exhibited bed and bank and comprises approximately 1.87 acres of jurisdictional vegetated streambed under the jurisdiction of the CDFW under Section 1600 et seq. of California Fish and Game Code (CFGC).” The MND (p. 13) identifies the need for a “1602 Streambed Alteration Agreement for work in Central Drain to replace the Meloland Road Bridge with a pipe crossing.” The Central Drain is tributary to the Alamo River, and has potential to support wildlife, such as burrowing owls, on-site and adjacent to the Project site. Potential direct and indirect impacts to the streams and associated fish and wildlife resources resulting from Project activities are subject to notification under Fish and Game Code section 1602.

**Evidence impact would be significant:** Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following: substantially divert or obstruct the natural flow of any river, stream, or lake; substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or deposit debris, waste or other materials that could pass into any river, stream or lake. Note that “any river, stream or lake” includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a body of water. Upon receipt of a complete notification, CDFW determines if the proposed Project activities may substantially adversely affect existing fish and wildlife resources and whether a Lake and Streambed Alteration (LSA) Agreement is required. An LSA Agreement includes measures necessary to protect existing fish and wildlife resources. CDFW may suggest ways to modify the Project that would eliminate or reduce harmful impacts to fish and wildlife resources. CDFW’s issuance of an LSA Agreement is a “project” subject to CEQA (see Pub. Resources Code § 21065). Early consultation with CDFW is recommended since modification of the proposed Project may be required to avoid or reduce impacts to fish and wildlife resources. To submit a Lake or Streambed Alteration notification, visit:  
<https://wildlife.ca.gov/Conservation/Environmental-Review/LSA>.

**Recommended Potentially Feasible Mitigation Measure:** Because of the potential for impacts to resources subject to Fish and Game Code section 1602, CDFW recommends Imperial County include the following additional mitigation measure in a revised MND:

**MM BIO-[E]: CDFW's Lake and Stream Alteration (LSA) Program**

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

**COMMENT #7: Construction Noise**

**IS/MND, Section #XIII, Pages #32–33**

**Issue:** The MND 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 MND (p. 32) states, "County standards require state construction noise, from a single piece of equipment or a combination of equipment, shall not exceed 75 dB Leq." It also states (p. 33), "High levels of ground borne vibration and noise would be generated during construction activities such as excavation, large mechanical pile driving machines, or the use of heavy earthmoving equipment."

**Evidence impact would be significant:** Construction may result in substantial noise through road use, equipment, and other Project-related activities. This may adversely affect wildlife species in several ways as wildlife responses to noise can occur at exposure levels of only 55 to 60 dB (Barber et al. 2009). Anthropogenic noise can disrupt the communication of many wildlife species including frogs, birds, and bats (Sun and Narins 2005, Patricelli and Blickley 2006, Gillam and McCracken 2007, Slabbekoorn and Ripmeester 2008). Noise can also affect predator-prey relationships as many nocturnal animals such as bats and owls primarily use auditory cues (i.e., hearing) to hunt. Additionally, many prey species increase their vigilance behavior when exposed to noise because they need to rely more on visual detection of predators when auditory cues may be masked by noise (Rabin et al. 2006, Quinn et al. 2017). Noise has also been shown to reduce the density of nesting birds (Francis et al. 2009) and cause increased stress that results in decreased immune responses (Kight and Swaddle 2011).

**Recommended Potentially Feasible Mitigation Measure:** Because of the potential for construction noise to negatively impact wildlife, CDFW recommends Imperial County include the following additional mitigation measure in a revised MND:

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

**During all Project construction, Imperial County 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. Imperial County 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.**

#### **COMMENT #8: Artificial Nighttime Lighting**

##### **IS/MND, Section IS#23-0034 Project Description, Page #261**

**Issue:** The MND 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 MND (p. 261) states “Construction activities are generally not anticipated to occur at night. Any lighting used at night would be shielded and directed downward in the work-areas.” The MND does not provide any details regarding the use of artificial nighttime lighting or the impacts to biological resources resulting from the use of artificial nighttime lighting during construction of the Project, and no mitigation measures are proposed. Designs for lighting to be used during operation of the Project should be included in a revised MND, along with details of artificial nighttime lighting to be used during construction. 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 MND.

**Evidence impact would be significant:** Artificial nighttime lighting often results in light pollution, which has the potential to significantly and adversely affect fish and wildlife. Artificial lighting alters ecological processes including, but not limited to, the temporal niches of species; the repair and recovery of physiological function; the measurement of time through interference with the detection of circadian and lunar and seasonal cycles; the detection of resources and natural enemies; and navigation (Gatson et al. 2013). Many species use photoperiod cues for communication including bird song (Miller 2006), determining when to begin foraging (Stone et al. 2009), behavioral thermoregulation (Beiswenger 1977), and migration (Longcore & Rich 2004). Phototaxis, a phenomenon that results in attraction and movement towards light, can disorient, entrap, and temporarily blind wildlife species that experience it (Longcore & Rich 2004).

**Recommended Potentially Feasible Mitigation Measure:** Because of the potential for artificial nighttime lighting to negatively impact wildlife, CDFW recommends a revised MND include a light 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 MND:

##### **MM BIO-[G]: Artificial Nighttime Lighting**

**During Project construction and operations over the lifetime of the Project, Imperial County shall eliminate all nonessential lighting throughout the Project area and avoid or limit the use of artificial light at night during the hours of dawn and dusk when many wildlife species are most active. Imperial County shall ensure that all lighting for the Project is fully shielded, cast downward and away from surrounding open-space areas, reduced in intensity to the greatest extent, and does not result in lighting trespass including glare into surrounding areas or upward into the night sky (see the International Dark-Sky Association standards at <http://darksky.org/>). Imperial County 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.**



## 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 Imperial County in identifying and mitigating Project impacts on biological resources. CDFW concludes that the MND lacks sufficient information for a meaningful review of impacts to biological resources, including a complete assessment of biological resources. The CEQA Guidelines indicate that recirculation is required when a new significant effect is identified and additional mitigation measures are necessary (§ 15073.5). CDFW recommends that a revised MND, including recent focused assessments of biological resources, be recirculated for public comment. CDFW also recommends that additional mitigation measures and analysis as described in this letter be added to a revised MND.

Questions regarding this letter or further coordination should be directed to Julia Charpek, Environmental Scientist, at 909.354.0937 or [Julia.Charpek@wildlife.ca.gov](mailto:Julia.Charpek@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
84F92FFEEFD24C8...

Kim Freeburn  
Environmental Program Manager

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

ec:

Heather Brashear, Senior Environmental Scientist (Supervisor), CDFW  
[Heather.Brashear@Wildlife.ca.gov](mailto:Heather.Brashear@Wildlife.ca.gov)

Office of Planning and Research, State Clearinghouse, Sacramento  
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**Attachment 1: Mitigation Monitoring and Reporting Program (MMRP) for Biological Resources**

Mitigation Measure (MM) Description	Implementation Schedule	Responsible Parties
<p><b>Mitigation Measure BIO-[A]: Assessment of Biological Resources</b></p> <p>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 off-site areas with the potential to be affected, including California Species of</p>	<p>Prior to Project construction activities</p>	<p>Imperial County</p>



<p>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><b>MM BIO-[B]: Focused and Pre-Construction Surveys for Burrowing Owl</b></p> <p>Suitable burrowing owl habitat has been confirmed on the site; therefore, focused burrowing owl surveys shall be conducted by a qualified biologist 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 begin coordination with CDFW and USFWS immediately, and 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 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>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 repeated when there is a pause in construction of more than 30 days. 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</p>	<p>Focused surveys: Prior to the start of Project-related activities</p> <p>Preconstruction surveys: No less than 14 days prior to start of Project related activities and within 24 hours prior to ground disturbance</p>	<p>Imperial County</p>

<p>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><b>MM BIO-1: Nesting Bird Surveys</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. Any time that construction activities cease for more than seven days, a new nesting bird survey must be conducted.</p>	<p>No more than 3 days prior to vegetation clearing or ground-disturbing activities</p>	<p>Imperial County</p>
<p><b>MM BIO-[C]: Rail Surveys</b></p> <p>Prior to the start of Project activities, a biologist shall be designated (Designated Biologist(s)) who has a valid 10(a)(1)(A) Fish and Wildlife Service recovery permit for <i>Rallus obsoletus yumanensis</i> and a CDFW CESA Memorandum of Understanding for <i>Rallus obsoletus yumanensis</i> to perform presence/absence surveys according to the Yuma Ridgway Rail Survey Protocol for Project Evaluation within a 500 foot buffer of the Project. The survey requires 6 callback surveys between March 1 and May 15. If presence of <i>Rallus obsoletus yumanensis</i> is detected, Project activities that require the use of heavy equipment may not take place during the peak rail breeding season (February 15 to September 30). CDFW shall be notified in writing of detection of this species within three (3) days. If protocol surveys indicate this species is not present within the 500-foot buffer, Project activities may proceed subject to the other provisions of federal and state law. The results of the protocol surveys shall be provided to CDFW prior to commencement of Project activities.</p>	<p>Prior to Project construction activities</p>	<p>Imperial County</p>
<p><b>MM BIO-[D]: Bat Surveys and Avoidance</b></p> <p>Prior to the start of Project activities, the County shall retain a qualified biologist to conduct a bat roosting habitat suitability assessment of the structures, trees, and vegetation that may be removed, altered, or indirectly impacted by the proposed Project. Within suitable bat roosting habitat, the qualified biologist shall 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</p>	<p>Prior to Project construction activities</p>	<p>Imperial County</p>

<p>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.</p> <p>If bats are found using any trees or structures within the Project area, including the bridge and any cliff swallow nests on the bridge, the qualified biologist shall identify the bats to the species level and evaluate the colony, if applicable, to determine its size and significance. The bat survey results shall include: 1) the exact location of all roosting sites (location shall be described and mapped); 2) the number of bats present at the time of visit (count or estimate); 3) each species of bat present (including how the species was identified); 4) the location of all signs of bats (i.e., individuals, guano, urine staining, corpses, feeding remains, scratch marks, and bats squeaking and chattering)(described and mapped); 5) the type of roost: maternity roost, winter roost (hibernacula), and night roost (resting at night while out feeding) versus a day roost (resting all day) must also be clearly stated; and 6) proposed avoidance and minimization measures, including avoidance of bats in swallow nests. The results of the survey shall be submitted to CDFW for review prior to initiating Project activities.</p> <p>If active maternity roosts are identified in the work area or 500 feet extending from the work area, Project construction within these areas 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.</p> <p>If active hibernacula (winter roosts) are identified in the work area or 500 feet extending from the work area, a minimum 500-foot no-work buffer shall be provided around 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 qualified 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 County shall compensate no less than 2:1 for permanent impacts to roosting habitat.</p>		
<p><b>MM BIO-[E]: CDFW's Lake and Stream Alteration (LSA) Program</b></p> <p>Prior to Project-activities and issuance of any grading permit, the Project Sponsor shall obtain written correspondence from the California Department of Fish and Wildlife (CDFW) stating that notification under section 1602 of the Fish and Game Code is not required for the Project, or the Project Sponsor shall obtain a CDFW-executed Lake and Streambed Alteration Agreement, authorizing impacts to Fish and Game Code section 1602 resources associated with the Project.</p>	<p>Prior to Project activities and issuance of any grading permit</p>	<p>Imperial County</p>

<p><b>MM BIO-[F]: Construction Noise</b></p> <p>During all Project construction, Imperial County 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. Imperial County 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.</p>	<p>During all Project construction</p>	<p>Imperial County</p>
<p><b>MM BIO-[G]: Artificial Nighttime Lighting</b></p> <p>During Project construction and operations over the lifetime of the Project, Imperial County shall eliminate all nonessential lighting throughout the Project area and avoid or limit the use of artificial light at night during the hours of dawn and dusk when many wildlife species are most active. Imperial County shall ensure that all lighting for the Project is fully shielded, cast downward and away from surrounding open-space areas, reduced in intensity to the greatest extent, and does not result in lighting trespass including glare into surrounding areas or upward into the night sky (see the International Dark-Sky Association standards at <a href="http://darksky.org/">http://darksky.org/</a>). Imperial County 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>Throughout construction and the lifetime operations of the Project</p>	<p>Imperial County</p>