



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Inland Deserts Region
3602 Inland Empire Boulevard, Suite C-220
Ontario, CA 91764
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



September 10, 2024
Sent via email

Donald Vargas
Compliance Administrator
Imperial Irrigation District
P.O. Box 937
Imperial, CA 92251
dvargaas@iid.com

Grapefruit 92-kV Switching Station Project (PROJECT)
Mitigated Negative Declaration (MND)
SCH# 2024080227

Dear Donald Vargas:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) from the Imperial Irrigation District (District) for the Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

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

CDFW ROLE

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

¹CEQA 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.

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: Imperial Irrigation District

Objective: The Project proposes the demolition of the 6,269 square foot J26 Date Growers Building and the construction of a new 92-kV switching station. The Project consists of the installation of four 92-kV bays, one control building including relay panels and a battery room, auxiliary equipment, and related grading, grounding, concrete foundations, structures, conduit, and perimeter block wall. Transmission power lines CI, R, K, CL, CN, and CM will be relocated from the Coachella Switching Station to the new Grapefruit Switching Station. The Project also includes four off-site poles for an overhead transmission line extending east across State Route II /Grapefruit Boulevard, crossings over a roadside ditch and rail line, through an agricultural field to connect to an existing transmission tower. The existing circuit between Coachella Switching Station and Coachella Gas Turbines will be intercepted with a 92-kV double circuit transmission line to Grapefruit Switching Station. Artificial nighttime lighting will be attached to steel structures and buildings.

Location: The proposed Project is located at 1280 Grapefruit Boulevard in the City of Coachella, Riverside County, California, at the northwest corner of Grapefruit Boulevard and Bagdad Avenue. The Project is located within APNs 044-430-008, 044-450-084, and 044-450-090.

Timeframe: The MND does not indicate a timeframe for Project construction activities.

COMMENTS AND RECOMMENDATIONS

CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (i.e., biological resources). CDFW offers the comments and recommendations below to assist the District in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and

wildlife (biological) resources. The 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 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.

Existing Environmental Setting

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 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 may provide an incomplete analysis of Project-related environmental impacts.

The MND lacks a complete assessment of biological resources within the Project site and surrounding area specifically as it relates to burrowing owl. A complete and accurate assessment of the environmental setting and Project-related impacts to burrowing owl is needed to both identify appropriate avoidance, minimization, and mitigation measures and demonstrate that these measures reduce Project impacts to less than significant.

Mitigation Measures

CEQA requires that a 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 District in ensuring that Project impacts to biological resources are reduced to less than significant, CDFW recommends adding mitigation measures for nesting birds, western burrowing owl (*Athene cunicularia hypugaea*), artificial nighttime lighting, and CDFW Lake and Streambed Alteration Program, as well as revising the mitigation measure for bats.

1) Nesting Birds

It is the Project proponent's responsibility to comply with all applicable laws related to nesting birds and birds of prey. Fish and Game Code sections 3503, 3503.5, and 3513 afford protective measures as follows: section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise

provided by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.).

With regard to the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP), per its Implementing Agreement and Permits, Take associated with Covered Activities will not be in violation of the Migratory Bird Treaty Act and will be consistent with Fish and Game Code sections 3503 and 3503.5; therefore, Covered Activities within and outside Conservation Areas must undertake measures to avoid the take of individuals, nests, and eggs of nesting birds. General conservation measures for all bird species, per CVMSHCP Section 9.7, indicate that Permittees avoid impacts to Habitat during nesting season.

Page 28 of the MND indicates that the J26 Date Growers Building, which is proposed for demolition as part of the Project, contains palm trees (*Washingtonia* sp.). In review of aerial imagery using Google Earth and Google Street View, it appears that up to six palm trees with untrimmed skirts exist on the Project site. Birds like hooded oriole (*Icterus cucullatus*) primarily nest in palm trees and build hanging nests on the undersides of palm fronds.² Mourning doves (*Zenaida macroura*), owls, greater roadrunner (*Geococcyx californianus*), and house finch (*Haemorhous mexicanus*) frequently nest in the thick skirts of palms.³ The Project also proposes the installation of new power poles and lines in the ditch between Grapefruit Blvd. and Hwy 111 that includes woody vegetation and in an agricultural field that may support ground-nesting birds and burrowing owl (see next section on Burrowing Owl). The Project site contains suitable habitat for nesting birds; however, the MND lacks a mitigation measure for nesting birds.

CDFW is concerned about impacts to nesting birds including loss of nesting/foraging habitat and potential take from ground-disturbing activities and construction. Per the CVMSHCP, conducting work outside the nesting season is an important avoidance and

² Garrett, K., and J. Dunn. 1981. Birds of southern California. Los Angeles Audubon Soc., Los Angeles.

³ Cornett, J. W., How did palm oases get to the California desert? A behind-the-scenes look at these 'tropical islands'. Desert Magazine. Sept. 13, 2018.

minimization measure. CDFW also recommends the completion of nesting bird surveys regardless of the time of year to ensure that impacts to nesting birds are avoided. The timing of the nesting season varies greatly depending on several factors, such as bird species, weather conditions in any given year, and long-term climate changes (e.g., drought, warming, etc.). In response to warming, birds have been reported to breed earlier, thereby reducing temperatures that nests are exposed to during breeding and tracking shifts in availability of resources (Socolar et al., 2017⁴). 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.

To support the District in reducing impacts to nesting birds to a level less than significant, CDFW recommends that the District add the following mitigation measure to a revised MND:

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.

⁴ 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.

2) Burrowing Owl

Western burrowing owl is a California Species of Special Concern. It is unlawful to take, possess, or destroy any birds in the order Strigiformes, including western burrowing owls, except as otherwise provided in the Fish and Game Code and related regulations. (Fish & G. Code, § 3503.5.) It is also unlawful to take, possess, or destroy western burrowing owl nests or eggs, except as otherwise provided in the Fish and Game Code and related regulations. (Fish & G. Code, §§ 3503, 3503.5.) State law also explicitly incorporates the prohibitions on take and possession set forth in the federal Migratory Bird Treaty Act. (Fish & G. Code, § 3513.)

With regard to the CVMSHCP, the CDFW Natural Community Conservation Plan (NCCP) Permit #2835-2008-001-06 does not provide Take Authorization for burrowing owl individuals, nests, or eggs. To the contrary, section 3.5.6 of the NCCP Permit states burrowing owl “pairs or individuals will not be Taken” and reiterates that the “HCP/NCCP does not authorize Take of [burrowing owl] nests [or] eggs[.]” Therefore, throughout the CVMSHCP area—both within and without Conservation Areas—Permittees must ensure that activities occurring within their jurisdictions do not result in the take, possession, or destruction of burrowing owl individuals, nests, or eggs. Any activity occurring within the CVMSHCP area that results in the take of burrowing owl individuals, nests, or eggs would be unlawful and would not be a Covered Activity under the CVMSHCP.

Page 26 of the MND indicates that burrowing owl was determined to be absent from the Project site, and that “no ground squirrels or underground burrows (or suitable nesting areas) are found within the Study Area.” Burrowing owls have the potential to occupy habitat within the agricultural field where the Project proposes the construction of power poles and lines. CDFW notes that in California, preferred habitat for burrowing owl is generally typified by short, sparse vegetation with few shrubs,⁵ and that burrowing owls may occur in ruderal grassy fields, vacant lots, and pastures if the vegetation structure is suitable and there are useable burrows and foraging habitat proximity.⁶ CDFW considers the Project site to contain suitable habitat for burrowing owl. Further, given the MND’s lack of information on if and how a burrowing owl habitat assessment or surveys were conducted, the number of occupied or suitable burrows within the Project site is currently unknown. Also, burrowing owls frequently move into disturbed areas prior to and during construction activities since they are adapted to highly modified

⁵ Haug, E. A., B. A. Millsap, and M. S. Martell. 1993. Burrowing owl (*Speotyto cunicularia*), in A. Poole and F. Gill, editors, *The Birds of North America*, The Academy of Natural Sciences, Philadelphia, Pennsylvania, and The American Ornithologists’ Union, Washington, D.C., USA.

⁶ Gervais, J. A., D. K. Rosenberg, R. G. Anthony. 2003. Space use and pesticide exposure risk of male burrowing owls in an agricultural landscape. *Journal of Wildlife Management* 67: 155-164.

habitats.^{7,8} Based on unprocessed data available in the California Natural Diversity Database, multiple and recent observations of burrowing owl have been made within the Whitewater River located approximately 0.6 miles from the Project site.

Given the presence of suitable habitat for burrowing owls in the agricultural field where Project activities are proposed and the documented presence of burrowing owls in the area, there is the potential for owls to be impacted by Project activities. CDFW recommends the MND is revised to include the findings, including survey methods and survey reports, from focused burrowing owl surveys following the guidelines in the *Staff Report on Burrowing Owl Mitigation* along with appropriate avoidance, minimization, and mitigation measures. Adequate information about burrowing owls within and surrounding the Project site support CDFW in effectively assessing potential impacts and recommending appropriate avoidance, minimization, and mitigation measures to support the District and Project proponent in reducing impacts to burrowing owls to a level less than significant. Further, despite the potential for Project activities to impact burrowing owl, the MND lacks a mitigation measure for burrowing owl. To support the District in reducing impacts to burrowing owl to a level less than significant, CDFW recommends that the District adds to a revised MND the following mitigation measure:

Mitigation Measure BIO-[B]: Burrowing Owl Surveys

Suitable burrowing owl habitat has been confirmed on the site; therefore, focused burrowing owl surveys shall be conducted by a qualified biologist according to the *Staff Report on Burrowing Owl Mitigation* (CDFG, 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, minimization, mitigation, and monitoring actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites, acres of burrowing owl habitat that will be impacted, details of site monitoring, and details on proposed buffers and other avoidance measures. If impacts to occupied burrowing owl habitat or burrow cannot be avoided, the Burrowing Owl Plan shall also describe minimization and relocation actions that will be implemented. Proposed implementation of burrow exclusion and closure should only be considered as a last resort, after all other options

⁷ Chipman, E. D., N. E. McIntyre, R. E. Strauss, M. C. Wallace, J. D. Ray, and C. W. Boal. 2008. Effects of human land use on western burrowing owl foraging and activity budgets. *Journal of Raptor Research* 42(2): 87-98.

⁸ Coulombe, H. N. 1971. Behavior and population ecology of the Burrowing Owl, *Speotyto cunicularia*, in the Imperial Valley of California. *Condor* 73:162-176.

have been evaluated as exclusion is not in itself an avoidance, minimization, or mitigation method and has the possibility to result in take. If impacts to occupied burrows cannot be avoided, information shall be provided regarding adjacent or nearby suitable habitat available to owls along with proposed relocation actions. The Project proponent shall implement the Burrowing Owl Plan following CDFW and USFWS review and approval.

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

3) *Bats*

Page 28 of the MND indicates that “the palm trees and J26 Date Growers Building could provide roosting habitats for western mastiff bat [(*Eumops perotix californicus*; California Species of Special Concern)] and western yellow bat [(*Lasiurus xanthinus*; California Species of Special Concern; CVMSHCP Covered Species)].” The Project proposes the removal of up to six palm trees located near the J26 Date Growers Building.

In California, western yellow bats appear to roost exclusively in the skirt of dead fronds of both native and non-native palm trees and appear to be limited in their distribution by availability of palm habitat. Some individuals or populations may be migratory, although some individuals appear to be present year-round, even in the northernmost portion of the range including southern California⁹. Western yellow bats probably form small maternity groups in palm trees.¹⁰ The Project site contains suitable habitat for western yellow bat. Although the MND includes Mitigation Measure BIO-1 for bats, CDFW considers the measure to be insufficient in scope and timing to reduce impacts to a level

⁹ Bolster, B.C., Bolster, B.C., (ed.). 1998. Terrestrial Mammal Species of Special Concern in California. Draft Final Report. May. Sacramento, CA. Prepared by Paul W. Collins. Prepared for California Department of Fish and Game, Nongame Bird and Mammal Conservation Program, Sacramento, CA.

¹⁰ Life History Account for Western Yellow Bat, California Department of Fish and Wildlife, February 2008.

less than significant. CDFW recommends that Mitigation Measure BIO-1 is revised with the following additions in **bold** and removals in ~~strike~~through:

Mitigation Measure BIO-1: Bat Surveys and Avoidance during Tree Removal

Prior to Project activities, the District shall retain a qualified biologist to perform bat habitat/roosting surveys. Surveys shall be conducted during favorable weather conditions only. Each survey shall consist of one dusk emergence survey (start one hour before sunset and last for three hours), followed by one pre-dawn re-entry survey (start one hour before sunrise and last for two hours), and one daytime visual inspection of all potential roosting habitat on the Project site. Surveys shall be conducted within one 24-hour period. Visual inspections shall focus on the identification of bat sign (i.e., individuals, guano, urine staining, corpses, feeding remains, scratch marks and bats squeaking and chattering). Bat detectors, bat call analysis, and visual observation shall be used during all dusk emergence and pre-dawn re-entry surveys. If active maternity roosts are identified in the work area or 500 feet extending from the work area, Project construction will only occur between October 1 and February 28, outside of the maternity roosting season when young bats are present but are not yet ready to fly out of the roost. Maternity roosts shall not be evicted, excluded, removed, or disturbed. 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. 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.

Tree removal work with the potential to house roosting bats shall be performed between September 15 and October 31 to minimize direct impacts to roosting bats. This time period is after young are volant (flying) but before expected onset of torpor (wintering inactivity). Tree removal work may also be conducted between February 15 and March 31, following winter torpor and prior to the start of the maternity season. No tree removals shall occur during the hibernation season, which typically begins in November or December (depending on weather conditions) and continues through mid-February, due to the high potential for mortality of hibernating bats. Depending on weather conditions and the best professional judgement of a qualified bat biologist approved by CDFW, tree removal work may be performed in November if the forecasted nighttime low temperatures on the evening of removal and the subsequent four evenings do not drop below 45°F. In November, if weather is cold (i.e., forecasted nighttime low temperatures reach 45°F or less for that evening and the next four evenings), then

no tree removals shall be performed. All palm removals shall require a two-step removal process and the involvement of a CDFW-approved qualified bat biologist to ensure that no roosting bats are killed during this activity. The following two-step tree removal process shall be implemented over two consecutive days: on Day 1, live palm fronds located above the frond skirt, and as identified by a qualified bat biologist, will be removed. On Day 2, the remainder of the tree may be removed without supervision by a qualified bat biologist.

~~A qualified biologist should conduct a bat roosting assessment before any construction activities, demolition, or palm tree removal. The roosting assessment should be performed when evening temperatures (dusk) are above 41 ° F. If no evidence of roosting is observed, no further measures are necessary. If roosting and/or signs of bat use are identified during the assessment, the roosting habitat should be avoided to the extent possible. A Bat Management Plan should be developed and implemented if roosting is confirmed to avoid potential impacts. Avoidance measures may include passive relocation or other measures to protect any bats within roost trees/structures.~~

4) Artificial Nighttime Lighting

Regarding the use of artificial nighttime lighting, Page 22 of the MND indicates that lighting “will be attached to steel structures and buildings for maintenance and personnel safety. All lighting would be directed downward and installed in conformance with City standards to avoid light spillage on to adjacent properties.” The MND lacks additional information on proposed artificial nighttime lighting. The Project is located across the street from a ditch containing woody vegetation and agricultural fields— areas that provide suitable nesting, roosting, foraging, and refugia habitat for birds, migratory birds that fly at night, bats, and other nocturnal and crepuscular wildlife. The Project’s proposed artificial nighttime lighting has the potential to significantly and adversely affect wildlife in the open-space areas adjacent to the Project site. 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.¹¹ Many species use photoperiod cues for communication (e.g., bird song¹²), determining when to begin

¹¹ Gatson, K. J., Bennie, J., Davies, T., Hopkins, J. 2013. The ecological impacts of nighttime light pollution: a mechanistic appraisal. *Biological Reviews*, 88.4: 912-927.

¹² Miller, M. W. 2006. Apparent effects of light pollution on singing behavior of American robins. *The Condor* 108:130–139.

foraging,¹³ behavioral thermoregulation,¹⁴ and migration.¹⁵ Phototaxis, a phenomenon that results in attraction and movement towards light, can disorient, entrap, and temporarily blind wildlife species that experience it.¹⁵

While plans for shielding artificial nighttime lighting support the Project in limiting lighting impacts to biological resources within areas to the northeast the Project site, CDFW considers these minimization plans insufficient in scope and timing to reduce impacts to a level less than significant. The MND also lacks a mitigation measure for lighting. To support the District in avoiding or reducing impacts of artificial nighttime lighting on biological resources to less than significant, CDFW recommends the District add the following mitigation measure to a revised MND:

Mitigation Measure BIO-[C]: Artificial Nighttime Lighting

Throughout construction and the lifetime operations of the Project, the Imperial Irrigation District 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. The Imperial Irrigation District and Project proponent shall ensure that all lighting for the Project is fully shielded, cast downward and directed away from surrounding open-space and agricultural areas, reduced in intensity to the greatest extent possible, 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/>). The Imperial Irrigation District and Project proponent 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.

5) CDFW Lake and Streambed Alteration Program

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. Note that "any river, stream, or lake" includes those that are episodic (i.e., those that are

¹³ Stone, E. L., G. Jones, and S. Harris. 2009. Street lighting disturbs commuting bats. *Current Biology* 19:1123–1127.

¹⁴ Beiswenger, R. E. 1977. Diet patterns of aggregative behavior in tadpoles of *Bufo americanus*, in relation to light and temperature. *Ecology* 58:98–108.

¹⁵ Longcore, T., and C. Rich. 2004. Ecological light pollution - Review. *Frontiers in Ecology and the Environment* 2:191–198.

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.

Page 29 of the MND indicates that the Project's "transmission connection corridor crosses Grapefruit Blvd., a roadside ditch, the rail line, the interior of an agricultural field that has been in production for several decades. The ditch does not contain riparian habitat and none of the areas involved have sensitive natural communities. Therefore, the proposed project would have no impact on any riparian habitat or other sensitive natural community." Based on review of aerial imagery, an ephemeral stream is located between Hwy 111 and the railroad to the northeast of the Project site. A culvert, several palo verde (*Parkinsonia* sp.) trees, and other woody vegetation appear to be supported by stormflows that are conveyed through this stream. The Project description lacks a clear discussion on how the Project, and its associated construction of power lines, will impact this stream.

To ensure that impacts to streams and associated fish and wildlife are reduced to a level less than significant, CDFW recommends that the District add the following mitigation measure to a revised MND:

Mitigation Measure BIO-[D]: 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 shall obtain a CDFW-executed Lake and Streambed Alteration Agreement, authorizing impacts to Fish and Game Code section 1602 resources associated with the Project.

6) *Coachella Valley Multiple Species Habitat Conservation Plan*

Local Development Mitigation Fee

The Project site is located within the CVMSHCP Plan Boundary and outside of a Conservation Area. The Project will result in new impacts to agricultural areas and a stream between Hwy 111 and Grapefruit Boulevard resulting from the installation of power poles and lines, areas that contain suitable habitat for burrowing owl. CDFW recommends the District contact the Coachella Valley Conservation Commission (CVCC; Implementing Entity to the CVMSHCP) to receive input on how a local development mitigation fee may apply to the Project.

ENVIRONMENTAL DATA

Daniel Vargas, Compliance Administrator
Imperial Irrigation District
September 10, 2024
Page 13

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

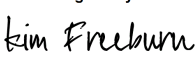
The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental 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 the District in identifying and mitigating Project impacts to biological resources. CDFW concludes that the MND does not adequately identify or mitigate the Project's significant, or potentially significant, impacts to biological resources. CDFW also recommends that revised and additional mitigation measures and analysis as described in this letter be added to a revised MND.

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.

Sincerely,

DocuSigned by:

84F92FFEEFD24C8...

Kim Freeburn
Environmental Program Manager

Attachment 1: MMRP for CDFW-Proposed Mitigation Measures

ec:

Heather Brashear, Senior Environmental Scientist (Supervisor), CDFW
Heather.Brashear@Wildlife.ca.gov

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

ATTACHMENT 1: MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

Mitigation Measures	Timing and Methods	Responsible Parties
<p>Mitigation Measure BIO-[A]: Nesting Birds</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</p>	<p>Timing: No more than 3 days prior to vegetation removal or ground-disturbing activities.</p> <p>Methods: See Mitigation Measure</p>	<p>Implementation: Imperial Irrigation District</p> <p>Monitoring and Reporting: Imperial Irrigation District</p>

<p>work if nesting pairs exhibit signs of disturbance.</p>		
<p>Mitigation Measure BIO-[B]: Burrowing Owl Surveys</p> <p>Suitable burrowing owl habitat has been confirmed on the site; therefore, focused burrowing owl surveys shall be conducted by a qualified biologist according to the <i>Staff Report on Burrowing Owl Mitigation</i> (CDFG, 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, minimization, mitigation, and monitoring actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites, acres of burrowing owl habitat that will be impacted, details of site monitoring, and details on proposed buffers and other avoidance measures. If impacts to occupied burrowing owl habitat or burrow cannot be avoided, the Burrowing Owl Plan shall also describe minimization and relocation actions that will be implemented. Proposed implementation of burrow exclusion and closure should only be considered as a last resort, after all other options have been evaluated as exclusion is not in itself an avoidance, minimization, or mitigation method and has the possibility to result in take. If impacts to occupied burrows cannot be avoided, information shall be provided regarding adjacent or nearby suitable habitat available to owls along with proposed relocation actions. The Project proponent shall implement the Burrowing Owl Plan following CDFW and USFWS review and approval.</p>	<p>Timing: Focused surveys: Prior to vegetation removal or ground-disturbing activities. Pre-construction surveys: No less than 14 days prior to start of Project-related activities and within 24 hours prior to ground disturbance.</p> <p>Methods: See Mitigation Measure</p>	<p>Implementation: Imperial Irrigation District</p> <p>Monitoring and Reporting: Imperial Irrigation District</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> (CDFG, 2012 or most recent version). Preconstruction surveys should be performed by a qualified biologist following the recommendations and guidelines provided in the <i>Staff Report on Burrowing Owl Mitigation</i>. If the preconstruction surveys confirm occupied burrowing owl habitat, Project activities shall be immediately halted. The qualified biologist shall coordinate with CDFW and prepare a Burrowing Owl Plan that shall be submitted to CDFW and USFWS for review and approval prior to commencing Project activities.</p>		
<p>Mitigation Measure BIO-1: Bat Surveys and Avoidance during Tree Removal</p> <p>Prior to Project activities, the District shall retain a qualified biologist to perform bat habitat/roosting surveys. Surveys shall be conducted during favorable weather conditions only. Each survey shall consist of one dusk emergence survey (start one hour before sunset and last for three hours), followed by one pre-dawn re-entry survey (start one hour before sunrise and last for two hours), and one daytime visual inspection of all potential roosting habitat on the Project site. Surveys shall be conducted within one 24-hour period. Visual inspections shall focus on the identification of bat sign (i.e., individuals, guano, urine staining, corpses, feeding remains, scratch marks and bats squeaking and chattering). Bat detectors, bat call analysis, and visual observation shall be used during all dusk emergence and pre-dawn re-entry surveys. If active maternity roosts are identified in the work area or 500 feet extending from the work area, Project construction will only occur between October 1 and February 28, outside of the maternity roosting season when young bats are present but are not yet ready to fly out of the roost. Maternity roosts shall not be</p>	<p>Timing: Surveys: Prior to Project activities; Tree removal: between September 15 and October 31 or between February 15 and March 31</p> <p>Methods: See Mitigation Measure</p>	<p>Implementation: Imperial Irrigation District</p> <p>Monitoring and Reporting: Imperial Irrigation District</p>

<p>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. 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.</p> <p>Tree removal work with the potential to house roosting bats shall be performed between September 15 and October 31 to minimize direct impacts to roosting bats. This time period is after young are volant (flying) but before expected onset of torpor (wintering inactivity). Tree removal work may also be conducted between February 15 and March 31, following winter torpor and prior to the start of the maternity season. No tree removals shall occur during the hibernation season, which typically begins in November or December (depending on weather conditions) and continues through mid-February, due to the high potential for mortality of hibernating bats. Depending on weather conditions and the best professional judgement of a qualified bat biologist approved by CDFW, tree removal work may be performed in November if the forecasted nighttime low temperatures on the evening of removal and the subsequent four evenings do not drop below 45°F. In November, if weather is cold (i.e., forecasted nighttime low temperatures reach 45°F or less for that evening and the next four evenings), then no tree removals shall be performed. All palm removals shall require a two-step removal process and the involvement of a CDFW-approved qualified bat biologist to ensure that no roosting bats are killed during this activity. The following two-step tree removal process shall be implemented over two consecutive days: on Day 1, live palm fronds located above the frond skirt, and as identified</p>		
--	--	--

<p>by a qualified bat biologist, will be removed. On Day 2, the remainder of the tree may be removed without supervision by a qualified bat biologist.</p>		
<p>Mitigation Measure BIO-[C]: Artificial Nighttime Lighting</p> <p>Throughout construction and the lifetime operations of the Project, the Imperial Irrigation District 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. The Imperial Irrigation District and Project proponent shall ensure that all lighting for the Project is fully shielded, cast downward and directed away from surrounding open-space and agricultural areas, reduced in intensity to the greatest extent possible, 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/). The Imperial Irrigation District and Project proponent 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>Timing: Throughout construction and the lifetime operations of the Project.</p> <p>Methods: See Mitigation Measure</p>	<p>Implementation: Imperial Irrigation District</p> <p>Monitoring and Reporting: Imperial Irrigation District</p>
<p>Mitigation Measure BIO-[D]: CDFW Lake and Streambed Alteration Program</p> <p>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 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>Timing: Prior to Construction</p> <p>Methods: See Mitigation Measure</p>	<p>Implementation: Imperial Irrigation District</p> <p>Monitoring and Reporting: Imperial Irrigation District</p>

Daniel Vargas, Compliance Administrator
Imperial Irrigation District
September 10, 2024
Page 19