State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director

November 19, 2024
sent via email

Ashley Helms
Deputy Public Works Director
Inyo County Department of Public Works
703 Airport Road
Bishop, CA 93514
ahelms@inyocounty.us

Dear Ms. Helms:

Runway 12/30 Safety Area Improvements at Bishop Airport (Project)
MITIGATED NEGATIVE DECLARATION (MND)
SCH# 2024100984

The California Department of Fish and Wildlife (CDFW) received a recirculated Notice of Intent to Adopt an MND from Inyo County for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.[1]

Thank you for responding to CDFW's previous request by providing:

a) A State Clearinghouse Number for this project,
b) A map that combines the Natural Communities and Land Cover Types and proposed Project features of Figures 3 and 4, respectively; and
c) An update to Table 1 in the Biological Resources Technical Report to include the acreage of each vegetation community/habitat type within the project footprint, as shown in Section *3.2 Vegetation Communities and Wildlife Habitats*.

CDFW is taking this opportunity to revise comments and recommendations provided in a letter dated October 7, 2024, in response to the previously circulated Initial Study/Mitigated Negative Declaration (IS/MND), regarding those activities involved in the Project that may affect California fish and wildlife. 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.

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

PROJECT DESCRIPTION SUMMARY

Proponent: Inyo County

Objective: The objective of the Project is to satisfy current Federal Aviation Administration (FAA) runway design standards and safety requirements for aircrafts currently operating on Runway 12/30 at Bishop Airport.

Primary Project activities to modify Runway 12/30 Safety Area (RSA) include:

Runway 12 End

- Clearing vegetation, cutting, filling, grading, and compacting 7.8 acres of land within the RSA beyond Runway 12 end;
- Relocating the existing Los Angeles Department of Water and Power (LADWP) unpaved patrol road outside of the runway's Object Free Area (OFA); and
- Removing 1,635 linear feet of existing perimeter fence and installing 2,175 linear feet of new perimeter fence beyond the OFA boundary.

Runway 30 End

- Clearing vegetation, cutting, filling, and grading 6.5 acres of land within the RSA beyond Runway 30 end; and
- Removing 2,000 linear feet of existing perimeter fence and installing 3,125 linear feet of new perimeter fence beyond the OFA boundary.

Runway Sides

- Grading runway sides to a uniform flat surface.

Location: Bishop Airport (BIH), 703 Airport Road, Bishop, CA 93514; 1.5 miles east of the city of Bishop, located in Inyo County at Latitude 37.371775^{0} , Longitude -118.363683^{0} .

Timeframe: The Project is expected to start in late 2024 and last approximately three months.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist Inyo 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. Based on the Project's avoidance of significant impacts on biological resources with implementation of mitigation measures, including those CDFW recommends in Attachment A, CDFW concludes that a Mitigated Negative Declaration is appropriate for the Project.

I. Environmental Setting and Related Impact Shortcoming

Comment #1: Burrowing Owl (*Athene cunicularia*)

Issue: On October 10, 2024, the Fish and Game Commission determined that western burrowing owl warrants protection as a candidate species under the California Endangered Species Act (Fish & G. Code, § 2050 et seq.). During the candidacy period, western burrowing owl will be afforded the same protection as threatened and endangered species under CESA.

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: 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.)

CDFW is concerned that the IS/MND does not discuss burrowing owl, identify Project impacts to burrowing owl, or ensure that impacts are mitigated to a level less than significant, despite the Project site's potential to provide suitable foraging and/or nesting habitat for burrowing owl. The Project may result in the take of burrowing owl, a CESA listed candidate species, during construction of the Project and life of the Project.

Specific impact: CDFW is concerned with the IS/MND's determined low expectation of burrowing owl occurrences, based on negative survey results from November 2022 and maintenance frequency of the graded areas of potential suitable habitat. Burrowing owls have a high potential to move into disturbed sites prior to and during construction activities, including any grading as a part of BIH's ongoing operations and maintenance activities.

Burrowing owls frequently move into disturbed areas since they are adapted to highly modified habitats (Chipman, et al., 2008), (Coulombe, 1971). 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.

Because burrowing owls highly depend on burrows at all times of the year for survival and/or reproduction, evicting them from nesting, roosting, and satellite burrows may lead to indirect impacts or take. Loss of access to burrows will likely result in varying levels of increased stress on burrowing owls and could depress reproduction, increase predation, increase energetic costs, and introduce risks posed by having to find and compete for available burrows (CDFW, 2012). Eviction of burrowing owls is a potentially significant impact under CEQA. If burrowing owl has inhabited the site the potential for the collapsing of burrows, entombment, displacement, direct take associated with vehicle and equipment strike, indirect take associated with Project operations such as attracting predators, reduction of habitat and habitat quality could occur.

Why impact would occur: According to CNDDB, burrowing owl occurrences have been documented in Laws, approximately 2 miles away from the Bishop Airport. Also, the project site is located within burrowing owl predicted habitat and geographic range (CDFW, 2024). The IS/MND indicates that unpaved portions of the Airport property are generally suitable for burrowing owls.

Evidence impact would be significant: The Project, as described, may result in injury, direct mortality, indirect mortality, disruption of breeding behavior, and/or may reduce reproductive capacity of the species. CDFW considers the direct and indirect take of burrowing owl, and the loss of the species' habitat as a significant impact, unless mitigated to a level of less than significant and in compliance with State (i.e., Fish and Game Code sections 3503.5, etc.) and Federal laws (i.e., Migratory Bird Treaty Act). Furthermore, since burrowing owl is now a CESA listed species, if full avoidance of burrowing owl cannot be achieved, CDFW considers the take of burrowing owl and the loss of the species' habitat as a significant impact, unless mitigated to a level of less than significant which may include that Project activities be postponed until appropriate authorization (i.e., a finalized CESA ITP under Fish and Game Code section 2081) is obtained.

Recommended potentially feasible mitigation measure(s) to reduce impacts to less than significant: CDFW recommends the inclusion of MM BIO-1, MM BIO-2, MM BIO-3, MM BIO-4, and MM BIO-5, which include surveys for burrowing owl to be conducted with follow up pre-construction surveys, based on the recommendations and

guidelines provided in the Staff Report on Burrowing Owl Mitigation (Department of Fish and Game, March 2012); available for download from CDFW's website: https://www.wildlife.ca.gov/conservation/survey-protocols. The Staff Report on Burrowing Owl Mitigation, specifies three steps for Project impact evaluations:

1. Habitat assessment,
2. Surveys, and
3. Impact assessment

If burrowing owls are found to occupy the Project site and avoidance is not possible, CDFW recommends that Inyo County seek appropriate authorization prior to Project implementation through a CESA incidental take permit (ITP).

MM BIO-1 – Burrowing Owl

Prior to any ground disturbance, a survey for potential burrows followed by four breeding season surveys of areas found to have potential for burrowing owl occupation must be conducted in accordance with the Staff Report on Burrowing Owl Mitigation (CDFG 2012 or most recent version). Specifically, these reports suggest at least one site visit between February 15 and April 15 and a minimum of three surveys, at least three weeks apart, between the peak breeding season April 15 and July 15, with at least one visit after June 15. The surveys shall include 100 percent coverage of the Project site and include a minimum 500-foot buffer in adjacent habitat. A report summarizing the survey including all requirements for survey reports (page 30 of the 2012 Staff Report) shall be submitted to CDFW for review.

If no burrowing owl, active burrowing owl burrows, or sign (molted feathers, cast pellets, prey remains, eggshell fragments, decoration, or excrement) thereof are found, no further action is necessary.

If burrowing owl, active burrowing owl burrows, or sign thereof are found the qualified biologist shall prepare and implement a plan for avoidance, minimization, and mitigation measures to be review and approved by CDFW for review and approval at least 30 days prior to initiation of ground disturbing activities. The Burrowing Owl Plan shall describe proposed avoidance, minimization, and monitoring actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites, acres of burrowing owl habitat that will be impacted, details of site monitoring, and details on proposed buffers and other avoidance measures if avoidance is proposed. Project activities shall not occur within 1000 feet of an active burrow until CDFW approves the Burrowing Owl Plan. If the Project cannot ensure burrowing owls and their burrows are fully avoided, consultation with CDFW is warranted to discuss how to implement the Project and avoid take; or if avoidance is not feasible, to potentially acquire an ITP prior to any ground disturbing activities, pursuant Fish and Game Code section 2081 subdivision (b). Full mitigation often involves the permanent conservation of quality habitat benefiting the species through a conservation easement, along with habitat enhancement and ongoing management funded appropriately. Passive relocation, performed according to the Staff Report on Burrowing Owl Mitigation (CDGW, 2012) may be authorized through the incidental take permit as a minimization measure.

Comment #2: Nesting Birds

Issue: The IS/MND does not discuss nesting birds and does not include mitigation measures to avoid impacts to nesting birds. CDFW is concerned the Project has the potential to impact nesting birds including CESA-listed birds, CDFW Species of Special Concern (SSC) and common birds that are subject to Fish and Game Code Sections 3503, 3503.5, and 3513, and the Migratory Bird Treaty Act of 1918.

Specific Impact: Potential take of nesting birds and loss of bird nesting and/or foraging habitat.

Why impact would occur: Project activities may disturb nesting birds, which can lead to failure of the nest or unauthorized take.

Evidence impact would be significant: Potential habitat for nesting birds and birds of prey is present within the Project area. The proposed Project should disclose all potential activities that may incur a direct or indirect take to nongame nesting birds within the Project footprint and its close vicinity. Appropriate avoidance, minimization, and/or mitigation measures to avoid take must be included in the environmental document. Measures to avoid the impacts should include species specific work windows, biological monitoring, installation of noise attenuation barriers, etc.

The Project proponent is responsible for complying with Fish and Game Code sections 3503, 3503.5, and 3513, which state as follows: section 3503 states that is it unlawful to take, possess, or needlessly destroy the nest or eggs or any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto; 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 the Fish and Game Code or any regulation adopted pursuant thereto; 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(s) to reduce impacts to less than significant: CDFW recommends a qualified biologist survey the entire Project area for nesting birds and all bird activity to observe behavior that could be related to nest building, incubation, feeding of young and/or possible behavior that could indicate agitation and/or nest abandonment caused by Project activities. CDFW recommends the inclusion of the following mitigation measure to avoid take of nesting birds:

MM BIO-2: Nesting Birds

The Project proponent expects that the proposed Project construction will commence in late 2024 and last approximately three months. Regardless of the time of year, nesting bird surveys shall be performed by a qualified avian biologist no more than three 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.

Comment #3: Rare Plants

CDFW is concerned that an analysis was not completed to form a complete inventory of rare plants within the Project area and to identify the level of impacts on those species identified as potentially present and thus whether the Project's impacts have

been adequately identified, disclosed, and mitigated. According to the CNDDB, rare plants that have been documented within five miles of the survey area include Owens Valley checkerbloom (*Sidalcea covillei;* state endangered), Parish's popcorn flower (*Plagiobothrys parishii;* rare plant rank 1B.1), and Inyo County star-tulip (*Calochortus excavatus;* rare plant rank 1B.1). Reconnaissance surveys were conducted in November, a time of year when these species would not be detected. CDFW recommends that prior to adopting the IS/MND, the County complete focused surveys following accepted protocol/methods and update the IS/MND to reflect the survey results and any changes in mitigation to address Project impacts. CDFW recommends MM BIO-7 below be added to the IS/MND to fully avoid and otherwise protect sensitive plant communities from Project-related direct and indirect impacts.

MM BIO-3: Sensitive Plants Survey

Prior to Project implementation, and during the appropriate season, the County shall conduct botanical field survey following protocols set forth in the Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018). The surveys shall be conducted by a CDFW-approved botanist(s) experienced in conducting floristic botanical field surveys, knowledgeable of plant taxonomy and plant community ecology and classification, familiar with the plants of the area, including special status and locally significant plants, and familiar with the appropriate state and federal statutes related to plants and plant collecting. The botanical field surveys shall be conducted at the appropriate time of year when plants will both be evident and identifiable (usually, during flowering or fruiting) and, in a manner, which maximizes the likelihood of locating special status plants and sensitive natural communities that may be present. Botanical field surveys shall be conducted floristic in nature, meaning that every plant taxon that occurs in the project area is identified to the taxonomic level necessary to determine rarity and listing status.

If any rare plants or sensitive vegetation communities are identified, the County shall either avoid the occurrence, with an appropriate buffer, or mitigate the loss of the occurrence through the purchase of mitigation credits from a CDFW-approved bank or land acquisition and conservation at a minimum 3:1 (replacement-to-impact) ratio. Note that a higher ratio may be warranted if the proposed mitigation lands are located far away from the Project site (i.e., within a separate watershed) or is not occupied by or available to special status species.

If the Project has the potential to impact a State-listed species, the County should apply for a CESA ITP with CDFW.

Comment #4: Owens Valley Vole (*Microtus californicus vallicola*)

Section: Biological Resources Technical Report, Section 3.4.2, Page 3-13

Issue: The IS/MND does not adequately analyze Project impacts to Owens Valley vole.

Specific impact: The IS/MND concludes that Owens Valley vole is absent based solely on soil moisture conditions, and that dry soil samples previously collected to characterize soil in the Project area precludes Owens Valley vole suitable habitat. Inyo County tentatively plans to relocate the LADWP unpaved patrol road through Fremont cottonwood-willow riparian forest and saltgrass meadow habitat, of which one comprises of variable stands of hydric soil-adapted grassland species such as saltgrass (*Distichlis spicata*), rushes (*Juncus* spp.), cattail (*Typha* sp.), sedges (*Carex* spp.), beardless wildrye (*Leymus triticoides*), and alkali bulrush (*Bolboschoenus maritimus*) (Sawyer, Keeler-Wolf, & Evens, 2009).

Owens Valley voles are endemic to Owens Valley and were first collected and distinguished taxonomically as a subspecies to California vole (*Microtus californicus*) in 1898 (Bailey, 1898). While population trends and status of the Owens Valley vole are unknown, Owens Valley vole subpopulations are distributed along wetland meadows

adjacent to the Owens River and its tributaries (USFWS, 1998). As a subspecies to California voles, Owens Valley voles have evolved to adapt to wetland meadow conditions specific to their respective southern, central, or northern portions of Owens Valley. To fragment an existing Owens Valley vole subpopulation of unknown population status throughout the northern portions of its range may pose bottleneck risks, genetic drift, and potential loss of population viability (Neuwald, 2010).

The Owens River Management Plan identified Reach 2, which includes the confluence of North Fork Bishop Creek, as the section of the Owens River with the highest habitat value for grassland associated indicator species such as Owens Valley vole, Swainson's hawk, and northern harrier (LADWP and Ecosystem Sciences, 2010). Specifically, realigning the new LADWP unpaved patrol road through mesic-vegetative communities in and adjacent to North Fork Bishop Creek could destroy Owens Valley vole runway and burrow habitats and mow hydrophytic vegetation that voles rely on as a food and water source for their high dietary water content (Getz, 1985), (Mullican & Keller, 1986). Furthermore, Owens Valley voles have sought refuge in microhabitat features such as shrubs, fence lines, and rush patches when macrohabitat quality diminished due to mowing or grazing (Hovland, Andreassen, & Ims, 1999) or seasonal and interannual changes in herbaceous vegetation density (Nelson, 2004). Depending on the scope and frequency of vegetation removal to install and maintain the perimeter fencing beyond the OFA boundary, this Project feature and associated activities may influence dispersal behavior or cause existing voles in the North Fork Bishop Creek to abandon disturbed wet meadows.

Evidence impact would be significant: The Owens Valley vole is a species of special concern (SSC). CEQA provides protection not only for CESA-listed species, but for any species including but not limited to SSC which can be shown to meet the criteria for State listing. Owens Valley vole is a SSC that meets the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380).

Recommended potentially feasible mitigation measures to reduce the impact to less than significant: While Owens Valley vole studies are largely absent, a study in 2004 concluded that Owens Valley vole ecology[2] closely resembled that of the California vole's (*Microtus californicus*) ecology (Nelson, 2004). Therefore, to evaluate potential impacts of the Project to Owens Valley voles, CDFW recommends the following mitigation measures in the Project's IS/MND, originally developed to study common microtine species such as California voles:

MM BIO-4: Owens Valley Vole Habitat Assessment

CDFW recommends conducting appropriate preconstruction field surveys for Owens Valley vole where potential habitat exists for the species. CDFW recommends that the Project proponent consult with a qualified biologist(s) knowledgeable of Owens Valley vole habitat, ecology, and field identification of the species to assess potential habitat.

MM-BIO-5: Owens Valley Vole Habitat Avoidance

If Owens Valley vole sign (burrows, runways, scat, etc.) of current or past use is found within the construction area, or the species is observed directly, CDFW recommends that the Project proponent consult with CDFW before proceeding with Project activities. Generally, signs of extensive runways should be present to presume presence; old and new sign is easily distinguished and can be a reliable indicator of current presence or absence (Nelson, 2004). However, the biologist(s) may implement avoidance and minimization measures for the species even if presence is unlikely, but habitat conditions warrant said measures.

COMMENT #5: Lake and Streambed Alteration Agreement Program

[2] i.e. Climate, vegetative communities, topography, elevation, and plant associations.

Section 5.2.3, Page 5-5

The IS/MND identified approximately eight acres of streambed/pond/lake features within Project scope that would be potentially subject to regulations under Fish and Game Code Section 1602, shown in Table 5-3. While the RSA-related vegetation removal, grading, and filling activities of the Project either occur in upland or disturbed areas adjacent to the runways, relocating the existing LADWP unpaved patrol road outside of Runway 12's OFA requires extending the Project scope beyond the proposed RSA, outside of the airport easement boundary, into the North Fork Bishop Creek riparian area. Information about this new road development is limited to the project description, which only provides size and ownership information of the proposed road.

Additionally, the proposed Project may alter the North Fork of Bishop Creek and Rawson Canal riparian habitat, emergent wetland, or other sensitive natural communities associated with these streams and therefore may require the applicant to notify CDFW per Fish and Game Code section 1602. 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, waster other materials that could pass into any river, stream or lake. Please 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 water courses with a subsurface flow.

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 your 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). To facilitate issuance of an LSA Agreement, if necessary, the IS/MND should fully identify the potential impacts to the lake, stream, or riparian resources, and provide adequate avoidance, mitigation, and monitoring and reporting commitments. 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 obtain a Lake or Streambed Alteration notification package, please go to https://www.wildlife.ca.gov/Conservation/LSA/Forms.

ADDITIONAL COMMENTS AND RECOMMENDATIONS

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 (CNDDB). The CNNDB field survey form can be filled out and submitted online at the following link: https://wildlife.ca.gov/Data/CNDDB/Submitting-Data. The types of information reported to CNDDB can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/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 Inyo County in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Bryant Luu, Environmental Scientist at (760) 923-8666 or Bryant.Luu@wildlife.ca.gov.

Sincerely,

DocuSigned by:
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ATTACHMENTS

Attachment A. Draft Mitigation Monitoring and Reporting Plan for Proposed CDFW Measures

REFERENCES

(CNDDB), C. N. (2024). *Special Animals List.* Sacramento: California Department of Fish and Wildlife.

Bailey, V. (1898). Descriptions of eleven new species and subspecies of voles. *Proceedings of the Biological Society of Washington*, 12: 85-90.

Bombay, H. L., Benson, T., Valentine, B. E., & Stefani, R. A. (2003). *A Survey Protocol for Willow Flycatcher in California.*

Browning, M. (1993). Comments on the taxonomy of Empidonax traillii (willow flycatcher). *Western Birds*, 25-33.

Bumble Bee Watch. (2023, August 5). *Bumble Bee Watch*. Retrieved from Bumble Bee Watch: http://www.bumblebeewatch.org

Carril, O. M., Griswold, T., Haefner, J., & Wilson, J. S. (2018). Wild bees of Grand Staircase-Escalante National Monument: richness, abundance, and spatio-temporal beta-diversity. *PeerJ*, 6, e5867.

CDFW. (1988). *1988 Annual Report on the Status of California's State listed Threatened and Endangered Plants and Animals.* Sacramento: CDFW.

CDFW. (1995). *Five-year Status Review: Bank Swallow (Riparia riparia).* Sacramento: CDFW.

CDFW. (2009). *Yellow-billed cuckoo life history account.* Sacramento: California Department of Fish and Wildlife.

CDFW. (2012). *Staff Report on Burrowing Owl Mitigation.* Sacramento: CDFW.

CDFW. (2024). *California Natural Diversity Database (CNDDB)*. Retrieved from CNDDB Maps and Data: https://wildlife.ca.gov/Data/CNDDB/Maps-and-Data#43018408-cnddb-in-bios

Chipman, E. D., McIntyre, N. E., Strauss, R. E., Wallace, M. C., Ray, J. D., & Boal, C. W. (2008). Effects of Human Land Use on Western Burrowing Owl Foraging and Activity Budgets. *J. Raptor Res.*, 42(2).

Coulombe, H. N. (1971). Behavior and Population Ecology of the Burrowing Owl, Speotyto cunicularia, in the Imperial Valley of California. *Ecology of the Burrowing Owl*.

Dettling, M. D., Seavy, N. E., Howell, C. A., & Gardali, T. (2015). *Current status of western yellow-billed cuckoo along the Sacramento and Feathers Rivers, California.* PLoS ONE2.

Ehrlich, P. R., Dobkin, D. S., & Wheye, D. (1988). *The Birder's Handbook.* New York: Simon and Schuster.

ESA. (2023). *Runway 12/30 Safety Area Improvement Project at Bishop Airport, Biological Resources Technical Report.* Sacramento: ESA.

Fisher, A. (1893). *Report on the ornithology of the Death Valley expedition of 1891.* N. Amer. Fauna.

Forester, B. R., Day, C. C., Ruegg, K., & Landguth, E. L. (2023). Evolutionary potential mitigates extinction risk under climate change in the endangered southwestern willow flycatcher. *J Hered*, 114(4): 341-353.

Getz, L. L. (1985). Habitats. In R. H. Tamarin, *Biology of New World Microtus* (pp. 286-309). Shippensburg: American Society of Mammalogists.

Great Basin Bird Observatory. (2023). *Population Assessment and Monitoring of Southwestern Willow Flycatcher, Western Yellow-billed Cuckoo, and Least Bell's Vireo on the Owens River Watershed.* Reno: Great Basin Bird Observatory.

Griffiths, J., & Villablanca, F. (2015). *Managing Monarch Butterfly Overwintering Groves: Making Room Among the Eucalyptus.* Sacramento: CDFG.

Grinnell, J., & Miller, A. H. (1944). The Distribution of Birds of California. *Pacific Coast Avifauna*, 27.

Halterman, M., Johnson, M. J., & Holmes, J. A. (2009). *Western Yellow-billed Cuckoo Natural History Summary and Survey Methodology.*

Harris, L. D. (1988). Edge Effects and Conservation of Biotic Diversity. *Conservation Biology*, 2: 330-332.

Haug, E. A., Millsap, B. A., & Martell, M. S. (1993). Burrowing Owl (Speotyto cunicularia). *In the Birds of North America*, 61.

Hovland, N., Andreassen, H. P., & Ims, R. A. (1999). Foraging behavior of the root vole Microtus oeconomus in fragmented habitats. *Oecologia*, 121: 236-244.

Hughes, J. M. (2020). Yellow-billed cuckoo (Coccyzus americanus), version 1.0. *The Birds of North America*.

Killingsworth, S., May, E., Hatfield, R., & Jepsen, S. (2023). *Petition to List Morrison bumble bee as an endangered species under the U.S. Endangered Species Act.* The Xerces Society for Invertebrate Conservation.

LADWP and Ecosystem Sciences. (2010). *Owens Valley Land Management Plan.* Los Angeles: LADWP.

Laymon, S. A., & Halterman, M. D. (1987). *Distribution and Status of the Yellow-billed Cuckoo in California: 1986–1987.* Sacramento: California Department of Fish and Game, Nongame Bird and Mammal Section, Wildlife Management Division.

Marcum, S., & Darst, C. (2021). *Western Monarch Butterfly Conservation Recommendations.*

Mullican, T. R., & Keller, B. L. (1986). Ecology of the sagebrush vole (Lemmiscus curtatus) in southeastern Idaho. *Canadian Journal of Zoology*, 1218-1223.

Murcia, C. (1995). Edge Effects in Fragmented Forests: Implications for Conservation. *Trends in Ecology and Evolution*, 10: 58-62.

Nelson, F. C. (2004). *Ecology of Owens Valley vole.* Davis: UC Davis.

Neuwald, J. L. (2010). Population isolation exacerbates conservation genetic concerns in the endangered Amargosa vole, Microtus californicus scirpensis. *Biological Conservation*, 143: 2028-2038.

Pelton, E., Jepsen, S., Schultz, C., Fallon, C., & Black, S. H. (2016). State of the Monarch Butterfly Overwintering Sites in California. *The Xerces Society for Invertebrate Conservation*.

Sawyer, J., Keeler-Wolf, T., & Evens, J. (2009). *A manual of California vegetation.* Sacramento: California Native Plant Society Press.

Serena, M. (1982). *The status and distribution of the willow flycatcher (Empidomax trailli) in selected portions of the Sierra Nevada.* Sacramento: CDFG.

Thogmartin, W. E., Wiederholt, R., Oberhauser, K., Drum, R. G., Diffendorfer, J. E., Altizer, S., . . . Lopez-Hoffman, L. (2017). Monarch Butterfly Population Decline in North America: Identifying the Threatening Processes. *Royal Society Open Science*, 4 (9).

Thomsen, L. (1971). Behavior and ecology of burrowing owls on the Oakland Municipal Airport. *Condor 73*, 177-192.

USFWS. (1998). *Owens Basin Wetland and Aquatic Species Recovery Plan, Inyo and Mono Counties, California.* Portland: USFWS.

USFWS. (2001). *Least Bell's Vireo Survey Guidelines.*

USFWS. (2014). *Southwestern willow flycatcher (Empidonax traillii extimus) 5-year review: summary and evaluation.* Phoenix: Arizona Ecological Services Office.

USFWS. (2024). *National Wetlands Inventory: Surface waters and wetlands*. Retrieved from National Wetlands Inventory: https://fwsprimary.wim.usgs.gov/wetlands/apps/wetlands-mapper/

Weiss, S. B., Rich, P. M., Murphy, D. D., Calvert, W. H., & Ehrlich, P. R. (1991). Forest Canopy Structure at Overwintering Monarch Butterfly Sites: Measurements with Hemispherical Photography. *Conservation Biology*, 165-175.

Xerces Society. (2017). *Protecting California's Butterfly Groves: Management Guidelines for Monarch Butterfly Overwintering Habitat.*

Zeiner, D. C., Laudenslayer, W. F., Mayer, K. E., & White, M. (1990). *California's Wildlife Volume I-III.* Sacramento: CDFG.

ATTACHMENT A: MITIGATION MONITORING AND REPORTING PROGRAM (MMRP) FOR CDFW-PROPOSED MITIGATION MEASURES

PURPOSE OF THE MMRP

The purpose of the MMRP is to ensure compliance with mitigation measures during project implementation. Mitigation measures must be implemented within the time periods indicated in the table below.

TABLE OF MITIGATION MEASURES

The following items are identified for each mitigation measure: Mitigation Measure, Implementation Schedule, and Responsible Party. The Mitigation Measure column summarizes the mitigation requirements. The Implementation Schedule column shows the date or phase when each mitigation measure will be implemented. The Responsible Party column identifies the person or agency that is primarily responsible for implementing the mitigation measure

Biological Resources (BIO)		
Mitigation Measure (MM) Description	**Implementation Schedule**	**Responsible Party**
MM BIO-1: Burrowing Owl Prior to any ground disturbance, a survey for potential burrows followed by four breeding season surveys of areas found to have potential for burrowing owl occupation must be conducted in accordance with the Staff Report on Burrowing Owl Mitigation (CDFG 2012 or most recent version). Specifically, these reports suggest at least one site visit between February 15 and April 15 and a minimum of three surveys, at least three weeks apart, between the peak breeding season April 15 and July 15, with at least one visit after June 15. The surveys shall include 100 percent coverage of the Project site and include a minimum 500-foot buffer in adjacent habitat. A report summarizing the survey including all requirements for survey reports (page 30 of the 2012 Staff Report) shall be submitted to CDFW for review. If no burrowing owl, active burrowing owl burrows, or sign (molted feathers, cast pellets, prey remains, eggshell fragments, decoration, or excrement) thereof are found, no further action is necessary. If burrowing owl, active burrowing owl burrows, or sign thereof are found the qualified biologist shall prepare and implement a plan for avoidance, minimization, and mitigation measures to be review and approved by CDFW for review and approval at least 30 days prior to initiation of ground disturbing activities. The Burrowing Owl Plan shall describe proposed avoidance, minimization, and monitoring actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites, acres of burrowing owl habitat that will be impacted, details of site monitoring, and details on proposed buffers and other avoidance measures if avoidance is proposed. Project activities shall not occur within 1000 feet of an active burrow until CDFW approves the Burrowing Owl Plan. If the Project cannot ensure burrowing owls and their burrows are fully avoided, consultation with CDFW is warranted to discuss how to	Prior to ground- or vegetation disturbing activities	Project proponent

implement the Project and avoid take; or if avoidance is not feasible, to potentially acquire an ITP prior to any ground disturbing activities, pursuant Fish and Game Code section 2081 subdivision (b). Full mitigation often involves the permanent conservation of quality habitat benefiting the species through a conservation easement, along with habitat enhancement and ongoing management funded appropriately. Passive relocation, performed according to the Staff Report on Burrowing Owl Mitigation (CDGW, 2012) may be authorized through the incidental take permit as a minimization measure.		
MM BIO-2: Nesting Birds The Project proponent expects that the proposed Project construction will commence in late 2024 and last approximately three months. Regardless of the time of year, nesting bird surveys shall be performed by a qualified avian biologist no more than three 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.	Prior to ground- or vegetation disturbing activities	Project proponent
MM BIO-3: Sensitive Plant Survey Prior to Project implementation, and during the appropriate season, the County shall conduct botanical field survey following protocols set forth in the Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018). The surveys shall be conducted by a CDFW-approved botanist(s) experienced in conducting floristic botanical field surveys, knowledgeable of plant taxonomy and plant community ecology and classification, familiar with the plants of the area, including special status and locally significant plants, and familiar with the appropriate state and federal statutes related to plants and plant collecting. The botanical field surveys shall be conducted at the appropriate time of year when plants will both be evident and identifiable (usually, during flowering or fruiting) and, in a manner, which maximizes the likelihood of locating special status plants and sensitive natural communities that may	Prior to ground- or vegetation disturbing activities	Project proponent

be present. Botanical field surveys shall be conducted floristic in nature, meaning that every plant taxon that occurs in the project area is identified to the taxonomic level necessary to determine rarity and listing status. If any rare plants or sensitive vegetation communities are identified, the County shall either avoid the occurrence, with an appropriate buffer, or mitigate the loss of the occurrence through the purchase of mitigation credits from a CDFW-approved bank or land acquisition and conservation at a minimum 3:1 (replacement-to-impact) ratio. Note that a higher ratio may be warranted if the proposed mitigation lands are located far away from the Project site (i.e., within a separate watershed) or is not occupied by or available to special status species. If the Project has the potential to impact a State-listed species, the County should apply for a CESA ITP with CDFW.		
MM BIO-4: Owens Valley Vole Habitat Assessment CDFW recommends conducting appropriate preconstruction field surveys for Owens Valley vole where potential habitat exists for the species. CDFW recommends that the Project proponent consult with a qualified biologist(s) knowledgeable of Owens Valley vole habitat, ecology, and field identification of the species to assess potential habitat.	Prior to ground- or vegetation disturbing activities	Project proponent
MM BIO-5: Owens Valley Vole Habitat Avoidance If Owens Valley vole sign (burrows, runways, scat, etc.) of current or past use is found within the construction area, or the species is observed directly, CDFW recommends that the Project proponent consult with CDFW before proceeding with Project activities. Generally, signs of extensive runways should be present to presume presence; old and new sign is easily distinguished and can be a reliable indicator of current presence or absence. However, the biologist(s) may implement avoidance and minimization measures for the species even if presence is unlikely, but habitat conditions warrant said measures.	Prior to and during ground- or vegetation disturbing activities	Project proponent