



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](http://www.wildlife.ca.gov)

GAVIN NEWSOM, Governor  
CHARLTON H. BONHAM, Director



March 28, 2025  
*Sent via email*

William Patterson  
Environmental Supervisor  
Coachella Valley Water District  
75-515 Hovley Lane East  
Palm Desert, CA 92211  
[wpatterson@cvwd.org](mailto:wpatterson@cvwd.org)

Thousand Palms Channel Improvement Project (PROJECT)  
Mitigated Negative Declaration (MND)  
SCH# 2025021223

Dear William Patterson:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration from the Coachella Valley Water District (CVWD) for the Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

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

## CDFW 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

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

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:** Coachella Valley Water District

**Objective:** The Project proposes constructing the last conveyance facility intended to receive regional flood flows from the North Indio Hills and Thousand Palms areas before reaching the Whitewater River. The Project would affect approximately 5,750 feet of the existing Thousand Palms Channel from the Sun City Shadow Hills development located north of Madison Street to the confluence with the Whitewater River. The Project would construct the existing earthen Thousand Palms Channel with concrete sidewalls (slope lining), install 10 side-by-side 14-foot by 9-foot box culverts as a single structure at the Avenue 42 channel crossing, install two concrete drop structures (one west of Madison Street and one south of Interstate 10), and re-construct the roadways of Avenue 42 and Madison Street where the channel crosses these roadways. Re-construction to the roadways includes vertical profile changes, repaving, shoulder improvements, and drainage improvements.

**Location:** The Project is located in the central portion of the greater Coachella Valley within the City of Indio, Riverside County, California. The Community of Bermuda Dunes is located approximately 0.8 miles west of the Project. Access to the site is via Interstate 10 (I-10), Indio Boulevard, Madison Street, and Avenue 42. The Thousand Palms Channel runs south-southeast, intersecting Madison Street, Avenue 42, and I-10, before it converges with the Whitewater River at its southern extent. The Project site consists of the follow Assessor's Parcel Numbers (APNs): 606091001, 610020001, 610020006, 610020007, 610020008, 610020012, 610020015, 610020016, 610030014, 610030020, 691190006, 691190007, 691190026, 691510001, 691510010, 691510011.

**Timeframe:** The MND indicates construction is anticipated to occur over a duration of approximately 10 months, beginning in November 2025.

## **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 CVWD 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 a level 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 and appropriate assessment of biological resources within the Project site and surrounding area specifically as it relates to nesting birds, burrowing owl (*Athene cunicularia*), and the Lake and Streambed Alteration Program. A complete and accurate assessment of the environmental setting and Project-related impacts to biological resources 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 an MND include mitigation measures to avoid or reduce significant impacts. CDFW is concerned that the mitigation measures proposed in the MND are not adequate to avoid or reduce impacts to biological resources to below a level of significance. To support the CVWD in ensuring that Project impacts to biological resources are reduced to less than significant, CDFW recommends revising the mitigation measures for nesting birds and burrowing owl and adding a mitigation measure for CDFW's Lake and Streambed Alteration Program.

#### **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 associated Implementing Agreement and Permits from CDFW and the U.S. Fish and Wildlife Service (USFWS), 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, all Covered Activities within and outside Conservation Areas must undertake measures to avoid the take of individuals, nests, and eggs of nesting birds.

Regarding survey methods for nesting birds, page 4-28 of the MND indicates that "a nesting birds survey was specifically completed as part of the pedestrian site survey, however, during that survey, no nesting birds were incidentally detected." In contrast, page 14 of the Project's Biological Resources Assessment for the Thousand Palms Channel Improvement Project, dated May 2023 and revised June 2024 (Biological Resources Assessment), indicates that "the field survey did not include nesting bird surveys and no nesting bird activity was incidentally detected." CDFW recommends the MND and Biological Resources Assessment are revised to accurately and consistently describe the methods used to conduct nesting bird surveys.

Regarding the potential for the Project site to support nesting birds, page 13 of the Project's Biological Resources Assessment indicates that "nesting bird habitat on-site is limited to ground-nesting birds which may find suitable substrate on the bare soil of the Study Area. Species such as killdeer and lesser nighthawk (*Chordeiles acutipennis*) are known to nest in similar areas. However, the high levels of apparently continuous ground disturbance likely renders the site unsuitable. Nesting habitat may be present in shrubs, trees, and ground cover present in adjacent areas outside the Project site." CDFW is concerned about the accuracy of the MND's conclusion that the Project site has a limited capacity to support nesting birds. Historical aerial imagery and street view imagery over the past 20 years, accessed using Google Earth, demonstrates the potential for native shrubs such as saltbush (*Atriplex sp.*) to occupy the Project area and re-establish following disturbance. Historic aerial imagery shows that the Project areas north of Avenue 44 contained moderate cover of native shrubs prior to March 2013. Sparse cover of native shrubs is also visible in Project areas located south of the

Interstate 10 prior to March 2013. Since 2013, the Project area appears to have been subject to a higher frequency of grading activities. However, despite the higher frequency of grading activities in the Project area since 2013, recent aerial imagery from 2023 shows the Project area located west of Madison Street contains sparse cover of shrubs and the margins of the Thousand Palms Channel throughout the Project site have very sparse cover of shrubs. Generally, plant communities associated with desert ephemeral streams are adapted to disturbance from flooding events and are able to quickly re-establish following disturbance<sup>2</sup>, and the vegetation community on-site has the potential to quickly re-establish during the growing season following disturbance events (natural or anthropogenic). The shrub cover on-site may have changed since the single reconnaissance survey was conducted in 2023, and the shrub cover has the potential to change prior to the start of Project construction activities. CDFW considers the entirety of the Project site and surrounding area to provide suitable habitat for nesting birds including birds that nest on the ground and in shrubs and trees. CDFW recommends that the MND and its supporting documents are revised to accurately describe the presence of suitable habitat for nesting birds within the Project site and surrounding areas.

Also, page 12 of the Biological Resources Assessment indicates that “the high levels of apparently continuous ground disturbance likely renders the site unsuitable [for nesting birds]”. CDFW notes that CVWD, as a Permittee under the CVMSHCP, is obligated to ensure their Covered Activities, both within and outside Conservation Areas, comply with Fish and Game Code section 3503 and 3503.5. To comply with CVWD’s Permittee obligations, maintenance activities within the Project site must undertake measures to avoid the take of individuals, nests, and eggs of nesting birds. Conducting work outside of the peak nesting bird season and conducting pre-activity nesting bird surveys are important avoidance measures.

The MND includes mitigation measure BIO-1, which indicates that “if construction (including ground-disturbing activities and vegetation trimming and/or removal) would occur during the nesting bird season (raptors: 1 January to 30 June; non-corvids: 1 February through 15 September), a qualified biologist shall conduct preconstruction nesting bird surveys within 30 days of construction start-up and continuing weekly up to three days before start-up.” Conducting work outside the peak nesting season is an important avoidance and minimization measure that should be incorporated into project plans to comply with Fish and Game Code section 3503 and 3503.5. CDFW also recommends the completion of nesting bird surveys *regardless* of the time of year to

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<sup>2</sup> Yang X-D, Wang J, Xu M-S, Ali A, Xu Y, Lamb D, et al. (2019) Effects of the ephemeral stream on plant species diversity and distribution in an alluvial fan of arid desert region: An application of a low altitude UAV. PLoS ONE 14(2): e0212057. <https://doi.org/10.1371/journal.pone.0212057>.

ensure that impacts to nesting birds and their nests and eggs are avoided. The timing of the nesting season varies greatly depending on several factors, such as bird species, weather conditions in any given year, and long-term climate changes (e.g., drought, warming, etc.). In response to warming, birds have been reported to breed earlier, thereby reducing temperatures that nests are exposed to during breeding and tracking shifts in availability of resources (Socolar et al., 2017<sup>3</sup>). 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. Mitigation Measure BIO-1 also states that “active bird nests shall be protected by installation of temporary physical barriers that define a buffer area of 100 feet surrounding each nest.” CDFW recommends larger buffers (see revised Mitigation Measure BIO-1 below) to avoid the take of the nests and eggs of nesting birds. CDFW considers Mitigation Measure BIO-1 to be inadequate in scope and timing to reduce impacts to nesting birds to a level less than significant.

To support CVWD in reducing impacts to nesting birds to a level less than significant level, CDFW recommends that CVWD revised Mitigation Measure BIO-1 with the following additions in **bold** and removals in ~~strikethrough~~:

### **Mitigation Measure BIO-1: Nesting Birds**

**To the greatest extent feasible, the Project will avoid construction activities during the peak nesting season (February 1 through September 15). Regardless of the time of year, nesting bird surveys shall be performed by a qualified avian biologist no more than 3 days prior to all vegetation removal or ground-disturbing activities throughout all portions of the Project. 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**

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<sup>3</sup> Socolar JB, Epanchin PN, Beissinger SR and Tingley MW (2017). Phenological shifts conserve thermal niches. Proceedings of the National Academy of Sciences 114(49): 12976-12981.

**determines the young have fledged or the nest is no longer active. Active nests and adequacy of the established buffer distance shall be monitored daily by the qualified biologist until the qualified biologist has determined the young have fledged or the Project has been completed. The qualified biologist has the authority to stop work if nesting pairs exhibit signs of disturbance.** ~~If construction (including ground disturbing activities and vegetation trimming and/or removal) would occur during the nesting bird season (raptors: 1 January to 30 June; noncorvids: 1 February through 15 September), a qualified biologist shall conduct preconstruction nesting bird surveys within 30 days of construction start-up and continuing weekly up to three days before start-up. The survey area shall include the project area (disturbance footprint) and a surrounding 300-foot buffer area. Active bird nests shall be protected by installation of temporary physical barriers that define a buffer area of 100 feet surrounding each nest. Buffer size may be reduced or increased based on the bird species present and on the advice of the qualified biologist (e.g., smaller buffer for songbirds, larger buffer for raptors). In no case shall buffers be less than 50 feet. No construction work, equipment, or personnel shall enter the buffer area. Protective buffers shall remain in place until the biologist determines that the nest(s) are no longer active and the chicks have permanently fledged (left the nest) and a second nesting attempt has not begun.~~

Pursuant to the CEQA Guidelines, section 15097(f), CDFW has prepared a draft mitigation monitoring and reporting program (MMRP) in Attachment 1 for recommended revisions to MM BIO-1 and MM BIO-2 and CDFW-recommended MM BIO-[A].

## **2) *Burrowing Owl***

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. If Project activities could result in take, appropriate CESA authorization (i.e., Incidental Take Permit under Fish and Game Code section 2081) should be obtained prior to commencement of Project activities.

Take of individual burrowing owls and their nests or eggs is defined by Fish and Game Code section 86, and prohibited by sections 3503, 3503.5, and 3513. Take is defined in Fish and Game Code section 86 as “hunt, pursue, catch, capture or kill, or attempt to hunt, pursue, catch, capture or kill.” Fish and Game Code sections 3503, 3503.5, and 3513 afford protective measures as follows: section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto. Fish and Game Code section 3513 makes it

unlawful to take or possess any migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.).

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.

Regarding survey methods for burrowing owl, as discussed in the nesting bird section above, there is conflicting information in the MND and Biological Resources Assessment on if and how surveys for nesting birds, including burrowing owl, were conducted. As with nesting birds, CDFW recommends that the MND and Biological Resources Assessment are revised to clearly indicate the methods used to conduct surveys for burrowing owl. Based on review of the MND and Biological Resources Assessment, it appears neither a habitat assessment for burrowing owl nor focused surveys for burrowing owl were conducted within and surrounding the Project site as part of the assessment of biological resources. Given the MND’s lack of findings from a complete and recent habitat assessment and focused surveys for burrowing owl following the guidelines in the *Staff Report on Burrowing Owl Mitigation*,<sup>4</sup> the number of suitable and occupied burrows within the Project site and surrounding areas is unknown.

CDFW is concerned about the quality of analysis and accuracy of the conclusion presented in the MND and the Biological Resources Assessment regarding the potential for burrowing owl to occupy the Project site and surrounding area. Page 4-28 of the MND indicates that “marginal habitat for ground-nesting birds is present as the value of ground habitat is greatly diminished due to the ongoing vegetation management and ground disturbing activities that occur on-site. Ground-nesting birds include birds such as the burrowing owl.” Page 12 of the Biological Resources Assessment states that no burrows were detected during the reconnaissance-level field survey on March 28, 2023. Importantly, CDFW notes that unprocessed data in the California Natural Diversity

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<sup>4</sup> California Department of Fish and Game (CDFG). 2012. Staff report on burrowing owl mitigation. State of California, Natural Resources Agency. Available for download at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline>



Database includes records of three separate observations of burrowing owl within the southeast corner of the Project site on August 21, 2024, within the Thousand Palms Channel. For all three records, burrowing owls were observed flushing from burrows. One of the records included an observation of two burrowing owls using a burrow. These three CNDDDB records of burrowing owl using the Thousand Palms Channel are consistent with CDFW's observations that burrowing owl are common along levees, channels, and dikes in Coachella Valley. It is concerning that the biological survey for this Project failed to detect any evidence of suitable habitat for burrowing owls, suitable burrows, or burrowing owl activity within the Project area. Generally, CDFW considers a site to be occupied by burrowing owl if at least one burrowing owl or its sign has been observed within the last three years. The Project site contains suitable and occupied habitat for burrowing owl.

Also, burrowing owls frequently move into disturbed areas prior to and during construction activities since they are adapted to highly modified habitats.<sup>5,6</sup> Burrowing owls have the potential to occupy other areas of the Project site prior to Project construction activities. CDFW recommends that pre-construction surveys for burrowing are conducted prior to any ground disturbing or vegetation removal activities associated with Project.

Given the presence of suitable and occupied nesting and foraging habitat for burrowing owl within and adjacent to the Project site, CDFW recommends that the MND is revised to accurately describe the Project site as containing suitable and occupied burrowing owl habitat; to include the results of focused surveys, including survey reports, for burrowing owl within the Project site and surrounding area following the guidelines outlined in Appendix D of the *Staff Report on Burrowing Owl Mitigation*; and to incorporate appropriate avoidance, minimization, and mitigation measures for burrowing owl.

The MND includes Mitigation Measure BIO-2, which indicates that "if construction is to occur during 1 February to 15 September, burrowing owl surveys will be conducted. Burrowing owl surveys will be completed following the CDFW 2012 Staff Report on Burrowing Owl Mitigation. Any located burrowing owls or potential burrows (burrows with openings > 4 inches) will be reported to CDFW via CNDDDB online reporting system." The measure lacks information on what avoidance measures will be implemented if burrowing owls are detected within or surrounding the Project site. Also, CDFW has observed nesting activity for burrowing owls starting before February 1 in

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<sup>5</sup> 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.

<sup>6</sup> Coulombe, H. N. 1971. Behavior and population ecology of the Burrowing Owl, *Speotyto cunicularia*, in the Imperial Valley of California. *Condor* 73:162-176.

Coachella Valley. CDFW considers the mitigation measure to be inadequate in scope and timing to reduce impacts to burrowing owl to a level less than significant. CDFW recommends that CVWD revised Mitigation Measure BIO-2 with the following additions in **bold** and removals in ~~strikethrough~~:

### **Mitigation Measure BIO-2: Burrowing Owl Focused and Pre-Construction Surveys**

**Suitable burrowing owl habitat has been confirmed on the site; therefore, focused burrowing owl surveys shall be conducted by a qualified biologist in accordance with the *Staff Report on Burrowing Owl Mitigation* (2012 or most recent version) prior to vegetation removal or ground-disturbing activities for all phases of Project construction. 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 Avoidance and Monitoring Plan that shall be submitted to CDFW for review and approval prior to commencing Project activities. The Burrowing Owl Plan shall describe proposed avoidance and monitoring actions, including measures necessary to avoid take of burrowing owl individuals, nests, and eggs. The Burrowing Owl Plan shall include the number and location of occupied burrow sites (occupied site means at least one burrowing owl or its sign has been observed within the last three years; may be indicated by owl sign including feathers, pellets, prey remains, eggshell fragments, or excrement at or near a burrow entrance or perch site), 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(s) or burrowing owl individuals, nests, or eggs cannot be avoided, CDFW recommends that appropriate CESA authorization (i.e., Incidental Take Permit under Fish and Game Code section 2081) is obtained prior to commencement of Project activities.**

**For all segments of Project construction, preconstruction burrowing owl surveys shall be conducted no less than 14 days prior to the start of Project-related activities and within 24 hours prior to ground disturbance, in accordance with the *Staff Report on Burrowing Owl Mitigation* (2012 or most recent version). Preconstruction surveys should be repeated when there is a pause in construction of more than 30 days. Preconstruction surveys should be performed by a qualified biologist following the recommendations and guidelines provided in the *Staff Report on Burrowing Owl Mitigation*. If the preconstruction surveys confirm occupied burrowing owl habitat, Project activities shall be immediately halted. The qualified biologist shall coordinate with CDFW and prepare a Burrowing Owl Avoidance and Monitoring Plan that shall be submitted to CDFW and USFWS for review and approval prior to commencing Project activities. ~~If construction is to occur during 1 February to 15 September, burrowing owl surveys will be conducted. Burrowing owl surveys will be completed following the CDFW 2012 Staff Report on Burrowing Owl Mitigation. Any located burrowing owls or potential burrows~~**

~~(burrows with openings > 4 inches) will be reported to CDFW via CNDDDB online reporting system.~~

### **3) 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 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.

The map on page 10 of the Aquatic Resources Delineation Report for the Thousand Palms Channel Improvement Project from Sun City Shadow Hills to the CVSC Project (Aquatic Resources Delineation Report) indicates that the entire project area is "non-jurisdictional." Page 11 of the Aquatic Resources Delineation Report states that the "TPC [Thousand Palms Channel] lacks aquatic resource characteristics such as stream morphology, bed and bank, evidence of flow, OHWM indicators, wetland indicators, or riparian vegetation. Therefore, the TPC is not a potential aquatic resource and is therefore excluded from the inventory." Page 13 of the Aquatic Resources Delineation Report indicates that "no impacts to regulated aquatic resources would occur. [...] If elements of the project were to change, and state or federal aquatic resources would be impacted, permits required may include a USACE Department of the Army permit, a California State Water Board Section 401 water quality certification, and submittal of a CDFW 1600 Lake and Streambed Alteration notification." CDFW disagrees with the conclusion in the MND and Aquatic Resources Delineation Report that no fish and wildlife resources subject to Fish and Game Code section 1600 et seq. exist within the Project site. The Project site is the Thousand Palms Channel, an ephemeral stream that conveys stormflows from the Sun City Shadow Hills development to the Whitewater River. Also, the Sun City Shadow Hills development, and its network of streams passing through golf courses, receives stormflows from ephemeral streams emanating from the Indio Hills through a culvert that crosses over Coyote Song Way. The Project site contains fish and wildlife resources subject to Fish and Game Code section 1600 et seq.

Project activities include, but are not limited to, the construction within the Thousand Palms Channel of two concrete drop structures, a series of box culverts along the Avenue 42 alignment, and concrete slope lining on both sides of the channel. The construction of drop structures, concrete slope lining, and culverts for Avenue 42 will change the bed and bank of an ephemeral stream and will deposit material into an ephemeral stream, activities that require notification to CDFW pursuant to Fish and Game Code section 1602.

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

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

**Prior to construction and issuance of any grading permit, the Coachella Valley Water District 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.**

**ENVIRONMENTAL DATA**

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

**ENVIRONMENTAL DOCUMENT FILING FEES**

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


**CONCLUSION**

CDFW appreciates the opportunity to comment on the MND to assist the CVWD 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 recommends that revised and additional mitigation measures and analysis as described in this letter be added to a revised MND.

William Patterson  
Coachella Valley Water District  
March 28, 2025  
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CDFW personnel are available for consultation regarding biological resources and strategies to avoid and minimize impacts. Questions regarding this letter or further coordination should be directed to Jacob Skaggs, Senior Environmental Scientist Specialist, at [jacob.skaggs@wildlife.ca.gov](mailto:jacob.skaggs@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
84F92FFEEFD24C8...

Kim Freeburn  
Environmental Program Manager

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

ec:

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

Peter Satin, Coachella Valley Association of Governments  
[psatin@cvag.org](mailto:psatin@cvag.org)

Mary Beth Woulfe, U.S. Fish and Wildlife Service  
[marybeth\\_woulfe@fws.gov](mailto:marybeth_woulfe@fws.gov)

Lory Salazar-Velasquez, U.S. Fish and Wildlife Service  
[lory\\_salazar-velasquez@fws.gov](mailto:lory_salazar-velasquez@fws.gov)

Office of Planning and Research, State Clearinghouse, Sacramento  
[state.clearinghouse@opr.ca.gov](mailto:state.clearinghouse@opr.ca.gov)

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

Mitigation Measures	Timing and Methods	Responsible Parties
<b>Mitigation Measure BIO-1: Nesting Birds</b> <b>To the greatest extent feasible, the Project will avoid construction activities during the peak nesting season (February 1 through September 15). Regardless of the time of</b>	<b>Timing:</b> No more than 3 days prior to all vegetation removal or ground-disturbing activities throughout all	<b>Implementation:</b> CVWD <b>Monitoring and Reporting:</b> CVWD

<p><b>year, nesting bird surveys shall be performed by a qualified avian biologist no more than 3 days prior to all vegetation removal or ground-disturbing activities throughout all portions of the Project. 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.</b></p>	<p>phases of the Project.</p> <p><b>Methods:</b> See Mitigation Measure</p>	
<p><b>Mitigation Measure BIO-2: Burrowing Owl Focused and Pre-Construction Surveys</b></p> <p><b>Suitable burrowing owl habitat has been confirmed on the site; therefore, focused burrowing owl surveys shall be conducted by a qualified biologist in accordance with the <i>Staff Report on Burrowing Owl Mitigation</i> (2012 or most recent version)</b></p>	<p><b>Timing: Focused surveys:</b> Prior to vegetation removal or ground-disturbing activities for all phases of the Project. <b>Pre-construction surveys:</b> No less than 14 days prior</p>	<p><b>Implementation:</b> CVWD</p> <p><b>Monitoring and Reporting:</b> CVWD</p>

<p><b>prior to vegetation removal or ground-disturbing activities for all phases of Project construction. 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 Avoidance and Monitoring Plan that shall be submitted to CDFW for review and approval prior to commencing Project activities. The Burrowing Owl Plan shall describe proposed avoidance and monitoring actions, including measures necessary to avoid take of burrowing owl individuals, nests, and eggs. The Burrowing Owl Plan shall include the number and location of occupied burrow sites (occupied site means at least one burrowing owl or its sign has been observed within the last three years; may be indicated by owl sign including feathers, pellets, prey remains, eggshell fragments, or excrement at or near a burrow entrance or perch site), 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(s) or burrowing owl individuals, nests, or eggs cannot be avoided, CDFW recommends that appropriate CESA authorization (i.e., Incidental Take Permit under Fish and Game Code section 2081) is obtained prior to commencement of Project activities.</b></p> <p><b>For all segments of Project construction, preconstruction burrowing owl surveys shall be conducted no less than 14 days prior to the start of Project-related activities and within 24 hours prior to ground disturbance, in accordance with the <i>Staff Report on Burrowing Owl Mitigation (2012 or most recent version)</i>. Preconstruction surveys should be repeated when there is a pause in</b></p>	<p>to start of Project-related activities and within 24 hours prior to ground disturbance for all phases of the Project and when there is a pause in construction of more than 30 days.</p> <p><b>Methods:</b> See Mitigation Measure</p>	
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<p><b>construction of more than 30 days. Preconstruction surveys should be performed by a qualified biologist following the recommendations and guidelines provided in the <i>Staff Report on Burrowing Owl Mitigation</i>. If the preconstruction surveys confirm occupied burrowing owl habitat, Project activities shall be immediately halted. The qualified biologist shall coordinate with CDFW and prepare a Burrowing Owl Avoidance and Monitoring Plan that shall be submitted to CDFW and USFWS for review and approval prior to commencing Project activities.</b></p>		
<p><b>Mitigation Measure BIO-[A]: CDFW Lake and Streambed Alteration Program</b></p> <p><b>Prior to construction and issuance of any grading permit, the Coachella Valley Water District 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.</b></p>	<p><b>Timing:</b> Prior to construction and issuance of any grading permit.</p> <p><b>Methods:</b> See Mitigation Measure</p>	<p><b>Implementation:</b> CVWD</p> <p><b>Monitoring and Reporting:</b> CVWD</p>