



April 9, 2025

Luis Bejarano
Planner I
Imperial County Planning and Development Services Department
801 Main Street
El Centro, CA, 92243

Dear Mr. Bejarano:

PICACHO ROAD BRIDGE REPLACEMENT PROJECT (PROJECT)
MITIGATED NEGATIVE DECLARATION (MND)
SCH# 2025030216

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from Imperial County Planning and Development Services Department (ICPDS) for the Project pursuant 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 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

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.

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 County Public Works Department

Objective: The objective of the Project is to replace the existing Picacho Bridge, which has outlived its useful life, with a modern bridge. Primary Project activities include removal of portions of the existing bridge, placement of a concrete girder bridge, land clearing, tree and vegetation removal, grading and excavation, drainage, utilities and sub-grade, and paving.

Location: The project is located on the Picacho Road Bridge over the Yuma Main Canal, along Picacho Road in Winterhaven, CA. The bridge lies within APN 056-600-011 with coordinates latitude 32.7358, longitude -114.6241. The project site is north of Interstate 8 and 0.6 miles east of First Street.

Timeframe: Project construction is estimated to be over eight months.

COMMENTS AND RECOMMENDATIONS

CDFW is concerned there is a lack of appropriate biological resource surveys and supporting documentation provided in the MND, and therefore it is unclear how the proposed mitigation measures will be able to reduce the Project's potentially substantial adverse effect on biological resources to less than significant with mitigation incorporated. The mitigation measures currently proposed in the MND require surveys to be conducted to be able to identify and quantify the biological resources that will be impacted by the Project. Without the environmental baseline adequately evaluated, impacts to biological resources are not identified and appropriate mitigation measures cannot be formed. CDFW notes that baseline surveys should have already been conducted and included in the environmental document, and appropriate mitigation for on-site resources should have been included in the MND, as deferment does not allow the development of effective mitigation measures.

CDFW offers the comments and recommendations below, including those in Attachment A, to assist ICPDS 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.

I. Environmental Setting and Related Impact Shortcoming

Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by CDFW or USFWS?

COMMENT 1:

Section: IV Biological Resources, Page 25

Issue: The MND has not accurately described or fully established the biological resources present on-site, limiting the CEQA Lead Agency's and CDFW's ability to analyze the Project's potential impacts, and evaluate the effectiveness of the proposed avoidance, minimization, and/or mitigation measures on candidate, sensitive, or special status species. In addition, the MND states impacts to these species will be less than significant with mitigation incorporated. The MND does not identify the significant impacts that required mitigation measures to be proposed.

Specific impact: There is a discrepancy in the number of general reconnaissance biological surveys conducted – the Summary of the Natural Environment Study in Appendix B states that two surveys were conducted, but Section 2.2.1 (Survey Methodologies) lists three survey dates. Neither the MND nor the Natural Environment Study in Appendix B describe the survey methods and no species-focused surveys were conducted. Without conducting surveys that follow CDFW guidance and protocol, potential Project impacts to candidate, sensitive, or special status species may be mischaracterized, resulting in avoidable, unminimized, or unmitigated impacts not identified or analyzed by the MND. If levels of significance cannot be accurately established, neither the CEQA Lead Agency nor CDFW can adequately determine if the proposed mitigation measures truly reduced impacts to a less than significant level.

Furthermore, the CEQA checklist in the MND show that several areas under Biological Resources are checked as Less Than Significant with Mitigation Incorporated, and Appendix B states, "No impacts are expected with avoidance and minimization efforts." If Project impacts are significant to levels that require mitigation, then those significant impacts should be identified in the MND, and the proposed mitigation measures should describe how impact significance will be reduced.

Why impact would occur: The MND and accompanying Natural Environment Study do not have sufficient information on whether the Project site includes suitable habitat for or if the Project has potential impacts to the 10 botanical species and 37 zoological species listed in the Natural Environment Study, or other present biological resources.

Evidence impact would be significant: Per CEQA Appendix G (Evaluation of Environmental Impacts), which is reiterated on page 18 of the MND, the explanation of each issue should identify the significance criteria or threshold used to evaluate each question and the mitigation measure identified to reduce the impact to less than significance.

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Environmental Setting and Related Impact Shortcoming)

To reduce impacts to less than significant: CDFW recommends that ICPDS conduct species-focused surveys per CDFW's guidance and protocols (<https://wildlife.ca.gov/Conservation/Survey-Protocols>) and incorporate the results and CDFW's additional comments, as detailed below, into the MND.

COMMENT 2:

Section IV Biological Resources, Page 25

Issue: No plant surveys were conducted following CDFW's survey protocol for special-status native plant populations and natural communities. The general reconnaissance biological surveys were conducted outside of several special-status plants' bloom periods. Also, neither the MND nor Natural Environment Study in Appendix B include measures to avoid, minimize, or mitigate impacts to any special-status plant species, should they be found on the Project site during construction.

Specific impact: The general reconnaissance biological surveys conducted on November 5, 2022, August 8, 2024, and August 9, 2024, are outside the bloom period for six of the ten special status-species listed in the Natural Environment Study. Per the *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (CDFW, March 2018), botanical field survey visits should be spaced throughout the growing season and multiple visits to the project area are usually required to capture the floristic diversity at a level necessary to determine the presence of special-status plant species.

Why impact would occur: The three general reconnaissance biological surveys do not follow the *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (CDFW, March 2018), and thus may not provide adequate baseline conditions to identify and evaluate impacts to special-status species. If any special-status plant species are found on the project site during construction, no avoidance, minimization, or mitigation measures are provided in the MND to ensure that impacts are reduced to less than significant levels.

The *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (CDFW, March 2018) state that botanical field

surveys in the field should be conducted at the times of year when plants will be both evident and identifiable. Usually this is during flowering or fruiting. Six of the ten special-status species, some of which are annual species, listed in the Natural Environment Study have bloom periods outside of the November and August months: Giant Spanish needle (*Palafoxia arida* var. *gigantea*) has a bloom period of February to May; Saguaro (*Carnegiea gigantea*) has a bloom period of May to June; Wiggin's croton (*Croton wigginsii*) has a bloom period of March to May; Harwood's milk vetch (*Astragalus insularis* var. *harwoodii*) has a bloom period of January to May; Narrow leaf sandpaper plant (*Petalonyx linearis*) has a bloom period of March to May; and Desert beardtongue (*Penstemon pseudospectabilis* ssp. *Pseudospectabilis*) has a bloom period of January to May (Calflora, 2025).

Evidence impact would be significant: Sensitive plant species are listed under CESA as threatened, or endangered, or proposed candidates for listing; designated as rare under the Native Plant Protection Act; or plants that otherwise meet the definition of rare, threatened, or endangered species under CEQA. Plants constituting California Rare Plant Ranks 1A, 1B, 2A, and 2B generally meet the criteria of a CESA-listed species and should be considered as endangered, rare, or threatened species for the purposes of CEQA analysis. Take of any CESA-listed species is prohibited except as authorized by state law (Fish and Game Code, §§ 2080 & 2085). Fish and Game Code Sections 1900–1913 includes provisions that prohibit the take of endangered and rare plants from the wild and a salvage requirement for landowners.

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Environmental Setting and Related Impact Shortcoming)

Mitigation Measure (MM) BIO-4:

To reduce impacts to less than significant: CDFW recommends botanical field surveys following the *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (CDFW, March 2018) be conducted annually prior to the start of construction by qualified personnel. One botanical field survey may not be sufficient to detect plants that are not evident and identifiable every year. CDFW recommends MM BIO-4 Pre-Construction Plant Surveys, listed in Attachment A, to be incorporated into the MND.

COMMENT 3:

Section IV Biological Resources, Page 25

Issue: CDFW is concerned regarding the MND's analysis of impacts to western burrowing owl (*Athene cunicularia hypugaea*). Both the MND and Natural Environment Study state that western burrowing owl was not observed during the survey(s) on the project site, but no details are provided on how the survey(s) was

conducted. As of October 25, 2024, the western burrowing owl is a candidate species for listing under CESA.

Specific impact: Focused western burrowing owl surveys were not conducted following the guidance in the *Staff Report on Burrowing Owl Mitigation* (CDFG, 2012). In addition, the MND and Natural Environment Study are not clear on if western burrowing owl was found outside of the biological study area but within the proposed environmentally sensitive area or if only potentially suitable habitat was present. While the Project site and surrounding areas are heavily traveled, western burrowing owls have high site fidelity and a high potential to move into disturbed sites prior to and during construction activities. Western burrowing owls frequently move into disturbed areas since they are adapted to highly modified habitats (Chipman et al., 2008; Coulombe, 1971).

Why impact would occur: Without focused surveys conducted following the guidance in the *Staff Report on Burrowing Owl Mitigation* (CDFG, March 2012), adequate baseline conditions cannot be established, and associated impacts cannot be identified or analyzed. The MND does not propose avoidance, minimization, or mitigation measures if burrowing owls are found on the project site during construction, nor does the MND propose obtaining a CESA incidental take permit (ITP) if take of the species were to occur.

Evidence impact would be significant: As a candidate species for listing, western burrowing owl is granted the same protection as threatened or endangered species under CESA. Take of any CESA-listed species is prohibited except as authorized by State law (Fish and Game Code § 2080 and § 2085). Consequently, if a Project, including Project construction or any Project-related activity during the life of the Project, results in the take of CESA-listed species, CDFW recommends that the Project proponent seek appropriate authorization prior to Project implementation. This may include an ITP (Fish and Game Code § 2081).

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Environmental Setting and Related Impact Shortcoming)

Mitigation Measure BIO-3:

To reduce impacts to less than significant: CDFW recommends focused burrowing owl surveys following the guidance in the *Staff Report on Burrowing Owl Mitigation* (CDFG, March 2012). If active burrows are present within the Project footprint during pre-construction take avoidance surveys and complete avoidance is infeasible, the Project proponent shall not undertake Project activities and Project activities shall be postponed until the appropriate authorization (i.e. CESA ITP under the California Fish and Game Code § 2081) is obtained. CDFW recommends MM BIO-3 Western Burrowing Owl Avoidance and Mitigation, listed in Attachment A, to be incorporated into the MND.

COMMENT 4:

Appendix B, Section 4.3.1, Page 15

Issue: The Natural Environment Study in Appendix B states that no bats were observed under the bridge, but the general reconnaissance biological surveys were conducted during daylight hours and bat-focused surveys were not conducted.

Specific impact: Removal of existing roosting structures, construction disturbance including noise, light and vibration, and loss of foraging habitat may impede continued use of any potential existing roosting sites under the bridge. While bats may not be day roosting under the bridge, the underside of the bridge or surrounding vegetation may be used for night roosting.

Why impact would occur: The MND does not include focused bat surveys during appropriate time of day and thus does not include an adequate baseline evaluation from which to determine impacts or mitigation measures. California leaf-nosed bats (*Macrotus californicus*) emerge late in the day, usually one to two hours after sunset in the summer, and at sunset in winter; they have a second activity peak around 10 p.m. (Zeiner, 1990). Pallid bats (*Antrozous pallidus*) also emerge late in the day, starting approximately 30-60 minutes after sunset, with peak activities at approximately 90-190 minutes after sunset and shortly before dawn (Zeiner, 1990). Peak activity for Townsend's big-eared bats (*Corynorhinus townsendii*) is late evening (Zeiner, 2000).

Evidence impact would be significant: Bat species are protected by the California Fish and Game Code § 4150 (§ 4150 prohibits the take of naturally occurring nongame mammals, including bats). Bat maternity roosting habitats are protected as native wildlife nurse sites, and impediment of a site may be considered significant under CEQA.

California leaf-nosed bats are commonly found along the Colorado River and are sensitive to roost disturbance. California leaf-nosed bat may night roost in bridges, as they provide overhead protection (Zeiner, 1990).

Pallid bats are very sensitive to disturbance of roosting sites, which are essential for metabolic economy and juvenile growth. Night roosts serve as locations for prey consumption (Zeiner, 1990).

Roosting sites for Townsend's big-eared bats are the most important limiting resource for the species, and sites have high fidelity if left undisturbed. Townsend's big-eared bats are extremely sensitive to disturbance of roosting sites and a single visit may result in abandonment of the roost (Zeiner, 2000). Loss of night roosts may increase energy expenditure and may result in mortality if energy loss is not compensated for by increased prey intake. If lactating females have increased

energy expenditure, it may result in limited energy allocation towards dependent young and increase juvenile mortality (Chaverri and Kuntz, 2011).

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Environmental Setting and Related Impact Shortcoming)

Mitigation Measure BIO-5:

To reduce impacts to less than significant: CDFW recommends MM BIO-5 Focused Bat Surveys and Preparation of a Bat Management Plan, listed in Attachment A, to be incorporated into the MND.

COMMENT 5:

Section IV Biological Resources, Page 26

Issue: The MND states that no work is expected to occur within the Yuma Main Canal and no impacts to the water will occur. However, the MND does not consider the potential for debris during bridge removal or other construction material to fall within the water of the canal. Additionally, the Project Summary on Page 14 states a 50-ton crane will remove portions of the original bridge's pylons, then states no alteration of streambed will occur.

Specific impact: The MND is unclear on how the removal and replacement of the bridge will be performed in a method that avoids impacts to the canal, and the typical section provided in in the MND is not legible. Project construction activities include removal of pylons, which are within the flow of the canal.

Why impact would occur: The MND does not analyze impacts to the Yuma Main Canal if debris or other materials enter the water nor does the MND consider the possibility of such an event in the Biological Resource section, despite the majority of the Picacho Road Bridge spanning over water. As such, no avoidance, minimization, or mitigation measures were formulated or included in the MND to ensure that impacts are reduced to less than significant levels, nor is the notification requirement per Fish and Game Code section 1602 mentioned. It is also unclear if the existing pylons are embedded in the streambed of the canal.

Evidence impact would be significant: The Project may create impacts to the Yuma Main Canal that may adversely affect existing fish or wildlife resources. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may (1) substantially divert or obstruct the natural flow of any river, stream, or lake; (2) substantially change or use any material from the bed, channel, or bank of any river, stream, or lake; or (3) deposit or dispose of debris, waste, or other materials containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake.

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Environmental Setting and Related Impact Shortcoming)

To reduce impacts to less than significant: CDFW recommends that ICPDS require the Project proponent to submit a notification per Fish and Game Code section 1602 prior to commencing Project construction activities. CDFW recommends MM BIO-6 Lake and Streambed Alteration (LSA) Agreement, listed in Attachment A, to be incorporated into the MND.

II. Project Description and Related Impact Shortcoming

Would the Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by CDFW or USFWS?

COMMENT 6:

Section IV Biological Resources, Page 26

Issue: The MND does not identify what best management practices (BMPs) are proposed and does not show which areas will be designated as Environmentally Sensitive Areas (ESA).

Specific impact: Neither the MND nor the Natural Environment Study in Appendix B describe what specific BMPs will be imposed to avoid impacts to the water in the Yuma Main Canal. Areas that will be designated as ESAs are not shown in either the MND or Appendix B. In addition, the MND does not explain how areas surrounding the Project are or will be designated as an ESA.

Why impact would occur: Without identifying the BMPs or establishing a set standard, the BMPs effectiveness at avoiding water impacts cannot be determined, measured, or enforced. The proposed ESAs are not provided in the MND for public review, so CDFW cannot determine if those proposed areas will adequately serve and protect sensitive habitat.

Evidence impact would be significant: The Project may create impacts to the Yuma Main Canal that may adversely affect existing fish or wildlife resources. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may (1) substantially divert or obstruct the natural flow of any river, stream, or lake; (2) substantially change or use any material from the bed, channel, or bank of any river, stream, or lake; or (3) deposit or dispose of debris, waste, or other materials containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake.

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Project Description and Related Impact Shortcoming)

To reduce impacts to less than significant: CDFW recommends listing specific and enforceable BMPs, describing how the proposed BMPs will prevent Project construction activities from contacting the water in the Yuma Main Canal. CDFW also recommends that ICPDS notify CDFW per Fish and Game Code section 1602, in the event that in-water work does occur (See comment 5). Additionally, CDFW recommends providing a map with ESA-designated areas clearly delineated.

III. Mitigation Measure or Alternative and Related Impact Shortcoming

Would the Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by CDFW or USFWS?

COMMENT 7:

Section Appendix B (Natural Environment Study), Page 15; Section IV Biological Resources, Page 26

Issue: The proposed MM BIO-2 in the MND does not address invasive plants, despite the Natural Environment Study in Appendix B including a measure addressing invasive plants under the Avoidance and Minimization Efforts/Compensatory Mitigation section.

Specific impact: Since none of the mitigation measures in the MND include methods to prevent the spread of invasive plant species, proper disposal of invasive plant material removed during Project clearing and grubbing activities may not occur, as there is no set standard. Furthermore, the Natural Environment Study in Appendix B states that invasive plants will “be removed in a manner that will not spread seeds or root material,” but does not state the method of removal or how on-site construction personnel will identify which plants are invasive.

Why impact would occur: The Natural Environment Study states that mostly invasive plant species were observed during the general reconnaissance biological surveys and that those species “would be expected to grow back rapidly if disturbed.” The MND states Project activities include clearing existing vegetation, which would disturb the surrounding invasive plants and increase their spread.

Evidence impact would be significant: Invasive species threaten the diversity or abundance of native species through competition for resources, predation, parasitism, interbreeding with native populations, transmitting diseases, or causing physical or chemical changes to the invaded habitat. Through their impacts on natural ecosystems, agricultural and other developed lands, water delivery and flood

protection systems, invasive species may also negatively affect human health and/or the economy. Examples of direct impacts to human activities include clogging navigable waterways and water delivery systems, weakening flood control structures, damaging crops, introducing diseases to animals that are raised or harvested commercially, and diminishing sportfish populations (CDFW, 2025).

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Mitigation Measure or Alternative and Related Impact Shortcoming)

Mitigation Measure BIO-2:

To reduce impacts to less than significant: CDFW recommends creating a worker environmental awareness program (WEAP) that is specific to the Project. CDFW also suggests creating separate mitigation measures for pre-construction nesting bird surveys (see Comment 8) and WEAP to ensure compliance and enforceability of on-site personnel during Project activities. CDFW provides revisions to MM BIO-2 in Attachment A.

Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by CDFW or USFWS?

COMMENT 8:

Section IV Biological Resources, Page 26

Issue: MM BIO-2 defers avoidance and minimization measures, stating “identification of nesting birds and procedures to follow if nesting is suspected.”

Specific impact: MM BIO-2 defers mitigation by only requiring a nesting bird procedure if a nest is found during future surveys. MM BIO-2 also does not consider impacts to birds on the Project site during non-nesting or non-breeding season, nor does it consider the disturbance created by construction activities.

Why impact would occur: All mitigation and avoidance and minimization measures incorporated to bring impacts to species to less than significant should be contained within the MND. Mitigation strategies developed at a later date may not be effective to reduce impacts to less than significant levels, as the requirements are not contained within the MND to ensure compliance.

Evidence impact would be significant: Under the CEQA Guidelines § 15126.4, mitigation measures should be implemented to address significant impacts that have been identified through environmental analysis. Formulation of mitigation measures should not be deferred to a future time, unless the Lead Agency has provided a

legitimate reason not to include the mitigation measures at the time of the Project's environmental review, which the Lead Agency has not provided in the MND.

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Mitigation Measure or Alternative and Related Impact Shortcoming)

Mitigation Measure BIO-1:

To reduce impacts to less than significant: CDFW suggests splitting MM BIO-2 to ensure compliance and enforceability, as stated in Comment 7. Since MM BIO-1, as it is currently written in the MND, proposes nesting bird surveys prior to construction, CDFW provides revisions to MM BIO-1 in Attachment A.

IV. Editorial Comments and/or Suggestions

Pages 11 and 14 of the MND state that the Project location is south of Interstate 8 and southeast of Mexico. However, the Picacho Road Bridge is north of Interstate 8 and north of Mexico. CDFW recommends correcting the location description.

Page 24 of the MND states that Project construction will start at the beginning of 2024, which has already passed. CDFW recommends correcting the construction date.

The MND is unclear on what type of swallows were observed in the Project vicinity. Page 12 of the MND states that bank swallows (*Riparia riparia*) were observed in the buffer zone, but Table 2 lists barn swallows (*Hirundo rustica*) as found in the vicinity instead. The remainder of the MND and Natural Environment Study in Appendix B only mention bank swallows and not barn swallows. Bank swallows are a CESA-listed threatened species (CDFW, April 2025). CDFW recommends clarifying the type of swallows observed during the general reconnaissance biological surveys.

The Sensitive Botanical and Zoological Species (CNDDDB/CNPS) chart in the Natural Environment Study analyzes the potential for presence of Colorado Desert fringe-toed lizard (*Uma notata*). The site potential states "not expected" as "riparian habitat is not present". Riparian habitat is typically not associated with this species, and CDFW recommends re-evaluation of the presence of this species based on habitat types within the Project site and the species habitat requirement of fine wind-blow sand (Thomson et al., 2016).

The Sensitive Botanical and Zoological Species (CNDDDB/CNPS) chart in the Natural Environment Study states that no habitat is expected for Gila woodpecker (*Melanerpes uropygialis*), but page 25 of the MND and pages 13 and 15 of the Natural Environment Study states that palm trees are available in the Project vicinity that could allow roosting or nesting. CDFW recommends correcting the MND and Natural Environment Study for consistency on Gila woodpecker.

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 ICPDS in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Lily Mu, Senior Environmental Scientist (Specialist), at (909) 544-2521 or Lily.Mu@wildlife.ca.gov.

Sincerely,

DocuSigned by:

4D759253408941E...

Brandy Wood
Environmental Program Manager

Attachments

Attachment A. Draft Mitigation, Monitoring, and Reporting Program

ec: Office of Planning and Research, State Clearinghouse, Sacramento

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**Attachment A
 Draft Mitigation, Monitoring, and Reporting Program**

Draft Mitigation, Monitoring, and Reporting Program (MMRP)
 CDFW provides the following language to be incorporated into the MMRP for the Project.

Biological Resources (BIO)		
Mitigation Measure (MM) Description	Implementation Schedule	Responsible Party
<p>BIO-1 Pre-Construction Bird Surveys:</p> <p>If construction or other Project activities are scheduled to occur Nesting surveys by qualified biologists during bird breeding nesting season (typically February 1 through August 31 for raptors and March 15 through August 31 for the majority of migratory bird species);, a pre-construction nesting bird survey shall be conducted by a qualified avian biologist prior to Project-related disturbance within and adjacent to the Project area. To avoid direct impacts to avian species, removal of habitat that could support nests and other Project-related disturbance in the Project site shall occur preferably time construction during non-breeding nesting season (September through January). In addition, any clearing of vegetation that may occur is required to take place outside of the nesting season. The survey shall be completed no more than 3 days prior to initial ground disturbance. Time nesting surveys within 3-5 days prior to start of construction for nesting birds and fourteen days prior to start of construction for burrowing owl. A biologist should be present at the start of groundbreaking activities.</p> <p>Pre-construction surveys shall focus on both direct and indirect evidence of nesting, including nesting locations and nesting behavior (including but not limited to copulation, carrying food or nesting materials, nest building, agitation, aggressive interaction, feigning injury, or distraction displays), and non-nesting behavior (including but not limited to foraging or habitat defense). The nesting bird survey shall include the Project site and all suitable areas, including trees, shrubs, bare ground, burrows, cavities, and structures. The applicant will submit the results of the pre-construction survey to CDFW for</p>	<p>Prior to the start of Project related activities</p>	<p>Project Proponent</p>

<p>review and approval prior to initiating any construction activities.</p> <p>If nesting birds or active nests are detected, the biologist shall establish an appropriately sized no-work buffer zone around the nest, which will be based upon the biologist’s best professional judgment, the bird’s displayed behavior (agitation or stress), the nesting species, its sensitivity to disturbance, nesting stage and expected types, and the intensity and duration of disturbance. The no-work buffer zone shall be clearly marked but should not alert predators. Construction activities shall not occur within any no-work buffer zone until the young birds have successfully fledged and the nest is deemed inactive by the qualified avian biologist.</p>		
<p>BIO-2 Worker Environmental Awareness Program (WEAP):</p> <p>Worker environmental awareness training for nesting birds, Gila Woodpecker and Burrowing Owl (BUOW):</p> <ul style="list-style-type: none"> • Biology and status; • Protection measures designed to reduce potential impacts to the species, function of flagging designating authorized work areas; <p>A qualified biologist shall conduct an education program for all persons employed or otherwise working on the Project site prior to performing any work on-site (Workers Environmental Awareness Program; WEAP). The WEAP shall consist of a presentation that includes a discussion of the biology of the habitats and species that may be present at the site, including but not limited to western burrowing owl (<i>Athene cunicularia hypugaea</i>), Gila woodpecker (<i>Melanerpes uropygialis</i>), California leaf-nosed bat (<i>Macrotus californicus</i>), Pallid bat (<i>Antrozous pallidus</i>), and Townsend’s big-eared bat (<i>Corynorhinus townsendii</i>). The WEAP shall also include information on the distribution and habitat needs of any special-status species that may be present, legal protections for those species, penalties for violations, and mitigation measures. The WEAP shall include but not be limited to: (1) best practices for managing waste and reducing activities that can lead to increased occurrences of opportunistic species and the impacts these species can have on wildlife in the area; (2) training to identify invasive plant species and methods to</p>	<p>Prior to the start of Project related activities</p>	<p>Project Proponent</p>

<p>avoid the spread of invasive plants on and around the Project site; (3) information on special-status species that have the potential to occur on the Project site; (4) Reporting procedures to be used if a any special-status species is encountered on-site. in the field; Interpretation shall be provided for any non-English speaking workers, and the same instruction shall be provided for any individual prior to their performing any work on-site.</p> <p>and driving procedures and techniques, for commuting, and driving on, to the Project Site; and • Identification of nesting birds and procedures to follow if nesting is suspected.</p>		
<p>BIO-3 Western Burrowing Owl Surveys and Avoidance:</p> <p>Focused Burrowing Owl Surveys</p> <p>To avoid construction-level impacts to unidentified burrowing owls on-site, qualified biologists shall conduct focused burrowing owl surveys during the breeding and non-breeding season in accordance with the Staff Report on Burrowing Owl Mitigation (CDFG, 2012). The survey shall cover the Project site and a 150-meter (500-foot) buffer, where legally accessible. The Project applicant shall coordinate with CDFW in the preparation of a Burrowing Owl Protection and Mitigation Plan (see below) to allow commencement of disturbance activities on site. A pre-construction survey shall be conducted within 14 days prior to the start of construction activities (see below).</p> <p>Pre-Construction Survey and Avoidance Measures</p> <p>Depending on the Project activity type and associated disturbance, a minimum avoidance buffer distance of 50 meters (165 feet) to 100 meters (330 feet) during the non-breeding season (September through January) and 100 meters (330 feet) to 250 meters (825 feet) during the breeding season (February through August) shall be maintained between active burrows and construction activities. A qualified biologist shall monitor the burrowing owls for any sign of distress and adjust the buffers as necessary to ensure no take occurs.</p>	<p>Prior to the start of Project related activities</p>	<p>Project Proponent</p>

<p>Pre-construction take avoidance surveys for this species shall be conducted within 14 days prior to the start of ground disturbance and 24 hours prior to construction to determine the presence or absence of this species within the Project footprint. A report shall be submitted by a qualified and agency-approved biologist to CDFW. The Project footprint shall be clearly demarcated in the field by the Project engineers and biologist prior to the commencement of the pre-construction take avoidance surveys. The surveys shall follow the guidance of the Staff Report on Burrowing Owl Mitigation (CDFG, 2012).</p> <p>If active burrows are present within the Project footprint and complete avoidance is infeasible, the Project proponent shall not undertake Project activities and Project activities shall be postponed until the appropriate authorization (i.e. CESA incidental take permit under the California Fish and Game Code § 2081) is obtained.</p> <p>Should permanent loss of western burrowing owl habitat occur the ratio of acquisition to loss must be at a minimum of 1:1. The ratio shall be higher for occupied and irreplaceable habitats. The mitigation lands may require habitat enhancements including enhancement or expansion of burrows for breeding, shelter and dispersal opportunity, and removal or control of population stressors. Permanent protection of mitigation land shall be established through a conservation easement deeded to a nonprofit conservation organization or public agency with a conservation mission, and include development and implementation of a mitigation land management plan to address long-term ecological sustainability and maintenance of the site for burrowing owls, and funding for the maintenance and management of mitigation land through the establishment of a long-term funding mechanism such as an endowment.</p>		
<p>BIO-4 Pre-Construction Plant Surveys:</p>	<p>Prior to the start of Project related activities</p>	<p>Project Proponent</p>

<p>Prior to the start of construction, a qualified biologist² shall conduct a botanical field survey following the methodology described in <i>Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities</i> (CDFW, March 2018). The survey shall be floristic in nature (i.e., identifying all plant species to the taxonomic level necessary to determine rarity), and shall be inclusive of areas proposed for disturbance and indirectly impacted by the Project. The results of the survey shall be documented in a letter report that will be submitted to ICPDS and CDFW. The survey shall be conducted annually until start of construction to ensure the floristic diversity is accurately captured and effective avoidance, minimization, and mitigation strategies are developed.</p> <p>If special-status plant species are observed during the pre-construction rare plant survey(s) within the development area of the Project, the Project shall be designed to reduce impacts to these species through the establishment of buffers, to the extent feasible. Buffer distances will be determined by the qualified biologist, typically 50 feet or greater from an identified special-status plant species, unless the qualified biologist determines a reduced buffer would suffice to avoid impacts to the species.</p> <p>If avoidance of special-status plant species is not feasible, a Special-Status Plant Relocation Plan shall be developed and implemented. The Special-Status Plant Relocation Plan shall address mitigation for special-status plants, including but not limited to: topsoil salvage to preserve seed bank</p>		
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² Botanical field surveyors should possess the following qualifications: Knowledge of plant taxonomy and natural community ecology; Familiarity with plants of the region, including special status plants; Familiarity with natural communities of the region, including sensitive natural communities; Experience with the CNDDDB, BIOS, and Survey of California Vegetation Classification and Mapping Standards; Experience conducting floristic botanical field surveys as described in *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities* (CDFW, March 2018), or experience conducting such botanical field surveys under the direction of an experienced botanical field surveyor; Familiarity with federal, state, and local statutes and regulations related to plants and plant collecting; and Experience analyzing the impacts of projects on native plant species and sensitive natural communities.

<p>and management of salvaged topsoil; seed collection, storage, possible nursery propagation, and planting; salvage and planting of bulbs as feasible; location of on-site receptor sites; land protection instruments for receptor areas; and funding mechanisms. The Special-Status Plant Relocation Plan shall include methods, monitoring, reporting, success criteria, adaptive management, and contingencies for achieving success. The plan shall be prepared for CDFW’s review, approval, and implementation prior to the commencement of initial site clearing activities.</p> <p>All special-status plant species identified on site shall be mapped onto a site-specific aerial photograph and topographic map and included on the construction, grading, fuel modification, and landscape plans.</p>		
<p>BIO-5 Focused Bat Surveys and Preparation of a Bat Management Plan:</p> <p>All suitable roosting and foraging habitat for local or migratory bat species known to the Project area, including special-status species, found within the Project site and adjacent land shall be surveyed throughout one year, prior to initial site clearing activities. The surveys shall be completed by a qualified bat biologist whose resume shall be reviewed and approved by CDFW. Surveys shall include determination of the approximate size of the colony(s) and species present. The surveys shall include a combination of nighttime emergence counts and acoustic techniques (full spectrum bat acoustic detectors) appropriate for the roosting habitat and time of year, visual and aural surveys (observation during foraging period), and inspection for suitable habitat and bat sign (e.g. guano). Surveys shall be conducted during the spring, summer, fall, and winter to determine how the habitat is being used by bats throughout the year, including foraging patterns and habitat, and the presence overwintering bats, with at least two surveys conducted during the maternity season to determine a pre- and post-volant count of colonies present.</p> <p>If roosting bats, of any status, are found during the surveys, the bats and roosts shall be avoided to the maximum extent practicable with consideration of the most disturbing Project activities and their effect (e.g. demolition and night-time lighting). A Bat Management Plan prepared</p>	<p>Prior to the start of Project related activities</p>	<p>Project Proponent</p>

<p>by the qualified bat biologist identifying situation-specific and species-specific avoidance and minimization measures to reduce impacts to roosting and foraging bats shall be prepared for CDFW’s review, approval, and implementation prior to the commencement of initial site clearing activities. The Bat Management Plan shall include, as appropriate to the findings of the surveys and roosting habitat affected, a construction schedule to avoid roosting season, spatial and temporal avoidance measures, non-disturbance buffers, passive exclusion of bats outside of the maternity season (if necessary), and identification of species-specific replacement or alternative habitat to mitigate for permanent maternity or night roosting habitat loss. If roosts cannot be avoided or it is determined that construction activities will cause roost abandonment, a mitigation plan addressing exclusion and passive relocation procedures and impact compensation will be developed. The mitigation plan will be developed in consultation with CDFW and the qualified bat biologist. Roost and foraging habitat shall be replaced in-kind prior to any exclusion or in a timing approved by CDFW. Any exclusion and passive relocation efforts shall avoid periods of sensitive activity (e.g. hibernation or maternity season) and may require several seasons for bats to discover alternative roosting sites.</p>		
<p>BIO-6: Lake and Streambed Alteration (LSA) Agreement</p> <p>The Project shall be designed to avoid all impacts to the Yuma Main Canal, including preventing falling debris during the bridge removal and installation process. If impacts to the Yuma Main Canal cannot be avoided in its entirety, the Project proponent shall notify per Fish and Game Code section 1602 to seek appropriate authorization prior to the start of Project-related activities. If CDFW determines that an LSA Agreement is required and shall be issued, the Project proponent shall comply with the terms of the LSA Agreement, including the mitigation requirements detailed in the LSA Agreement. Mitigation to areas subject to Fish and Game Code section 1602 shall be compensated at one acre of mitigation for every one acre of impact through restoration to pre-project activities, or off-site mitigation that is protected and managed in perpetuity. Permanent protection of mitigation land shall be established through a conservation easement deeded to a nonprofit conservation organization or public agency with a</p>	<p>Prior to the start of Project related activities</p>	<p>Project Proponent</p>

conservation mission, and include development and implementation of a mitigation land management plan to address long-term ecological sustainability and maintenance of the site for burrowing owls, and funding for the maintenance and management of mitigation land through the establishment of a long-term funding mechanism such as an endowment. Credits at a CDFW-approved mitigation or conservation bank may also be purchases to compensate for permanent impacts.		
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