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DEPARTMENT OF FISH AND WILDLIFE

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May 13, 2026  
*Sent via email*

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**Subject: Chuckwalla Valley Road Bridge Replacement Project (PROJECT)  
Draft Environmental Impact Report (DEIR)  
SCH# 2023090523**

Dear Frances Segovia:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a DEIR from the County of Riverside Transportation Department (County) 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

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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.

species. (*Id.*, § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on Projects and related activities that have the potential to adversely affect fish and wildlife resources.

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

## **PROJECT DESCRIPTION SUMMARY**

**Proponent:** County of Riverside Transportation Department

**Objective:** The Project proposes to replace four existing, structurally deficient 2-lane timber bridges over Aztec Ditch, Tarantula Ditch, Sutro Ditch, and Acari Ditch along Chuckwalla Valley Road near Desert Center in Riverside County, California. The new bridges would be in the same location and would replace the existing 2-lane timber bridges with new 2-lane modern bridges with a curb-to-curb roadway width of 32 feet at the same locations. The proposed road width would consist of two 12-foot-wide travel lanes, one lane in each direction, and a 4-foot-wide shoulder on each side. The proposed bridges would be approximately 60 to 80 feet long depending on the channel hydraulic capacity and water surface freeboard requirements. Raising the elevation of the bridges is not anticipated. However, if raising the bridge elevation is found to be necessary to meet freeboard requirements, the total vertical increase is not anticipated to exceed one foot. Additionally, approach roadway improvements would be provided, and channel improvements would be administered to avoid future scour problems. It is envisioned that the channel bottom will remain earthen. All construction activities would be conducted within the existing roadway right of way with construction staging and material laydown areas on the roadway itself.

**Location:** The Project is located on Chuckwalla Valley Road near Desert Center in Riverside County, California. It is approximately 10 miles east of Desert Center and 24 miles west of Blythe. Chuckwalla Valley Road, an approximately 16.75-mile stretch of frontage road, is classified as a Local Rural Road and runs nearly parallel with I-10 connecting between Corn Springs Road and I-10 at the west end and Ford Dry Lake Road and I-10 at the east end. The Project will involve the replacement of the follow four bridges along Chuckwalla Valley Road:

- Chuckwalla Valley Road Bridge over Aztec Ditch (Br. No. 56C0102) (Federal Aid Project No. BRLO-5956(239))

- Chuckwalla Valley Road Bridge over Tarantula Ditch (Br. No. 56C0103) (Federal Aid Project No. BRLO-5956(227))
- Chuckwalla Valley Road Bridge over Sutro Ditch (Br. No. 56C0104) (Federal Aid Project No. BRLO-5956(226))
- Chuckwalla Valley Road Bridge over Acari Ditch (Br. No. 56C0108) (Federal Aid Project No. BRLO-5956(225))

**Timeframe:** The DEIR lacks a discussion of the timeframe for Project construction activities.

## **COMMENTS AND RECOMMENDATIONS**

CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (i.e., biological resources). CDFW offers the comments and recommendations below to assist the County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. The DEIR 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 DEIR are explained in greater detail below and summarized here. CDFW is concerned that the DEIR does not adequately identify or mitigate the Project's significant, or potentially significant impacts to biological resources. CDFW requests that additional avoidance, minimization, and mitigation measures are added to a revised DEIR that avoid or reduce impacts to less than significant.

### Existing Environmental Setting

Compliance with CEQA is predicated on a complete and accurate description of the environmental setting that may be affected by the proposed Project. CDFW is concerned that the assessment of the existing environmental setting has not been adequately analyzed in the DEIR. CDFW is concerned that without a complete and accurate description of the existing environmental setting, the DEIR may provide an incomplete analysis of Project-related environmental impacts.

The DEIR lacks a complete assessment of biological resources associated with LeConte's thrasher (*Toxostoma lecontei*) within the Project site and surrounding area. The DEIR indicates: "Special-status and Migratory Bird Surveys were completed during the literature review, it was determined that there was potential habitat for nesting birds, burrowing owls, gila woodpecker, elf owl, Bendire's thrasher, and loggerhead shrike. Le Conte's thrasher is not an SSC within the range of the BSAs and is not included in this discussion" (p. 21). CDFW clarifies that suitable predicted habitat (California Wildlife Habitat Relationships 2016) for

LeConte's thrasher overlaps the Project area, and that an occurrence near Chuckwalla Valley Road, approximately 3 miles from the Project area, was reported to California Natural Diversity Database (CNDDDB). Potential impacts of the Project to LeConte's thrasher should be analyzed in the DEIR. In addition, the conservation status of both LeConte's thrasher and Bendire's thrasher (*Toxostoma bendirei*) has recently changed. On April 16, 2026, the California Fish and Game Commission voted to designate both species as candidate species under the California Endangered Species Act (CESA). During the candidacy period, LeConte's thrasher and Bendire's thrasher will be afforded the same protection as threatened and endangered species under CESA.

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 a DEIR include mitigation measures to avoid or reduce significant impacts. CDFW is concerned that the mitigation measures proposed in the DEIR are not adequate to avoid or reduce impacts to biological resources to below a level of significance. To support the County in ensuring that Project impacts to biological resources are reduced to less than significant, CDFW recommends adding mitigation measures for the CDFW Lake and Streambed Alteration Program, desert kit fox (*Vulpes macrotis arsipus*), and American badger (*Taxidea taxus*), as well as revising the mitigation measures for nesting birds, burrowing owl (*Athene cunicularia*), and desert tortoise (*Gopherus agassizii*).

#### **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.).

Regarding the potential for the Project to impact nesting birds, page 77 of the DEIR states that the "proposed Project could potentially affect nesting birds. Noise, dust, and vibration

generated by construction activities could result in nest abandonment in natural habitats adjacent to the impacted areas. Direct and indirect impacts on migratory birds are considered significant if no mitigation is implemented.” CDFW notes that the Project site contains suitable habitat for nesting birds that nest on the ground, within trees and shrubs, and within bridge- and flood control-associated infrastructure within the Project sites and surrounding areas.

The DEIR includes Mitigation Measure BIO-8 for nesting birds, which indicates “If construction activities are initiated during the bird breeding season (defined as February 1 through August 31), a preconstruction survey by an experienced ornithologist will occur within three days prior to construction activities.” CDFW considers the measure to be inadequate in scope and timing to avoid or reduce impacts to nesting birds to a level less than significant. CDFW recommends to the greatest extent feasible that initial ground disturbing and vegetation removal activities are conducted outside of the peak nesting bird season. Also, CDFW recommends the completion of nesting bird surveys *regardless* of the time of year to 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>2</sup>). CDFW staff have observed that climate change conditions may result in the nesting bird season occurring earlier and later in the year than historical nesting season dates. CDFW recommends that disturbance of occupied nests of resident and migratory birds and raptors within the Project site and surrounding area be avoided any time birds are nesting on-site. CDFW therefore recommends the completion of nesting bird surveys *regardless of the time of year* to ensure compliance with all applicable laws pertaining to nesting and migratory birds.

To support the County in avoiding or reducing impacts to nesting birds to a level less than significant, CDFW recommends Mitigation Measure BIO-8 is revised with the following additions in **bold** and removals in ~~strike through~~:

### **Mitigation Measure BIO-8: Nesting Birds**

**To the greatest extent feasible, the Project will avoid construction and any ground-disturbing activities during the peak nesting season (January 15 through September 15). Regardless of the time of year, nesting bird surveys shall be performed by a CDFW-approved qualified avian biologist no more than 3 days prior to vegetation removal or ground-disturbing activities. Pre-construction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified avian biologist will make**

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<sup>2</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.

**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, the 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 the 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.**

~~If construction activities are initiated during the bird breeding season (defined as February 1 through August 31), a preconstruction survey by an experienced ornithologist will occur within three days prior to construction activities. The survey will occur within all suitable nesting habitat within the Project construction areas and a 300-foot buffer, as access is allowed. If nesting birds are found, a no-disturbance buffer (environmentally sensitive areas) will be established surrounding the nest by the ornithologist. The size of the buffer will be determined by the qualified ornithologist based on knowledge of bird behavior and will be designed to prevent nest failure. The ESA will remain in place until the ornithologist has determined that young have fledged, or nesting activities have ceased.~~

Pursuant to the CEQA Guidelines, section 15097(f), CDFW has prepared a draft mitigation monitoring and reporting program (MMRP) in Attachment 1 for revised MM BIO-8, MM BIO-9, and MM BIO-4, as well as CDFW-recommended MM BIO-[A], MM BIO-[B], and MM BIO-[C].

## **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, including relocation, 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.).

Regarding the potential presence and impacts to burrowing owl as a result of the Project, the DEIR states "No burrowing owls or burrowing owl signs were observed during the focused survey, however there are 89.93 acres of suitable habitat present in the BSA [Biological Study Area]. With 0.66 acre of permanent impacts and 9.51 acres of temporary impacts on suitable habitat for burrowing owl in the LOD for the Project BSAs (see Table 3-5). Because this species is highly mobile, there is potential for the species to migrate to the Project area prior to and during construction. Project construction could result in a direct impact on the species if they become present during construction related activities. Other potential direct impacts on burrowing owl include mortality due to the secondary ingestion of Project rodenticides, mortality due to predators attracted to the Project area by Project trash, and mortality due to Project created fire" (p. 77). CDFW notes that the Project site and surrounding areas contain suitable nesting and foraging habitat for burrowing owl, particularly within berms associated with flood control infrastructure and within areas containing sparse cover of creosote scrub.

Regarding the timing of surveys for burrowing owl, page 52 of the DEIR states that "The BSA of the bridges provides suitable habitat, including potential burrows and potential foraging areas for burrowing owl. Focused surveys were conducted in 2017 during CDFG protocol survey windows and the species was absent." Note that CDFW generally considers biological field assessments for wildlife to be valid for a one-year period, as surveys only provide a snapshot in time of the biological resources on a site, and site conditions and the occupancy status of species can change over time. Given that focused surveys for burrowing owl were last conducted in 2017 for the Project, CDFW recommends focused surveys consistent with the timing and frequency of surveys described in Appendix D of the *Staff Report on Burrowing Owl Mitigation*,<sup>3</sup> or other protocol agreed upon by CDFW, are conducted again prior to initiation of Project activities. Recent focused surveys, conducted prior to Project construction, are needed to provide adequate time to coordinate with CDFW on appropriate avoidance, minimization, and mitigation measures if burrowing owls are detected and support the Project in avoiding or reducing impacts to burrowing owl to a level less than significant.

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<sup>3</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>

The DEIR includes Mitigation Measure BIO-9 for burrowing owl, which proposes only pre-construction surveys for burrowing owl and does not include focused surveys. Since the Mitigation Measure BIO-9 lacks a requirement for recent focused surveys, which are needed as discussed further above, CDFW considers the measure to be inadequate in scope and timing to avoid or reduce impacts to burrowing owl to a level less than significant. Further, CDFW requests that if burrowing owls are detected during focused surveys, survey results are submitted to the CDFW and the U.S. Fish and Wildlife Service (USFWS), and the Project proponent initiate consultation with CDFW and USFWS immediately to identify a path forward regarding the protection of burrowing owls. Early coordination with CDFW and USFWS is important in identifying appropriate avoidance, minimization, and mitigation measures and reducing the chance of Project delays. To support the Project proponent and County in avoiding or reducing impacts to burrowing owl to a level less than significant, CDFW recommends that Mitigation Measure BIO-9 is revised with the following additions in **bold** and removals in ~~strike through~~:

#### **Mitigation Measure BIO-9: Burrowing Owl Focused and Pre-Construction Surveys**

**Suitable burrowing owl habitat has been confirmed on the site; therefore, recent focused burrowing owl surveys shall be conducted by a CDFW-approved qualified biologist prior to any Project activities, including vegetation- or ground-disturbing activities. CDFW strongly recommends that focused surveys are conducted in accordance with the *Staff Report on Burrowing Owl Mitigation (2012 or most recent version)*<sup>4</sup>. 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 submit the results of focused surveys to CDFW and USFWS as soon results become available and before commencement of any Project activities, including any vegetation- or ground-disturbing activities. CDFW recommends that the information included in the survey results be consistent with Appendix D of the *Staff Report on Burrowing Owl Mitigation*, including a detailed map showing locations of all burrowing owls, burrowing owl sign, potential burrows, and occupied burrows (occupied 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); a description of the behavior of burrowing owls during surveys; a description of survey methods; and other items listed in Appendix D of the *Staff Report on Burrowing Owl Mitigation* under "Survey Reports." Consultation with CDFW and USFWS must be completed prior to commencement of any Project activities, including vegetation- or ground-disturbing activities. If impacts to occupied burrowing owl habitat or burrow(s) or burrowing owl individuals, nests, or eggs cannot be avoided, CESA authorization (i.e., Incidental Take Permit under Fish and Game Code section 2081(b)) should be obtained from CDFW prior to commencement of Project activities, including vegetation- or ground-disturbing activities.**

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<sup>4</sup> California Department of Fish and Wildlife (CDFW). 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>.

**Preconstruction burrowing owl surveys shall be conducted no less than 14 days prior to the start of Project-related activities and again within 24 hours prior to ground disturbance. Preconstruction surveys should be repeated when there is a pause in construction of more than 30 days. Preconstruction surveys shall be performed by a CDFW-approved qualified biologist, and CDFW strongly recommends that preconstruction surveys follow 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 and the qualified biologist shall coordinate with CDFW and USFWS. Project activities shall not begin until consultation with CDFW and USFWS is completed.**

~~A preconstruction burrowing owl survey will be performed following CDFW's Take Avoidance Survey Methodology (CDFW 2012). The survey will be conducted within 500 feet of the Project construction areas and any staging areas at least 14 days prior to the initiation of ground disturbance activities. The survey will be performed by a biologist experienced in performing surveys for burrowing owl and species identification. All burrows within the survey area will be examined to determine occupancy by burrowing owl. If the burrow is occupied, it will be flagged or staked, and a 160-foot buffer applied during the nonbreeding season (September 1 through March 14) and a 500-foot buffer applied during the breeding season (March 15 through August 31). No construction activities will be permitted within the avoidance buffer until the qualified biologist determines the burrowing owl or its young are no longer dependent on the burrow (breeding and non-breeding season). If the burrow is found unoccupied during the non-breeding season, the burrow can be made inaccessible to owls (e.g., one-way doors), and the Project may proceed.~~

### **3) Desert Tortoise**

Regarding suitability of habitat for desert tortoise within the Project site and surrounding area, page 63 of the DEIR states "Each of the BSAs is within the Chuckwalla Critical Habitat Unit for desert tortoise and within the Colorado Desert Recovery Unit for desert tortoise (USFWS 2009, 2018). Critical habitat for the Mojave and Colorado populations of desert tortoise was established in 1994 and considered essential to the recovery of this population of the species. The creosote bush scrub and desert wash in the BSAs provide the Physical Biological Features (PBFs) for desert tortoise. PBFs are the main physical and biological features that support the species' life history and are essential for the species' conservation." Regarding the potential for desert tortoise to be impacted by Project activities, page 77 of the DEIR indicates "In areas of bridge removal and grading, Project construction would require some clearing and grubbing of vegetation, which would result in a direct and temporary impact on suitable habitat for desert tortoise. Furthermore, during construction, there would be a temporal effect on any potential desert tortoise movement through the bridge undercrossings." CDFW agrees that desert tortoise have the potential to occupy the Project site and surrounding area and use the bridges as biological corridors.

The DEIR includes Mitigation Measure BIO-4 for desert tortoise, which states "A qualified Biologist will conduct a preconstruction survey of all work areas for desert tortoise no more than 7 days prior to the start of construction activities, including staging of the Project area. The approved Biologist will review the BSA for fresh sign of desert tortoise, including living tortoises, tortoise remains, burrows, tracks, scat, or eggshells." The measure lacks important details on how surveys would be conducted, such as the survey method (e.g., belt transects and spacing) and the appropriate time of year to conduct surveys. The measure also does not include focused surveys. Focused surveys for desert tortoise were last conducted for the Project in April 2019, and the status of occupancy by desert tortoise may have changed since that time. Note that CDFW generally considers biological field assessments for wildlife to be valid for a one-year period. CDFW recommends that in addition to requiring pre-construction surveys, recent focused surveys for desert tortoise are also conducted. Additionally, Mitigation Measure BIO-4 requires that if desert tortoise sign is found, USFWS, Caltrans, and the County are contacted. Note that desert tortoise is listed as an endangered species under the California Endangered Species Act; CDFW must also be contacted if desert tortoise and/or their sign are found to consult on appropriate avoidance, minimization, and mitigation measures. For these reasons, CDFW considers Mitigation Measure BIO-4 to be inadequate in scope and timing to avoid or reduce impacts to desert tortoise to a level less than significant.

To support the Project proponent and County in avoiding or reducing impacts to desert tortoise to a level less than significant, CDFW recommends that Mitigation Measure BIO-4 is revised with the following additions in **bold** and removals in ~~strike through~~:

#### **Mitigation Measure BIO-4: Desert Tortoise Surveys**

**Prior to commencing Project activities, a focused survey for desert tortoise shall be conducted by a qualified biologist, according to protocols in Preparing for Any Action that May Occur within the Range of the Mojave Desert Tortoise (USFWS 2019; [https://www.fws.gov/sites/default/files/documents/Mojave%20Desert%20Tortoise\\_Pre-project%20Survey%20Protocol\\_2019.pdf](https://www.fws.gov/sites/default/files/documents/Mojave%20Desert%20Tortoise_Pre-project%20Survey%20Protocol_2019.pdf)), during the species' most active periods (April through May or September through October). CDFW recommends working with USFWS and CDFW concurrently to ensure a consistent and adequate approach to planning survey work and that biologists retained to complete desert tortoise protocol-level surveys submit their qualifications to CDFW and USFWS prior to initiation of surveys. If desert tortoise is found to be present, the qualified biologist shall immediately notify CDFW and USFWS to determine appropriate avoidance, minimization, and mitigation measures. If impacts to desert tortoise cannot be avoided, appropriate CESA authorization (i.e., Incidental Take Permit under Fish and Game Code section 2081(b)) should be obtained from CDFW prior to commencement of Project activities, including vegetation- or ground-disturbing activities.**

**No more than 14 calendar days prior to start of Project activities and after any pause in Project activities lasting 30 days or more, a qualified biologist shall conduct pre-construction surveys for desert tortoise as described in the USFWS 2019 desert tortoise survey methodology (Preparing for Any Action that May Occur within the Range of the Mojave Desert Tortoise; [https://www.fws.gov/sites/default/files/documents/Mojave%20Desert%20Tortoise\\_Pre-project%20Survey%20Protocol\\_2019.pdf](https://www.fws.gov/sites/default/files/documents/Mojave%20Desert%20Tortoise_Pre-project%20Survey%20Protocol_2019.pdf)). Pre-construction surveys shall be completed using perpendicular survey routes and 100-percent visual coverage for desert tortoise and their sign within the Project area and 50-foot buffer zone. Pre-activity surveys cannot be combined with other surveys conducted for other species while using the same personnel. Project activities cannot start until two negative results from consecutive surveys using perpendicular survey routes for desert tortoise are documented. Results of the surveys shall be submitted to CDFW prior to construction start. If the pre-construction surveys confirm desert tortoise absence, the qualified biologist shall ensure desert tortoise do not enter the Project area. Should desert tortoise presence be confirmed during the survey, the qualified biologist shall immediately notify CDFW and USFWS to determine appropriate avoidance, minimization, and mitigation measures.**

~~A qualified Biologist will conduct a preconstruction survey of all work areas for desert tortoise no more than 7 days prior to the start of construction activities, including staging of the Project area. The approved Biologist will review the BSA for fresh sign of desert tortoise, including living tortoises, tortoise remains, burrows, tracks, scat, or eggshells. If desert tortoise or their sign is found, the Approved Biologist will immediately contact the USFWS, Caltrans, and the County. No work activities (including staging of the project site) would be permissible until consultation has been completed.~~

~~If no desert tortoise or sign are found, measure **BIO-5** (Desert Tortoise Exclusion Fencing) will be implemented immediately before the start of construction or Project staging.~~

~~If construction activities cease for at least 7 days, a new preconstruction survey will be required prior to construction activities resuming. This will ensure desert tortoise have not moved into the Project area, and any repairs of exclusion fencing (**BIO-5**) can be conducted prior to work activities.~~

#### **4) Desert Kit Fox and American Badger**

Desert kit fox is protected as a fur-bearing mammal under Title 14 of the California Code of Regulations (Chap. 5, §460) and may not be taken at any time. Because desert kit fox has high fidelity to natal dens, it is crucial to adequately assess whether desert kit fox is present on the Project site well in advance of commencing Project activities. American badger is a California Species of Special Concern. Suitable habitat for desert kit fox and American badger was identified within the Project site and surrounding area, as discussed on pages 51 and 50 of the DEIR, respectively. Project activities have the potential to result in harm or direct mortality to desert kit fox and American badger adults and young through, for example, the destruction of dens and natal burrows. Due to the DEIR's lack of species-specific measures (e.g., pre-construction surveys for desert kit fox and American badger),

CDFW considers the DEIR to be inadequate in scope and timing to reduce impacts to these mammals to a level less than significant.

To support the Project proponent and County in avoiding or reducing impacts to desert kit fox and American badger to a level less than significant, CDFW recommends the following mitigation measures are added to a revised DEIR:

#### **Mitigation Measure BIO-[A] – Desert Kit Fox**

**Preconstruction surveys for desert kit fox shall be conducted within 14 days prior to the start of construction by a CDFW-approved qualified biologist. The survey area shall include the Project disturbance areas plus a 500-foot buffer during the breeding season (January 15 through August 31 or until pups are foraging on their own) and a 250-foot buffer outside the breeding season. Pre-construction surveys should include 100-percent visual coverage of the Project area and buffers. Potentially occupied burrows in Project disturbance areas and the survey buffer shall be mapped, and the qualified biologist(s) shall utilize daily on-site monitoring, tracking stations, and wildlife cameras to determine whether the burrows are occupied. If a burrow is determined to be occupied by desert kit fox during the breeding season, the burrow shall be demarcated with a 500-foot buffer and connectivity to adjacent habitat shall be maintained. If a burrow is determined to be occupied outside the breeding season it shall be demarcated with a 250-foot buffer. Burrows determined to be unoccupied shall be demarcated with a 50-foot buffer. No disturbance of active dens shall take place when juvenile desert kit fox may be present and dependent on parental care.**

#### **Mitigation Measure BIO-[B] – American badger**

**No more than 30 days prior to the beginning of ground disturbance and/or construction activities, a CDFW-approved qualified biologist(s) shall conduct surveys to determine if potential American badger burrows are present in the Project area. Pre-construction surveys should include 100-percent visual coverage of the Project area and buffers. If American badger burrows are located, the Project proponent shall have the qualified biologist(s) monitor the burrows using observation and tracking material and/or trail cameras over a three (3) day period to determine the status of the burrow. If non-natal active dens can be avoided and buffered from Project activities, the biologist shall flag a minimum 100-foot disturbance-free buffer zone. A minimum 500-foot disturbance-free buffer shall be placed around any natal dens and maintained, along with connectivity to adjacent habitat, until juvenile independence is determined by the biologist. The biologist has the authority to halt or stop work if individuals exhibit signs of disturbance. Established buffers shall remain until the biologist determines the young have dispersed or the den is no longer active, or until Project activities cease.**

#### **5) CDFW Lake and Streambed Alteration Program**

Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following: substantially divert or obstruct the natural flow of any river, stream or lake; substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or deposit debris, waste or other materials that could pass into any river, stream or lake. Note that "any river, stream or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a body of water.

The DEIR discusses the characteristics of stream habitat within and surrounding the Project area, including the presence of large desert washes, riparian vegetation, and flood control infrastructure directing storm flows to the bridges associated with the Project. Page 14 of the DEIR states an "Application for 1602 permit is expected after FED [final environmental document] approval."

To support the Project proponent and County in avoiding or reducing impacts to streams, CDFW recommends the County add the following Mitigation Measure to a revised DEIR:

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

**Prior to construction and issuance of any grading permit, the Project Sponsor shall obtain written correspondence from the California Department of Fish and Wildlife (CDFW) stating that notification under section 1602 of the Fish and Game Code is not required for the Project, or the Project Sponsor should 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 DEIR to assist the County in identifying and mitigating Project impacts to biological resources. CDFW concludes that the DEIR 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 DEIR.

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:

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

Mitigation Measures	Timing and Methods	Responsible Parties
<p><b>Mitigation Measure BIO-8: Nesting Birds</b></p> <p>To the greatest extent feasible, the Project will avoid construction and any ground-disturbing activities during the peak nesting season (January 15 through September 15). Regardless of the time of year, nesting bird surveys shall be performed by a CDFW-approved qualified avian biologist no more than 3 days prior to vegetation removal or ground-disturbing activities. Pre-construction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified avian biologist will make every effort to avoid potential nest predation as a result of survey and monitoring efforts. If active nests are found during the pre-construction nesting bird surveys, the 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 the 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.</p>	<p><b>Timing:</b> No more than 3 days prior to vegetation removal or ground-disturbing activities.</p> <p><b>Methods:</b> See Mitigation Measure</p>	<p><b>Implementation:</b> Project Proponent</p> <p><b>Monitoring and Reporting:</b> Project Proponent and County of Riverside</p>
<p><b>Mitigation Measure BIO-9: Burrowing Owl Focused and Pre-Construction Surveys</b></p> <p>Suitable burrowing owl habitat has been confirmed on the site; therefore, recent focused burrowing owl surveys shall be conducted by a CDFW-approved qualified biologist prior to any Project activities,</p>	<p><b>Timing: Focused surveys:</b> Consistent with timing in Appendix D of the Staff Report on Burrowing</p>	<p><b>Implementation:</b> Project Proponent</p> <p><b>Monitoring and Reporting:</b> Project Proponent and County of Riverside</p>

<p><b>including vegetation- or ground-disturbing activities. CDFW strongly recommends that focused surveys are conducted in accordance with the <i>Staff Report on Burrowing Owl Mitigation</i> (2012 or most recent version)<sup>5</sup>. 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 submit the results of focused surveys to CDFW and USFWS as soon results become available and before commencement of any Project activities, including any vegetation- or ground-disturbing activities. CDFW recommends that the information included in the survey results be consistent with Appendix D of the <i>Staff Report on Burrowing Owl Mitigation</i>, including a detailed map showing locations of all burrowing owls, burrowing owl sign, potential burrows, and occupied burrows (occupied 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); a description of the behavior of burrowing owls during surveys; a description of survey methods; and other items listed in Appendix D of the <i>Staff Report on Burrowing Owl Mitigation</i> under “Survey Reports.” Consultation with CDFW and USFWS must be completed prior to commencement of any Project activities, including vegetation- or ground-disturbing activities. If impacts to occupied burrowing owl habitat or burrow(s) or burrowing owl individuals, nests, or eggs cannot be avoided, CESA authorization (i.e., Incidental Take Permit under Fish and Game Code section 2081(b)) should be obtained from CDFW prior to commencement of Project activities, including vegetation- or ground-disturbing activities.</b></p> <p><b>Preconstruction burrowing owl surveys shall be conducted no less than 14 days prior to the start of Project-related activities and again within 24 hours prior to ground disturbance. Preconstruction surveys should be repeated when there is a pause in construction of more than 30 days. Preconstruction surveys shall be performed by a CDFW-approved qualified biologist, and CDFW strongly recommends that preconstruction surveys follow the recommendations and guidelines provided in the</b></p>	<p>Owl Mitigation and prior to commencement of any Project activities, including vegetation- or ground-disturbing activities.</p> <p><b>Pre-construction surveys:</b> No less than 14 days prior to start of Project-related activities and again within 24 hours prior to ground disturbance 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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<sup>5</sup> California Department of Fish and Wildlife (CDFW). 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>.

<p><b>Staff Report on Burrowing Owl Mitigation.</b> If the preconstruction surveys confirm occupied burrowing owl habitat, Project activities shall be immediately halted and the qualified biologist shall coordinate with CDFW and USFWS. Project activities shall not begin until consultation with CDFW and USFWS is completed.</p>		
<p><b>Mitigation Measure BIO-4: Desert Tortoise Surveys</b></p> <p>Prior to commencing Project activities, a focused survey for desert tortoise shall be conducted by a qualified biologist, according to protocols in Preparing for Any Action that May Occur within the Range of the Mojave Desert Tortoise (USFWS 2019; <a href="https://www.fws.gov/sites/default/files/documents/Mojave%20Desert%20Tortoise_Pre-project%20Survey%20Protocol_2019.pdf">https://www.fws.gov/sites/default/files/documents/Mojave%20Desert%20Tortoise_Pre-project%20Survey%20Protocol_2019.pdf</a>), during the species' most active periods (April through May or September through October). CDFW recommends working with USFWS and CDFW concurrently to ensure a consistent and adequate approach to planning survey work and that biologists retained to complete desert tortoise protocol-level surveys submit their qualifications to CDFW and USFWS prior to initiation of surveys. If desert tortoise is found to be present, the qualified biologist shall immediately notify CDFW and USFWS to determine appropriate avoidance, minimization, and mitigation measures. If impacts to desert tortoise cannot be avoided, appropriate CESA authorization (i.e., Incidental Take Permit under Fish and Game Code section 2081(b)) should be obtained from CDFW prior to commencement of Project activities, including vegetation- or ground-disturbing activities.</p> <p>No more than 14 calendar days prior to start of Project activities and after any pause in Project activities lasting 30 days or more, a qualified biologist shall conduct pre-construction surveys for desert tortoise as described in the USFWS 2019 desert tortoise survey methodology (Preparing for Any Action that May Occur within the Range of the Mojave Desert Tortoise; <a href="https://www.fws.gov/sites/default/files/documents/Mojave%20Desert%20Tortoise_Pre-project%20Survey%20Protocol_2019.pdf">https://www.fws.gov/sites/default/files/documents/Mojave%20Desert%20Tortoise_Pre-project%20Survey%20Protocol_2019.pdf</a>). Pre-construction surveys shall be completed using perpendicular survey routes and 100-percent visual coverage for desert tortoise and their sign within the</p>	<p><b>Timing:</b></p> <p>Focused surveys: Prior to commencing Project activities.</p> <p>Pre-construction surveys: no more than 14 calendar days prior to start of Project activities and after any pause in Project activities lasting 30 days or more.</p> <p><b>Methods:</b> See Mitigation Measure</p>	<p><b>Implementation:</b> Project Proponent</p> <p><b>Monitoring and Reporting:</b> Project Proponent and County of Riverside</p>

<p><b>Project area and 50-foot buffer zone. Pre-activity surveys cannot be combined with other surveys conducted for other species while using the same personnel. Project activities cannot start until two negative results from consecutive surveys using perpendicular survey routes for desert tortoise are documented. Results of the surveys shall be submitted to CDFW prior to construction start. If the pre-construction surveys confirm desert tortoise absence, the qualified biologist shall ensure desert tortoise do not enter the Project area. Should desert tortoise presence be confirmed during the survey, the qualified biologist shall immediately notify CDFW and USFWS to determine appropriate avoidance, minimization, and mitigation measures.</b></p>		
<p><b>Mitigation Measure BIO-[A] – Desert Kit Fox</b></p> <p><b>Preconstruction surveys for desert kit fox shall be conducted within 14 days prior to the start of construction by a CDFW-approved qualified biologist. The survey area shall include the Project disturbance areas plus a 500-foot buffer during the breeding season (January 15 through August 31 or until pups are foraging on their own) and a 250-foot buffer outside the breeding season. Pre-construction surveys should include 100-percent visual coverage of the Project area and buffers. Potentially occupied burrows in Project disturbance areas and the survey buffer shall be mapped, and the qualified biologist(s) shall utilize daily on-site monitoring, tracking stations, and wildlife cameras to determine whether the burrows are occupied. If a burrow is determined to be occupied by desert kit fox during the breeding season, the burrow shall be demarcated with a 500-foot buffer and connectivity to adjacent habitat shall be maintained. If a burrow is determined to be occupied outside the breeding season it shall be demarcated with a 250-foot buffer. Burrows determined to be unoccupied shall be demarcated with a 50-foot buffer. No disturbance of active dens shall take place when juvenile desert kit fox may be present and dependent on parental care.</b></p>	<p><b>Timing:</b> Within 14 days prior to start of construction</p> <p><b>Methods:</b> See Mitigation Measure</p>	<p><b>Implementation:</b> Project Proponent</p> <p><b>Monitoring and Reporting:</b> Project Proponent and County of Riverside</p>
<p><b>Mitigation Measure BIO-[B] – American badger</b></p> <p><b>No more than 30 days prior to the beginning of ground disturbance and/or construction activities, a</b></p>	<p><b>Timing:</b> No more than 30 days prior to beginning of</p>	<p><b>Implementation:</b> Project Proponent</p> <p><b>Monitoring and</b></p>

<p><b>CDFW-approved qualified biologist(s) shall conduct surveys to determine if potential American badger burrows are present in the Project area. Pre-construction surveys should include 100-percent visual coverage of the Project area and buffers. If American badger burrows are located, the Project proponent shall have the qualified biologist(s) monitor the burrows using observation and tracking material and/or trail cameras over a three (3) day period to determine the status of the burrow. If non-natal active dens can be avoided and buffered from Project activities, the biologist shall flag a minimum 100-foot disturbance-free buffer zone. A minimum 500-foot disturbance-free buffer shall be placed around any natal dens and maintained, along with connectivity to adjacent habitat, until juvenile independence is determined by the biologist. The biologist has the authority to halt or stop work if individuals exhibit signs of disturbance. Established buffers shall remain until the biologist determines the young have dispersed or the den is no longer active, or until Project activities cease.</b></p>	<p>ground disturbance and/or construction activities</p> <p><b>Methods:</b> See Mitigation Measure</p>	<p><b>Reporting:</b> Project Proponent and County of Riverside</p>
<p><b>Mitigation Measure BIO-[C]: CDFW Lake and Streambed Alteration Program</b></p> <p><b>Prior to construction and issuance of any grading permit, the Project Sponsor shall obtain written correspondence from the California Department of Fish and Wildlife (CDFW) stating that notification under section 1602 of the Fish and Game Code is not required for the Project, or the Project Sponsor should 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> Project Proponent</p> <p><b>Monitoring and Reporting:</b> Project Proponent and County of Riverside</p>