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April 16, 2026
Sent via email.

Jim Minnick, Planning & Development Services Director
Imperial County Planning and Development Services Department
801 Main Street
El Centro, CA 92243
jimminnick@co.imperial.ca.us

Dear Jim Minnick:

LITHIUM VALLEY SPECIFIC PLAN (PROJECT)
DRAFT PROGRAM ENVIRONMENTAL IMPACT REPORT (DPEIR)
SCH# 2023120104

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a DPEIR from Imperial County for the Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

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

CDFW ROLE

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

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.

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: Imperial County

Objective: The objective of the Project is to establish land use and zoning regulations that will facilitate renewable energy development, lithium extraction, associated infrastructure, commercial, and related manufacturing industries. Primary Project activities include development of the new land use designations: Green Industrial (e.g. geothermal energy, lithium/mineral extraction), Manufacturing (e.g. lithium batteries), Logistics, Renewables, Community.

Location: The Project is located in Imperial County, California, specifically covering an approximate area of 51,622 acres (Plan Area) adjacent to the southeastern shore of the Salton Sea.

Timeframe: Construction activity for the project is anticipated to span 30 years.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist Imperial County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document. Based on the potential for the Project to have a significant impact on biological resources, CDFW supports a Program Environmental Impact Report for the Project.

Mitigation Measure or Alternative 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 4.4 Biological Resources, Page 4.4-21

Issue: The Biological Resources Technical Report notes that resident fish, including the endangered Desert Pupfish (*Cyprinodon macularius*), use rivers, agricultural drains, and wetlands for movement. However, MM-BIO-1 (subsections B and C) does not list the Desert Pupfish (pupfish) as a focal species for habitat assessments in the Wetland and Riparian Corridor Resource Zones.

Specific Impact: Excluding the pupfish from these areas increases the risk of unauthorized capture and habitat destruction. Since they depend on the wetlands and riparian corridors targeted for projects, omitting them from surveys may lead to their oversight, resulting in mortality and the loss of essential movement corridors and refuges.

Why Impact Would Occur: The disconnect between the DPEIR's impact analysis and its mitigation requirements creates significant issues. The Biological Resources Technical Report acknowledges that pupfish move through agricultural drains and adjacent wetlands, but MM-BIO-1 only instructs biologists to focus on birds and the Yuma hispid cotton rat. Consequently, a biologist could clear a project area for construction without checking for endangered fish.

Evidence impact would be significant: The Desert Pupfish is endangered under both CESA and the federal Endangered Species Act. Failing to align mitigation measures with biological findings about resident fish movement does not support a less than significant impact.

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

To minimize significant impacts: CDFW recommends updating MM-BIO-1, subsections B. Wetland Resource Zone, C. Riparian Corridor Resource Zone, and D. Desert Resource Zone subsections B, C, and D to include Desert Pupfish.

COMMENT 2.

Section 4.4 Biological Resources, Pages 1-21; 4.4-39

Issue: The PEIR does not analyze or discuss how subsequent projects or actions will be assessed for their ability to site or design subsequent projects to avoid and minimize impacts to special-status species pursuant to Mitigation Measure MM-BIO2.

Specific impact: Mitigation Measure MM-BIO-2 does not define the phrases “maximum extent feasible” nor “special status biological resources that cannot be avoided.” The PEIR does not establish clear thresholds substantiating what avoidance, minimization, or mitigation measures would be infeasible under the PEIR, suggesting that such determinations are left to future County discretionary actions subject to additional site-specific analysis.

Why impact would occur: Absent the PEIR defining and analyzing the criteria by which the feasibility of subsequent projects would be analyzed for avoiding impacts to special-status species impacts, CDFW is concerned Mitigation Measure MM-BIO-2 is vague for subsequent projects tiering off the PEIR.

Evidence impact would be significant: The PEIR considers impacts to special-status species may be considered significant absent mitigation. Accordingly, MM-BIO-2 should be revised to maximize the implementation and efficacy of avoidance, minimization, and mitigation measures required of subsequent project approvals.

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Mitigation Measure or Alternative and Related Impact Shortcoming) CDFW recommends revising the first paragraph of Mitigation Measure MM-BIO-2 as follows (edits are in ~~strike through~~ and **bold**):

Mitigation Measure MM-BIO-2:

A. Disturbance Avoidance and Minimization. ~~To the maximum extent feasible,~~ The project proponent shall site and design projects to avoid impacts to special-status biological resources. **Where full avoidance of direct and indirect impacts to special-status species cannot be fully (e.g. completely) avoided, a subsequent environmental document shall analyze a project alternative which minimizes, and an alternative that avoids impacts to special-status species.** For special status biological resources that cannot be avoided, the project proponent shall implement the following to minimize direct and indirect impacts:

COMMENT 3.

Section 4.4 Biological Resources, Page 4.4-41

Issue: MM-BIO-3 Hydrological Impact Avoidance, Minimization, and Mitigation Plan does not include consultation with the resource agencies (CDFW/USFWS) for potential impacts to listed species as well as to Project-related impacts to stream resources.

Specific impact: Alterations of existing hydrologic conditions absent resource agency consultation could lead to decreasing/dewatering desert pupfish and aquatic habitat that supports this species, and potentially the introduction of Nonpoint/Point Source pollution through modification (converting agricultural drains to stormwater/MS4 systems) and connection of agricultural drains that support pupfish. The mitigation measure also states that only the County of Imperial shall approve any Hydrological Impact Avoidance, Minimization, and Mitigation Plan submitted by the project proponent. Appropriate departments within CDFW and the USFWS should also be included in the review, development, and approval of this plan as well.

Why impact would occur: Conversion/connection of agricultural drains that support desert pupfish to stormwater conveyance systems, dewatering of agricultural drains that support desert pupfish, and potential introduction of pollutants to desert pupfish habitat through connection or conversion to stormwater conveyance system.

Evidence impact would be significant: Desert Pupfish require healthy aquatic habitat. Dewatering or conversion of occupied habitat for stormwater conveyance will extirpate local populations or degrade remaining habitat due to introduction of pollutants transported through stormwater flows and urban runoff.

Additionally, Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that results in 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. Please note that "any river, stream or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a body of water. Upon receipt of a complete notification, CDFW determines if the proposed Project activities may substantially adversely affect existing biological resources and whether a Lake and Streambed Alteration (LSA) Agreement is required. An LSA Agreement includes measures necessary to protect existing biological resources. CDFW may suggest ways to modify your Project that would eliminate or reduce harmful impacts to biological resources.

CDFW's issuance of an LSA Agreement is a "project" subject to CEQA (see Pub. Resources Code 21065). To facilitate issuance of an LSA Agreement, if necessary, the PEIR and subsequent tiered documents should fully identify the potential impacts to the lake, stream, or riparian resources, and provide adequate avoidance, mitigation, and monitoring and reporting commitments. Early consultation with CDFW is recommended, since modification of the proposed Project may be required to avoid or reduce impacts to biological resources.

Mitigation Measure BIO-3, Hydrological Impact Avoidance, Minimization, and Mitigation Plan.

To reduce impacts to less than significant: CDFW recommends revising Mitigation MM-BIO-3 as follows:

Mitigation Measure BIO-3, Hydrological Impact Avoidance, Minimization, and Mitigation Plan, last bullet (edits are in ~~strike through~~ and **bold):**

Prior to ground disturbing activities results in 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, the Project shall notify for a streambed alteration agreement for all Project impacts to resources subject to Fish and Game Code section 1602. If habitat for or occurrences of California black rail, Yuma Ridgway's rail, or desert pupfish occur onsite or downstream of project site and proposed project would result in hydrological changes affecting these species, the project proponent shall confer with the County, USFWS and CDFW, and if necessary, obtain incidental take permits pursuant to **from USFWS and CDFW as described in** MM-BIO-13.

COMMENT 4.

Section 4.4, Biological Resources, Page 4.4-49

Issue: The DPEIR and MM-BIO-8 propose clearing roosting or wintering birds from work areas per MM-BIO-4. However, CDFW is concerned this plan is inadequate, as the Biological Technical Resources Report acknowledges habitat loss and recommends a 3:1 compensatory mitigation to minimize impacts, noting that clearing birds provides no long-term protection for the species. However, the PEIR does not address this topic.

Specific impact: The project's use of a clearing protocol for nesting and migratory birds may result in unauthorized removal or permanent displacement of resident special status species, such as the Burrowing Owl, from essential wintering habitats. Without proper mitigation for habitat loss, this could decrease regional biodiversity and violate conservation standards for legally protected species.

Why impact would occur: Clearing a bird from a work area only prevents immediate injury and does not address the permanent loss of wintering habitat mentioned in the Biological Resources Technical Report. Protected species cannot be relocated without alternative habitats. Additionally, MM-BIO-4 focuses on nesting and does not provide the necessary protections for these species during the non-breeding season.

Evidence impact would be significant: The PEIR does not analyze the impacts of subsequent projects displacing the wintering grounds of special-status species. Migratory and nesting birds are protected by Fish and Game code section 3503, 3503.5, and 3513; CDFW considers project impacts to special-status migratory or nesting birds to be a significant adverse effect absent the PEIR's inclusion of strict avoidance or compensatory mitigation measures (e.g., avoidance of habitats or replacement of impacted habitat). Furthermore, clearing birds without proper protocols increases the risk of unauthorized take (see Fish and Game Code section 86) if no suitable alternative habitat exists.

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

Mitigation Measures MM-BIO-8 and MM-BIO-15:

To minimize significant impacts: CDFW recommends revising Mitigation Measure BIO-8 and enforcing the requirements of Mitigation Measure BIO-15 as follows:

Mitigation Measure BIO-8, Subsection A (Burrowing Owl) and Subsection D (Other Waterbirds/Shorebirds)

CDFW recommends updating the measure to include species-specific, non-breeding season protocols.

Mitigation Measure BIO-15, bullet point Special-Status Wildlife Species
CDFW recommends applying MM-BIO-15 to all wintering habitats.

COMMENT 5.

Section 4.4 Biological Resources, Page 4.4-50

Issue: MM-BIO-9 includes outdated spawning season dates for desert pupfish (April – October). The correct dates are March 1 – Nov 1. Additionally, CDFW is concerned there is a lack of detail in the survey methodology for desert pupfish.

Specific impact: Unless the correct spawning season is included, construction and/or maintenance activities could be performed during the spawning season leading to direct impacts to desert pupfish. The lack of detail provided in the methods for species capture could also lead to direct impacts if fish are handled incorrectly leading to mortality.

Why impact would occur: In-water construction activities could directly impact spawning pupfish through disruption of normal behavior, sedimentation/turbidity issues that can affect pupfish eggs and fry, and potentially direct mortality of same.

Evidence impact would be significant: Spawning season is a critical time of year for pupfish recruitment and preparation for breeding. Interrupting the reproductive window of a short-lived species can affect future trajectory of the population if impacts are not avoided/minimized to the maximum extent that is feasible.

Recommended Potentially Feasible Mitigation Measure(s) CDFW requests updating the PEIR for accuracy to include the correct spawning season for desert pupfish, March 1 – Nov 1. Due to desert pupfish listing status under the California Endangered Species Act (CESA) and the Endangered Species Act (ESA), all subsequent projects within or adjacent to drainage ditches need to consult with CDFW and USFWS regarding appropriate CESA/ESA permitting and associated mitigation and minimization measures. Due to the inaccurate information regarding spawning dates and trapping methods, the PEIR cannot substantiate Significance Findings, and therefore subsequent projects must individually analyze, avoid, and mitigate impacts to desert pupfish.

COMMENT 6.

Section 4.2 Agriculture and Forestry Resources, Pages 4.2-13, 14 Section 4.10 Hydrology and Water Quality, Page 4.10-20

Issue: Impact analysis states that the Interim Agricultural land use would transition to industry driven uses as they have expanded outside of their initial land use designated areas (4.2.4). The estimated 40,000 acre-feet per year (AFY), that was cited in the review, has flows that reach the drains would “potentially” be reduced as land converts from agriculture to industrial. Impacts and estimates of the level of potential reduction to the agricultural drains that support habitat for sensitive species which include but are not limited to desert pupfish, Yuma Ridgway’s rail, California black rail, were not included in the review.

Specific impact: Decreased or dewatering of agricultural drains that support sensitive species which include but are not limited to desert pupfish, Yuma Ridgway’s rail, California black rail habitat that are reliant on agricultural runoff for drain flows.

Why impact would occur: A change in zoning and usage of agricultural land to industrial use would reduce or eliminate the contribution of water resources to the drains that support special status species.

Evidence impact would be significant: Desert pupfish require a healthy aquatic habitat in areas where agricultural run-off is a necessary source of water. The habitat in and around the drains would impact other sensitive species which include but are not limited to Yuma Ridgway’s rail and California black rails that utilize the habitat in and around the drain areas. Reduction or elimination of water flow would degrade or dewater existing habitat.

To reduce impacts to less than significant: The PEIR should include an analysis of multiple levels of reduced water flow and evaluate how each reduction scenario would affect the landscape and habitat conditions. This analysis should incorporate landscape-scale modeling to demonstrate the potential ecological changes associated with varying reductions in flow. Based on this evaluation, the PEIR should establish clear impact thresholds, expressed in AFY of flow reduction, that would trigger specific and enforceable mitigation measures.

Editorial Comments and/or Suggestions

Typically, a PEIR discusses the fact that if a new project is not entirely considered in the scope of the PEIR, a new initial Study, and its subsequent reports, must be prepared. These new documents “tier” from the PEIR. The DPEIR does not include language that it is foreseeable that projects may be designed that do fall within the preset design criteria and where the proposed mitigation may be inadequate to address impacts. CDFW recommends that this Plan includes verbiage to allow for a process for future projects that may not completely fall under the current parameters to be addressed.

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

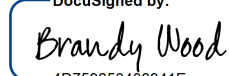
The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental 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 DPEIR to assist Imperial County in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Magdalena Rodriguez, Senior Environmental Scientist (Supervisory) at (909) 844-2520 or Magdalena.Rodriguez@wildlife.ca.gov .

Sincerely,

DocuSigned by:

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Brandy Wood
Environmental Program Manager

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