State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Inland Deserts Region
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GAVIN NEWSOM, Governor
VALERIE TERMINI, Acting Director

January 9, 2026
Sent via email

David Black
Planner IV
Imperial County
801 Main Street
El Centro, CA 92243
DavidBlack@co.imperial.ca.us

McCabe Ranch II Project (PROJECT)
Draft Supplemental Environmental Impact Report (SEIR)
SCH# 2024050879

Dear David Black:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of an SEIR from the Imperial County (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 and for the time extension to January 9, 2026, to provide those comments and recommendations. 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

[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.

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: McCabe Ranch Realty LLC

Objective: The Project proposes the development of an approximately 351.2-acre portion of the McCabe Ranch II Specific Plan Area to accommodate the phased development of 1,610 residential units (single- and multiple-family units), a 12.3-acre elementary school site for the McCabe Union School District, parks, roadways, associated utilities, drainage and storm water treatment improvements.

The Project proposes the use of water-efficient landscaping and use of native plant species.

Location: The Project site is generally located north of the Community of Heber and south of the City of El Centro, in the County of Imperial, California. The Project site is bounded by McCabe Road on the north, Dogwood Road on the east, State Route 86 (SR- 86) on the west, and the western extension of Correll Road on the south. The Project site is located within four parcels: Assessor's Parcel Numbers 054-130-072, 054-130-076, 054-130-077, and 054-130-078.

Timeframe: The SEIR indicates that development is proposed to occur in phases (Phases 1A, 1B, 2A, 2B, 3A, 3B, and 3C) over a 14-year period between 2025 and 2039.

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 SEIR 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 SEIR are explained in greater detail below and summarized here. CDFW is concerned that the SEIR does not adequately identify or mitigate the Project's significant, or potentially significant, impacts to biological resources. CDFW also concludes that the SEIR lacks sufficient information to facilitate a meaningful review by CDFW, including a complete and accurate assessment of biological resources on the Project site. CDFW requests that additional information and analyses be added to a revised SEIR, along with avoidance, minimization, and mitigation measures 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 SEIR. CDFW is concerned that without a complete and accurate description of the existing environmental setting, the SEIR may provide an incomplete analysis of Project-related environmental impacts.

The SEIR lacks a complete assessment of biological resources associated with burrowing owl (*Athene cunicularia*), American badger (*Taxidea taxus*), desert kit fox (*Vulpes macrotis arsipus*), and ringtail (*Bassariscus astutus*) within the Project site and surrounding area. 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 SEIR include mitigation measures to avoid or reduce significant impacts. CDFW is concerned that the mitigation measures proposed in the SEIR 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 American badger, desert kit fox, ringtail, and CDFW's Lake and Streambed Alteration Program, as well as revising the mitigation measure for burrowing owl.

1) 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.).

Page 4 of the Project's Biological Resources Assessment Report (Biological Assessment), dated June 2024, indicates that "general biological surveys and Burrowing Owl Protocol Surveys were conducted on April 9, 30, May 24 and June 19, 2024 within the proposed site" and "one burrowing owl, a California Species of Special Concern, [was] observed on site and an additional three burrowing owl (Imperial Irrigation District Row of Way)." The Project site contains suitable and occupied nesting and foraging habitat for burrowing owl.

Note that CDFW generally considers field assessments for wildlife to be valid for a one-year period due to the potential for site conditions for wildlife to change relatively quickly. For example, new suitable burrows for burrowing owls may be dug by ground squirrels and/or other burrowing mammals, and those burrows may become occupied by burrowing owls. CDFW also notes that burrowing owls frequently move into disturbed areas prior to and during construction activities since they are adapted to highly modified habitats.[2,3] Because the Project will be constructed over multiple Phases, and the site conditions and status of occupancy of burrowing owl can change through time,

[2] Chipman, E. D., N. E. McIntyre, R. E. Strauss, M. C. Wallace, J. D. Ray, and C. W. Boal. 2008. Effects of human land use on western burrowing owl foraging and activity budgets. Journal of Raptor Research 42(2): 87-98.
[3] Coulombe, H. N. 1971. Behavior and population ecology of the Burrowing Owl, *Speotyto cunicularia*, in the Imperial Valley of California. Condor 73:162–176.

CDFW recommends focused surveys for burrowing owl are conducted prior to vegetation removal and ground-disturbing activities associated with all Phases of the Project following the guidelines outlined in Appendix D of the *Staff Report on Burrowing Owl Mitigation.* Focused surveys help inform appropriate avoidance, minimization, and mitigation measures for burrowing owl and support the County and Project proponent in avoiding or reducing impacts to burrowing owl to a level less than significant. CDFW requests that if burrowing owls are detected during focused surveys, survey results are submitted to the Wildlife Agencies, and the County initiate consultation with the Wildlife Agencies to identify a path forward regarding the protection of burrowing owls.

The SEIR includes Mitigation Measure BIO-6 for burrowing owl. 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. For example, CDFW recommends that consultation with CDFW and the U.S. Fish and Wildlife Service (USFWS) is initiated immediately if burrowing owls are detected during focused surveys, and the results of focused surveys are submitted to CDFW and USFWS as soon as the results become available and prior to initiation of any Project activities. 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 County in avoiding or reducing impacts to burrowing owl to a level less than significant, CDFW recommends that Mitigation Measure BIO-6 is revised with the following additions in **bold** and removals in ~~strikethrough~~:

Mitigation Measure BIO-6: Burrowing Owl Focused and Pre-Construction Surveys

Suitable burrowing owl habitat has been confirmed on the site; therefore, focused burrowing owl surveys shall be conducted by a CDFW-approved qualified biologist prior to any Project activities, including vegetation- or ground-disturbing activities, for all phases of the Project. CDFW strongly recommends that focused surveys are conducted in accordance with the *Staff Report on Burrowing Owl Mitigation* (2012 or most recent version)[4]. For all phases of the Project, 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

[4] 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.

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, for all Phases of the Project. 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.

For all phases of the Project, preconstruction burrowing owl surveys shall be conducted no less than 14 days prior to the start of Project-related activities and within 24 hours prior to ground disturbance, in accordance with the *Staff Report on Burrowing Owl Mitigation* (2012 or most recent version). Preconstruction surveys should be repeated when there is a pause in construction of more than 30 days. Preconstruction surveys shall be performed by a CDFW-approved qualified biologist following the recommendations and guidelines provided in the *Staff Report on Burrowing Owl Mitigation*. If the preconstruction surveys confirm occupied burrowing owl habitat, Project activities shall be immediately halted and the qualified biologist shall coordinate with CDFW and USFWS. Project activities shall not recommence until consultation with CDFW and USFWS is completed. ~~A qualified biologist will complete an initial take avoidance survey 14 days prior to ground disturbance activities and within 24 hours prior to ground disturbance activities using the recommended methods described in the Detection Surveys found in the Staff Report on Burrowing Owl Mitigation, California Department of Fish and Game (CDFG 2012 or the most recent version). Prior to the initiation of construction activities (i.e., grading, grubbing, clearing, staging, digging), focused burrowing owl surveys shall be conducted by a qualified biologist according to the CDFW Staff Report on Burrowing Owl Mitigation, California Department of Fish and Game (CDFG, 2012 or most recent version) for each development area and surrounding 500 ft radius. If work is stopped for longer than 30 days, the area will be resurveyed prior to restarting construction. Take avoidance surveys shall be conducted no less than 14 days prior to the start of project-related activities. Burrowing owls may recolonize a site after only a few days. Time lapses between Project. activities trigger subsequent take avoidance surveys including but not limited to a final survey conducted within 24 hours prior to initiating ground disturbance in accordance with the Staff Report on Burrowing Owl Mitigation, California Department of Fish and Game (CDFG 2012 or the most recent version).If the surveys confirm the presence of burrowing owls, active burrows or signs thereof, project~~

~~activities shall be immediately halted. If impacts to occupied burrowing owl habitat or burrows cannot be fully avoided, consultation with CDFW is warranted to discuss acquiring an Incidental take Permit (ITP) prior to any ground disturbing activities, pursuant Fish and Game Code Section 2081 subdivision (b). Full mitigation often involves the permanent conservation of quality habitat benefiting the species through a conservation easement, along with habitat enhancement and ongoing management funded appropriately. Passive relocation, performed according to the Staff Report on Burrowing Owl Mitigation (CDFG, 2012) may be authorized through the ITP as a minimization measure. If burrowing owl(s) are not detected, construction may proceed.~~

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-6, as well as CDFW-recommended MM BIO-[A], MM BIO-[B], MM BIO-[C], and MM BIO-[D].

2) American Badger

American badger is a California Species of Special Concern. Page 40 of the Biological Assessment indicates the following regarding potential for American badger to occupy the Project site: “None seen; no burrows observed; not expected. Recorded occurrence within five miles of study area.” CDFW notes that the Project site contains predicted suitable habitat for American badger, including areas with medium and high suitability ranks, per California Wildlife Habitat Relationships range maps, accessed using CDFW’s Biogeographic Information and Observation System. American badger has the potential to occupy the Project site, and CDFW recommends the SEIR is revised to indicate their potential presence. The SEIR lacks a mitigation measure for American badger. Without appropriate avoidance, minimization, and mitigation measures for American badger, such as pre-construction surveys and avoidance measures if individuals, dens, or sign are detected, CDFW considers that the SEIR has not avoided or reduced potential impacts to American badger to a level less than significant. Further, given the SEIR’s lack of an assessment of biological resources and impacts associated with American badger, CDFW is limited in its ability to provide biological expertise to support the County in reducing impacts to American badger to a level less than significant. CDFW recommends that the SEIR is revised to include the results of focused surveys for American badger within the Project site and surrounding area.

To support the County in avoiding or reducing impacts to American badger to a level less than significant, CDFW recommends the County add the following mitigation measure to a revised SEIR:

Mitigation Measure BIO-[A]: American Badger

No more than 30 days prior to the beginning of ground disturbance and/or construction activities for all Phases of the Project, a qualified biologist(s) shall conduct surveys to determine if potential American badger burrows are present

in the Project area. Surveys shall encompass both the Project site and a buffer distance adequate to determine the potential for direct or indirect impacts. Surveys shall attain 100% visual coverage and be conducted using 10-m transects (or reduced based on topography and vegetation), to determine the presence or absence of individuals, dens, and sign. If American badger burrows are located, the County and Project proponent shall have a 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 the natal den and maintained 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. If American badger is proposed to be relocated from an active den or an active den will be impacted, an exclusion plan, including compensatory mitigation, shall be prepared for CDFW review and approval that will be performed outside of breeding season and after juvenile dispersal.

3) Desert Kit Fox

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. The SEIR lacks a discussion of the potential for desert kit fox to occur within the Project site. CDFW notes that the Project site contains predicted suitable habitat for desert kit fox, including areas with medium and high suitability ranks, per California Wildlife Habitat Relationships range maps, accessed using CDFW's Biogeographic Information and Observation System. CDFW considers that the SEIR has not avoided or reduced potential impacts to desert kit fox to a level less than significant. CDFW recommends the SEIR is revised to include a discussion of the potential for desert kit fox to occupy the Project site and appropriate avoidance, minimization, and mitigation measures. 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. If desert kit fox is found on-site during breeding season, it could delay Project activities until appropriate vegetation and construction buffers can be established on the Project site. Further, given the SEIR's lack of an assessment of biological resources and impacts associated with desert kit fox, CDFW is limited in its ability to provide biological expertise to support the County in reducing impacts to desert kit fox to a level less than significant. CDFW recommends that the SEIR is revised to include an assessment of biological resources and impacts associated with desert kit fox within the Project site and surrounding area.

To support the County in avoiding or reducing impacts to desert kit fox to a level less than significant, CDFW recommends the following mitigation measure is added to a

revised SEIR:

Mitigation Measure BIO-[B]: Desert Kit Fox Surveys

For all Phases of the Project, preconstruction surveys for desert kit fox shall be conducted by a qualified biologist(s) within 14 days prior to the start of construction. The survey area shall include the Project area 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 buffer using 10-m transects (or reduced based on topography and vegetation) to determine the presence or absence of individuals, dens, and sign. Potentially occupied burrows in the Project area 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. No disturbance of active dens shall take place when juvenile desert kit fox may be present and dependent on parental care. If a burrow is determined to be occupied outside the breeding season, it shall be demarcated with a 250-foot buffer. The biologist has the authority to halt or stop work if individuals exhibit signs of disturbance. Burrows determined to be unoccupied shall be demarcated with a 50-foot buffer. If occupied burrows are found in Project disturbance areas and cannot be avoided, the County and Project proponent shall consult with CDFW on an appropriate path forward. The loss of desert kit fox habitat shall be mitigated at no less than a 2:1 ratio.

4) Ringtail

Consistent with CEQA Guidelines, Section 15380, the status of the ringtail as a Fully Protected species (Fish & G. Code § 4700) qualifies it as an endangered, rare, or threatened species under CEQA. The SEIR lacks a discussion of the potential for ringtail to occur within the Project site. CDFW notes that the Project site contains predicted suitable habitat for ringtail, including areas with low and medium suitability ranks, per California Wildlife Habitat Relationships range maps, accessed using CDFW's Biogeographic Information and Observation System. Without plans for surveys for ringtail and other appropriate avoidance, minimization, and mitigation measures, CDFW considers that the SEIR has not avoided or reduced potential impacts to ringtail to a level less than significant. Further, given the SEIR's lack of an assessment of biological resources and impacts associated with ringtail, CDFW is limited in its ability to provide biological expertise to support the County in reducing impacts to ringtail to a level less than significant. CDFW recommends that the SEIR is revised to include an assessment of biological resources and impacts associated with ringtail within the Project site and surrounding area.

To support the County avoiding or reducing impacts to ringtail to a level less than significant, CDFW recommends the following mitigation measure is added to a revised SEIR:

Mitigation Measure BIO-[C]: Ringtail Surveys

For all Phases of the Project, no more than 30 days prior to the beginning of ground disturbance and/or construction activities, a qualified biologist(s) shall conduct surveys to determine if potential ringtail burrows are present in the Project area. Surveys shall encompass both the Project area and a buffer distance adequate to determine the potential for direct or indirect impacts. Surveys shall attain 100% visual coverage and be conducted using 10-m transects (or reduced based on topography and vegetation) to determine the presence or absence of individuals, dens, and sign. If potential burrows are located, they shall be monitored by the qualified biologist(s) using observation and tracking material and/or trail cameras over a three (3) day period to determine the status of the den. If a burrow is determined to be occupied outside the breeding season, it shall be demarcated with a 250-foot buffer. A minimum 500-foot disturbance-free buffer shall be placed around any natal den and maintained until juvenile independence is determined by the qualified biologist(s). No disturbance of active dens shall take place when juveniles may be present and dependent on parental care. The biologist has the authority to halt or stop work if individuals exhibit signs of disturbance. If occupied burrows are found in Project disturbance areas and cannot be avoided, the County and Project proponent shall consult with CDFW on an appropriate path forward. The loss of ringtail habitat shall be mitigated at no less than a 2:1 ratio.

5) CDFW Lake and Streambed Alteration (LSA) 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.

Page 2-8 of the SEIR states that “several irrigation drains and canals traverse or surround the site (Date Drain 3, Date Drain 3A, Dogwood Lateral 2, Date Canal, Dogwood Canal). Potential direct and indirect impacts to the drains/canals and associated fish and wildlife resources, such as burrowing owl, resulting from Project construction are subject to notification under Fish and Game Code Section 1602.” Page 4.3-20 further indicates that “approximately 0.371 acres of CDFW/RWQCB Waters of

the State would be permanently affected by the Project." To document the requirement to notify CDFW through its Lake and Streambed Alteration Program, CDFW recommends the County add the following mitigation measure to a revised SEIR:

Mitigation Measure BIO-[D]: 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.

6) Landscaping

The SEIR includes limited information on landscaping plans beyond indicating the use of water-efficient landscaping and use of native species (page 4.6-25). CDFW recommends xeriscaping with locally native California species and installing water-efficient and targeted irrigation systems (such as drip irrigation). Native plants support butterflies, birds, reptiles, amphibians, small mammals, bees, and other pollinators that evolved with those plants. More information on native plants suitable for the Project location and nearby nurseries is available at Calscape: https://calscape.org/. Local water agencies/cities and resource conservation cities in your area may be able to provide information on plant nurseries that carry locally native species, and some facilities display drought-tolerant locally native species demonstration gardens. Information on drought-tolerant landscaping and water-efficient irrigation systems is available on California's Save our Water website: https://saveourwater.com/.

ENVIRONMENTAL DATA

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

ENVIRONMENTAL DOCUMENT FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of

environmental review by CDFW. Payment of the environmental document filing fee is required in order for the underlying Project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

CDFW appreciates the opportunity to comment on the SEIR to assist County in identifying and mitigating Project impacts to biological resources. CDFW concludes that the SEIR does not adequately identify or mitigate the Project's significant, or potentially significant, impacts to biological resources. CDFW also concludes that the SEIR lacks sufficient information for a meaningful review of impacts to biological resources, including a complete assessment of biological resources for burrowing owl, American badger, desert kit fox, and ringtail. CDFW recommends that a revised SEIR, including a complete assessment of biological resources for burrowing owl, American badger, desert kit fox, and ringtail be recirculated for public comment. The CEQA Guidelines indicate that recirculation is required when insufficient information precludes a meaningful review (§ 15088.5). CDFW recommends that revised and additional mitigation measures and analysis as described in this letter be added to a revised SEIR.

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.

Sincerely,

DocuSigned by:
Kim Freeburn
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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
Mitigation Measure BIO-6: Burrowing Owl Focused and Pre-Construction Surveys **Suitable burrowing owl habitat has been confirmed on the site; therefore, focused burrowing owl surveys shall be conducted by a CDFW-approved qualified biologist prior to any Project activities, including vegetation- or ground-disturbing activities, for all phases of the Project. CDFW strongly recommends that focused surveys are conducted in accordance with the *Staff Report on Burrowing Owl Mitigation* (2012 or most recent version)[5]. For all phases of the Project, 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**	**Timing: Focused surveys:** Consistent with timing in Appendix D of the *Staff Report on Burrowing Owl Mitigation* and prior to commencement of any Project activities, including vegetation- or ground-disturbing activities for all phases of the Project. **Pre-construction surveys:** No less than 14 days prior to start of Project-related activities and within 24 hours prior to ground disturbance for all phases of the Project and when there is a pause in	**Implementation**: Imperial County and Project Proponent **Monitoring and Reporting**: Imperial County

[5] 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.

***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, for all Phases of the Project. 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.** **For all phases of the Project, preconstruction burrowing owl surveys shall be conducted no less than 14 days prior to the start of Project-related activities and within 24 hours prior to ground disturbance, in accordance with the Staff Report on Burrowing Owl Mitigation (2012 or most recent version). Preconstruction surveys should be repeated when there is a pause in construction of more than 30 days. Preconstruction surveys shall be performed by a CDFW-approved qualified biologist following the recommendations and guidelines provided in the Staff Report on Burrowing Owl Mitigation. If the**	construction of more than 30 days. **Methods:** See Mitigation Measure	

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 recommence until consultation with CDFW and USFWS is completed.		
Mitigation Measure BIO-[A]: American Badger **No more than 30 days prior to the beginning of ground disturbance and/or construction activities for all Phases of the Project, a qualified biologist(s) shall conduct surveys to determine if potential American badger burrows are present in the Project area. Surveys shall encompass both the Project site and a buffer distance adequate to determine the potential for direct or indirect impacts. Surveys shall attain 100% visual coverage and be conducted using 10-m transects (or reduced based on topography and vegetation), to determine the presence or absence of individuals, dens, and sign. If American badger burrows are located, the County and Project proponent shall have a 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 the natal den and maintained 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**	**Timing:** No more than 30 days prior to the beginning of ground disturbance and/or construction activities. **Methods:** See Mitigation Measure	**Implementation**: Imperial County and Project Proponent **Monitoring and Reporting**: Imperial County

longer active, or until Project activities cease. If American badger is proposed to be relocated from an active den or an active den will be impacted, an exclusion plan, including compensatory mitigation, shall be prepared for CDFW review and approval that will be performed outside of breeding season and after juvenile dispersal.		
Mitigation Measure BIO-[B]: Desert Kit Fox Surveys **For all Phases of the Project, preconstruction surveys for desert kit fox shall be conducted by a qualified biologist(s) within 14 days prior to the start of construction. The survey area shall include the Project area 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 buffer using 10-m transects (or reduced based on topography and vegetation) to determine the presence or absence of individuals, dens, and sign. Potentially occupied burrows in the Project area 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. No disturbance of active dens shall take place when juvenile desert kit fox may be present and dependent on parental care. If a burrow is determined to be occupied outside the breeding season, it shall be demarcated with a 250-foot buffer. The biologist has the**	**Timing:** Within 14 days prior to the start of construction. **Methods:** See Mitigation Measure	**Implementation**: Imperial County and Project Proponent **Monitoring and Reporting**: Imperial County

authority to halt or stop work if individuals exhibit signs of disturbance. Burrows determined to be unoccupied shall be demarcated with a 50-foot buffer. If occupied burrows are found in Project disturbance areas and cannot be avoided, the County and Project proponent shall consult with CDFW on an appropriate path forward. The loss of desert kit fox habitat shall be mitigated at no less than a 2:1 ratio.		
Mitigation Measure BIO-[C]: Ringtail Surveys **For all Phases of the Project, no more than 30 days prior to the beginning of ground disturbance and/or construction activities, a qualified biologist(s) shall conduct surveys to determine if potential ringtail burrows are present in the Project area. Surveys shall encompass both the Project area and a buffer distance adequate to determine the potential for direct or indirect impacts. Surveys shall attain 100% visual coverage and be conducted using 10-m transects (or reduced based on topography and vegetation) to determine the presence or absence of individuals, dens, and sign. If potential burrows are located, they shall be monitored by the qualified biologist(s) using observation and tracking material and/or trail cameras over a three (3) day period to determine the status of the den. If a burrow is determined to be occupied outside the breeding season, it shall be demarcated with a 250-foot buffer. A minimum 500-foot disturbance-free buffer shall be placed around any natal den and maintained until juvenile independence is determined by the qualified biologist(s). No disturbance of active dens shall take place when juveniles may be present and dependent on parental care. The biologist has the authority to halt or stop work if individuals exhibit signs of**	**Timing:** No more than 30 days prior to the beginning of ground disturbance and/or construction activities. **Methods:** See Mitigation Measure	**Implementation**: Imperial County and Project Proponent **Monitoring and Reporting**: Imperial County

disturbance. If occupied burrows are found in Project disturbance areas and cannot be avoided, the County and Project proponent shall consult with CDFW on an appropriate path forward. The loss of ringtail habitat shall be mitigated at no less than a 2:1 ratio.		
Mitigation Measure BIO-[D]: 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.**	**Timing:** Prior to construction or issuance of any grading permit. **Methods:** See Mitigation Measure	**Implementation**: Imperial County and Project Proponent **Monitoring and Reporting**: Imperial County