



State of California – Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
 Inland Deserts Region
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 Ontario, CA 91764
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



January 13, 2025

Danielle Visuaño
 Senior Planner
 Inyo County Planning Department
 168 North Edwards Street
 PO Drawer L
 Independence, CA 93526
dvisuano@inyocounty.us
sent via email

Dear Ms. Visuaño:

**Conditional Use Permit 2024-06 and Telecom Plan Update 2024-02/Verizon-Sequoia-Lone Pine (Project)
 MITIGATED NEGATIVE DECLARATION (MND)
 SCH# 2024120529**

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from Inyo County for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

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

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may 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: Verizon Wireless

Objective: The objective of the Project is to increase the capacity of the existing Verizon Wireless network in the area. Primary Project activities include installing a 105 foot (ft) tall monopole telecommunications tower and associated ground-based equipment within a 900 square ft (30 ft x 30 ft) fenced lease area and trenching 750 ft to run power and fiber

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.

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conduits along a 15 ft wide access route from the proposed tower to a proposed “meet-me-box” and existing utility pole.

Location: East of Tuttle Creek Road, Lone Pine, CA; Assessor Parcel Number: 026-150-30, in Inyo County at Latitude 36.557419⁰ , Longitude - 118.097589⁰ .

Timeframe: None mentioned

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist Inyo 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 Project’s avoidance of significant impacts on biological resources with implementation of mitigation measures, including those CDFW recommends in Attachment A, CDFW concludes that a Mitigated Negative Declaration is appropriate for the Project.

I. Environmental Setting and Related Impact Shortcoming

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

COMMENT 1: Sensitive wildlife species identified but only botanical and pre-construction clearance surveys proposed as mitigation.

Limited Biological Resources Report, Section 3.4 General Wildlife, Page 4

Issue: No avoidance, minimization, or mitigation measures were proposed to reduce impacts to biological resources despite identifying federal and state-listed species that have the potential to occur in the Project area. CDFW recommends incorporating avoidance, minimization, or mitigation measures specific to the several special status species that have the potential to occur within the Project area.

Specific impact: The Project is bordered by Sierra Nevada alluvial washes and their associated habitats, including North Fork Lubken Creek to the south and its tributaries. The Limited Biological Resources Technical Report prepared by Trileaf (Report) of the IS/MND concluded that the proposed Project has the potential to have a significant effect on threatened and endangered species, species of special concern, their habitats, and migratory birds (Trileaf, 2024); but only proposed limited botanical survey methods to avoid, minimize, or mitigate impacts to Owens Valley checkerbloom (*Sidalcea covillei*; state endangered) in the Project area.

Based on iPAC and CNDDDB review, the Report identified additional special-status species expected to occur in the Project area including fisher (*Pekania pennanti*), California condor (*Gymnogyps californianus*), western yellow-billed cuckoo (*Coccyzus americanus*), bald eagle (*Haliaeetus leucocephalus*), golden eagle (*Aquila chrysaetos*), Owens pupfish (*Cyprinodon radiosus*), Owens Tui chub (*Gila bicolor ssp. snyderi*), and Monarch butterfly (*Danaus plexippus*); though only Monarch butterfly had been determined to have any potential to occur.

The Report also indicated that the following sensitive/listed wildlife species have the potential to occur in undisturbed shrubland, such habitat pervading the Project area including Sierra Nevada yellow-legged frog (*Rana sierrae*), Western snowy plover (*Charadrius nivosus nivosus*), least Bell’s vireo (*Vireo bellii pusillus*), Sierra Nevada bighorn sheep (*Ovis canadensis sierrae*), and desert tortoise (*Gopherus agassizii*). However, Trileaf did not disclose in the Report the resource or literature from which this information was derived.

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The Project area stated in the IS/MND includes habitat for state listed species. If during the environmental analysis for the Project, it is determined the Project may have the potential to result in "take" of a state-listed species, the IS/MND shall disclose how CESA compliance will be obtained prior to starting construction activities. "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." The environmental document must include all avoidance and minimization to reduce the impacts to a less than significant level. If impacts to listed species are expected to occur even with the implementation of these measures, mitigation measures shall be proposed to fully mitigate the impacts to state-listed species (Cal. Code Regs., tit. 14, § 783.2, subd.(a)(8)). CDFW encourages early coordination to determine appropriate measures to offset Project impacts and facilitate future permitting processes.

Based on the sensitive species impact analyses provided in the Report and relevant literature review to support it, CDFW recommends mitigation measures for the following species that were determined to have a potential to occur: Owens Valley rare plants, burrowing owl, and nesting birds.

Why impact would occur: The IS/MND includes no avoidance, minimization, or mitigation measures to reduce impacts to sensitive wildlife species or avoid take of CESA-listed species.

Evidence impact would be significant: Take of any CESA listed species is prohibited except as authorized by state law (Fish and Game Code, §§ 2080 & 2085). Consequently, if a project, including project construction or any project-related activity during the life of the project, results in take of CESA-listed species, CDFW recommends that the Project proponent seek appropriate authorization prior to project implementation. This may include an incidental take permit (ITP) or a consistency determination (Fish and Game Code, §§ 2080.1 & 2081).

Owens Valley Rare Plants

Limited Biological Resources Report, Section 3.5 Sensitive Biological Resources – Sensitive Plant Species, Page 6

Issue: Owens Valley checkerbloom (*Sidalcea covillei*) is presumed present in the Project area but limited botanical survey methods have been proposed to determine presence/absence during its blooming period (April-June) (Calflora, 2025). According to the CNDDDB, Owens Valley checkerbloom has a documented occurrence in the Project footprint.

Inyo County star-tulip (*Calochortus excavatus*), another rare plant species², has been documented approximately 2,000 ft east of the Project area (CDFW, 2025), co-occurring within the same freshwater emergent wetland feature mapped in the [National Wetlands Inventory](#) figure in the Report (USFWS, 2025).

CDFW is concerned that an analysis was not completed to form a complete inventory of rare plants within the Project area and to identify the level of impacts on those species identified as potentially present and thus whether the Project's impacts have been adequately identified, disclosed, and mitigated.

Specific impact: The Project includes trenching a 750 ft long underground trench along 15 ft wide access road and requires vegetation removal of mapped Owens Valley checkerbloom habitat.

Owens Valley checkerbloom is a perennial herb in the mallow family (*Malvaceae*) that only grows in alkali meadows and spring plant communities having sandy loam soils with alkaline crusts in Owens Valley in Inyo County, California. Owens Valley checkerbloom currently has a limited distribution of 42 occurrences along 75 miles of the Owens River

² California Native Plant Society (CNPS) rank status 1B.1: Plants rare, threatened, or endangered in California and elsewhere; seriously threatened in California

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watershed (CDFW, 2025). These occurrences are threatened by lowering water tables and grazing. Unsustainable extraction of water in the Owens River Valley has lowered the water table, allowing noxious weeds to thrive while less water is available for Owens Valley checkerbloom and other native plants. Various studies show that vegetative cover is responsive to the groundwater depth and that lower groundwater can aide in recruitment success of plants that have not been historically present. This can cause unprecedented competition, and ultimately the decline of rare species such as Owens Valley checkerbloom (CDFW, 2017).

Inyo County star-tulip is a perennial geophyte, endemic to eastern California and was first described by Edward L. Greene in 1890 from a collection made by W. H. Shockley (No. 427) at Bishop Creek, Inyo County (Greene, 1901). There are 70 known populations, which all occur within alkali meadows, a severely threatened community type due to groundwater pumping, grazing, human disturbance, invasive species and habitat conversion (Winitsky, 2021).

The freshwater emergent wetland mapped by the [National Wetlands Inventory](#), when analyzed with CNDDDB for the Project area, has shown to support rare and endemic alkali meadow plant communities including Inyo County star-tulip as well as Owens Valley checkerbloom. Therefore, CDFW recommends MM BIO-1 below be added to the IS/MND to fully avoid and otherwise protect rare plant communities from Project-related direct and indirect impacts.

Why impact would occur: The timing of the July 31, 2024 surveys noted in the Report phenologically mismatches with the blooming season for Owens Valley checkerbloom, which blooms from April to June (Calflora, 2025). The July 31, 2024 survey was also conducted at the end of the Inyo County star-tulip blooming season (April to July) (Calflora, 2025), which did not involve surveying for Inyo County star-tulip potential occurrence. The Project area has not been surveyed for these two rare plant species during their corresponding blooming seasons and an impact analysis has not been done for Inyo County star-tulip. In both cases, a presence/absence determination cannot be made.

Evidence impact would be significant: The IS/MND presumes presence of only Owens Valley checkerbloom in the Project area, where Inyo County star-tulip has been documented in the same wetland feature. A botanical field survey following [CDFW or California Native Plant Society \(CNPS\) botanical survey protocol](#) is needed during each plant species' specific blooming season to identify plants at a taxonomic level to determine rarity and inform listing status of other sensitive plants that may not have been identified.

Recommended Potentially Feasible Mitigation Measure to reduce impacts to less than significant: CDFW recommends inclusion of the following changes to the proposed 'Sensitive Plant Species' botanical survey to avoid take of Owens Valley checkerbloom (edits are in strikethrough and additions are in bold):

MM BIO-1: Sensitive Plants Surveys

Sensitive Plant Species: ~~Prior to construction, a botanical survey should be conducted during the appropriate blooming period to determine the presence or absence of sensitive plant species, specifically *Sidalcea covillei* (Owens Valley Checkerbloom), as the proposed project footprint extends through mapped habitat. If this species is identified within the proposed project area and cannot be avoided, necessary permits need to be obtained to continue construction.~~

Prior to Project implementation, and during the appropriate blooming season, Inyo County shall conduct botanical field survey following protocols set forth in the Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018). The surveys shall be conducted by a CDFW-approved botanist(s) experienced in conducting floristic botanical field surveys, knowledgeable of plant taxonomy and plant community ecology and classification, familiar with the plants of the area, including special status and locally significant plants, and familiar with the

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appropriate state and federal statutes related to plants and plant collecting. The botanical field surveys shall be conducted at the appropriate time of year when plants will both be evident and identifiable (usually, during flowering or fruiting) and, in a manner, which maximizes the likelihood of locating special status plants and sensitive natural communities that may be present. Botanical field surveys shall be conducted floristic in nature, meaning that every plant taxon that occurs in the project area is identified to the taxonomic level necessary to determine rarity and listing status.

If any rare plants or sensitive vegetation communities are identified, Inyo County shall either avoid the occurrence, with an appropriate buffer, or mitigate the loss of the occurrence through the purchase of mitigation credits from a CDFW-approved bank or land acquisition and conservation at a minimum 3:1 (replacement-to-impact) ratio. Note that a higher ratio may be warranted if the proposed mitigation lands are located far away from the Project site (i.e., within a separate watershed) or is not occupied by or available to special status species.

If the Project has the potential to impact any State-listed plant species, the County should apply for a CESA ITP with CDFW. CDFW [may issue permits for Owens Valley checkerbloom pursuant to CESA.](#)

Burrowing Owl (*Athene cunicularia*)

Limited Biological Resources Report, Section 3.5 Sensitive Biological Resources

Issue: The Project may impact burrowing owl, a candidate species under the California Endangered Species Act (CESA) and Project activities may result in take as defined in Fish and Game Code section 86.

Specific impact: The IS/MND does not acknowledge the potential for burrowing owl to occur given, despite the Project area containing suitable habitat. No burrowing owls or signs were observed during the field site visit. CDFW notes that only one survey was performed on July 31, 2024. A focused survey for the species following CDFW approved guidelines was not conducted and CDFW has determined the site supports suitable habitat. Therefore, CDFW is concerned that Inyo County may not have adequately identified potentially significant impacts. Project implementation, including trenching, vegetation clearing and construction, may result in direct mortality, population declines, or local extirpation of burrowing owl not previously identified. Additionally, the California Wildlife Habitat Relationships (CWHHR) dataset, Burrowing Owl Predicted Habitat (CDFW, 2016), displays a high potential for burrowing owl presence within the Project area.

Why impact would occur: According to the Biological Constraints Analysis, focused burrowing owl surveys were not conducted on the Project site. Burrowing owls have been known to use highly degraded and marginal habitat where existing burrows are available. Burrowing owls are well-adapted to open, relatively flat expanses and vacant lots and prefer habitats with generally short sparse vegetation with few shrubs such as those occurring on the Project site. If BUOW burrows are not properly detected, prior to ground disturbance, site preparation and grading could destroy habitat and result in take of burrowing owl. Occupied site or occupancy means a site that is assumed occupied if at least one burrowing owl has been observed occupying a burrow within the last three years. Occupancy of suitable burrowing owl habitat may also be indicated by owl sign including its molted feathers, cast pellets, prey remains, eggshell fragments, or excrement at or near a burrow entrance or perch site.

Evidence impact would be significant: On October 10, 2024, the California Fish and Game Commission accepted a petition to list Western Burrowing Owl as endangered under CESA, determining the listing “may be warranted” and advancing the species to the candidacy stage of the CESA listing process. As a candidate species, Western Burrowing Owl is granted full protection of a threatened species under CESA. If Project activities could result in take, appropriate CESA authorization (i.e., Incidental Take Permit under

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Fish and Game Code section 2081) should be obtained prior to commencement of Project activities. Take of any endangered, threatened, or candidate species that results from the Project is prohibited, except as authorized by State law (Fish & G. Code, §§ 86, 2062, 2067, 2068, 2080, 2085; Cal. Code Regs., tit. 14, § 786.9). Take of individual burrowing owls and their nests is defined by Fish and Game Code section 86, and prohibited by sections 3503, 3503.5 and 3513. Inadequate avoidance, minimization, and mitigation measures for impacts to sensitive or special status species will result in the Project continuing to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species by CDFW.

Recommended Potentially Feasible Mitigation Measure to reduce impacts to less than significant: CDFW recommends that prior to commencing Project activities, focused and preconstruction surveys for burrowing owl be conducted by a qualified biologist in accordance with the *Staff Report on Burrowing Owl Mitigation* (CDFG 2012 or most recent version). Because appropriate surveys were not conducted prior to circulation of the MND, the MND may not adequately identify potentially significant impacts. CDFW recommends the IS/MND be revised and recirculated following completion of survey so that results and appropriate specific avoidance and minimization measures can be included, to ensure that impacts to burrowing owls are reduced to less than significant. However, if Inyo County chooses not to follow this path, CDFW recommends including the MM BIO-2 measure below to ensure an adequate assessment is completed and CESA authorization obtained, if needed.

MM BIO-2: Focused and Pre-Construction Surveys for Burrowing Owl

Suitable burrowing owl habitat has been confirmed on the site; therefore, focused burrowing owl surveys shall be conducted by a qualified biologist in accordance with the *Staff Report on Burrowing Owl Mitigation* (2012 or most recent version) prior to vegetation removal or ground-disturbing activities for all phases of Project construction. The Designated Biologist shall provide to CDFW a GIS or KMZ map of BUOW burrow complex(es) and atypical burrows (e.g. culverts, buckled concrete, etc.) The map shall be at a scale of 1:24,000 or finer to show details and shall show locations of all BUOW sightings and labeled if sightings were potential burrows, occupied burrows, satellite burrows, areas of concentrated burrows, and BUOW sign. Locations documented by use of GPS coordinates must be collected in NAD83 datum. The map shall include an outline of the Project Area. The map shall include a title, north arrow, scale bar, and legend.

If burrowing owl occupancy is confirmed, and if Project activities may impact burrowing owl, including burrow exclusion and closure, the Project Proponent shall begin early coordination with CDFW for appropriate CESA authorization (i.e., Incidental Take Permit (ITP) under Fish and Game Code section 2081) prior to commencement of Project activities. The ITP application shall describe, at a minimum, project activities and equipment, proposed avoidance/buffers, temporary and permanent impacts, monitoring, relocation and/or translocation, and minimization and compensatory mitigation actions. ITP compensatory mitigation will be fulfilled by one or more of following options: 1) Permittee-responsible mitigation land acquisition or 2) Conservation or Mitigation Bank credits (if available).

Nesting Birds

Limited Biological Resources Report, Section 3.6.3 Nesting Birds, Page 8

Issue: The Report recognizes that the trees and shrubs located within the immediate vicinity of the Project site provide suitable avian nesting habitat for several avian species but only includes pre-construction clearance surveys as mitigative measures to avoid impacts to nesting birds. Furthermore, the IS/MND does not provide an estimated timeframe for construction. Mitigating impacts to nesting birds requires avoiding

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construction activities during the avian nesting season (February-September). CDFW is concerned that the Project does not avoid impacts to nesting birds, whether or not during avian nesting season.

Specific Impact: Potential take of nesting birds and loss of bird nesting and/or foraging habitat.

Why impact would occur: Project activities may disturb nesting birds, which can lead to failure of the nest or unauthorized take.

Evidence impact would be significant: Potential habitat for nesting birds and birds of prey is present within the Project area. The proposed Project should disclose all potential activities that may incur a direct or indirect take to nongame nesting birds within the Project footprint and its close vicinity. Appropriate avoidance, minimization, and/or mitigation measures to avoid take must be included in the environmental document. Measures to avoid the impacts should include species specific work windows, biological monitoring, installation of noise attenuation barriers, etc.

Inyo County is responsible for complying with Fish and Game Code sections 3503, 3503.5, and 3513, which state as follows: section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs or any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto; 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 the Fish and Game Code or any regulation adopted pursuant thereto; 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.).

Recommended potentially feasible mitigation measure(s) to reduce impacts to less than significant: CDFW recommends a qualified biologist survey the entire Project area, not only for nesting birds, but also all bird activity to observe behavior that could be related to nest building, incubation, feeding of young and/or possible behavior that could indicate agitation and/or nest abandonment caused by Project activities. CDFW recommends inclusion of the following changes to the proposed nesting bird pre-construction clearance survey to avoid take of nesting birds (edits are in strikethrough and additions are in bold):

MM BIO-3: Nesting Bird Surveys

~~If construction activity must occur during the nesting season, a qualified biologist should perform a pre-construction clearance survey to determine the presence/absence of nesting activity onsite and in the vicinity of the project site. The survey will address impacts to nesting birds per the MBTA. If no nesting activity is observed, no further action is required.~~

~~If nesting activity is observed on or in the immediate vicinity of the project site, construction activity may proceed after the nestlings have fledged. If the facility must be installed in the vicinity of an active nest, a biological monitor will be present during all construction activity. Construction activity can be conducted at the discretion of the monitor to ensure that it does not directly or indirectly cause a nest to fail.~~

Regardless of the time of year, nesting bird surveys shall be conducted by a qualified avian biologist no more than three (3) days prior to vegetation clearing or ground disturbance 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 the survey and monitoring efforts. If active nests are found during the pre-construction nesting bird surveys, a Nesting Bird Plan (NBP) shall be prepared and implemented by the qualified avian biologist. At a minimum, the NBP shall include guidelines for addressing active nests,

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establishing buffers, ongoing monitoring, establishment of avoidance and minimization measures, and reporting. The size and location of all buffer zones, if required, shall be based on the nesting species, individual/pair's behavior, nesting stage, nest location, its sensitivity to disturbance, and intensity and duration of the disturbance activity. To avoid impacts to nesting birds, any grubbing or vegetation removal should occur outside peak breeding season (typically February 1 through September 1).

All measures to protect nesting birds should be performance-based. While some birds may tolerate disturbance within 250 feet of construction activities, other birds may have a different disturbance threshold and take could occur if the temporary disturbance buffers are not designed to reduce stress to that individual pair. CDFW recommends including performance-based protection measures for avoiding all nests protected under the Migratory Bird Treaty Act and Fish and Game Code. A 250-foot exclusion buffer may be sufficient; however, that buffer may need to be increased based on the birds' tolerance level to the disturbance.

ENVIRONMENTAL DATA

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

ENVIRONMENTAL DOCUMENT FILING FEES

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

CONCLUSION

CDFW appreciates the opportunity to comment on the MND to assist Inyo County in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Bryant Luu, Environmental Scientist at (760) 923-8666 or Bryant.Luu@wildlife.ca.gov.

Sincerely,

DocuSigned by:



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Alisa Ellsworth
Environmental Program Manager

cc: Graham Meese, Senior Environmental Scientist Supervisor
Inland Deserts Region
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**ATTACHMENT A: MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)
 FOR CDFW-PROPOSED MITIGATION MEASURES**

PURPOSE OF THE MMRP

The purpose of the MMRP is to ensure compliance with mitigation measures during project implementation. Mitigation measures must be implemented within the time periods indicated in the table below.

TABLE OF MITIGATION MEASURES

The following items are identified for each mitigation measure: Mitigation Measure, Implementation Schedule, and Responsible Party. The Mitigation Measure column summarizes the mitigation requirements. The Implementation Schedule column shows the date or phase when each mitigation measure will be implemented. The Responsible Party column identifies the person or agency that is primarily responsible for implementing the mitigation measure

Biological Resources (BIO)		
Mitigation Measure (MM) Description	Implementation Schedule	Responsible Party
<p>MM BIO-1: Sensitive Plants Surveys</p> <p>Sensitive Plant Species: Prior to construction, a botanical survey should be conducted during the appropriate blooming period to determine the presence or absence of sensitive plant species, specifically <i>Sidalcea covillei</i> (Owens Valley Checkerbloom), as the proposed project footprint extends through mapped habitat. If this species is identified within the proposed project area and cannot be avoided, necessary permits need to be obtained to continue construction.</p> <p>Prior to Project implementation, and during the appropriate blooming season, Inyo County shall conduct botanical field survey following protocols set forth in the Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018). The surveys shall be conducted by a CDFW-approved botanist(s) experienced in conducting floristic botanical field surveys, knowledgeable of plant taxonomy and plant community ecology and classification, familiar with the plants of the area, including special status and locally significant plants, and familiar with the appropriate state and federal statutes related to plants and plant collecting. The botanical field surveys shall be conducted at the appropriate time of year when plants will both be evident and identifiable (usually, during flowering or fruiting) and, in a manner, which maximizes the likelihood of locating special status plants and sensitive natural communities that may be present. Botanical field surveys shall be conducted floristic in nature, meaning that every plant taxon that occurs in the project area is identified to the taxonomic level necessary to determine rarity and listing status.</p> <p>If any rare plants or sensitive vegetation communities are identified, Inyo County shall either avoid the occurrence, with an appropriate buffer, or mitigate the loss of the occurrence through the purchase of mitigation credits from a CDFW-approved bank or land acquisition and conservation at a minimum 3:1 (replacement-to-impact) ratio. Note that a higher ratio may be warranted if the</p>	<p>Prior to and during ground- or vegetation disturbing activities</p>	<p>Inyo County</p>

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<p>proposed mitigation lands are located far away from the Project site (i.e., within a separate watershed) or is not occupied by or available to special status species.</p> <p>If the Project has the potential to impact any State-listed plant species, the County should apply for a CESA ITP with CDFW. CDFW may issue permits for Owens Valley checkerbloom pursuant to CESA.</p>		
<p>MM BIO-2: Focused and Pre-Construction Surveys for Burrowing Owl</p> <p>Suitable burrowing owl habitat has been confirmed on the site; therefore, focused burrowing owl surveys shall be conducted by a qualified biologist in accordance with the <i>Staff Report on Burrowing Owl Mitigation</i> (2012 or most recent version) prior to vegetation removal or ground-disturbing activities for all phases of Project construction. The Designated Biologist shall provide to CDFW a GIS or KMZ map of BUOW burrow complex(es) and atypical burrows (e.g. culverts, buckled concrete, etc.) The map shall be at a scale of 1:24,000 or finer to show details and shall show locations of all BUOW sightings and labeled if sightings were potential burrows, occupied burrows, satellite burrows, areas of concentrated burrows, and BUOW sign. Locations documented by use of GPS coordinates must be collected in NAD83 datum. The map shall include an outline of the Project Area. The map shall include a title, north arrow, scale bar, and legend.</p> <p>If burrowing owl occupancy is confirmed, and if Project activities may impact burrowing owl, including burrow exclusion and closure, the Project Proponent shall begin early coordination with CDFW for appropriate CESA authorization (i.e., Incidental Take Permit (ITP) under Fish and Game Code section 2081) prior to commencement of Project activities. The ITP application shall describe, at a minimum, project activities and equipment, proposed avoidance/buffers, temporary and permanent impacts, monitoring, relocation and/or translocation, and minimization and compensatory mitigation actions. ITP compensatory mitigation will be fulfilled by one or more of following options: 1) Permittee-responsible mitigation land acquisition or 2) Conservation or Mitigation Bank credits (if available).</p>	<p>Prior to and during ground- or vegetation disturbing activities</p>	<p>Inyo County</p>
<p>MM BIO-3: Nesting Bird Surveys</p> <p>If construction activity must occur during the nesting season, a qualified biologist should perform a pre-construction clearance survey to determine the presence/absence of nesting activity onsite and in the vicinity of the project site. The survey will address impacts to nesting birds per the MBTA. If no nesting activity is observed, no further action is required.</p> <p>If nesting activity is observed on or in the immediate vicinity of the project site, construction activity may proceed after the nestlings have fledged. If the facility must be installed in the vicinity of an active nest, a biological monitor will be present during all construction activity. Construction activity can be conducted at the discretion of the monitor to ensure that it does not directly or indirectly cause a nest to fail.</p> <p>Regardless of the time of year, nesting bird surveys shall be conducted by a qualified avian biologist no more than three (3) days</p>	<p>Prior to ground- or vegetation disturbing activities</p>	<p>Inyo County</p>

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<p>prior to vegetation clearing or ground disturbance 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 the survey and monitoring efforts. If active nests are found during the pre-construction nesting bird surveys, a Nesting Bird Plan (NBP) shall be prepared and implemented by the qualified avian biologist. At a minimum, the NBP shall include guidelines for addressing active nests, establishing buffers, ongoing monitoring, establishment of avoidance and minimization measures, and reporting. The size and location of all buffer zones, if required, shall be based on the nesting species, individual/pair's behavior, nesting stage, nest location, its sensitivity to disturbance, and intensity and duration of the disturbance activity. To avoid impacts to nesting birds, any grubbing or vegetation removal should occur outside peak breeding season (typically February 1 through September 1).</p> <p>All measures to protect nesting birds should be performance-based. While some birds may tolerate disturbance within 250 feet of construction activities, other birds may have a different disturbance threshold and take could occur if the temporary disturbance buffers are not designed to reduce stress to that individual pair. CDFW recommends including performance-based protection measures for avoiding all nests protected under the Migratory Bird Treaty Act and Fish and Game Code. A 250-foot exclusion buffer may be sufficient; however, that buffer may need to be increased based on the birds' tolerance level to the disturbance.</p>		
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