



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



June 3, 2025
Sent via email

Luis Bejarano
Planner I
Imperial County Planning and Development Services Department
801 Main Street
El Centro, CA 92243
luisbejarano@co.imperial.ca.us

Dear Mr. Bejarano:

RASIRC IMPERIAL FACILITY (PROJECT)
MITIGATED NEGATIVE DECLARATION (MND)
SCH# 2025041465

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

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

CDFW ROLE

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

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.

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: RASIRC, Inc

Objective: The objective of the Project is to construct, maintain, and operate a hydrazine production and processing facility and a warehouse, which will include an office and associated parking spaces and site improvements. Primary Project activities include the production, processing, and storage of hydrazine and other raw chemical materials and waste.

Location: The Project is located at 3555 Old Highway 111, Imperial, CA 92251, south of East Keystone Road. The Project site is within the Mesquite Lake Specific Plan area, on Assessor's Parcel Number 040-250-024-000.

Timeframe: Unknown

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below, including those in Attachment A, to assist ICPDS in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document.

CDFW is concerned with the MND's lack of analysis of impacts to western burrowing owl (*Athene cunicularia hypugaea*) and the proposed mitigation measure (MM) BIO-1. MM BIO-1, as it is currently proposed in the MND, results in the take of western burrowing owl in the form of capture through tagging and may result in take in the form of mortality through passive relocation. Western burrowing owl is currently designated as a candidate for potential listing as a protected species under CESA. As a candidate for listing, western burrowing owl is afforded the same protections as State-listed endangered or threatened species. CESA prohibits the take of any species of wildlife designated by the California Fish and Game Commission as endangered, threatened, or candidate species, without appropriate authorization by CDFW. CDFW recommends the ICPDS conduct breeding and non-breeding season surveys following the *Staff Report on Burrowing Owl Mitigation* (CDFG, 2012) to identify presence or absence of the species onsite, and then formulate adequate avoidance, minimization, and

mitigation measures. CDFW recommends the Project proponent obtain an incidental take permit (ITP) for western burrowing owl should the species be present.

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 with respect to biological resources has not been adequately analyzed in the MND. CDFW is concerned that without a complete and accurate description of the existing environmental setting, the MND likely provides an incomplete or inaccurate analysis of Project-related environmental impacts and whether those impacts have been mitigated to a level that is less than significant. Section 15125(c) of the CEQA Guidelines states that knowledge of the regional setting of a project is critical to the assessment of environmental impacts, that special emphasis should be placed on environmental resources that are rare or unique to the region, and that significant environmental impacts of the proposed Project are adequately investigated and discussed.

I. Environmental Setting and Related Impact Shortcoming

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

COMMENT 1:

Section IV Biological Resources, Page 18

Issue: The MND mentions “current land conditions” but ICPDS did not conduct biological surveys to determine what those current land conditions are. The MND has not accurately described or fully established the biological resources present on-site, limiting the CEQA Lead Agency’s and CDFW’s ability to analyze the Project’s potential impacts and evaluate the effectiveness of the proposed avoidance, minimization, and/or mitigation measures on candidate, sensitive, or special status species. In addition, the MND states impacts to these species will be less than significant with mitigation incorporated. But, the MND does not identify the significant impacts that require mitigation measures to be proposed.

Specific impact: Subsection (a) in the MND states that “the proposed project does not expect to cause any physical changes to the environment due to its established land designation and the existing development surrounding the property...” However, constructing a warehouse and parking lot is a direct physical change to the environment and is an activity undertaken by a public agency, which is defined as a “project” under CEQA Guidelines § 21065. Surrounding development may alter the existing baseline conditions on the Project site but does not account for the

impacts from the Project itself. While the Project may be consistent with the zoning designation in the Mesquite Lake Specific Plan, for which an EIR was already certified, CEQA requires that any peculiar Project-specific significant impacts still be analyzed.

Additionally, the MND selected a “Less than Significant with Mitigation Incorporated” determination for subsection (a), but does not identify what the significant impacts are or how the proposed mitigation measure will reduce impacts to a less than significant level. Without conducting surveys that follow CDFW guidance and protocol, potential Project impacts to candidate, sensitive, or special status species may be mischaracterized, resulting in avoidable, unminimized, or unmitigated impacts not identified or analyzed by the MND. If levels of significance cannot be accurately established, neither the CEQA Lead Agency nor CDFW can adequately determine if the proposed mitigation measures truly reduced impacts to a less than significant level.

Why impact would occur: The MND does not mention that any biological studies or surveys were conducted specifically for the Project.

The Mesquite Lake Specific Plan was adopted in 2006, almost two decades prior to the circulation of the MND for the proposed Project. During this timeframe, baseline conditions of the Project site and State regulations have changed, which results in potentially significant effects on biological resources that were not analyzed in the Mesquite Lake Specific Plan Master EIR.

Evidence impact would be significant: CEQA Guidelines § 15183 states that for projects consistent with existing zoning or general plan policies, the public agency shall still examine the environmental effects that (1) are peculiar to the Project or its site, (2) were not analyzed in the prior EIR for which the Project is consistent, (3) are potentially significant cumulative effects that were not discussed in the prior EIR, or (4) are determined to have a more severe adverse impact than discussed in the prior EIR.

Per CEQA Appendix G (Evaluation of Environmental Impacts), which is reiterated on page 14 of the MND, the explanation of each issue should identify the significance criteria or threshold used to evaluate each question and the mitigation measure identified to reduce the impact to less than significance.

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

To reduce impacts to less than significant: CDFW recommends that ICPDS conduct species-focused surveys per CDFW’s guidance and protocols (<https://wildlife.ca.gov/Conservation/Survey-Protocols>) and incorporate the results

into the MND. It is recommended that MND include an analysis of the Project's impacts to biological resources and include specific detailed documentation that supports the analysis and determination of impacts. Without information regarding biological resources, with evidence to support the MND's determinations, the MND may not be able to determine whether the project can mitigate its impacts to a less than significant level. CDFW recommends the MND be revised and recirculated to provide this information. However, if Imperial County chooses not to collect and disseminate this information, then CDFW recommends that the mitigation measures be updated and/or added, as provided below in Attachment A, to determine if the site is occupied by special-status species.

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

COMMENT 2:

Section IV Biological Resources, Subsections (b) and (c), Page 18

Issue: The MND states that “No water bodies, riparian habitats, or other environmentally sensitive natural communities are present within the boundaries of the parcel,” but does not mention that any surveys were conducted to confirm the presence, of water bodies, riparian habitats, or environmentally sensitive natural communities, or the lack thereof.

Specific impact: The Project site is bound by drainages and canals operated by the Imperial Irrigation District (<https://www.iid.com/water/about-iid-water/water-service-maps>) which can host riparian communities. The MND acknowledges that there are drainage swales on the Project site that has the potential presence of wetland features. Certain sensitive species, such as western burrowing owl, are commonly found along irrigation canals in Imperial Valley (Center for Biological Diversity et al., March 2024).

The MND has “Less than Significant Impact” determinations selected for subsections (b) and (c), but does not state what any of those less than significant impacts are. For subsection (b), the MND states that there are no water bodies or riparian habitats within the Project site. It is unclear what thresholds were used to determine the level of significance for subsections (b) and (c).

Why impact would occur: No surveys or aquatic delineations were conducted, so an adequate baseline in which to evaluate impacts or formulate avoidance, minimization, or mitigations was not established. CDFW notes that baseline surveys should have already been conducted and included in the environmental document for adequate public review and comment.

Evidence impact would be significant: CEQA Guidelines § 15064.7(a) states, “a threshold of significance is an identifiable quantitative, qualitative or performance level of a particular environmental effect ... compliance with which means the effect normally will be determined to be less than significant.” Additionally, CEQA Guidelines § 15064.7(d) state, “a public agency shall explain how the particular requirements of that environmental standard reduce project impacts ... to a level that is less than significant, and why the environmental standard is relevant to the analysis of the project under consideration.

Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may (1) substantially divert or obstruct the natural flow of any river, stream, or lake; (2) substantially change or use any material from the bed, channel, or bank of any river, stream, or lake; or (3) deposit or dispose of debris, waste, or other materials containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake.

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

To reduce impacts to less than significant: CDFW recommends that the ICPDS conduct field surveys, delineate jurisdictional resources, and submit a notification, if appropriate, per Fish and Game Code Section 1602 prior to commencing Project construction activities.

II. 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 3:

Section IV Biological Resources, Subsection (a), Page 18

Issue: MM BIO-1 results in the take of western burrowing owl (*Athene cunicularia hypugaea*). Tagging and relocating western burrowing owl is take in the form of capture.

The MND states, “the Mesquite Lake Specific Plan includes established mitigation measures in its Master Environmental Impact Report to address potential impacts to burrowing owls, which will be strictly followed.” However, the MND does not state what those mitigation measures are, how those mitigation measures will prevent

take of the species, or how ICPDS will ensure that those mitigation measures will be followed. The Mesquite Lake Specific Plan Master EIR is not available for review on the CEQAnet web portal or on the ICPDS website. MM BIO-1 also defers the formulation of avoidance, minimization, and mitigation measures to a later date, which does not allow for meaningful public review or comment.

Specific impact: Focused western burrowing owl surveys were not conducted following the guidance in the *Staff Report on Burrowing Owl Mitigation* (CDFG, 2012), despite the MND acknowledging that predicted habitat for western burrowing owl is within the Project area and its surroundings.

MM BIO-1 proposes actions that are considered take under CESA, which is prohibited without CDFW authorization. MM BIO-1 also only commits to guidelines approved by the US Fish and Wildlife Service, not CDFW guidelines outlined in the *Staff Report on Burrowing Owl Mitigation* (CDFG, 2012). Furthermore, MM BIO-1 defers the formulation of avoidance, minimization, and mitigation measures until pre-construction survey results are reported. Under CEQA Guidelines § 15126.4, formulation of mitigation measures should not be deferred to a future time, unless the Lead Agency commits to the mitigation, adopts specific performance standards the mitigation will achieve, and identifies the potential actions that can feasibly achieve that performance standard.

Why impact would occur: The status of western burrowing owl has changed since the Mesquite Lake Specific Plan Master EIR was finalized in 2006. As of October 2024, the western burrowing owl was named as a candidate for potential listing as a protected species under CESA.

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

Evidence impact would be significant: Imperial Valley has high rates of western burrowing owl occurrence due to agriculture ecosystems (Center for Biological Diversity et al., March 2024). As a candidate species for listing, western burrowing owl is granted the same protection as threatened or endangered species under CESA. Take of any CESA-listed species is prohibited except as authorized by State law (Fish and Game Code § 2080 and § 2085). Consequently, if a Project, including Project construction or any Project-related activity during the life of the Project, results in the take of CESA-listed species, CDFW recommends that the Project proponent seek appropriate authorization prior to Project implementation. This may include an ITP (Fish and Game Code § 2081).

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

Mitigation Measure MM BIO-1:

To reduce impacts to less than significant: CDFW recommends that ICPDS obtain an ITP for potential take of western burrowing owl, and that the MND contain a full avoidance, minimization, and mitigation strategy for public review and comment. In addition, CDFW recommends MM BIO-1, listed in Attachment A, to be incorporated into the MND.

III. Editorial Comments and/or Suggestions

The “Environmental Factors Potentially Affected” checklist on page 10 does not have any resources checked. CDFW recommends completing the checklist with appropriate resources selected.

Several of the explanations in Section IV of the MND do not support the selection of “Less than Significant Impact.” In addition to the discrepancy in subsections (b) and (c), detailed in Comment 2, subsections (e) and (f) also have explanations that do not align with the impact determinations. Subsection (e) states, “It is *not expected* that the project will conflict with any local policies or ordinance protecting biological resources ...” but then states, “Any impact would be considered less than significant,” without explaining why impacts that are not expected would have a less than significant impact or identifying what those impacts are, despite it being considered less than significant. Similarly, subsection (f) states, “It is *not expected* that the project will conflict with the provisions of an... habitat conservation plan,” but then states, “Any impact would be considered less than significant.” Again, it is unclear why an impact that is not expected to occur would have a less than significant impact determination instead of a “No Impact” determination. Under the CEQA Guidelines § 15071, an MND not only requires a proposed finding that the Project will not have a significant effect on the environment, but also document the reasons to support the finding. It is the CEQA Lead Agency’s responsibility to conduct proper environmental review and determine the level of impacts from the construction, operation, and maintenance of the Project. Per the CEQA Guidelines § 15020, the Lead Agency is responsible for the adequacy of its environmental documents. The lack of clarity on the Project’s impacts hinders effective public review and comment.

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

Luis Bejarano, Planner I
Imperial County Planning and Development Services Department
June 3, 2025
Page 9 of 13

communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

ENVIRONMENTAL DOCUMENT FILING FEES


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

CONCLUSION

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

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

Sincerely,

DocuSigned by:

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Brandy Wood
Environmental Program Manager

Attachments

Attachment A. Draft Mitigation, Monitoring, and Reporting Program

ec: Office of Planning and Research, State Clearinghouse, Sacramento
state.clearinghouse@opr.ca.gov

REFERENCES

California Department of Fish and Game (CDFG). March 2012. Staff Report on Burrowing Owl Mitigation.

<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline>

Center for Biological Diversity, Defenders of Wildlife, Burrowing Owl Preservation Society, Santa Clara Valley Audubon Society, Urban Bird Foundation, Central Valley Bird Club, San Bernardino Valley Audubon Society. March 2024. Petition Before the California Fish and Game Commission to List California Populations of the Western Burrowing Owl (*Athene cunicularia hypugaea*) as Endangered or Threatened Under the California Endangered Species Act.

<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=221396&inline>

Imperial Irrigation District. Water Service Maps. <https://www.iid.com/water/about-iid-water/water-service-maps>. Accessed May 28, 2025.

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

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

Biological Resources (BIO)		
Mitigation Measure (MM) Description	Implementation Schedule	Responsible Party
<p>MM BIO-1 Western Burrowing Owl Surveys, Avoidance, Minimization, and Mitigation:</p> <p>Burrowing owl currently identified on site shall be mitigated per the guidance of the Staff Report on Burrowing Owl Mitigation (CDFG, 2012) such that (a) permanent impacts to nesting, occupied and satellite burrows and/or burrowing owl habitat such that the habitat acreage, number of burrows and burrowing owls impacted are replaced with permanent conservation of similar vegetation communities (grassland, scrublands, desert, urban, and agriculture) to provide for burrowing owl nesting, foraging, wintering, and dispersal (i.e., during breeding and non-breeding seasons) comparable to or better than that of the impact area, and (b) sufficiently large acreage, and presence of fossorial mammals.</p> <p>Focused Burrowing Owl Surveys</p> <p>To avoid construction-level impacts to unidentified burrowing owls on-site, qualified biologists shall conduct focused burrowing owl surveys during the breeding and non-breeding season in accordance with the Staff Report on Burrowing Owl Mitigation (CDFG, 2012). The survey shall cover the Project site and a 150-meter (500-foot) buffer, where legally accessible. The Project applicant shall coordinate with CDFW in the preparation of a Burrowing Owl Protection and Mitigation Plan (see below) to allow commencement of disturbance activities on site. A</p>	<p>Prior to the start of Project related activities</p>	<p>Project Proponent</p>

<p>preconstruction survey shall be conducted within 14 days prior to the start of construction activities (see below).</p> <p>Pre-construction Survey</p> <p>Pre-construction take avoidance surveys for this species shall be conducted within 14 days prior to the start of ground disturbance and 24 hours prior to construction to determine the presence or absence of this species within the Project footprint. A report shall be submitted by a qualified and agency-approved biologist to CDFW. The Project footprint shall be clearly demarcated in the field by the Project engineers and biologist prior to the commencement of the pre-construction take avoidance surveys. The surveys shall follow the guidance of the Staff Report on Burrowing Owl Mitigation (CDFG, 2012).</p> <p>Avoidance and Mitigation</p> <p>Depending on the Project activity type and associated disturbance, a minimum avoidance buffer distance of 50 meters (165 feet) to 100 meters (330 feet) during the nonbreeding season (September through January) and 100 meters (330 feet) to 250 meters (825 feet) during the breeding season (February through August) shall be maintained between active burrows and construction activities. A qualified biologist shall monitor the burrowing owls for any sign of distress and adjust the buffers as necessary to ensure no take occurs.</p> <p>If active burrows are present within the Project footprint and complete avoidance is infeasible, the Project proponent shall not undertake Project activities and Project activities shall be postponed until the appropriate authorization (i.e. CESA incidental take permit under the California Fish and Game Code § 2081) is obtained.</p> <p>If approved by CDFW through the Burrowing Owl Protection and Mitigation Plan (described below), passive relocation methods are to be used by the qualified biologist to exclude the owls out of the impact zone. Passive relocation shall only be done in the non-breeding season, where resident owls have not yet begun egg laying or</p>		
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incubation, or where the juveniles are foraging independently and capable of independent survival, in accordance with the Staff Report on Burrowing Owl Mitigation (CDFG, 2012) and a CDFW-approved Burrowing Owl Protection and Mitigation Plan. This includes covering or excavating all burrows and installing one-way doors into occupied burrows. This will allow any animals inside to leave the burrow but will exclude any animals from re-entering the burrow. If burrowing owls exhibit sign of stress in attempting to re-enter the burrow, the one-way-door shall be removed to prevent take of the individual. A period of at least 1 week is required after the relocation effort to allow the birds to leave the impacted area before construction of the area can begin. Only burrows that will be directly impacted by the Project shall be excavated and filled in to prevent their reuse. Off-site “replacement burrow site(s)” must consist of a minimum of two suitable, unoccupied burrows for every burrowing owl or pair to be passively relocated. As the Project construction schedule and details are finalized, a qualified biologist shall prepare a Burrowing Owl Protection and Mitigation Plan that will detail the approved, site-specific methodology proposed to avoid, minimize and mitigate impacts on this species. Passive relocation, destruction of burrows, construction of artificial burrows, and mitigation shall only be completed upon prior approval by and in coordination with CDFW. The Burrowing Owl Protection and Mitigation Plan shall include success criteria, remedial measures, active monitoring, and an annual report to CDFW, and shall be funded by the Project applicant. For the purposes of this mitigation measure, a “qualified biologist” is a biologist who meets the requirements set forth in CDFW’s 2012 Staff Report on Burrowing Owl Mitigation and approved by CDFW.

~~Prior to grading or construction, an initial survey to determine the presence of burrowing owls shall be conducted between February and September by a biologist that has been determined by the USFWS as qualified to conduct burrowing owl surveys. The survey shall be conducted in accordance with the latest USFWS-approved guidelines. A report on the results of the survey and recommended avoidance or mitigation measures shall be provided by the applicant to the USFWS, CDFW, and Imperial County Planning and Development~~

<p>Services Department. No clearing or ground-disturbing activities may be taken until the report and recommendations have been accepted by the USFWS, CDFG, and Imperial County Planning and Development Services Department. All burrowing owls found on the project site shall be tagged by USFWS-qualified burrowing owl biologist.</p> <p>If burrowing owl burrows are found present within construction areas and a 50-meter (165-foot) boundary of construction limits, avoidance is the preferred level of mitigation. If avoidance cannot be met, or no burrowing owls were detected during the first survey, a second survey shall be conducted no less than 30 days prior to any clearing, ground disturbance, or demolition of existing structures. If no burrowing owls are present, a third survey shall be conducted no less than five days prior to the commencement of construction and, if no burrowing owls are present, clearing, grading, demolition, or construction may commence. If burrowing owls were present at the time of the second survey and CDFW and USFWS Office of Law Enforcement concur, on-site passive relocation can be implemented. The project biologist shall evaluate the suitability of nearby habitat, the availability of an existing or constructed alternate burrow for each burrow excavated, and the opportunity for preservation of the site, such as through a conservation easement that would be managed to promote burrowing owl use of the site. Relocation requires that owls should be excluded flow burrows in the immediate impact zone and 50-meter buffer zone by installing one-way doors in burrow entrances, left in place for 48 hours before excavation. Relocation of owls should only be implemented during the nonbreeding season.</p>		
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