State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Inland Deserts Region
3602 Inland Empire Boulevard, Suite C-220
Ontario, CA 91764
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director

August 22, 2025
Sent via e-mail

Luis Bejarano
Planner II
Imperial County
801 Main Street
El Centro, CA 92243
luisbejarano@co.imperial.ca.us

Dear Luis Bejarano:

Conditional Use Permit #25-0004 /Variance #25-0001/ Initial Study #25-0012 Vertical Bridge Tower (PROJECT)
NEGATIVE DECLARATION (ND)
SCH# 2025080123

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an ND from Imperial 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

[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.

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: Vertical Bridge BTS III, LLC

Objective: The Project proposes to construct a wireless communications facility, which consists of a 120-foot unmanned monopole tower with a 10- foot lightning rod for a total height of 130 feet on a 1,600 sq. ft. leased, fenced area. The tower will contain up to 12 panel antennas, 12 remote radio units, a 2' microwave antenna, 1 GPS antenna, 1 back-up diesel generator, and required antenna cabling along with all associated mounting equipment. The 1,600 sq. ft. lease area will be surrounded by a 6 feet high chain link fence. Space for two additional future co-locators has been made available on the tower. The ground equipment will also be contained within the fenced area, including two (2) ground-mounted radio cabinets, one (1) back-up diesel generator and an ice bridge from the radio cabinets to the tower to protect the cables that run between the equipment cabinets and the tower/antennas. Proposed access to the lease area is a 30 ft long and 12 ft wide graveled road. A proposed Imperial Irrigation District transformer will be added adjacent to the lease area.

Location: The Project will be located at 1734 E Underwood Rd, Holtville, CA 92250 on a 5.51-Acre parcel located within a lot containing an existing residence. The latitude and longitude for this Project site are 32.821113, -115.385844. The property's Assessor's Parcel Number (APN) is 045-600-017-000. The proposed project site is surrounded by parcels zoned as Limited Agriculture with an Urban Overlay on the North, East and West and by other parcels zoned as light Residential with an Urban Overlay on the South.

Timeframe: The ND does not provide any information regarding the timeframe for the proposed Project.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City 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.

I. Environmental Setting and Related Impact Shortcoming

COMMENT #1: Nesting Birds

IS/ND Document, Page #18

Issue: CDFW is concerned that the ND does not sufficiently identify Project impacts to nesting birds and the document does not provide any avoidance, minimization or mitigation measures to ensure that the project impacts are less than significant.

Specific impact: Project implementation could result in the loss of nesting and/or foraging habitat onsite.

Evidence impact would be significant: It is the Project proponent's responsibility to comply with all applicable laws related to nesting birds and birds of prey. Fish and Game Code sections 3503, 3503.5, and 3513 afford protective measures as follows: section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.)

Recommended Potentially Feasible Mitigation Measure: CDFW recommends the County add the following measure for nesting birds to ensure that impacts to nesting birds are reduced to less than significant:

***Biological Resources Mitigation Measure 1 (*MM BIO-1):**

Regardless of the time of year, nesting bird surveys shall be performed by a qualified biologist no more than 3 days prior to vegetation removal or ground-disturbing activities for all phases of Project construction. Preconstruction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified biologist will make every effort to avoid potential nest predation as a result of survey and monitoring efforts. If active nests are found during the pre-construction nesting bird surveys, a qualified biologist shall establish an appropriate nest buffer to be marked on the ground. Nest buffers are species specific and shall be at least 300 feet for passerines and 500 feet for raptors. A smaller or larger buffer may be determined by the qualified biologist familiar with the nesting phenology of the nesting species and based on nest and buffer monitoring results. Construction activities may not occur inside the established buffers, which shall remain on site until a qualified biologist determines the young have fledged or the nest is no longer active. Active nests and adequacy of the established buffer distance shall be monitored daily by the qualified biologist until the qualified biologist has determined the young have fledged or the Project has been completed. The qualified biologist has the authority to stop work if nesting pairs exhibit signs of disturbance.

COMMENT #2: Burrowing Owl (*Athene cunicularia hypugaea*)

IS/ND Document, Page #18

Issue: Western burrowing owl is a candidate listed species under CESA, as such is granted the full protection of a threatened species under CESA. CDFW is concerned that the ND does not sufficiently identify Project impacts to burrowing owl or ensure that impacts are reduced to a level less than significant.

Specific impact: Page 18 of the ND states that the project "is within the 'Burrowing Owl Species Distribution Model' according to the Imperial County General Plan's Conservation and Open Space Element." CDFW notes that in California, preferred habitat for burrowing owl is generally typified by short, sparse vegetation with few shrubs (Haug et al. 1993), and that burrowing owls may occur in ruderal grassy fields, vacant lots, and pastures if the vegetation structure is suitable and there are useable burrows and foraging habitat in proximity (Gervais et al. 2003). In addition, burrowing owls frequently move into disturbed areas prior to and during construction since they are adapted to highly modified habitats (Chipman et al. 2008; Coulombe 1971). In Imperial Valley, burrowing owls are highly dependent on irrigation canals for nesting habitat (Wilkerson and Siegel 2011). CNDDB/BIOS report occurrences of burrowing owl less than 1.5 miles from the Project site.

Impacts to burrowing owls from the Project could include take of burrowing owls, their nests, or eggs or destroying nesting, foraging, or over-wintering habitat, thus impacting burrowing owl populations. Impacts can result from grading, earthmoving, burrow blockage, heavy equipment compaction and crushing of burrows, general Project disturbance that has the potential to harass owls at occupied burrows, and other activities. CDFW notes that impacts to burrowing owls could also occur outside of the peak nesting season because burrowing owls may start breeding earlier (in January) and because young owls may still be dependent on the adults until later in the fall. In addition, because some burrowing owls are resident in burrows year-round, impacts to this species could also occur outside of the peak nesting season.

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 or candidate is prohibited except as authorized by state law (Fish and Game Code §§ 2080 & 2085). 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. 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.)

Recommended Potentially Feasible Mitigation Measure: CDFW recommends adding a mitigation measure for burrowing owl with specific avoidance and minimization measures to ensure that impacts to burrowing owls are reduced to less than significant. CDFW recommends that prior to commencing Project activities, preconstruction surveys for burrowing owl be conducted for the entirety of the Project site by a qualified biologist in accordance with the *Staff Report on Burrowing Owl Mitigation* (CDFG 2012 or most recent version). CDFW recommends Imperial County include the following Mitigation Measure:

***Biological Resources Mitigation Measure 2 (*MM BIO-2)**

To ensure that the Project avoids impacts to burrowing owl, 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 should be performed by a 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. The qualified biologist shall coordinate with CDFW and prepare a Burrowing Owl Plan that shall be submitted to CDFW and USFWS for review and approval prior to commencing Project activities.

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 ND to assist Imperial County in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Nicholas Barton, Environmental Scientist at (760) 644-5711 or Nicholas.Barton@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Kim Freeburn
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Kim Freeburn
Environmental Program Manager

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

ec: Heather Brashear, Senior Environmental Scientist (Supervisor), CDFW
Heather.Brashear@wildlife.ca.gov

ATTACHMENTS

Attachment A: MMRP for CDFW-Proposed Mitigation Measures

REFERENCES

California Department of Fish and Wildlife (CDFW). California Natural Diversity Database (CNDDB) Accessed: https://apps.wildlife.ca.gov/bios6/

California Department of Fish and Wildlife. 2012. Staff Report on Burrowing Owl Mitigation.

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.
Petition for the California Endangered Species Act

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.

Coulombe, H. N. 1971. Behavior and population ecology of the Burrowing Owl, *Speotyto cunicularia*, in the Imperial Valley of California. Condor 73:162–176.

Gervais, J. A., D. K. Rosenberg, R. G. Anthony. 2003. Space use and pesticide exposure risk of male burrowing owls in an agricultural landscape. Journal of Wildlife Management 67: 155-164.

Haug, E. A., B. A. Millsap, and M. S. Martell. 1993. Burrowing owl (*Speotyto cunicularia*), in A. Poole and F. Gill, editors, The Birds of North America, The Academy of Natural Sciences, Philadelphia, Pennsylvania, and The American Ornithologists' Union, Washington, D.C., USA.

Socolar JB, Epanchin PN, Beissinger SR and Tingley MW (2017). Phenological shifts conserve thermal niches. Proceedings of the National Academy of Sciences 114(49): 12976-12981.

Wilkerson, RL and RB Siegel. 2011. Distribution and abundance of western burrowing owls (*Athene cunicularia hypugaea*) in southeastern California. The Southwestern Naturalist 56(3): 378-384

Attachment A

Draft Mitigation Monitoring and Reporting Program and Draft Recommendations

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**
MM BIO-1 Regardless of the time of year, nesting bird surveys shall be performed by a qualified biologist no more than 3 days prior to vegetation removal or ground-disturbing activities for all phases of Project construction. Preconstruction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified biologist will make every effort to avoid potential nest predation as a result of survey and monitoring efforts. If active nests are found during the pre-construction nesting bird surveys, a qualified biologist shall establish an appropriate nest buffer to be marked on the ground. Nest buffers are species specific and shall be at least 300 feet for passerines and 500 feet for raptors. A smaller or larger buffer may be determined by the qualified biologist familiar with the nesting phenology of the nesting species and based on nest and buffer monitoring results. Construction activities may not occur inside the established buffers, which shall remain on site until a qualified biologist determines the young have fledged or the nest is no longer active. Active nests and adequacy of the established buffer distance shall be monitored daily by the qualified biologist until the qualified biologist has determined the young have fledged or the Project has been completed. The qualified biologist has the authority to stop work if nesting pairs exhibit signs of disturbance.	Prior to commencing ground or vegetation disturbing activities	Project Proponent
MM BIO-2 To ensure that the Project avoids impacts to burrowing owl, 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 should be performed by a 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. The qualified biologist shall coordinate with CDFW and prepare a Burrowing Owl Plan that shall be submitted to CDFW and USFWS for review and approval prior to commencing Project activities.	Prior to commencing ground or vegetation disturbing activities	Project Proponent