



STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

GAVIN NEWSOM, Governor
MEGHAN HERTEL, Director

Inland Deserts Region
3602 Inland Empire Boulevard, Suite C-220
Ontario, CA 91764
wildlife.ca.gov

Sent via email

March 27, 2026

Jessica Humes
Supervisor, Environmental Compliance
Imperial Irrigation District
P.O. Box 937
333 E Barioni Boulevard
Imperial, California 92251
environmental@iid.com

Dear Ms. Humes:

RED HILL BAY BEST AVAILABLE CONTROL MEASURE PROJECT (PROJECT)
MITIGATED NEGATIVE DECLARATION (MND)
SCH# 2026021042

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from Imperial Irrigated District (IID) 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

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.

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: IID

Objective: The objective of the Project is to control dust emissions on IID-owned lands at Red Hill Bay adjacent to the Salton Sea in compliance with the Stipulated Order for Abatement (May 2, 2022) between IID and Imperial County Air Pollution Control District (ICAPCD). Primary Project activities include applying a commercially available chemical stabilization product (Soiltac®) to protect the surface from wind erosion. Stabilizer application would be via water truck or hose reel and irrigation boom. Temporary resource protection berms would be installed to protect onsite ditches and wetlands from construction of the dust control project; application of soil stabilizer would not occur within 300 feet of existing vegetated wetlands and ditches. The Project also includes graded access routes and improvement of an existing onsite access road.

Location: Calipatria, Imperial County, located on IID-owned property adjacent to Red Hill Park on the Salton Sea playa, Assessor's Parcel Numbers (APN) 020-100-032, 020-100-042, and 020-100-023

Timeframe: The maximum construction period is estimated to be 16 weeks, although the construction duration may be longer if activities are paused due to heat.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist IID 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, CDFW concludes that a Mitigated Negative Declaration is appropriate for the Project.

I. Mitigation Measure or Alternative and Related Impact Shortcoming

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

COMMENT 1:

Section 2, Environmental Analysis, Page 2-18

Issue: The Initial Study/Mitigated Negative Declaration states that "Due to the presence of burrowing owl at the potential northwest staging area site, this element was removed from the Project description." However, the document does not appear to have stated the distance the burrowing owls were from the project site and if the project site area needs to be adjusted to buffer this known location of owls. 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. The Project may have a significant impact on burrowing owl and burrowing owl habitat.

Specific impact: Because these birds were surveyed in December 2025 these birds are considered wintering birds and would not be a part of a preconstruction sweep performed between February 1 and August 31. However, due to current listing, burrowing owls are protected year-round and not just when nesting. Project construction and activities may result in injury or mortality of burrowing owl, disrupt natural burrowing owl breeding behavior, and reduce reproductive capacity. Also, the Project may impact breeding, wintering, and foraging habitat for the species. Habitat loss could result in local extirpation of the species and contribute to local, regional, and statewide declines of burrowing owls.

Why impact would occur: Burrowing owls have a high potential to move into disturbed areas since they are adapted to highly modified habitats. Impacts to burrowing owls from the Project could include take of burrowing owls, their nest, or eggs, or destroying nest, 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 stress owls at occupied burrows, and other activities.

Evidence impact would be significant: Burrowing owls are a candidate species for CESA-listing, which gives the species protection under CESA during its candidacy period. Take of any CESA-listed species or candidate is prohibited except as authorized by state law (Fish and Game Code §§ 2080 & 2085).

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Project Description and Related Impact Shortcoming) CDFW appreciates that the MND provides a measure to minimize the Project's impacts to burrowing owls. CDFW supports the inclusion of MM BIO-4 with minor revisions in the final MND, as per below to avoid impacts to special status species (additions are in bold):

Mitigation Measure Bio-4

Two pre-construction surveys shall be conducted for burrowing owls. The first survey shall be conducted during peak activity period (one hour before and two hours after sunrise or two hours before to one hour after sunset) between 14 and 30 days prior to the start of construction. The second survey shall be performed within the 24-hour period prior to ground disturbance. CDFW approval shall be obtained for the biologist(s) prior to performing the surveys. The impact area and a 500-foot buffer (where practicable) shall be surveyed. If owls are located during the surveys **on site or within the 500-foot buffer**, a buffer area shall be established according to the guidelines included in the March 7, 2012 DFG Staff Report on Burrowing Owl Mitigation (Staff Report) if located between February 1 and August 31 (nesting season). A modified buffer reduction may be used with CDFW concurrence. If located outside of this time period (i.e., the non-breeding season), owls may be passively relocated by a qualified biologist according to the procedures outlined in the Staff Report or a modified buffer reduction may be used with CDFW concurrence; relocation may require obtaining an incidental take permit for the species as it is a candidate for listing under CESA. If burrowing owls are found on site **or within the 500-foot buffer zone**, survey results shall be submitted to CDFW at least 5 days prior to commencing Project activities.

II. Environmental Setting and Related Impact Shortcoming

Would the Project have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption or other means?

COMMENT 2:

Section 2, Environmental Analysis, Page 2-21

Issue: The IS/MND correctly states that the Alamo River and vegetated banks are jurisdictional by CDFW and that it is outside the Project site identified. The document seems to not consider that there is an overflow staging area for the Project immediately adjacent to the Alamo River.

Specific impact: Potential, avoidable take of special status species and loss of habitat.

Why impact would occur: Project implementation could result in direct mortality and/or injury to special status species through staging of construction equipment, vehicles, and foot traffic and in the loss of nesting and/or foraging habitat.

Evidence impact would be significant: CDFW requires a LSA Agreement when it determines that the activity, as described in a complete LSA Notification, may substantially adversely affect existing fish or wildlife resources. California law (Fish and Game Code section 1602) requires an entity to notify CDFW prior to commencing any activity that may:

- 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 or dispose of debris, waste, or other materials containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake.

Without a buffer around the Alamo River or the vegetation associated with it, any potential spills, even if accidental, could cause a substantial impact on the Alamo River. Also, the noise, dust caused by vehicles, and other staging situations could have an impact to special status species both terrestrial and avian.

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

To reduce impacts to less than significant: We recommend that the document identify this area as part of the Project but not part of the product laydown and biological, wetlands and water mitigation measures be applied within this area, including implementing 150-foot buffer for water quality or 300-foot buffers zones and/or bird nesting buffers, where appropriate. Figures should be updated if changes are made.

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 2, Environmental Analysis, Page 2-19

Issue: Although it is stated that no burrows or burrowing owls were observed within the polygon, Figure 3: *Vegetation Communities, Land Cover Types and Select Wildlife Locations* depicts a burrowing owl in the south on the edge of the polygon. Although there is no construction anticipated in this location, it is not clear if this burrowing owl is on the access road that may be utilized to access the west most polygon.

Specific impact: Potential, avoidable take of special status species and loss of habitat.

Why impact would occur: Impacts to burrowing owls from the Project vehicles could include take of burrowing owls, their nest, or eggs, or destroying nest, 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 stress owls at occupied burrows, and other activities.

Evidence impact would be significant: Burrowing owls are a candidate species for CESA-listing, which gives the species protection under CESA during its candidacy period. Take of any CESA-listed species or candidate is prohibited except as authorized by state law (Fish and Game Code §§ 2080 & 2085).

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

To reduce impacts to less than significant: If there is an adjacent access road near the known burrowing owl location, it is within the 500-foot buffer around the burrowing owl and there will be an increase in vehicle traffic due to the Project access, this information should be included in the document. Figures should be updated if changes are made.

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 4:

Section 4, Environmental Analysis, Page 2-47

Issue: The document states, "The existing vegetated wetlands and ditches would be buffered from berm and roadway construction and the application of soil stabilizer by a minimum of 300 feet. Resource protection berms would be installed to protect wetlands and ditches from construction and operation of the dust control project (Figure 2)." However, on Figure 2 the northwest wetland adjacent to the project has a 300-foot buffer but does not appear to have the resource protection berm around it.

Specific impact: Project activities could directly or indirectly impact a wetland or riparian habitat without mitigating for the impact.

Why impact would occur: Without the resource protection berm in this location, it is foreseeable that the product and or byproducts of the product could enter the wetland and associated water sources. This could be detrimental to the wetland and potentially any species associated with the wetland.

Evidence impact would be significant: California Executive Order W-59-93 implemented a no net loss of wetlands within California. CDFW, also, requires an

LSA Agreement when it determines that the activity, as described in a complete LSA Notification, may substantially adversely affect existing fish or wildlife resources.

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

To reduce impacts to less than significant: To reduce potential impacts to the wetland area identified in the north, a resources agency berm should be included at this location, depicted on the figure and discussed in the text, as appropriate.

III. Editorial Comments and/or Suggestions

CDFW agrees with all the biological measures within the initial study with the slight changes that have been recommended here. CDFW would recommend that the IID review all species and water quality buffers on both figures and in the text to ensure that the buffers are being used consistently, appropriately and at all locations where they have stated they will be. CDFW also recommends that buffers be marked onsite, for example with flags.

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 IS/MND to assist IID in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Barbara Barry, Senior Environmental Scientist Supervisor, at (909) 354-0938 or Barbara.Barry@Wildlife.ca.gov.

Sincerely,

DocuSigned by:



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Tonya Marshall

Salton Sea Program Manager

cc: Office of Planning and Research, State Clearinghouse, Sacramento