

STATE OF CALIFORNIA  
DEPARTMENT OF FISH AND WILDLIFE



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May 14, 2026  
*Sent via email*

Eric Weck  
Engineering Manager  
Mission Springs Water District  
66575 Second Street  
Desert Hot Springs, CA 92240  
[eweck@mswd.org](mailto:eweck@mswd.org)

**Subject: Mission Springs Water District Groundwater Quality Protection Program Septic to Sewer Project (PROJECT)  
Mitigated Negative Declaration (MND)  
SCH# 2026040663**

Dear Eric Weck:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from the Mission Springs Water District (MSWD) for the Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

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,

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<sup>1</sup>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.

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:** Mission Springs Water District

**Objective:** The Project proposes installation of a sewer pipeline including sewer main lines and laterals within roadways and existing rights-of-ways, and abatement of septic tanks, within MSWD's service area. The Project would involve the construction of 146,200 linear feet of 8-inch sewer pipeline. Construction is planned to connect 2,600 parcels to the MSWD sewer system and abate over 2,040 on-site septic systems. In addition, the Project includes installation of an estimated 2,500 new 4- to 6-inch service laterals.

**Location:** The Project's linear alignment covers several sewer improvement subareas including A, D-3, G, H, I, J-2, K, and along the I-10 corridor, as described below, which are within the Cities of Desert Hot Springs and Palm Springs and unincorporated Riverside County, all within the County of Riverside, California.

Area A, Latitude/Longitude: 33°58'50.67"N, 116°32'3.06"W. The pipelines will be installed within the roadways shown in the MND in Figures 2 and 3. These roadways are Augusta Avenue, La Costa Court, Annandale Avenue, Cochran Court, Desert Air Court, Oakmont Boulevard, Barnes Court, Egan Court, Leonard Court, Ray Court, Leith Avenue, Little Court, Cotton Court, Inglewood Avenue, Hoylake Road, Cascades Drive, Smith Court, Burke Court, Boros Court, Brae Burn Avenue, Spyglass Avenue, Ekwanok Drive, Warwick Drive, Picard Court, Vardon Court, Kirkwood Court, Turnesa Court, Diegel Court, Capiland Drive, Congressional Road, Apawamis Road, Siwanoy Drive, Sanderling Court, Pinehurst Circle, Troon Court, Middlecoff Court, Brookline Avenue, Lido Court, Jones Court, Devicenzo Court, Doral Drive, Clubhouse Boulevard, and Lema Court. The project site is generally located within Section 23, Township 2 South, Range 4 West of the USGS 7.5-Minute Desert Hot Springs, CA topographical quadrangle. This subarea occurs within the City of Desert Hot Springs and

County of Riverside.

Area D-3, Latitude/Longitude: 33°58'26.24"N, 116°30'12.04"W. The pipelines will be installed within the roadways shown in the MND in Figures 4 and 5. These roadways are Cactus Drive, 12th Street, San Juan Drive, and San Marcus Road. The project site is generally located within Section 30, Township 2 South, Range 5 East of the USGS 7.5-Minute Desert Hot Springs, CA topographical quadrangle. This subarea occurs within the City of Desert Hot Springs.

Area G, Latitude/Longitude: 33°57'21.77"N, 116°29'21.22"W. The pipelines will be installed within the roadways shown in the MND in Figures 6 and 7. These roadways are Verbena Drive, Ambrosio Drive, Pomelo Drive, Foxdale Drive, Tamar Drive, Sumac Drive, Desert View Drive, and Parma Drive. The project site is generally located within Section 32, Township 2 South, Range 5 East of the USGS 7.5-Minute Seven Palms Valley, CA topographical quadrangle. This subarea occurs within the City of Desert Hot Springs.

Area H, Latitude/Longitude: 33°56'51.73"N, 116°28'53.60"W. The pipelines will be installed within the following roadways shown in the MND in Figures 8 and 9. These roadways are Tunitas Road, Suerte Way, Oro Loma Street, Ortega Drive, Pequena Drive, Cerrita Way, Loma Vista Road, Key Way, Monterey Road, Agua Cayendo Road, Cuando Way, Oris Drive, Cielo Azul Way, Miracle Hill Road, Eliseo Road, and Hacienda Avenue. The project site is generally located within Section 32, Township 2 South, Range 5 East of the USGS 7.5-Minute Seven Palms Valley, CA topographical quadrangle. This subarea occurs within the City of Desert Hot Springs.

Area I, Latitude/Longitude: 33°57'10.17"N, 116°28'36.67"W. The pipelines will be installed within the roadways shown in the MND in Figures 10 and 11. These roadways are Monterico Road, Desert View Avenue, Arena Blanca Road, Alameda Road, Pequena Drive, Loma Vista Road, Hidalgo Street, Hermano Way, Inaja Street, and Quinta Way. The project site is generally located within Section 32, Township 2 South, Range 5 East of the USGS 7.5-Minute Seven Palms Valley, CA topographical quadrangle. This subarea occurs within the City of Desert Hot Springs.

Area J-2, Latitude/Longitude: 33°57'24.43"N, 116°28'25.98"W. The pipelines will be installed within the roadways shown in the MND in Figure 12. These roadways are Mountain View Road, Highland Avenue, Skyline Drive, Calle Amapola, Avenida Serena, Redbud Road, Calle Blanco, Avenida Hermosa, Via Domingo, Hacienda Road, Acacia Avenue, Beech Avenue, Catalpa Avenue, Deodar Avenue, Calle Bonita, Calle Calmoso, Calle Descanso, Avenida Alta Loma, and Monterico Road. The project site is generally located within Section 33, Township 2 South, Range 5 East of the USGS 7.5-Minute Seven Palms Valley, CA topographical quadrangle. This subarea occurs within the City of Desert Hot Springs.

Area K, Latitude/Longitude: 33°57'27.69"N, 116°27'58.33"W. The pipelines will be installed within the roadways shown in the MND in Figures 13 and 14. These roadways are Juniper

Drive, Fernwood Drive, Elm Avenue, Deodar Avenue, Catalpa Avenue, Birch Road, Beech Avenue, Hacienda Avenue, Redbud Road, Skyline Drive, and Spruce Street. The project site is generally located within Section 33, Township 2 South, Range 5 East of the USGS 7.5-Minute Seven Palms Valley, CA topographical quadrangle. This subarea occurs within the City of Desert Hot Springs.

I-10 and North Indian Canyon Drive Corridor Area (Area I-10 Corridor), Latitude/Longitude: 33°54'16.41"N, 116°32'33.88"W. The pipelines will be installed within the roadways shown in the MND in Figure 15. These roadways are Garnet Avenue, Indian Canyon Drive, 20th Avenue, 19th Avenue, Orr Way, McLane Street, Ruppert Street, and Newhall Street. The project site is generally located within Section 14, Township 3 South, Range 4 East of the USGS 7.5-Minute Desert Hot Springs, CA topographical quadrangle. Note that this area is located within the City of Desert Hot Springs and City of Palm Springs.

**Timeframe:** The MND indicates that Project construction is anticipated to occur over a period of about 20 years, with one subarea to be constructed approximately every 30 months.

## **COMMENTS AND RECOMMENDATIONS**

CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (i.e., biological resources). CDFW offers the comments and recommendations below to assist MSWD in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. The MND has not adequately identified and disclosed the Project's impacts (i.e., direct, indirect, and cumulative) on biological resources and whether those impacts are reduced to less than significant.

CDFW's comments and recommendations on the MND are explained in greater detail below and summarized here. CDFW is concerned that the MND does not adequately identify or mitigate the Project's significant, or potentially significant impacts to biological resources. CDFW requests that additional information and analyses be added to a revised MND, along with avoidance, minimization, and mitigation measures that avoid or reduce impacts to less than significant.

### Existing Environmental Setting

Compliance with CEQA is predicated on a complete and accurate description of the environmental setting that may be affected by the proposed Project. CDFW is concerned that the assessment of the existing environmental setting has not been adequately analyzed in the MND. CDFW is concerned that without a complete and accurate description of the existing environmental setting, the MND may provide an incomplete analysis of Project-related environmental impacts.

The MND lacks a complete assessment of potential impacts to burrowing owl and to streams and associated fish and wildlife resources subject to Fish and Game Code section 1600 et seq. A complete and accurate assessment of the environmental setting and Project-related impacts to biological resources is needed to both identify appropriate avoidance, minimization, and mitigation measures and demonstrate that these measures reduce Project impacts to less than significant.

### Mitigation Measures

CEQA requires that an MND include mitigation measures to avoid or reduce significant impacts. CDFW is concerned that the mitigation measures proposed in the MND are not adequate to avoid or reduce impacts to biological resources to below a level of significance. To support MSWD in ensuring that Project impacts to biological resources are reduced to less than significant, CDFW recommends adding mitigation measures associated with CDFW's Lake and Streambed Alteration Program and nesting birds, as well as revising the mitigation measure for burrowing owl.

#### **1) Burrowing Owl**

On October 10, 2024, the Fish and Game Commission determined that western burrowing owl warrants protection as a candidate species under the California Endangered Species Act (Fish & G. Code, § 2050 et seq.). During the candidacy period, western burrowing owl will be afforded the same protection as threatened and endangered species under CESA. If Project activities, including relocation, could result in take, appropriate CESA authorization (i.e., Incidental Take Permit under Fish and Game Code section 2081) should be obtained prior to commencement of Project activities.

Take of individual burrowing owls and their nests or eggs is defined by Fish and Game Code section 86, and prohibited by sections 3503, 3503.5, and 3513. Take is defined in Fish and Game Code section 86 as "hunt, pursue, catch, capture or kill, or attempt to hunt, pursue, catch, capture or kill." Fish and Game Code sections 3503, 3503.5, and 3513 afford protective measures as follows: section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.).

With regard to the CVMSHCP, per its associated Permits from CDFW and the U.S. Fish and Wildlife Service (collectively the Wildlife Agencies) and the Implementing Agreement, Authorized Take incidental to Covered Activities must be consistent with, and in compliance with, local, state, and federal laws including, but not limited to, California Fish and Game Code sections 3503 and 3503.5 and the federal Migratory Bird Treaty Act of 1918. Therefore, all Covered Activities within the Plan Area, whether they are within or outside Conservation Areas, must undertake measures to avoid the take of individuals, nests, and eggs of nesting birds and birds of prey. The CVMSHCP includes a general conservation measure that applies to all bird species, including, but not limited to, all Covered birds and birds of prey, to avoid impacts to habitat during the nesting season (CVMSHCP Section 9.7). Per IA Section 13.13, MSWD is obligated to implement the applicable requirements of the Wildlife Agencies' Permits, the Implementing Agreement, and the CVMSHCP for its Covered Activities, including ensuring compliance with state and federal laws that protect nesting birds and birds of prey. The CDFW Natural Community Conservation Plan (NCCP) Permit #2835-2008-001-06 does not provide Take Authorization for burrowing owl individuals, nests, or eggs.

Page 4 of the Project's Biological Resources Assessment (Biological Assessment), dated January 2026, states "Burrowing owl could occur within the Project Area due to the proximity of documented occurrences and the species' ability to tolerate human disturbance. Field survey results for burrowing owl were negative, with very few potentially suitable burrows observed. Their potential to occur within the Project Area is low also due to limited marginal habitat as a result of development and habitat fragmentation." However, Page 21 of the Biological Assessment indicates that "BUOW have been documented adjacent to Areas A, G, I-10 and K." CDFW notes that suitable nesting and foraging habitat for burrowing owl exist within and adjacent to the Project's linear alignment including, but not limited to, areas within the Upper Mission Creek/Big Morongo Canyon Conservation Area, the Willow Hole Conservation Area, vacant and developed areas associated with the I-10 and North Indian Canyon Drive Corridor Area, and other vacant and disturbed lots throughout the Project area. In addition, burrowing owls frequently move into disturbed areas prior to and during construction activities since they are adapted to highly modified habitats (Chipman et al. 2008<sup>2</sup>; Coulombe 1971<sup>3</sup>).

Although general field surveys were conducted for the MND, no focused surveys were conducted for burrowing owl. Because the MND lacks the findings of recent focused surveys for burrowing owl, the number and locations of suitable and occupied burrows within the Project site are unknown. CDFW recommends focused surveys consistent with the timing and frequency of surveys described in Appendix D of the *Staff Report on Burrowing Owl*

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<sup>2</sup> 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.

<sup>3</sup> Coulombe, H. N. 1971. Behavior and population ecology of the Burrowing Owl, *Speotyto cunicularia*, in the Imperial Valley of California. *Condor* 73:162-176.

*Mitigation*,<sup>4</sup> or other protocol agreed upon by CDFW, are conducted prior to initiation of Project activities. Recent focused surveys, conducted prior to Project construction, are needed to provide adequate time to coordinate with CDFW on appropriate avoidance, minimization, and mitigation measures if burrowing owls are detected and support the Project in avoiding or reducing impacts to burrowing owl to a level less than significant.

The MND includes Mitigation Measure BIO-8 for burrowing owl, but the measure lacks a requirement to conduct pre-construction surveys. Pre-construction surveys for burrowing owl conducted close to Project start ensure that any burrowing owls that may have moved onto the site between the time of focused surveys and start of construction activities are detected and that appropriate avoidance, minimization, and mitigation measures are implemented. Without requirements for pre-construction surveys in Mitigation Measure BIO-8, CDFW considers the measure to be inadequate in scope and timing to avoid or reduce impacts to burrowing owl to a level less than significant.

To support MSWD in avoiding or reducing impacts to burrowing owl to a level less than significant, CDFW recommends MSWD revise Mitigation Measure BIO-8 with the following additions in **bold** and removals in ~~strike through~~:

### **Mitigation Measure BIO-8: Burrowing Owl Focused and Pre-Construction Surveys**

Each area or project considered under this GQPP Septic to Sewer Update umbrella shall be required to conduct focused burrowing owl surveys. ~~The 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 any construction activities, including vegetation or ground-disturbing activities.~~ **Suitable burrowing owl habitat has been confirmed within the Project site and surrounding area; therefore, focused burrowing owl surveys shall be conducted by a CDFW-approved qualified biologist within all suitable habitat prior to all vegetation- or ground-disturbing activities throughout the Project's subareas and phased timeline. CDFW strongly recommends that focused surveys are conducted in accordance with the Staff Report on Burrowing Owl Mitigation (2012 or most recent version)**<sup>5</sup>. If burrowing owls are detected during the focused surveys, the qualified biologist and MSWD shall begin coordination with CDFW and USFWS immediately, and shall submit the results of focused surveys to CDFW and USFWS as soon results become available and before commencement of any project activities, including any vegetation- or ground-disturbing activities. **CDFW recommends that the** ~~The~~ information included in the survey results should be consistent with Appendix D of the Staff Report on Burrowing Owl Mitigation,

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<sup>4</sup> California Department of Fish and Game (CDFG). 2012. Staff report on burrowing owl mitigation. State of California, Natural Resources Agency. Available for download at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline>

<sup>5</sup> California Department of Fish and Wildlife (CDFW). 2012. Staff Report on Burrowing Owl Mitigation. State of California, Natural Resources Agency. Available for download at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843>.

including a detailed map showing locations of all burrowing owls, burrowing owl sign, potential burrows, and occupied burrows (occupied means at least one burrowing owl or its sign has been observed within the last three years; may be indicated by owl sign including feathers, pellets, prey remains, eggshell fragments, or excrement at or near a burrow entrance or perch site); a description of the behavior of burrowing owls during surveys; a description of survey methods; and other items listed in Appendix D of the Staff Report on Burrowing Owl Mitigation under "Survey Reports." Consultation with CDFW and USFWS must be completed prior to commencement of any Project activities, including vegetation- or ground-disturbing activities. If impacts to occupied burrowing owl habitat or burrow(s) or burrowing owl individuals, nests, or eggs cannot be avoided, ~~appropriate NCCP (Fish and Game Code section 2835)~~ or CESA authorization (i.e., Incidental Take Permit under Fish and Game Code section 2081 (b)) should be obtained from CDFW prior to commencement of project activities, including vegetation- or ground-disturbing activities.

**Preconstruction burrowing owl surveys shall be conducted no less than 14 days prior to the start of Project-related activities and again within 24 hours prior to ground disturbance. Preconstruction surveys should be repeated when there is a pause in construction of more than 30 days. Preconstruction surveys shall be performed by a CDFW-approved qualified biologist, and CDFW strongly recommends that preconstruction surveys follow the recommendations and guidelines provided in the *Staff Report on Burrowing Owl Mitigation*. If the preconstruction surveys confirm occupied burrowing owl habitat, Project activities shall be immediately halted and the qualified biologist shall coordinate with CDFW and USFWS. Project activities shall not begin until consultation with CDFW and USFWS is completed.**

Pursuant to the CEQA Guidelines, section 15097(f), CDFW has prepared a draft mitigation monitoring and reporting program (MMRP) in Attachment 1 for revised MM BIO-8 and MM BIO-10, as well as CDFW-recommended MM BIO-[A].

## **2) CDFW Lake and Streambed Alteration Program**

Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following: substantially divert or obstruct the natural flow of any river, stream or lake; substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or deposit debris, waste or other materials that could pass into any river, stream or lake. Note that "any river, stream or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a body of water.

The MND includes Mitigation Measure BIO-9, which indicates "for the Little Morongo Creek at Augusta Avenue, California Department of Fish and Wildlife (CDFW) shall be notified

pursuant to Fish and Game Code section 1602." CDFW notes that additional streams subject to Fish and Game Code section 1600 et seq. beyond Little Morongo Creek at Augusta Avenue have the potential to be impacted by the Project. For example, proposed pipelines extending east to the Wastewater Treatment Plant in the I-10 Corridor Area may potentially impact streams that traverse developed and vacant areas along 19th Avenue and 20th Avenue. Additionally, page 7 of the MND indicates that "The project will utilize open cut trenching for a vast majority of the sewer reaches and septic abatement areas, with jack and bore techniques for certain small areas." CDFW notes that the entry and exit pits and frac-outs associated with jack and bore techniques have the potential to impact streams. Limited information is provided in the MND on where jack and bore techniques would be used. Due to Mitigation Measure BIO-9 limiting notification to CDFW for impacts to streams associated with only Little Morongo Creek at Augusta Avenue, CDFW considers the mitigation measure to be inadequate in scope to reduce impacts to biological resources to a level less than significant.

CDFW recommends the MND is revised to include additional details on where jack and bore techniques will be used and discuss potential impacts to streams beyond Little Morongo Creek at Augusta Avenue. To support MSWD in avoiding or reducing impacts to streams to less than significant, CDFW recommends adding the following Mitigation Measure to a revised MND:

### **Mitigation Measure BIO-[A]: CDFW Lake and Streambed Alteration Program**

**Prior to construction and issuance of any grading permit, the Project Sponsor shall obtain written correspondence from the California Department of Fish and Wildlife (CDFW) stating that notification under section 1602 of the Fish and Game Code is not required for the Project, or the Project Sponsor should obtain a CDFW-executed Lake and Streambed Alteration Agreement, authorizing impacts to Fish and Game Code section 1602 resources associated with the Project.**

### **3) Nesting Birds**

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.).

With regard to the CVMSHCP, per its associated Implementing Agreement and Permits from CDFW and the U.S. Fish and Wildlife Service (the Wildlife Agencies), Take associated with Covered Activities will not be in violation of the Migratory Bird Treaty Act and will be consistent with Fish and Game Code sections 3503 and 3503.5; therefore, all Covered Activities within and outside Conservation Areas must undertake measures to avoid the take of individuals, nests, and eggs of nesting birds. The CVMSHCP includes a general conservation measure that applies to all bird species to avoid impacts to habitat for nesting birds during the nesting season (CVMSHCP Section 9.7). Per IA Section 13.2, MSWD is obligated to ensure the projects to which it confers Take Authorization under the CVMSHCP comply with all terms and requirements of the CVMSHCP, the Wildlife Agencies' Permits that create the CVMSHCP, and the Implementing Agreement, including compliance with laws that protect nesting birds.

The MND indicates on page 61, "In general, impacts to all bird species (common and special status) can be avoided by conducting work outside of the nesting season, which is generally February 1st through August 31st." CDFW recommends to the greatest extent feasible that Project activities, including ground disturbing and vegetation removal activities, are conducted outside of the peak nesting bird season. CDFW also recommends the completion of nesting bird surveys *regardless* of the time of year to ensure that impacts to nesting birds and their nests and eggs are avoided. The timing of the nesting season varies greatly depending on several factors, such as bird species, weather conditions in any given year, and long-term climate changes (e.g., drought, warming, etc.). In response to warming, birds have been reported to breed earlier, thereby reducing temperatures that nests are exposed to during breeding and tracking shifts in availability of resources (Socolar et al., 2017<sup>6</sup>). CDFW staff have observed that climate change conditions may result in the nesting bird season occurring earlier and later in the year than historical nesting season dates. CDFW recommends that disturbance of occupied nests of resident and migratory birds and raptors within the Project site and surrounding area be avoided any time birds are nesting on-site. CDFW therefore recommends the completion of nesting bird surveys *regardless of the time of year* to ensure compliance with all applicable laws pertaining to nesting and migratory birds.

To support MSWD in avoiding or reducing impacts to nesting birds to a level less than significant, CDFW recommends Mitigation Measure BIO-10 is revised with the following additions in **bold** and removals in ~~strike through~~:

### **Mitigation Measure BIO-10: Nesting Birds**

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<sup>6</sup> 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.

**To the greatest extent feasible, the Project will avoid construction and any ground-disturbing activities during the peak nesting season (January 15 through September 15).** Regardless of the time of year, ~~a preconstruction survey shall be performed to verify absence of nesting birds~~ **nesting bird surveys shall be performed by a CDFW-approved.** A qualified **avian** biologist ~~shall conduct the pre-activity survey~~ within the project areas (including access routes) and a 500-foot buffer surrounding the project areas, no more than three (3) days prior to the initiation of project activities, including, but not limited to clearing, grubbing, and/or rough grading to prevent impacts to birds and their nests. Pre-construction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified biologist shall make every effort to avoid potential nest predation as a result of survey and monitoring efforts. If nesting bird activity is present within the work area or the project's zone of influence (generally 100-300 feet), a no disturbance buffer zone shall be established by the qualified biologist to be marked on the ground around each nest. **Nest buffers are species specific and** ~~The buffer shall be a minimum of 500 feet for raptors and 300 feet for songbirds, unless a.~~ **A smaller or larger buffer is specifically may be determined by the** ~~a~~ qualified biologist familiar with the nesting phenology of the nesting species **and based on nest and buffer monitoring results.** The buffer areas shall be avoided until the nests are no longer occupied and the juvenile birds can survive independently from the nests. Active nest(s) and ~~an~~ **adequacy of the** established buffer distance(s) 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. If there is no nesting activity, then no further action is needed for this measure. If an active nest is encountered during the project construction, construction shall stop immediately until a qualified biologist can determine (1) the status of the nest, and (2) when work can proceed without risking violation to state or federal laws.

## 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 MSWD in identifying and mitigating Project impacts to biological resources. CDFW concludes that the MND does not adequately identify or mitigate the Project's significant, or potentially significant, impacts to biological resources. CDFW recommends that revised and additional mitigation measures and analysis as described in this letter be added to a revised MND.

CDFW personnel are available for consultation regarding biological resources and strategies to avoid and minimize impacts. Questions regarding this letter or further coordination should be directed to Jacob Skaggs, Senior Environmental Scientist Specialist, at [jacob.skaggs@wildlife.ca.gov](mailto:jacob.skaggs@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
84F92FFEEFD24C8...

Kim Freeburn  
Environmental Program Manager

### **Attachment 1:** MMRP for CDFW-Proposed Mitigation Measures

ec:

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**ATTACHMENT 1: MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)**

Mitigation Measures	Timing and Methods	Responsible Parties
<p><b>Mitigation Measure BIO-8: Burrowing Owl Focused and Pre-Construction Surveys</b></p> <p>Each area or project considered under this GQPP Septic to Sewer Update umbrella shall be required to conduct focused burrowing owl surveys. Suitable burrowing owl habitat has been confirmed within the Project site and surrounding area; therefore, focused burrowing owl surveys shall be conducted by a CDFW-approved qualified biologist within all suitable habitat prior to all vegetation- or ground-disturbing activities throughout the Project’s subareas and phased timeline. CDFW strongly recommends that focused surveys are conducted in accordance with the <i>Staff Report on Burrowing Owl Mitigation (2012 or most recent version)</i><sup>7</sup>. If burrowing owls are detected during the focused surveys, the qualified biologist and MSWD shall begin coordination with CDFW and USFWS immediately, and shall submit the results of focused surveys to CDFW and USFWS as soon results become available and before commencement of any project activities, including any vegetation- or ground-disturbing activities. CDFW recommends that the information included in the survey results should be consistent with Appendix D of the <i>Staff Report on Burrowing Owl Mitigation</i>, including a detailed map showing locations of all burrowing owls, burrowing owl sign, potential burrows, and occupied burrows (occupied means at least one burrowing owl or its sign has been observed within the last three years; may be indicated by owl sign including feathers, pellets, prey remains, eggshell fragments, or excrement at or near a burrow entrance or perch site); a description of the behavior of burrowing owls during surveys; a description of survey methods; and other items listed in Appendix D of the <i>Staff Report on Burrowing Owl Mitigation</i> under “Survey Reports.” Consultation with CDFW and USFWS must be completed prior to commencement of any Project activities, including vegetation- or ground-disturbing activities. If impacts to occupied burrowing owl</p>	<p><b>Timing: Focused surveys:</b> Consistent with timing in Appendix D of the Staff Report on Burrowing Owl Mitigation and prior to commencement of any Project activities, including vegetation- or ground-disturbing activities.</p> <p><b>Pre-construction surveys:</b> No less than 14 days prior to start of Project-related activities and again within 24 hours prior to ground disturbance and when there is a pause in construction of more than 30 days.</p> <p><b>Methods:</b> See Mitigation Measure.</p>	<p><b>Implementation:</b> Mission Springs Water District</p> <p><b>Monitoring and Reporting:</b> Mission Springs Water District</p>

<sup>7</sup> California Department of Fish and Wildlife (CDFW). 2012. Staff Report on Burrowing Owl Mitigation. State of California, Natural Resources Agency. Available for download at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843>.

<p>habitat or burrow(s) or burrowing owl individuals, nests, or eggs cannot be avoided, CESA authorization (i.e., Incidental Take Permit under Fish and Game Code section 2081(b)) should be obtained from CDFW prior to commencement of project activities, including vegetation- or ground-disturbing activities.</p> <p>Preconstruction burrowing owl surveys shall be conducted no less than 14 days prior to the start of Project-related activities and again within 24 hours prior to ground disturbance. Preconstruction surveys should be repeated when there is a pause in construction of more than 30 days. Preconstruction surveys shall be performed by a CDFW-approved qualified biologist, and CDFW strongly recommends that preconstruction surveys follow the recommendations and guidelines provided in the <i>Staff Report on Burrowing Owl Mitigation</i>. If the preconstruction surveys confirm occupied burrowing owl habitat, Project activities shall be immediately halted and the qualified biologist shall coordinate with CDFW and USFWS. Project activities shall not begin until consultation with CDFW and USFWS is completed.</p>		
<p><b>Mitigation Measure BIO-[A]: CDFW Lake and Streambed Alteration Program</b></p> <p>Prior to construction and issuance of any grading permit, the Project Sponsor shall obtain written correspondence from the California Department of Fish and Wildlife (CDFW) stating that notification under section 1602 of the Fish and Game Code is not required for the Project, or the Project Sponsor should obtain a CDFW-executed Lake and Streambed Alteration Agreement, authorizing impacts to Fish and Game Code section 1602 resources associated with the Project.</p>	<p><b>Timing:</b> Prior to construction and issuance of any grading permit</p> <p><b>Methods:</b> See Mitigation Measure</p>	<p><b>Implementation:</b> Mission Springs Water District</p> <p><b>Monitoring and Reporting:</b> Mission Springs Water District</p>
<p><b>Mitigation Measure BIO-10: Nesting Birds</b></p> <p>To the greatest extent feasible, the Project will avoid construction and any ground-disturbing activities during the peak nesting season (January 15 through September 15). Regardless of the time of year, nesting bird surveys shall be performed by a CDFW-approved qualified avian biologist within the project areas (including access routes) and a 500-foot buffer surrounding the project areas, no more than</p>	<p><b>Timing:</b> No more than 3 days prior to vegetation removal or ground-disturbing activities.</p> <p><b>Methods:</b> See Mitigation</p>	<p><b>Implementation:</b> Mission Springs Water District</p> <p><b>Monitoring and Reporting:</b> Mission Springs Water District</p>

<p><b>three (3) days prior to the initiation of project activities, including, but not limited to clearing, grubbing, and/or rough grading to prevent impacts to birds and their nests. Pre-construction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified biologist shall make every effort to avoid potential nest predation as a result of survey and monitoring efforts. If nesting bird activity is present within the work area or the project's zone of influence (generally 100-300 feet), a no disturbance buffer zone shall be established by the qualified biologist to be marked on the ground around each nest. Nest buffers are species specific and shall be a minimum of 500 feet for raptors and 300 feet for songbirds. 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. The buffer areas shall be avoided until the nests are no longer occupied and the juvenile birds can survive independently from the nests. Active nest(s) and adequacy of the established buffer distance(s) 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. If there is no nesting activity, then no further action is needed for this measure. If an active nest is encountered during the project construction, construction shall stop immediately until a qualified biologist can determine (1) the status of the nest, and (2) when work can proceed without risking violation to state or federal laws.</b></p>	Measure	
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