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DEPARTMENT OF FISH AND WILDLIFE

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May 26, 2026
Sent via email

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**Subject: Cook Street Substation Project (PROJECT)
Mitigated Negative Declaration (MND)
SCH# 2026041220**

Dear Jeremy Brooks:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from the Imperial Irrigation District (District) for the Project pursuant to 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

¹CEQA 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.

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: Imperial Irrigation District

Objective: The Project proposes the construction of a new substation that will include a centralized control building housing relay protection panels and a battery room, along with the installation of auxiliary equipment, comprehensive site grading, grounding grids, concrete foundations, and a high-security perimeter wall. Additionally, the project encompasses off-site improvements such as secondary roadway access via Cook Street and the construction of sewer infrastructure in Varner Road to integrate the facility into the existing District grid. The Project would include security lights for nighttime illumination and safety.

Location: The Project is located within a parcel on the west side of an unpaved portion of Cook Street, approximately 1.1 miles north of Interstate I-10 Freeway in Thousand Palms, in the Coachella Valley of Riverside County. The Project is located within Assessor's Parcel Number 694-050-019. The Project is located within the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP) Plan Area and adjacent to the Thousand Palms Conservation Area.

Timeframe: The MND lacks a discussion of the timeframe for Project construction activities.

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 the District 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 avoidance, minimization, and mitigation measures are added to a revised MND 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 biological resources associated with nesting birds, burrowing owl, stream resources, and artificial nighttime lighting.

The MND may also provide an incomplete analysis of Project-related environmental impacts associated with the CVMSHCP. Regarding the location of Project activities in relation to CVMSHCP Conservation Areas, page 33 of the MND states "study area lies within the boundary of the CVMSHCP but is outside any designated Conservation Area, so no consistency review is required." However, Figure 4 in the MND appears to show that Project components are planned within the Thousand Palms Conservation Area. CDFW requests the MND and its supporting documents are revised to clearly and consistently indicate if the Project will impact areas within the Thousand Palms Conservation Area. If any Project components are located within the Thousand Palms Conservation Area, the District would be obligated under the CVMSHCP to participate in the Joint Project Review Process for projects within Conservation Areas as described in CVMSHCP Section 6.6.1.1.

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 the District in ensuring that Project impacts to biological resources are reduced to less than significant, CDFW recommends adding mitigation measures for burrowing owl (*Athene cunicularia*), CVMSHCP Local Development Mitigation Fee, salvage of sand-dependent covered species, artificial nighttime lighting, and CDFW Lake and Streambed Alteration Program, as well as revising the mitigation measure for nesting birds.

1) 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 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 state and federal laws, which include, but are 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 located 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, Covered birds and birds of prey, to avoid impacts to their habitat during the nesting season (CVMSHCP Section 9.7). Per Implementing Agreement Section 13.8, the District 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.

Regarding the potential for the Project to impact nesting birds, the MND and its supporting documents lack a general discussion of the potential for nesting birds to nest within the Project area, though the MND does include a mitigation measure for nesting birds. CDFW recommends the MND is revised to include a discussion of the potential for the Project site and surrounding area to provide suitable habitat for nesting birds. The Project's Biological Resource Evaluation (Biological Assessment), dated August 18, 2025, states that within the Project's Study Area "There are sparse patches of vegetation that includes desert twinbugs

(*Dicoria canescens*), Russian thistle (*Kali tragus* sp.), blue palo verde (*Cercidium floridum*), and kelch grass (*Schismus* sp.). Some honey mesquite (*Prosopis glandulosa*) was found immediately south of the Study Area in a low lying swale." CDFW notes that the Project site and surrounding area contain suitable habitat for birds that nest in trees and shrubs, as well as on the ground.

The MND includes Mitigation Measure BIO-2 for nesting bird surveys, which indicates "If construction or other project activities are scheduled to occur during the bird breeding season (Typically February 1 through August 31 for raptors and March 15 through August 31 for the majority of migratory bird species), a pre-construction nesting-bird survey should be conducted by a qualified avian biologist." CDFW considers the measure to be inadequate in scope and timing to avoid or reduce impacts to nesting birds to a level less than significant. CDFW recommends to the greatest extent feasible that initial ground disturbing and vegetation removal activities are conducted outside of the peak nesting bird season. Also, CDFW 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., 2017²). 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 the District in avoiding or reducing impacts to nesting birds to a level less than significant, CDFW recommends Mitigation Measure BIO-2 is revised with the following additions in **bold** and removals in ~~strike through~~:

Mitigation Measure BIO-2: Nesting Birds

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 no more than 3 days prior to vegetation removal or ground-disturbing activities. Pre-construction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified avian biologist will make

² 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.

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, the 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 the 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.

~~If construction or other project activities are scheduled to occur during the bird breeding season (Typically February 1 through August 31 for raptors and March 15 through August 31 for the majority of migratory bird species), a pre-construction nesting bird survey should be conducted by a qualified avian biologist to ensure that active bird nests, including those for the black-tailed gnatcatcher, burrowing owl, and loggerhead strike, will not be disturbed or destroyed. The survey should be completed no more than three days prior to the initial ground disturbance. The nesting bird survey should include the Project Area and adjacent areas where project activities have the potential to affect active nests, either directly or indirectly due to construction activity or noise. If an active nest is identified, the biologist should establish an appropriately sized disturbance limit buffer around the nest using flagging or staking. Construction activities should not occur within any disturbance limit buffer zones until the nest is deemed inactive by the qualified biologist.~~

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-2, as well as CDFW-recommended MM BIO-[A], MM BIO-[B], MM BIO-[C], MM BIO-[D], and MM BIO-[E].

2) 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 state and federal laws, which include, but are 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 located 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, Covered birds and birds of prey, to avoid impacts to their habitat during the nesting season (CVMSHCP Section 9.7). Per Implementing Agreement Section 13.8, the District 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.

With regard to suitable habitat for burrowing owl within the Project site, page 14 of the Biological Assessment indicates the following: "Absent. Associated with ground burrowing mammals (i.e., ground squirrels). No ground squirrels or underground burrows (or suitable nesting areas) were found within the Study Area." CDFW notes that the field component of the biological assessment was limited to a single site visit on July 25, 2025 (page 7 of the Biological Assessment). CDFW notes that habitat conditions and species occupancy naturally fluctuate throughout the year and across multiple years at the Project site. CDFW notes that the Project site contains suitable habitat for round-tailed ground squirrel (*Xerospermophilus tereticaudus*), which prefers open, flat, grassy areas in fine-textured, sandy soil³, conditions that are present within the Project area. Round-tailed ground squirrels and other fossorial mammals—which provide burrows that can be occupied by burrowing

³ California Department of Fish and Wildlife (CDFW). (n.d.). Round-tailed Ground Squirrel (*Xerospermophilus tereticaudus*). California Wildlife Habitat Relationships System, Life History Account M074. Written by G. Hoefler and J. Harris; Edited by S. Granholm.

owl—have the potential to move into the Project site and surrounding areas between the time of surveys in July 2025 and start of Project construction activities (a timeframe not discussed in the MND). Given the potential for round-tailed ground squirrels and other fossorial mammals to move into the Project site, and the site's current habitat characteristics including sparse cover of vegetation, CDFW considers the Project site and surrounding area to contain suitable nesting and foraging habitat for burrowing owl. Burrowing owls frequently move into disturbed areas prior to and during construction activities since they are adapted to highly modified habitats (Chipman et al. 2008⁴; Coulombe 1971⁵). CDFW recommends the MND is revised to include an accurate assessment of the Project site and surrounding area to support nesting and foraging habitat for burrowing owl.

Regarding avoidance, minimization, and mitigation measures for burrowing owl, Mitigation Measure BIO-2 indicates that a pre-construction nesting bird survey will be carried out “to ensure that active bird nests, including those for the black-tailed gnatcatcher, burrowing owl, and loggerhead strike, will not be disturbed or destroyed.” CDFW notes that pre-construction nesting bird surveys are not adequate to determine if burrowing owls are occupying a site and do not provide an appropriate amount of time to consult with CDFW and the U.S. Fish and Wildlife Service (USFWS) on appropriate avoidance, minimization, and mitigation measures if burrowing owls are detected. CDFW recommends that prior to initiation of Project activities, the Project proponent conducts take avoidance surveys for burrowing owl following guidelines described in Appendix D (pp. 29 and 30) of the *Staff Report on Burrowing Owl Mitigation*⁶ (Staff Report), including surveys no less than 14 days prior to initiation of ground-disturbing activities and again within 24 hours prior to ground disturbance. Recommended methods for take avoidance surveys are detailed on page 28 of the Staff Report in the “Survey method,” “Weather conditions,” and “Time of day” sections. Without a mitigation measure requiring burrowing owl-specific take avoidance surveys, CDFW considers the MND to be inadequate in scope and timing to avoid or reduce impacts to burrowing owl to a level less than significant.

Further, CDFW requests that if burrowing owls are detected during take avoidance surveys, survey results are submitted to the CDFW and the USFWS, and the Project proponent initiate consultation with CDFW and USFWS immediately to identify a path forward regarding the protection of burrowing owls. Early coordination with CDFW and USFWS is important in identifying appropriate avoidance, minimization, and mitigation measures and reducing the chance of Project delays.

To support the District in avoiding or reducing impacts to burrowing owl to a level less than

⁴ 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

⁵ Coulombe, H. N. 1971. Behavior and population ecology of the Burrowing Owl, *Speotyto cunicularia*, in the Imperial Valley of California. *Condor* 73:162–176.

⁶ 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>

significant, CDFW recommends that the following Mitigation Measure is added to a revised MND:

Mitigation Measure BIO-[A]: Burrowing Owl Take Avoidance Surveys

Take avoidance surveys shall be conducted by a CDFW-approved qualified biologist prior to any Project activities, including vegetation- or ground-disturbing activities. CDFW strongly recommends that take avoidance surveys are conducted in accordance with Appendix D of the *Staff Report on Burrowing Owl Mitigation* (2012 or most recent version)⁷, which includes timing of take avoidance surveys no less than 14 days prior to ground disturbance and again within 24 hours prior to ground disturbance (pp. 29 and 30). Take Avoidance surveys should be repeated when there is a pause in construction of more than 30 days. The recommended methods for the take avoidance surveys are described in the "Survey method," "Weather conditions," and "Time of day" sections on page 28 of the Staff Report. If burrowing owls are detected during surveys, the qualified biologist and Project proponent shall begin coordination with CDFW and USFWS immediately, and shall submit the results of take avoidance surveys to CDFW and USFWS as soon as 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 be consistent with Appendix D of the *Staff Report on Burrowing Owl Mitigation*, 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, 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.

3) Coachella Valley Multiple Species Habitat Conservation Plan

Local Development Mitigation Fee

The Project is located within the CVMSHCP Plan Boundary and contains habitat for Covered Species and/or conserved natural communities, including burrowing owl (discussed further above) and sand-dependent Covered Species (discussed below). Per CVMSHCP 6.6.1

⁷ 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>.

(page 6-19), the District is obligated to pay a Local Development Mitigation Fee for projects outside Conservation Areas or commit an equivalent dollar value of its lands in the Conservation Areas to permanent Conservation. Per CVMSHCP Section 5.2.1.1, a Local Development Mitigation Fee applies to new development within the Plan Area that impacts vacant land containing Habitat for Covered Species and/or conserved natural communities, including small vacant lots within urban areas that contain natural open space. To document the District's obligation to pay a Local Development Mitigation Fee for the Project, CDFW recommends the District add the following mitigation measure to a revised MND:

Mitigation Measure BIO-[B]: CVMSHCP Local Development Mitigation Fee

Prior to construction, to comply with its obligations under the CVMSHCP, the Imperial Irrigation District shall pay to the Coachella Valley Conservation Commission a Local Development Mitigation Fee for the Project.

Salvage of Sand-Dependent Covered Species

Section 6.6.1 of the CVMSHCP (Obligations of Local Permittees) states that within and outside Conservation Areas “on parcels approved for Development, the Permittees shall encourage the opportunity to salvage Covered sand-dependent species in accordance with the Implementation Manual.” The Project contains suitable habitat for Palm Springs pocket mouse (*Perognathus longimembris bangsi*), Palm Springs round-tailed ground squirrel (*Xerospermophilus tereticaudus chlorus*), Coachella Valley fringe-toed lizard (*Uma inornata*), flat-tailed horned lizard (*Phrynosoma mcallii*), and Coachella Valley milkvetch (*Astragalus lentiginosus* var. *coachellae*). To be consistent with CVMSHCP requirements, CDFW recommends that the District include in a revised MND the following mitigation measure:

Mitigation Measure BIO-[C]: Salvage of Sand-Dependent Covered Species

Prior to vegetation removal or ground-disturbing activities, the Imperial Irrigation District shall collaborate with the Coachella Valley Conservation Commission to plan and implement a salvage of sand-dependent Covered Species within the Project site.

4) Artificial Nighttime Lighting

Page 29 of the MND indicates the Project will include “security lights for nighttime illumination and safety”, and that “all lighting would be directed downward and installed in conformance with County standards to avoid light spillage on to adjacent properties.” The MND lacks additional information on lighting plans and avoidance, minimization, and mitigation measures associated with artificial nighttime lighting. The MND also lacks an analysis of direct, indirect, and cumulative impacts of artificial nighttime lighting, including impacts associated with long-term operations, on biological resources including migratory

birds that fly at night, burrowing owls, bats, and other nocturnal and crepuscular wildlife. The Project is located adjacent to vacant areas on all sides—including open space areas to the north associated with the Thousand Palms Conservation Area—areas that provide suitable nesting, roosting, foraging, and refugia habitat, and wildlife movement areas for birds, migratory birds that fly at night, burrowing owls, bats, and other nocturnal and crepuscular wildlife. The Project's proposed artificial nighttime lighting has the potential to significantly and adversely affect wildlife in vacant and open space areas adjacent to the Project site. Artificial lighting alters ecological processes including, but not limited to, the temporal niches of species; the repair and recovery of physiological function; the measurement of time through interference with the detection of circadian and lunar and seasonal cycles; the detection of resources and natural enemies; and navigation.⁸ Many species use photoperiod cues for communication (e.g., bird song⁹), determining when to begin foraging,¹⁰ behavioral thermoregulation,¹¹ and migration.¹² Phototaxis, a phenomenon that results in attraction and movement towards light, can disorient, entrap, and temporarily blind wildlife species that experience it.¹⁰

CDFW recommends that the MND is revised to include an analysis of the direct, indirect, and cumulative impacts of artificial nighttime lighting associated with the Project's long-term operations on biological resources, and appropriate avoidance, minimization, and mitigation measures that will avoid or reduce impacts to less than significant.

To support the District in avoiding or reducing the Project's direct and indirect impacts of artificial nighttime lighting on biological resources to a level less than significant, CDFW recommends that the District include in a revised MND the following mitigation measure:

Mitigation Measure BIO-[D]: Artificial Nighttime Lighting

Throughout construction and the lifetime operations of the Project, the Imperial Irrigation District shall eliminate all nonessential lighting throughout the Project area and avoid or limit the use of artificial light at night during the hours of dawn and dusk when many wildlife species are most active. The District shall ensure that all lighting for the Project is fully shielded, cast downward and directed away from surrounding open-space and agricultural areas, reduced in intensity to the greatest extent possible, and does not result in lighting trespass including glare into surrounding areas or upward into the night sky (see the International Dark-Sky Association standards at <http://darksky.org/>). The District shall ensure use of LED lighting with a correlated color temperature of 3,000 Kelvins or less, proper disposal of hazardous waste, and recycling of lighting that contains toxic compounds with a

⁸ Gatson, K. J., Bennie, J., Davies, T., Hopkins, J. 2013. The ecological impacts of nighttime light pollution: a mechanistic appraisal. *Biological Reviews*, 88.4: 912-927.

⁹ Miller, M. W. 2006. Apparent effects of light pollution on singing behavior of American robins. *The Condor* 108:130–139.

¹⁰ Stone, E. L., G. Jones, and S. Harris. 2009. Street lighting disturbs commuting bats. *Current Biology* 19:1123–1127.

¹¹ Beiswenger, R. E. 1977. Diet patterns of aggregative behavior in tadpoles of *Bufo americanus*, in relation to light and temperature. *Ecology* 58:98–108.

¹² Longcore, T., and C. Rich. 2004. Ecological light pollution - Review. *Frontiers in Ecology and the Environment* 2:191–198.

qualified recycler.

5) 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.

With regard to potential impacts to stream resources, page 50 of the MND states that "There are no streams or rivers that intersect the site or the area proposed to be disturbed by the project." CDFW notes that the portion of the Project associated with Line Segment D, as shown in Figure 3a of the MND, crosses over at least one ephemeral stream in the vacant area located north of the residences of Del Norte Way, south of 30th Trail, and east of Sierra Del Sol. In this vacant area, the ephemeral streams conveying stormflows north to south are visible in historical aerial imagery. Project activities to install or upgrade distribution lines in this area could result in, for example, substantially diverting the natural flow or changing the materials of a stream, activities that would require notification to CDFW through its Lake and Streambed Alteration Program.

To avoid or reduce impacts to stream resources subject to Fish and Game Code section 1600 et seq. to a level less than significant, CDFW recommends the District add the following mitigation measure to a revised MND:

Mitigation Measure BIO-[E]: CDFW Lake and Streambed Alteration Program

Prior to construction and issuance of any grading permit, the Project proponent 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 proponent shall obtain a CDFW-executed Lake and Streambed Alteration Agreement, authorizing impacts to Fish and Game Code section 1602 resources associated with the Project.

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 the District 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.

Sincerely,

DocuSigned by:

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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>Mitigation Measure BIO-2: Nesting Birds</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 no more than 3 days prior to vegetation removal or ground-disturbing activities. Pre-construction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified avian biologist will make every effort to avoid potential nest predation as a result of survey and monitoring efforts. If active nests are found during the pre-construction nesting bird surveys, the 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 the 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.</p>	<p>Timing: No more than 3 days prior to vegetation removal or ground-disturbing activities.</p> <p>Methods: See Mitigation Measure</p>	<p>Implementation: Imperial Irrigation District</p> <p>Monitoring and Reporting: Imperial Irrigation District</p>

<p>Mitigation Measure BIO-[A]: Burrowing Owl Take Avoidance Surveys</p> <p>Take avoidance surveys shall be conducted by a CDFW-approved qualified biologist prior to any Project activities, including vegetation- or ground-disturbing activities. CDFW strongly recommends that take avoidance surveys are conducted in accordance with Appendix D of the <i>Staff Report on Burrowing Owl Mitigation (2012 or most recent version)</i>¹³, which includes timing of take avoidance surveys no less than 14 days prior to ground disturbance and again within 24 hours prior to ground disturbance (pp. 29 and 30). Take Avoidance surveys should be repeated when there is a pause in construction of more than 30 days. The recommended methods for the take avoidance surveys are described in the "Survey method," "Weather conditions," and "Time of day" sections on page 28 of the <i>Staff Report</i>. If burrowing owls are detected during surveys, the qualified biologist and Project proponent shall begin coordination with CDFW and USFWS immediately, and shall submit the results of take avoidance surveys to CDFW and USFWS as soon as 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 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 habitat or burrow(s) or burrowing owl individuals,</p>	<p>Timing: 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>Methods: See Mitigation Measure.</p>	<p>Implementation: Imperial Irrigation District</p> <p>Monitoring and Reporting: Imperial Irrigation District</p>
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¹³ 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>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>Mitigation Measure BIO-[B]: CVMSHCP Local Development Mitigation Fee</p> <p>Prior to construction, to comply with its obligations under the CVMSHCP, the Imperial Irrigation District shall pay to the Coachella Valley Conservation Commission a Local Development Mitigation Fee for the Project.</p>	<p>Timing: Prior to construction</p> <p>Methods: See Mitigation Measure</p>	<p>Implementation: Imperial Irrigation District</p> <p>Monitoring and Reporting: Imperial Irrigation District</p>
<p>Mitigation Measure BIO-[C]: Salvage of Sand-Dependent Covered Species</p> <p>Prior to vegetation removal or ground-disturbing activities, the Imperial Irrigation District shall collaborate with the Coachella Valley Conservation Commission to plan and implement a salvage of sand-dependent Covered Species within the Project site.</p>	<p>Timing: Prior to vegetation removal or ground-disturbing activities</p> <p>Methods: See Mitigation Measure</p>	<p>Implementation: Imperial Irrigation District</p> <p>Monitoring and Reporting: Imperial Irrigation District</p>
<p>Mitigation Measure BIO-[D]: Artificial Nighttime Lighting</p> <p>Throughout construction and the lifetime operations of the Project, the Imperial Irrigation District shall eliminate all nonessential lighting throughout the Project area and avoid or limit the use of artificial light at night during the hours of dawn and dusk when many wildlife species are most active. The District shall ensure that all lighting for the Project is fully shielded, cast downward and directed away from surrounding open-space and agricultural areas, reduced in intensity to the greatest extent possible, and does not result in lighting trespass including glare into surrounding areas or upward into the night sky (see the International Dark-Sky Association standards at http://darksky.org/). The District shall ensure use of LED lighting with a correlated color temperature of 3,000 Kelvins or less, proper disposal of hazardous waste, and recycling</p>	<p>Timing: Throughout construction and the lifetime operations of the Project</p> <p>Methods: See Mitigation Measure</p>	<p>Implementation: Imperial Irrigation District</p> <p>Monitoring and Reporting: Imperial Irrigation District</p>

<p>of lighting that contains toxic compounds with a qualified recycler.</p>		
<p>Mitigation Measure BIO-[E]: CDFW Lake and Streambed Alteration Program</p> <p>Prior to construction and issuance of any grading permit, the Project proponent 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 proponent 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>Timing: Prior to construction and issuance of grading permit</p> <p>Methods: See Mitigation Measure</p>	<p>Implementation: Imperial Irrigation District</p> <p>Monitoring and Reporting: Imperial Irrigation District</p>