

Appendix F

Responses to Comments on Public Review Initial Study/Mitigated Negative Declaration

Thousand Palms Channel Improvement Project

(SCH No. 2025021223)

June 2025

Comments and Responses

The 30-day public review period for the Project’s Initial Study/Mitigated Negative Declaration (IS/MND) began on February 28, 2025, and ended on March 31, 2025. In conformance with Section 15088(a) of the State CEQA Guidelines, Coachella Valley Water District (CVWD) is required to consider comments received during the review period. Three comment letters were received from:

- S1 – California Department of Fish and Wildlife (CDFW) on March 28, 2025;
- F1 – U.S. Fish and Wildlife Service (USFWS) on April 4, 2025 (the USFWS was permitted an extension on the review period); and
- L1 – Imperial Irrigation District (IID) on March 31, 2025.

Responses to the comment letters are provided following each letter below.

Comment Letter S1 – California Department of Fish and Wildlife



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

GAVIN NEWSOM

Comment Letter S1

CHARLTON H. BONHAM, Director



March 28, 2025
Sent via email

William Patterson
Environmental Supervisor
Coachella Valley Water District
75-515 Hovley Lane East
Palm Desert, CA 92211
wpatterson@cvwd.org

Thousand Palms Channel Improvement Project (PROJECT)
Mitigated Negative Declaration (MND)
SCH# 2025021223

Dear William Patterson:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration from the Coachella Valley Water District (CVWD) 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 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

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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.

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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.

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PROJECT DESCRIPTION SUMMARY

Proponent: Coachella Valley Water District

Objective: The Project proposes constructing the last conveyance facility intended to receive regional flood flows from the North Indio Hills and Thousand Palms areas before reaching the Whitewater River. The Project would affect approximately 5,750 feet of the existing Thousand Palms Channel from the Sun City Shadow Hills development located north of Madison Street to the confluence with the Whitewater River. The Project would construct the existing earthen Thousand Palms Channel with concrete sidewalls (slope lining), install 10 side-by-side 14-foot by 9-foot box culverts as a single structure at the Avenue 42 channel crossing, install two concrete drop structures (one west of Madison Street and one south of Interstate 10), and re-construct the roadways of Avenue 42 and Madison Street where the channel crosses these roadways. Re-construction to the roadways includes vertical profile changes, repaving, shoulder improvements, and drainage improvements.

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Location: The Project is located in the central portion of the greater Coachella Valley within the City of Indio, Riverside County, California. The Community of Bermuda Dunes is located approximately 0.8 miles west of the Project. Access to the site is via Interstate 10 (I-10), Indio Boulevard, Madison Street, and Avenue 42. The Thousand Palms Channel runs south-southeast, intersecting Madison Street, Avenue 42, and I-10, before it converges with the Whitewater River at its southern extent. The Project site consists of the follow Assessor's Parcel Numbers (APNs): 606091001, 610020001, 610020006, 610020007, 610020008, 610020012, 610020015, 610020016, 610030014, 610030020, 691190006, 691190007, 691190026, 691510001, 691510010, 691510011.

Timeframe: The MND indicates construction is anticipated to occur over a duration of approximately 10 months, beginning in November 2025.

COMMENTS AND RECOMMENDATIONS

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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 CVWD 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 a level 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 and appropriate assessment of biological resources within the Project site and surrounding area specifically as it relates to nesting birds, burrowing owl (*Athene cunicularia*), and the Lake and Streambed Alteration Program. 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 CVWD in ensuring that Project impacts to biological resources are reduced to less than significant, CDFW recommends revising the mitigation measures for nesting birds and burrowing owl and adding a mitigation measure for CDFW's Lake and Streambed Alteration Program.

1) Nesting Birds

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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 Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP), per its associated Implementing Agreement and Permits from CDFW and the U.S. Fish and Wildlife Service (USFWS), 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.

Regarding survey methods for nesting birds, page 4-28 of the MND indicates that "a nesting birds survey was specifically completed as part of the pedestrian site survey, however, during that survey, no nesting birds were incidentally detected." In contrast, page 14 of the Project's Biological Resources Assessment for the Thousand Palms Channel Improvement Project, dated May 2023 and revised June 2024 (Biological Resources Assessment), indicates that "the field survey did not include nesting bird surveys and no nesting bird activity was incidentally detected." CDFW recommends the MND and Biological Resources Assessment are revised to accurately and consistently describe the methods used to conduct nesting bird surveys.

Regarding the potential for the Project site to support nesting birds, page 13 of the Project's Biological Resources Assessment indicates that "nesting bird habitat on-site is limited to ground-nesting birds which may find suitable substrate on the bare soil of the Study Area. Species such as killdeer and lesser nighthawk (*Chordeiles acutipennis*) are known to nest in similar areas. However, the high levels of apparently continuous ground disturbance likely renders the site unsuitable. Nesting habitat may be present in shrubs, trees, and ground cover present in adjacent areas outside the Project site." CDFW is concerned about the accuracy of the MND's conclusion that the Project site has a limited capacity to support nesting birds. Historical aerial imagery and street view imagery over the past 20 years, accessed using Google Earth, demonstrates the potential for native shrubs such as saltbush (*Atriplex sp.*) to occupy the Project area and re-establish following disturbance. Historic aerial imagery shows that the Project areas north of Avenue 44 contained moderate cover of native shrubs prior to March 2013. Sparse cover of native shrubs is also visible in Project areas located south of the



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Interstate 10 prior to March 2013. Since 2013, the Project area appears to have been subject to a higher frequency of grading activities. However, despite the higher frequency of grading activities in the Project area since 2013, recent aerial imagery from 2023 shows the Project area located west of Madison Street contains sparse cover of shrubs and the margins of the Thousand Palms Channel throughout the Project site have very sparse cover of shrubs. Generally, plant communities associated with desert ephemeral streams are adapted to disturbance from flooding events and are able to quickly re-establish following disturbance², and the vegetation community on-site has the potential to quickly re-establish during the growing season following disturbance events (natural or anthropogenic). The shrub cover on-site may have changed since the single reconnaissance survey was conducted in 2023, and the shrub cover has the potential to change prior to the start of Project construction activities. CDFW considers the entirety of the Project site and surrounding area to provide suitable habitat for nesting birds including birds that nest on the ground and in shrubs and trees. CDFW recommends that the MND and its supporting documents are revised to accurately describe the presence of suitable habitat for nesting birds within the Project site and surrounding areas.



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Also, page 12 of the Biological Resources Assessment indicates that “the high levels of apparently continuous ground disturbance likely renders the site unsuitable [for nesting birds]”. CDFW notes that CVWD, as a Permittee under the CVMSHCP, is obligated to ensure their Covered Activities, both within and outside Conservation Areas, comply with Fish and Game Code section 3503 and 3503.5. To comply with CVWD’s Permittee obligations, maintenance activities within the Project site must undertake measures to avoid the take of individuals, nests, and eggs of nesting birds. Conducting work outside of the peak nesting bird season and conducting pre-activity nesting bird surveys are important avoidance measures.



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The MND includes mitigation measure BIO-1, which indicates that “if construction (including ground-disturbing activities and vegetation trimming and/or removal) would occur during the nesting bird season (raptors: 1 January to 30 June; non-corvids: 1 February through 15 September), a qualified biologist shall conduct preconstruction nesting bird surveys within 30 days of construction start-up and continuing weekly up to three days before start-up.” Conducting work outside the peak nesting season is an important avoidance and minimization measure that should be incorporated into project plans to comply with Fish and Game Code section 3503 and 3503.5. CDFW also recommends the completion of nesting bird surveys *regardless* of the time of year to



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² Yang X-D, Wang J, Xu M-S, Ali A, Xu Y, Lamb D, et al. (2019) Effects of the ephemeral stream on plant species diversity and distribution in an alluvial fan of arid desert region: An application of a low altitude UAV. PLoS ONE 14(2): e0212057. <https://doi.org/10.1371/journal.pone.0212057>.

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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., 2017³). CDFW staff have observed that climate change conditions may result in nesting bird season occurring earlier and later in the year than historical nesting season dates. CDFW recommends that disturbance of occupied nests of 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. Mitigation Measure BIO-1 also states that “active bird nests shall be protected by installation of temporary physical barriers that define a buffer area of 100 feet surrounding each nest.” CDFW recommends larger buffers (see revised Mitigation Measure BIO-1 below) to avoid the take of the nests and eggs of nesting birds. CDFW considers Mitigation Measure BIO-1 to be inadequate in scope and timing to reduce impacts to nesting birds to a level less than significant.

To support CVWD in reducing impacts to nesting birds to a level less than significant level, CDFW recommends that CVWD revised Mitigation Measure BIO-1 with the following additions in **bold** and removals in ~~strike through~~:

Mitigation Measure BIO-1: Nesting Birds

To the greatest extent feasible, the Project will avoid construction activities during the peak nesting season (February 1 through September 15). Regardless of the time of year, nesting bird surveys shall be performed by a qualified avian biologist no more than 3 days prior to all vegetation removal or ground-disturbing activities throughout all portions of the Project. 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, a qualified biologist shall establish an appropriate nest buffer to be marked on the ground. Nest buffers are species specific and shall be at least 300 feet for passerines and 500 feet for raptors. A smaller or larger buffer may be determined by the qualified biologist familiar with the nesting phenology of the nesting species and based on nest and buffer monitoring results. Construction activities may not occur inside the established buffers, which shall remain on-site until a qualified biologist



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³ 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.

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~~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 (including ground-disturbing activities and vegetation trimming and/or removal) would occur during the nesting bird season (raptors: 1 January to 30 June; noncorvids: 1 February through 15 September), a qualified biologist shall conduct preconstruction nesting bird surveys within 30 days of construction start-up and continuing weekly up to three days before start-up. The survey area shall include the project area (disturbance footprint) and a surrounding 300-foot buffer area. Active bird nests shall be protected by installation of temporary physical barriers that define a buffer area of 100 feet surrounding each nest. Buffer size may be reduced or increased based on the bird species present and on the advice of the qualified biologist (e.g., smaller buffer for songbirds, larger buffer for raptors). In no case shall buffers be less than 50 feet. No construction work, equipment, or personnel shall enter the buffer area. Protective buffers shall remain in place until the biologist determines that the nest(s) are no longer active and the chicks have permanently fledged (left the nest) and a second nesting attempt has not begun.~~

Pursuant to the CEQA Guidelines, section 15097(f), CDFW has prepared a draft mitigation monitoring and reporting program (MMRP) in Attachment 1 for recommended revisions to MM BIO-1 and MM BIO-2 and CDFW-recommended MM BIO-[A].

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 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



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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, the CDFW Natural Community Conservation Plan (NCCP) Permit #2835-2008-001-06 does not provide Take Authorization for burrowing owl individuals, nests, or eggs. To the contrary, section 3.5.6 of the NCCP Permit states burrowing owl “pairs or individuals will not be Taken” and reiterates that the “HCP/NCCP does not authorize Take of [burrowing owl] nests [or] eggs[.]” Therefore, throughout the CVMSHCP area—both within and without Conservation Areas—Permittees must ensure that activities occurring within their jurisdictions do not result in the take, possession, or destruction of burrowing owl individuals, nests, or eggs. Any activity occurring within the CVMSHCP area that results in the take of burrowing owl individuals, nests, or eggs would be unlawful and would not be a Covered Activity under the CVMSHCP.

Regarding survey methods for burrowing owl, as discussed in the nesting bird section above, there is conflicting information in the MND and Biological Resources Assessment on if and how surveys for nesting birds, including burrowing owl, were conducted. As with nesting birds, CDFW recommends that the MND and Biological Resources Assessment are revised to clearly indicate the methods used to conduct surveys for burrowing owl. Based on review of the MND and Biological Resources Assessment, it appears neither a habitat assessment for burrowing owl nor focused surveys for burrowing owl were conducted within and surrounding the Project site as part of the assessment of biological resources. Given the MND’s lack of findings from a complete and recent habitat assessment and focused surveys for burrowing owl following the guidelines in the *Staff Report on Burrowing Owl Mitigation*,⁴ the number of suitable and occupied burrows within the Project site and surrounding areas is unknown.

CDFW is concerned about the quality of analysis and accuracy of the conclusion presented in the MND and the Biological Resources Assessment regarding the potential for burrowing owl to occupy the Project site and surrounding area. Page 4-28 of the MND indicates that “marginal habitat for ground-nesting birds is present as the value of ground habitat is greatly diminished due to the ongoing vegetation management and ground disturbing activities that occur on-site. Ground-nesting birds include birds such as the burrowing owl.” Page 12 of the Biological Resources Assessment states that no burrows were detected during the reconnaissance-level field survey on March 28, 2023. Importantly, CDFW notes that unprocessed data in the California Natural Diversity



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⁴ 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>

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Database includes records of three separate observations of burrowing owl within the southeast corner of the Project site on August 21, 2024, within the Thousand Palms Channel. For all three records, burrowing owls were observed flushing from burrows. One of the records included an observation of two burrowing owls using a burrow. These three CNDDDB records of burrowing owl using the Thousand Palms Channel are consistent with CDFW's observations that burrowing owl are common along levees, channels, and dikes in Coachella Valley. It is concerning that the biological survey for this Project failed to detect any evidence of suitable habitat for burrowing owls, suitable burrows, or burrowing owl activity within the Project area. Generally, CDFW considers a site to be occupied by burrowing owl if at least one burrowing owl or its sign has been observed within the last three years. The Project site contains suitable and occupied habitat for burrowing owl.

Also, burrowing owls frequently move into disturbed areas prior to and during construction activities since they are adapted to highly modified habitats.^{5,6} Burrowing owls have the potential to occupy other areas of the Project site prior to Project construction activities. CDFW recommends that pre-construction surveys for burrowing are conducted prior to any ground disturbing or vegetation removal activities associated with Project.

Given the presence of suitable and occupied nesting and foraging habitat for burrowing owl within and adjacent to the Project site, CDFW recommends that the MND is revised to accurately describe the Project site as containing suitable and occupied burrowing owl habitat; to include the results of focused surveys, including survey reports, for burrowing owl within the Project site and surrounding area following the guidelines outlined in Appendix D of the *Staff Report on Burrowing Owl Mitigation*; and to incorporate appropriate avoidance, minimization, and mitigation measures for burrowing owl.

The MND includes Mitigation Measure BIO-2, which indicates that "if construction is to occur during 1 February to 15 September, burrowing owl surveys will be conducted. Burrowing owl surveys will be completed following the CDFW 2012 Staff Report on Burrowing Owl Mitigation. Any located burrowing owls or potential burrows (burrows with openings > 4 inches) will be reported to CDFW via CNDDDB online reporting system." The measure lacks information on what avoidance measures will be implemented if burrowing owls are detected within or surrounding the Project site. Also, CDFW has observed nesting activity for burrowing owls starting before February 1 in



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⁵ 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.

⁶ Coulombe, H. N. 1971. Behavior and population ecology of the Burrowing Owl, *Speotyto cunicularia*, in the Imperial Valley of California. *Condor* 73:162-176.

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Coachella Valley. CDFW considers the mitigation measure to be inadequate in scope and timing to reduce impacts to burrowing owl to a level less than significant. CDFW recommends that CVWD revised Mitigation Measure BIO-2 with the following additions in **bold** and removals in ~~strikethrough~~:

Mitigation Measure BIO-2: Burrowing Owl Focused and Pre-Construction Surveys

Suitable burrowing owl habitat has been confirmed on the site; therefore, focused 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 vegetation removal or ground-disturbing activities for all phases of Project construction. If burrowing owls are detected during the focused surveys, the qualified biologist and Project proponent shall begin coordination with CDFW and USFWS immediately, and shall prepare a Burrowing Owl Avoidance and Monitoring Plan that shall be submitted to CDFW for review and approval prior to commencing Project activities. The Burrowing Owl Plan shall describe proposed avoidance and monitoring actions, including measures necessary to avoid take of burrowing owl individuals, nests, and eggs. The Burrowing Owl Plan shall include the number and location of occupied burrow sites (occupied site 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), acres of burrowing owl habitat that will be impacted, details of site monitoring, and details on proposed buffers and other avoidance measures. If impacts to occupied burrowing owl habitat or burrow(s) or burrowing owl individuals, nests, or eggs cannot be avoided, CDFW recommends that appropriate CESA authorization (i.e., Incidental Take Permit under Fish and Game Code section 2081) is obtained prior to commencement of Project activities.

For all segments of Project construction, preconstruction burrowing owl surveys shall be conducted no less than 14 days prior to the start of Project-related activities and within 24 hours prior to ground disturbance, in accordance with the *Staff Report on Burrowing Owl Mitigation (2012 or most recent version)*. Preconstruction surveys should be repeated when there is a pause in construction of more than 30 days. Preconstruction surveys should be performed by a qualified biologist following the recommendations and guidelines provided in the *Staff Report on Burrowing Owl Mitigation*. If the preconstruction surveys confirm occupied burrowing owl habitat, Project activities shall be immediately halted. The qualified biologist shall coordinate with CDFW and prepare a Burrowing Owl Avoidance and Monitoring Plan that shall be submitted to CDFW and USFWS for review and approval prior to commencing Project activities. ~~If construction is to occur during 1 February to 15 September, burrowing owl surveys will be conducted. Burrowing owl surveys will be completed following the CDFW 2012 Staff Report on Burrowing Owl Mitigation. Any located burrowing owls or potential burrows~~



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~~(burrows with openings > 4 inches) will be reported to CDFW via CNDDDB online reporting system.~~

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3) Lake and Streambed Alteration Program

Fish and Game Code section 1602 requires any person, state or local governmental agency, or public utility to notify CDFW prior to beginning any activity that may do one or more of the following: divert or obstruct the natural flow of any river, stream, or lake; change the bed, channel, or bank of any river, stream, or lake; use material from any river, stream, or lake; or deposit or dispose of material 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.

The map on page 10 of the Aquatic Resources Delineation Report for the Thousand Palms Channel Improvement Project from Sun City Shadow Hills to the CVSC Project (Aquatic Resources Delineation Report) indicates that that the entire project area is "non-jurisdictional." Page 11 of the Aquatic Resources Delineation Report states that the "TPC [Thousand Palms Channel] lacks aquatic resource characteristics such as stream morphology, bed and bank, evidence of flow, OHWM indicators, wetland indicators, or riparian vegetation. Therefore, the TPC is not a potential aquatic resource and is therefore excluded from the inventory." Page 13 of the Aquatic Resources Delineation Report indicates that "no impacts to regulated aquatic resources would occur. [...] If elements of the project were to change, and state or federal aquatic resources would be impacted, permits required may include a USACE Department of the Army permit, a California State Water Board Section 401 water quality certification, and submittal of a CDFW 1600 Lake and Streambed Alteration notification." CDFW disagrees with the conclusion in the MND and Aquatic Resources Delineation Report that no fish and wildlife resources subject to Fish and Game Code section 1600 et seq. exist within the Project site. The Project site is the Thousand Palms Channel, an ephemeral stream that conveys stormflows from the Sun City Shadow Hills development to the Whitewater River. Also, the Sun City Shadow Hills development, and its network of streams passing through golf courses, receives stormflows from ephemeral streams emanating from the Indio Hills through a culvert that crosses over Coyote Song Way. The Project site contains fish and wildlife resources subject to Fish and Game Code section 1600 et seq.

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Project activities include, but are not limited to, the construction within the Thousand Palms Channel of two concrete drop structures, a series of box culverts along the Avenue 42 alignment, and concrete slope lining on both sides of the channel. The construction of drop structures, concrete slope lining, and culverts for Avenue 42 will change the bed and bank of an ephemeral stream and will deposit material into an ephemeral stream, activities that require notification to CDFW pursuant to Fish and Game Code section 1602.

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To ensure that impacts to streams and associated fish and wildlife are reduced to a level less than significant, CDFW recommends that CVWD add 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 Coachella Valley Water District 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 shall obtain a CDFW-executed Lake and Streambed Alteration Agreement, authorizing impacts to Fish and Game Code section 1602 resources associated with the Project.

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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>.

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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 CVWD 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.

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William Patterson
 Coachella Valley Water District
 March 28, 2025
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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:

 84F92FFEEFD24C8...

Kim Freeburn
 Environmental Program Manager

Attachment 1: MMRP for CDFW-Proposed Mitigation Measures

ec:

Heather Brashear, Senior Environmental Scientist (Supervisor), CDFW
Heather.Brashear@Wildlife.ca.gov

Peter Satin, Coachella Valley Association of Governments
psatin@cvag.org

Mary Beth Woulfe, U.S. Fish and Wildlife Service
marybeth_woulfe@fws.gov

Lory Salazar-Velasquez, U.S. Fish and Wildlife Service
lory_salazar-velasquez@fws.gov

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

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ATTACHMENT 1: MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

Mitigation Measures	Timing and Methods	Responsible Parties
<p>Mitigation Measure BIO-1: Nesting Birds</p> <p>To the greatest extent feasible, the Project will avoid construction activities during the peak nesting season (February 1 through September 15). Regardless of the time of</p>	<p>Timing: No more than 3 days prior to all vegetation removal or ground-disturbing activities throughout all</p>	<p>Implementation: CVWD</p> <p>Monitoring and Reporting: CWWD</p>

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<p>year, nesting bird surveys shall be performed by a qualified avian biologist no more than 3 days prior to all vegetation removal or ground-disturbing activities throughout all portions of the Project. 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, a qualified biologist shall establish an appropriate nest buffer to be marked on the ground. Nest buffers are species specific and shall be at least 300 feet for passerines and 500 feet for raptors. A smaller or larger buffer may be determined by the qualified biologist familiar with the nesting phenology of the nesting species and based on nest and buffer monitoring results. Construction activities may not occur inside the established buffers, which shall remain on-site until a qualified biologist determines the young have fledged or the nest is no longer active. Active nests and adequacy of the established buffer distance shall be monitored daily by the qualified biologist until the qualified biologist has determined the young have fledged or the Project has been completed. The qualified biologist has the authority to stop work if nesting pairs exhibit signs of disturbance.</p>	<p>phases of the Project.</p> <p>Methods: See Mitigation Measure</p>	
<p>Mitigation Measure BIO-2: Burrowing Owl Focused and Pre-Construction Surveys</p> <p>Suitable burrowing owl habitat has been confirmed on the site; therefore, focused burrowing owl surveys shall be conducted by a qualified biologist in accordance with the <i>Staff Report on Burrowing Owl Mitigation</i> (2012 or most recent version)</p>	<p>Timing: Focused surveys: Prior to vegetation removal or ground-disturbing activities for all phases of the Project. Pre-construction surveys: No less than 14 days prior</p>	<p>Implementation: CVWD</p> <p>Monitoring and Reporting: CVWD</p>



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cont.

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<p>prior to vegetation removal or ground-disturbing activities for all phases of Project construction. If burrowing owls are detected during the focused surveys, the qualified biologist and Project proponent shall begin coordination with CDFW and USFWS immediately, and shall prepare a Burrowing Owl Avoidance and Monitoring Plan that shall be submitted to CDFW for review and approval prior to commencing Project activities. The Burrowing Owl Plan shall describe proposed avoidance and monitoring actions, including measures necessary to avoid take of burrowing owl individuals, nests, and eggs. The Burrowing Owl Plan shall include the number and location of occupied burrow sites (occupied site 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), acres of burrowing owl habitat that will be impacted, details of site monitoring, and details on proposed buffers and other avoidance measures. If impacts to occupied burrowing owl habitat or burrow(s) or burrowing owl individuals, nests, or eggs cannot be avoided, CDFW recommends that appropriate CESA authorization (i.e., Incidental Take Permit under Fish and Game Code section 2081) is obtained prior to commencement of Project activities.</p> <p>For all segments of Project construction, preconstruction burrowing owl surveys shall be conducted no less than 14 days prior to the start of Project-related activities and within 24 hours prior to ground disturbance, in accordance with the <i>Staff Report on Burrowing Owl Mitigation</i> (2012 or most recent version). Preconstruction surveys should be repeated when there is a pause in</p>	<p>to start of Project-related activities and within 24 hours prior to ground disturbance for all phases of the Project and when there is a pause in construction of more than 30 days.</p> <p>Methods: See Mitigation Measure</p>	
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 Coachella Valley Water District
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<p>construction of more than 30 days. Preconstruction surveys should be performed by a qualified biologist following 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. The qualified biologist shall coordinate with CDFW and prepare a Burrowing Owl Avoidance and Monitoring Plan that shall be submitted to CDFW and USFWS for review and approval prior to commencing Project activities.</p>		
<p>Mitigation Measure BIO-[A]: CDFW Lake and Streambed Alteration Program</p> <p>Prior to construction and issuance of any grading permit, the Coachella Valley Water District 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 shall 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 any grading permit.</p> <p>Methods: See Mitigation Measure</p>	<p>Implementation: CVWD</p> <p>Monitoring and Reporting: CVWD</p>

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Response to Comment Letter S1 – California Department of Fish and Wildlife

- S1.1 This comment is introductory to the comment letter and describes the California Department of Fish and Wildlife’s (CDFW’s) role. This comment does not relate to the adequacy of the environmental document or its analysis. No further response is warranted.
- S1.2 This comment is a summary of the project description and does not relate to the adequacy of the environmental document or its analysis. No further response is warranted.
- S1.3 This comment provides a summary of the CDFW’s comments and recommendations provided throughout the remainder of the comment letter. Refer to **Response to Comment S1.5** through **Response to Comment S1.11** for responses to the points raised within this comment.
- S1.4 The comment provides a summary of relevant Fish and Game Code sections and of covered activities under the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP). This comment does not relate to the adequacy of the environmental document or its analysis. No further response is warranted.
- S1.5 The comment identifies a factual discrepancy between the Draft IS/MND and the Project’s Biological Resources Assessment. The Draft IS/MND has been revised on page 4-28, paragraph 2, as follows:

Nesting Birds

A nesting birds survey was ~~not specifically~~ completed as part of the pedestrian site survey; however, during ~~that~~ the field survey, no nesting birds were incidentally detected. Marginal habitat for ground-nesting birds is present ~~as the value of ground habitat~~ but its value is greatly diminished due to the ongoing vegetation management and ground disturbing activities that occur on-site. Ground-nesting birds include birds such as the burrowing owl. Vegetation-based nesting, such as in grasslands, shrubs, and/or trees, is not expected within the Project site due to the lack of habitat.

As nesting bird surveys were not completed, their methodology need not be included. The methodology of the biological field survey is available in Section 3 of the Biological Resources Assessment. No further response is warranted.

- S1.6 The comment asserts that, despite the ongoing maintenance activities of the Thousand Palms Channel, potential habitat for nesting birds may exist within the Project site, and that conditions may have changed since the field reconnaissance surveys which had occurred in 2023 or may have the potential to change prior to the start of Project construction.

CVWD periodically maintains the channel with grading/scraping operations to ensure adequate flow of storm water flows through the Channel. This regular maintenance

inhibits the potential establishment of vegetation suitable for habitat within the Channel. Additionally, Google Earth aerial imagery dated March 2025 shows that the alignment of the Thousand Palms Channel does not contain vegetation as a result of the periodic maintenance and supports that the conditions of the Project site have not changed since the field reconnaissance. As such, no revisions to the Draft IS/MND, nor the Biological Resources Assessment are warranted. Regardless, nesting bird surveys will be conducted consistent with MM BIO-1 outlined below.

S1.7 This comment does not relate to the adequacy of the environmental document or its analysis. No further response is warranted.

S1.8 The suggested revisions to MM BIO-1 provided by the commenter have been largely accepted and MM BIO-1 has been revised as follows:

MM BIO-1 To the greatest extent feasible, the Project will avoid construction activities during the peak nesting season (February 1 through September 15). Regardless of the time of year, nesting bird surveys shall be performed by a qualified avian biologist no more than 3 days prior to all vegetation removal or ground-disturbing activities throughout all portions of the Project. 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, a qualified biologist shall establish an appropriate nest buffer to be marked on the ground. Nest buffers are species specific and shall preliminarily be at least 300 feet for passerines and 500 feet for raptors. A smaller or larger buffer may be determined by the qualified biologist familiar with the nesting phenology of the nesting species and based on nest and buffer monitoring results. Construction activities may not occur inside the established buffers, which shall remain on-site until a qualified biologist determines the young have fledged or the nest is no longer active. For sensitive bird species, such as federal and/or California state listed and candidate species, and raptors, 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 shall determine the recommended

monitoring frequency for other avian species based on the nest location, species, and its tolerance to disturbance. The qualified biologist has the authority to stop work if nesting pairs exhibit signs of disturbance.

If construction (including ground-disturbing activities and vegetation trimming and/or removal) would occur during the nesting bird season (raptors: 1 January to 30 June; non-corvids: 1 February through 15 September), a qualified biologist shall conduct preconstruction nesting bird surveys within 30 days of construction start-up and continuing weekly up to three days before start-up. The survey area shall include the project area (disturbance footprint) and a surrounding 300-foot buffer area. Active bird nests shall be protected by installation of temporary physical barriers that define a buffer area of 100 feet surrounding each nest. Buffer size may be reduced or increased based on the bird species present and on the advice of the qualified biologist (e.g., smaller buffer for songbirds, larger buffer for raptors). In no case shall buffers be less than 50 feet. No construction work, equipment, or personnel shall enter the buffer area. Protective buffers shall remain in place until the biologist determines that the nest(s) are no longer active and the chicks have permanently fledged (left the nest) and a second nesting attempt has not begun.

- S1.9 This comment does not relate to the adequacy of the environmental document or its analysis. No further response is warranted.
- S1.10 Refer to **Response to Comment S1.5** regarding revisions to the Draft IS/MND which have been made. The Biological Resources Assessment determined that, due to the highly disturbed nature of the Project site, that burrowing owls are not expected to occur within the Project site; refer to Appendix C of the Biological Resources Assessment. As previously stated, the Channel is regularly maintained by grading/scraping which would limit the number of adequate burrows which may occur on the Project site. Regardless, MM BIO-2 was recommended to require the completion of burrowing owl surveys prior to the commencement of construction. Additionally, the commenter claims to have unprocessed data in the CNDDDB which was recorded approximately 17 months after the initial field reconnaissance was completed. Further, the commenter provides suggested revisions to MM BIO-2. These suggested revisions are largely accepted with minor deviations. See below for revisions to MM BIO-2:

MM BIO-2 *Focused 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 ground-disturbing activities. If burrowing owls are detected during the focused surveys, the qualified biologist and Project proponent shall prepare a Burrowing Owl Avoidance and Monitoring Plan that shall be submitted to CDFW for review and approval prior to commencing Project activities. The Burrowing Owl Avoidance and Monitoring Plan shall describe proposed avoidance and monitoring actions, including measures necessary to avoid take of burrowing owl individuals, nests, and eggs. The Burrowing Owl Avoidance and Monitoring Plan shall include the number and location of occupied burrow sites (occupied site 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), acres of burrowing owl habitat that will be impacted, details of site monitoring, and details on proposed buffers and other avoidance measures.*

For all segments of Project construction, preconstruction burrowing owl surveys shall be conducted no less than 14 days prior to the start of Project-related activities and within 24 hours prior to ground disturbance, in accordance with the Staff Report on Burrowing Owl Mitigation (2012 or most recent version). Preconstruction surveys should be repeated when there is a pause in construction of more than 30 days. Preconstruction surveys should be performed by a qualified biologist following the recommendations and guidelines provided in the Staff Report on Burrowing Owl Mitigation. If the preconstruction surveys confirm occupied burrowing owl nests, buffers of appropriate distances will be established based on the planned level of disturbance and the time of year, consistent with the Staff Report on Burrowing Owl Mitigation (2012 or most recent version), Project activities within these established buffers shall be immediately halted.

~~If construction is to occur during 1 February to 15 September, burrowing owl surveys will be conducted. Burrowing owl surveys will be completed following the GDFW 2012 Staff Report on Burrowing Owl Mitigation. Any located burrowing owls or potential burrows (burrows with openings > 4 inches) will be reported to GDFW via CNDDDB online reporting system.~~

S1.11 The commenter asserts that the Thousand Palms Channel (TPC) contains fish and wildlife resources subject to Fish and Game Code section 1600 et. seq. supporting this statement by stating that “The Project site is the TPC, an ephemeral stream that conveys stormflows from the Sun City Shadow Hills development to the Whitewater River. Also, the Sun City Shadow Hills development, and its network of streams passing through golf courses, receives stormflows from ephemeral streams emanating from the Indio Hills through a culvert that crosses over Coyote Song Way.”

The Aquatic Resources Delineation Report (ARDR) was prepared in accordance with the U.S. Army Corps of Engineers Wetland Delineation Manual and regional supplements. Additionally, jurisdiction was assessed under Section 401 and 404 of the Clean Water Act, the Porter Cologne Water Quality Control Act, and Section 1600 of the California Fish and Game Code. The ARDR did not determine that the TPC was jurisdictional. With respect to Fish and Game Code section 1600 et. seq., the TPC is an artificial and engineered storm water channel lacking physical and biological indicators of a stream. The TPC lacks natural stream morphology, indicators of active hydrology, and riparian vegetation. The TPC is subject to ongoing maintenance operations. As stated in the Biological Resources Assessment report, a windrow of Athel tamarisk (*Tamarix aphylla*), as determined by resprouting Athel tamarisk observed during the field survey and Google Earth aerial imagery, east of the TPC was removed sometime between December 2019 to June 2021. This species is a problematic invasive species which may be associated with disturbed riparian areas but has been used as windbreaks in uplands throughout the Coachella Valley. Naturally occurring riparian vegetation was associated with the Coachella Valley Stormwater Channel / Whitewater River, immediately south of the Project area. No surface hydrology indicators were observed during field reconnaissance of the TPC, and no drainage patterns or saturation are evident in this area in aerial imagery. The ARDR determined that due to these facts, the TPC would not constitute a stream subject to Fish and Game Code section 1600 et. seq.

Within the Sun City Shadow Hills development (SCSHD), the TPC is largely a maintained network of golf courses with paved walkways, manicured lawns, and constructed ponds. Google Earth street view at approximate coordinates 33.754736°, -116.267716° shows a lack of any natural bed and bank development. There are no evident streams within the SCSHD golf courses. While there are naturally occurring ephemeral streams emanating from the Indio Hills which convey flow into a section of the SCSHD via a culvert across Coyote Song Way, as noted by the commenter, this flow does not reach the Project area. The culvert in question is

located at approximate coordinates 33.798490°, -116.290660°. Just like the natural course of flow prior to the construction of the SCSHD (see Google Earth aerial imagery dated 9/25/1996), flow is still conveyed in a southeasterly direction, only partially within and away from the SCSHD. Flow within the SCSHD is conveyed for approximately 0.5 miles before exiting the development. Flow is not conveyed into the broader network of golf courses. From the point where flow exits the SCSHD (at approximate coordinates 33.794657°, -116.283237°), flow continues in a southeasterly direction for approximately 3.75 miles before dissipating as sheet flow at approximate coordinates 33.762819°, -116.235170° near the intersection of Eastside Drive and Monroe Street. Flow is redirected to this terminus by a constructed berm partially associated with Eastside Drive near its terminus approximately 1.4 miles northeast of the project area.

The TPC lacks the critical characteristics of a stream including physical and biological indicators. Additionally, the TPC does not support fish or other aquatic life and therefore does not meet CDFW’s definition of a stream (Cal Code. Regs., Tit. 14, § 1.72). Therefore, the TPC is not subject to Fish and Game Code Section 1600 et. seq., a Lake and Streambed Alteration Agreement is not necessary and no revisions to the Draft IS/MND are warranted.

Regarding deposition of waste or debris materials, the Project would not involve deposition of debris or other material containing crumbled, flaked, or ground pavement. Because the Project would disturb more than 1 acre, it is therefore required to acquire and comply with the requirements of the Construction General Permit. This would involve the preparation and implementation of a Stormwater Pollution Prevention Plan (SWPPP) which would prescribe the use of effective best management practices to limit and treat sediment discharges from the Project site.

- S1.12 This comment summarizes additional reporting requests to the CNDDDB and payment of environmental document filing fees. This comment does not relate to the adequacy of the environmental document or its analysis. No further response is warranted.
- S1.13 This comment is a conclusion statement for the comment letter. This comment does not relate to the adequacy of the environmental document or its analysis. No further response is warranted.

Comment Letter F1



United States Department of the Interior

U.S. FISH AND WILDLIFE SERVICE
Ecological Services
Palm Springs Fish and Wildlife Office
777 East Tahquitz Canyon Way, Suite 208
Palm Springs, California 92262



In Reply Refer to:
2025-0075245-CEQA-TA-ERV

April 4, 2025
Sent Electronically

Carlos Huerta
Environmental Resources Analyst
Coachella Valley Water District
75525 Hovley Lane
Palm Desert, California 92211

Subject: Draft Initial Study and Intent to Adopt Proposed Mitigated Negative Declaration
Thousand Palms Channel Improvement Project from Sun City Shadow Hills
Channel to the Coachella Valley Stormwater Channel, City of Indio, Riverside
County, California

Dear Carlos Huerta:

This letter is in response to the notice dated February 28, 2025, soliciting comments on the draft Initial Study and Intent to Adopt Proposed Mitigated Negative Declaration (ISMND) for the Thousand Palms Channel Improvement Project from Sun City Shadow Hills Channel to the Coachella Valley Stormwater Channel Project (Project) in the City of Indio, Riverside County, California. The Coachella Valley Water District (CVWD) proposes improve the existing Thousand Palms Channel (Channel) as well as improve the roadways of Avenue 42 and Madison Street where the Channel crosses these roadways.

We offer the following comments on the draft ISMND as they relate to potential impacts on public trust resources. The primary concern and mandate of the U.S. Fish and Wildlife Service (Service) is the conservation, protection, and enhancement of fish and wildlife resources and their habitats for the continuing benefit of the American people. The Service has legal responsibility for the welfare of migratory birds, anadromous fish, and threatened or endangered animals and plants listed under the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*). The comments provided herein are based on the information provided in the draft ISMND and our knowledge of sensitive and declining fish and wildlife resources.

Project Description

The proposed Project is located in the City of Indio, Riverside County, California. The Project is within the boundary of the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP), and CVWD is a Permittee under the CVMSHCP. The East Indio Hills Conservation area is located approximately 1.5 miles northeast to the Project site. The Project proposes to



Carlos Huerta (2025-0075245-CEQA-TA-ERV)

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improve the Channel from the Sun City Shadow Hills development to the confluence with the Coachella Valley Stormwater Channel. The Project proposes improving the existing earthen Channel with concrete sidewalls and improving the Avenue 42 channel crossing with 10 side-by-side 14-foot by 9-foot box culverts, as a single structure to allow stormwater flows underneath the roadway and limit overtopping. The Project proposes to also improve the roadways of Avenue 42 and Madison Street where the Channel crosses these roadways. Improvements to the roadways include vertical profile changes, repaving, shoulder improvements, and drainage improvements. The proposed Project improvements would meet the Federal Emergency Management Agency certification standards and CVWD flood control requirements.

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cont.

Nesting Birds

The Migratory Bird Treaty Act of 1918 (16 U.S.C. § 703 *et seq.*; MBTA) prohibits take of individuals, parts, nests, or eggs of migratory birds. "Take" is defined in the Service's general wildlife regulations as "to pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to pursue, hunt, shoot, wound, kill, trap, capture, or collect." (50 C.F.R. § 10.12).

2

The Service's section 10(a)(1)(B) Permit associated with the CVMSHCP constitutes a Special Purpose Permit under the MBTA for the Take of Covered Species. However, only Take of migratory bird habitat is provided, and the Permit states that "[a]ny such Take will not be in violation of the MBTA." Therefore, Take of individuals, parts, nests, or eggs, as described in the MBTA is not authorized in the Special Purpose Permit, and any Take of migratory bird habitat associated with Covered Activities will not be in violation of the MBTA.

The draft ISMND states that a one-day biological field survey was completed on March 28, 2023, and indicates that a nesting bird survey was conducted specifically as part of the survey. However, the Project's Biological Resources Assessment states that the field survey did not include a nesting bird survey. The draft ISMND and Biological Resources Assessment are unclear and lack further information regarding the completion of nesting bird surveys, and if nesting birds are present in the Project area. Nesting bird surveys are necessary to accurately confirm nesting bird presence or absence to assess the Project's potential impacts to nesting birds. The field survey also concluded that "[m]arginal habitat for ground-nesting birds is present as the value of ground habitat is greatly diminished due to the ongoing vegetation management and ground disturbing activities that occur on-site." A review of Google Earth historical imagery shows that the Project site has previously established shrubs and sparse vegetation despite the ongoing vegetation management. Although the Project site is disturbed, the presence of sparse vegetation, particularly cover of shrubs, is suitable habitat for ground-nesting birds. Furthermore, bare ground or sparse vegetation cover constitutes suitable nesting habitat for some ground-nesting birds. The proposed ground disturbance may consequently result in unauthorized Take of nesting birds without implementation of the necessary avoidance, minimization, and mitigation measures. An accurate assessment of the biological resources within the Project area is required to assess the Project's potential impacts to nesting birds. We request the draft ISMND be revised to clarify if nesting bird surveys were conducted and include an assessment of the Project's potential impacts to nesting bird habitat. The assessment should include nesting bird surveys during the appropriate time of year, if nesting surveys have not been completed.

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Carlos Huerta (2025-0075245-CEQA-TA-ERV)

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Additionally, MM BIO-1 requires pre-construction nesting bird surveys within 30 days prior to construction and continuing weekly up to three days before construction, only if construction occurs during nesting season (roughly January through September). We recommend MM BIO-1 be revised to require nesting bird surveys throughout construction to avoid any potential adverse effects to nesting.

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Burrowing Owl

Western burrowing owl (*Athene cunicularia hypugaea*; burrowing owl) is protected under the MBTA and is a Covered Species under the CVMSHCP. However, the Service’s section 10(a)(1)(B) Permit for the CVMSHCP does not provide Take Authorization for burrowing owl individuals, nests, or eggs. Within the CVMSHCP boundary, as a Permittee, CVWD must ensure their activities comply with MBTA and implement the appropriate avoidance, minimization, and mitigation measures to avoid take of burrowing owl individuals, nests, or eggs.

The draft ISMND states that the ongoing disturbance to the Project site does not provide suitable habitat to burrowing owl. The draft ISMND also states that “the Channel bottom would continue to be disturbed on a regular ongoing basis or as needed. As such, no new habitat would be able to form during Project operation.” However, burrowing owl are known to occupy disturbed habitat, and additionally, if burrows (dug by other animals), erosion rills, or other type of possible shelters are created before or during the Project construction, burrowing owls have the potential to occur in the area. Additionally, the California Natural Diversity Database (CNDDDB) includes two observations of burrowing owl within 1 mile of the Project site. Therefore, the Service determines that the Project site is likely suitable habitat for burrowing owl. Given the lack of focused surveys for burrowing owls, the number of burrowing owl individuals or suitable and occupied burrows within the Project area is unknown.

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Pursuant to the Staff Report, Take avoidance (pre-construction) surveys. Take avoidance surveys are intended to detect the presence of burrowing owls on a project site at a fixed period in time and inform necessary take avoidance actions. MM BIO-2 requires completion of burrowing owl surveys following the protocols described in the Staff Report on Burrowing Owl Mitigation should Project construction occur during burrowing owl breeding season. The draft ISMND does not provide further information regarding the burrowing owl surveys. We recommend that MM BIO-2 be revised to specify that burrowing owl surveys shall be completed prior to construction by a qualified biologist using the protocols described in the 2012 Staff Report on Burrowing Owl Mitigation. Additionally, due to the potential for burrowing owl to occur throughout the construction period, surveys for burrowing owls should be continued throughout construction to avoid any potential impacts to burrowing owl.

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Additionally, we recommend that MM-BIO 2 be revised to require that, if burrowing owl presence is confirmed, the Project proponent shall submit a Burrowing Owl Plan that includes avoidance, minimization, and mitigation measures to the Service and the California Department of Fish and Wildlife (CDFW); collectively “Wildlife Agencies,” for review and approval. The Project proponent shall coordinate with the Wildlife Agencies on the appropriate avoidance, minimization, and mitigation measures to be included in the Burrowing Owl Plan. If avoidance

Carlos Huerta (2025-0075245-CEQA-TA-ERV)

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of burrowing owl is not possible, the Project proponent shall coordinate with the Wildlife Agencies on a burrowing owl relocation plan.

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cont.

We appreciate the opportunity to provide comments on the draft ISMND. If you have any questions regarding these comments, please contact [Lory Salazar-Velasquez](mailto:Lory.Salazar-Velasquez).¹

Sincerely,

MARY
WOULFE

Digitally signed by
MARY WOULFE
Date: 2025.04.04
10:55:05 -0700'

for Brian Croft
Assistant Field Supervisor

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¹ lory_salazar-velasquez@fws.gov.

Response to Comment Letter F1 – United States Fish and Wildlife Service

- F1.1 This comment serves as an introduction and provides a summary of the project description. This comment does not relate to the adequacy of the environmental document or its analysis. No further response is warranted.
- F1.2 This comment provides a summary of the Migratory Bird Treaty Act. This comment does not relate to the adequacy of the environmental document or its analysis. No further response is warranted.
- F1.3 Refer to **Response to Comments S1.5, S1.6, and S1.8.**
- F1.4 Refer to **Response to Comment S1.10.**
- F1.5 Refer to **Response to Comment S1.10.**
- F1.6 This comment is a conclusion statement for the comment letter. This comment does not relate to the adequacy of the environmental document or its analysis. No further response is warranted.

Comment Letter L1 – Imperial Irrigation District



Comment Letter L1

www.iid.com

Since 1911

March 31, 2025

Mr. Carlos Huerta
Environmental Resources Analyst
Coachella Valley Water District
75-515 Hovley Lane East
Palm Desert, CA 92211

SUBJECT: NOI to Adopt a MND for the CVWD Thousand Palms Channel Improvement Project from Sun City Shadow Hills Channel to the CVSC

Dear Mr. Huerta:

On March 4, 2025, the Imperial Irrigation District received from the the Coachella Valley Water District the Notice of Intent to adopt a Mitigated Negative Declaration for the Thousand Palms Channel Improvement Project from Sun City Shadow Hills Channel to the Coachella Valley Strom Channel. The project would improve the Thousand Palms Channel from the Sun City Shadow Hills development located north of Madison Street to the confluence with the CVSC, specifically, the project would improve approximately 5,750 ft. of the existing earthen Thousand Palms Channel with concrete sidewalls, upgrade the Avenue 42 channel crossing with 10 side-by-side 14-foot by 9-foot box culverts as a single structure to allow stormwater flows underneath the roadway and limit overtopping, as well as improve the roadways of Avenue 42 and Madison Street where the channel crosses these roadways. The project is located in the central portion of the greater Coachella Valley within the City of Indio, Riverside County, California. The Thousand Palms Channel runs south-southeast, intersecting Madison Street, Avenue 42, and I-10, before it converges with the Coachella Valley Stormwater Channel at its southern extent.

IID has requested to CVWD that 18 6-inch conduits be provided for the culvert to support the upcoming Avenue 42 Substation Bank 3 circuits, consequently:

1. The project proponent will be required to provide rights of ways and easements for any proposed power line extensions and/or any other infrastructure needed to serve the project as well as the necessary access to allow for continued operation and maintenance of any IID facilities located on adjoining properties where no public access exists.
2. The project proponent will be required to provide and bear all costs associated with acquisition of rights of way, easements and infrastructure relocations and realignments deemed necessary to accommodate the project. Any street or road



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improvements imposed by the local governing authority shall also be at the project proponent cost.

3. Any construction or operation on IID property or within its existing and proposed right of way or easements including but not limited to: surface improvements such as proposed new streets, driveways, parking lots, landscape; and all water, sewer, storm water, or any other above ground or underground utilities; will require an encroachment permit, or encroachment agreement (depending on the circumstances). A copy of the IID encroachment permit application and instructions for its completion are available at <https://www.iid.com/about-iid/department-directory/real-estate>. The IID Real Estate Section should be contacted at (760) 339-9239 for additional information regarding encroachment permits or agreements.
4. Any new, relocated, modified or reconstructed IID facilities required for and by the project (which can include but is not limited to electrical utility substations, electrical transmission and/or distribution lines, ancillary facilities associated with the conveyance of energy service; the acquisition and dedication of real property, rights of way and/or easements for the siting and construction of electrical utility substations, electrical transmission and/or distribution lines and ancillary facilities associated with the conveyance of energy service, etc.) need to be included as part of the project's California Environmental Quality Act (CEQA) and/or National Environmental Policy Act (NEPA) documentation, environmental impact analysis and mitigation. Failure to do so will result in postponement of any construction and/or modification of IID facilities until such time as the environmental documentation is amended and environmental impacts are fully mitigated. **Any mitigation necessary as a result of the construction, relocation and/or upgrade of IID facilities is the responsibility of the project proponent.**
5. Dividing a project into two or more pieces and evaluating each piece in a separate environmental document (Piecemealing or Segmenting), rather than evaluating the whole of the project in one environmental document, is explicitly forbidden by CEQA, because dividing a project into a number of pieces would allow a Lead Agency to minimize the apparent environmental impacts of a project by evaluating individual pieces separately, each of which may have a less-than-significant impact on the environment, but which together may result in a significant impact. Segmenting a project may also hinder developing comprehensive mitigation strategies. In general, if an activity or facility is necessary for the operation of a project, or necessary to achieve the project objectives, or a reasonably foreseeable consequence of approving the project, then it should be considered an integral project component that should be analyzed within the environmental analysis. The project description should include all project components, including those that will have to be approved by responsible agencies. The State CEQA Guidelines define a project under CEQA as "the whole of the action" that may result either directly or

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cont.

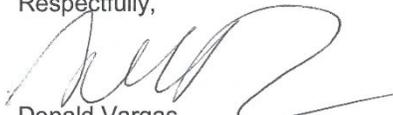
Carlos Huerta
March 31, 2025
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indirectly in physical changes to the environment. This broad definition is intended to provide the maximum protection of the environment. CEQA case law has established general principles on project segmentation for different project types. For a project requiring construction of offsite infrastructure, the offsite infrastructure must be included in the project description. *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App. 4th 713.

- 6. Be advised that landscaping can be dangerous if items are planted too close to IID's electrical equipment. In the event of an outage, or equipment failure, it is vital that IID personnel have immediate and safe access to its equipment to make the needed repairs. For public safety, and that of the electrical workers, it is important to adhere to standards that limit landscaping around electrical facilities. IID landscaping guidelines are available at <https://www.iid.com/power/vegetation-management>.
- 7. It is important to note that IID's policy is to extend its electrical facilities only to those project that have obtained the approval of a city or county planning commission and such other governmental authority or decision-making body having jurisdiction over said developments.
- 8. For additional information regarding electrical service for the project, the applicant should be advised to contact the IID Energy - La Quinta Division Customer Operations, 81-600 Avenue 58 La Quinta, CA 92253, at (760) 398-5841 and speak with the project development planner assigned to the area.

Should you have any questions, please do not hesitate to contact me at (760) 482-3609 or at dvargas@iid.com. Thank you for the opportunity to comment on this matter.

Respectfully,



Donald Vargas
Compliance Administrator II

Jamie Asbury – General Manager
 Mike Pacheco – Manager, Water Dept.
 Matthew H Smelser – Manager, Power Dept.
 Paul Rodriguez – Deputy Mgr. Power Dept.
 Guillermo Barraza – Mgr. of Distribution Svcs. & Maint. Oprtns., Energy Dept.
 Geoff Holbrook - General Counsel
 Joanna Smith-Hoff – Deputy General Counsel
 Laura Cervantes. – Supervisor, Real Estate

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cont.

Response to Comment Letter L1 – Imperial Irrigation District

- L1.1 This comment letter can be generally described as a form letter detailing various Imperial Irrigation District (IID) requirements and notes. This comment letter has been noted for the record and provided to decision makers for consideration. No further response is warranted.