



State of California – Natural Resources Agency

DEPARTMENT OF FISH AND WILDLIFE

South Coast Region
3883 Ruffin Road
San Diego, CA 92123
(858) 467-4201

www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Governor's Office of Planning & Research

May 12, 2021

May 12 2021

STATE CLEARINGHOUSE

Ms. Jocelyn Swain
City of Lancaster
44933 Fern Avenue
Lancaster, CA 93534

JSwain@cityoflanasterca.org

Subject: Director's Review No. 20-81, Mitigated Negative Declaration, SCH #2021040339, City of Lancaster, Los Angeles County

Dear Ms. Swain:

The California Department of Fish and Wildlife (CDFW) has reviewed a Mitigated Negative Declaration (MND) from the City of Lancaster (City; Lead Agency) for the Director's Review Project (Project). The MND's supporting documentation includes the *Biological Assessment Report*. 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's 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, subdivision (a) & 1802; Pub. Resources Code, § 21070; California Environmental Quality Act (CEQA) Guidelines, § 15386, subdivision (a)]. CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (Id., § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect state 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, including 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.), or CESA-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & G. Code, §1900 et seq.), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

Ms. Jocelyn Swain
City of Lancaster
May 12, 2021
Page 2 of 25

Project Description and Summary

Objective: The Project proposes to turn an approximately 10-acre undeveloped and vacant site into a storage yard. The Project would be an expansion of an existing operating storage and material dismantling yard located east of the proposed Project site. The Project site would be used to crush and store recycled aggregated material from broken concrete and asphalt. The Project proposes to grade and cover the site with decomposed granite. The Project would not involve construction of new buildings or structures.

Location: The Project is located between Avenue G-4 and Avenue G-6, west of Division Street (Accessor's Parcel Number 3137-007-020). The Project site is surrounded by industrial uses, vacant land, and a former solar facility.

Comments and Recommendations

CDFW offers the comments and recommendations below to assist the City in adequately identifying, avoiding, and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources. CDFW recommends the measures or revisions below be included in a science-based monitoring program that contains adaptive management strategies as part of the Project's CEQA mitigation, monitoring, and reporting program (Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15097).

Specific Comments

Comment #1: Disclosure of Impacts on Western Joshua Tree (*Yucca brevifolia*)

Issue: The MND does not provide sufficient information pertaining to the Project's impact on western Joshua trees.

Specific Impacts: The Project would impact western Joshua trees. The western Joshua tree is a CESA candidate species granted full protection of a threatened species under CESA (CDFW 2020).

Why impacts would occur: The Project site would need to be graded and covered with decomposed granite to operate as a contractor's storage yard. Page 19 of the MND states that western Joshua trees on site would need to be removed or relocated off-site. In addition to the removal of mature Joshua trees, grading and covering the Project site could bury western Joshua seedlings, juveniles, and seedbank.

Evidence impacts would be significant: CEQA requires an adequate and complete effort of full disclosure of significant environmental impacts [CEQA Guidelines, § 15003(i)]. While the MND has disclosed that the Project would impact western Joshua trees, the MND has not adequately disclosed the extent of impacts.

The City has a responsibility under CEQA to prevent avoidable damage to the environment by requiring changes in the Project through use of alternatives or mitigation measures, which includes avoiding impacts and/or minimizing impacts [Pub. Resources Code, § 21002.1(b); CEQA Guidelines, §§ 15002 (a)(3), 15021]. Inadequate avoidance, minimization, and mitigation measures for impacts on western Joshua trees will result in the Project continuing to have a

Ms. Jocelyn Swain
City of Lancaster
May 12, 2021
Page 3 of 25

substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on a species identified as a candidate, sensitive, or special status by CDFW.

Furthermore, the MND has not provided a summary of any technical data, maps, plot plans, diagrams, and similar relevant information (CEQA Guidelines, § 15147). For instance, the MND does not include the Protected Plant Preservation Plan referenced on page 19 that states, “on November 16, 2020 a survey of the Joshua trees on the project site was conducted as part of the Protected Plant Preservation Plan.” The Protected Plant Preservation Plan should have been made available for public review.

Take of western Joshua tree is defined as any activity that results in the removal of a western Joshua tree, or any part thereof, or impacts the seedbank surrounding one or more western Joshua trees (CDFW 2021a). As a result of the lack of specificity and disclosure in the MND, CDFW is unable to discern the extent of the Project’s impact on western Joshua trees and seedbank. It is unclear how and where impacts on western Joshua trees and seedbank would occur, and if any impacts could be avoided or minimized prior to take of all western Joshua trees within the Project site. Therefore, CDFW is unable to provide specific comments and recommendations on how and where impacts to western Joshua tree and seedbank may be avoided or minimized.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: CDFW recommends the Project applicant avoid impacts on western Joshua trees and seedbank much as possible. In one study, rodents have been found to disperse western Joshua tree seeds up to 290 feet (Vander Wall et. al. 2006). Therefore, CDFW recommends a no-disturbance buffer for individual western Joshua trees of 300 feet. A 300-foot buffer is warranted to not only avoid impacts to individual trees, but potential impacts to the seedbank as well. The Project applicant should retain a qualified botanist and the qualified botanist should prepare a robust avoidance plan. The avoidance plan should include specific guidance on implementing fencing, signage, flagging, and other demarcations to prevent impacts to the western Joshua tree and buffered area for the duration of the Project. The avoidance plan should include a worker training program. The Project applicant should submit a final avoidance plan to the City prior to any ground-disturbing activities and vegetation removal.

Mitigation Measure #2: If buffers cannot be maintained and if take or adverse impacts on western Joshua trees cannot be avoided during Project activities or over the life of the Project, the Project applicant should consult CDFW to determine if a CESA Incidental Take Permit (ITP) is required. CDFW recommends the following modifications to Mitigation Measure #2 on page 20 of the MND to include the following underlined language:

~~“Prior to any ground-disturbing activities associated with the proposed Project, The Project applicant shall obtain an Incidental Take Permit from the California Department of Fish and Wildlife for the western Joshua trees to be removed from the project site. The Project applicant shall provide a copy of an Incidental Take Permit to the City before the City issues a grading or development permit, and prior to any ground-disturbing activities and vegetation removal associated with the project.”~~

Mitigation Measure #3: CDFW recommends the Project applicant provide compensatory mitigation for unavoidable Project impacts on western Joshua trees. The number of trees within

Ms. Jocelyn Swain
City of Lancaster
May 12, 2021
Page 4 of 25

the preservation site should range from 2:1 to 10:1 of the number of trees impacted by the Project. Mitigation should be higher if the Project will impact western Joshua trees that are reproducing sexually (i.e., Joshua tree woodland with recruitment) or impact Joshua trees at higher elevation areas where Joshua trees are projected to best be able to survive climate change-related impacts. Mitigation should be even higher if impacts satisfying both criteria would occur. An appropriate mitigation site should at minimum:

- 1) Have Joshua trees of similar density, abundance, and age structure;
- 2) Support plant communities of similar native plant species composition, density, structure, and function to habitat that was impacted;
- 3) Support nursery plants for Joshua tree recruits; and,
- 4) Not be exposed or have the potential to be exposed to disturbances such as OHV activity, illegal access, and encroachment from pending or future development.

The Project applicant should identify mitigation and mitigation lands prior to submitting an ITP application or during the ITP process. The Project applicant should consult with CDFW to identify an appropriate site to preserve western Joshua trees in perpetuity.

Mitigation Measure #4: CDFW recommends the Project applicant protect mitigation lands in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands pursuant to Assembly Bill 1094 (2012). Assembly Bill 1094 amended Government Code sections 65965-65968. Under Government Code section 65967(c), the lead agency must exercise due diligence in reviewing the qualifications of a governmental entity, special district, or nonprofit organization to effectively manage and steward land, water, or natural resources on mitigation lands it approves. An appropriate non-wasting endowment should be provided for the long-term management of mitigation lands. A mitigation plan should include measures to protect the targeted habitat values in perpetuity from direct and indirect negative impacts. Issues that should be addressed include but are not limited to the following: protection from any future development and zone changes; restrictions on access; proposed land dedications; control of illegal dumping; water pollution; and, increased human intrusion. A conservation easement and endowment funds should be fully acquired, established, transferred, or otherwise executed prior to impacts on western Joshua trees.

Recommendation #1: CDFW recommends the final environmental document provide the following information:

- 1) The number of western Joshua trees that would be removed. Page 14 of the Biological Resources Assessment report states that "there were approximately 20 Joshua trees observed on the site." This discloses how many trees are on the project site but not how many trees would be impacted;
- 2) If the Project would impact the western Joshua tree seedbank. The MND does not provide any information on whether there would be impacts on the western Joshua tree seedbank;
- 3) Where impacts on western Joshua trees would occur and if the Project would impact western Joshua trees adjacent to the Project site;
- 4) How many acres of habitat supporting western Joshua trees would be impacted;
- 5) What Project-related activities would impact western Joshua trees;

Ms. Jocelyn Swain
City of Lancaster
May 12, 2021
Page 5 of 25

- 6) What are the direct and indirect impacts on western Joshua trees. Direct and indirect significant effects should be clearly identified and described (CEQA Guidelines, § 15126.2); and,
- 7) When impacts on western Joshua trees would occur and if impacts on western Joshua trees would occur during the operational phase in the Project's lifetime.

Recommendation #2: CDFW recommends the final environmental document provide a detailed western Joshua tree survey. At a minimum, the survey and subsequent survey report/impact assessment should provide the following:

- 1) A map showing the Project site, all areas subject to Project-related ground-disturbing activities and vegetation removal, and survey area;
- 2) A map showing the location of each individual western Joshua tree and location of the seedbank;
- 3) A table listing each individual western Joshua tree and the corresponding tree's approximate height;
- 4) A table summarizing the number of western Joshua trees impacted (removed or relocated);
- 5) A map showing the alliance and/or association-based plant community following the [Manual of California Vegetation](#) (MCV), second edition (Sawyer et al. 2009); and,
- 6) Photographs of the Project site, including a minimum two photographs per acre depicting different aspects, and a photograph documenting each western Joshua tree.

Recommendation #3: The Project applicant submitted a CESA ITP application March 17, 2021 (ITP # 2081-2021-015-05). CDFW appreciates that the Project applicant had consulted with CDFW regarding the Project's ITP application. The Project applicant withdrew the CESA ITP application on April 22, 2021. Moving forward, if the Project, Project construction, or any Project-related activity for the duration of the Project will result in take of a species designated as endangered or threatened, or a candidate for listing under CESA, the Project applicant should again seek appropriate take authorization under CESA. CDFW considers adverse impacts to a species protected by CESA to be significant without mitigation under CEQA. As to CESA, take of any endangered, threatened, candidate species that results from the Project is prohibited, except as authorized by State law (Fish & G. Code, §§ 2080, 2085; Cal. Code Regs., tit. 14, § 786.9). The Project applicant should obtain appropriate take authorization before the City issues a grading or development permit.

Recommendation #4: Revisions to the Fish and Game Code, effective January 1998, may require that CDFW issue a separate CEQA document for the issuance of an ITP unless the Project CEQA document addresses all Project impacts to a CESA candidate species and specifies a mitigation monitoring and reporting program that will meet the requirements of an ITP. It is important that the take proposed to be authorized by CDFW's ITP be described in detail in the CEQA document prepared for the Project. Also, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for a CESA ITP. However, it is worth noting that mitigation for impacts to a CESA candidate species proposed in a Project's CEQA document may not necessarily satisfy mitigation required to obtain a CESA ITP.

Ms. Jocelyn Swain
 City of Lancaster
 May 12, 2021
 Page 6 of 25

Comment #2: Inadequate Surveys and Mitigation for Rare Plants

Issue: Mitigation has not been provided for potential impacts on rare plants.

Specific Impacts: The Project could result in population declines or local extirpation of rare plants including (but not limited to) the following species:

- Lancaster milkvetch (*Astragalus preussii* var. *laxiflorus*) – California Rare Plant Rank (CRPR) 1B.1
- white pygmy poppy (*Canbya candida*) – CRPR 4.2
- alkali mariposa lily (*Calochortus striatus*) – CRPR 1B.2
- Parry’s spineflower (*Chorizanthe parryi* var. *parryi*) – CRPR 1B.1
- Rosamond eriastrum (*Eriastrum rosamondense*) – CRPR 1B.1
- golden goodmania (*Goodmania luteola*) – CRPR 4.2

Why impacts would occur: The MND was prepared based on a Biological Assessment Report that summarizes findings of a general biological field survey conducted on October 28, 2020. The Biological Assessment Report concluded that there is suitable habitat to support Lancaster milkvetch, white pygmy poppy, and Parry’s spineflower. The Biological Assessment Report also concluded that no plants were observed and “are not expected to occur on site.” A general biological field survey conducted in October is insufficient to conclude that rare plants are not present. Botanical field surveys should be conducted at the times of year when plants will be both evident and identifiable. Usually this is during flowering or fruiting (CDFW 2018). It may have been too late in the growing season to observe the rare plant flowers and fruits if they occur in the Project site (Table 1).

Table 1. Bloom period (highlighted in grey) for rare plant species that could occur in the Project site (Calflora 2021).

Scientific name	Common name	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec
<i>Astragalus preussii</i> var. <i>laxiflorus</i>	Lancaster milkvetch												
<i>Canbya candida</i>	white pygmy poppy												
<i>Calochortus striatus</i>	alkali mariposa lily												
<i>Chorizanthe parryi</i> var. <i>parryi</i>	Parry’s spineflower												
<i>Eriastrum rosamondense</i>	Rosamund eriastrum												
<i>Goodmania luteola</i>	golden goodmania												

Furthermore, many of the rare plant species that could occur are small plants growing low on the ground. The white pygmy poppy is 30 millimeters or smaller (Hannan and Clark 2012). White pygmy poppy fruits (i.e., seeds) are 0.6 millimeters. A general biological field survey may not be as effective compared to a botanical survey to detect rare plants if any are present. In sum, the Biological Assessment Report does not provide substantial evidence nor a fair argument to support the conclusion that rare plants are not expected to occur on site, particularly Lancaster milkvetch, white pygmy poppy, and Parry’s spineflower (CEQA Guidelines, § 15384).

Rare plants may be impacted by ground-disturbing activities and vegetation removal. For example, vehicle, equipment and foot traffic may bury, excavate, crush, trample, or disturb rare plants. Soil disturbance may result in permanent loss of rare plants and its seedbank. Impacts to rare plants may result in local population declines or extirpation of a species. Insufficient

Ms. Jocelyn Swain
City of Lancaster
May 12, 2021
Page 7 of 25

mitigation may result in prolonged temporal or permanent impacts to a rare plant species range, distribution, and population in the State.

Evidence impacts would be significant: The MND was prepared based on a Biological Assessment Report that does not provide substantial evidence to conclude that rare plants are absent. A rare plant survey was not performed even though suitable habitat is present to support Lancaster milkvetch, white pygmypoppy, and Parry's spineflower.

Botanical field surveys are necessary to provide information used to determine the potential environmental effects of proposed projects on special status plants as required by CEQA. It is appropriate to conduct a botanical field survey when:

- Natural (or naturalized) vegetation occurs in an area that may be directly or indirectly affected by a project (project area), and it is unknown whether or not special status plants occur in the project area;
- Special status plants have historically been identified in a project area; or
- Special status plants occur in areas with similar physical and biological properties as a project area (CDFW 2018).

A general biological field survey conducted in a time of year inadequate to detect rare plants could be erroneous or inaccurate evidence for the City to determine if the Project would have significant impacts on rare plants (CEQA Guidelines, § 15384). Subsequently, the environmental document prepared for the Project may be inadequate in mitigating for impacts on rare plants. Impacts on rare flora could be considered a significant effect on the environment (CEQA Guidelines, § 15382). Plants with a CRPR of 1B are rare throughout their range, endemic to California, and are seriously or fairly threatened. Most of the plants that are ranked 1B have declined significantly over the last century (CNPS 2021). Additionally, the additional threat rank of 0.1 indicates a species with over 80 percent of its occurrences threatened in California. The additional threat rank of 0.2 indicates a species with 20 to 80 percent of its occurrences threatened (CNPS 2021). Impacts to CRPR 1B plant species and their habitat must be analyzed during preparation of environmental documents relating to CEQA as they meet the definition of endangered, rare, or threatened species (CEQA Guidelines, § 15380). Some CRPR 3 and 4 species meet the definitions of endangered, rare, or threatened under CEQA.

Inadequate avoidance, minimization, and mitigation measures for impacts to special status plant species will result in the Project continuing to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species by CDFW.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: CDFW recommends the Project applicant retain a qualified botanist with experience surveying for southern California rare plants according to established protocol. Surveys should be performed according to CDFW's [Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities](#) (CDFW 2018). The Project applicant should submit a survey report to the City before the City issues a grading or development permit, and Project-related ground-disturbing activities and vegetation removal. At a minimum, the survey report should provide the following information:

Ms. Jocelyn Swain
City of Lancaster
May 12, 2021
Page 8 of 25

- 1) A description and map of the survey areas. CDFW recommends the map show surveyor(s) track lines to document that the entire site was covered during field surveys.
- 2) Field survey conditions that should include name(s) of qualified botanists(s) and brief qualifications; date and time of survey; survey duration; general weather conditions; survey goals, and species searched.
- 3) If rare plants are detected, provide a map(s) showing the location of individual plants or populations, and number of plants or density of plants per square feet occurring at each location. Use appropriate symbology, text boxes, and other map elements to show and distinguish between species found and which plants/populations will be avoided versus impacted by Project construction and activities that would require mitigation.
- 4) A description of physical (e.g., soil, moisture, slope) and biological (e.g., plant composition) conditions where each rare plant or population is found. A sufficient description of biological conditions, primarily impacted habitat, should include native plant composition (e.g., density, cover, and abundance) within impacted habitat (e.g., species list separated by vegetation class, density, cover, and abundance of each species).
- 5) If rare plants are detected, the report should provide species-specific measures to fully avoid impacts to rare plants (see Mitigation Measure #2). For unavoidable Project impacts, provide species-specific measures to mitigate for impacts to rare plants and habitat (see Mitigation Measure #3).

Mitigation Measure #2: If CRPR 1, 2, 3, and 4 species are detected, CDFW recommends the Project applicant redesign the Project in order to fully avoid impacts on rare plants.

Mitigation Measure #3: If the Project cannot feasibly avoid impacts to CRPR 1 or 2 plant species and habitat, either during Project activities or over the life of the Project, the Project applicant should provide compensatory mitigation at no less than 2:1. Compensatory mitigation should compensate for the loss of individual plants and associated habitat acres (see Comment #1: Disclosure of Impacts on Western Joshua Tree, Mitigation Measure #4). Mitigation lands should be in the same watershed as the Project site and support habitat that contains the rare plant species impacted. The abundance of a rare plant species and total habitat acreage within the mitigation lands should be no less than 2:1 and should be higher for CRPR 1 species and species that have an additional threat rank of 0.1 or 0.2.

Recommendation: CDFW recommends a qualified botanist conduct a rare plant survey prior to finalizing the Project's CEQA document. Survey results should be provided in the final CEQA document. The City should recirculate the CEQA document if a new, avoidable significant effect on rare plants is identified and mitigation measures or project revisions must be added in order to reduce the effect to insignificance [CEQA Guidelines, § 15073.5(b)(1)].

Comment #3: Inadequate Mitigation for Impacts on Nesting Birds

Issue: The proposed mitigation measure for nesting birds may be insufficient to avoid and/or minimize potential impacts on nesting birds.

Specific impact: The Project may increase nestling mortality due to nest abandonment or decreased feeding frequency.

Ms. Jocelyn Swain
City of Lancaster
May 12, 2021
Page 9 of 25

Why impacts would occur: Seven species of birds were observed on the Project site according to Table 2 in the Biological Assessment Report. These birds could nest in vegetation on site. Construction during the breeding season for nesting birds could result in the loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. These impacts could result from increased noise disturbances, increased human activity, dust, vegetation clearing, ground-disturbing activities (e.g., staging, access, excavation, and grading), and vibrations caused by heavy equipment.

The MND provides the following mitigation measure: “A nesting bird survey shall be conducted no more than 30 days prior to the start of construction/ground disturbing activities. If nesting birds are encountered, all work in the area shall cease until either the young birds have fledged or the appropriate permits are obtained from California Department of Fish and Wildlife.” The proposed mitigation measure may be ineffective to mitigate for potential impacts on nesting birds. First, the MND has not provided some potentially feasible and practical measures to fully avoid impacts on nesting birds. The City has a responsibility under CEQA to prevent avoidable damage to the environment by requiring changes in the Project through use of alternatives or mitigation measures, which includes avoiding impacts and/or minimizing impacts [Pub. Resources Code, § 21002.1(b); CEQA Guidelines, §§ 15002 (a)(3), 15021]. Second, the mitigation measure states that “all work shall cease,” which suggests that nesting bird surveys and construction/ground disturbing activities could occur simultaneously. Temporarily halting work would not mitigate for impacts that could have already occurred prior to detecting nesting birds. For example, birds may have already abandoned the nest. Accordingly, the Project would potentially result in loss of fertile eggs or nestlings. Also, the MND does not propose any measures to ensure that those nests are protected until young birds have fledged. Lastly, CDFW does not permit the removal of active nests or eggs of any bird. It is unlawful to take, possess, or needlessly destroy an active nest or eggs of any bird. Given these deficiencies with the proposed mitigation measure for nesting birds, the Project may have a significant impact on nesting birds absent appropriate mitigation.

Evidence impacts would be significant: Nests of all birds and raptors are protected under State laws and regulations, including Fish and Game Code, sections 3503 and 3503.5. Take or possession of migratory nongame birds designated in the Federal Migratory Bird Treaty Act of 1918 (Code of Federal Regulations, Title 50, § 10.13) is prohibited under Fish and Game Code section 3513. The loss of occupied habitat or reductions in the number of sensitive and special-status bird species, either directly or indirectly through nest abandonment or reproductive suppression, would constitute a significant impact absent appropriate mitigation.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: CDFW recommends the Project applicant avoid impacts on nesting birds. Project construction, ground-disturbing activities, and vegetation removal should not occur during the combined raptor and bird nesting season from January 1 through September 15.

Mitigation Measure #2: If project construction, ground-disturbing activities, and vegetation removal must occur during the nesting season, the Project applicant should provide a written justification to the City as to why work must occur during the nesting season. The Project applicant should retain a qualified biologist to conduct weekly pre-construction bird surveys no more than 30 days before initiation of construction/ground disturbing/vegetation removal activities to provide confirmation on the presence or absence of active nests in the vicinity (at

Ms. Jocelyn Swain
City of Lancaster
May 12, 2021
Page 10 of 25

least 500 feet around the Project site, as access allows). The last survey should be conducted no more than three days before the initiation of work. The Project applicant should submit a survey report to the City prior to any Project-related ground-disturbing activities and vegetation removal.

Mitigation Measure #3: If active nests are encountered, work in the vicinity of the nests should be deferred until young birds have fledged. A minimum buffer of at least 300 feet (500 feet for raptor nests) or as determined by a qualified biologist should be maintained during construction depending on the species and location. The perimeter of the nest-setback zone should be fenced or adequately demarcated with flagging. Construction personnel and activities should be restricted from the area. Construction personnel should be instructed on the sensitivity of the area. A qualified biologist should serve as a construction monitor during those periods when work would occur near active nest areas to ensure that no inadvertent impacts on these nests would occur. The Project applicant should submit a survey report to the City on a regular basis until the Project is complete in order to document and verify compliance with mitigation.

Comment #4: Inadequate Disclosure of Adequacy of Biological Impact Fee

Issue: The MND does not provide sufficient information for CDFW to evaluate the adequacy of the Biological Impact Fee to offset the cumulative loss of biological resources in the Antelope Valley.

Specific Impacts: The Project would grade approximately 10 acres of undeveloped and undisturbed land. The Project would eliminate habitat that currently supports sensitive plant communities, mammals, and birds, and could potentially support burrowing owls and rare plants.

Why impacts would occur: The Project's impacts on biological resources in the Antelope Valley would be mitigated through payment of a \$770/acre Biological Impact Fee. The Biological Impact Fee would "offset the cumulative loss of biological resources in the Antelope Valley as a result of development." The MND concludes that "no impacts would occur" with payment of the Biological Impact Fee. The MND does not explain or make a connection as to why payment of the Biological Impact Fee is adequate to offset Project impacts so that the Project would have no impacts. The MND does not discuss or provide the following information:

- 1) Whether the Biological Impact Fee is going towards an established program;
- 2) How that program is designed to (and will) mitigate the effects at issue at a level meaningful for purposes of CEQA;
- 3) What the Biological Impact Fee would acquire. It is unclear if the Biological Impact Fee would be used to acquire land for preservation, enhancement, and/or restoration purposes, or if the Biological Impact Fee would be used to purchase credits at a mitigation bank, or none of the above;
- 4) What biological resources would the Biological Impact Fee protect/conserve;
- 5) Why the Biological Impact Fee is appropriate for mitigating cumulative loss of biological resources in the Antelope Valley;
- 6) How \$770/acre is sufficient to purchase land or credits at a mitigation bank;
- 7) Where the City may acquire land or purchase credits at a mitigation bank so that the Biological Impact Fee would offset Project impacts on biological resources in the Antelope Valley;

Ms. Jocelyn Swain
City of Lancaster
May 12, 2021
Page 11 of 25

- 8) When the City would use the Biological Impact Fee. Mitigation payment does not equate to mitigation if the funds are not being used. Also, temporal impacts on biological resources may occur as long as the City fails to implement its proposed mitigation;
- 9) How the City would commit the Project to paying the Biological Impact Fee. For example, when would the City require payment from the Project applicant, how long would the Project applicant have to pay the fee, and what mechanisms would the City implement to ensure the fee is paid? Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments (CEQA Guidelines, § 15126.4).
- 10) What performance measures the proposed mitigation would achieve (CEQA Guidelines, § 15126.4);
- 11) What type(s) of potential action(s) that can feasibly achieve those performance standards (CEQA Guidelines, § 15126.4); and,
- 12) How the Biological Impact Fee would be adequate such that no impacts would occur as a result of the Project.

Evidence impacts would be significant: The basic purpose of an environmental document is to provide public agencies and the public in general with detailed information about the effect a proposed project is likely to have on the environment, and ways and manners in which the significant effects of such a project might be minimized (Pub. Resources Code, §§ 21002.1, 21061). The MND is insufficient as an informational document because it fails to discuss the ways and manners in which the Biological Impact Fee would mitigate for the Project's impacts on biological resources in the Antelope Valley. Mitigation measures should be adequately discussed and the basis for setting a particular measure should be identified [CEQA Guidelines, § 15126.4(a)(1)(B)]. The MND does not provide enough information to facilitate meaningful public review and comment on the appropriateness of the Biological Impact Fee at mitigating for impacts on biological resources

This Project may have a significant effect on the environment because the Project may reduce habitat for rare plants or wildlife; cause rare plants or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; and substantially reduce the number or restrict the range of an endangered, rare, or threatened species [CEQA Guidelines, § 15065(a)(1)]. Furthermore, the Project may contribute to the ongoing loss of sensitive, special status, threatened, and/or endangered plants, wildlife, and vegetation communities in the Antelope Valley. The Project may have possible environmental effects that are cumulatively considerable [CEQA Guidelines, § 15065(a)(3)]. The City is acknowledging that the Project would contribute to the cumulative loss of biological resource in the Antelope Valley because the City is proposing a Biological Impact Fee as compensatory mitigation. The Biological Impact Fee may be inadequate mitigation absent commitment, specific performance standards, and actions to achieve performance standards. Inadequate avoidance and mitigation measures will result in the Project continuing to have a substantial adverse direct and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status in local or regional plans, policies, or regulations, or by CDFW or the U.S. Fish and Wildlife Service.

Ms. Jocelyn Swain
City of Lancaster
May 12, 2021
Page 12 of 25

Recommended Potentially Feasible Mitigation Measure(s):

Recommendation #1: CDFW recommends updating the MND to provide adequate, complete, and good-faith disclosure of information that would address the following in relation to the Project:

- 1) Whether the Biological Impact Fee is going towards an established program;
- 2) How the program is designed to (and will) mitigate the effects at issue at a level meaningful for purposes of CEQA;
- 3) What the Biological Impact Fee would acquire;
- 4) What biological resources would the Biological Impact Fee protect/conserve;
- 5) Why the Biological Impact Fee is appropriate for mitigating the cumulative loss of biological resources in the Antelope Valley;
- 6) Why the Biological Impact Fee is sufficient to purchase land or credits at a mitigation bank;
- 7) Where land would be acquired or where the mitigation bank is located;
- 8) When the Biological Impact Fee would be used; and,
- 9) How the Biological Impact Fee would be adequate such that no impacts would occur as a result of the Project.

The MND should provide any technical data, maps, plot plans, diagrams, and similar relevant information in addressing these concerns (CEQA Guidelines, § 15147).

Recommendation #2: CDFW recommends that the MND provide a discussion describing commitment to mitigation via the Biological Impact Fee. For example, the MND should provide specifics as to when the Project applicant would pay the Biological Impact Fee; what mechanisms would be implemented to ensure the Biological Impact Fee is paid; and when and where the Biological Impact Fee would be used to offset the Project's impacts. Also, the MND should provide specific performance standards, as well as actions to achieve those performance standards.

Recommendation #3: CDFW recommends recirculating the MND for a more meaningful public review and assessment of the Biological Impact Fee. Additionally, the MND should be recirculated if the proposed mitigation measure (i.e., Biological Impact Fee) would not reduce potential effects to less than significant and new measures must be required [CEQA Guidelines, § 15073.5(b)(2)].

Additional Comments and Recommendations

Burrowing Owl. CDFW recommends the following underlined language be included and language with strikethrough removed:

“Burrowing owl protocol surveys shall be conducted on the project site prior to the start of construction/ground disturbing activities that could result in habitat disturbance to soil, vegetation, or other sheltering habitat for burrowing owl in accordance with established burrowing owl protocols. All survey efforts should be conducted by a qualified biologist. Four survey visits shall be conducted: 1) at least one site visit between 15 February and 15 April, and 2) a minimum of three survey visits, at least three weeks apart, between 15 April and 15 July, with at least one visit after 15 June. A qualified biologist shall prepare

Ms. Jocelyn Swain
City of Lancaster
May 12, 2021
Page 13 of 25

a survey report summarizing methods and results. The Project applicant shall submit survey results, including negative findings, to the City prior to construction/ground-disturbing activities. If burrowing owls are identified [in] the project site during the surveys, the qualified biologist shall contact CDFW to determine the appropriate mitigation/management requirements within three (3) days of the last survey. The qualified biologist shall prepare a burrowing owl mitigation plan consistent with the Department of Fish and Game 2012 Staff Report on Burrowing Owl Mitigation. The Project applicant shall submit a final Burrowing Owl Mitigation plan to the City and CDFW prior to commencing any construction/ground disturbing activities.”

Move out of Harm’s Way. The proposed Project is anticipated to result in ground-disturbing activities and vegetation removal. Project construction and activities may impact both resident and transient wildlife species. To avoid direct injury and mortality, CDFW recommends a qualified biological monitor be on site prior to and during initial ground and habitat disturbing activities to move out of harm’s way wildlife of low mobility that would be injured or killed.

Construction Fencing. CDFW recommends that any fencing used during and after the Project be constructed with materials that are not harmful to wildlife. Prohibited materials should include, but are not limited to, spikes, glass, razor, or barbed wire. Use of chain link and steel stake fence should be avoided or minimized as this type of fencing can injure wildlife or create barriers to wildlife dispersal. All hollow posts and pipes should be capped to prevent wildlife entrapment and mortality. These structures mimic the natural cavities preferred by various bird species and other wildlife for shelter, nesting, and roosting. Raptor’s talons can become entrapped within the bolt holes of metal fence stakes resulting in mortality. Metal fence stakes used on the Project site should be plugged with bolts or other plugging materials to avoid this hazard. Fences should not have any slack that may cause wildlife entanglement.

Rodenticides. CDFW recommends that rodenticides and second-generation anticoagulant rodenticides be prohibited during and after the Project. Additional information on rodenticides can be found on CDFW’s [Rodenticides](#) webpage (CDFW 2021b).

Data. CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database [i.e., California Natural Diversity Database (CNDDDB)] which may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Accordingly, please report any special status species detected by completing and submitting [CNDDDB Field Survey Forms](#) (CDFW 2021c). The City should ensure that the Project applicant has submitted data properly, with all data fields applicable filled out, prior to finalizing/adopting the environmental document. The data entry should also list pending development as a threat and then update this occurrence after impacts have occurred. The Project applicant should provide CDFW with confirmation of data submittal.

Mitigation and Monitoring Reporting Plan. CDFW recommends updating the MND’s proposed Biological Resources Mitigation Measures to include mitigation measures recommended in this letter. Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments [(Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15126.4(a)(2)]. As such, CDFW has provided comments and recommendations to assist the City in developing mitigation measures that are (1) consistent with CEQA Guidelines section 15126.4; (2) specific; (3) detailed (i.e., responsible party, timing, specific actions, location), and

Ms. Jocelyn Swain
City of Lancaster
May 12, 2021
Page 14 of 25

(4) clear for a measure to be fully enforceable and implemented successfully via mitigation monitoring and/or reporting program (Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15097). The City is welcome to coordinate with CDFW to further review and refine the Project's mitigation measures. Per Public Resources Code section 21081.6(a)(1), CDFW has provided the City with a summary of our suggested mitigation measures and recommendations in the form of an attached Draft Mitigation and Monitoring Reporting Plan (MMRP; Attachment A).

Filing Fees

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the City of Lancaster and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required 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

We appreciate the opportunity to comment on the Project to assist the City of Lancaster in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that the City of Lancaster has to our comments. CDFW also requests an opportunity to receive notification of any forthcoming hearing date(s) for the Project [CEQA Guidelines, § 15073(e)]. If you have any questions or comments regarding this letter, please contact Ruby Kwan-Davis, Senior Environmental Scientist, at Ruby.Kwan-Davis@wildlife.ca.gov or (561) 619-2230.

Sincerely,

DocuSigned by:

Erinn Wilson-Olgin

B6E58CFE24724F5...

Erinn Wilson-Olgin
Environmental Program Manager I
South Coast Region

ec: CDFW

Erinn Wilson-Olgin, Los Alamitos – Erinn.Wilson-Olgin@wildlife.ca.gov

Victoria Tang, Los Alamitos – Victoria.Tang@wildlife.ca.gov

Ruby Kwan-Davis, Los Alamitos – Ruby.Kwan-Davis@wildlife.ca.gov

Andrew Valand, Los Alamitos – Andrew.Valand@wildlife.ca.gov

Felicia Silva, Los Alamitos – Felicia.Silva@wildlife.ca.gov

Susan Howell, San Diego – Susan.Howell@wildlife.ca.gov

CEQA Program Coordinator, Sacramento – CEQACommentLetters@wildlife.ca.gov

State Clearinghouse, Sacramento – State.Clearinghouse@opr.ca.gov

City of Lancaster

Cynthia Campaña, Planner - CCampana@cityoflanasterca.org

Ms. Jocelyn Swain
City of Lancaster
May 12, 2021
Page 15 of 25

References:

- Calflora. Calflora: Information on California plants for education, research and conservation, with data contributed by public and private institutions and individuals, including the Consortium of California Herbaria. [web application]. 2021. Berkeley, California: The Calflora Database [a non-profit organization]. Available: <https://www.calflora.org/>, accessed on April 28, 2021.
- [CDFG] California Department of Fish and Game. 2012. Staff Report on Burrowing Owl Mitigation. Available from: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843>
- [CDFWa] California Department of Fish and Wildlife. 2021. Trimming of western Joshua trees and removal of dead western Joshua trees. What is "Take"? Available from: <https://wildlife.ca.gov/Conservation/CESA/WJT>
- [CDFWb] California Department of Fish and Wildlife. 2021. Rodenticides. Available from: <https://wildlife.ca.gov/Living-with-Wildlife/Rodenticides>
- [CDFWc] California Department of Fish and Wildlife. 2021. Submitting Data to the CNDDDB. Available from: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>
- [CDFW] California Fish and Game Commission. 2020. Notice of Findings Western Joshua Tree (*Yucca brevifolia*). Available from: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=183565&inline>
- [CDFW] California Department of Fish and Wildlife. 2018. Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities. Accessed at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>
- [CNPS] California Native Plant Society. 2021. Rare Plant ranks. Available from: <https://www.cnps.org/rare-plants/cnps-rare-plant-ranks>.
- Gary L. Hannan & Curtis Clark 2012, *Canbya candida*, in Jepson Flora Project (eds.) Jepson eFlora, https://ucjeps.berkeley.edu/eflora/eflora_display.php?tid=17061, accessed on April 28, 2021.
- Sawyer, J.O., Keeler-Wolf, T., and Evens J.M. 2009. A manual of California Vegetation, 2nd ed. ISBN 978-0-943460-49-9.
- Vander Wall, S.B., Esque, T., Haines, D., Garnett, M., and Waitman, B.A. (2006). Joshua tree (*Yucca brevifolia*) seeds are dispersed by seed-caching rodents. *Ecoscience* 13(4): 539-543.



State of California – Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
 South Coast Region
 3883 Ruffin Road
 San Diego, CA 92123
 (858) 467-4201
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Attachment A: Draft Mitigation and Monitoring Reporting Plan

CDFW recommends the following language to be incorporated into a future environmental document for the Project.

Biological Resources (BIO)			
Mitigation Measure (MM)		Timing	Responsible Party
MM-BIO-1- Impacts to Western Joshua Tree – avoidance	The Project applicant shall avoid impacts on western Joshua trees as much as possible. A 300-foot no-disturbance buffer shall be implemented for individual western Joshua trees. The Project applicant shall retain a qualified botanist and the qualified botanist shall prepare a robust avoidance plan. The avoidance plan shall include specific guidance on implementing fencing, signage, flagging, and other demarcations to prevent impacts to the western Joshua tree and buffered area for the duration of the Project. The avoidance plan shall include a worker training program. The Project applicant shall submit a final avoidance plan to the City prior to any ground-disturbing activities and vegetation removal.	Prior to Project construction and activities	City of Lancaster/Project applicant
MM-BIO-2- Impacts to Western Joshua Tree – CESA ITP	If buffers cannot be maintained and if take or adverse impacts on western Joshua trees cannot be avoided during Project activities or over the life of the Project, the Project applicant shall obtain an Incidental Take Permit from the California Department of Fish and Wildlife for the western Joshua trees to be removed from the Project site. The Project applicant shall provide a copy of an Incidental Take Permit to the City before the City issues a grading or development permit, and prior to any ground-disturbing activities and vegetation removal associated with the project.	Prior to issuance of grading and development permits	City of Lancaster/Project applicant
MM-BIO-3- Impacts to Western Joshua Tree – CESA	The Project applicant shall provide compensatory mitigation for unavoidable Project impacts on western Joshua trees. The number of trees within the preservation site shall range from 2:1 to 10:1 of the number of trees impacted by the Project. Mitigation shall be higher if the Project will impact western Joshua trees that are	Prior to submitting an ITP application or	Project applicant

Ms. Jocelyn Swain
 City of Lancaster
 May 12, 2021
 Page 17 of 25

<p>ITP/Compensatory Mitigation</p>	<p>reproducing sexually or impact Joshua trees at higher elevation areas where Joshua trees are projected to best be able to survive climate change-related impacts. Mitigation shall be even higher if impacts satisfying both criteria would occur. An appropriate mitigation site shall at minimum:</p> <ol style="list-style-type: none"> 1) Have Joshua trees of similar density, abundance, and age structure; 2) Support plant communities of similar native plant species composition, density, structure, and function to habitat that was impacted; 3) Support nursery plants for Joshua tree recruits; and, 4) Not be exposed or have the potential to be exposed to disturbances such as OHV activity, illegal access, and encroachment from pending or future development. <p>The Project applicant shall identify mitigation and mitigation lands prior to submitting an ITP application or during the ITP process. The Project applicant shall consult with CDFW to identify an appropriate site to preserve western Joshua trees in perpetuity.</p>	<p>during the ITP process</p>	
<p>MM-BIO-4- Impacts to Western Joshua Tree – CESA ITP/Compensatory Mitigation</p>	<p>The Project applicant shall protect mitigation lands in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands. An appropriate non-wasting endowment shall be provided for the long-term management of mitigation lands. A mitigation plan shall include measures to protect the targeted habitat values in perpetuity from direct and indirect negative impacts. Issues that shall be addressed include but are not limited to the following: protection from any future development and zone changes; restrictions on access; proposed land dedications; control of illegal dumping; water pollution; and, increased human intrusion. A conservation easement and endowment funds shall be fully acquired, established, transferred, or otherwise executed prior to impacts on western Joshua trees.</p>	<p>Prior to impacts on western Joshua trees</p>	<p>Project applicant</p>

Ms. Jocelyn Swain
 City of Lancaster
 May 12, 2021
 Page 18 of 25

<p>MM-BIO-5- Impacts to Rare Plants - Survey</p>	<p>A qualified botanist shall survey for rare plants according to established protocol. The botanist shall submit a survey report to the City before the City issues a grading or development permit, and Project-related ground-disturbing activities and vegetation removal. At a minimum, the survey report shall provide the following information:</p> <ol style="list-style-type: none"> 1) A description and map of the survey areas. 2) Field survey conditions that include name(s) of qualified botanists(s) and brief qualifications; date and time of survey; survey duration; general weather conditions; survey goals, and species searched. 3) If rare plants are detected, provide a map(s) showing the location of individual plants or populations, and number of plants or density of plants per square feet occurring at each location. 4) A description of physical (e.g., soil, moisture, slope) and biological (e.g., plant composition) conditions where each rare plant or population is found. A sufficient description of biological conditions, primarily impacted habitat, shall include native plant composition (e.g., density, cover, and abundance) within impacted habitat (e.g., species list separated by vegetation class, density, cover, and abundance of each species). 5) If rare plants are detected, the report shall provide species-specific measures to fully avoid impacts to rare plants. For unavoidable Project impacts, the report shall provide species-specific measures to mitigate for impacts to rare plants and habitat. 	<p>Prior to issuance of grading and development permits</p>	<p>City of Lancaster/Project applicant</p>
<p>MM-BIO-6- Impacts to Rare Plants - avoidance</p>	<p>If CRPR 1, 2, 3, and 4 species are detected, the Project applicant shall redesign the Project in order fully avoid impacts on rare plants.</p>	<p>Prior to issuance of grading and development permits</p>	<p>Project applicant</p>

Ms. Jocelyn Swain
 City of Lancaster
 May 12, 2021
 Page 19 of 25

MM-BIO-7- Impacts to Rare Plants – Compensatory mitigation	<p>If impacts to CRPR 1 or 2 plant species and habitat, either during Project activities or over the life of the Project cannot be avoided, the Project applicant shall provide compensatory mitigation at no less than 2:1. Compensatory mitigation shall compensate for the loss of individual plants and associated habitat acres. Mitigation lands shall be in the same watershed as the Project site and support habitat that contains the rare plant species impacted. The abundance of a rare plant species and total habitat acreage within the mitigation lands shall be no less than 2:1 and shall be higher for CRPR 1 species and species that have an additional threat rank of 0.1 or 0.2.</p>	<p>Prior to impacts on rare plants</p>	<p>Project applicant</p>
MM-BIO-8- Impacts on Nesting Birds - avoidance	<p>Impacts on nesting birds shall be avoided. Project construction, ground-disturbing activities, and vegetation removal shall not occur during the combined raptor and bird nesting season from January 1 through September 15.</p>	<p>Prior to Project construction and activities</p>	<p>Project applicant</p>
MM-BIO-9- Impacts on Nesting Birds – pre- construction surveys	<p>If project construction, ground-disturbing activities, and vegetation removal must occur during the nesting season, the Project applicant shall provide a written justification to the City as to why work must occur during the nesting season. The Project applicant shall retain a qualified biologist to conduct weekly pre-construction bird surveys no more than 30 days before initiation of construction/ground disturbing/vegetation removal activities to provide confirmation on the presence or absence of active nests in the vicinity (at least 500 feet around the Project site, as access allows). The last survey shall be conducted no more than three days before the initiation of work. The Project applicant shall submit a survey report to the City prior to any Project-related ground-disturbing activities and vegetation removal.</p>	<p>Prior to Project construction and activities</p>	<p>City of Lancaster/Project applicant</p>
MM-BIO-10- Impacts on Nesting Birds – buffers	<p>If active nests are encountered, work in the vicinity of the nests shall be deferred until young birds have fledged. A minimum buffer of at least 300 feet (500 feet for raptor nests) or as determined by a qualified biologist shall be maintained during construction depending on the species and location. The perimeter of the nest-setback zone shall be fenced or adequately demarcated with</p>	<p>Prior to/During Project construction and activities</p>	<p>City of Lancaster/Project applicant</p>

Ms. Jocelyn Swain
 City of Lancaster
 May 12, 2021
 Page 20 of 25

	flagging. Construction personnel and activities restricted from the area. Construction personnel shall be instructed on the sensitivity of the area. A qualified biologist shall serve as a construction monitor during those periods when work would occur near active nest areas to ensure that no inadvertent impacts on these nests would occur. The Project applicant shall submit a survey report to the City on a regular basis until the Project is complete to document and verify compliance with the mitigation.		
MM-BIO-11- Impacts on Burrowing Owl	Burrowing owl protocol surveys shall be conducted on the project site prior to the start of construction/ground disturbing activities that could result in habitat disturbance to soil, vegetation, or other sheltering habitat for burrowing owl in accordance with established burrowing owl protocols. All survey efforts should be conducted by a qualified biologist. Four survey visits shall be conducted: 1) at least one site visit between 15 February and 15 April, and 2) a minimum of three survey visits, at least three weeks apart, between 15 April and 15 July, with at least one visit after 15 June. A qualified biologist shall prepare a survey report summarizing methods and results. The Project applicant shall submit survey results, including negative findings, to the City prior to construction/ground-disturbing activities. If burrowing owls are identified [in] the project site during the surveys, the qualified biologist shall contact CDFW to determine the appropriate mitigation/management requirements within three (3) days of the last survey. The qualified biologist shall prepare a burrowing owl mitigation plan consistent with the Department of Fish and Game 2012 Staff Report on Burrowing Owl Mitigation. The Project applicant shall submit a final Burrowing Owl Mitigation plan to the City and CDFW prior to commencing any construction/ground disturbing activities.	Prior to/During Project construction and activities	City of Lancaster/Project applicant
MM-BIO-12- Move Out of Harm's Way	To avoid direct injury and mortality, a qualified biological monitor shall be on site prior to and during initial ground and habitat disturbing activities to move out of harm's way wildlife of low mobility that would be injured or killed.	Prior to/During Project	Project applicant

Ms. Jocelyn Swain
 City of Lancaster
 May 12, 2021
 Page 21 of 25

		construction and activities	
MM-BIO-13-Fencing	Any fencing used during and after the Project shall be constructed with materials that are not harmful to wildlife. Prohibited materials shall include, but are not limited to, spikes, glass, razor, or barbed wire. Use of chain link and steel stake fence shall be avoided or minimized as this type of fencing can injure wildlife or create barriers to wildlife dispersal. All hollow posts and pipes shall be capped to prevent wildlife entrapment and mortality. These structures mimic the natural cavities preferred by various bird species and other wildlife for shelter, nesting, and roosting. Raptor's talons can become entrapped within the bolt holes of metal fence stakes resulting in mortality. Metal fence stakes used on the Project site shall be plugged with bolts or other plugging materials to avoid this hazard. Fences shall not have any slack that may cause wildlife entanglement.	During/After Project construction and activities	Project applicant
MM-BIO-14-Rodenticides	Rodenticides and second-generation anticoagulant rodenticides shall be prohibited during and after the Project.	During/After Project construction and activities	Project applicant
REC 1 – Disclosure of information on impacts on western Joshua trees	The final environmental document should provide the following information: <ol style="list-style-type: none"> 1) The number of western Joshua trees that would be removed; 2) If the Project would impact the western Joshua tree seedbank; 3) Where impacts on western Joshua trees would occur and if the Project would impact western Joshua trees adjacent to the Project site; 4) How many acres of habitat supporting western Joshua trees would be impacted; 5) What Project-related activities would impact western Joshua trees; 6) What are the direct and indirect impacts on western Joshua 	Prior to finalizing CEQA document	City of Lancaster/Project applicant

Ms. Jocelyn Swain
 City of Lancaster
 May 12, 2021
 Page 22 of 25

	<p>trees; and,</p> <p>7) When impacts on western Joshua trees would occur and if impacts on western Joshua trees would occur during the operational phase in the Project's lifetime.</p>		
<p>REC 2 – Western Joshua Tree Survey</p>	<p>The final environmental document should provide a detailed western Joshua tree survey. At a minimum, the survey and subsequent survey report/impact assessment should provide the following:</p> <ol style="list-style-type: none"> 1) A map showing the Project site, all areas subject to Project-related ground-disturbing activities and vegetation removal, and survey area; 2) A map showing the location of each individual western Joshua tree; 3) A table listing each individual western Joshua tree and the corresponding tree's approximate height; 4) A table summarizing the number of western Joshua trees impacted (removed or relocated); 5) A map showing the alliance and/or association-based plant community following the Manual of California Vegetation (MCV), second edition (Sawyer et al. 2009); and, 6) Photographs of the Project site, including a minimum two photographs per acre depicting different aspects, and a photograph documenting each western Joshua tree. 	<p>Prior to finalizing CEQA document</p>	<p>City of Lancaster/Project applicant</p>
<p>REC 3 – CESA ITP</p>	<p>The Project applicant submitted a CESA ITP application on March 17, 2021 (ITP # 2081-2021-015-05). CDFW appreciates that the Project applicant had consulted with CDFW regarding the Project's ITP application. The Project applicant withdrew the CESA ITP application on April 22, 2021. Moving forward, if the Project, Project construction, or any Project-related activity for the duration of the Project will result in take of a species designated as endangered or threatened, or a candidate for listing under CESA, Project applicant should again seek appropriate take authorization under CESA prior to implementing or continuing the Project. CDFW considers adverse impacts to a species protected by CESA</p>	<p>Prior to issuance of grading and development permits</p>	<p>City of Lancaster/Project applicant</p>

Ms. Jocelyn Swain
 City of Lancaster
 May 12, 2021
 Page 23 of 25

	to be significant without mitigation under CEQA. As to CESA, take of any endangered, threatened, candidate species that results from the Project is prohibited, except as authorized by State law (Fish & G. Code, §§ 2080, 2085; Cal. Code Regs., tit. 14, § 786.9). The Project applicant should obtain appropriate take authorization before the City issues a grading or development permit.		
REC 4 – CESA ITP/ CEQA Document	Revisions to the Fish and Game Code, effective January 1998, may require that CDFW issue a separate CEQA document for the issuance of an ITP unless the Project CEQA document addresses all Project impacts to a CESA candidate species and specifies a mitigation monitoring and reporting program that will meet the requirements of an ITP. It is important that the take proposed to be authorized by CDFW’s ITP be described in detail in the CEQA document prepared for the Project. Also, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for a CESA ITP. However, it is worth noting that mitigation for impacts to a CESA candidate species proposed in a Project’s CEQA document may not necessarily satisfy mitigation required to obtain a CESA ITP.	Prior to finalizing CEQA document	City of Lancaster
REC 5 – Rare Plant Survey	A qualified botanist should conduct rare plant surveys prior to finalizing the Project’s CEQA document. Survey results should be provided in the final CEQA document. The City should recirculate the CEQA document if a new, avoidable significant effect on rare plants is identified and mitigation measures or project revisions must be added in order to reduce the effect to insignificance.	Prior to finalizing CEQA document	City of Lancaster/Project applicant
REC 6 – Biological Impact Fee	The MND should provide adequate, complete, and good-faith disclosure of information that would address the following in relation to the Project: <ol style="list-style-type: none"> 1) Whether the Biological Impact Fee is going towards an established program; 2) How the program is designed to (and will) mitigate the effects at issue at a level meaningful for purposes of CEQA; 3) What the Biological Impact Fee would acquire; 	Prior to finalizing CEQA document	City of Lancaster

Ms. Jocelyn Swain
 City of Lancaster
 May 12, 2021
 Page 24 of 25

	<p>4) What biological resources would the Biological Impact Fee protect/conserve;</p> <p>5) Why the Biological Impact Fee is appropriate for mitigating the cumulative loss of biological resources in the Antelope Valley;</p> <p>6) Why the Biological Impact Fee is sufficient to purchase land or credits at a mitigation bank;</p> <p>7) Where land would be acquired or where the mitigation bank is located;</p> <p>8) When the Biological Impact Fee would be used; and,</p> <p>9) How the Biological Impact Fee would be adequate such that no impacts would occur as a result of the Project.</p> <p>The MND should provide any technical data, maps, plot plans, diagrams, and similar relevant information in addressing these concerns.</p>		
REC 7 – Biological Impact Fee	<p>The MND should provide a discussion describing commitment to mitigation via the Biological Impact Fee. For example, the MND should provide specifics as to when the Project applicant would pay the Biological Impact Fee; what mechanisms would be implemented to ensure the Biological Impact Fee is paid; and when and where the Biological Impact Fee would be used to offset the Project’s impacts. Also, the MND should provide specific performance standards, as well as actions to achieve those performance standards.</p>	Prior to finalizing CEQA document	City of Lancaster
REC 8 – Biological Impact Fee	<p>The MND should be recirculated for more a meaningful public review and assessment of the Biological Impact Fee. Additionally, the MND should be recirculated if the proposed mitigation measure (i.e., Biological Impact Fee) would not reduce potential effects to less than significant and new measures must be required.</p>	Prior to finalizing CEQA document	City of Lancaster
REC 9 – Data	<p>Please report any special status species detected by completing and submitting CNDDB Field Survey Forms. The City should ensure that the Project applicant has submitted the data properly, with all data fields applicable filled out, prior to finalizing/adopting</p>	Prior to finalizing CEQA document	City of Lancaster/Project applicant

Ms. Jocelyn Swain
 City of Lancaster
 May 12, 2021
 Page 25 of 25

	<p>the environmental document. The data entry should also list pending development as a threat and then update this occurrence after impacts have occurred. The Project applicant should provide CDFW with confirmation of data submittal.</p>		
<p>REC 10 - MMRP</p>	<p>The MND's proposed Biological Resources Mitigation Measures should be updated and conditioned to include mitigation measures recommended in this letter. Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments. The City is welcome to coordinate with CDFW to further review and refine the Project's mitigation measures.</p>	<p>Prior to finalizing CEQA document</p>	<p>City of Lancaster</p>