



State of California – Natural Resources Agency

DEPARTMENT OF FISH AND WILDLIFE

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May 14, 2021

Governor's Office of Planning & Research

May 14 2021

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STATE CLEARINGHOUSE

**Subject: Tentative Tract Map No. 82208, Mitigated Negative Declaration,
SCH #2021040342, City of Lancaster, Los Angeles County**

Dear Ms. Alvarado,

The California Department of Fish and Wildlife (CDFW) has reviewed the Mitigated Negative Declaration (MND) from the City of Lancaster (City; Lead Agency) for the Tentative Tract Map No. 82208 (Project). Review of the MND included the following supplemental document: *Biological Resource Assessment of APNs 3203-033-02, 21, and 22 (BRA)*.

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.

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Project Description and Summary

Objective: The Project proposes to construct a new subdivision of 20 acres into 75 single family residential lots. The primary entrances to the subdivision would be from Avenue J-6 and 52nd Street West, with a roundabout at Avenue J-8 and 55th Street West. Lot sizes with the development would range in size from 7,001 square feet to 14,930 square feet. A meandering sidewalk would be provided along Avenue J-8 and 55th Street West. Landscaping would be provided along the perimeter of the subdivision and in the front yards of the individual lots. Development would include installation of access roads, parking, and utilities (water, sewer, electric, etc.). The entire Project area would be graded prior to construction activities.

Location: The Project site is located in the westerly portion of the City, north of Avenue J-8 (dirt road) and west of 52nd Street West. The property to the east of the Project site is developed with a single-family residential subdivision. The property immediately north, south, and west of the project site is vacant open space. Several residential subdivisions are located within the vicinity of the Project site, particularly along 60ft Street West and east along Avenue J-8.

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: Impacts to Western Joshua Tree

Issue: The Project would result in "take" or adverse impacts to western Joshua trees (*Yucca brevifolia*), a CESA candidate species.

Specific impacts: The Initial Study states, "Given the presence of Joshua trees throughout the site and the nature of the proposed project, it is not likely that they can be saved in place." Additionally, the Project could impact the seed bank and the yucca moth (*Tegeticula synthetica*).

Why impacts would occur: The Project would remove an estimated 134 western Joshua trees scattered through the Project site. The Project site may also impact Joshua tree seeds buried by abiotic processes and seed caches made by rodents. Western Joshua trees could be permanently extirpated from the Project site. Local extirpation of western Joshua trees may also occur in the absence of a seed source that could be wind or rodent-dispersed to adjacent areas. Lastly, the Project may disturb soils that could support the yucca moth's pupal stage. After feeding on fruits, yucca moth caterpillars drop onto the soil and retreat to pupate underground (Baker 1986; Bogler 1995). The yucca moth is the sole pollinator of western Joshua trees. Fruit and seed production of western Joshua trees fluctuate yearly depending on factors that include availability of pollinators (Sirchia et al. 2018). Regional collapses of yucca moth populations have led to complete failure of fruit production in the closely related banana yucca (*Y. baccatta*) in the Mojave Desert (St. Clair and Hoines 2018).

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Evidence impacts would be significant:

On November 1, 2019, CDFW accepted a petition for western Joshua tree as a threatened species for listing under the CESA (CDFW 2020a). CDFW determined that listing “may be warranted” and advancing the species to the candidacy stage of the CESA listing process (CDFW 2020a). On September 22, 2020, the California Fish and Game Commission determined that listing western Joshua tree as threatened under CESA may be warranted (CDFW 2020b). As a CESA candidate species, western Joshua tree is granted full protection of a threatened species under CESA. 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).

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: CDFW recommends the City require the Project applicant avoid impacts to western Joshua tree and seedbank as 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. CDFW recommends the Project applicant, in consultation with a qualified botanist, develop 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. A final avoidance plan should be submitted to the City prior to any ground-disturbing activities and vegetation removal.

Mitigation Measure #2: CDFW concurs with the Project’s proposed Mitigation Measure 3, requiring an Incidental Take Permit (ITP) pursuant to Fish and Game Code section 2080 *et seq.* If take or adverse impacts to western Joshua trees cannot be avoided during Project activities or over the life of the Project, the City should require the Project applicant to consult CDFW to determine if a CESA ITP is required.

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). Consequently, 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, CDFW recommends the City require the Project applicant seek appropriate take authorization under CESA prior to implementing or continuing the Project. Appropriate authorization from CDFW may include an Incidental Take Permit [Fish & G. Code, §§ 2080.1, 2081, subds. (b) and (c)]. Early consultation is encouraged, as significant modification to a Project and mitigation measures may be required to obtain a CESA permit. The Project applicant should consult with CDFW to obtain additional Joshua tree survey guidance.

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

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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. Accordingly, please see Mitigation Measures #2 through #5 below. However, it is worth noting that mitigation for impacts to CESA candidate species proposed in a Project's CEQA document may not necessarily satisfy mitigation required to obtain a CESA ITP.

Mitigation Measure #3: CDFW recommends the City require the Project applicant provide compensatory mitigation for unavoidable Project impacts to western Joshua trees. The number of trees within 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 Joshua trees that are reproducing sexually (i.e., Joshua tree woodland with recruitment) or impact Joshua trees at higher elevation areas (>2,400 feet) 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.

Mitigation and mitigation lands should be identified prior to the project applicant 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 mitigation lands be protected 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.

Mitigation Measure #5: If avoidance is not feasible, CDFW recommends the City provide a detailed Joshua tree survey prior to finalizing the environmental document. 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

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- 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 (i.e., removed, preserved-in-place);
 - 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.

Comment #2: Lake and Streambed Alteration (LSA)

Issue: CDFW is concerned that the Project has not identified or proposed mitigation for impacts to an unnamed drainage.

Specific impacts: Aerial photography indicates at least one drainage, potentially flowing south to north, through the center of the Project site. The Project activities would impact the unnamed drainage. In addition, impacts to the unnamed drainage due to Project activities may impact biological resources up and downstream of the Project site.

Why impacts would occur: The proposed Project is the development of single-family homes, which would include the installation of access roads, parking, and utilities. These development activities would require the entire site to be graded prior to construction activities. In addition, the Initial Study states, "Development of the proposed project would increase the amount of surface runoff as a result of impervious surfaces associated with the roadways and residences. The proposed project would be designed on the basis of a hydrology study, to accept current flows entering the property and to handle the additional incremental runoff from the developed site." Without providing information to accurately determine that there are no streams on site, construction of the residences could permanently remove, alter, or impair the unnamed drainage as well as impact biological resources up and downstream of the Project site.

Evidence impacts would be significant: 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.

The Project may impact streams, which absent specific mitigation, could result in substantial erosion or siltation on site. Impacts both upstream and downstream of the Project site could occur where there is hydrologic connectivity.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: CDFW has concluded that the Project may result in the alteration of streams. As such, the Project applicant (or "entity") must provide notification to CDFW pursuant to Fish and Game Code, section 1600 *et seq.* Based on this notification and other information,

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CDFW determines whether an LSA Agreement with the applicant is required prior to conducting the proposed activities. Please visit CDFW's [Lake and Streambed Alteration Program](#) webpage to for information about LSA Notification and online submittal through the Environmental Permit Information Management System (EPIMS) Permitting Portal (CDFW 2021b).

Mitigation Measure #2: CDFW recommends the LSA Notification include a hydrology report to evaluate whether the Project would alter, divert, or impair stream flow and alignment. The hydrology report should include a scour analysis to demonstrate that stream banks and stream bed would not erode under different storm events for proposed conditions both up and downstream of the Project area. The hydrology report should also include an analysis as to whether the placement and installation of staging areas, parking areas, and security fencing would impact the unnamed drainage on site and up and downstream. Also, CDFW requests a hydrological evaluation of any potential scour or erosion at the project site and downstream due to a 100, 50, 25, 10, 5, and 2-year frequency storm event for existing and proposed conditions to determine how the Project activities may change the hydrology on site.

Mitigation Measure #3: Primarily, CDFW recommends avoiding the drainage on site. If avoidance is not feasible, CDFW recommends the City identify compensatory mitigation that is commensurate to the impacts to the unnamed drainage. Mitigation should occur where a stream supports desert plant communities impacted by the Project. Mitigation should occur within the City of Lancaster or Antelope Valley.

Recommendation: CDFW's issuance of an LSA Agreement for a Project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document from the City for the Project. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 *et seq.* and/or under CEQA, the CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement.

To compensate for any on- and off-site impacts to aquatic and riparian resources, additional mitigation conditioned in any LSA Agreement may include the following: erosion and pollution control measures, avoidance of resources, protective measures for downstream resources, on- and/or off-site habitat creation, enhancement or restoration, and/or protection, and management of mitigation lands in perpetuity.

Comment #3: Impacts to Burrowing Owl (*Athene cunicularia*)

Issue: Project activities may impact potential burrowing owl habitat.

Specific impact: The BRA indicates potential habitat on site for burrowing owl due to irrigation pipes and stands, as well as the presence of California ground squirrel burrows. In addition, a review of the California Natural Diversity Database (CNDDDB) indicates seven occurrences of burrowing owl within an approximate five-mile radius surrounding the Project site. Burrowing owls are also known to regularly occur throughout the Palmdale and Lancaster area.

Why impact would occur: The single general biological survey took place in September 2017. Identification of potential for burrowing owls during non-winter months, including the nesting season, may be missed. Burrowing owl protocol require multiple surveys conducted during

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different seasons. As written, Mitigation Measure 4 in the Initial Study does not specify the number and timing of surveys that will be conducted. Without sufficient surveys, burrowing owls on site have the possibility to be missed.

Burrowing owls have been known to use highly degraded and marginal habitat where existing burrows or stem pipes are available. Nest and roost burrows of the burrowing owl are most commonly dug by ground squirrels, but they have also been known to use a variety of other species dens or holes, including coyote (Gervais, J.A., Rosenberg, D.K., & Comrack, L.A., 2008). Impacts to burrowing owl could result from vegetation clearing and other ground disturbing activities. Project disturbance activities may result in crushing or filling of active owl burrows, causing the death or injury of adults, eggs, and young. Moreover, the Project will remove burrowing owl foraging habitat by eliminating native vegetation that supports essential rodent, insect, and reptile that are prey for burrowing owl. Lastly, any potential rodent control activities associated with the Project could result in direct and secondary poisoning of burrowing owl ingesting treated rodents.

Evidence impact would be significant: The Project may result in direct and indirect burrowing owl mortality or injury; the disruption of natural burrowing owl breeding behavior; and loss of breeding, wintering and foraging habitat for the species. Project impacts would contribute to statewide population declines for burrowing owl. Within the Antelope Valley, the species persists in low densities and continues to experience significant direct and cumulative habitat loss. Take of individual burrowing owls and their nests 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.” Without appropriate take avoidance surveys prior to Project operations including, but not limited to, ground and vegetation disturbing activities and rodent control activities, adverse impacts to burrowing owl may occur because species presence/absence has not been verified. In addition, burrowing owl qualifies for enhanced consideration afforded to species under CEQA, which can be shown to meet the criteria for listing as endangered, rare or threatened (CEQA Guidelines, § 15380(d)).

CDFW is concerned because insufficient survey efforts for burrowing owl may conclude false negative results, which would not require avoidance and mitigation measure implementation. 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 species in local or regional plans, policies, or regulations, or by CDFW or United States Fish and Wildlife Service (USFWS).

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: To reduce impacts to burrowing owl, CDFW recommends that the Project adhere to CDFW’s March 7, 2012, [Staff Report on Burrowing Owl Mitigation](#). Burrowing owl protocol surveys should 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 should 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 should prepare a survey report

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

Mitigation Measure #2: Any permanent impacts to identified occupied owl burrows and adjacent foraging habitat should be offset by setting aside replacement habitat to be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity, which should include an appropriate non-wasting endowment to provide for the long-term management of mitigation lands. In the event of the presence of burrowing owls on site, CDFW recommends that the City require a burrowing owl mitigation plan be submitted to CDFW for review and comment prior to Project implementation. For proposed preservation and/or restoration, the final environmental document should include measures to protect the targeted habitat values in perpetuity from direct and indirect negative impacts.

Mitigation Measure #3: CDFW recommends that rodenticides and second-generation anticoagulant rodenticides be prohibited both during and over the life of the Project. Additional information on rodenticides can be found on CDFW's [Rodenticides](#) webpage (CDFW 2021f).

Comment #4: Impacts to Sensitive Plant Communities

Issue: CDFW is concerned that the Project may result in impacts to sensitive plant communities.

Specific impacts: The Project site supports numerous desert plant species that comprise a sensitive plant community. According to the [California Natural Communities List](#), California juniper (*Juniperus californica*), Mormon tea (*Ephedra nevadensis*), along with Joshua tree, make up a sensitive plant community (CDFW 2020c). Permanent loss of this sensitive plant community could occur as a result of Project construction and activities.

Why impacts would occur: The Project as proposed may impact sensitive plant communities not previously identified. The Joshua tree woodland alliance found on site is a sensitive plant community with a State rarity rank of 3.2 (CDFW 2020c; Sawyer et al. 2009). The BRA does not identify this or any other plant communities that may exist on site. Therefore, the Initial Study has not adequately disclosed whether sensitive plant communities may be impacted as a result of Project implementation. Without identifying vegetation communities on site, it is unknown if any other vegetation communities that exist on site are also sensitive. Consequently, the Project will continue to have an adverse impact on the environment and will result in further net loss of an already threatened community within the State.

Evidence impacts would be significant: CDFW considers plant communities, alliances, and associations with a State ranking of S1, S2, and S3 as sensitive and declining at the local and regional level. An S3 ranking indicates there are 21 to 100 viable occurrences of this community in existence in California, S2 has six to 20 occurrences, and S1 has fewer than six viable occurrences (Sawyer et al. 2009). Additionally, plant communities with an additional rank threat

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of 0.1 or 0.2 are considered very threatened or threatened, respectively. Impacts to these communities should be analyzed during preparation of environmental documents relating to CEQA, as they may meet the definition of Rare or Endangered under CEQA Guidelines section 15125 (c) and/or section 15380.

The Project has not proposed any vegetation mitigation other than a detailed survey of the number and size and acquiring an ITP for take of the Joshua trees on site. However, these measures do not address unavoidable impacts to the plants composing the entire sensitive plant community. Impacts to sensitive plant communities should be considered significant under CEQA unless they are clearly mitigated below a level of significance. Inadequate avoidance, minimization, and mitigation measures for impacts to sensitive 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 City retain a qualified botanist to map plant communities at the alliance/association level using the [Manual of California Vegetation](#) (Sawyer et al. 2009). Also, CDFW recommends an updated and thorough floristic-based assessment of plant communities, following CDFW's [Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities](#). The MCV alliance or association community names for all plant communities on the Project site should be provided. All plant communities should be mapped regardless of level of disturbance so long as the vegetation community meets the alliance/association criteria.

Mitigation Measure #2: If sensitive plant communities are identified and impacts are unavoidable, the City should require mitigation for temporal and permanent loss of S1, S2, and S3 sensitive plant communities, including communities with additional threat rank of 0.1 or 0.2. At a minimum, mitigation should be no less than 3:1 in consideration of plant community rarity and potential attrition, uncertainties, and failures associated with transplanting or establishing sensitive plant species in arid environments. Mitigation should increase based on the rarity of the plant community impacted. Mitigation should occur within the same watershed.

Recommendation #1: In 2007, the State Legislature required CDFW to develop and maintain a vegetation mapping standard for the state (Fish & G. Code, § 1940). This standard complies with the National Vegetation Classification System which utilizes alliance and association-based classification of unique vegetation stands. CDFW utilizes vegetation descriptions found in the MCV. Through this new vegetation classification system, CDFW only tracks Sensitive Natural Communities and their respective rankings using the MCV Alliance and Association names for vegetation communities.

Recommendation #2: CDFW recommends appending results from plant community mapping to the final environmental document.

Comment #5: Biological Surveys

Issue: The biological survey conducted for the BRA was conducted in September of 2017.

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Specific impacts: The biological surveys conducted for the BRA may no longer represent the current state of the Project site and the inventory of biological species that may be present. This may result in injury or death to unidentified wildlife or plant species as well as permanent impacts to their habitat.

Why impact would occur: CDFW generally considers biological field assessments for wildlife to be valid for a one-year period and assessments for rare plants may be considered valid for a period of up to three years. Moreover, the survey was conducted during a time of year when some plant species would not be evident and identifiable. Therefore, there may be potential of missing species, namely rare plants such as alkali mariposa lily (*Calochortus striatus*), Mojave spineflower (*Chorizanthe spinosa*), Rattan's cryptantha (*Cryptantha rattanii*), and golden goodmania (*Goodmania luteola*).

Impacts to species not previously known or identified to be on the Project site or within its vicinity presently have the possibility to occur due to outdated surveys. The surveys utilized for the Initial Study may no longer represent the current state of the floral and faunal species on site. Therefore, Project activities such as grading, vegetation clearing, building construction, and other activities may result in direct mortality, population declines, or local extirpation of sensitive or special status wildlife species that were previously unidentified or unknown to exist on site. Project activities may also cause injury or mortality habitat fragmentation, alteration of soil chemical and physical makeup, increased competition with exotic invasive weeds, and reduced photosynthesis and reproductive capacity for any plants not previously identified. This may result in native plant population declines or local extirpation of special status plant species. The effects of these impacts would be permanent or occur over several years.

Evidence impact would be significant: Inadequate avoidance, minimization, and mitigation measures for impacts to sensitive plant or wildlife species, especially those not previously identified, will result in the Project having a substantial adverse direct, indirect, and cumulative effect. This, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or USFWS. Impacts to special status species should be considered significant under CEQA unless they are clearly mitigated below a level of significance.

Recommended Potentially Feasible Mitigation Measure(s):

Recommendation #1: CDFW recommends that updated botanical and wildlife surveys be conducted to inform impact assessments, avoidance, minimization, and mitigation measures within the Project area and a 500-foot buffer as access allows. Additionally, focused surveys for sensitive/rare plants on-site should be disclosed in the CEQA document (see Comment #5 Mitigation Measure #1). CEQA documentation should provide a thorough discussion on the presence/absence of special status plants and wildlife on-site and identify measures to mitigate for Project-related direct and indirect impacts. Any special status species found on site should be included in the report and CDFW should be notified of any new special status species found on site. Finally, the updated biological report should be provided to the City.

Recommendation #2: CDFW requests to be informed regarding any potential changes or amendments to the current mitigation and/or monitoring measures presented in the mitigation measures of the Initial Study as a result of updated biological surveys.

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Comment #6: 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 20 acres of undeveloped 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;
- 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 to 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.

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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 City's 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.

Recommended Potentially Feasible Mitigation Measure(s):

Recommendation #1: CDFW recommends the City update 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/conserves;
- 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 the City may acquire land or purchase credits at a mitigation bank;
- 8) When the City would use the Biological Impact Fee; and,
- 9) How the Biological Impact Fee would be adequate such that no impacts would occur as a result of the Project.

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The City 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 City provide a discussion describing how it intends to commit to mitigation via the Biological Impact Fee. For example, the City should provide specifics as to when would the City require payment from the project applicant, how long would the project applicant have to pay the fee, what mechanisms would the City implement to ensure the fee is paid, and when the City would use the Project's payment for mitigation. Also, the City should provide specific performance standards and actions to achieve those performance standards.

Recommendation #3: CDFW recommends that the City recirculate the MND for more meaningful public review and assessment of the City's Biological Impact Fee. Additionally, the City should recirculate the MND 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 Recommendations

Species of Special Concern. A review of CNDDDB indicates multiple occurrences of Northern California legless lizard (*Anniella pulchra*) within two miles of the Project vicinity. California legless lizard is designated as a California Species of Concern. CDFW recommends qualified biologists familiar with the reptile species, namely California legless lizard, behavior and life history conduct focused surveys to determine the presence/absence of Species of Special Concern prior to vegetation removal and/or grading. Surveys should be conducted during active season when each reptile species are most likely to be detected. To further avoid direct mortality, CDFW recommends that a qualified biological monitor be on site during ground and habitat disturbing activities to move out of harm's way special status species that would be injured or killed by grubbing or Project-related grading activities.

Scientific Collection Permit. The Project may require capture, handling, and relocation of wildlife. Pursuant to the [California Code of Regulations, title 14, section 650](#), the City/qualified biologist must obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities. Please visit CDFW's [Scientific Collection Permits](#) webpage for information (CDFW 2021d). An LSA Agreement may provide similar take or possession of species as described in the conditions of the agreement [see Comment #2: Lake and Streambed Alteration (LSA)].

CDFW has the authority to issue permits for the take or possession of wildlife, including mammals; birds, nests, and eggs; reptiles, amphibians, fish, plants; and invertebrates (Fish & G. Code, §§ 1002, 1002.5, 1003). Effective October 1, 2018, a Scientific Collecting Permit is required to monitor project impacts on wildlife resources, as required by environmental documents, permits, or other legal authorizations; and, to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with otherwise lawful activities (Cal. Code Regs., tit. 14, § 650).

Move Out of Harm's Way. The proposed Project is anticipated to result in clearing of habitat that support small mammals and reptiles. CDFW recommends a qualified biological monitor be on site during initial ground disturbing activities and vegetation removal. The qualified biological

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monitor should move wildlife of low mobility out of harm's way to avoid wildlife injury or mortality. Wildlife should be allowed to move away on its own (non-invasive, passive relocation) or relocated to suitable habitat adjacent to the Project area. No wildlife should be enclosed inside any work zone or otherwise impacted by Project-related fencing. Safe and suitable wildlife relocation areas should be identified by a qualified biological monitor prior to ground disturbing activities and vegetation removal.

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 be installed in a manner that excludes any wildlife from entering the work zone (i.e., embedded fence such that wildlife cannot enter from under the fence). Fences should not have any slack that may cause wildlife entanglement.

Data. CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database (i.e., California Natural Diversity 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 detected by completing and submitting [CNDDDB Field Survey Forms](#) (CDFW 2021e). The City should ensure the data has been properly submitted, 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 City should provide CDFW with confirmation of data submittal.

Mitigation and Monitoring Reporting Plan. CDFW recommends the City update the Project's proposed Biological Resources Mitigation Measures and condition the environmental document 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 (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

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Palmdale 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 and 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 Felicia Silva, Environmental Scientist, at Felicia.Silva@wildlife.ca.gov or (562) 430-0098.

Sincerely,

DocuSigned by:

Erinn Wilson-Olgin

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Erinn Wilson-Olgin
Environmental Program Manager I
South Coast Region

ec: CDFW

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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) or Recommendation (REC)		Timing	Responsible Party
MM-BIO-1- Impacts to Joshua tree- CESA ITP	The City shall require the Project applicant avoid impacts to western Joshua tree and seedbank as 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, a no-disturbance buffer for individual western Joshua trees of 300 feet shall be implemented. 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, in consultation with a qualified botanist, shall develop 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. A final avoidance plan shall be submitted to the City prior to any ground-disturbing activities and vegetation removal.	Prior to issuance of development permit	City of Lancaster (City)/Project Applicant
MM-BIO-2- Impacts to Joshua tree- CESA ITP	The City shall notify CDFW for take or adverse impacts to Joshua trees and consult with CDFW to determine if a CESA Incidental take Permit is required. The City shall require the Project applicant to consult with CDFW to obtain additional Joshua tree survey requirements.	Prior to issuance of development permit	City/Project Applicant
MM-BIO-3- Impacts to Joshua tree-	The City shall require the Project applicant to provide compensatory mitigation for unavoidable Project impacts to western Joshua trees. The City shall identify an appropriate site within the City of Lancaster to preserve western Joshua trees in	Prior to issuance of development permit	City/Project Applicant

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<p>compensatory mitigation</p>	<p>perpetuity. 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 Joshua trees that are reproducing sexually (i.e., Joshua tree woodland with recruitment) or impact Joshua trees at higher elevation areas (> 2,400 feet) 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.</p> <p>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, and include flowering Joshua trees; 2) Support Joshua tree woodland habitat of similar native plant species composition, density, structure, and function to habitat that was impacted; 3) Support nursery plants for Joshua tree recruits (i.e., seedlings/juveniles); 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>Mitigation and mitigation lands should be identified prior to the project applicant 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.</p>		
<p>MM-BIO-4- Impacts to Joshua tree-compensatory mitigation</p>	<p>The mitigation lands shall be protected 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). 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:</p>	<p>Prior to finalizing/adopting CEQA document</p>	<p>City/Project Applicant</p>

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	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 the City's issuance of a development permit.		
MM-BIO-5- Impacts to Joshua tree- survey and impact assessment	<p>The City shall provide a detailed Joshua tree survey as part of the final environmental document. At a minimum, the survey and subsequent survey report/impact assessment shall include 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 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 (i.e., removed, preserved-in-place); 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. 	Prior to issuance of development permit	City/Project Applicant
MM-BIO-6- Impacts to streams-Lake and Streambed Alteration Notification	The City shall notify CDFW pursuant to Fish and Game Code, section 1600 <i>et seq.</i> (Lake and Streambed Alteration Agreement).	Prior to issuance of development permit	City/Project Applicant
MM-BIO-7- Impacts to	Notification shall include a hydrology report to evaluate whether the Project would alter, divert, or impair stream flow and alignment.	Prior to issuance of	City/Project Applicant

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streams-Lake and Streambed Alteration Notification	The hydrology report shall include a scour analysis to demonstrate that stream banks and stream bed would not erode under different storm events for proposed conditions. The City shall also provide a hydrological evaluation of any potential scour or erosion at the project site and downstream due to a 100, 50, 25, 10, 5, and 2-year frequency storm event for existing and proposed conditions to determine how the Project activities may change the hydrology on site.	development permit	
MM-BIO-8- Impacts to streams- compensatory mitigation	The City shall identify compensatory mitigation that is commensurate to the impacts to the unnamed drainage. Mitigation shall occur where a stream supports desert plant communities impacted by the Project, specifically Joshua tree woodland. Mitigation shall occur within the City of Palmdale or Antelope Valley.	Prior to issuance of development permit	City/Project Applicant
MM-BIO-9- Burrowing Owl	To reduce impacts to burrowing owl, the Project shall adhere to CDFW's March 7, 2012, Staff Report on Burrowing Owl Mitigation . 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. Survey results including negative findings, should be submitted 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	Prior to Project construction and activities	City/Project Applicant

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	Owl Mitigation. The applicant must submit a final Burrowing Owl Mitigation plan to the City and CDFW prior to commencing any construction/ground disturbing activities Project		
MM-BIO-10- Burrowing Owl	Any permanent impacts to identified occupied owl burrows and adjacent foraging habitat shall be offset by setting aside replacement habitat to be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity, which should include an appropriate non-wasting endowment to provide for the long-term management of mitigation lands. In the event of the presence of burrowing owls on site, the City shall require a burrowing owl mitigation plan be submitted to CDFW for review and comment prior to Project implementation. For proposed preservation and/or restoration, the final environmental document should include measures to protect the targeted habitat values in perpetuity from direct and indirect negative impacts.	Prior to Project construction and activities	City/Project Applicant
MM-BIO-11- Burrowing Owl	Rodenticides and second-generation anticoagulant rodenticides should be prohibited both during and over the life of the Project.	Prior to/During/ After Project construction and activities	City/Project Applicant
MM-BIO-12- Impacts to sensitive plant communities-mapping	The City shall retain a qualified botanist to map plant communities at the alliance/association level using the Manual of California Vegetation (MCV). The qualified botanist shall prepared an updated and thorough floristic-based assessment of plant communities, following CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities . The MCV alliance or association community names for all plant communities on the Project site should be provided. All plant communities should be mapped regardless of level of disturbance so long as the vegetation community meets the alliance/association criteria	Prior to issuance of development permit	City/Project Applicant

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<p>MM-BIO-13- Impacts to sensitive plant communities- compensatory mitigation</p>	<p>If the Project will have unavoidable impacts on sensitive plant communities, the City shall mitigate for temporal and permanent loss of S1, S2, and S3 sensitive plant communities, including communities with additional threat rank of 0.1 or 0.2. Mitigation shall be no less than 3:1. Mitigation shall increase based on the rarity of the plant community impacted. Mitigation shall occur within the same watershed. Mitigation shall increase based on the rarity of the plant community impacted. shall occur within the same watershed</p>	<p>Prior to issuance of development permit</p>	<p>City/Project Applicant</p>
<p>REC-1-Impacts to streams-Lake and Streambed Alteration Notification</p>	<p>CDFW's issuance of an LSA Agreement for a Project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document from the City for the Project. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 <i>et seq.</i> and/or under CEQA, the CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement.</p> <p>To compensate for any on- and off-site impacts to aquatic and riparian resources, additional mitigation conditioned in any LSA Agreement may include the following: erosion and pollution control measures, avoidance of resources, protective measures for downstream resources, on- and/or off-site habitat creation, enhancement or restoration, and/or protection, and management of mitigation lands in perpetuity.</p>	<p>Prior to issuance of development permit</p>	<p>City/Project Applicant</p>
<p>REC-2-Impacts to sensitive plant communities- mapping</p>	<p>In 2007, the State Legislature required CDFW to develop and maintain a vegetation mapping standard for the state (Fish & G. Code, § 1940). This standard complies with the National Vegetation Classification System which utilizes alliance and association-based classification of unique vegetation stands. CDFW utilizes vegetation descriptions found in the MCV. Through this new vegetation classification system, CDFW only tracks</p>	<p>Prior to issuance of development permit</p>	<p>City/Project Applicant</p>

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	Sensitive Natural Communities and their respective rankings using the MCV Alliance and Association names for vegetation communities.		
REC-3-Impacts to sensitive plant communities-mapping	CDFW recommends appending results from plant community mapping to the final environmental document.	Prior to finalizing CEQA document	City/Project Applicant
REC-4-Biological Surveys	Updated botanical and wildlife surveys should be conducted to inform impact assessments, avoidance, minimization, and mitigation measures within the Project area and a 500-foot buffer, as access allows. Focused surveys for sensitive/rare plants on-site should be disclosed in the CEQA document (see Comment #5 Mitigation Measure #1). CEQA documentation should provide a thorough discussion on the presence/absence of special status plants and wildlife on-site and identify measures to mitigate for Project-related direct and indirect impacts. Any special status species found on site should be included in the report and CDFW should be notified of any new special status species found on site. Finally, the updated biological report should be provided to the City.	Prior to Project construction and activities	City/Project Applicant
REC-5-Biological Surveys	CDFW should be informed regarding any potential changes or amendments to the current mitigation and/or monitoring measures presented in the mitigation measures of the Initial Study as a result of the updated biological surveys.	Prior to Project construction and activities	City/Project Applicant
REC-6-Impact Fee	CDFW recommends the City update the MND to 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 	Prior to finalizing CEQA document	City/Project Applicant

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	<p>effects at issue at a level meaningful for purposes of CEQA;</p> <ol style="list-style-type: none"> 3) What the Biological Impact Fee would acquire; 4) What biological resources would the Biological Impact Fee protect/conserves; 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 the City may acquire land or purchase credits at a mitigation bank; 8) When the City would use the Biological Impact Fee; and, 9) How the Biological Impact Fee would be adequate such that no impacts would occur as a result of the Project. <p>The City should provide any technical data, maps, plot plans, diagrams, and similar relevant information in addressing these concerns (CEQA Guidelines, § 15147).</p>		
<p>REC-7- Impact Fee</p>	<p>CDFW recommends that the City provide a discussion describing how it intends to commit to mitigation via the Biological Impact Fee. For example, the City should provide specifics as to when would the City require payment from the project applicant, how long would the project applicant have to pay the fee, what mechanisms would the City implement to ensure the fee is paid, and when the City would use the Project's payment for mitigation. Also, the City should provide specific performance standards and actions to achieve those performance standards.</p>	<p>Prior to finalizing CEQA document</p>	<p>City/Project Applicant</p>
<p>REC-8- Impact Fee</p>	<p>CDFW recommends that the City recirculate the MND for more meaningful public review and assessment of the City's Biological Impact Fee. Additionally, the City should recirculate the MND 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)].</p>	<p>Prior to finalizing CEQA document</p>	<p>City/Project Applicant</p>

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MM-BIO-9- Impacts to species of special concern	Qualified biologists familiar with the reptile species behavior, namely California legless lizard, and life history should conduct focused surveys to determine the presence/absence of Species of Special Concern prior to vegetation removal and/or grading. Surveys shall be conducted during active season when each reptile species are most likely to be detected.	Prior to Project construction and activities	City/Project Applicant
MM-BIO-10- Impacts to species of special concern	To further avoid direct mortality, a qualified biological monitor be on site during ground and habitat disturbing activities to move out of harm's way special status species that would be injured or killed by grubbing or Project-related grading activities.	Prior to Project construction and activities	City/Project Applicant
REC-11- Scientific Collection Permit	Pursuant to the California Code of Regulations, title 14, section 650 , the City/qualified biologist must obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities. An LSA Agreement may provide similar take or possession of species as described in the conditions of the agreement.	Prior to Project ground disturbing activities	City/Project Applicant
REC-12-Move Out of Harm's Way	A qualified biological monitor should be on site during initial ground disturbing activities and vegetation removal. The qualified biological monitor should move wildlife of low mobility out of harm's way to avoid wildlife injury or mortality. Wildlife should be allowed to move away on its own (non-invasive, passive relocation) or relocated to suitable habitat adjacent to the Project area. No wildlife should be enclosed inside any work zone or otherwise impacted by Project-related fencing. Safe and suitable wildlife relocation areas should be identified by a qualified biological monitor prior to ground disturbing activities and vegetation removal.	Prior to/During Project ground disturbing activities	City/Project Applicant
REC-13- Construction Fencing	Any fencing used during and after the Project should 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. All hollow posts and pipes should be capped to prevent wildlife entrapment and mortality.	Prior to/During/ After Project construction and activities	City/Project Applicant

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	Metal fence stakes used on the Project site should be plugged with bolts or other plugging materials to avoid this hazard. Fences should be installed in a manner that excludes any wildlife from entering the work zone (i.e., embedded fence such that wildlife cannot enter from under the fence). Fences should not have any slack that may cause wildlife entanglement.		
REC-14-Data	The City should ensure sensitive and special status species data has been properly submitted to the California Natural Diversity Database with all data fields applicable filled out. The data entry should also list pending development as a threat and then update this occurrence after impacts have occurred. The City should provide CDFW with confirmation of data submittal.	Prior to finalizing/adopting CEQA document	City/Project Applicant
REC-15-Mitigation and Monitoring Reporting Plan	The City should update the Project's proposed Biological Resources Mitigation Measures and condition the environmental document to include mitigation measures recommended in this letter. The City is welcome to coordinate with CDFW to further review and refine the Project's mitigation measures.	Prior to finalizing/adopting CEQA document	City/Project Applicant