



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Inland Deserts Region
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GAVIN NEWSOM, Governor
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Governor's Office of Planning & Research

July 19, 2022
Sent via email

Jul 19 2022

STATE CLEARINGHOUSE

Mr. Brett Hamilton, Senior Planner
City of Menifee Community Development Department
29844 Haun Road
Menifee, CA 92586-1409

Subject: Draft Environmental Impact Report
Menifee Commerce Center Project
State Clearinghouse No. 2021060247

Dear Mr. Hamilton:

The California Department of Fish and Wildlife (CDFW) received a Draft Environmental Impact Report (DEIR) from the City of Menifee for the Menifee Commerce Center Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California's Trustee Agency for fish and wildlife resources and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (Fish & G. Code, § 1802.). Similarly, for purposes of CEQA, CDFW provides, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

CDFW issued Natural Community Conservation Plan approval and take authorization in 2004 for the Western Riverside Multiple Species Habitat Conservation Plan (MSHCP), as per Section 2800, et seq., of the California Fish and Game Code. The MSHCP established a multiple species conservation program to minimize and mitigate habitat loss and the incidental take of covered species in association with activities covered under the permit. The City of Menifee is a permittee to the MSHCP and is responsible for implementation of the MSHCP and its associated Implementation Agreement. CDFW is hereby providing comments as they relate to the Project's consistency with the MSHCP and CEQA.

PROJECT DESCRIPTION SUMMARY

Project Location

The Project site is in the City of Menifee within Riverside County, California, in Section 16 of Township 6 South, Range 3 West, of the U.S. Geological Survey (USGS) 7.5" Perris, California topographic quadrangle map. The Project is located south of Ethanac Road, east of Trumble Road, west of Dawson Road, and north of a Riverside County Flood Control channel along McLaughlin Road. The Project is located within Assessor's Parcel Numbers (APNs) 331-110-035, 331-110-027, 331-110-041, 331-140-010, 331-140-018, 331-140-021, and 331-140-025.

Project Description

The Project includes the construction of two concrete tilt-up buildings (Building 1 and Building 2) on 72 acres. Building 1 will total 1,254,160 square feet (sq. ft.) and include parking spaces for 679 automobiles and 369 truck trailers. Building 2 will total 385,970 sq. ft. and include parking spaces for 232 automobiles and 154 truck trailers. Additional Project activities will include on-site landscaping, construction of loading dock doors, and related on-site and off-site improvements to existing roadways, sewers, storm drains, and utilities. The Project also includes various discretionary approvals including General Plan Amendment No. PLN21-0100, Change of Zone No. PLN21-0101, plot plan and Tentative Parcel Map No. 38156 approval, and Specific Plan Amendment No. 2019-006.

COMMENTS AND RECOMMENDATIONS

To assist the City of Menifee in adequately mitigating the Project's potentially significant impacts to biological resources, CDFW offers the comments and recommendations presented below, and in Attachment 1 "Mitigation Monitoring and Reporting Program", for consideration by the City of Menifee prior to adoption of the EIR for the Project.

Western Riverside County Multiple Species Habitat Conservation Plan

Western Riverside MSHCP Implementation:

Compliance with approved habitat plans, such as the MSHCP, is discussed in CEQA. Specifically, Section 15125(d) of the CEQA Guidelines requires that the CEQA document discuss any inconsistencies between a proposed Project and applicable general plans and regional plans, including habitat conservation plans and natural community conservation plans. An assessment of the impacts to the MSHCP as a result of this Project is necessary to address CEQA requirements.

Protection of Species Associated with Riparian/Riverine Areas and Vernal Pools

The MSHCP indicates that if avoidance of riparian/riverine and/or vernal pool resources from onsite impacts is not feasible, then the impacts should be identified and mitigated for through the Determination of Biologically Equivalent or Superior Preservation (DBESP) process prior to or in parallel to CEQA (Section 6.1.2 of the MSHCP). Completion of the DBESP process ensures that full mitigation is provided under CEQA for Project impacts and ensures that there is no conflict with the MSHCP, a requirement of CEQA Environmental Impact Report, Biological Resources, Section 4 subitem f.

The DEIR and Appendix 9.3 indicate that no riparian/riverine or vernal pool resources are located with the proposed Project area. Based on review of aerial imagery and materials submitted with the DEIR, it appears there are riparian/riverine resources subject to MSHCP Section 6.1.2 within APNs 331-140-021, 331-140-025, and 331-140-010. While CDFW appreciates the analysis of Project impacts provided within the DEIR and Appendix 9.3, CDFW recommends that the City of Menifee complete a DBESP prior to adoption of the final EIR. Thus, please see below edits to biological (BIO) mitigation measure (MM) three (3) (edits are in ~~strikethrough~~ and **bold**):

MM BIO-3 Prior to approval of any implementing developments within the Project site (e.g., plot plans, conditional use permits) and **the adoption of the final Environmental Impact Report**, the Project Applicant shall contract with a qualified biologist to prepare a Determination of Biologically Equivalent or Superior Preservation (DBESP), in accordance with Section 6.1.2 of the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP). The required DBESP shall address Project impacts to **MSHCP** riparian/riverine and vernal pool resources ~~features that comprise MSHCP riparian/riverine and vernal pool habitat~~ Wildlife (CDFW) jurisdiction, Regional Water Quality Control Board (RWQCB) jurisdiction, and/or U.S. Army Corps

~~of Engineers jurisdiction.~~ The required DBESP shall identify compensatory mitigation for the loss of riparian/riverine and vernal pool resources.

Prior to approval of the implementing development(s) and **the adoption of the final Environmental Impact Report**, the required DBESP shall be subject to review and approval by the City of Menifee, and also shall be subject to a 60-day review period by the ~~Wildlife Agencies~~ **California Department of Fish and US Fish and Wildlife Service (collectively the Wildlife Agencies)**, as required by the MSHCP. Following approval of the DBESP by the City of Menifee and the Wildlife Agencies, and prior to issuance of grading permits, the Project Applicant shall provide evidence to that the required compensatory mitigation has been achieved in accordance with the approved DBESP.

Mitigation Measures for Project Impacts to Biological Resources

Nesting Birds

It is the Project proponent's responsibility to avoid Take of all nesting birds. Fish and Game Code section 3503 makes it unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by the rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.). Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto. These regulations apply anytime nests or eggs exist on the Project site.

The timing of the nesting season varies greatly depending on several factors, such as the bird species, weather conditions in any given year, and long-term climate changes (e.g., drought, warming, etc.). CDFW staff have observed that changing climate conditions may result in the nesting bird season occurring earlier and later in the year than historical nesting season dates. CDFW recommends the completion of nesting bird survey regardless of time of year to ensure compliance with all applicable laws pertaining to nesting.

To address the above issues and help the Project applicant avoid unlawfully taking of nests and eggs, CDFW requests the County include the following mitigation measures in the MND and revise the below biological (BIO) mitigation measures (MM) MM BIO-1 and MM BIO-2 (edits are in ~~strikethrough~~ and **bold**), and also included in Attachment 1 "Mitigation Monitoring and Reporting Program".

MM BIO-1: ~~If~~ Prior to grading or construction activities, including vegetation removal, ~~occurs between February 1st and August 31st, a pre-construction clearance survey for nesting birds should be conducted within three (3) days of the start of any vegetation removal or ground disturbing activities to ensure that no nesting birds will be disturbed during construction.~~ the Project Applicant shall ensure that impacts to nesting bird species at the project site are avoided through the implementation of preconstruction surveys, ongoing monitoring, and if necessary, establishment of minimization measures. The Project Applicant shall adhere to the following:

- 1. ~~The biologist conducting the clearance survey should document a negative survey with a brief letter report indicating that no impacts to active avian nests will occur.~~ Applicant shall designate a biologist (Designated Biologist) experienced in: identifying local and migratory bird species of special concern; conducting bird surveys using appropriate survey methodology; nesting surveying techniques, recognizing breeding and nesting behaviors, locating nests and breeding territories, and identifying nesting stages and nest success; determining/establishing appropriate avoidance and minimization measures; and monitoring the efficacy of implemented avoidance and minimization measures.**
- 2. Surveys shall be conducted by the Designated Biologist at the appropriate time of day/night, during appropriate weather conditions, no more than 3 days prior to the initiation of project activities. Surveys shall encompass all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures. Survey duration shall take into consideration the size of the project site; density, and complexity of the habitat; number of survey participants; survey techniques employed; and shall be sufficient to ensure the data collected is complete and accurate. If a nest is suspected, but not confirmed, the Designated Biologist shall establish a disturbance-free buffer until additional surveys can be completed, or until the location can be inferred based on observations. If a nest is observed, but thought to be inactive, the Designated Biologist shall monitor the nest for one hour (four hours for raptors during the non-breeding season) prior to approaching the nest to determine status. The Designated Biologist shall use their best professional judgement regarding the monitoring period and whether approaching the nest is appropriate.**

If an active avian nest is discovered during the pre-construction clearance survey, construction activities should stay outside of a no-disturbance buffer. The size of the no-disturbance buffer (generally 300 feet for migratory and non-migratory songbirds and 500 feet raptors and special-status species) will be determined by the wildlife biologist, and will depend on the level of noise and/or surrounding disturbances, line of sight between the nest and the construction activity, ambient noise, and topographical barriers. These factors will be evaluated on a case-by-case basis when developing buffer distances. Limits of construction to avoid an active nest will be established in the field with flagging, fencing, or other appropriate barriers; and construction personnel will be instructed on the sensitivity of nest areas. **confirmed, the Designated Biologist shall immediately establish a conservative avoidance buffer surrounding the nest based on their best professional judgement and experience.** A biological monitor should be present to delineate the boundaries of the buffer area and to monitor the active nest to ensure that nesting behavior is not adversely affected by the construction activity. **The Designated Biologist shall monitor the nest at the onset of project activities, and at the onset of any changes in such project activities (e.g., increase in number or type of equipment, change in equipment usage, etc.) to determine the efficacy of the buffer. If the Designated Biologist determines that such project activities may be causing an adverse reaction, the Designated Biologist shall adjust the buffer accordingly or implement alternative avoidance and minimization measures, such as redirecting or rescheduling construction or erecting sound barriers. All work within these buffers will be halted until the nesting effort is finished (i.e., the juveniles are surviving independent from the nest). The onsite qualified biologist will review and verify compliance with these nesting avoidance buffers and will verify the nesting effort has finished. Once the young have fledged and left the nest, or the nest otherwise becomes inactive under natural conditions, construction activities within the buffer area can occur. Work can resume within these avoidance areas when no other active nests are found. Upon completion of the survey and nesting bird monitoring, a report shall be prepared and submitted to County for mitigation monitoring compliance record keeping.**

MM BIO-2: The Project Developer shall retain a qualified biologist to conduct a 30-day preconstruction survey for burrowing owl. The results of the single one-day survey would be submitted to the City prior to obtaining a grading permit, in

addition to a nesting bird survey reported to the California Department of Fish and Wildlife (CDFW) three days prior to construction activities. If at any time there is a lapse of project activities for 30 days or more, another burrowing owl survey shall be conducted and reported to CDFW.

~~If burrowing owl are detected during the pre-construction survey, the Project applicant and a qualified consulting biologist would be required to prepare and submit for approval a burrowing owl relocation program.~~ **If active burrowing owl burrows are detected during the breeding season, the onsite biologist will review and verify compliance with these boundaries and will verify the nesting effort has finished. Work can resume when no other active burrowing owl nesting efforts are observed. If active burrowing owl burrows are detected outside the breeding season, then passive and/or active relocation pursuant to a Burrowing Owl Plan that shall be prepared by the Applicant and approved by the City in consultation with CDFW. The Burrowing Owl Plan shall be prepared in accordance with guidelines in the CDFW Staff Report on Burrowing Owl (March 2012) and MSHCP. Burrowing owl burrows shall be excavated with hand tools by a qualified biologist when determined to be unoccupied and backfilled to ensure that animals do not reenter the holes/dens.**

Pre-construction Burrowing Owl breeding bird surveys shall be conducted by a qualified biologist within three days of ground disturbance or vegetation clearance following the recommended guidelines of the MSHCP. If the preconstruction surveys confirm occupied burrowing owl habitat, or if burrowing owls are detected after the Project has started, then construction activities shall be halted immediately. CDFW will be sent written notification within 48 hours of detection of burrowing owls. The qualified biologist and Project Applicant shall coordinate with the City, CDFW, and US Fish and Wildlife Service (USFWS) to develop a Burrowing Owl Plan to be approved by the City, CDFW and USFWS prior to commencing Project activities. The Burrowing Owl Plan shall describe proposed avoidance, relocation, monitoring, minimization, and/or mitigation actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites and details on proposed buffers if avoiding the burrowing owls or information on the adjacent or nearby suitable habitat available to owls for relocation. If no suitable habitat is available nearby for relocation, details regarding the creation and funding of artificial burrows (numbers, location, and type of burrows) and management activities for relocated owls shall also be included in the Burrowing Owl

Plan. The Permittee shall implement the Burrowing Owl Plan following CDFW and USFWS review and approval.

Lake and Streambed Agreement

CDFW requires notification of Lake and Streambed Alteration for work undertaken in or near any river, stream, or lake, including ephemeral streams, desert washes, and watercourses with a subsurface flow. Fish and Game Code section 1602 states, "An entity may not substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake, or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake, unless" certain conditions are met.

The DEIR indicates that no riparian or wetland habitat is located within the Project planning area (pg. 154). However, based on review of aerial imagery and materials submitted with the DEIR, it appears that there are streams subject to Fish and Game Code section 1600 et seq., on APNs 331-140-021, 331-140-025, and 331-140-010 (collectively referred to as parcels). Within these APNs, there is evidence of stream flow along the northern edge of the Project site. Stream flow continues from east to west across the parcels, then from north to south parallel to Sherman Road until flow drains into the Riverside County Flood Control channel on the southern Project boundary. If impacts to streams from the Project are anticipated, CDFW requests that the Project proponent(s) submit a Notification of Lake or Streambed Alteration through the Environmental Permit Information Management System (EPIMS) at <https://epims.wildlife.ca.gov>.

CDFW requests the incorporation of MM BIO-4 below to avoid, minimize, and mitigate for impacts to fish and wildlife resources subject to Fish and Game Code section 1600 et seq.:

MM BIO-4 Prior to construction and issuance of any grading permit, the Project proponent should obtain written correspondence from the California Department of Fish and Wildlife (CDFW) stating that notification under section 1602 of the Fish and Game Code is not required for the Project, or the Project proponent should obtain a CDFW-executed Lake and Streambed Alteration Agreement, authorizing impacts to Fish and Game Code section 1602 resources associated with the Project.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, §

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21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

ENVIRONMENTAL DOCUMENT FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental document filing fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

CDFW appreciates the opportunity to comment on the DEIR for the Menifee Commerce Center Project, State Clearing House No. 2021060247 to assist in identifying and mitigating Project impacts on biological resources. CDFW personnel are available for consultation regarding biological resources and strategies to minimize impacts. CDFW requests that City of Menifee addresses CDFW's comments and concerns prior to adoption of the EIR for the Project.

Questions regarding this letter or further coordination should be directed to Katrina Rehrer, Environmental Scientist, at katrina.rehrer@wildlife.ca.gov.

Sincerely,

DocuSigned by:

DF423498814B441...

Heather Pert,
Acting Environmental Program Manager

ec: **California Department of Fish and Wildlife**
Cindy Castaneda, Acting Senior Environmental Scientist Supervisory
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Western Riverside County Regional Conservation Authority

Tricia Campbell

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State Clearing House

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

PURPOSE OF THE MMRP

The purpose of the MMRP is to ensure compliance with mitigation measures during Project implementation. Mitigation measures must be implemented within the time periods indicated in the table below.

TABLE OF MITIGATION MEASURES

The following items are identified for each mitigation measure: Mitigation Measure, Implementation Schedule, and Responsible Party for implementing the mitigation measure. The Mitigation Measure column summarizes the mitigation requirements. The Implementation Schedule column shows the date or phase when each mitigation measure will be implemented. The Responsible Party column identifies the person or agency that is primarily responsible for implementing the mitigation measure.

Biological (BIO) Mitigation Measures (MM)	Implementation Schedule	Responsible Party
<p>MM BIO-1</p> <p>Prior to grading or construction activities, including vegetation removal, the Project Applicant shall ensure that impacts to nesting bird species at the project site are avoided through the implementation of preconstruction surveys, ongoing monitoring, and if necessary, establishment of minimization measures. The Project Applicant shall adhere to the following:</p> <ol style="list-style-type: none"> 1. Applicant shall designate a biologist (Designated Biologist) experienced in: identifying local and migratory bird species of special concern; conducting bird surveys using appropriate survey methodology; nesting surveying techniques, recognizing breeding and nesting behaviors, locating nests and breeding territories, and identifying nesting stages and nest success; determining/establishing appropriate avoidance and minimization measures; and monitoring the efficacy of implemented avoidance and minimization measures. 2. Surveys shall be conducted by the Designated Biologist at the appropriate time of day/night, during appropriate weather conditions, no more than 3 days prior to the initiation of project activities. Surveys shall encompass all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures. Survey duration shall take into consideration the size of the 	<p>Prior to commencing ground- or vegetation disturbing activities</p>	<p>Project Proponent</p>

project site; density, and complexity of the habitat; number of survey participants; survey techniques employed; and shall be sufficient to ensure the data collected is complete and accurate. If a nest is suspected, but not confirmed, the Designated Biologist shall establish a disturbance-free buffer until additional surveys can be completed, or until the location can be inferred based on observations. If a nest is observed, but thought to be inactive, the Designated Biologist shall monitor the nest for one hour (four hours for raptors during the non-breeding season) prior to approaching the nest to determine status. The Designated Biologist shall use their best professional judgement regarding the monitoring period and whether approaching the nest is appropriate.

If an active avian nest is confirmed, the Designated Biologist shall immediately establish a conservative avoidance buffer surrounding the nest based on their best professional judgement and experience. The Designated Biologist shall monitor the nest at the onset of project activities, and at the onset of any changes in such project activities (e.g., increase in number or type of equipment, change in equipment usage, etc.) to determine the efficacy of the buffer. If the Designated Biologist determines that such project activities may be causing an adverse reaction, the Designated Biologist shall adjust the buffer accordingly or implement alternative avoidance and minimization measures, such as redirecting or rescheduling construction or erecting sound barriers. All work within these buffers will be halted until the nesting effort is finished (i.e. the juveniles are surviving independent from the nest). The onsite qualified biologist will review and verify compliance with these nesting avoidance buffers and will verify the nesting effort has finished. Work can resume within these avoidance areas when no other active nests are found. Upon completion of the survey and nesting bird monitoring, a report shall be prepared and submitted to City for mitigation monitoring compliance record keeping.

<p>MM BIO-2</p> <p>The Project Developer shall retain a qualified biologist to conduct a 30-day preconstruction survey for burrowing owl. The results of the single one-day survey would be submitted to the City prior to obtaining a grading permit, in addition to a survey reported to CDFW 3 days prior to construction activities. If at any time there is a lapse of project activities for 30 days or more, another burrowing owl survey shall be conducted and reported to CDFW. If burrowing owl are not detected during the pre-construction survey, no further mitigation is required.</p> <p>If active burrowing owl burrows are detected during the breeding season, the onsite biologist will review and verify compliance with these boundaries and will verify the nesting effort has finished. Work can resume when no other active burrowing owl nesting efforts are observed. If active burrowing owl burrows are detected outside the breeding season, then passive and/or active relocation pursuant to a Burrowing Owl Plan that shall be prepared by the Applicant and approved by the City in consultation with CDFW. The Burrowing Owl Exclusion Plan shall be prepared in accordance with guidelines in the CDFW Staff Report on Burrowing Owl (March 2012) and MSHCP. Burrowing owl burrows shall be excavated with hand tools by a qualified biologist when determined to be unoccupied and backfilled to ensure that animals do not reenter the holes/dens.</p> <p>CDFW will be sent written notification within 3 days of detection of burrowing owls, if found. Pre-construction Burrowing Owl breeding bird surveys shall be conducted by a qualified biologist within three days of ground disturbance or vegetation clearance following the recommended guidelines of the MSHCP. If the preconstruction surveys confirm occupied burrowing owl habitat, or if burrowing owls are detected after the Project has started, then construction activities shall be halted immediately. CDFW and USFWS shall be notified within 48 hours of detection. The qualified biologist and Project Applicant shall coordinate with the County, CDFW, and USFWS to develop a Burrowing Owl Plan to be approved by the County, CDFW and USFWS prior to commencing Project activities. The Burrowing Owl Plan shall</p>	<p>Prior to commencing ground- or vegetation disturbing activities</p>	<p>Project Proponent</p>
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<p>describe proposed avoidance, relocation, monitoring, minimization, and/or mitigation actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites and details on proposed buffers if avoiding the burrowing owls or information on the adjacent or nearby suitable habitat available to owls for relocation. If no suitable habitat is available nearby for relocation, details regarding the creation and funding of artificial burrows (numbers, location, and type of burrows) and management activities for relocated owls shall also be included in the Burrowing Owl Plan. The Permittee shall implement the Burrowing Owl Plan following CDFW and USFWS review and approval.</p>		
<p>MM BIO-3</p> <p>Prior to approval of any implementing developments within the Project site (e.g., plot plans, conditional use permits) and the adoption of the final Environmental Impact Report, the Project Proponent shall contract with a qualified biologist to prepare a Determination of Biologically Equivalent or Superior Preservation (DBESP), in accordance with Section 6.1.2 of the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP). The required DBESP shall address Project impacts to riparian/riverine and vernal pool features that comprise MSCHP riparian/riverine and vernal pool habitat, California Department of Fish and Game Code section 1602 resources, Regional Water Quality Control Board (RWQCB) jurisdiction, and/or U.S. Army Corps of Engineers jurisdiction. The required DBESP shall identify compensatory mitigation for the loss of riparian/riverine and vernal pool resources.</p> <p>Prior to approval of the implementing development(s) and the adoption of the final Environmental Impact Report, the required DBESP shall be subject to review and approval by the City of Menifee, and also shall be subject to a 60-day review period by the Wildlife Agencies, including the California Department of Fish and Wildlife (CDFW), as required by the MSHCP. Following approval of the DBESP by the City of Menifee and the Wildlife Agencies (e.g., CDFW), and prior to issuance of grading permits, the Project Applicant shall provide evidence to that the required compensatory mitigation has been</p>	<p>Prior to adoption of the final Environmental Impact Report</p>	<p>City of Menifee and Project Proponent</p>

<p>achieved in accordance with the approved DBESP.</p>		
<p>MM BIO-4</p> <p>Prior to construction and issuance of any grading permit, the Project proponent should obtain written correspondence from the California Department of Fish and Wildlife (CDFW) stating that notification under section 1602 of the Fish and Game Code is not required for the Project, or the Project proponent should obtain a CDFW-executed Lake and Streambed Alteration Agreement, authorizing impacts to Fish and Game Code section 1602 resources associated with the Project.</p>	<p>Prior to construction and issuance of any grading permit</p>	<p>City of Menifee and Project Proponent</p>