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STATE CLEARINGHOUSE

August 23, 2022

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Subject: Comments on the Draft Environmental Impact Report for the Palmdale 2045 General Plan Update Project, SCH #2021060494, Los Angeles County

Dear Ms. Taggart:

The California Department of Fish and Wildlife (CDFW) has reviewed the Draft Environmental Impact Report (DEIR) for the Palmdale 2045 General Plan Update Project (Project) from the City of Palmdale (City). 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 proposed Project is a three-plus-year comprehensive update to the City's General Plan, the guiding document for the future of Palmdale over 23 years (2022-2045). The Project focuses on building out planned infrastructure investments and improving multi-modal active transportation and connectivity. The Project identifies major strategies and physical improvements for the City over the next 23 years. These strategies include creating a downtown near the future multimodal transit station, establishing three health and wellness districts, and developing two education districts. This also includes transforming Palmdale Boulevard into a mixed-use corridor, promoting a diversity of housing types in the City, forming village centers that offer a mix of residential choices and daily goods and services near existing neighborhoods, and building off existing industrial and aerospace business opportunities. The City has identified 24 sites on Table 3-1 Development Status of Major Approved Projects that are sites approved for development (Approved Projects) within the 23-year planning period of the Project. The following actions will also be taken by the City in connection with the Project and are also considered part of the proposed project analyzed in the DEIR:

- Adopt and implement the General Plan Update (Palmdale 2045 Plan);
- Adopt and implement the Climate Action Plan;
- Adopt Zoning Ordinance Amendments required to make the Zoning Ordinance consistent with the General Plan Update;
- Adopt the Housing Element Update; and
- Adopt revisions to the Palmdale Transit Area Specific Plan to slightly expand its boundary.

Location: The Project would apply to the entire geographic area located within the boundaries of the City of Palmdale. The City is located in the southern region of the Antelope Valley, approximately 60 miles northeast of downtown Los Angeles along State Highway 14. The Project Area is 106,634 acres, or approximately 166 square miles.

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. Editorial comments or other suggestions are also included to improve the environmental document. 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 on Western Joshua Trees (*Yucca brevifolia*) and Woodlands

Issue: Development facilitated by the Project could impact western Joshua trees and woodlands, which can be found throughout the Palmdale area.

Specific impacts: Development of the Approved Projects or future project sites may result in loss of individual western Joshua trees as well as acres of Joshua tree woodlands.

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Why impact would occur: 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 2022a). Development of some Approved Projects and potentially future sites could result in the loss of individual trees and acres of Joshua tree woodlands. Impacts on western Joshua trees and Joshua tree woodlands could occur as a result of clearing a project site for development, which includes fuel modification areas surrounding the potential development. Even if individual trees are not removed as part of fuel modification, removal and disturbance of the understory vegetation would result in the complete loss, degradation, or disturbance of a structurally diverse Joshua tree woodland. As a result, the Project would remove western Joshua trees, eliminate and modify habitat, and crush and/or bury living seeds in the soil, rendering living seeds inviable and/or causing them to be killed.

The DEIR concludes that the Project's impact on western Joshua trees is less than significant through implementation and compliance with the City's Native Vegetation Ordinance as well as the Project's Conservation Policy Goal CON-1.2. The City's Native Vegetation Ordinance applies to individual trees, not the habitat or natural community as a whole. The Project's Goal CON-1.2 does not prescribe, require, or impose specific actions that would substantially mitigate for impacts on a natural community that CDFW considers to be a Sensitive Natural Community. The DEIR does not require any future development facilitated by the Project to undertake measures to mitigate for impacts on western Joshua trees as a natural community. As a result, the Project could result in unmitigated impacts.

The City's Native Vegetation Ordinance requires preservation of two Joshua trees per acre. Loss of woodlands supporting foraging, nesting, and dispersing wildlife may not be completely mitigated by preserving individual trees. Individual trees may not completely replace the loss of viable habitat, understory vegetation, and biological functions. This could result in a short-term and long-term reduction in Joshua tree woodlands available to support biological and ecological functions. As such, this could result in local extirpation of wildlife.

Evidence impact would be significant: The western Joshua tree is a species designated as candidate for listing as threatened pursuant to CESA (Fish & G. Code, § 2050 *et seq.*). The western Joshua tree is granted full protection of a threatened species under CESA. Take of any endangered, threatened, candidate species that results from the Project is prohibited, except as authorized by State law (Fish & G. Code, §§ 86, 2062, 2067, 2068, 2080, 2085; Cal. Code Regs., tit. 14, § 786.9). The DEIR does not describe or disclose any compensatory mitigation required for the Project's impact on western Joshua trees, their seedbank, or in situ western Joshua trees adjacent to an Approved Project or future project site. Accordingly, the Project may have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on a species identified as a candidate, sensitive, or special status by CDFW.

CDFW considers Joshua tree woodlands to be a sensitive plant community. Impacts to a Sensitive Natural Community should be considered significant under CEQA unless impacts are clearly mitigated below a level of significance. Without appropriate mitigation, the Project may result in significant impacts on a Sensitive Natural Community if development facilitated by the Project would remove, encroach into, or disturb (e.g., fuel modification) such resources. Accordingly, the Project would continue to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on a species or natural community identified as a candidate, sensitive, or special status species by CDFW.

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Recommended Potentially Feasible Mitigation Measure(s) Required for Future Projects Facilitated by the General Plan Update:

Mitigation Measure #1: The City should require project applicants to submit an Incidental Take Permit (ITP) Application to CDFW that provides the following information (at a minimum):

1. An analysis of individual western Joshua trees (clonal and non-clonal) and western Joshua tree seedbank that would be impacted both within the Project site and within 300 feet of the Project site;
2. An analysis of the acres of natural communities supporting western Joshua trees that would be impacted both within the Project site and within 300 feet of the Project site provided according to alliance and/or association-based natural communities found in the [Manual of California Vegetation](#) (MCV), second edition (Sawyer et al. 2009);
3. A map of the Project's site plan overlaid on location of western Joshua trees and natural communities; and
4. A discussion of whether development could impact any in-situ western Joshua trees adjacent to the Project site.

Mitigation Measure #2: The City should provide compensatory mitigation for any Approved Project's or future project's impact on western Joshua trees at no less than 2:1, or as required in an ITP for western Joshua trees issued by CDFW. Mitigation should be higher if the project will impact a western Joshua tree population that is increasing through seedling recruitment. Mitigation lands provided by the City should (at a minimum):

1. Support western Joshua trees of similar density, abundance, and age structure;
2. Support natural communities of similar native plant species composition, density, structure, and function to habitat that was impacted;
3. Support nursery plants for western 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 Measure #3: The City should require the project applicants to protect mitigation lands in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands pursuant to Assembly Bill 1094 (2012). Assembly Bill 1094 amended Government Code sections 65965-65968. Under Government Code section 65967(c), the lead agency must exercise due diligence in reviewing the qualifications of a governmental entity, special district, or nonprofit organization to effectively manage and steward land, water, or natural resources on mitigation lands it approves. An appropriate non-wasting endowment should be provided for the long-term management of mitigation lands. A mitigation plan should include measures to protect the targeted habitat values in perpetuity from direct and indirect negative impacts. Issues that should be addressed include but are not limited to the following: protection from any future development and zone changes; restrictions on access; proposed land dedications; control of illegal dumping; water pollution; and, increased human intrusion. A conservation easement and endowment funds should be fully acquired, established, transferred, or otherwise executed prior to impacts on western Joshua trees.

Recommendation #1: The City should revise the DEIR to require future applicants to disclose the project's impact on western Joshua tree by providing the following information:

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1. The Project's potential impact on western Joshua tree seedbank within the Project site;
2. The Project's potential impact on western Joshua trees and seedbank adjacent to the Project site;
3. The Project's potential impact on each unique native and non-native natural community supporting western Joshua trees within and adjacent to the Project site;
4. The Project's construction, operation, and maintenance activities that could impact western Joshua trees and seedbank within and adjacent to the Project site; and
5. The Project's cumulative impact on western Joshua tree.

Recommendation #2: 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 for the Project unless the Project require all current and future project CEQA document address all the project's impact on CESA endangered, threatened, and/or candidate species. The Project's CEQA document should also specify a mitigation monitoring and reporting program that will meet the requirements of an ITP. Also, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for an ITP. However, it is worth noting that mitigation for the Project's impact on a CESA endangered, threatened, and/or candidate species proposed in the Project's CEQA document may not necessarily satisfy mitigation required to obtain an ITP.

Comment #2: Impacts on Biological Resources

Issue: Development facilitated by the Project could impact biological resources.

Specific impacts: Direct and indirect impacts on biological resources could result from development on Approved Project and future sites. Impacts on biological resources could result in reproductive suppression, mortality or injury to wildlife, or population decline of a special status, sensitive, or rare species or natural community.

Why impacts would occur: The DEIR states, "Based on the review of applicable databases, 32 special-status animal species and 43 special-status plant species have been observed or have the potential to occur in the 9-quadrangle search area surrounding the Planning Area, as detailed in Appendix C. These include the desert tortoise and Mohave ground squirrel." According to the DEIR, out of the 24 sites that the Project has identified, CDFW has estimated 19 sites on vacant land. Development on these sites as proposed in the Project, would require removal of habitat and construction of residential, commercial, and industrial uses. Development on these sites could result in habitat modification and impacts to special status species during development and operation. Development facilitated by the Project could impact biological resources, both directly or indirectly through habitat modification or loss. Biological resources that could be impacted by the Project includes special status, sensitive, or rare species or natural communities. Given that the Project site supports multiple species and their habitats, the DEIR only includes MM-BIO-1 to minimize impacts to nesting birds. The Project may, therefore, result in a net loss of special status, sensitive, or rare species or natural communities without further avoidance, minimization, or mitigation measures.

The DEIR concludes that the Project's impact on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by CDFW and/or U.S. Fish and Wildlife Service (USFWS) is less than significant through implementation of the Project's goals and policies and compliance with provisions of the various

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State and federal regulations. The Project's Conservation Goals CON-1, CON-2, CON-5, and CON-7 are goals and policies that do not prescribe, require, or impose specific actions that would substantially mitigate for impacts on candidate, sensitive, or special status species at a project level. The DEIR does not require future development facilitated by the Project to undertake any measures to mitigate for impacts on candidate, sensitive, or special status species, other than birds. As a result, the Project, by identifying developable sites over the next 23 years, could result in unmitigated impacts.

Evidence impacts would be significant: The Project has identified vacant sites within the City that could be developed through 2045. The Project could result in direct physical changes to the environment and impact special status, sensitive, or rare plant or wildlife species or natural communities. Impacts on CESA- and ESA-listed species requires a mandatory finding of significance under CEQA (CEQA Guidelines, § 15065). Take under ESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Plants with a California Rare Plant Rank (CRPR) of 1B meets the definition of endangered, rare, or threatened species under CEQA (CEQA Guidelines, §15380; CNPS 2022a). Plants with a CRPR of 4 may meet the definition of endangered, rare, or threatened species. Impacts on rare plants could require a mandatory finding of significance. CDFW considers Sensitive Natural Communities as threatened habitats having both regional and local significance. Natural communities, alliances, and associations with a State-wide rarity ranking of S1, S2, and S3 should be considered sensitive and declining at the local and regional level. These ranks can be obtained by visiting the [Vegetation Classification and Mapping Program - Natural Communities](#) webpage (CDFW 2022a). Impacts on sensitive natural communities could require a mandatory finding of significance. species by CDFW.

Development facilitated by the Project could substantially reduce the habitat of a fish or wildlife species; cause a fish or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; or substantially reduce the number or restrict the range of an endangered, rare, or threatened species [CEQA Guidelines, § 150565(a)(1)]. Without appropriate mitigation, the Project continues to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on species identified as a candidate, sensitive, or special status species, or a Sensitive Natural Community, in local or regional plans, policies, or regulations, or by CDFW and/or USFWS.

Recommended Potentially Feasible Mitigation Measure(s) Required for Future Projects Facilitated by the General Plan Update:

Mitigation Measure #4: Future development projects on Approved Project sites should conduct the appropriate biological resources technical studies as part of project-level analyses, including baseline surveys, protocol-level surveys, tree inventories to confirm the presence of any special status species within or immediate adjacent to proposed impact areas. Focused species-specific surveys should be required if suitable habitat is present. These surveys should be performed according to any established CDFW and/or USFWS protocols. Reports should be prepared that should document baseline conditions at the time of project application, identify constraints, recommend project redesign, analyze potential effects, and propose mitigation measures that reduce potential impacts to less than significant levels. Biological resources technical studies should provide and include the following:

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1. A complete, recent, assessment of rare, threatened, and endangered species, regionally and locally unique species, and sensitive habitats at the project site and within the area of potential effect, including California Species of Special Concern and California Fully Protected Species (Fish & G. Code, §§ 3511, 4700, 5050, and 5515). Species to be addressed should include all those which meet the CEQA definition of endangered, rare, or threatened species (CEQA Guidelines, § 15380). Seasonal variations in use of land around the project site should also be addressed. A nine-quadrangle search of CDFW's [California Natural Diversity Database](#) (CNDDDB) should be conducted to obtain current information on any previously reported sensitive species and habitat (CDFW 2022b);
2. A thorough, recent, floristic-based assessment of special status plants and natural communities following CDFW's [Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities](#) (CDFW 2018). Adjoining habitat areas should be included where project construction and activities could lead to direct or indirect impacts off site;
3. Floristic, alliance- and/or association-based mapping and vegetation impact assessments conducted at the project site and within the area of potential effect. The [Manual of California Vegetation](#) (MCV), second edition, should be used to inform this mapping and assessment (Sawyer et al. 2009);
4. A rare plant assessment using online databases for rare, threatened, and endangered plants, including the California Native Plant Society (CNPS) [Online Inventory of Rare and Endangered Plants of California](#) (CNPS 2022b) as well as the Calflora's [Information on Wild California Plants](#) database (Calflora 2022);
5. A discussion regarding project-related indirect impacts on biological resources in nearby public lands, open space, adjacent natural habitats, riparian ecosystems, and any designated and/or proposed or existing reserve lands [e.g., preserve lands associated with a Natural Community Conservation Plan (Fish & G. Code, § 2800 et. seq.)]; and
6. Impacts on, and maintenance of, wildlife corridor/movement areas, including access to undisturbed habitats in areas adjacent to the project site.

Mitigation Measure #5: If necessary, the project applicants should be required to enter into consultation with, and obtain the appropriate permits from, the USFWS and/or CDFW for unavoidable impacts to special status species and other protected resources. Appropriate permits from the USFWS and/or CDFW should be obtained prior to obtaining a grading permit.

Mitigation Measure #6: If a rare plant species or a Sensitive Natural Community is detected, the project applicant should fully avoid impacts. If the project cannot feasibly avoid impacts to rare plants and habitat, or sensitive natural communities, either during project activities or over the life of the project, the project applicant should provide compensatory mitigation for the loss of individual plants and habitat acres, which should include impacts due to fuel modification. Impacts on rare plants or a Sensitive Natural Community due hazard mitigation/remediation should also be mitigated as these impacts would result in permanent loss and perpetual impacts on habitat function and quality. The project applicant should provide compensatory mitigation so that there is no net loss of rare plants and habitat, or sensitive natural communities. Compensatory mitigation should be appropriate for the extent of permanently disturbed habitat. Compensatory mitigation should be higher for impacts on CRPR 1 species, S1 or S2 Sensitive Natural Community, and Sensitive Natural Community with an additional rank of 0.1 or 0.2. Compensatory mitigation should be implemented by a qualified restoration ecologist. A Restoration Plan, at a minimum, should include success criteria and performance standards for measuring the establishment of rare plants and habitat, responsible parties, maintenance

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techniques and schedule, five-year monitoring and reporting schedule, adaptive management strategies, and contingencies. A Restoration Plan should be submitted to the City prior to any grading or vegetation removal.

Mitigation Measure #7: 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 a project is prohibited, except as authorized by State law (Fish & G. Code, §§ 2080, 2085; Cal. Code Regs., tit. 14, § 786.9). Consequently, if a 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 project applicant seek appropriate take authorization under CESA prior to implementing or continuing the project. Appropriate authorization from CDFW may include an ITP or a Consistency Determination in certain circumstances, among other options [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. 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's CEQA document addresses all project impacts to CESA listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of an ITP. For these reasons, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for a CESA ITP.

Comment #3: Impacts to Streams

Issue: Development facilitated by the Project and Conservation Goal CON-7 could impact streams.

Specific impacts: Development on some of the Approved Project sites may result in erosion and earth movement that could impair streams, whether ephemeral, intermittent, or perennial. Development on the Approved Project or future project sites may necessitate capturing local run-off from their natural course of flow. In addition, vegetation along streams may need to be removed or may be degraded through habitat modification (e.g., loss of water source, encroachment, and edge effects leading to introduction of non-native plants).

Why impacts would occur: According to the DEIR, Amargosa Channel is located adjacent to a site on the Approved Projects. Development of this site could affect riparian habitat during project construction and operation. Development on this and potentially additional future sites may result in ground-disturbing activities and vegetation removal. This includes ground-disturbing activities and vegetation removal potentially required for fuel modification and hazard mitigation/remediation. Ground-disturbing activities and vegetation removal could result in erosion. Siltation or runoff downstream could impair streams and herbaceous vegetation. Herbaceous vegetation adjacent to streams protects the physical and ecological integrity of these water features and maintains natural sedimentation processes. Therefore, a housing or future project that would impact vegetation adjacent to streams, but not the stream itself, could still impact the stream.

In addition, current Approved Projects or future projects may require streams to be channelized or local run-off diverted from their natural course of flow. The DEIR concludes that the Project's impact on any riparian habitat or other sensitive natural community is less than significant

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through implementation of the Project's goals and policies and compliance with relevant local, state, and federal regulations. The Policy Conservations Goals CON-1, CON-4, CON-5, CON-6, CON-7 are goals and policies that do not prescribe, require, or impose specific actions that would substantially mitigate for impacts on streams and associated natural communities. The DEIR does not require future development facilitated by the Project to undertake any measures to mitigate for impacts on streams and associated natural communities. As a result, the Project, by identifying developable sites over the next 23 years, could result in unmitigated impacts.

Evidence impacts would be significant: Changes to hydrology or channel morphology, due to run-off diversion, are reasonable potential direct and indirect physical changes in the environment. Said changes and their potential impacts on biological resources should be analyzed and disclosed in an environmental document. Adequate disclosure is necessary for CDFW to assist a lead agency in adequately identifying, avoiding, and/or mitigating a project's significant, or potentially significant, direct, and indirect impacts on biological resources.

CDFW exercises its regulatory authority as provided by Fish and Game Code section 1600 et seq. to conserve fish and wildlife resources which includes rivers, streams, or lakes and associated natural communities. 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.

CDFW requires a Lake and Streambed Alteration (LSA) Agreement when a project activity may substantially adversely affect fish and wildlife resources. The Project may result in significant impacts on streams and associated natural communities if development of Approved Project sites identified by the Project or future projects would be in close proximity to these resources. Without appropriate mitigation, the Project continues to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on fish and wildlife resources, including rivers, streams, or lakes and associated natural communities identified by CDFW.

Recommended Potentially Feasible Mitigation Measure(s) Required for Future Projects Facilitated by the General Plan Update:

Mitigation Measure #8: Project specific analyses should prepare a jurisdictional delineation and impact assessment provided along with the project's biological resources technical studies.

Mitigation Measure #9: If any river, stream, or lake are present and may be impacted, the project should be required to avoid impacts by implementing appropriate vegetative buffers and/or setbacks adjoining the stream or wetland feature to reduce impacts of the project on these resources.

Mitigation Measure #10: If avoidance is not feasible, the project applicant should be required to notify CDFW pursuant to Fish and Game Code 1602 and obtain an LSA Agreement from CDFW prior to obtaining a grading permit. The project applicant should comply with the

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mitigation measures detailed in a LSA Agreement issued by CDFW. The project applicant should also provide compensatory mitigation at no less than 2:1 for the impacted stream and associated natural community, or at a ratio acceptable to CDFW. Please visit CDFW's [Lake and Streambed Alteration Program](#) webpage for more information (CDFW 2022c).

Recommendation #3: CDFW recommends the DEIR require any approved or future projects to include an analysis of potential impacts on biological resources resulting from any proposed water diversion. At a minimum, the analysis should evaluate a study reach that includes the channel downstream from a project site. The study reach should extend a minimum of one mile downstream or an appropriate distance determined by both a qualified biologist and hydrologist, whichever is greater. The analysis of the study reach should discuss changes in hydrology and hydraulics, including the following:

1. Under pre-project (i.e., baseline) conditions, the volume of water flow from both the project area and study reach during a) the wet (November through March); b) the dry season (April through October); and c) above-average and below-average water year (i.e., wet season/above-average water year, wet season/below-average water year, dry season/above-average water year, and dry season/below-average water year). The analysis should clearly define above-average or below-average rainfall year.
2. Under proposed project conditions, the percent reduction in flow from both the project area and study reach for a wet season/above-average water year, wet season/below-average water year, dry season/above-average water year, and dry season/below-average water year.
3. A quantitative analysis comparing the flow from the project area and other tributaries into the study reach, and their relative contribution to the hydrograph of the study reach.
4. An analysis of potential project-related changes to river hydraulics in both concrete-lined and soft-bottom reaches. This includes water depth (percent change), wetted perimeter (acres gained/lost), and velocity (percent change).

Recommendation #4: 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 lead agency/project applicant for the project. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 et seq. and/or under CEQA, a project's 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.

Additional Recommendations

Recommendation #5: Nesting Birds – CDFW recommends modifying BIO-MM-4 to include underlined language and remove language with strikethrough:

“To avoid disturbance of nesting and special status birds, including raptorial species protected by the MBTA and CFGC, activities related to construction projects carried out

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under the Plan, including, but not limited to, vegetation removal, ground disturbance, and construction and demolition shall occur outside of the bird breeding season, February 15 through September 15 (as early as January 1 for some raptors) ~~(February 1 through August 31)~~. If construction must begin during the breeding season, then a pre-construction nesting bird survey shall be conducted no more than 3 days prior to initiation of ground disturbance and vegetation removal activities. The nesting bird pre-construction survey shall be conducted on foot inside the area of proposed development, including a 300-foot buffer (500-foot for raptors), and in inaccessible areas (e.g., private lands) from afar using binoculars to the extent practical. The survey shall be conducted by a biologist familiar with the identification of avian species known to occur in southern California desert communities.

If nests are found, an avoidance buffer (dependent upon the species, the proposed work activity, and existing disturbances associated with land uses outside of the site) shall be determined and demarcated by the biologist with bright orange construction fencing, flagging, construction lathe, or other means to mark the boundary. All construction personnel shall be notified as to the existence of the buffer zone and to avoid entering the buffer zone during the nesting season. No ground disturbing activities shall occur within this buffer until the avian biologist has confirmed that breeding/nesting is completed and the young have fledged the nest. Encroachment into the buffer shall occur only at the discretion of the qualified biologist.”

It should be noted that the temporary halt of Project activities within nesting buffers during nesting season does not constitute effective mitigation for the purposes of offsetting Project impacts associated with habitat loss. Additional mitigation would be necessary to compensate for the permanent removal of nesting habitat within the Project site based on acreage of impact and vegetation composition. CDFW shall be consulted to determine proper mitigation for impacts to occupied habitat depending on the status of the bird species. Mitigation ratios would increase with the occurrence a California Species of Special Concern and would further increase with the occurrence of a CESA-listed species.

Recommendation #6: Data – CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Accordingly, please report any special status species detected by completing and submitting [CNDDDB Field Survey Forms](#) (CDFW 2022d). This includes all documented occurrences of special status species. The City should ensure the data has been properly submitted, with all data fields applicable filled out, prior to Project ground-disturbing activities. 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.

Recommendation #7: Mitigation and Monitoring Reporting Plan – 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). A final MMRP shall reflect results following additional plant and wildlife surveys and the Project’s final on and/or off-site mitigation plans.

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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 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 in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that the City 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) 292-8105.

Sincerely,

DocuSigned by:

5991E19EF8094C3...

Victoria Tang signing for

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. A final MMRP shall reflect results following additional plant and wildlife surveys and the Project's final on and/or off-site mitigation plans.

Biological Resources (BIO)			
Mitigation Measure (MM) or Recommendation (REC)		Timing	Responsible Party
MM-BIO-1- Joshua Tree ITP	<p>The City shall require project applicants to submit an ITP Application to CDFW that provides the following information (at a minimum):</p> <ol style="list-style-type: none"> 1) An analysis of individual western Joshua trees (clonal and non-clonal) and western Joshua tree seedbank that would be impacted both within the Project site and within 300 feet of the Project site; 2) An analysis of the acres of natural communities supporting western Joshua trees that would be impacted both within the Project site and within 300 feet of the Project site provided according to alliance and/or association-based natural communities found in the Manual of California Vegetation (MCV), second edition (Sawyer et al. 2009); 3) A map of the Project's site plan overlaid on location of western Joshua trees and natural communities; and 4) A discussion of whether housing development could impact any in-situ western Joshua trees adjacent to the Project site. 	Prior to Project construction and activities	City of Palmdale/Project Applicant

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<p>MM-BIO-2- Joshua Tree Mitigation</p>	<p>The City shall provide compensatory mitigation for any Approved Projects or future project’s impact on western Joshua trees at no less than 2:1, or as required in an ITP for western Joshua trees issued by CDFW. Mitigation shall be higher if the project will impact a western Joshua tree population that is increasing through seedling recruitment. Mitigation lands provided by the City shall (at a minimum):</p> <ol style="list-style-type: none"> 1) Support western Joshua trees of similar density, abundance, and age structure; 2) Support natural communities of similar native plant species composition, density, structure, and function to habitat that was impacted; 3) Support nursery plants for western Joshua tree recruits; and 4) Not be exposed or have the potential to be exposed to disturbances such as OHV activity, illegal access, and encroachment from pending or future development. 	<p>Prior to Project construction and activities</p>	<p>City of Palmdale/Project Applicant</p>
<p>MM-BIO-3- Mitigation Lands</p>	<p>The City shall require the project applicants to protect mitigation lands in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands pursuant to Assembly Bill 1094 (2012). Assembly Bill 1094 amended Government Code sections 65965-65968. Under Government Code section 65967(c), the lead agency must exercise due diligence in reviewing the qualifications of a governmental entity, special district, or nonprofit organization to effectively manage and steward land, water, or natural resources on mitigation lands it approves. An appropriate non-wasting endowment shall be provided for the long-term management of mitigation lands. A mitigation plan shall include measures to protect the targeted habitat values in perpetuity from direct and indirect negative impacts. Issues that shall be addressed include but are not limited to the following: protection from any future development and zone</p>	<p>Prior to Project construction and activities</p>	<p>City of Palmdale/Project Applicant</p>

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	changes; restrictions on access; proposed land dedications; control of illegal dumping; water pollution; and, increased human intrusion. A conservation easement and endowment funds shall be fully acquired, established, transferred, or otherwise executed prior to impacts on western Joshua trees.		
REC-1-Impacts to Joshua Tree	<p>The City should revise the DEIR to require future applicants to disclose the project's impact on western Joshua tree by providing the following information:</p> <ol style="list-style-type: none"> 1) The Project's potential impact on western Joshua tree seedbank within the Project site; 2) The Project's potential impact on western Joshua trees and seedbank adjacent to the Project site; 3) The Project's potential impact on each unique native and non-native natural community supporting western Joshua trees within and adjacent to the Project site; 4) The Project's construction, operation, and maintenance activities that could impact western Joshua trees and seedbank within and adjacent to the Project site; and 5) The Project's cumulative impact on western Joshua tree. 	Prior to Project construction and activities	City of Palmdale/Project Applicant
REC-2-ITP Issuance	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 for the Project unless the Project require all current and future project CEQA document address all the project's impact on CESA endangered, threatened, and/or candidate species. The Project's CEQA document should also specify a mitigation monitoring and reporting program that will meet the requirements of an ITP. Also, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for an ITP. However, it is worth noting that mitigation for the Project's impact on a CESA endangered, threatened, and/or candidate species proposed in the Project's CEQA document may not necessarily satisfy mitigation required to obtain an ITP.	Prior to Project construction and activities	City of Palmdale/Project Applicant

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<p>MM-BIO-4- Biological Resources</p>	<p>Future development projects and development on Approved Project sites shall conduct the appropriate biological resources technical studies as part of project-level analyses, including baseline surveys, protocol-level surveys, tree inventories to confirm the presence of any special status species within or immediate adjacent to proposed impact areas. Focused species-specific surveys shall be required if suitable habitat is present. These surveys shall be performed according to any established CDFW and/or USFWS protocols. Reports shall be prepared that shall document baseline conditions at the time of project application, identify constraints, recommend project redesign, analyze potential effects, and propose mitigation measures that reduce potential impacts to less than significant levels. Biological resources technical studies shall provide and include the following:</p> <ol style="list-style-type: none"> 1. A complete, recent, assessment of rare, threatened, and endangered species, regionally and locally unique species, and sensitive habitats at the project site and within the area of potential effect, including California Species of Special Concern and California Fully Protected Species (Fish & G. Code, §§ 3511, 4700, 5050, and 5515). Species to be addressed shall include all those which meet the CEQA definition of endangered, rare, or threatened species (CEQA Guidelines, § 15380). Seasonal variations in use of land around the project site shall also be addressed. A nine-quadrangle search of CDFW's California Natural Diversity Database (CNDDDB) shall be conducted to obtain current information on any previously reported sensitive species and habitat (CDFW 2022b); 2. A thorough, recent, floristic-based assessment of special status plants and natural communities following CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018). Adjoining habitat areas shall be included where project construction and activities could lead to direct or indirect impacts off site; 	<p>Prior to Project construction and activities</p>	<p>City of Palmdale/Project Applicant</p>
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	<ol style="list-style-type: none"> 3. Floristic, alliance- and/or association-based mapping and vegetation impact assessments conducted at the project site and within the area of potential effect. The Manual of California Vegetation (MCV), second edition, shall be used to inform this mapping and assessment (Sawyer et al. 2009); 4. A rare plant assessment using online databases for rare, threatened, and endangered plants, including the California Native Plant Society (CNPS) Online Inventory of Rare and Endangered Plants of California (CNPS 2022b) as well as the Calflora's Information on Wild California Plants database (Calflora 2022); 5. A discussion regarding project-related indirect impacts on biological resources in nearby public lands, open space, adjacent natural habitats, riparian ecosystems, and any designated and/or proposed or existing reserve lands [e.g., preserve lands associated with a Natural Community Conservation Plan (Fish & G. Code, § 2800 et. seq.)]; and, 6. Impacts on, and maintenance of, wildlife corridor/movement areas, including access to undisturbed habitats in areas adjacent to the project site. 		
MM-BIO-5-Special Status Species Permits	If necessary, the project applicants shall be required to enter into consultation with, and obtain the appropriate permits from, the USFWS and/or CDFW for unavoidable impacts to special status species and other protected resources. Appropriate permits from the USFWS and/or CDFW shall be obtained prior to obtaining a grading permit.	Prior to Project construction and activities	City of Palmdale/Project Applicant
MM-BIO-6-Sensitive Natural Communities	If a rare plant species or a Sensitive Natural Community is detected, the project applicant shall fully avoid impacts. If the project cannot feasibly avoid impacts to rare plants and habitat, or sensitive natural communities, either during project activities or over the life of the project, the project applicant shall provide compensatory mitigation for the loss of individual plants and habitat acres, which shall include impacts due to fuel modification.	Prior to Project construction and activities	City of Palmdale/Project Applicant

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	<p>Impacts on rare plants or a Sensitive Natural Community due to hazard mitigation/remediation shall also be mitigated as these impacts would result in permanent loss and perpetual impacts on habitat function and quality. The project applicant shall provide compensatory mitigation so that there is no net loss of rare plants and habitat, or sensitive natural communities. Compensatory mitigation shall be appropriate for the extent of permanently disturbed habitat. Compensatory mitigation shall be higher for impacts on CRPR 1 species, S1 or S2 Sensitive Natural Community, and Sensitive Natural Community with an additional rank of 0.1 or 0.2. Compensatory mitigation shall be implemented by a qualified restoration ecologist. A Restoration Plan, at a minimum, shall include success criteria and performance standards for measuring the establishment of rare plants and habitat, responsible parties, maintenance techniques and schedule, five-year monitoring and reporting schedule, adaptive management strategies, and contingencies. A Restoration Plan shall be submitted to the City prior to any grading or vegetation removal.</p>		
<p>MM-BIO-7-CEQA Document</p>	<p>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 a project is prohibited, except as authorized by State law (Fish & G. Code, §§ 2080, 2085; Cal. Code Regs., tit. 14, § 786.9). Consequently, if a 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 project applicant seek appropriate take authorization under CESA prior to implementing or continuing the project. Appropriate authorization from CDFW may include an ITP or a Consistency Determination in certain circumstances, among other options [Fish & G. Code, §§ 2080.1, 2081, subs. (b) and (c)]. Early consultation is encouraged, as significant modification to a project and mitigation measures may be required to obtain a CESA Permit. Revisions to</p>	<p>Prior to Project construction and activities</p>	<p>City of Palmdale/Project Applicant</p>

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	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's CEQA document addresses all project impacts to CESA listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of an ITP. For these reasons, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for a CESA ITP.		
MM-BIO-8- Jurisdictional Delineation	Project specific analyses shall prepare a jurisdictional delineation and impact assessment provided along with the project's biological resources technical studies.	Prior to Project construction and activities	City of Palmdale/Project Applicant
MM-BIO-9- Stream Buffers	If any river, stream, or lake are present and may be impacted, the project shall be required to avoid impacts by implementing appropriate vegetative buffers and/or setbacks adjoining the stream or wetland feature to reduce impacts of the project on these resources.	Prior to Project construction and activities	City of Palmdale/Project Applicant
MM-BIO-10-LSA Notification	If avoidance is not feasible, the project applicant shall be required to notify CDFW pursuant to Fish and Game Code 1602 and obtain an LSA Agreement from CDFW prior to obtaining a grading permit. The project applicant shall comply with the mitigation measures detailed in a LSA Agreement issued by CDFW. The project applicant shall also provide compensatory mitigation at no less than 2:1 for the impacted stream and associated natural community, or at a ratio acceptable to CDFW. Please visit CDFW's Lake and Streambed Alteration Program webpage for more information (CDFW 2022c).	Prior to Project construction and activities	City of Palmdale/Project Applicant
REC-3-Water Diversion Biological Analysis	CDFW recommends the DEIR require any approved or future projects to include an analysis of potential impacts on biological resources resulting from any proposed water diversion. At a minimum, the analysis should evaluate a study reach that includes the channel downstream from the Project site. The study reach should extend a minimum of one mile downstream or an appropriate distance determined by both a qualified biologist and	Prior to Project construction and activities	City of Palmdale/Project Applicant

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	<p>hydrologist, whichever is greater. The analysis of the study reach should discuss changes in hydrology and hydraulics, including the following:</p> <ol style="list-style-type: none"> 1. Under pre-project (i.e., baseline) conditions, the volume of water flow from both the project area and study reach during a) the wet (November through March); b) the dry season (April through October); and c) above-average and below-average water year (i.e., wet season/above-average water year, wet season/below-average water year, dry season/above-average water year, and dry season/below-average water year). The analysis should clearly define above-average or below-average rainfall year. 2. Under proposed project conditions, the percent reduction in flow from both the project area and study reach for a wet season/above-average water year, wet season/below-average water year, dry season/above-average water year, and dry season/below-average water year. 3. A quantitative analysis comparing the flow from the project area and other tributaries into the study reach, and their relative contribution to the hydrograph of the study reach. <p>An analysis of potential project-related changes to river hydraulics in both concrete-lined and soft-bottom reaches. This includes water depth (percent change), wetted perimeter (acres gained/lost), and velocity (percent change).</p>		
<p>REC-4-CEQA Compliance</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 lead agency/project applicant for the project. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 et seq. and/or under CEQA, a project's 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</p>	<p>Prior to Project construction and activities</p>	<p>City of Palmdale/Project Applicant</p>

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	<p>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>REC-5-Nesting Birds</p>	<p>CDFW recommends modifying BIO-MM-4 to include <u>underlined</u> language and remove language with strikethrough:</p> <p>“To avoid disturbance of nesting and special status birds, including raptorial species protected by the MBTA and CFGC, activities related to construction projects carried out under the Plan, including, but not limited to, vegetation removal, ground disturbance, and construction and demolition shall occur outside of the bird breeding season, <u>February 15 through September 15 (as early as January 1 for some raptors)</u> (February 1 through August 31). If construction must begin during the breeding season, then a pre-construction nesting bird survey shall be conducted no more than 3 days prior to initiation of ground disturbance and vegetation removal activities. The nesting bird pre-construction survey shall be conducted on foot inside the area of proposed development, including a 300-foot buffer (500-foot for raptors), and in inaccessible areas (e.g., private lands) from afar using binoculars to the extent practical. The survey shall be conducted by a biologist familiar with the identification of avian species known to occur in southern California desert communities.</p> <p>If nests are found, an avoidance buffer (dependent upon the species, the proposed work activity, and existing disturbances associated with land uses outside of the site) shall be determined and demarcated by the biologist with bright orange construction fencing, flagging, construction</p>	<p>Prior to Project construction and activities</p>	<p>City of Palmdale/Project Applicant</p>

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	<p>lathe, or other means to mark the boundary. All construction personnel shall be notified as to the existence of the buffer zone and to avoid entering the buffer zone during the nesting season. No ground disturbing activities shall occur within this buffer until the avian biologist has confirmed that breeding/nesting is completed and the young have fledged the nest. Encroachment into the buffer shall occur only at the discretion of the qualified biologist.”</p> <p>It should be noted that the temporary halt of Project activities within nesting buffers during nesting season does not constitute effective mitigation for the purposes of offsetting Project impacts associated with habitat loss. Additional mitigation would be necessary to compensate for the permanent removal of nesting habitat within the Project site based on acreage of impact and vegetation composition. CDFW shall be consulted to determine proper mitigation for impacts to occupied habitat depending on the status of the bird species. Mitigation ratios would increase with the occurrence a California Species of Special Concern and would further increase with the occurrence of a CESA-listed species.</p>		
<p>REC-6-Data</p>	<p>CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Accordingly, please report any special status species detected by completing and submitting CNDDB Field Survey Forms (CDFW 2022d). This includes all documented occurrences of special status species. The City should ensure the data has been properly submitted, with all data fields applicable filled out, prior to Project ground-disturbing activities. 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.</p>	<p>Prior to Project construction and activities</p>	<p>City of Palmdale/Project Applicant</p>

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REC-7- Mitigation and Monitoring Plan	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). A final MMRP shall reflect results following additional plant and wildlife surveys and the Project's final on and/or off-site mitigation plans.	Prior to approval of CEQA document	City of Palmdale/Project Applicant
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 victoria.tang@wildlife.ca.gov
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Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
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Certified Delivered	Security Checked	8/23/2022 11:31:13 AM
Signing Complete	Security Checked	8/23/2022 11:31:27 AM
Completed	Security Checked	8/23/2022 11:31:27 AM
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