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August 3, 2021

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Governor's Office of Planning & Research

August 03 2021

STATE CLEARINGHOUSE

Subject: Comments on Site Plan Review 20-012 and Density Bonus Agreement 20-001 Mitigated Negative Declaration, SCH# 2021070098, City of Palmdale, Los Angeles County

Dear Ms. Taggart:

The California Department of Fish and Wildlife (CDFW) has reviewed the Mitigated Negative Declaration (MND) for the Site Plan Review 20-012 and Density Bonus Agreement 20-001 (Project) and its supporting documentation, including Appendix C *Biological Assessment* (BA), proposed by the City of Palmdale (City; Lead Agency). 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 & Game Code, §§ 711.7, subdivision (a) & 1802; Public 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 (Public 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 & Game 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 & Game Code, § 2050 et seq.), or state-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & Game Code, §1900 et seq.) authorization as provided by the applicable Fish and Game Code will be required.

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Project Description and Summary

Objective: The proposed Project involves the development of the southeastern portion of the Project site with a 57-unit permanent supportive housing community and associated improvements, including a central services building. The northwestern portion of the site would be used for drainage/flood control purposes and would not be developed with any new housing. Access to the Project site would be provided by a new, full-access driveway along Avenue R. A total of 32 parking stalls would be provided on site. A portion of the proposed development area would be retained as common open space for passive and active recreational uses.

Location: The Project site is approximately 5.5 acres located on the northeast corner of Avenue R and 30th Street East in the City of Palmdale, Los Angeles County. The site is identified by Assessor's Parcel Number (APN) 3020-005-031. The site is bounded by Avenue R to the south and 30th Street East to the west. Surrounding uses include a church, vacant land, and multifamily residential uses to the north; single-family residential uses to the east; single-family residential uses to the south, across Avenue R; a convenience store, mobile homes, and William J. McAdam Park to the west, across 30th Street East; and Villa Sierra Apartments to the southeast, across the Avenue R/30th Street East intersection.

Comments and Recommendations

CDFW offers the following 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.

Comments and Recommendations

Comment #1: Impacts to Swainson's Hawk (*Buteo swainsoni*)

Issue: A review of the California Natural Diversity Database (CNDDDB) indicates an occurrence of Swainson's Hawk within approximately 1.5-mile radius surrounding the Project site. In addition, a review of eBird has also indicated a recent sighting of Swainson's hawk within 2 miles east of the Project site. Swainson's hawk are also regularly observed foraging throughout the Palmdale and Lancaster area.

Specific impacts: The Project may result in impacts to potential nesting and/or foraging habitat for a CESA-listed raptor species.

Why impact would occur: The MND acknowledged the potential for Swainson's hawk to occur within or near the Project site through reference of Appendix 5. However, potential impacts to this CESA-listed species were not analyzed or discussed within the MND. Grading, grubbing, and ground clearing activities as well as construction activities will potentially result in the loss of nesting/foraging habitat for listed raptor species.

Evidence impact would be significant: Consistent with CEQA Guidelines, Section 15380, the status of the Swainson's hawk as a threatened species under CESA qualifies it as an endangered, rare, or threatened species under CEQA. The estimated historical population of Swainson's hawk was nearly 17,000 pairs; however, in the late 20th century, Bloom (1980)

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estimated a population of only 375 pairs. The decline was primarily a result of habitat loss from development (CDFW 2016). The most recent survey conducted in 2009 estimated the population at 941 breeding pairs. The species is currently threatened by loss of nesting and foraging habitat (e.g., from agricultural shifts to less crops that provide less suitable habitat), urban development, environmental contaminants (e.g., pesticides), and climate change (CDFW 2016). CDFW considers a Swainson's hawk nest site to be active if it was used at least once within the past five years and impacts to suitable habitat or individual birds within a five-mile radius of an active nest as significant. Based on the foregoing, Project impacts would potentially reduce the number and/or restrict the range of Swainson's hawk or contribute to the abandonment of an active nest and/or the loss of significant foraging habitat for a given nest territory and thus result in "take" as defined under CESA.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: CDFW released guidance for this species entitled *Swainson's Hawk Survey Protocols, Impact Avoidance, and Minimization Measures for Renewable Energy Projects in the Antelope Valley of Los Angeles and Kern Counties, California* (2010). CDFW recommends conducting focused surveys for Swainson's hawk following the 2010 guidance and disclosing the results in the Project's environmental documentation. If "take" of Swainson's hawk would occur from Project construction or operation, CESA authorization [(i.e., incidental take permit (ITP))] would be required for the Project. CDFW may consider the Lead Agency's CEQA documentation for its CESA-related actions if it adequately analyzes/discloses impacts and mitigation to state-listed species. Additional documentation may be required as part of an ITP application for the Project in order for CDFW to adequately develop an accurate take analysis and identify measures that would fully mitigate for take of state-listed species.

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

Comment #2: Impacts to Burrowing Owl (*Athene cunicularia*)

Issue: The Project may impact undetected burrowing owl.

Specific impact: The Project may result in the loss of undetected individuals. This could cause direct and indirect burrowing owl mortality or injury; the disruption of natural burrowing owl breeding behavior; and loss of breeding, wintering and foraging habitat for the species. Project impacts would contribute to statewide population declines for burrowing owl. Within the Antelope Valley, the species persists in low densities and continues to experience significant direct and cumulative habitat loss.

Why impact would occur: While focused surveys were conducted for burrowing owls, the two surveys are over a year old. The surveys conducted may no longer represent the current state of the Project site and the inventory of burrowing owls or their sign that may be present. This may result in injury or death to unidentified burrowing owls as well as permanent impacts to their

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habitat. CDFW generally considers biological field assessments for wildlife to be valid for a one-year period.

The BA states a “phase I habitat assessment” for burrowing owl was conducted on December 21, 2018. However, burrowing owl nesting season begins as early as February 1 and continues through August 31. While non-breeding season surveys may provide information on burrowing owl occupancy, they do not substitute for breeding season surveys because results are typically inconclusive. Burrowing owls are more difficult to detect during the non-breeding season and their seasonal residency status is difficult to ascertain. In addition, the BA does not specify the date of the “phase II survey” and also states the survey was conducted “according to accepted protocol (Lincer and Steenhof 1997).” This protocol is not in accordance with CDFW’s accepted protocol (2012) as the breeding season survey requirements are not specific to the timing or cover the breadth of the breeding season. Identification of potential for burrowing owls during non-winter months, including the nesting season, may be missed.

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

Evidence impact would be significant: Take of individual burrowing owls and their nests is defined by Fish and Game Code section 86 and prohibited by sections 3503, 3503.5, and 3513. Take is defined in Fish and Game Code section 86 as “hunt, pursue, catch, capture or kill, or attempt to hunt, pursue, catch, capture or kill.” Without appropriate take avoidance surveys prior to Project operations including, but not limited to, ground and vegetation disturbing activities and rodent control activities, adverse impacts to burrowing owl may occur because species presence/absence has not been verified. In addition, burrowing owl qualifies for enhanced consideration afforded to species under CEQA, which can be shown to meet the criteria for listing as endangered, rare or threatened (CEQA Guidelines, § 15380(d)).

In addition, insufficient survey efforts for burrowing owl may conclude false negative results, which would not require avoidance and mitigation measure implementation. Inadequate avoidance and mitigation measures will result in the Project continuing to have a substantial adverse direct and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or United States Fish and Wildlife Service (USFWS).

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: To reduce impacts to burrowing owl, CDFW recommends that the Project adhere to CDFW’s March 7, 2012, [Staff Report on Burrowing Owl Mitigation](#). Burrowing owl protocol surveys should be conducted on the Project site prior to the start of construction/ground disturbing activities that could result in habitat disturbance to soil, vegetation, or other sheltering habitat for burrowing owl in accordance with established burrowing owl protocols. Survey protocol for breeding season owl surveys states to conduct 4 survey visits: 1) at least one site visit between February 15 and April 15, and 2) a minimum of three survey visits, at least three weeks apart, between April 15 and July 15, with at least one visit after June 15. A qualified biologist should prepare a survey report summarizing methods and results. Survey results including negative findings, should be submitted to the City prior to

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

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

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

Comment #3: Impacts to California Species of Special Concern

Issue: A review of CNDDDB indicates multiple occurrences of northern California legless lizard (*Anniella pulchra*) within 5 miles of the Project site, a designated California Species of Special Concern (SSC).

Specific impact: Project ground disturbing activities such as grading and grubbing may result in habitat destruction, causing the death or injury of adults, juveniles, eggs, or hatchlings. In addition, the Project may disturb habitat that may support essential foraging and breeding habitat.

Why impact would occur: According to the BA, a focused survey for "silvery legless lizard" was conducted in 2006, indicating the survey is no longer valid for the site. Out of date surveys no longer represent the faunal composition of the site. Therefore, Project implementation, including grading, grubbing, and other construction activities, may result in direct mortality, population declines, or local extirpation of special status reptile species.

Evidence impact would be significant: CEQA provides protection not only for CESA- and Endangered Species Act (ESA)-listed species, but for any species including but not limited to SSC which can be shown to meet the criteria for State listing. These SSC meet the CEQA definition of rare, threatened or endangered species (CEQA Guidelines, § 15065). Take of SSC could require a mandatory finding of significance by the Lead Agency (CEQA Guidelines, § 15065).

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: Due to potentially suitable habitat within the Project site, prior to grading or other construction activity, a qualified biologist familiar with the reptile species behavior and life history should conduct specialized surveys to determine the presence/absence of northern California legless lizard. Surveys should be conducted during active season when

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the reptiles are most likely to be detected. Survey results, including negative findings, should be submitted to the City prior to initiation of Project activities.

Mitigation Measure #2: If impacts are unavoidable, wildlife should be protected, allowed to move away on its own (noninvasive, passive relocation), or relocated to adjacent appropriate habitat on site or to suitable habitat adjacent to the project area. SSC should be captured only by a qualified biologist with proper handling permits. The qualified biologist should prepare a species-specific list (or plan) of proper handling and relocation protocols and a map of suitable and safe relocation areas. A relocation plan should be prepared prior to implementing any Project-related ground-disturbing activities and vegetation removal.

While relocation is an option for mitigating impacts, it may not fully account for impacts to an SSC, such as loss of individuals, loss of habitat, or loss of burrows. Capturing, handling, or relocation are acts that may have multiple unintended negative consequences, including increased stress and mortality of relocated animals, negative impacts on resident animals at release sites, increased conflicts with human interests, and the spread of diseases. Attempts to avoid impacts to SSC should be the first option. Seeking a Scientific Collection Permits (see Mitigation Measure #3 below) in order to trap and relocate individuals should only be done if impacts cannot be avoided.

Mitigation Measure #3: Handling and relocation of wildlife, including SSC, may be required. If so, Pursuant to the [California Code of Regulations, title 14, section 650](#), the lead agency/qualified biologist should obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities. Please visit CDFW's [Scientific Collection Permits](#) webpage for information (CDFW 2021b). An LSA Agreement may provide similar take or possession of species as described in the conditions of the Agreement.

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

Mitigation Measure #4: CDFW recommends providing compensatory mitigation for temporary and/or permanent loss of any habitat supporting SSC. There should be no net loss of habitat supporting SSC. Compensatory mitigation should be provided at no less than 2:1. Mitigation should provide upland and/or aquatic habitat (depending on the species), refugia, and habitat structures that supports that species (e.g., woody material, rocks, brush piles, pools, burrows). Any proposed mitigation area/plan should include a discussion on the territory size; nesting, breeding, foraging, and refuge, locations, invasive, non-native plant and wildlife species present, food availability, and how all life cycle functions will be mitigated. Mitigation for impacts to an SSC should adhere to CDFW and/or USFWS established protocol/guidelines if available.

Comment #4: Vegetation Community Classification

Issue: Regarding the vegetation on site, the BA states, "The types occurring on the property are discussed below, with the appropriate Holland (1986) element code". The Project does not

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utilize the Manual of California Vegetation (MCV) (Sawyer et al. 2008) to identify vegetation associations and alliances on site.

Specific impact: CDFW considers removal of a vegetation community a permanent impact unless mitigation is proposed that includes specific criteria that ensure the exact vegetation community is recreated.

Why impact would occur: The BA determined that Project impacts are less than significant, and no mitigation measures are required for vegetation removal. According to the BA, the habitat is mostly non-native and disturbed and is surrounded by urban development. CDFW disagrees with the conclusions made within the BA and believes that misidentification of a sensitive plant alliance is a potential impact.

For example, the MND identifies red willow (*Salix laevigata*) on site. This vegetation alliance is identified as sensitive and S3 according to the [California Natural Community List](#) (CDFW 2020). Impacts on a sensitive vegetation alliance is considered significant to CDFW. Moreover, CDFW considers vegetation communities, alliances, and associations with a statewide ranking of S1, S2, S3 and some S4 as sensitive and declining at the local and regional level (Sawyer et al. 2008). An S3 ranking indicates there are 21 to 80 occurrences of this community in existence in California, S2 has 6 to 20 occurrences, and S1 has less than 6 occurrences. The Project may have direct or indirect effects to a previously unidentified or unknown sensitive vegetation communities by not appropriately identifying them.

Project implementation includes grading, vegetation clearing, road construction, utilities construction, road maintenance, and other activities that may result in direct mortality, population declines, or local extirpation of sensitive vegetation communities. If sensitive areas are not correctly identified, CDFW is unable to accurately determine proper mitigation measures for that vegetation community.

Evidence impact would be significant: Inadequate avoidance, minimization, and mitigation measures for impacts to potentially sensitive communities on site will result in the Project continuing to have a substantial adverse direct, indirect, and cumulative effect. This, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or USFWS. Impacts to all sensitive communities should be considered significant under CEQA unless they are clearly mitigated below a level of significance. Using non-conforming modifications to MCV alliances may misidentify rare or sensitive vegetation communities, resulting in impacts to the species.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: CDFW recommends that updated botanical surveys utilizing MCV-defined alliances be conducted to inform impact assessments, avoidance, minimization, and mitigation measures in the MND. Focused surveys for sensitive/rare plants on-site should be disclosed in the CEQA document. Based on the [Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities](#) (CDFW, 2018), a qualified biologist should “conduct botanical surveys in the field at the times of year when plants will be both evident and identifiable. Usually this is during flowering or fruiting.” CEQA documentation should provide a thorough discussion on the presence/absence of sensitive

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plants on site and identify measures to protect sensitive plant communities from Project-related direct and indirect impacts.

Recommendation #2: Please note, in 2007, the State Legislature required CDFW to develop and maintain a vegetation mapping standard for the State (Fish & Game Code, § 1940). This standard complies with the National Vegetation Classification System, which utilizes alliance- and association-based classification of unique vegetation stands. CDFW utilizes vegetation descriptions found in the Manual of California Vegetation (MCV), found online at <http://vegetation.cnps.org/>. To determine the rarity ranking and mitigation ratios of vegetation communities on the Project site, the MCV alliance/association community names should be provided as CDFW only tracks rare natural communities using this classification system.

Additional Recommendations

Lake and Streambed Alteration Agreement (LSA). CDFW has received the Notification for Lake and Streambed Alteration (Notification No. LAN-13654-R5) and appreciates the early coordination regarding the Project. While CDFW concurs with Mitigation Measure BIO-3 that a LSA Agreement will be necessary, we would like to inform the Lead Agency of the requirements necessary for a successful LSA application. CDFW recommends an LSA Notification include the following: 1) an analysis to demonstrate whether drainage on-site would be impaired (e.g., aggraded, incised, increased suspended sediment), 2) a hydrological evaluation of the 100, 50, 25, 10, 5, and 2-year frequency storm event for existing and proposed conditions, 3) whether dewatering/diversion of water may be necessary, and (if applicable) 4), an analysis of whether Project development would impact stormwater and water flow on site and downstream.

CDFW's issuance of an LSA Agreement for 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 a lead agency for a project. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 *et seq.* and/or under CEQA, the CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement.

To compensate for any on- and off-site impacts to 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.

Biological Survey. According to the BA, the last full biological survey was conducted on December 20-21, 2019. The biological surveys conducted may no longer represent the current state of the Project site and the inventory of biological species that may be present. This may result in injury or death to unidentified wildlife as well as permanent impacts to their habitat. CDFW generally considers biological field assessments for wildlife to be valid for a one-year period.

Impacts to species not previously known or identified to be on the Project site or within its vicinity presently have the possibility to occur due to outdated surveys. The surveys utilized for the Initial Study may no longer represent the current state of the faunal species on site.

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Therefore, Project activities such as grading, vegetation clearing, building construction, and other activities may result in direct mortality, population declines, or local extirpation of sensitive or special status wildlife species that were previously unidentified or unknown to exist on site. Project activities may also cause injury or mortality and habitat fragmentation. This may result in native wildlife population declines or local extirpation of special status species. The effects of these impacts would be permanent or occur over several years.

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

Nesting Birds. The Project's proposed Mitigation Measure BIO-1, *Nesting Migratory Birds*, as it is currently proposed, is not within the general nesting season. Project activities occurring during the bird and raptor breeding and nesting season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. CDFW recommends the City amend this Mitigation Measure to exclude the ~~struckthrough~~ and include the underlined language:

"Ground-disturbing activities and vegetation removal associated with the proposed project shall occur, to the extent feasible, outside of the combined breeding season of ~~February 15 to August 15 for nesting bird and raptor species~~ February 1 through September 15 (as early as January 1 for some raptors). ~~Alternatively, within 10 calendar days prior to the start of ground-disturbing activities or vegetation removal during the breeding season (between February 15 to August 15),~~ the Based on local conditions, the nesting bird surveys shall be conducted at appropriate nesting times and concentrate on potential roosting or perch sites. Surveys shall be conducted no more than 7 days prior to the start of any construction. If Project activities are delayed or suspended for more than 7 days during the breeding season, repeat surveys shall be repeated prior to the start of construction, the results of which must be submitted to the City for review and approval prior to initiating any construction activities. The applicant shall retain a qualified biologist to conduct a preconstruction survey to determine the presence or absence of nesting birds on and within 300 feet of the construction area; the survey radius shall be extended to 500 feet for nesting raptors. [...]"

Data. CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database [i.e., California Natural Diversity Database (CNDDDB)] which may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Accordingly, CDFW recommends that the subsequent CEQA document include measures where lead agencies of individual projects tiering from the subsequent CEQA document report any special status species detected during preparation of project-level environmental impact analyses/environmental documents. Special status species information should be submitted to the CNDDDB by completing the [Online Field Survey Form](#) (CDFW 2021c). The lead agency should ensure all pertinent data has been properly submitted, with all applicable data fields filled out, prior to

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finalizing/adopting an environmental document. The lead agency should provide CDFW with confirmation of data submittal.

Entrapment. The Project may result in the use of open pipes used as fence posts, property line stakes, signs, etc. CDFW recommends that all hollow posts and pipes be capped to prevent wildlife entrapment and mortality because these structures mimic the natural cavities preferred by various bird species and other wildlife for shelter, nesting and roosting. Raptor's talons can become entrapped within the bolt holes of metal fence stakes resulting in mortality. Metal fence stakes used on the Project site should be plugged with bolts or other plugging materials to avoid this hazard.

Best Management Practices. CDFW recommends the Project proponent actively implement Best Management Practices (BMPs) to prevent potential erosion and the discharge of sediment and/or pollutants into adjacent open space areas during Project activities. BMPs should be monitored and repaired, if necessary, to ensure maximum erosion, sediment, and pollution control. The Project proponent should prohibit the use of erosion control materials potentially harmful to fish and wildlife species, such as mono-filament netting (erosion control matting) or similar material. All fiber rolls, straw wattles, and/or hay bales utilized within and adjacent to the Project site should be free of nonnative plant materials. Fiber rolls or erosion control mesh should be made of loose-weave mesh that is not fused at the intersections of the weave, such as jute, or coconut (coir) fiber, or other products without welded weaves. Non-welded weaves reduce entanglement risks to wildlife by allowing animals to push through the weave, which expands when spread.

Filing Fees

The Project, as proposed, could 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 Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final (Cal. Code Regs, tit. 14, § 753.5; Fish & Game 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. 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:

Erinn Wilson-Olgin

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Environmental Program Manager I

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References:

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

Biological Resources			
	Mitigation Measure	Timing	Responsible Party
MM-BIO-1- Swainson's Hawk	<p>Focused surveys shall be conducted for Swainson's hawk following the 2010 guidance and results disclosed in the Project's environmental documentation. If "take" of Swainson's hawk would occur from Project construction or operation, CESA authorization [(i.e., incidental take permit (ITP))] will be required for the Project. CDFW may consider the Lead Agency's CEQA documentation for its CESA-related actions if it adequately analyzes/discloses impacts and mitigation to state-listed species. Additional documentation may be required as part of an ITP application for the Project in order for CDFW to adequately develop an accurate take analysis and identify measures that would fully mitigate for take of state-listed species.</p>	<p>Prior to project ground-disturbing activities</p>	<p>Project proponent</p>
MM-BIO-2- Swainson's Hawk	<p>Permanent impacts to foraging habitat for Swainson's hawk shall be offset by setting aside replacement acreage to be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity. This shall include an appropriate non-wasting endowment to provide for the long-term management of mitigation lands. In the event of the presence of burrowing owls on site, the City will require a burrowing owl mitigation plan be submitted to CDFW for review and comment prior to Project implementation. For proposed preservation and/or restoration, the final environmental document shall include measures to protect the targeted habitat values in perpetuity from direct and indirect negative impacts.</p>	<p>Prior to project ground-disturbing activities</p>	<p>Project proponent</p>
MM-BIO-3- Burrowing Owl	<p>The Project shall adhere to CDFW's March 7, 2012, <i>Staff Report on Burrowing Owl Mitigation</i> as referenced in the MND. All survey efforts shall be conducted prior to any Project activities that could result in habitat disturbance to soil, vegetation, or other sheltering habitat for burrowing owl. In California, the burrowing owl breeding season extends from 1 February to 31 August with some variances by geographic location and climatic conditions. Survey protocol for</p>	<p>Prior to project ground-disturbing activities</p>	<p>Project proponent</p>

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	breeding season owl surveys states to conduct 4 survey visits: 1) at least one site visit between 15 February and 15 April, and 2) a minimum of three survey visits, at least three weeks apart, between 15 April and 15 July, with at least one visit after 15 June.		
MM-BIO-4- Burrowing Owl	Any permanent impacts to identified occupied owl burrows and adjacent foraging habitat shall be offset by setting aside replacement habitat to be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity, which shall include an appropriate non-wasting endowment to provide for the long-term management of mitigation lands. In the event of the presence of burrowing owls on site, the City will require a burrowing owl mitigation plan be submitted to CDFW for review and comment prior to Project implementation. For proposed preservation and/or restoration, the final environmental document shall include measures to protect the targeted habitat values in perpetuity from direct and indirect negative impacts.	Prior to project ground-disturbing activities	Project proponent
MM-BIO-5- Burrowing Owl	Rodenticides and second-generation anticoagulant rodenticides shall be prohibited both during and over the life of the Project. Additional information on rodenticides can be found on CDFW's Rodenticides webpage (CDFW 2021a).	During the life of the Project	City of Palmdale Project Proponent
MM-BIO-7-CA Species of Special Concern	Due to potentially suitable habitat within the Project site, prior to grading or other construction activity, a qualified biologist familiar with the reptile species behavior and life history shall conduct specialized surveys to determine the presence/absence of northern California legless lizard. Surveys shall be conducted during active season when the reptiles are most likely to be detected. Survey results, including negative findings, shall be submitted to the City prior to initiation of Project activities.	Prior to project ground-disturbing activities	Project proponent
MM-BIO-8-CA Species of Special Concern	If impacts are unavoidable, wildlife shall be protected, allowed to move away on its own (noninvasive, passive relocation), or relocated to adjacent appropriate habitat on site or to suitable habitat adjacent to the project area. SSC shall be captured only by a qualified biologist with proper handling permits. The qualified	During the life of the Project	Project proponent

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	<p>biologist shall prepare a species-specific list (or plan) of proper handling and relocation protocols and a map of suitable and safe relocation areas. A relocation plan shall be prepared prior to implementing any Project-related ground-disturbing activities and vegetation removal.</p> <p>While relocation is an option for mitigating impacts, it may not fully account for impacts to an SSC, such as loss of individuals, loss of habitat, or loss of burrows. Capturing, handling, or relocation are acts that may have multiple unintended negative consequences, including increased stress and mortality of relocated animals, negative impacts on resident animals at release sites, increased conflicts with human interests, and the spread of diseases. Attempts to avoid impacts to SSC shall be the first option. Seeking a Scientific Collection Permits (see Mitigation Measure #2 below) in order to trap and relocate individuals shall only be done if impacts cannot be avoided.</p>		
<p>MM-BIO-9-CA Species of Special Concern</p>	<p>Handling and relocation of wildlife, including SSC, may be required. If so, Pursuant to the California Code of Regulations, title 14, section 650, the lead agency/qualified biologist shall obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities. Please visit CDFW's Scientific Collection Permits webpage for information (CDFW 2021b). An LSA Agreement may provide similar take or possession of species as described in the conditions of the Agreement.</p> <p>CDFW has the authority to issue permits for the take or possession of wildlife, including mammals; birds, nests, and eggs; reptiles, amphibians, fish, plants; and invertebrates (Fish & G. Code, §§ 1002, 1002.5, 1003). Effective October 1, 2018, a Scientific Collecting Permit is required to monitor project impacts on wildlife resources, as required by environmental documents, permits, or other legal authorizations; and, to capture, temporarily possess, and</p>	<p>During the life of the Project</p>	<p>Project proponent</p>

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	relocate wildlife to avoid harm or mortality in connection with otherwise lawful activities (Cal. Code Regs., tit. 14, § 650).		
MM-BIO-10-CA Species of Special Concern	Compensatory mitigation shall be provided for temporary and/or permanent loss of any habitat supporting SSC. There shall be no net loss of habitat supporting SSC. Compensatory mitigation shall be provided at no less than 2:1. Mitigation shall provide upland and/or aquatic habitat (depending on the species), refugia, and habitat structures that supports that species (e.g., woody material, rocks, brush piles, pools, burrows). Any proposed mitigation area/plan shall include a discussion on the territory size; nesting, breeding, foraging, and refuge, locations, invasive, non-native plant and wildlife species present, food availability, and how all life cycle functions will be mitigated. Mitigation for impacts to an SSC shall adhere to CDFW and/or USFWS established protocol/guidelines if available.	Prior to project ground-disturbing activities	Project proponent
MM-BIO-11- Vegetation Community Classification	An updated botanical surveys utilizing MCV-defined alliances shall be conducted to inform impact assessments, avoidance, minimization, and mitigation measures in the Initial Study. Focused surveys for sensitive/rare plants on-site shall be disclosed in the CEQA document. Based on the <i>Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities</i> (CDFW, 2018), a qualified biologist shall “conduct botanical surveys in the field at the times of year when plants will be both evident and identifiable. Usually this is during flowering or fruiting.” CEQA documentation shall provide a thorough discussion on the presence/absence of sensitive plants on-site and identify measures to protect sensitive plant communities from Project-related direct and indirect impacts.	Prior to project ground-disturbing activities	Project proponent
REC-1-Vegetation Community Classification	Please note, in 2007, the State Legislature required CDFW to develop and maintain a vegetation mapping standard for the state (Fish & Game Code, § 1940). This standard complies with the National Vegetation Classification System, which utilizes alliance-	Prior to project ground-	City of Palmdale/Project proponent

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	<p>and association-based classification of unique vegetation stands. CDFW utilizes vegetation descriptions found in the Manual of California Vegetation (MCV), found online at http://vegetation.cnps.org/. To determine the rarity ranking and mitigation ratios of vegetation communities on the Project site, the MCV alliance/association community names should be provided as CDFW only tracks rare natural communities using this classification system.</p>	<p>disturbing activities</p>	
<p>REC-2-LSA</p>	<p>CDFW recommends an LSA Notification include the following: 1) an analysis to demonstrate whether concrete-lined or soft-bottom channels would be impaired (e.g., aggraded, incised, increased suspended sediment), 2) a hydrological evaluation of the 100, 50, 25, 10, 5, and 2-year frequency storm event for existing and proposed conditions, 3) whether dewatering/diversion of water may be necessary, and (if applicable) 4), an analysis of whether diversion structures would impact stormwater and dry season water flow, and the extent of those impacts, during the wet season (November through March), dry season (April through October), and both above-average and below-average water year.</p> <p>CDFW’s issuance of an LSA Agreement for 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 a lead agency for a project. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 <i>et seq.</i> and/or under CEQA, the CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement.</p> <p>To compensate for any on- and off-site impacts to 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</p>	<p>Prior to project ground-disturbing activities</p>	<p>Project proponent</p>

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	resources, on- and/or off-site habitat creation, enhancement or restoration, and/or protection, and management of mitigation lands in perpetuity.		
REC-3-Biological survey	<p>CDFW recommends that updated wildlife surveys be conducted to inform impact assessments, avoidance, minimization, and mitigation measures within the Project area and a 500-foot buffer as access allows. Additionally, focused surveys for sensitive species on-site should be disclosed in the CEQA document. CEQA documentation should provide a thorough discussion on the presence/absence of special status plants and wildlife on-site and identify measures to mitigate for Project-related direct and indirect impacts. Any special status species found on site should be included in the report and CDFW should be notified of any new special status species found on site. Finally, the updated biological report should be provided to the City.</p> <p>CDFW also requests to be informed regarding any potential changes or amendments to the current mitigation and/or monitoring measures presented in the mitigation measures of the Initial Study as a result of updated biological surveys</p>	Prior to project ground-disturbing activities	Project proponent
REC-4-Nesting Birds	<p>CDFW recommends the City amend this Mitigation Measure to exclude the strikethrough and include the <u>underlined</u> language:</p> <p>“Ground-disturbing activities and vegetation removal associated with the proposed project shall occur, to the extent feasible, outside of the combined breeding season of February 15 to August 15 for nesting bird and raptor species <u>February 1 through September 15 (as early as January 1 for some raptors. Alternatively, within 10 calendar days prior to the start of ground-disturbing activities or vegetation removal during the breeding season (between February 15 to August 15), the</u> <u>Based on local conditions, the nesting bird surveys shall be conducted at appropriate nesting times and concentrate on</u></p>	Prior to and during Construction	City of Palmdale Project Proponent

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	<p><u>potential roosting or perch sites. Surveys shall be conducted no more than 7 days prior to the start of any construction. If Project activities are delayed or suspended for more than 7 days during the breeding season, repeat surveys shall be repeated prior to the start of construction, the results of which must be submitted to the City for review and approval prior to initiating any construction activities. The applicant shall retain a qualified biologist to conduct a preconstruction survey to determine the presence or absence of nesting birds on and within 300 feet of the construction area; the survey radius shall be extended to 500 feet for nesting raptors. [...]</u></p>		
REC-5-Data	<p>CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database [i.e., California Natural Diversity Database (CNDDDB)] which may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Accordingly, CDFW recommends that the subsequent CEQA document include measures where lead agencies of individual projects tiering from the subsequent CEQA document report any special status species detected during preparation of project-level environmental impact analyses/environmental documents. Special status species information should be submitted to the CNDDDB by completing the Online Field Survey Form (CDFW 2021c). The lead agency should ensure all pertinent data has been properly submitted, with all applicable data fields filled out, prior to finalizing/adopting an environmental document. The lead agency should provide CDFW with confirmation of data submittal.</p>	Prior to Construction	City of Palmdale Project Proponent
REC-6-Entrapment	<p>CDFW recommends that all hollow posts and pipes be capped to prevent wildlife entrapment and mortality because these structures mimic the natural cavities preferred by various bird species and other wildlife for shelter, nesting and roosting. Raptor's talons can become entrapped within the bolt holes of metal fence stakes resulting in mortality. Metal fence stakes used on the Project site</p>	Prior to Construction	City of Palmdale Project Proponent

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	<p>should be plugged with bolts or other plugging materials to avoid this hazard.</p>		
<p>REC-7-BMPs</p>	<p>CDFW recommends the Project proponent actively implement Best Management Practices (BMPs) to prevent potential erosion and the discharge of sediment and/or pollutants into adjacent riparian areas during Project activities. BMPs should be monitored and repaired, if necessary, to ensure maximum erosion, sediment, and pollution control. The Project proponent should prohibit the use of erosion control materials potentially harmful to fish and wildlife species, such as mono-filament netting (erosion control matting) or similar material. All fiber rolls, straw wattles, and/or hay bales utilized within and adjacent to the Project site should be free of nonnative plant materials. Fiber rolls or erosion control mesh should be made of loose-weave mesh that is not fused at the intersections of the weave, such as jute, or coconut (coir) fiber, or other products without welded weaves. Non-welded weaves reduce entanglement risks to wildlife by allowing animals to push through the weave, which expands when spread.</p>	<p>Prior to project ground-disturbing activities</p>	<p>Project proponent</p>