



State of California – Natural Resources Agency

DEPARTMENT OF FISH AND WILDLIFE

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

www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



September 22, 2022

Jocelyn Swain
City of Lancaster
44933 Fern Avenue
Lancaster, CA 93534
JSwain@cityoflanasterca.org



Subject: Comments on the Draft Environmental Impact Report for the Vehicle Miles Traveled (VMT) Mitigation Program Project, SCH #2021090175, Los Angeles County

Dear Ms. Swain:

The California Department of Fish and Wildlife (CDFW) has reviewed the Draft Environmental Impact Report (DEIR) for the Vehicle Miles Traveled (VMT) Mitigation Program (Project) from the City of Lancaster (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 aims to establish mitigation for projects that exceed the City's VMT thresholds in the form of a mitigation impact fee. The program identifies relevant transportation demand management strategies and VMT-Reducing projects within the City to be funded by the impact fee. The Project has identified various VMT-Reducing improvement projects (found in Exhibit 3-3 of the DEIR) sited throughout the City. Types of VMT-Reducing projects include intersection improvements, bike-specific roadway improvement, pedestrian-specific improvements, off-street paths, and traffic calming. Areas identified for development of off-street paths are located around the undeveloped western portion of the City, which can be cause for biological concern. The impact fee was calculated based on the cost to implement identified VMT-Reducing improvements and programs divided by the projected growth in Citywide VMT. The maximum allowable mitigation fee per VMT is \$425. These funds would be utilized to fund active transportation infrastructure projects in the City to help the City meet its VMT reduction goals. The overall intent of the program is to streamline the Senate Bill 743 compliance process for development projects while funding future VMT improvement projects to reduce Citywide VMT.

Location: The City is in the Antelope Valley in northern Los Angeles County, approximately 70 miles north of downtown Los Angeles. Unincorporated Los Angeles County surrounds the City on all sides. Additional surrounding jurisdictions include unincorporated Kern County further to the north and the City of Lancaster to the south.

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 Lancaster area.

Specific impacts: Development of the VMT-Reducing projects, especially in areas shown in Exhibit 3-3 listed as "Off street path" with little to no existing development may result in loss of individual western Joshua trees as well as acres of Joshua tree woodlands.

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 VMT-Reducing sites could result in the loss or impacts to individual trees and Joshua tree woodlands. Impacts on western Joshua trees and Joshua tree woodlands could occur as a result of clearing a project

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site for development. As a result, the Project could 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 states “any activity that results in the removal of a Joshua tree, or any part thereof, or impacts the seedbank surrounding one or more Joshua trees is subject to an Incidental Take Permit from CDFW”. However, it does not prescribe, require, or impose specific actions that would substantially mitigate for impacts on a candidate species or 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.

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 a VMT-Reducing project. 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.

Recommended Potentially Feasible Mitigation Measure(s) Required for Future Projects Facilitated by the VMT Program:

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

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adjacent to the Project site.

Mitigation Measure #2: The City should provide compensatory mitigation for any VMT-Reducing 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 impacts in subsequent CEQA documents on western Joshua tree by providing the following information:

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

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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 to Streams

Issue: Development of potential VMT-Reducing sites facilitated by the Project could impact streams.

Specific impacts: Development on some of the potential VMT-Reducing sites, especially those in undeveloped areas sited for off-street paths, may result in erosion and earth movement that could impair streams. These impacts may occur in ephemeral, intermittent, or perennial streams. 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 Exhibit 3-3 of the DEIR, off-street paths sited in the northern central part of the City have Amargosa Channel and other ephemeral streams located in the vicinity to these areas. Development of these sites could affect riparian habitat during project construction and operation. Development on these and potentially other sites may result in ground-disturbing activities and vegetation removal. 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, project sites that would impact vegetation adjacent to streams, but not the stream itself, could still impact the stream.

In addition, the DEIR recognizes the potential need for Section 1602 Lake and Streambed Alteration Agreement but does 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 could result in unmitigated impacts.

Evidence impacts would be significant: 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

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impacts on streams and associated natural communities if development of VMT-Reducing 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 VMT Program:

Mitigation Measure #4: Project specific analyses should prepare a jurisdictional delineation and impact assessment provided along with the project's biological resources technical studies.

Mitigation Measure #5: 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 #6: 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 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 2022b).

Recommendation #3: CDFW recommends the DEIR require any projects to include an analysis of potential impacts in subsequent CEQA documents 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).

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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: Biological Review – CDFW recommends modifying BIO-MM-1 to include underlined language and remove language with strikethrough:

“Transportation improvements funded by the proposed Vehicle Miles Traveled Mitigation Program subject to California Environmental Quality Act (CEQA) review (meaning, subject to discretionary action and not exempt from CEQA), and with the potential to reduce or eliminate habitat for native plant and wildlife species or sensitive habitats, as determined by the City of Lancaster Development Services Department, Community Development Division, shall provide a Biological Resources Assessment prepared by a qualified biologist for review and approval by the Community Development Division. The assessment shall include biological field survey(s) of the project site to characterize the extent and quality of habitat that would be impacted by development. Surveys shall include baseline surveys, protocol-level surveys, tree inventories to confirm the presence of any special status species within or immediately adjacent to proposed impact areas. Surveys shall be conducted by qualified biologists and/or botanists in accordance with California Department of Fish and Wildlife and/or United States Fish and Wildlife Services survey protocols for target species. Biological Resources Assessments should provide and include the following:

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 2022c);
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

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Manual of California Vegetation (MCV), second edition, should be used to inform this mapping and assessment:

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 2022) 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.

If no special status/sensitive species, sensitive habitats/natural communities, or Federally protected wetlands are observed during the field survey, then no further mitigation will be required. If biological resources are documented on the project site, the project proponent shall comply with the applicable requirements of the regulatory agencies and shall apply mitigation determined through the agency permitting process.”

Recommendation #6: Nesting Birds – CDFW recommends modifying BIO-MM-2 to include underlined language and remove language with strikethrough:

“To avoid disturbance of nesting birds, 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, February 15 through September 15 (as early as January 1 for some raptors). If this is not feasible, a pre-construction nesting bird clearance survey shall be conducted by a qualified biologist no more than ~~fourteen (14)~~ seven (7) days prior to the start of any vegetation removal or ground disturbing activities associated with a transportation improvement project. The survey shall be conducted by a qualified biologist and cover all suitable nesting habitat within the project impact area, and areas within a biologically defensible buffer zone surrounding the project impact area. 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. Further, if an active bird nest is found, the qualified biologist should identify the specific bird species and establish a “no-disturbance” buffer around the active nest to avoid potential direct and indirect impacts. It is further recommended that the qualified biologist periodically monitor any active bird nests to determine if project-related activities disturb the birds and if the “no disturbance” buffer should be increased. 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. Once the young have fledged and left the nest, or the nest otherwise becomes inactive under natural conditions, project activities within the “no-disturbance” buffer may occur following an additional survey by the qualified biologist to search for any new nests in the restricted area.”

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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 [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.

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.

Filing Fees

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

Conclusion

We appreciate the opportunity to comment on the Project to assist the City 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.

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Sincerely,

DocuSigned by:

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Erinn Wilson-Olgin
Environmental Program Manager I
South Coast Region

ec: CDFW

Erinn Wilson-Olgin, Los Alamitos – Erinn.Wilson-Olgin@wildlife.ca.gov
Victoria Tang, Los Alamitos – Victoria.Tang@wildlife.ca.gov
Ruby Kwan-Davis, Los Alamitos – Ruby.Kwan-Davis@wildlife.ca.gov
Felicia Silva, Los Alamitos – Felicia.Silva@wildlife.ca.gov
Julisa Portugal, Los Alamitos – Julisa.Portugal@wildlife.ca.gov
Frederic Rieman, Los Alamitos – Frederic.Rieman@wildlife.ca.gov
Cindy Hailey, San Diego – Cindy.Hailey@wildlife.ca.gov
CEQA Program Coordinator, Sacramento – CEQACommentLetters@wildlife.ca.gov
Office of Planning and Research
State Clearinghouse, Sacramento – State.Clearinghouse@opr.ca.gov

References:

- [CDFWa] California Department of Fish and Wildlife. 2022. Trimming of western Joshua trees and removal of dead western Joshua trees. What is “Take”? Available from: <https://wildlife.ca.gov/Conservation/CESA/WJT>
- [CDFWb] California Department of Fish and Wildlife. 2022. Lake and Streambed Alteration Program. Available from: <https://wildlife.ca.gov/Conservation/LSA>
- [CDFWc] California Department of Fish and Wildlife. 2022. California Natural Diversity Database. Available from: <https://wildlife.ca.gov/Data/CNDDDB/Maps-andData#43018408-cnddb-in-bios>
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State of California – Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
 South Coast Region
 3883 Ruffin Road
 San Diego, CA 92123
 (858) 467-4201
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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); 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 Lancaster/Project Applicant
MM-BIO-2- Joshua Tree Mitigation	The City shall provide compensatory mitigation for any VMT-Reducing sites or future project's impact on western Joshua trees at no less than 2:1, or as required in an ITP for western Joshua	Prior to Project	City of Lancaster/Project Applicant

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	<p>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>construction and activities</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 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</p>	<p>Prior to Project construction and activities</p>	<p>City of Lancaster/Project Applicant</p>

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	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 impacts in subsequent CEQA documents 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 Lancaster/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 Lancaster/Project Applicant
MM-BIO-4-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	City of Lancaster/Project Applicant

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		construction and activities	
MM-BIO-5-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 Lancaster/Project Applicant
MM-BIO-6-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 Lancaster/Project Applicant
REC-3-Water Diversion Biological Analysis	<p>CDFW recommends the DEIR require any approved or future projects to include an analysis of potential impacts in subsequent CEQA documents 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 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 	Prior to Project construction and activities	City of Lancaster/Project Applicant

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	<p>water year, and dry season/below-average water year). The analysis should clearly define above-average or below-average rainfall year.</p> <ol style="list-style-type: none"> 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 compensate for any on- and off-site impacts to aquatic and riparian resources, additional mitigation conditioned in any LSA Agreement may include the following: erosion and pollution control measures; avoidance of resources; protective measures for downstream resources; on- and/or off-site habitat creation; enhancement or restoration; and/or protection and management of mitigation lands in perpetuity.</p>	<p>Prior to Project construction and activities</p>	<p>City of Lancaster/Project Applicant</p>

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<p>REC-5- Biological Review</p>	<p>CDFW recommends modifying BIO-MM-1 to include <u>underlined</u> language and remove language with strikethrough:</p> <p>“Transportation improvements funded by the proposed Vehicle Miles Traveled Mitigation Program subject to California Environmental Quality Act (CEQA) review (meaning, subject to discretionary action and not exempt from CEQA), and with the potential to reduce or eliminate habitat for native plant and wildlife species or sensitive habitats, as determined by the City of Lancaster Development Services Department, Community Development Division, shall provide a Biological Resources Assessment prepared by a qualified biologist for review and approval by the Community Development Division. The assessment shall include biological field survey(s) of the project site to characterize the extent and quality of habitat that would be impacted by development. <u>Surveys shall, include baseline surveys, protocol-level surveys, tree inventories to confirm the presence of any special status species within or immediately adjacent to proposed impact areas.</u> Surveys shall be conducted by qualified biologists and/or botanists in accordance with California Department of Fish and Wildlife and/or United States Fish and Wildlife Services survey protocols for target species. <u>Biological Resources Assessments should provide and include the following:</u></p> <ol style="list-style-type: none"> 1. <u>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</u> 	<p>Prior to Project construction and activities</p>	<p>City of Lancaster/Project Applicant</p>
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	<p><u>Diversity Database (CNDDDB) should be conducted to obtain current information on any previously reported sensitive species and habitat (CDFW 2022b);</u></p> <ol style="list-style-type: none"> 2. <u>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;</u> 3. <u>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), should be used to inform this mapping and assessment;</u> 4. <u>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 2022) as well as the Calflora's Information on Wild California Plants database (Calflora 2022);</u> 5. <u>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</u> 6. <u>Impacts on, and maintenance of, wildlife corridor/movement areas, including access to undisturbed habitats in areas adjacent to the project site.</u> <p>If no special status/sensitive species, sensitive habitats/natural communities, or Federally protected wetlands are observed during the field survey, then no further mitigation will be required. If biological resources are documented on the project site, the</p>		
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	<p>project proponent shall comply with the applicable requirements of the regulatory agencies and shall apply mitigation determined through the agency permitting process.</p>		
<p>REC-6-Nesting Birds</p>	<p>CDFW recommends modifying BIO-MM-2 to include <u>underlined</u> language and remove language with strikethrough:</p> <p><u>“To avoid disturbance of nesting birds, 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, February 15 through September 15 (as early as January 1 for some raptors). A pre-construction nesting bird clearance survey shall be conducted by a qualified biologist no more than fourteen (14) <u>seven (7)</u> days prior to the start of any vegetation removal or ground disturbing activities associated with a transportation improvement project. The survey shall be conducted by a qualified biologist and cover all suitable nesting habitat within the project impact area, and areas within a biologically defensible buffer zone surrounding the project impact area. <u>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.</u> Further, if an active bird nest is found, the qualified biologist should identify the specific bird species and establish a “no-disturbance” buffer around the active nest to avoid potential direct and indirect impacts. It is further recommended that the qualified biologist periodically monitor any active bird nests to</u></p>	<p>Prior to Project construction and activities</p>	<p>City of Lancaster/Project Applicant</p>

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	<p>determine if project-related activities disturb the birds and if the “no disturbance” buffer should be increased. <u>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.</u> Once the young have fledged and left the nest, or the nest otherwise becomes inactive under natural conditions, project activities within the “no-disturbance” buffer may occur following an additional survey by the qualified biologist to search for any new nests in the restricted area.”</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-7-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,</p>	<p>Prior to Project construction and activities</p>	<p>City of Lancaster/Project Applicant</p>

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	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.		
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