



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



Governor's Office of Planning & Research

Jan 19 2022

STATE CLEARINGHOUSE

SENT VIA EMAIL ONLY

January 19, 2022

Monique Garibay
City of Lancaster
44933 Fern Avenue
Lancaster, CA 93534
MGaribay@cityoflancasterca.org

**Subject: Tentative Tract No. 62484, Mitigated Negative Declaration, SCH #2021120499,
City of Lancaster, Los Angeles County**

Dear Ms. Garibay:

The California Department of Fish and Wildlife (CDFW) has reviewed an Initial Study/Mitigated Negative Declaration (MND) and Biological Resources Assessment (BRA) from the City of Lancaster (City) for the Tentative Tract No. 62484 Project (Project). The Project is proposed by Royal Investors Group, LLC (Project Applicant). Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW's Role

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

CDFW is also submitting comments as a Responsible Agency under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code, including lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 *et seq.*). Likewise, to the extent implementation of the Project as proposed may result in "take", as defined by State law, of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 *et seq.*), or CESA-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & G. Code, § 1900 *et seq.*), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

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Project Description and Summary

Objective: The Project proposes a subdivision and development of 37 single-family residential lots on an approximately 9-acre parcel. Lots would range between 7,004 square feet and 11,048 square feet. Main access to the Project site would be from Nugent Street, and all streets within the development would be public.

Location: The Project is located on the southeastern corner of 25th Street East and Nugent Street in the City of Lancaster, Los Angeles County. The properties surrounding the Project site are predominantly single-family homes. The property to the south is vacant, and Tierra Bonita Elementary School and Park are located 0.25 miles to the northeast.

Comments and Recommendations

CDFW offers the comments and recommendations below to assist the City in adequately avoiding and/or mitigating the Project's impacts on fish and wildlife (biological) resources. CDFW recommends the measures or revisions below be included in a science-based monitoring program that contains adaptive management strategies as part of the Project's CEQA mitigation, monitoring and reporting program (Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15097).

Specific Comments

Comment #1: Impacts on Burrowing Owls

Issue: Mitigation Measure 2 proposed in the MND may be insufficient to reduce impacts to burrowing owls (*Athene cunicularia*) to below a level of significance. In addition, no field survey has been conducted for burrowing owl presence or burrows on this Project site since 2020, which may no longer be representative of wildlife on-site.

Specific impacts: Project construction and activities may result in injury or mortality of burrowing owls and disrupt natural burrowing owl breeding behavior. Also, the Project may result in the permanent loss and degradation of nine acres of breeding, wintering, and foraging habitat for the species. Habitat loss could result in local extirpation of the species and contribute to local, regional, and State-wide declines of the species.

Why impacts would occur: Burrowing owls are known to regularly occur throughout the Lancaster and Palmdale area. Nest and roost burrows of the burrowing owl are commonly dug by ground squirrels (*Citellus beecheyi*). According to the BRA, "California ground squirrel burrows (*Citellus beecheyi*) were present which can provide potential future cover sites for burrowing owls." The BRA noted that no burrowing owl were observed; however, the field survey was conducted in September 2020, which is outside of the recommended survey period for burrowing owl. It is possible that burrowing owls could have taken up residence in the Project site or use the Project site for breeding and nesting. The Project proceeding based on a false-negative could result in missed detections of burrowing owls and adverse impacts on burrowing owl habitat. Furthermore, the MND states that "[...] it is possible that burrowing owls and other nesting birds could occupy the project prior to the start of construction."

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Additionally, Mitigation Measure 2 does not provide compensatory mitigation even though build out of the Project could result in permanent loss and degradation of nine acres of habitat for burrowing owl. In California, threat factors affecting burrowing owl populations include habitat loss, degradation, and modification. Loss of nine acres of potential habitat for burrowing owl could result in local extirpation of the species and contribute to local, regional, and State-wide declines of the species.

Evidence impacts would be significant: The burrowing owl is a designated [California Species of Special Concern](#) (SSC). An SSC is a species, subspecies, or distinct population of an animal native to California that currently satisfies one or more of the following (not necessarily mutually exclusive) criteria:

- is extirpated from the State or, in the case of birds, is extirpated in its primary season or breeding role;
- is listed as ESA-, but not CESA-, threatened, or endangered; meets the State definition of threatened or endangered but has not formally been listed;
- is experiencing, or formerly experienced, serious (noncyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status; and/or,
- has naturally small populations exhibiting high susceptibility to risk from any factor(s), that if realized, could lead to declines that would qualify it for CESA threatened or endangered status (CDFW 2022a).

CEQA provides protection not only for CESA-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, § 15380). Therefore, take of SSC could require a mandatory finding of significance (CEQA Guidelines, § 15065).

Impacts to any sensitive or special status species should be considered significant under CEQA unless they are clearly mitigated below a level of significance. The MND does not provide mitigation for potential loss of habitat supporting burrowing owls. Inadequate avoidance, minimization, and mitigation measures for impacts to sensitive or special status species will result in the Project continuing to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species by CDFW.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: CDFW recommends the City revise Mitigation Measure 2 by incorporating the underlined language and removing the language that has strikethrough:

“[...] Burrowing owl protocol surveys shall be conducted by a qualified biologist on the Project site and within 100 feet (minimum) of the Project site where there is suitable habitat. Surveys for burrowing owls shall adhere to survey methods described in CDFW’s March 7, 2012, [Staff Report on Burrowing Owl Mitigation](#) prior to the City issuing construction permits (CDFW 2012). ~~on the project site in accordance with the procedures established by the California Department of Fish and Wildlife prior to the start of construction/ground disturbing activities. In California, the burrowing owl~~

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breeding season extends from February 1 to August 31 with some variances by geographic location and climatic conditions. Survey protocol for breeding season owl surveys states to conduct 4 survey visits: 1) at least one site visit between February 15 to 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 15 June.

If burrowing owls are identified utilizing the Project site during the surveys, the applicant shall contact the California Department of Fish and Wildlife and appropriate mitigation/management procedures shall be followed. the applicant shall prepare an Impact Assessment in accordance with the 2012 Staff Report on Burrowing Owl Mitigation. Then, the applicant shall develop a Burrowing Owl Mitigation Plan in accordance with the 2012 Staff Report on Burrowing Owl Mitigation. The applicant shall contact CDFW to develop appropriate mitigation/management procedures. The applicant shall submit a final Burrowing Owl Mitigation Plan to the City prior to the City issuing construction permits. The applicant shall implement all measures identified in the Burrowing Owl Mitigation Plan. [...]

Mitigation Measure #2: If the Project will impact habitat supporting burrowing owls, CDFW recommends that the City require the Project Applicant to offset impacts on habitat supporting a SSC at no less than 2:1. There should be no net loss of burrowing owl habitat. The Project Applicant should set aside replacement habitat. Replacement habitat should be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity, which should include an appropriate endowment to provide for the long-term management of mitigation lands.

Mitigation Measure #3: CDFW recommends that the City require the Project Applicant to avoid using any rodenticides and second-generation anticoagulant rodenticides during Project activities.

Comment #2: Impacts to California Species of Special Concern

Issue: A review of the California Natural Diversity Database (CNDDDB) indicates an occurrence of coast horned lizard (*Phrynosoma coronatum*), a designated SSC, within three miles of the Project vicinity. Moreover, the Project may remove habitat for this species by eliminating vegetation that may support foraging and breeding habitat.

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 remove habitat by eliminating vegetation that may support foraging and breeding habitat.

Why impact would occur: Survey efforts disclosed in the BRA indicates that no focused surveys were conducted for special status reptiles during that time. Without appropriate species-specific surveys, a single general survey may be ineffective for detecting the variety of SSC that may be on site. For example, in September, coast horned lizards' activity is generally crepuscular, so a survey performed during the day may not detect reptiles that could be underground and inactive. There is no indication that surveys were conducted during this time. Grading and vegetation removal after false negative conclusions may trap wildlife hiding under refugia and burrows. Project implementation includes grading, vegetation clearing, and other

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activities that 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 state and federally 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 Species of Special Concern could require a mandatory finding of significance by the Lead Agency, (CEQA Guidelines, § 15065).

These impacts would continue to be significant because there are currently no protection measures in the Project document that will result in adequate avoidance or successful mitigation for the unavoidable direct, indirect, and temporal losses for special status reptile species.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: Due to potentially suitable habitat within the Project site, prior to vegetation removal and/or grading, qualified biologists familiar with the reptile species behavior and life history should conduct specialized surveys to determine the presence/absence of SSC. Surveys should be conducted during active season when the reptiles are most likely to be detected.

Mitigation Measure #2: To further avoid direct mortality, CDFW recommends that a qualified biological monitor be on site during ground and habitat disturbing activities to move out of harm's way special status species that would be injured or killed by grubbing or Project-related grading activities. It should be noted that the temporary relocation of on-site wildlife does not constitute effective mitigation for the purposes of offsetting Project impacts associated with habitat loss. If the Project requires species to be removed, disturbed, or otherwise handled, see Mitigation Measure #3 below.

Mitigation Measure #3: 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). Please visit CDFW's [Scientific Collection Permits](#) webpage for information (CDFW 2022b). Pursuant to the California Code of Regulations, title 14, section 650, the City/qualified biologist must obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities.

Comment #3: Inadequate Disclosure of Adequacy of Biological Impact Fee

Issue: The MND does not provide sufficient information for CDFW to evaluate the adequacy of the Biological Impact Fee to offset the cumulative loss of biological resources in the Antelope Valley.

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Specific Impacts: The Project would develop approximately nine acres of undeveloped land. The Project would eliminate habitat that potentially supports burrowing owls, habitat for nesting birds, and other wildlife such as reptiles.

Why impacts would occur: The Project's cumulative impacts on biological resources in the Antelope Valley would be mitigated through payment of a \$770/acre Biological Impact Fee. According to the MND, the Biological Impact Fee would "[...] offset the cumulative loss of biological resources in the Antelope Valley as a result of development. Therefore, no impacts would occur." The MND does not explain why payment of the Biological Impact Fee is adequate to offset Project impacts so that the Project would have no impacts. The MND does not discuss or provide the following information:

- 1) Whether the Biological Impact Fee is going towards an established program;
- 2) How that program is designed to (and will) mitigate the effects at issue at a level meaningful for purposes of CEQA;
- 3) What the Biological Impact Fee would acquire. It is unclear if the Biological Impact Fee would be used to acquire land for preservation, enhancement, and/or restoration purposes, or if the Biological Impact Fee would be used to purchase credits at a mitigation bank, or none of the above;
- 4) What biological resources would the Biological Impact Fee protect/conserve;
- 5) Why the Biological Impact Fee is appropriate for mitigating cumulative loss of biological resources in the Antelope Valley;
- 6) How \$770/acre is sufficient to purchase land or credits at a mitigation bank;
- 7) Where the City may acquire land or purchase credits at a mitigation bank so that the Biological Impact Fee would offset Project impacts on biological resources in the Antelope Valley;
- 8) When the City would use the Biological Impact Fee. Mitigation payment does not equate to mitigation if the funds are not being used. Also, temporal impacts on biological resources may occur as long as the City fails to implement its proposed mitigation;
- 9) How the City would commit the Project to paying the Biological Impact Fee. For example, when would the City require payment from the Project Applicant, how long would the Project Applicant have to pay the fee, and what mechanisms would the City implement to ensure the fee is paid? Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments (CEQA Guidelines, § 15126.4);
- 10) What performance measures the proposed mitigation would achieve (CEQA Guidelines, § 15126.4);
- 11) What type(s) of potential action(s) that can feasibly achieve those performance standards (CEQA Guidelines, § 15126.4); and,
- 12) How the Biological Impact Fee would be adequate such that no impacts would occur as a result of the Project.

Evidence impacts would be significant: The basic purpose of an environmental document is to provide public agencies and the public in general with detailed information about the effect a proposed Project is likely to have on the environment, and ways and manners in which the significant effects of such a Project might be minimized (Pub. Resources Code, §§ 21002.1, 21061). The MND is insufficient as an informational document because it fails to discuss the ways and manners in which the Biological Impact Fee would mitigate for the Project's cumulative impacts on biological resources in the Antelope Valley. Mitigation measures should

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be adequately discussed and the basis for setting a particular measure should be identified [CEQA Guidelines, § 15126.4(a)(1)(B)]. The MND does not provide enough information to facilitate meaningful public review and comment on the appropriateness of the Biological Impact Fee at mitigating for impacts on biological resources.

This Project may have a significant effect on the environment because the Project may reduce habitat for wildlife; cause rare plants or wildlife population to drop below self-sustaining levels; and threaten to eliminate a plant or animal community [CEQA Guidelines, § 15065(a)(1)]. Furthermore, the Project may contribute to the ongoing loss of sensitive, special status, threatened, and/or endangered plants, wildlife, and vegetation communities in the Antelope Valley. The Project may have possible environmental effects that are cumulatively considerable [CEQA Guidelines, § 15065(a)(3)]. The City is acknowledging that the Project would contribute to the cumulative loss of biological resource in the Antelope Valley because the City is proposing a Biological Impact Fee as compensatory mitigation. The Biological Impact Fee may be inadequate mitigation absent commitment, specific performance standards, and actions to achieve performance standards. Inadequate avoidance and mitigation measures will result in the Project continuing to have a substantial adverse direct and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status in local or regional plans, policies, or regulations, or by CDFW or USFWS.

Recommended Potentially Feasible Mitigation Measure(s):

Recommendation #1: CDFW recommends updating the MND to provide adequate, complete, and good-faith disclosure of information that would address the following in relation to the Project:

- a) Whether the Biological Impact Fee is going towards an established program;
- b) How the program is designed to (and will) mitigate the effects at issue at a level meaningful for purposes of CEQA;
- c) What the Biological Impact Fee would acquire;
- d) What biological resources would the Biological Impact Fee protect/conserve;
- e) Why the Biological Impact Fee is appropriate for mitigating the cumulative loss of biological resources in the Antelope Valley;
- f) Why the Biological Impact Fee is sufficient to purchase land or credits at a mitigation bank;
- g) Where land would be acquired or where the mitigation bank is located;
- h) When the Biological Impact Fee would be used; and,
- i) How the Biological Impact Fee would be adequate such that no impacts would occur as a result of the Project.

The MND should provide any technical data, maps, plot plans, diagrams, and similar relevant information in addressing these concerns (CEQA Guidelines, § 15147).

Recommendation #2: CDFW recommends that the MND provide a discussion describing commitment to mitigation via the Biological Impact Fee. For example, the MND should provide specifics as to when the Project Applicant would pay the Biological Impact Fee; what mechanisms would be implemented to ensure the Biological Impact Fee is paid; and when and where the Biological Impact Fee would be used to offset the Project's impacts. Also, the MND

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should provide specific performance standards, as well as actions to achieve those performance standards.

Recommendation #3: CDFW recommends recirculating the MND for a more meaningful public review and assessment of the Biological Impact Fee. Additionally, the MND should be recirculated if the proposed mitigation measure (i.e., Biological Impact Fee) would not reduce potential effects to less than significant and new measures must be required [CEQA Guidelines, § 15073.5(b)(2)].

Additional Recommendations

Biological Resources Report. CDFW generally considers biological field assessments for wildlife to be valid for a one-year period, and assessments for rare plants may be considered valid for a period of up to three years. Since the biological survey took place on September 23 and 24, 2020, CDFW strongly recommends conducting an updated biological survey to account for the current state of the Project site and the inventory of biological species that may be present. The survey should be conducted at the appropriate time of year and time of day when sensitive species are active or otherwise identifiable for both wildlife and plants.

Nesting birds. CDFW recommends the City revise Mitigation Measure 3 by incorporating the underlined language and removing the language that has strikethrough:

“To protect nesting birds and raptors that may occur on site or adjacent to the Project site, construction activities should not occur from February 15 through September 15. If construction activities must occur between February through September 15, a nesting bird survey shall be conducted by a qualified biologist within 30 days of 7 days prior to the start of construction/ground disturbing activities. Surveys will include all potential nesting areas within a 500-foot radius of the Project site. If Project activities are delayed or suspended for more than 7 days during the breeding season, surveys will be repeated before activities can begin or restart.”

“If nesting birds or raptors are encountered, all work shall cease until a qualified biologist determines either the young birds have fledged or the appropriate permits are obtained from the California Department of Fish and Wildlife (CDFW). If active bird nests are identified using the project site during the survey, the applicant shall contact the California Department of Fish and Wildlife to determine the appropriate mitigation/management requirements. Impacts to nests will be avoided by delay of work or establishing a buffer of 300 feet around active passerine (perching birds) and songbird nests, 500 feet around active non-listed raptor nests, and 0.5 miles around active nests of a CESA or Endangered Species Act-listed bird species and 50 feet around other migratory bird species nests. These buffers shall be maintained until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival. These buffers shall be increased to protect the nesting birds, if necessary, as determined by a qualified biologist.”

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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, please report any special status species detected by completing and submitting [CNDDDB Online Field Survey Form](#) (CDFW 2022c). The City should ensure that the Project applicant has submitted data properly, with all data fields applicable filled out, prior to finalizing/adopting the environmental document. The data entry should also list pending development as a threat and then update this occurrence after impacts have occurred. The Project applicant should provide CDFW with confirmation of data submittal.

Mitigation and Monitoring Reporting Plan. CDFW recommends updating the MND's proposed Biological Resources Mitigation Measures to include mitigation measures recommended in this letter. Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments [(Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15126.4(a)(2)]. As such, CDFW has provided comments and recommendations to assist the City in developing mitigation measures that are (1) consistent with CEQA Guidelines section 15126.4; (2) specific; (3) detailed (i.e., responsible party, timing, specific actions, location), and (4) clear for a measure to be fully enforceable and implemented successfully via mitigation monitoring and/or reporting program (Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15097). The City is welcome to coordinate with CDFW to further review and refine the Project's mitigation measures. Per Public Resources Code section 21081.6(a)(1), CDFW has provided the City with a summary of our suggested mitigation measures and recommendations in the form of an attached Draft Mitigation and Monitoring Reporting Plan (MMRP; Attachment A).

Filing Fees


The Project, as proposed, 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 City of Lancaster 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 of Lancaster in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that the City of Lancaster has to our comments and to receive notification of any forthcoming hearing date(s) for the Project [CEQA Guidelines, § 15073(e)]. If you have any questions or comments regarding this letter, please contact Felicia Silva, Environmental Scientist, at Felicia.Silva@wildlife.ca.gov or (562) 430-0098.

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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.Wison-Olgin@wildlife.ca.gov

Victoria Tang, Los Alamitos – Victoria.Tang@wildlife.ca.gov

Ruby Kwan-Davis, Los Alamitos – Ruby.Kwan-Davis@wildlife.ca.gov

Julisa Portugal, Los Alamitos – Julisa.Portugal@wildlife.ca.gov

Cindy Hailey, San Diego – Cindy.Hailey@wildlife.ca.gov

CEQA Program Coordinator, Sacramento – CEQACommentLetters@wildlife.ca.gov

State Clearinghouse, Office of Planning and Research – State.Clearinghouse@opr.ca.gov

References:

[CDFWa] California Department of Fish and Wildlife. 2022. Species of Special Concern.
Available from: <https://wildlife.ca.gov/Conservation/SSC>

[CDFWb] California Department of Fish and Wildlife. 2022. Scientific Collecting Permit.
Available from: <https://wildlife.ca.gov/Licensing/Scientific-Collecting#53949678>

[CDFWc] California Department of Fish and Wildlife. 2022. Submitting Data to the CNDDDB.
Available from: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>

California Department of Fish and Wildlife [CDFW]. March 7, 2012. Staff Report on Burrowing Owl Mitigation (see <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843>).



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



Attachment A: Draft Mitigation and Monitoring Reporting Plan

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

Biological Resources (BIO)			
Mitigation Measure (MM) or Recommendation (REC)		Timing	Responsible Party
MM-BIO-1- Burrowing Owls - Surveys	<p>CDFW recommends the City revise Mitigation Measure 2 by incorporating the <u>underlined</u> language and removing the language that has strikethrough:</p> <p><u>“[...] Burrowing owl protocol surveys shall be conducted by a qualified biologist on the Project site and within 100 feet (minimum) of the Project site where there is suitable habitat. Surveys for burrowing owls shall adhere to survey methods described in CDFW’s March 7, 2012, Staff Report on Burrowing Owl Mitigation prior to the City issuing construction permits (CDFW 2012).</u> on the project site in accordance with the procedures established by the California Department of Fish and Wildlife prior to the start of construction/ground disturbing activities. <u>In California, the burrowing owl breeding season extends from February 1 to August 31 with some variances by geographic location and climatic conditions. Survey protocol for breeding season owl surveys states to conduct 4 survey visits: 1) at least one site visit between February 15 to 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 15 June.</u></p> <p>If burrowing owls are identified utilizing the Project site during the surveys, the applicant shall contact the California Department of Fish and Wildlife and appropriate</p>	<p>Prior to the City issuing any construction related permits</p>	<p>City of Lancaster/ Project Applicant</p>

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	<u>mitigation/management procedures shall be followed. the applicant shall prepare an Impact Assessment in accordance with the 2012 Staff Report on Burrowing Owl Mitigation. Then, the applicant shall develop a Burrowing Owl Mitigation Plan in accordance with the 2012 Staff Report on Burrowing Owl Mitigation. The applicant shall contact the California Department of Fish and Wildlife (CDFW) to develop appropriate mitigation/management procedures. The applicant shall submit a final Burrowing Owl Mitigation Plan to the City prior to the City issuing construction permits. The applicant shall implement all measures identified in the Burrowing Owl Mitigation Plan. [...]</u>		
MM-BIO-2 – Impacts on Burrowing Owls – Habitat Loss	If the Project will impact habitat supporting burrowing owls, the Project Applicant shall offset impacts on habitat supporting an SSC at no less than 2:1. There shall be no net loss of burrowing owl habitat. The Project Applicant shall set aside replacement habitat. Replacement habitat shall be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity, which shall include an appropriate endowment to provide for the long-term management of mitigation lands.	Prior to ground disturbing activities and vegetation removal	Project Applicant
MM-BIO-3 – Impacts on Burrowing Owls – Rodenticides	The Project Applicant shall not use any rodenticides and second-generation anticoagulant rodenticides during Project activities.	During Project activities	Project Applicant
MM-BIO-4-Impacts to Species of Special Concern	Due to potentially suitable habitat within the Project site, prior to vegetation removal and/or grading, qualified biologists familiar with the reptile species behavior and life history shall conduct specialized surveys to determine the presence/absence of SSC. Surveys shall be conducted during active season when the reptiles are most likely to be detected.	Prior to ground disturbing activities and vegetation removal	Project Applicant
MM-BIO-5-Impacts to Species of Special Concern	To further avoid direct mortality, a qualified biological monitor will be on site during ground and habitat disturbing activities to move out of harm's way special status species that would be injured or killed by grubbing or Project-related grading activities.	Prior to ground disturbing activities and	Project Applicant

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	It shall be noted that the temporary relocation of on-site wildlife does not constitute effective mitigation for the purposes of offsetting Project impacts associated with habitat loss. If the Project requires species to be removed, disturbed, or otherwise handled, see Mitigation Measure #3 below.	vegetation removal	
MM-BIO-6-Impacts to Species of Special Concern	<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 relocate wildlife to avoid harm or mortality in connection with otherwise lawful activities (Cal. Code Regs., tit. 14, § 650). Please visit CDFW's Scientific Collection Permits webpage for information (CDFW 2022b).</p> <p>Pursuant to the California Code of Regulations, title 14, section 650, the City/qualified biologist must obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities.</p>	Prior to ground disturbing activities and vegetation removal	Project Applicant
REC -1- Biological Impact Fee	<p>The City should update the MND to provide adequate, complete, and good-faith disclosure of information that would address the following in relation to the Project:</p> <ol style="list-style-type: none"> Whether the Biological Impact Fee is going towards an established program; How the program is designed to (and will) mitigate the effects at issue at a level meaningful for purposes of CEQA; What the Biological Impact Fee would acquire; What biological resources would the Biological Impact Fee protect/conservate; Why the Biological Impact Fee is appropriate for mitigating the cumulative loss of biological resources in the Antelope Valley; 	Prior to finalizing CEQA document	City of Lancaster

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	<p>f) Why the Biological Impact Fee is sufficient to purchase land or credits at a mitigation bank;</p> <p>g) Where land would be acquired or where the mitigation bank is located;</p> <p>h) When the Biological Impact Fee would be used; and,</p> <p>i) How the Biological Impact Fee would be adequate such that no impacts would occur as a result of the Project.</p>		
REC-2- Biological Impact Fee	<p>The MND should provide a discussion describing commitment to mitigation via the Biological Impact Fee. For example, the MND should provide specifics as to when the Project Applicant would pay the Biological Impact Fee; what mechanisms would be implemented to ensure the Biological Impact Fee is paid; and when and where the Biological Impact Fee would be used to offset the Project's impacts. Also, the MND should provide specific performance standards, as well as actions to achieve those performance standards.</p>	Prior to finalizing CEQA document	City of Lancaster
REC-3-Recirculate CEQA Document	<p>The City should recirculate the MND for a more meaningful public review and assessment of the Biological Impact Fee. Additionally, the MND should be recirculated if the proposed mitigation measure (i.e., Biological Impact Fee) would not reduce potential effects to less than significant and new measures must be required.</p>	Prior to finalizing CEQA document	City of Lancaster
REC-4-Biological Resources Report	<p>CDFW generally considers biological field assessments for wildlife to be valid for a one-year period, and assessments for rare plants may be considered valid for a period of up to three years. Since the biological survey took place on November 6, 2018, CDFW strongly recommends conducting an updated biological survey to account for the current state of the Project site and the inventory of biological species that may be present. The survey should be conducted at the appropriate time of year and time of day when sensitive species are active or otherwise identifiable for both wildlife and plants.</p>	Prior to finalizing CEQA document	City of Lancaster

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<p>REC-5-Nesting Bird Survey and Buffers</p>	<p>CDFW recommends the City revise Mitigation Measure 3 by incorporating the <u>underlined</u> language and removing the language that has strikethrough:</p> <p><u>“To protect nesting birds and raptors that may occur on site or adjacent to the Project site, construction activities should not occur from February 15 through September 15. If construction activities must occur between February through September 15, a nesting bird survey shall be conducted by a qualified biologist within 30 days of 7 days prior to the start of construction/ground disturbing activities. Surveys will include all potential nesting areas within a 500-foot radius of the Project site. If Project activities are delayed or suspended for more than 7 days during the breeding season, surveys will be repeated before activities can begin or restart.”</u></p> <p>“If nesting birds or raptors are encountered, all work shall cease until a qualified biologist determines either the young birds have fledged or the appropriate permits are obtained from the California Department of Fish and Wildlife (CDFW). If active bird nests are identified using the project site during the survey, the applicant shall contact the California Department of Fish and Wildlife to determine the appropriate mitigation/management requirements. Impacts to nests will be avoided by delay of work or establishing a buffer of 300 feet around active passerine (perching birds) and songbird nests, 500 feet around active non-listed raptor nests, and 0.5 miles around active nests of a CESA or Endangered Species Act-listed bird species and 50 feet around other migratory bird species nests. These buffers shall be maintained until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for</p>	<p>Prior and during Project activities</p>	<p>Project Applicant</p>
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	<u>survival. These buffers shall be increased to protect the nesting birds, if necessary, as determined by a qualified biologist.”</u>		
REC-6-Data	Please report any special status species detected by completing and submitting CNDDB Online Field Survey Form . The City should ensure that the Project Applicant has submitted the data properly, with all data fields applicable filled out, prior to finalizing/adopting the environmental document. The data entry should also list pending development as a threat and then update this occurrence after impacts have occurred. The Project Applicant should provide CDFW with confirmation of data submittal.	Prior to finalizing CEQA document	City of Lancaster/ Project Applicant
REC-7-MMRP	The MND’s proposed Biological Resources Mitigation Measures should be updated and conditioned to include mitigation measures recommended in this letter. Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments. The City is welcome to coordinate with CDFW to further review and refine the Project’s mitigation measures.	Prior to finalizing CEQA document	City of Lancaster