



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Inland Deserts Region
3602 Inland Empire Boulevard, Suite C-220
Ontario, CA 91764
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



September 9, 2022
Sent via email

Edgar Gonzalez, Associate Planner
City of Hesperia
Planning Department
9700 Seventh Avenue
Hesperia, CA 92345

Subject: Draft Environmental Impact Report (DEIR)
Dara Industrial Project
State Clearing House No. 2022040060



Dear Mr. Gonzalez:

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

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

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*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 fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law

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

Edgar Gonzalez, Associate Planner
City of Hesperia
September 9, 2022
Page 2 of 14

of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

The objective of the Project is to develop a single 750,000-square-foot industrial building within an approximately 43.28-acre site. The Project also includes two stormwater management basins that will be located at the Project site's northeasterly (0.6 acre) and southwesterly (2.0 acres) corners. Project activities include clearing of all surface features through grubbing, rough-grading, and fine-grading in preparation of building construction. Existing grades within the Project site will be modified to establish suitable building pads and to facilitate site drainage. Site preparation activities will result in approximately 200,000 cubic yards of soil export.

Location: The Project site is located in the western part of the City, which is within the Victor Valley region of San Bernardino County. The Project site is located at the northwest corner of Highway 395 and Poplar Street at a previous racetrack. The Project site consists of Assessor's Parcel Numbers 3064-551-03, -04, -06, -07, and -08. Specifically, the Project site is located in Section 21, Township 4 North, Range 5 West, as depicted on the U.S. Geological Survey Baldy Mesa, California 7.5-minute topographic quadrangle map. Regional access to the Project site is provided via Highway 395, bordering the eastern boundary of the Project site. Project coordinates are Latitude 34.417581 and Longitude -117.403536.

Timeframe: The Project will be completed by 2024.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below, and in Attachment 1 "Mitigation Monitoring and Reporting Program (MMRP)", to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources.

Western Joshua Tree (*Yucca brevifolia*)

As a Candidate for Threatened California Endangered Species Act (CESA)-listed species, CDFW is concerned with the Projects potential impacts to the 65 western Joshua tree (WJT) identified by the DEIR. CDFW recommends that the City conduct an impact analysis for WJT. When analyzing impacts to WJT, the entire population on the project site should be considered to properly calculate demographics and estimate the quality of WJT habitat on-site. CDFW recommends the final EIR quantify WJT presence on the entirety of the Project Area through focused surveys. The WJT survey results should be included in the final EIR and should identify and provide: a) the GPS coordinates and accompanying map of each WJT within the Project Area; b) the age class of each WJT; c) the number of clonal WJT associated with each parent plant and the methodology used to make this determination; d) a unique numbering system for

Edgar Gonzalez, Associate Planner
City of Hesperia
September 9, 2022
Page 3 of 14

each WJT, and e) geo-referenced, representative photos of parent trees, clones, and general distribution of WJT across the Project site.

Furthermore, the final EIR should include: 1) an impact analysis assessing potential Project impacts to WJT within a 186-foot buffer zone of WJT (Vander Wall et al. 2006), 2) implementing a 300-foot buffer around WJT not scheduled for removal to avoid impacts to WJT, and 3) a mitigation strategy for Project impacts to WJT individuals, WJT seedbank, and indirect impacts to WJT.

CDFW appreciates the inclusion of MM BIO- 4.7.1 which considers an Incidental Take Permit for take of WJT. CDFW offers the following revisions to MM BIO-4.7.1 (edits are in ~~strikethrough~~ and **bold**)

MM BIO-4.7.1

A State Incidental Take Permit (ITP) shall be obtained prior to any ground-disturbing activities **including site clearing, grubbing, grading, etc.**, that would be expected to impact the western Joshua tree. **If any western Joshua tree (WJT) are to be relocated, removed, or otherwise taken (California Fish and Game Code Section 86 defines “take” as “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill”), the City shall obtain an Incidental Take Permit (ITP) from the California Department of Fish and Wildlife (CDFW) in accordance with Fish and Game Code section 2081 prior to the relocation, removal, or take of WJT, a Threatened CESA-listed species candidate.**

To fully mitigate for Project-related impacts, including “take” of a CESA-listed species, permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA. CDFW recommends permanent protection through the establishment of a conservation easement, the development of a long-term management plan, and the securement of sufficient funds to implement management plan tasks in perpetuity. These tasks should be completed, or financial security must be provided prior to initiating Project activities. To execute an ITP, CDFW requires documentation of CEQA compliance. CEQA documentation shall include a State Clearing House number and proof of filing fees and document circulation.

Nesting Birds

During the September 22, 2021, field surveys no active nests or birds displaying nesting behavior were observed, which is unsurprising since the field survey was conducted outside the typical breeding season for most birds. The DEIR recognizes that plant communities and land cover types found on-site, such as rubber rabbitbrush (*Ericameria nauseosa*) scrub and creosote bush (*Larrea tridentata*) scrub have the potential to provide suitable nesting habitat for year-round and seasonal avian residents, as well as migrating songbirds.

The Biological Resources Assessment states that no raptors are expected to nest on-site due to lack of suitable nesting opportunities. Red-tailed hawk (*Buteo jamaicensis*) has a range that overlaps the Project area, and commonly occurs near the Project. Red-

Edgar Gonzalez, Associate Planner
City of Hesperia
September 9, 2022
Page 4 of 14

tailed hawk commonly uses Western Joshua tree (*Yucca brevifolia*) for nesting, and there are 65 trees on the Project site. Please note that it is the Project proponent's responsibility to avoid "take" of all nesting birds. California Fish and Game Code Section 86 defines "take" as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill". Fish and Game Code section 3503 makes it unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by the rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.). Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto. These regulations apply anytime nests or eggs exist on the Project site.

To address the above issues and help the Project applicant avoid unlawful take of nests and eggs, CDFW offers the following revisions to MM BIO-4.7.2 (edits are in ~~strikethrough~~ and **bold**)

MM BIO-4.7.2

~~If construction occurs between February 1st and August 31st,~~ **Regardless of the time of year,** a pre-construction clearance survey for nesting birds should be conducted **onsite within 500 feet of the Project site** within three (3) days of the start of any vegetation removal or ground-disturbing activities to ensure that no nesting birds will be disturbed during construction. **Surveys shall include any potential habitat (including trees, shrubs, the ground, or nearby structures) that may be impacted by Project activities.** The biologist conducting the clearance survey should document a negative survey with a brief letter report indicating that no impacts to active avian nests will occur.

If an active avian nest is discovered during the pre-construction clearance survey, construction activities should stay outside of a no-disturbance buffer. **The extent of the 'no-disturbance buffer' shall be no less than 300 feet (500 feet for raptors) although a smaller buffer may be determined by a qualified biologist.** ~~The size of the no-disturbance buffer will be determined by the wildlife biologist and will depend on the level of noise and/or surrounding anthropogenic disturbances, line of sight between the nest and the construction activity, type and duration of construction activity, ambient noise, species habituation, and topographical barriers. These factors will be evaluated on a case-by-case basis when developing buffer distances.~~ Limits of construction to avoid an active nest will be established in the field with flagging, fencing, or other appropriate barriers; and construction personnel will be instructed on the sensitivity of nest areas. A biological monitor should be present to delineate the boundaries of the buffer area and to monitor the active nest to ensure that nesting behavior is not adversely affected by the construction activity. **If the qualified biologist determines that construction activities pose a disturbance to nesting, construction work shall**

Edgar Gonzalez, Associate Planner
City of Hesperia
September 9, 2022
Page 5 of 14

be stopped in the area of the nest and the 'no-disturbance buffer' shall be expanded. Once the young have fledged and left the nest, or the nest otherwise becomes inactive under natural conditions, construction activities within the buffer area can occur.

Burrowing Owl (*Athene cunicularia*)

CDFW understands that the Project site is fairly disturbed due to decades of recreational use. Because burrowing owl is commonly found in disturbed habitat and the Project site contains areas with suitable foraging and/or nesting habitat for burrowing owl, CDFW agrees with the DEIR that the Project site has potential to support burrowing owl. CDFW appreciates the inclusion of MM BIO 4.7.3 which considers pre-construction surveys for burrowing owl and offers the following revisions (edits are in ~~strike through~~ and **bold**)

MM BIO-4.7.3

~~A pre-construction burrowing owl survey will be conducted within 30 days prior to construction to avoid any potential project-related impacts to this species.~~ **Prior to initiating Project activities, a qualified biologist shall conduct at least one survey covering the entire Project area and surrounding 15-meter buffer to identify the presence of suitable burrows and/or burrow surrogates (>11 cm in diameter [height and width] and >150 cm in depth) for burrowing owl and sign of burrowing owl (e.g., pellets, prey remains, whitewash, or decoration, etc.).** If burrowing owls or suitable burrows and/or sign of burrowing owl are documented on-site, a breeding season survey for burrowing owl in accordance with the Staff Report on Burrowing Owl Mitigation (Department of Fish and Game, March 2012) shall be conducted by a qualified biologist prior to start of Project activities. If no burrowing owl, active burrowing owl burrows, or sign thereof are found, no further action is necessary. If burrowing owl, active burrowing owl burrows, or sign thereof are found the Applicant **qualified biologist shall prepare and implement a plan for avoidance, minimization, and mitigation measures** ~~or passive exclusion, in coordination with~~ **to be approved by CDFW prior to commencing Project activities and propose mitigation for permanent loss of occupied burrow(s) and habitat.** Methodology for surveys, impact analysis, and reporting shall follow the recommendations and guidelines provided within the California Department of Fish and Game Staff Report on Burrowing Owl Mitigation (CDFW 2012 Staff Report).

Lake and Streambed Alteration

CDFW appreciates that the Project proponent recognizes that notification to CDFW is required, pursuant to section 1602 of the Fish and Game Code. CDFW recommends the City consult with CDFW early regarding notification to comply with the Fish and Game Code section 1602. CDFW offers the following revisions to MM BIO- (edits are in ~~strike through~~ and **bold**)

Edgar Gonzalez, Associate Planner
City of Hesperia
September 9, 2022
Page 6 of 14

MM BIO- 4.7.4

If Oro Grande Wash will be impacted by Project development activities, the Project Applicant shall obtain the following regulatory approvals prior to impacts occurring within the identified jurisdictional area: **U.S. Army Corps CWA Section 404 Permit, Regional Board CWA Section 401 Water Quality Certification, and/or written correspondence from CDFW stating that notification under Section 1602 of the Fish and Game Code is not required for the Project, or the Project proponent should obtain a CDFW-executed Lake and Streambed Alteration Agreement, authorizing impacts to Fish and Game Code section 1602 resources associated with the Project.**

Desert tortoise (*Gopherus agassizii*) and Mohave ground squirrel (*Xerospermophilus mohavensis*)

The DEIR speculates that due to several decades of heavy recreational use of the site, desert tortoise and Mohave ground squirrel are not expected to occur. However, the Project is within the range and based on aerial imagery contains minimal potential habitat for desert tortoise, a state-threatened, proposed endangered species under CESA and Mohave ground squirrel, a CESA-threatened species on the northwest part of the Project site. Because the Project is within the range of Mohave ground squirrel and desert tortoise, CDFW recommends that prior to start of Project activities, a pre-construction survey and pre-construction sweep be conducted to ensure the absence of these species, thus CDFW recommends the City adopt MM BIO-4.7.5 and MM BIO-4.7.6 below:

MM BIO-4.7.5

A qualified biologist shall conduct pre-construction surveys within the Project area and a 500-foot buffer surrounding these areas 14-21 days prior to initiating Project activities. The surveys shall be conducted to identify and map for avoidance of any special-status species with the potential to occur on the site such as desert tortoise and Mohave ground squirrel. The qualified biologist shall ensure that the methods used to locate, identify, map, avoid, and buffer individuals or habitat are appropriate and effective, including the assurance that the surveyor has attained 100% visual coverage of the entirety of the potential impact areas, and an appropriate buffer surrounding those areas. Appropriate survey methods and timeframes shall be established, to ensure that chances of detecting the target species are maximized. In the event that listed species, such as the desert tortoise or Mohave ground squirrel, are detected and avoidance is infeasible, proper authorization (i.e., incidental take permitting) from the USFWS and CDFW must be obtained. If nesting birds are detected, avoidance measures shall be implemented to ensure that nests are not disturbed until after young have fledged.

MM BIO-4.7.6

A qualified biologist shall conduct pre-construction sweeps within the Project area (including access routes) and a 500-foot buffer surrounding the Project

Edgar Gonzalez, Associate Planner
City of Hesperia
September 9, 2022
Page 7 of 14

areas, within 2 hours of initiating Project activities. The pre-construction sweeps shall confirm and mark/map for avoidance the location of any special-status species such as desert tortoise and Mohave ground squirrel and shall verify that no additional special-status species have occupied the Project areas or adjacent habitats. If any additional special-status species (or sign of presence) are identified within or adjacent to the project areas during the pre-construction sweep, the qualified biologist shall determine whether the proposed avoidance measures will be effective in fully avoiding impacts of the project on the identified resource(s) prior to initiating Project activities. If full avoidance cannot be accomplished, Permittee shall postpone the Project, and contact CDFW to discuss an appropriate path forward.

Special-Status Plants

The DEIR states, "Of the 25 special-status plant species that have been recorded in the Project area, the only special-status plant species observed on-site during the field investigation was the Joshua tree". CDFW is concerned that this conclusion was drawn based on a habitat assessment/field investigation that was conducted on September 22, 2021 considering that according to the Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018): (1) botanical field surveys should be conducted in the field at the times of year when plants will be both evident and identifiable, usually this is during flowering or fruiting and (2) . Botanical field survey visits should be spaced throughout the growing season to accurately determine what plants exist in the project area which usually involves multiple visits to the project area (e.g., in early, mid, and late-season) to capture the floristic diversity at a level necessary to determine if special status plants are present. CDFW is aware of sagebrush loeflingia (*Loeflingia squarrosa* var. *artemisiarum*) occurring near the Project site. Sagebrush loeflingia is classified as State Rank (S) 2 and thus is considered "Imperiled". Sagebrush loeflingia has a blooming period of April through May, consequently the September 22, 2021, habitat assessment precluded detecting sagebrush loeflingia. CDFW recommends that prior to start of Project activities, a botanical field survey according to the Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018) be conducted to adequately identify special-status plant species.

MM BIO-4.7.7

Prior to the initiation of Project activities, and during the appropriate season, a qualified biologist shall conduct botanical field surveys following protocols set forth in the California Department of Fish and Wildlife's (CDFW) 2018 Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018). If any special-status plants are identified, the Project proponent shall avoid the plant(s), with an appropriate buffer (i.e., fencing or flagging). If complete avoidance is not feasible, the Project proponent shall mitigate the loss of the plant(s) through the purchase of mitigation credits from a CDFW-approved bank or land acquisition and

Edgar Gonzalez, Associate Planner
City of Hesperia
September 9, 2022
Page 8 of 14

conservation, at a mitigation ratio determined by CDFW after Project analysis. If the Project has the potential to impact a state listed species, the Project proponent should apply for a California Endangered Species Act (CESA) Incidental Take Permit (ITP) with CDFW.

ENVIRONMENTAL DATA

CEQA requires that information developed in Environmental Impact Reports and Negative Declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link: [Submitting Data to the CNDDDB \(ca.gov\)](#). The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: [CNDDDB - Plants and Animals \(ca.gov\)](#).

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 Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying Project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

CDFW requests that the City include in the final MND the suggested mitigation measures (Attachment 1) offered by CDFW to avoid, minimize, and mitigate Project impacts on California fish and wildlife resources.

CDFW appreciates the opportunity to comment on the Dara Industrial Project (SCH No.2022040060) and hopes our comments will assist the City in identifying, avoiding, minimizing, and mitigating Project impacts on fish and wildlife resources.

If you should have any questions pertaining to the comments provided in this letter, please contact Julian Potier, Environmental Scientist at julian.potier@wildlife.ca.gov.

ATTACHMENTS

Attachment 1: MMRP for CDFW-Proposed Mitigation Measures

Edgar Gonzalez, Associate Planner
City of Hesperia
September 9, 2022
Page 9 of 14

Sincerely,

DocuSigned by:



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Alisa Ellsworth
Environmental Program Manager

ec: Office of Planning and Research, State Clearinghouse, Sacramento
state.clearinghouse@opr.ca.gov.

REFERENCES

California Department of Fish and Wildlife. 2018. Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities. Available for download at:
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>

California Department of Fish and Game. 2012. Staff report on burrowing owl mitigation. State of California, Natural Resources Agency. Available for download at: http://www.dfg.ca.gov/wildlife/nongame/survey_monitor.html

U.S. Fish and Wildlife Service. 2018. Mojave Desert Tortoise Pre-project Survey Protocol.

Waitman, B. A., S. B. Vander Wall, and T. C. Esque. 2012. Seed dispersal and seed fate in Joshua tree (*Yucca brevifolia*). *Journal of Arid Environments* 81:1–8.

Edgar Gonzalez, Associate Planner
 City of Hesperia
 September 9, 2022
 Page 10 of 14

ATTACHMENT 1: MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

PURPOSE OF THE MMRP

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

TABLE OF MITIGATION MEASURES

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

Biological (BIO) Mitigation Measure	Implementation Schedule	Responsible Party
<p>Biological Resources Mitigation Measure No. 4.7.1</p> <p>A State Incidental Take Permit (ITP) shall be obtained prior to any ground-disturbing activities including site clearing, grubbing, grading, etc., that would be expected to impact the western Joshua tree. If any western Joshua tree (WJT) are to be relocated, removed, or otherwise taken (California Fish and Game Code Section 86 defines “take” as “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill”), the City shall obtain an Incidental Take Permit (ITP) from the California Department of Fish and Wildlife (CDFW) in accordance with Fish and Game Code section 2081 prior to the relocation, removal, or take of WJT, a Threatened CESA-listed species candidate.</p> <p>To fully mitigate for Project-related impacts, including “take” of a CESA-listed species, permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA. CDFW recommends permanent protection through the establishment of a conservation easement, the development of a long-term management plan, and the</p>	<p>Prior to commencing ground- or vegetation-disturbing activities</p>	<p>Project Proponent</p>

Edgar Gonzalez, Associate Planner
 City of Hesperia
 September 9, 2022
 Page 11 of 14

<p>securement of sufficient funds to implement management plan tasks in perpetuity. These tasks should be completed, or financial security must be provided prior to initiating Project activities. To execute an ITP, CDFW requires documentation of CEQA compliance. CEQA documentation shall include a State Clearing House number and proof of filing fees and document circulation.</p>		
<p>Biological Resources Mitigation Measure No. 4.7.2</p> <p>Regardless of the time of year, a pre-construction clearance survey for nesting birds should be conducted onsite within 500 feet of the Project site within three (3) days of the start of any vegetation removal or ground-disturbing activities to ensure that no nesting birds will be disturbed during construction. Surveys shall include any potential habitat (including trees, shrubs, the ground, or nearby structures) that may be impacted by Project activities. The biologist conducting the clearance survey should document a negative survey with a brief letter report indicating that no impacts to active avian nests will occur.</p> <p>If an active avian nest is discovered during the pre-construction clearance survey, construction activities should stay outside of a no-disturbance buffer. The extent of the 'no-disturbance buffer' shall be no less than 300 feet (500 feet for raptors) although a smaller buffer may be determined by a qualified biologist. Limits of construction to avoid an active nest will be established in the field with flagging, fencing, or other appropriate barriers; and construction personnel will be instructed on the sensitivity of nest areas. A biological monitor should be present to delineate the boundaries of the buffer area and to monitor the active nest to ensure that nesting behavior is not adversely affected by the construction activity. If the qualified biologist determines that construction activities pose a disturbance to nesting, construction work shall be stopped in the area of the nest and the 'no-disturbance buffer' shall be expanded. Once the young have fledged and left the nest, or the nest otherwise becomes inactive under natural conditions, construction activities within the buffer area can occur.</p>	<p>Prior to commencing ground- or vegetation-disturbing activities</p>	<p>Project Proponent</p>

Edgar Gonzalez, Associate Planner
 City of Hesperia
 September 9, 2022
 Page 12 of 14

<p>Biological Resources Mitigation Measure No. 4.7.3</p> <p>Prior to initiating Project activities, a qualified biologist shall conduct at least one survey covering the entire Project area and surrounding 15-meter buffer to identify the presence of suitable burrows and/or burrow surrogates (>11 cm in diameter [height and width] and >150 cm in depth) for burrowing owl and sign of burrowing owl (e.g., pellets, prey remains, whitewash, or decoration, etc.). If burrowing owls or suitable burrows and/or sign of burrowing owl are documented on-site, a breeding season survey for burrowing owl in accordance with the Staff Report on Burrowing Owl Mitigation (Department of Fish and Game, March 2012) shall be conducted by a qualified biologist prior to start of Project activities. If no burrowing owl, active burrowing owl burrows, or sign thereof are found, no further action is necessary. If burrowing owl, active burrowing owl burrows, or sign thereof are found the qualified biologist shall prepare and implement a plan for avoidance, minimization, and mitigation measures to be approved by CDFW prior to commencing Project activities and propose mitigation for permanent loss of occupied burrow(s) and habitat. Methodology for surveys, impact analysis, and reporting shall follow the recommendations and guidelines provided within the California Department of Fish and Game Staff Report on Burrowing Owl Mitigation (CDFW 2012 Staff Report).</p>	<p>Prior to commencing ground- or vegetation-disturbing activities</p>	<p>Project Proponent</p>
<p>Biological Resources Mitigation Measure No. 4.7.4</p> <p>If Oro Grande Wash will be impacted by Project activities, the Project Applicant shall obtain the following regulatory approvals prior to impacts occurring within the identified jurisdictional area: U.S. Army Corps CWA Section 404 Permit, Regional Board CWA Section 401 Water Quality Certification, and written correspondence from CDFW stating that notification under section 1602 of the Fish and Game Code is not required for the Project, or the Project proponent should obtain a CDFW-executed Lake and Streambed Alteration Agreement, authorizing impacts to Fish and Game Code section 1602 resources associated with the Project.</p>	<p>Prior to commencing ground- or vegetation-disturbing activities</p>	<p>Project Proponent</p>

Edgar Gonzalez, Associate Planner
 City of Hesperia
 September 9, 2022
 Page 13 of 14

<p>Biological Resources Mitigation Measure No. 4.7.5</p> <p>A qualified biologist shall conduct pre-construction surveys within the Project area and a 500-foot buffer surrounding these areas 14-21 days prior to initiating Project activities. The surveys shall be conducted to identify and map for avoidance of any special-status species with the potential to occur on the site such as desert tortoise and Mohave ground squirrel. The qualified biologist shall ensure that the methods used to locate, identify, map, avoid, and buffer individuals or habitat are appropriate and effective, including the assurance that the surveyor has attained 100% visual coverage of the entirety of the potential impact areas, and an appropriate buffer surrounding those areas. Appropriate survey methods and timeframes shall be established, to ensure that chances of detecting the target species are maximized. In the event that listed species, such as the desert tortoise or Mohave ground squirrel, are detected and avoidance is infeasible, proper authorization (i.e., incidental take permitting) from the USFWS and CDFW must be obtained. If nesting birds are detected, avoidance measures shall be implemented to ensure that nests are not disturbed until after young have fledged.</p>	<p>Prior to commencing ground- or vegetation-disturbing activities</p>	<p>Project Proponent</p>
<p>Biological Resources Mitigation Measure No. 4.7.6</p> <p>A qualified biologist shall conduct pre-construction sweeps within the Project area (including access routes) and a 500-foot buffer surrounding the Project areas, within 2 hours of initiating Project activities. The pre-construction sweeps shall confirm and mark/map for avoidance the location of any special-status species such as desert tortoise and Mohave ground squirrel and shall verify that no additional special-status species have occupied the Project areas or adjacent habitats. If any additional special-status species (or sign of presence) are identified within or adjacent to the project areas during the pre-construction sweep, the qualified biologist shall determine whether the proposed avoidance measures will be effective in fully avoiding impacts of the project on the identified resource(s) prior to initiating Project activities. If full avoidance cannot be accomplished, Permittee shall</p>	<p>Prior to commencing ground- or vegetation-disturbing activities</p>	<p>Project Proponent</p>

Edgar Gonzalez, Associate Planner
 City of Hesperia
 September 9, 2022
 Page 14 of 14

<p>postpone the Project, and contact CDFW to discuss an appropriate path forward.</p>		
<p>Biological Resources Mitigation Measure No. 4.7.7</p> <p>Prior to the initiation of Project activities, and during the appropriate season, a qualified biologist shall conduct botanical field surveys following protocols set forth in the California Department of Fish and Wildlife’s (CDFW) 2018 Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018). If any special-status plants are identified, the Project proponent shall avoid the plant(s), with an appropriate buffer (i.e., fencing or flagging). If complete avoidance is not feasible, the Project proponent shall mitigate the loss of the plant(s) through the purchase of mitigation credits from a CDFW-approved bank or land acquisition and conservation, at a mitigation ratio determined by CDFW after Project analysis. If the Project has the potential to impact a state listed species, the Project proponent should apply for a California Endangered Species Act (CESA) Incidental Take Permit (ITP) with CDFW.</p>	<p>Prior to commencing ground- or vegetation-disturbing activities</p>	<p>Project Proponent</p>