



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



SENT BY EMAIL ONLY

June 22, 2022

Jocelyn Swain
City of Lancaster
44933 Fern Avenue
Lancaster, CA 93534
Jswain@cityoflanaster.org

Subject: Site Plan Review No. 21-09 (FedEx Distribution), Mitigated Negative Declaration, City of Lancaster, Los Angeles County

Dear Ms. Swain:

The California Department of Fish and Wildlife (CDFW) has reviewed an Initial Study/Mitigated Negative Declaration (MND) from the City of Lancaster (City; Lead Agency) for the Site Plan Review No. 21-09 FedEx Distribution (Project). In addition, CDFW has reviewed the supplemental documents included with the MND, which includes a Biological Resource Assessment (BRA) that summarizes the results of biological surveys conducted in October 2021. The Project is proposed by D&D Engineering, Inc. (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;

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Fish & G. Code, § 1900 et seq.), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

Project Description and Summary

Objective: The Project consists of the construction and operation of a FedEx Ground distribution facility. Approximately 37.45 acres of the 40-acre parcel will be graded, and vegetation on site will be removed. Once the site has been graded and cleared of vegetation, the area will be paved, and structures will be constructed. The main building would be 250,955 square feet. This building will contain the warehouse facility, the administrative offices, and loading docks on the southern and eastern portions of the building. A 3,741-square-foot vehicle maintenance building is proposed along the northeastern portion of the Project site and would be used to perform basic maintenance on the FedEx Ground fleet. Access to the Project site would be from two driveways along 30th Street West. The main parking lot is located on the western side of the Project site and would provide a total of 486 parking spaces. Van, long trailer, and tractor parking would be located on the north and south sides of the main building. Four drainage basins will be constructed on site with a combined total acreage of 2.5 acres. One basin will be along the Avenue G frontage, two small basins will be installed along 30th Street West, and the final basin will be installed in the northeastern corner of the Project site.

Location: The Project is located on an approximately 40-acre parcel on the corner of 30th Street West and Avenue G, in the City of Lancaster, Los Angeles County. The Project site is bounded by vacant land on all sides. The Antelope Valley Freeway (State Route 14) is located approximately 0.5 miles east of the Project site. The Project site includes Assessor's Parcel Number 3114-010-011.

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 to Swainson's Hawk (*Buteo swainsoni*)

Issue: CDFW is concerned that the Project could impact habitat for Swainson's hawk, a threatened CESA-listed species.

Specific Impacts: Project construction and activities may result in injury or mortality of Swainson's hawk. The Project may result in loss of breeding and/or foraging habitat for Swainson's hawk.

Why impacts would occur: Swainson's hawk are generally found in the Central Valley but have also been documented foraging in Palmdale and Lancaster areas. This raptor species prefers open spaces, open grasslands, pastures, and agricultural land (CDFW 2022a). Based

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on aerial imagery, the Project site is an open space with sparse vegetation that provides potential foraging habitat. According to the California Natural Diversity Database (CNDDDB), Swainson's hawk has been documented within three miles east of the Project site (CDFW 2022b). Furthermore, four observations of Swainson's hawk within the City of Lancaster have been documented through [iNaturalist](#) (iNaturalist 2022). Although there is a potential for Swainson's hawk to be observed within or near the Project site, the MND does not provide avoidance measures to minimize the impacts to Swainson's hawk. The BRA acknowledges that the Project site contains suitable habitat for foraging; however, the results of protocol level surveys for Swainson's hawk were not provided. Project activities conducted without pre-construction surveys could result in injury or mortality of unidentified Swainson's hawk. Lastly, development of the Project will result in loss of habitat and foraging areas.

Evidence impact would be significant: Consistent with CEQA Guidelines section 15380, the status of the Swainson's hawk as a threatened species under CESA qualifies it as an endangered, rare, or threatened species under CEQA. The estimated historical population of Swainson's hawk was nearly 17,000 pairs; however, in the late 20th century, Bloom (1980) estimated a population of only 375 pairs. The decline was primarily a result of habitat loss from development (CDFW 2016). The most recent survey conducted in 2009 estimated the population at 941 breeding pairs. The species is currently threatened by loss of nesting and foraging habitat (e.g., from agricultural shifts to less crops that provide less suitable habitat), urban development, environmental contaminants (e.g., pesticides), and climate change (CDFW 2016). CDFW considers a Swainson's hawk nest site to be active if it was used at least once within the past five years and impacts to suitable habitat or individual birds within a five-mile radius of an active nest as significant. Based on the foregoing, Project impacts would potentially reduce the number and/or restrict the range of Swainson's hawk or contribute to the abandonment of an active nest and/or the loss of significant foraging habitat for a given nest territory and thus result in take as defined under CESA.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: CDFW released guidance for this species entitled [Swainson's Hawk Survey Protocols, Impact Avoidance, and Minimization Measures for Renewable Energy Projects in the Antelope Valley of Los Angeles and Kern Counties, California](#) (CEC 2010). CDFW recommends conducting focused surveys for Swainson's hawk following the 2010 guidance and disclosing the results in the Project's final environmental documentation.

Mitigation Measure #2: If take of Swainson's hawk would occur from Project construction or operation, CESA authorization [(i.e., ITP)] would be required for the Project. CDFW may consider the Lead Agency's CEQA documentation for its CESA-related actions if it adequately analyzes/discloses impacts and mitigation to CESA-listed species. Additional documentation may be required as part of an ITP application for the Project in order for CDFW to adequately develop an accurate take analysis and identify measures that would fully mitigate for take of CESA-listed species.

Mitigation Measure #3: Permanent impacts to foraging habitat for Swainson's hawk should be offset by the Project Applicant. There should be no net loss of suitable foraging habitat for Swainson's hawk. CDFW recommends that the City require the Project Applicant to offset impacts on foraging habitat for Swainson's hawk at no less than 1:1. Project Applicant should purchase at minimum 40 acres of credits at a mitigation bank offering credits for Swainson's

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hawk and whose service area contains the Project site. The Project Applicant should submit the credit amount, bank sponsor, habitat types(s), and map of the mitigation site to the City before the City issues a grading permit for the Project and before any ground-disturbing activities or vegetation removal.

Mitigation Measure #4: If credits at a mitigation bank are not available, the Project Applicant should acquire 40 acres of land to protect habitat for Swainson's hawk in perpetuity. Lands to be conserved should be selected in consistency with Conservation Actions for Swainson's hawk described in the Antelope Valley Regional Conservation Investment Strategy (ICF 2019).

Permanent impacts to foraging habitat for Swainson's hawk should be offset by the Project Applicant and should protect replacement habitat 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). The Project Applicant should record the conservation easement prior to commencement of Project-related activities.

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 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.

Comment #2: Impacts on Streams

Issue: The Project may impact Amargosa Creek and associated ephemeral washes.

Specific impacts: The Project may impact the bed, bank, and channel of a water course as a result of construction and activities that would expose soil surfaces to erosion, remove vegetation, and compact soils.

Why impact would occur: According to page 15 of the BRA, "The study site is located within the Amargosa Creek Drainage (ephemeral wash system). Ephemeral washes and clay pans occurred throughout the study site. Halophytic plant species, and cryptogamic crusts indicated sufficient water flows through and pools within the area to support this habitat type." According to page 3 of the BRA, "The entire project area would be graded prior to construction activities." According to page 3 of the BRA, "This Project could be considered a cumulatively significant adverse impact to biological resources, specifically to streambeds and sensitive plants, as this area is further developed. This impact could be lessened if sufficient protection measures for streambeds and sensitive plants are implemented on this and surrounding sites to maintain waterflow in Amargosa Creek drainage system." Finally, according to page 14 of the BRA, "Sensitive plant species have expected to be extirpated as further water flow from upstream ephemeral washes is diverted."

The proposed Project consists of completely grading the site and removing all vegetation. Once

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this has been completed, access roads, parking, utilities, and structures would be installed. To facilitate this, Table 4 in the Initial Study identifies dozers, tractors, loaders, backhoes, excavators, graders, scrapers, pavers, rollers, and other assorted construction equipment as being required. Ground-disturbing activities could result in sediment input into the Amargosa Creek drainage system. Vegetation removal adjacent to and within the Amargosa Creek drainage system may destabilize the soil surface, resulting in stream bank erosion and sediment, debris, and pollutant input into streams. Vehicle and foot traffic adjacent to streams could disturb the soil surface that could also contribute to stream bank erosion and sediment input.

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 lake¹;
- 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) Notification when a project activity may substantially adversely affect fish and wildlife resources. The Project could result in reasonably foreseeable impacts on streams. Accordingly, the Project may have a significant impact on streams. The MND does not provide measures to mitigate for potentially significant impacts. Accordingly, the Project has 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):

Mitigation Measure #5: The proposed Project will extensively grade and remove vegetation from the 40-acre Project site. These activities will result in a diversion or obstruction of the natural flow of the watercourse present at the Project site as well as a change to the bed, channel, or bank of the watercourse present at the Project site. As such, the Project Applicant should notify CDFW pursuant to Fish and Game Code 1602 prior to the City issuing any construction permits, ground disturbing activities, and vegetation clearing.

Please visit CDFW's [Lake and Streambed Alteration Program](#) webpage for information about LSA Notification and online submittal through the Environmental Permit Information Management System (EPIMS) Permitting Portal (CDFW 2022c).

Mitigation Measure #6: The Project Applicant's notification to CDFW should provide the following information and analyses:

¹ "Any river, stream, or lake" includes those that are dry for periods of time (ephemeral/episodic) as well as those that flow year-round (perennial). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a water body.

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- 1) Linear feet of streams and area of associated vegetation that would be impacted²;
- 2) Whether the Project would result in impacts on Amargosa Creek downstream from the Project site;
- 3) A hydrological evaluation of the 100-year flood event under existing conditions and Project build-out conditions to provide information on how water and sediment is conveyed through the Project site;
- 4) A scour analysis demonstrating that stream banks, bed, and channel would not erode and be impaired (e.g., aggrade, incised) as a result of the Project; and,
- 5) A complete description of Project activities that may be required for the life of the Project.

Mitigation Measure #7: The Project Applicant should provide compensatory mitigation for impacts on streams and associated plant communities at no less than 2:1 or per requirements in an LSA Notification or LSA Agreement issued by CDFW. Mitigation should occur where a stream supports desert plant communities impacted by the Project and within the same watershed.

Recommendation #1: 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 City for the Project. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 et seq. and/or under CEQA, the Project's CEQA document should fully identify the Project's potential impacts on stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement. As such, CDFW recommends the City consider CDFW's comments and revise the MND by incorporating the mitigation measures and revisions recommended in this letter into the Project's final environmental document.

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.

Comment #3: Impacts on Burrowing Owls (*Athene cunicularia*)

Issue: Burrowing owl presence was confirmed in 2021 surveys.

Specific impacts: Project construction and activities may result in injury or mortality of burrowing owls and disrupt natural burrowing owl breeding behavior. The Project may also result in the permanent loss and degradation of 40 acres of breeding, wintering, and/or 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 impact would occur: Burrowing owls are yearlong residents of open, dry grassland, and

² Plant community names should be provided based on vegetation association and/or alliance per the [Manual of California Vegetation](#), second edition (Sawyer et al. 2009).

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desert habitats. Burrowing owls are known to regularly occur within the Antelope Valley region. The BRA noted that a burrowing owl was observed in the 2021 surveys and that suitable habitat was present on site. It is possible that burrowing owls occupy the Project site or use the Project site for breeding and nesting. Mitigation measure #3 of the MND proposes to “conduct burrowing owl protocol surveys on the project site in accordance with the procedures established by the California Department of Fish and Wildlife in the Staff Report on Burrowing Owl Mitigation prior to the issuance of any construction related permits.” Mitigation measure #3 further goes on to propose installing one-way gates to relocate burrowing owls and implementing a 50-foot buffer if a breeding pair or female owl with offspring are present at a burrow.

The mitigation measures identified in the MND are not consistent with the language in the Staff Report on Burrowing Owl Mitigation. The Project is proposing to extensively grade the Project site and remove vegetation. Once this is done, various structures will be built, roads and parking lots will be paved, and landscaping will be implemented. These activities would result in a high level of disturbance to the Project site. The proposed buffer of 50 feet is not consistent with the Staff Report on Burrowing Owl Mitigation the measure is referencing and would result in impacts to this species. In addition, the installation of one-way gates to evict burrowing owls from the site during the non-breeding season would result in increased opportunities for predation. Without appropriate avoidance measures, Project-related activities may result in direct take of burrowing owl, increased predation, and a loss of successful reproduction opportunities. Lastly, development of the Project will result in habitat loss of 40 acres will contribute to local, regional, and State-wide declines of the species.

Evidence impact would be significant: A [California Species of Special Concern](#) 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 (CDFW 2022d):

- 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 2022e).

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 Project and environmental document should be conditioned to avoid and/or mitigate for potential impacts to burrowing owl

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and habitat if burrowing owls are present. 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 #8: CDFW recommends the City revise Mitigation Measure #3 by incorporating the underlined language and removing the language that has strikethrough:

The applicant shall retain a qualified biologist who shall conduct burrowing owl protocol surveys on the project site in accordance with the procedures established by the California Department of Fish and Wildlife in the Staff Report on Burrowing Owl Mitigation prior to the issuance of any construction related permits. Burrowing owl protocol surveys shall be conducted by a qualified biologist on the Project site and within 150 meters (minimum) of the Project site where there is suitable habitat. 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 four survey visits: 1) at least one site visit between February 15 and April 15, and 2) a minimum of three survey visits, at least three weeks apart, between April 15 and July 15, with at least one visit after June 15. If burrowing owls are identified during the surveys, the applicant shall prepare an Impact Assessment and Burrowing Owl Mitigation Plan in accordance with the 2012 Staff Report on Burrowing Owl Mitigation. In addition, 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.

At a minimum, the following shall occur:

- If burrowing owls are identified during the non-nesting season and in accordance with the prepared Impact Assessment and Burrowing Owl Mitigation Plan, burrowing owls shall not be excluded from burrows unless or until:
 - A Burrowing Owl Exclusion Plan is developed in accordance with the 2012 Staff Report on Burrowing Owl Mitigation and approved by the applicable local CDFW office
 - Permanent loss of occupied burrow(s) and habitat is mitigated in accordance with the Mitigating Impacts Section of the 2012 Staff Report on Burrowing Owl Mitigation
 - Site monitoring is conducted prior to, during, and after exclusion of burrowing owls from their burrows sufficient to ensure take is avoided. Daily monitoring shall be conducted for one week to confirm young of the year have fledged if the exclusion will occur immediately after the end of the breeding season
 - Excluded burrowing owls are documented using artificial or natural burrows on an adjoining mitigation site

~~a qualified biologist shall install one-way gates to relocate the owl to a suitable nearby property. Upon confirmation that the burrow is empty, the burrow shall be collapsed.~~

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- In the event that a breeding pair or female owl with offspring are present at the burrow, a buffer zone of at least ~~50 feet~~ 500 meters shall be established around the burrow until the offspring have fledged and left the burrow. No work shall occur within the buffer zone. The specific buffer zone shall be established in coordination with CDFW while discussing the Impact Assessment and Burrowing Owl Mitigation Plan.

Mitigation Measure #9: If the Project will impact habitat supporting burrowing owls, CDFW recommends that the City require the Project Applicant to offset impacts on habitat supporting burrowing owl at no less than 2:1. There should be no net loss of burrowing owl habitat. See Mitigation Measure #4 above which describes protecting replacement habitat in perpetuity.

Comment #4: Impacts to Rare Plants

Issue: The Project may impact rare plants.

Specific Impacts: The Project could result in loss of individuals and populations of rare plants including (but not limited to) the following species:

- Lancaster milk-vetch (*Astragalus preussii* var. *taxiflorus*) – California Rare Plant Rank (CRPR) 1B.1
- Alkali mariposa lily (*Calochortus striatus*) – CRPR 1B.2
- Peirson's morning-glory (*Calystegia peirsonii*) – CRPR 4.2
- white pygmy poppy (*Canbya candida*) – CRPR 4.2
- Mojave Indian paintbrush (*Castilleja plagiotoma*) – CRPR 4.3
- Parry's spineflower (*Chorizanthe parryi* var. *parryi*) – CRPR 1B.1
- Mojave spineflower (*Chorizanthe spinosa*) – CRPR 4.2
- desert cymopterus (*Cymopterus deserticola*) - CRPR 1B.2
- Rosamond eriastrum (*Eriastrum rosamondense*) – CRPR 1B.1
- desert cymopterus (*Cymopterus deserticola*) - CRPR 1B.2
- Rosamond eriastrum (*Eriastrum rosamondense*) – CRPR 1B.1
- Alkali mariposa lily (*Calochortus striatus*) – CRPR 1B.2

Why impacts would occur: According to CNDDDB, the species listed above are all present in the Lancaster West Quadrangle, which contains the Project site. These species have the potential to exist at the Project site. The BRA summarizes findings of field surveys conducted on October 16, 20, and 21 of 2021. The BRA concluded that there is suitable habitat to support Rosamond eriastrum and alkali mariposa lily. In fact, skeletal remnants of these species were observed within the study site. In addition, Mojave spineflower was also determined to be one of the dominant annual species at the study site. The BRA concluded that other sensitive plant species were not present due to lack of suitable habitat; however, the field surveys were not conducted at the time of year when plants would be both evident and identifiable. Usually this is when plants are flowering or fruiting (Table 1, CDFW 2018). The field surveys would likely have been too late in the growing season to observe rare plant flowers and fruits if they occur in the Project site (Table 1). Therefore, the field surveys are insufficient evidence for the City to conclude that rare plants are not present and therefore no mitigation is required for sensitive plants other than Rosamond eriastrum and alkali mariposa lily.

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Table 1. Bloom period (highlighted in grey) for rare plant species that could occur in the Project site (Calflora 2022).

Scientific Name	Common Name	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
<i>Astragalus preussii</i> var. <i>taxiflorus</i>	Lancaster milk-vetch												
<i>Calochortus striatus</i>	Alkali mariposa lily												
<i>Calystegia peirsonii</i>	Peirson's morning-glory												
<i>Canbya candida</i>	White pygmy-poppy												
<i>Castilleja plagiotoma</i>	Mojave Indian paintbrush												
<i>Chorizanthe parryi</i> var. <i>parryi</i>	Parry's spineflower												
<i>Chorizanthe spinosa</i>	Mojave spineflower												
<i>Cymopterus deserticola</i>	Desert cymopterus												
<i>Eriastrum rosamondense</i>	Rosamond eriastrum												

Field surveys conducted in a time of year inadequate to detect rare plants could be erroneous or inaccurate evidence for the City to conclude that the Project would not have a significant impact on rare plants and habitat supporting rare plants. The MND does require the Project Applicant to perform a spring-time rare plant survey before issuance of any construction related permits; however, there is an option to not perform spring-time surveys and instead map areas containing suitable habitat and pay \$2,405/acre for these areas. Botanical field surveys are necessary to provide information on the Project's potential impacts on rare, sensitive, and special status plants. Project construction and activities proceeding based on false-negative surveys may result in the Project having an impact on rare plants. Rare plants and seedbank could be buried, crushed, and trampled. The Project may result in permanent loss of rare plants and its seedbank by developing 40 acres of habitat. The Project's potential impact on rare plants may result in local population declines or extirpation of a species.

Evidence impacts would be significant: Impacts on rare flora could be considered a significant effect on the environment. Plants with a CRPR of 1B are rare throughout their range, endemic to California, and are seriously or fairly threatened. Most of the plants that are ranked 1B have declined significantly over the last century (CNPS 2022). The additional threat rank of 0.1 indicates a species with over 80 percent of its occurrences threatened in California. The additional threat rank of 0.2 indicates a species with 20 to 80 percent of its occurrences threatened (CNPS 2022). Impacts to CRPR 1B plant species and their habitat meet the definition of endangered, rare, or threatened species (CEQA Guidelines, § 15380). Some CRPR 3 and 4 species meet the definitions of endangered, rare, or threatened under CEQA. Impacts to CRPR 1B plant species and their habitat may result in a mandatory finding of significance

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because the Project would have the potential to threaten to eliminate a plant community and substantially reduce the number or restrict the range of an endangered, rare, or threatened species (CEQA Guidelines, § 15065).

Insufficient mitigation may result in unmitigated temporal or permanent impacts to a rare plant species. Subsequently, the Project would continue 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 #10: The Project Applicant should retain a qualified botanist with experience surveying for southern California rare plants to survey the Project site and adjacent areas for rare plants. Surveys should be conducted according to CDFW's [Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities](#) (CDFW 2018). The Project Applicant should submit a survey report, including negative findings, to the City as part of the final CEQA document for public disclosure. At a minimum, the survey report should provide the following information:

- 1) A description and map of the survey area;
- 2) Field survey conditions that should include name(s) of qualified botanists(s) and brief qualifications; date and time of survey; survey duration; general weather conditions; survey goals, and species searched;
- 3) If rare plants are found, a map(s) showing the location of individual plants or populations, and number of plants or density of plants per square feet occurring at each location. The map should distinguish between species found and which plants/populations will be avoided versus impacted by Project construction and activities that would require mitigation;
- 4) A description of physical (e.g., soil, moisture, slope) and biological (e.g., plant composition) conditions where each rare plant or population is found. A sufficient description of biological conditions, primarily impacted habitat, should include native plant composition (e.g., density, cover, and abundance) within impacted habitat (e.g., species list separated by vegetation class, density, cover, and abundance of each species); and
- 5) If rare plants are found, species-specific measures to mitigate for impacts to rare plants and habitat (see Mitigation Measure #11).

Mitigation Measure #11: If impacts on the species listed above and their habitat cannot be avoided, the Project Applicant should provide compensatory mitigation at no less than 2:1. The abundance of a rare plant species and total habitat acreage within the mitigation lands should be no less than 2:1. Mitigation lands should be in the same watershed as the Project site and support habitat that contains the rare plant species impacted. See Mitigation Measure #4 above which describes protecting replacement habitat in perpetuity.

Comment #5: Inadequate Disclosure of Biological Impact Fees

Issue: The MND does not provide sufficient information for CDFW to evaluate the adequacy of the \$770/acre fee (Biological Impact Fee) for offsetting cumulative loss of biological resources in the Antelope Valley and the \$2,405/acre fee (Biological Impact Fee for Special Status Plants)

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for offsetting cumulative loss of habitat suitable for special status plants supporting species such as Rosamond eriastrum and alkali mariposa lily. The Biological Impact Fee and Biological Impact Fee for Special Status Plants are hereafter referred to as “Fees” within Comment #4.

Specific Impacts: The Project would develop approximately 40 acres of undeveloped land. The Project would eliminate habitat that potentially supports sensitive plant species including Rosamond eriastrum and alkali mariposa lily.

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. This fee is required of all projects occurring on previously undeveloped land regardless of the biological resources present and is utilized to enhance biological resources through education programs and the acquisition of property for conservation. 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 Project’s cumulative impacts on special status plants including Rosamond eriastrum and alkali mariposa lily would be mitigated through payment of \$2,405/acre. According to the MND, “The biologist’s report shall include the total acreage of each special status species present or the suitable habitat for these species and Applicant shall be required to pay \$2,405/acre for these areas. The funds shall be placed into a designated account and utilized for the acquisition of conservation habitat within the Antelope Valley.” The MND does not explain why payment of this fee is adequate to offset the Project impacts so that the Project would have no impacts. The MND does not discuss or provide the following information for the Biological Impact Fee or the Biological Impact Fee for Special Status Plants:

- 1) Whether the Fees are 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 Fees would acquire. It is unclear if the Fees would be used to acquire land for preservation, enhancement, and/or restoration purposes, or if the Fees would be used to purchase credits at a mitigation bank, or none of the above;
- 4) What biological resources would the Fees protect/conserve;
- 5) Why these Fees are appropriate for mitigating cumulative loss of biological resources in the Antelope Valley;
- 6) How these Fees are 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 these Fees would offset Project impacts on biological resources and sensitive plant species in the Antelope Valley;
- 8) When the City would use these Fees. 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 Applicant to paying these Fees. For example, when would the City require payment from the Project Applicant, how long would the Project Applicant have to pay these Fees, and what mechanisms would the City implement to ensure these Fees are 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,

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- § 15126.4);
- 11) What type(s) of potential action(s) that can feasibly achieve those performance standards (CEQA Guidelines, § 15126.4); and,
 - 12) How these Fees 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 these Fees would mitigate for the Project's cumulative impacts on biological resources and sensitive plant species including Rosamond eriastrum and alkali mariposa lily in the Antelope Valley. Mitigation measures should 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 these Fees at mitigating for impacts to biological resources and to sensitive plant species including Rosamond eriastrum and alkali mariposa lily.

This Project may have a significant effect on the environment because the Project may reduce habitat for rare plants or 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 resources in the Antelope Valley because the City is proposing these Fees as compensatory mitigation. These Fees 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 United States Fish and Wildlife Service (USFWS).

Recommended Potentially Feasible Mitigation Measure(s):

Recommendation #2: CDFW recommends that the MND provide a discussion describing commitment to mitigation via these Fees. For example, the MND should provide specifics as to when the Project Applicant would pay these Fees; what mechanisms would be implemented to ensure these Fees are paid; and when and where these Fees 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.

Recommendation #3: CDFW recommends recirculating the MND for a more meaningful public review and assessment of these Fees. Additionally, the MND should be recirculated if the proposed mitigation measure (i.e., \$770/acre fee and \$2,405/acre fee) would not reduce potential effects to less than significant and new measures must be required [CEQA Guidelines, § 15073.5(b)(2)].

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Mitigation Measure #12: 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 these Fees are 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 these Fees would acquire;
- d) What biological resources would these Fees protect/conserve;
- e) Why these Fees are appropriate for mitigating the cumulative loss of biological resources in the Antelope Valley;
- f) Why these Fees are 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 these Fees would be used; and,
- i) How these Fees 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).

Additional Recommendations

Recommendation #4: The MND provides mitigation for nesting birds; however, the Project's mitigation measure for nesting birds may be inadequate to reduce the Project's impact on nesting birds to less than significant. CDFW recommends the City revise Mitigation Measure #4 by incorporating the underlined language and removing the language that has strikethrough:

To protect nesting birds that may occur within and in areas adjacent to the Project site, Project construction should occur between September 1 through December 31, outside of the nesting bird season to the greatest extent possible. The Project Applicant should not remove or disturb trees or vegetation during the bird nesting season, which generally runs from February 1 through August 31 (as early as January 1 for some raptors) to avoid take of birds, raptors, or their nests, eggs, or nestlings. If Project construction and activities must occur during the bird nesting season, the Project Applicant shall retain a qualified biologist to conduct nesting bird surveys. A Two nesting bird surveys shall be conducted by a qualified biologist ~~within 30~~ no more than 7 days prior to the start of construction/ground disturbing/~~vegetation removal~~ activities. The qualified biologist should survey all potential nesting, roosting, and perching sites within a minimum 500-foot radius from the Project site. If Project construction and activities are delayed or suspended for more than 7 days during the nesting bird season, a qualified biologist should repeat nesting bird surveys before any activities can recommence. If active bird nests are identified during the surveys, the applicant shall contact the California Department of Fish and Wildlife to determine the appropriate mitigation/management requirements. ~~Impacts to nesting birds will be avoided by delay of work or establishing a buffer of 500 feet around active raptor nests and 50 feet around other migratory bird species. If nesting birds are identified, the qualified biologist should establish the following minimum no-disturbance buffers: 300 feet around active common passerine (perching birds and songbirds) nests, 500 feet around active special status passerine and non-listed raptor nests, and 0.5 mile around active listed bird nests.~~

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These buffers should 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.

Recommendation #5: The Project site provides suitable foraging habitat for raptors, burrowing owl, desert kit fox, coyotes, and other predatory/scavenger species that occupy the Antelope Valley. This Project has proposed to install landscaping at the Project site. As such, vegetation may need to be managed via chemical methods. Herbicides, pesticides, and rodenticides may impact wildlife. Second generation anticoagulant rodenticides are known to have harmful effects on the ecosystem and wildlife. [Assembly Bill 1788](#) prohibits the use of any second-generation anticoagulant rodenticides because second generation anticoagulant rodenticides have a higher toxicity and are more dangerous to nontarget wildlife (California Legislative Information 2020). CDFW recommends that the City require the Project Applicant to avoid using any rodenticides and second-generation anticoagulant rodenticides during Project activities.

Recommendation #6: The Project proposes the construction and operation of a FedEx Ground distribution facility. Landscaping would be provided throughout the Project site. CDFW recommends the Project Applicant use only native species found in naturally occurring vegetation communities within or adjacent to the Project site. The Project Applicant should not plant, seed, or otherwise introduce non-native, invasive plant species to areas that are adjacent to and/or near native habitat areas. Accordingly, CDFW recommends the City restrict use of any species, particularly 'Moderate' or 'High' listed by the [California Invasive Plant Council](#) (Cal-IPC 2022). These species are documented to have substantial and severe ecological impacts on physical processes, plant and animal communities, and vegetation structure.

Recommendation #7: The Project would require significant ground and soil disturbance. Wildlife may be trapped or crushed by large equipment during Project construction. Accordingly, the Project Applicant should have a qualified biologist be on site to prevent injury and mortality of wildlife of low mobility. Wildlife should be protected, allowed to move away on its own (non-invasive, passive relocation), or relocated to suitable habitat adjacent to the Project site (at least 200 feet off site). A qualified biologist should be on site daily during initial ground and habitat disturbing activities and vegetation removal. Then, the qualified biologist should be on site weekly or bi-weekly (once every two weeks) for the remainder of Project until the cessation of all ground disturbing activities to ensure that no wildlife is harmed.

Recommendation #8: CDFW recommends that any fencing used during and after the Project be constructed with materials that are not harmful to wildlife. Prohibited materials should include, but are not limited to, spikes, glass, razor, or barbed wire. Use of chain link and steel stake fence should be avoided or minimized as this type of fencing can injure wildlife or create barriers to wildlife dispersal. All hollow posts and pipes should be capped to prevent wildlife entrapment and mortality. These structures mimic the natural cavities preferred by various bird species and other wildlife for shelter, nesting, and roosting. Raptor's talons can become entrapped within the bolt holes of metal fence stakes resulting in mortality. Metal fence stakes used on the Project site should be plugged with bolts or other plugging materials to avoid this hazard. Fences should not have any slack that may cause wildlife entanglement.

Recommendation #9: CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database [i.e., California Natural Diversity Database] which may be used to make subsequent or supplemental environmental

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determinations [Pub. Resources Code, § 21003, subd. (e)]. Information on special status species should be submitted to the CNDDDB by completing and submitting [CNDDDB Field Survey Forms](#) (CDFW 2022f). For information on special status native plant populations and sensitive natural communities, the [Combined Rapid Assessment and Relevé Form](#) should be completed and submitted to CDFW's Vegetation Classification and Mapping Program (CDFW 2022g).

Recommendation #10: 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

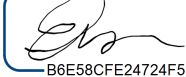
The Project, as proposed, could have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the City of Lancaster and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in 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 Frederic (Fritz) Rieman, Environmental Scientist, at Frederic.Rieman@wildlife.ca.gov or (562) 619-0605.

Sincerely,

DocuSigned by:



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Erinn Wilson-Olgin
Environmental Program Manager I
South Coast Region

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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

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

Felicia Silva – Los Alamitos – Felicia.Silva@wildlife.ca.gov

Frederic (Fritz) 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

State Clearinghouse, Office of Planning and Research - state.clearinghouse@opr.ca.gov

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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
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 – Swainson’s Hawk Survey	CDFW released guidance for this species entitled Swainson’s Hawk Survey Protocols, Impact Avoidance, and Minimization Measures for Renewable Energy Projects in the Antelope Valley of Los Angeles and Kern Counties, California (CEC 2010). The Project Applicant shall conduct focused surveys for Swainson’s hawk following the 2010 guidance and disclose the results in the Project’s final environmental documentation.	Prior to finalizing CEQA document and Project Activities	City of Lancaster/ Project Applicant
MM-BIO-2 – Swainson’s Hawk Incidental Take Permit	If take of Swainson’s hawk would occur from Project construction or operation, CESA authorization [(i.e., ITP)] would be required for the Project. CDFW may consider the Lead Agency’s CEQA documentation for its CESA-related actions if it adequately analyzes/discloses impacts and mitigation to CESA-listed species. Additional documentation may be required as part of an ITP application for the Project in order for CDFW to adequately develop an accurate take analysis and identify measures that would fully mitigate for take of CESA-listed species.	Prior to finalizing CEQA document and Project Activities	City of Lancaster/ Project Applicant
MM-BIO-3 – Swainson’s Hawk Mitigation	Permanent impacts to foraging habitat for Swainson’s hawk shall be offset by the Project Applicant. There shall be no net loss of suitable foraging habitat for Swainson’s hawk. The City shall require the Project Applicant to offset impacts on foraging habitat for Swainson’s hawk at no less than 1:1. Project Applicant shall purchase at minimum 40 acres of credits at a mitigation bank offering credits for Swainson’s hawk and whose	Prior to finalizing CEQA document and Project activities	City of Lancaster/ Project Applicant

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	<p>service area contains the Project site. The Project Applicant shall submit the credit amount, bank sponsor, habitat types(s), and map of the mitigation site to the City before the City issues a grading permit for the Project and before any ground-disturbing activities or vegetation removal.</p>		
<p>MM-BIO-4 – Swainson’s Hawk Mitigation</p>	<p>If credits at a mitigation bank are not available, the Project Applicant shall acquire 40 acres of land to protect habitat for Swainson’s hawk in perpetuity. Lands to be conserved shall be selected in consistency with Conservation Actions for Swainson’s hawk described in the Antelope Valley Regional Conservation Investment Strategy (ICF 2019).</p> <p>Permanent impacts to foraging habitat for Swainson’s hawk shall be offset by the Project Applicant and shall protect replacement habitat 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). The Project Applicant shall record the conservation easement prior to commencement of Project-related activities.</p> <p>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 endowment shall 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 shall be addressed include but are not limited to the following: protection from any future development and zone changes;</p>	<p>Prior to finalizing CEQA document and Project activities</p>	<p>City of Lancaster/ Project Applicant</p>

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	restrictions on access; proposed land dedications; control of illegal dumping; water pollution; and increased human intrusion.		
MM-BIO-5 – Impacts to Aquatic Resources – Notification Pursuant to Fish and Game Code Section 1602	<p>The proposed Project will extensively grade and remove vegetation from the 40-acre Project site. These activities will result in a diversion or obstruction of the natural flow of the watercourse present at the Project site as well as a change to the bed, channel, or bank of the watercourse present at the Project site. As such, the Project Applicant shall notify CDFW pursuant to Fish and Game Code 1602 prior to the City issuing any construction permits, ground disturbing activities, and vegetation clearing.</p> <p>Please visit CDFW's Lake and Streambed Alteration Program webpage for information about LSA Notification and online submittal through the Environmental Permit Information Management System (EPIMS) Permitting Portal (CDFW 2022c).</p>	Prior to the City issuing construction related permits, ground disturbing activities, and vegetation clearing.	<p>City of Lancaster – issuing construction-related permits</p> <p>Project Applicant – notifying CDFW pursuant to Fish and Game Code section 1602</p>
MM-BIO-6 – Impacts to Aquatic Resources – Notification Pursuant to Fish and Game Code Section 1602	<p>The Project Applicant's notification to CDFW shall provide the following information and analyses:</p> <ol style="list-style-type: none"> 1) Linear feet of streams and area of associated vegetation that would be impacted; 2) Whether the Project would result in impacts on Amargosa Creek downstream from the Project site; 3) A hydrological evaluation of the 100-year flood event under existing conditions and Project build-out conditions to provide information on how water and sediment is conveyed through the Project site; 4) A scour analysis demonstrating that stream banks, bed, and channel would not erode and be impaired (e.g., aggrade, incised) as a result of the Project; and, 5) A complete description of Project activities that may be required for the life of the Project. 	Prior to the City issuing construction related permits, ground disturbing activities, and vegetation clearing.	<p>City of Lancaster – issuing construction-related permits</p> <p>Project Applicant – notifying CDFW pursuant to Fish and Game Code section 1602</p>
MM-BIO-7 – Impacts to Aquatic	The Project Applicant shall provide compensatory mitigation for impacts on streams and associated plant communities at no	Prior to the City issuing	City of Lancaster –

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<p>Resources – Compensatory Mitigation</p>	<p>less than 2:1 or per requirements in an LSA Notification or LSA Agreement issued by CDFW. Mitigation shall occur where a stream supports desert plant communities impacted by the Project and within the same watershed.</p>	<p>construction related permits, ground disturbing activities, and vegetation clearing.</p>	<p>issuing construction-related permits Project Applicant – notifying CDFW pursuant to Fish and Game Code section 1602</p>
<p>MM-BIO-8 – Burrowing Owl Survey</p>	<p>The applicant shall retain a qualified biologist who shall conduct burrowing owl protocol surveys on the project site in accordance with the procedures established by the California Department of Fish and Wildlife in the Staff Report on Burrowing Owl Mitigation prior to the issuance of any construction related permits. Burrowing owl protocol surveys shall be conducted by a qualified biologist on the Project site and within 150 meters (minimum) of the Project site where there is suitable habitat. 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 four survey visits: 1) at least one site visit between February 15 and April 15, and 2) a minimum of three survey visits, at least three weeks apart, between April 15 and July 15, with at least one visit after June 15. If burrowing owls are identified during the surveys, the applicant shall prepare an Impact Assessment and Burrowing Owl Mitigation Plan in accordance with the 2012 Staff Report on Burrowing Owl Mitigation. In addition, 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</p>	<p>Prior to finalizing CEQA document and Project Activities</p>	<p>City of Lancaster/ Project Applicant</p>

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	<p>the City prior to the City issuing construction permits. The applicant shall implement all measures identified in the Burrowing Owl Mitigation Plan.</p> <p>At a minimum, the following shall occur:</p> <ul style="list-style-type: none">• If burrowing owls are identified during the non-nesting season and in accordance with the prepared Impact Assessment and Burrowing Owl Mitigation Plan, burrowing owls shall not be excluded from burrows unless or until:<ul style="list-style-type: none">○ A Burrowing Owl Exclusion Plan is developed in accordance with the 2012 Staff Report on Burrowing Owl Mitigation and approved by the applicable local CDFW office○ Permanent loss of occupied burrow(s) and habitat is mitigated in accordance with the Mitigating Impacts Section of the 2012 Staff Report on Burrowing Owl Mitigation○ Site monitoring is conducted prior to, during, and after exclusion of burrowing owls from their burrows sufficient to ensure take is avoided. Daily monitoring shall be conducted for one week to confirm young of the year have fledged if the exclusion will occur immediately after the end of the breeding season○ Excluded burrowing owls are documented using artificial or natural burrows on an adjoining mitigation site <p>In the event that a breeding pair or female owl with offspring are present at the burrow, a buffer zone of at least 500 meters shall be established around the burrow until the offspring have fledged and left the</p>		
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	<p>burrow. No work shall occur within the buffer zone. The specific buffer zone shall be established in coordination with CDFW while discussing the Impact Assessment and Burrowing Owl Mitigation Plan.</p>		
<p>MM-BIO-9 – Burrowing Owl Mitigation</p>	<p>If the Project will impact habitat supporting burrowing owls, the City shall require the Project Applicant to offset impacts on habitat supporting burrowing owl at no less than 2:1. There shall be no net loss of burrowing owl habitat. See Mitigation Measure #4 above which describes protecting replacement habitat in perpetuity.</p>	<p>Prior to finalizing CEQA document and Project Activities</p>	<p>City of Lancaster/ Project Applicant</p>
<p>MM-BIO-10 – Rare Plant Surveys</p>	<p>The Project Applicant shall retain a qualified botanist with experience surveying for southern California rare plants to survey the Project site and adjacent areas for rare plants. Surveys shall be conducted according to CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018). The Project Applicant shall submit a survey report, including negative findings, to the City as part of the final CEQA document for public disclosure. At a minimum, the survey report shall provide the following information:</p> <ol style="list-style-type: none"> 1) A description and map of the survey area; 2) Field survey conditions that shall include name(s) of qualified botanists(s) and brief qualifications; date and time of survey; survey duration; general weather conditions; survey goals, and species searched; 3) If rare plants are found, a map(s) showing the location of individual plants or populations, and number of plants or density of plants per square feet occurring at each location. The map should distinguish between species found and which plants/populations will be avoided versus impacted by Project construction and activities that would require mitigation; 	<p>Prior to finalizing CEQA document and Project Activities</p>	<p>City of Lancaster/ Project Applicant</p>

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	<p>4) A description of physical (e.g., soil, moisture, slope) and biological (e.g., plant composition) conditions where each rare plant or population is found. A sufficient description of biological conditions, primarily impacted habitat, shall include native plant composition (e.g., density, cover, and abundance) within impacted habitat (e.g., species list separated by vegetation class, density, cover, and abundance of each species); and</p> <p>5) If rare plants are found, species-specific measures to mitigate for impacts to rare plants and habitat (see Mitigation Measure #11).</p>		
<p>MM-BIO-11 – Rare Plant Mitigation</p>	<p>If impacts on the species listed above and their habitat cannot be avoided, the Project Applicant shall provide compensatory mitigation at no less than 2:1. The abundance of a rare plant species and total habitat acreage within the mitigation lands shall be no less than 2:1. Mitigation lands shall be in the same watershed as the Project site and support habitat that contains the rare plant species impacted. See Mitigation Measure #4 above which describes protecting replacement habitat in perpetuity.</p>	<p>Prior to finalizing CEQA document and Project Activities</p>	<p>City of Lancaster/ Project Applicant</p>
<p>MM-BIO-12 – Biological Impact Fees</p>	<p>The MND shall be updated to provide adequate, complete and good-faith disclosure of information that would address the following in relation to the Project:</p> <ul style="list-style-type: none"> a) Whether these Fees are 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 these Fees would acquire; d) What biological resources would these Fees protect/conserves; e) Why these Fees are appropriate for mitigating the cumulative loss of biological resources in the Antelope Valley; 	<p>Prior to finalizing CEQA document and Project Activities</p>	<p>City of Lancaster</p>

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	<p>f) Why these Fees are 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 these Fees would be used; and, i) How these Fees would be adequate such that no impacts would occur as a result of the Project.</p> <p>The MND shall provide any technical data, maps, plot plans, diagrams, and similar relevant information in addressing these concerns (CEQA Guidelines, §15147).</p>		
<p>REC 1 – Lake or Streambed Alteration Agreement</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 City for the Project. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 et seq. and/or under CEQA, the Project’s CEQA document shall fully identify the Project’s potential impacts on stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement. As such, the City shall consider CDFW’s comments and revise the MND by incorporating the mitigation measures and revisions recommended in this letter into the Project’s final environmental document.</p> <p>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 finalizing CEQA document</p>	<p>City of Lancaster</p>

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REC 2 – Biological Impact Fees Discussion	The MND shall provide a discussion describing commitment to mitigation via these Fees. For example, the MND shall provide specifics as to when the Project Applicant would pay these Fees; what mechanisms would be implemented to ensure these Fees are paid; and when and where these Fees would be used to offset the Project’s impacts. Also, the MND shall provide specific performance standards, as well as actions to achieve those performance standards.	Prior to finalizing CEQA document and Project Activities	City of Lancaster
REC 3 – Recirculate MND	The MND shall be recirculated for a more meaningful public review and assessment of these Fees. Additionally, the MND shall be recirculated if the proposed mitigation measure (i.e., \$770/acre fee and \$2,405/acre fee) would not reduce potential effects to less than significant and new measures must be required [CEQA Guidelines, § 15073.5(b)(2)].	Prior to finalizing CEQA document and Project Activities	City of Lancaster
REC 4 – Impacts on Nesting Birds	To protect nesting birds that may occur within and in areas adjacent to the Project site, Project construction should occur between September 1 through December 31, outside of the nesting bird season to the greatest extent possible. The Project Applicant should not remove or disturb trees or vegetation during the bird nesting season, which generally runs from February 1 through August 31 (as early as January 1 for some raptors) to avoid take of birds, raptors, or their nests, eggs, or nestlings. If Project construction and activities must occur during the bird nesting season, the Project Applicant shall retain a qualified biologist to conduct nesting bird surveys. Two nesting bird surveys shall be conducted by a qualified biologist no more than 7 days prior to the start of construction/ground disturbing/vegetation removal activities. The qualified biologist should survey all potential nesting, roosting, and perching sites within a minimum 500-foot radius from the Project site. If Project construction and activities are delayed or suspended for more than 7 days during the nesting bird season, a qualified biologist should repeat nesting bird surveys before any activities can recommence. If active bird nests are identified during the	Prior to finalizing CEQA document and Project Activities	City of Lancaster/ Project Applicant

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	<p>surveys, the applicant shall contact the California Department of Fish and Wildlife to determine the appropriate mitigation/management requirements. If nesting birds are identified, the qualified biologist should establish the following minimum no-disturbance buffers: 300 feet around active common passerine (perching birds and songbirds) nests, 500 feet around active special status passerine and non-listed raptor nests, and 0.5 mile around active listed bird nests.</p> <p>These buffers should 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.</p>		
REC 5 – Rodenticides	<p>The Project site provides suitable foraging habitat for raptors, burrowing owl, desert kit fox, coyotes, and other predatory/scavenger species that occupy the Antelope Valley. This Project has proposed to install landscaping at the Project site. As such, vegetation may need to be managed via chemical methods. Herbicides, pesticides, and rodenticides may impact wildlife. Second generation anticoagulant rodenticides are known to have harmful effects on the ecosystem and wildlife. Assembly Bill 1788 prohibits the use of any second-generation anticoagulant rodenticides because second generation anticoagulant rodenticides have a higher toxicity and are more dangerous to nontarget wildlife (California Legislative Information 2020). The City shall require the Project Applicant to avoid using any rodenticides and second-generation anticoagulant rodenticides during Project activities.</p>	Prior to finalizing CEQA document and Project Activities	City of Lancaster/ Project Applicant
REC 6 – Landscaping	<p>The Project proposes the construction and operation of a FedEx Ground distribution facility. Landscaping would be provided throughout the Project site. The Project Applicant shall use only native species found in naturally occurring vegetation communities within or adjacent to the Project site. The Project Applicant shall not plant, seed, or otherwise introduce non-</p>	Prior to and during Project activities	Project Applicant

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	<p>native, invasive plant species to areas that are adjacent to and/or near native habitat areas. Accordingly, the City shall restrict use of any species, particularly 'Moderate' or 'High' listed by the California Invasive Plant Council (Cal-IPC 2022). These species are documented to have substantial and severe ecological impacts on physical processes, plant and animal communities, and vegetation structure.</p>		
<p>REC 7 – Wildlife Injury/Mortality Avoidance</p>	<p>The Project would require significant ground and soil disturbance. Wildlife may be trapped or crushed by large equipment during Project construction. Accordingly, the Project Applicant shall have a qualified biologist be on site to prevent injury and mortality of wildlife of low mobility. Wildlife shall be protected, allowed to move away on its own (non-invasive, passive relocation), or relocated to suitable habitat adjacent to the Project site (at least 200 feet off site). A qualified biologist shall be on site daily during initial ground and habitat disturbing activities and vegetation removal. Then, the qualified biologist shall be on site weekly or bi-weekly (once every two weeks) for the remainder of Project until the cessation of all ground disturbing activities to ensure that no wildlife is harmed.</p>	<p>Prior to and during Project activities</p>	<p>Project Applicant</p>
<p>REC 8 – Construction Fencing</p>	<p>Any fencing used during and after the Project shall be constructed with materials that are not harmful to wildlife. Prohibited materials should include, but are not limited to, spikes, glass, razor, or barbed wire. Use of chain link and steel stake fence shall be avoided or minimized as this type of fencing can injure wildlife or create barriers to wildlife dispersal. All hollow posts and pipes shall be capped to prevent wildlife entrapment and mortality. These structures mimic the natural cavities preferred by various bird species and other wildlife for shelter, nesting, and roosting. Raptor's talons can become entrapped within the bolt holes of metal fence stakes resulting in mortality. Metal fence stakes used on the Project site shall be plugged with bolts or other plugging materials to avoid this</p>	<p>Prior to and during Project activities</p>	<p>Project Applicant</p>

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	<p>hazard. Fences shall not have any slack that may cause wildlife entanglement.</p>		
<p>REC 9 – Data</p>	<p>CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database [i.e., California Natural Diversity Database] which may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Information on special status species shall be submitted to the CNDDDB by completing and submitting CNDDDB Field Survey Forms (CDFW 2022f). For information on special status native plant populations and sensitive natural communities, the Combined Rapid Assessment and Relevé Form shall be completed and submitted to CDFW’s Vegetation Classification and Mapping Program (CDFW 2022g).</p>	<p>Prior to finalizing CEQA document</p>	<p>City of Lancaster/ Project Applicant</p>