



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Inland Deserts Region
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GAVIN NEWSOM, Governor
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August 26, 2022

Mr. Matthew Evans, Project Planner
City of Perris
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Governor's Office of Planning & Research

Aug 26 2022

STATE CLEARINGHOUSE

Subject: Mitigated Negative Declaration
Ramona-Indian Warehouse Project
State Clearinghouse No. 2022070543

Dear Mr. Evans:

The California Department of Fish and Wildlife (CDFW) received a Mitigated Negative Declaration (MND) from the City of Perris (City) for the Ramona-Indian Warehouse Project (Project) for JM Realty Group, Inc. (Project Applicant/Proponent) 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 (Fish & G. Code, § 1802.). Similarly, for purposes of CEQA, CDFW provides, 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

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.

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 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.

CDFW issued Natural Community Conservation Plan approval and take authorization in 2004 for the Western Riverside Multiple Species Habitat Conservation Plan (MSHCP), as per Section 2800, et seq., of the California Fish and Game Code. The MSHCP established a multiple species conservation program to minimize and mitigate habitat loss and the incidental take of covered species in association with activities covered under the permit. The City of Perris is a permittee to the MSHCP and is responsible for implementation of the MSHCP and its associated Implementation Agreement. CDFW is providing the following comments as they relate to the Project's consistency with the MSHCP and CEQA.

PROJECT DESCRIPTION SUMMARY

Project Location

The Project site comprises approximately 15 acres in the City of Perris within Riverside County, California, in the northwest quarter of Section 24, Township 4 South, Range 3 West, of the U.S. Geological Survey (USGS) 7.5" Sunnymead, California topographic quadrangle map. The Project is located north of Ramona Expressway, east of Indian Avenue, west of North Perris Boulevard, and approximately 1.5 miles south of March Air Reserve Base/Inland Port Airport. The Project is located within Assessor's Parcel Number (APN) 302-060-041.

Project Description

The Project proposes the adoption of a Specific Plan Amendment to the Perris Valley Commerce Center Specific Plan (PVCCSP) and approval of a parcel map to allow the construction and operation of a 13-acre multi-tenant distribution building described for warehousing, showroom, and office uses. Also, 1.61 acres of the Project site are proposed for future commercial uses to be determined at a later date. In addition, Project activities are proposed to include the development of a rectangular 232,575-square foot (sf) warehouse building with 10,000 sf of office space, 215 parking stalls, 52 trailer parking stalls, and 39 dock positions.

COMMENTS AND RECOMMENDATIONS

To assist the City of Perris in adequately mitigating the Project's potentially significant impacts to biological resources, CDFW offers the comments and recommendations

presented below, and in Attachment 1 “Mitigation Monitoring and Reporting Program” for consideration by the City of Perris prior to adoption of the MND for the Project.

Western Riverside County Multiple Species Habitat Conservation Plan

Western Riverside MSHCP Implementation:

Compliance with approved habitat plans, such as the MSHCP, is discussed in CEQA. Specifically, Section 15125(d) of the CEQA Guidelines requires that the CEQA document discuss any inconsistencies between a proposed project and applicable general plans and regional plans, including habitat conservation plans and natural community conservation plans. An assessment of the impacts to the MSHCP as a result of this Project is necessary to address CEQA requirements.

The proposed Project occurs within the MSHCP area and is subject to the provisions and policies of the MSHCP. To be considered a covered activity, Permittees need to demonstrate that proposed actions are consistent with the MSHCP, the Permits, and the Implementing Agreement. The City of Perris the Lead Agency and is signatory to the Implementing Agreement of the MSHCP.

To demonstrate consistency with the MSHCP, as part of the CEQA review, the City shall ensure the Project implements the following:

1. Pays Local Development Mitigation Fees and other relevant fees as set forth in Section 8.5 of the MSHCP.
2. Demonstrates compliance with: 1) the Protection of Species Associated with Riparian/Riverine Areas and Vernal Pools, set forth in Section 6.1.2 of the MSHCP; 2) the Urban/Wildlands Interface Guidelines as set forth in Section 6.1.4 of the MSHCP; 3) the policies set forth in Section 6.3.2; and 4) the Best Management Practices and the siting, construction, design, operation and maintenance guidelines as set forth in Section 7.0 and Appendix C of the MSHCP.

The MSHCP identifies that the California Department of Fish and Wildlife and the U. S. Fish and Wildlife Service (collectively known as the Wildlife Agencies) shall be notified in advance of approval of public and private projects for the identified MSHCP activities which includes the Protection of Species Associated with Riparian/Riverine Areas and Vernal Pools (Section 6.11 of the MSHCP). Additionally, the City's MSHCP Implementation Resolution Number 3162 Sections 3-5 states that the City “shall be required to comply with the procedures set forth in the MSHCP Implementation Policy” and “no project requiring a discretionary, or certain ministerial permits or approvals that could have adverse impacts to species covered under the MSHCP shall be approved by the City, unless the project is consistent with the MSHCP”. CDFW requests that to demonstrate compliance with the MSHCP, the City complete MSHCP implementation prior to adoption of the MND for the Project.

Protection of Species Associated with Riparian/Riverine Areas and Vernal Pools

The MSHCP Protection of Species Associated with Riparian/Riverine and Vernal Pool Resources Section 6.1.2 indicates that if avoidance of onsite impacts to Section 6.1.2 resources is not feasible, then the impacts should be identified and mitigated for through a Determination of Biologically Equivalent or Superior Preservation (DBESP) process prior to or in parallel to CEQA. The assessment of Riparian/Riverine and Vernal Pool Resources should include mapping of riparian/riverine areas and vernal pools, species composition, topography/hydrology, and soil analysis which may be completed during the CEQA process (Section 6.1.2 of the MSHCP). If the mapping noted above identifies suitable Habitat for the species listed in the MSHCP and the proposed project design does not incorporate avoidance of the identified Habitat, focused surveys for those species shall be conducted, and avoidance and minimization measures implemented in accordance with the species-specific objectives for those species. The MSHCP identifies that the Wildlife Agencies **shall** be notified in advance of approval of public or private projects of draft determinations for the biologically equivalent or superior determination findings associated with the Protection of Wetland Habitats and Species policies presented in Section 6.1.2 of the MSHCP (MSHCP Section 6.11). As required by MSHCP, completion of the DBESP process prior to adoption of the environmental document ensures that the project is consistent with the MSHCP and provides public disclosure and transparency during the CEQA process by identifying the project impacts and mitigation for wetland habitat, a requirement of CEQA Guidelines, §§ 15071, subds. (a)-(e).

The MND and accompanying General Biological Resource Assessment (located in Appendix C) indicate that 0.58 acres of riparian/riverine or vernal pool resources are located with the proposed Project area. CDFW appreciates the analysis of impacts provided within the MND and General Biological Resource Assessment. However, the MSHCP implementation process is not complete because a DBESP has not been prepared, and has not been submitted to the Wildlife Agencies for review and response, to determine if the mitigation proposed for the impacts to riparian/riverine resources is biologically equivalent or superior preservation to avoidance. It is not appropriate for the City to adopt the MND until the DBESP is complete because the City is required to notify the Wildlife Agencies in advance of approval of public and private projects for identified MSHCP activities, such as completion of the DBESP for the riparian/riverine policy. CDFW requests that to demonstrate implementation of the MSHCP, the City of Perris complete the DBESP process and once the DBESP is complete, revise the Biological Mitigation Measure 4 (MM BIO 4) and update with the mitigation measures identified in the DBESP. CDFW recommends revising MM BIO 4 in the MND per the edits below (edits are in ~~strikethrough~~ and **bold**), and also included in Attachment 1 "Mitigation Monitoring and Reporting Program".:

MM Bio 4: ~~Project-specific mapping of riparian/and unvegetated riverine features will be required for implementing projects pursuant to Section 6.1.2 of the MSHCP. For areas not excluded as artificially created, the MSHCP requires 100~~

~~percent avoidance of riparian/riverine areas. If for any implementing project avoidance is not feasible, then such implementing projects will require the approval of a DBESP including appropriate mitigation to offset the loss of functions and values as they pertain to the MSHCP covered species least Bell's vireo, southwestern willow flycatcher, and western yellow-billed cuckoo.~~ [Update with DBESP results and findings]

Lake and Streambed Alteration Program

Based on review of material submitted with the MND and review of aerial photography the Project has the potential to impact of fish and wildlife resources subject to Fish and Game Code section 1600 et seq. Depending on how the Project is designed and constructed, it is likely that the Project applicant will need to notify CDFW per Fish and Game Code section 1602. To ensure compliance with Fish and Game Code section 1602 CDFW recommends that the County condition the MND to include a mitigation measure for consultation with CDFW to determine if Fish and Game Code section 1600 et seq. resources may occur within the proposed Project alignment. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following: substantially divert or obstruct the natural flow of any river, stream or lake; substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or deposit debris, waste or other materials that could pass into any river, stream or lake. Please note that "any river, stream or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow.

Upon receipt of a complete notification, CDFW determines if the proposed Project activities may substantially adversely affect existing fish and wildlife resources and whether a Lake and Streambed Alteration (LSA) Agreement is required. An LSA Agreement includes measures necessary to protect existing fish and wildlife resources. CDFW may suggest ways to modify the project that would eliminate or reduce harmful impacts to fish and wildlife resources.

CDFW's issuance of an LSA Agreement is a "project" subject to CEQA (see Pub. Resources Code, § 21065). To facilitate issuance of an LSA Agreement, if necessary, the MND should fully identify the potential impacts to the lake, stream, or riparian resources, and provide adequate avoidance, mitigation, and monitoring and reporting commitments. Early consultation with CDFW is recommended, since modification of the proposed Project may be required to avoid or reduce impacts to fish and wildlife resources. To obtain a Lake or Streambed Alteration notification package, please go to <https://www.wildlife.ca.gov/Conservation/LSA/Forms>.

CDFW recommends the inclusion of the following revised measure in the MND per the edits below (edits are in ~~strikethrough~~ and **bold**), and also included in Attachment 1 "Mitigation Monitoring and Reporting Program".:

MM Bio 1: Prior to the City's issuance of a grading permit for the Project site **and prior to the start of Project activities**, the Applicant shall **notify the California Department of Fish and Wildlife (CDFW) for impacts to Fish and Game Code section 1602 resources. The applicant shall either receive a Streambed Alteration Agreement or written documentation from CDFW that a Streamed Alteration Agreement is not needed.** ~~and demonstrate proof of purchase of mitigation credits at a 2:1 ratio for impacts to This 2:1 mitigation ratio and mitigation type are proposed, given the flows on-site are mainly artificial and the adjacent lands resulted in an increase in elevation that contributed to the formation of Pool 12. Drainage 2 (sheet flow and channel) and the earthen bottom portions of Drainage 1 that are the result of storm drains flows are proposed to be mitigated with 1:1 rehabilitation credit. Purchase of mitigation credits is not proposed for the impacts to the concrete brow ditch of Drainage 1, as this will be replaced on-site with the construction of Line E.~~

Nesting Birds

It is the Project proponent's responsibility to avoid Take of all nesting birds. 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.

The timing of the nesting season varies greatly depending on several factors, such as the bird species, weather conditions in any given year, and long-term climate changes (e.g., drought, warming, etc.). CDFW staff have observed that changing climate conditions may result in the nesting bird season occurring earlier and later in the year than historical nesting season dates. CDFW recommends the completion of nesting bird survey regardless of time of year to ensure compliance with all applicable laws pertaining to nesting.

The duration of a pair to build a nest and incubate eggs varies considerably, therefore, CDFW recommends surveying for nesting behavior and/or nests and construction within three days prior to start of Project construction.

CDFW is concerned that potential impacts to nesting birds are not identified or discussed within the MND and strongly suggests the City evaluate the direct, indirect,

and cumulative impacts to nesting birds, before approval and certification of the MND. Appropriate analysis would include conducting focused nesting bird surveys throughout the project site. To address the above issues and help the Project applicant avoid unlawfully taking of nests and eggs, CDFW requests the City revise the following mitigation measures included from the PVCCSP Environmental Impact Report, as per below (edits are in ~~strike through~~ and **bold**), and also included in Attachment 1 "Mitigation Monitoring and Reporting Program".

MM BIO-XX: Nesting Bird Survey. In order to avoid violation of the MBTA and the California Fish and Game Code, site preparation activities (**ground disturbance, construction activities**, and/or removal of trees and vegetation) for all PVCC implementing development and infrastructure projects shall be avoided, to the greatest extent possible, during the nesting season (~~generally February 1 to August 31~~) of potentially occurring native and migratory bird species.

If site-preparation activities, for an implementing project are proposed during the nesting/breeding season (~~February 1 to August 31~~), a pre-activity field survey shall be conducted by a qualified biologist prior to the issuance of grading permits for such project to determine if ~~active~~ nests of species protected by the MBTA or the California Fish and Game Code are present in the construction zone **in addition to ongoing monitoring, and if necessary, establishment of minimization measures. The Project Applicant shall adhere to the following:**

- 1. Applicant shall designate a biologist (Designated Biologist) experienced in: identifying local and migratory bird species of special concern; conducting bird surveys using appropriate survey methodology; nesting surveying techniques, recognizing breeding and nesting behaviors, locating nests and breeding territories, and identifying nesting stages and nest success; determining/establishing appropriate avoidance and minimization measures; and monitoring the efficacy of implemented avoidance and minimization measures.**
- 2. Pre-activity field surveys shall be conducted at the appropriate time of day/night, during appropriate weather conditions, no more than 3 days prior to the initiation of Project activities. Surveys shall encompass all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures. Survey duration shall take into consideration the size of the Project site; density, and complexity of the habitat; number of survey participants; survey techniques employed; and shall be sufficient to ensure the data collected is complete and accurate.**

If active nests are not located within the implementing project site and an appropriate buffer of 500 feet of an active listed species or raptor nest, 300 feet of other sensitive or protected bird nests (non-listed), or 100 feet of sensitive or protected songbird nests, construction may be conducted during the nesting/breeding season. However, if active nests are located during the pre-activity field survey, **the Designated Biologist shall immediately establish a conservative avoidance buffer surrounding the nest based on their best professional judgement and experience. The Designated Biologist shall monitor the nest at the onset of project activities, and at the onset of any changes in such project activities (e.g., increase in number or type of equipment, change in equipment usage, etc.) to determine the efficacy of the buffer. If the Designated Biologist determines that such project activities may be causing an adverse reaction, the Designated Biologist shall adjust the buffer accordingly or implement alternative avoidance and minimization measures, such as redirecting or rescheduling construction or erecting sound barriers. No grading or heavy equipment activity shall take place within at least 500 feet of an active listed species or raptor nest, 300 feet of other sensitive or protected (under MBTA or California Fish and Game Code) bird nests (non-listed), or within 100 feet of sensitive or protected songbird nests until the nest is no longer active. All work within these buffers will be halted until the nesting effort is finished (i.e., the juveniles are surviving independent from the nest). The onsite qualified biologist will review and verify compliance with these nesting avoidance buffers and will verify the nesting effort has finished. Work can resume within these avoidance areas when no other active nests are found. Upon completion of the survey and nesting bird monitoring, a report shall be prepared and submitted to City for mitigation monitoring compliance record keeping.**

Burrowing Owl

For burrowing owl, suitable habitat surveys and focused burrowing owl surveys were completed. Suitable habitat for burrowing owl was found within the Project site but no owls were detected on the Project site. In California, burrowing owl are in decline primarily as a result of habitat loss, as well as disease, predation, and drought. CDFW recommends the inclusion of a process to avoid direct take of burrowing owls and to avoid project delays if the owls are detected during the pre-construction surveys.

CDFW requests the City evaluate the direct, indirect, and cumulative impacts to burrowing owl through the DBESP process, before approval and certification of the MND. Appropriate analysis would include a discussion of the results of the focused burrowing owl surveys and suitable habitat surveys for the Project site. To avoid take of active nests, appropriate avoidance and minimization measures need to be identified in

the MND to protect burrowing owl during the burrowing owl nesting season. CDFW recommends creation of a Burrowing Owl Plan if owls are detected on the Project Site.

To avoid take of active burrowing owl burrows (nests), CDFW requests the addition of the following mitigation measure. References to creating a DBESP are removed because the DBESP should have been sent to the Wildlife Agencies for 60-day review and response prior to approval of the Project. Requested additions are identified in **bold** and removed measures are in ~~strikeout~~.

MM BIO-XX: Burrowing Owl Preconstruction Survey. Project-specific habitats assessments and focused surveys for burrowing owls will be conducted for implementing development or infrastructure projects within ~~burrowing owl survey areas~~ **the Study Area (Project site and surrounding 500-foot buffer)**. A pre-construction survey for resident burrowing owls will also be conducted by a qualified biologist within 30 days prior to commencement of grading and construction activities within those portions of implementing project sites containing suitable burrowing owl habitat and for those properties within an implementing project site where the biologist could not gain access. **The results of the survey would be submitted to the City prior to obtaining a grading permit. In addition, a survey shall be conducted and reported to CDFW within three days of ground disturbance or vegetation clearance following the recommended guidelines of the MSHCP.** If ground disturbing activities in these areas are delayed or suspended for more than 30 days after the pre-construction survey, the area shall be resurveyed for owls. The pre-construction survey and any relocation activity will be conducted in accordance with the current Burrowing Owl Instruction for the Western Riverside MSHCP.

If burrowing owl are detected, CDFW shall be sent written notification within three days of detection of burrowing owls. If active nests are identified ~~on an implementing project site~~ during the pre-construction survey, the nests shall be avoided ~~or the owls actively or passively relocated,~~ **and the qualified biologist and Project Applicant shall coordinate with the City of Perris Planning Department, USFWS, and the CDFG CDFW to develop a Burrowing Owl Plan to approved by the City in consultation with CDFW and USFWS prior to commencing Project activities. The Burrowing Owl Plan shall be prepared in accordance with guidelines in the CDFW Staff Report on Burrowing Owl (March 2012) and MSHCP. The Burrowing Owl Plan shall describe proposed avoidance, minimization, relocation, and monitoring as applicable. The Burrowing Owl Plan shall include the number and location of occupied burrow sites and details on proposed buffers if avoiding the burrowing owls and/or information on the adjacent or nearby suitable habitat available to owls for relocation. If no suitable habitat is available nearby for relocation, details regarding the creation and funding of artificial**

burrows (numbers, location, and type of burrows) and management activities for relocated owls may also be required in the Burrowing Owl Plan. The Permittee shall implement the Burrowing Owl Plan following CDFW and USFWS review and concurrence. A final letter report shall be prepared by the qualified biologist documenting the results of the Burrowing Owl Plan. The letter shall be submitted to CDFW prior to the start of Project activities. When a qualified biologist determines that burrowing owls are no longer occupying the Project site per the criteria in the Burrowing Owl Plan, Project activities may begin. ~~To adequately avoid active nests, no grading or heavy equipment activity shall take place within at least 250 feet of an active nest during the breeding season (February 1 through August 31), and 160 feet during the non-breeding season.~~

If burrowing owls occupy any implementing the project site after project activities have started and cannot be avoided, then construction activities shall be halted immediately. The Project proponent shall notify CDFW and USFWS within 48 hours of detection. A Burrowing Owl Plan, as detailed above, shall be implemented. ~~active or passive relocation shall be used to exclude owls from their burrows, as agreed to by Relocation shall be conducted outside the breeding season or once the young are able to leave the nest and fly. Passive relocation is the exclusion of owls from their burrows (Outside the breeding season or once the young are able to leave the nest and fly) by installing one-way doors in burrow entrances. These one-way doors allow the owl to exit the burrow, but not enter it. These doors shall be left in place 48 hours to ensure owls have left the burrow. Artificial burrows shall be provided nearby.. Burrows shall be excavated using hand tools and refilled to prevent reoccupation. Sections of flexible pipe shall be inserted into the tunnels during excavation to maintain an escape route for any animals inside the burrow. The CDFG shall be consulted prior to any active relocation to determine acceptable receiving sites available where this species has a greater chance of successful long-term relocation. If avoidance is infeasible, then a DBESP will be required, including associated relocation of burrowing owls. If conservation is not required, then owl relocation will still be required following accepted protocols. Take of active nests will be avoided, so it is strongly recommended that any relocation occur outside the nesting season.~~

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

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Database (CNDDDB). The CNDDDB field survey form can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

ENVIRONMENTAL DOCUMENT FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document 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 environmental document filing 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 appreciates the opportunity to comment on the MND for the Ramona-Indian Warehouse Project, State Clearinghouse No. 2022070543 to assist in identifying and mitigating Project impacts on biological resources. CDFW personnel are available for consultation regarding biological resources and strategies to minimize impacts. CDFW recommends that the City of Perris addresses CDFW's comments and concerns, which includes completion of the DBESP, prior to adoption of the MND for the Project.

Questions regarding this letter or further coordination should be directed to Katrina Rehrer, Environmental Scientist, at katrina.rehrer@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Kim Freeburn,
Acting Environmental Program Manager

ec: **California Department of Fish and Wildlife**
Heather Pert, Senior Environmental Scientist Supervisory
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Western Riverside County Regional Conservation Authority

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REFERENCES

California Department of Fish and Game (CDFG). 2012. Staff report on burrowing owl mitigation. State of California, Natural Resources Agency. Available for download at:
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline=true>

ATTACHMENTS

Attachment 1: MMRP for CDFW-Proposed Mitigation Measures

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 for implementing the mitigation measure. 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 Measures (MM)	Implementation Schedule	Responsible Party
<p>MM BIO-XX: Nesting Bird Survey. In order to avoid violation of the MBTA and the California Fish and Game Code, site preparation activities (ground disturbance, construction activities, and/or removal of trees and vegetation) for all PVCC implementing development and infrastructure projects shall be avoided, to the greatest extent possible, during the nesting season of potentially occurring native and migratory bird species.</p> <p>If site-preparation activities, for an implementing project are proposed during the nesting/breeding season, a pre-activity field survey shall be conducted by a qualified biologist prior to the issuance of grading permits for such project to determine if active nests of species protected by the MBTA or the California Fish and Game Code are present in the construction zone in addition to ongoing monitoring, and if necessary, establishment of minimization measures. The Project Applicant shall adhere to the following:</p> <ol style="list-style-type: none"> 1. Applicant shall designate a biologist (Designated Biologist) experienced in: identifying local and migratory bird species of special concern; conducting bird surveys using appropriate survey methodology; nesting surveying techniques, recognizing breeding and nesting behaviors, locating nests and breeding territories, and identifying nesting stages and nest success; determining/establishing appropriate avoidance and minimization measures; and monitoring the 	<p>Prior to commencing ground- or vegetation disturbing activities</p>	<p>Project Proponent</p>

<p>efficacy of implemented avoidance and minimization measures.</p> <p>2. Pre-activity field surveys shall be conducted at the appropriate time of day/night, during appropriate weather conditions, no more than 3 days prior to the initiation of Project activities. Surveys shall encompass all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures. Survey duration shall take into consideration the size of the Project site; density, and complexity of the habitat; number of survey participants; survey techniques employed; and shall be sufficient to ensure the data collected is complete and accurate.</p> <p>If active nests are not located within the implementing project site and an appropriate buffer of 500 feet of an active listed species or raptor nest, 300 feet of other sensitive or protected bird nests (non-listed), or 100 feet of sensitive or protected songbird nests, construction may be conducted during the nesting/breeding season. However, if active nests are located during the pre-activity field survey, the Designated Biologist shall immediately establish a conservative avoidance buffer surrounding the nest based on their best professional judgement and experience. The Designated Biologist shall monitor the nest at the onset of project activities, and at the onset of any changes in such project activities (e.g., increase in number or type of equipment, change in equipment usage, etc.) to determine the efficacy of the buffer. If the Designated Biologist determines that such project activities may be causing an adverse reaction, the Designated Biologist shall adjust the buffer accordingly or implement alternative avoidance and minimization measures, such as redirecting or rescheduling construction or erecting sound barriers. All work within these buffers will be halted until the nesting effort is finished (i.e., the juveniles are surviving independent from the nest). The onsite qualified biologist will review and verify compliance with these nesting avoidance buffers and will verify the nesting effort has finished. Work can resume within these avoidance areas when no other active nests are found. Upon completion of the survey and nesting bird monitoring, a report</p>		
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<p>shall be prepared and submitted to City for mitigation monitoring compliance record keeping.</p>		
<p>MM BIO-XX: Burrowing Owl Preconstruction Survey. Project-specific habitats assessments and focused surveys for burrowing owls will be conducted for implementing development or infrastructure projects within the Study Area (Project site and surrounding 500-foot buffer). A pre-construction survey for resident burrowing owls will also be conducted by a qualified biologist within 30 days prior to commencement of grading and construction activities within those portions of implementing project sites containing suitable burrowing owl habitat and for those properties within an implementing project site where the biologist could not gain access. The results of the survey would be submitted to the City prior to obtaining a grading permit. In addition, a survey shall be conducted and reported to CDFW within three days of ground disturbance or vegetation clearance following the recommended guidelines of the MSHCP. If ground disturbing activities in these areas are delayed or suspended for more than 30 days after the pre-construction survey, the area shall be resurveyed for owls. The pre-construction survey and any relocation activity will be conducted in accordance with the current Burrowing Owl Instruction for the Western Riverside MSHCP.</p> <p>If burrowing owl are detected, CDFW shall be sent written notification within three days of detection of burrowing owls. If active nests are identified on an implementing project site during the pre-construction survey, the nests shall be avoided or the owls actively or passively relocated, and the qualified biologist and Project Applicant shall coordinate with the City of Perris Planning Department, USFWS, and CDFW to develop a Burrowing Owl Plan to approved by the City in consultation with CDFW and USFWS prior to commencing Project activities. The Burrowing Owl Plan shall be prepared in accordance with guidelines in the CDFW Staff Report on Burrowing Owl (March 2012) and MSHCP. The Burrowing Owl Plan shall</p>	<p>Prior to commencing ground- or vegetation disturbing activities</p>	<p>Project Proponent</p>

<p>describe proposed avoidance, minimization, relocation, and monitoring as applicable. The Burrowing Owl Plan shall include the number and location of occupied burrow sites and details on proposed buffers if avoiding the burrowing owls and/or information on the adjacent or nearby suitable habitat available to owls for relocation. If no suitable habitat is available nearby for relocation, details regarding the creation and funding of artificial burrows (numbers, location, and type of burrows) and management activities for relocated owls may also be required in the Burrowing Owl Plan. The Permittee shall implement the Burrowing Owl Plan following CDFW and USFWS review and concurrence. A final letter report shall be prepared by the qualified biologist documenting the results of the Burrowing Owl Plan. The letter shall be submitted to CDFW prior to the start of Project activities. When a qualified biologist determines that burrowing owls are no longer occupying the Project site per the criteria in the Burrowing Owl Plan, Project activities may begin.</p> <p>If burrowing owls occupy the project site after project activities have started, then construction activities shall be halted immediately. The Project proponent shall notify CDFW and USFWS within 48 hours of detection. A Burrowing Owl Plan, as detailed above, shall be implemented.</p>		
<p>MM Bio 1: Prior to the City's issuance of a grading permit for the Project site and prior to the start of Project activities, the Applicant shall notify the California Department of Fish and Wildlife (CDFW) for impacts to Fish and Game Code section 1602 resources. The applicant shall either receive a Streambed Alteration Agreement or written documentation from CDFW that a Streamed Alteration Agreement is not needed.</p>	<p>Prior to start of Project activities</p>	<p>Project Proponent</p>

MM Bio 4: [Update with DBESP results and findings]	Prior to start of Project activities	City of Perris
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