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DEPARTMENT OF FISH AND WILDLIFE  
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**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



December 11, 2024

Megan Taggart  
City of Palmdale  
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**SUBJECT: FINAL ENVIRONMENTAL IMPACT REPORT FOR THE ANTELOPE VALLEY COMMERCE CENTER PROJECT, SCH NO. 2022090009, LOS ANGELES COUNTY, CA**

Dear Megan Taggart:

The California Department of Fish and Wildlife (CDFW) reviewed the Final Environmental Impact Report (FEIR) from the City of Palmdale (City; Lead Agency) for the Antelope Valley Commerce Center Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines<sup>1</sup>.

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, CDFW appreciates 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 is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW may also act as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise

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<sup>1</sup> 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.

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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<sup>2</sup> of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.) or the Native Plant Protection Act (NPPA; Fish & G. Code, §1900 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

## **PROJECT DESCRIPTION SUMMARY**

**Proponent:** AVCC Master, LLC

**Objective:** The Project proposes discretionary approval of a General Plan Amendment, Zone Change, Antelope Valley Commerce Center Specific Plan, Tentative Parcel Map 83738, Site Plan Review 22-008, and Development Agreement 22-001. The General Plan Amendment would change the land use designation from Employment Flex to Specific Plan. The zone change would change the zoning classification from Office Flex to Specific Plan. The Antelope Valley Commerce Center Specific Plan would outline the standards and guidance for the phased development of a commerce center containing industrial, commercial, and open space with supporting infrastructure. Based on the Specific Plan, approximately 378.4 acres would be allocated for industrial uses, 7.0 acres for commercial land uses, 29.3 acres for open space along the western boundary and in the northeastern corner, and 18.2 acres for roadways. Development of the Project would occur in four phases, and associated improvements for the Project would include, but are not limited to, paved roads, paved parking areas, drive aisles, truck courts, utility infrastructure, landscaping, a detention basin, signage, lighting, property walls, gates, and fencing. The Tentative Parcel Map 83738 is proposed to subdivide the 432.9-acre Project area into 19 parcels and lettered lots to facilitate future development in Phases II-IV. The Site Plan Review 22-008 pertains to the construction of six proposed buildings and supporting infrastructure proposed for Phase I. The Development Agreement 22-001 would outline the terms and agreements between the City and the Project proponent regarding implementation of the Project.

**Location:** The Project area is comprised of approximately 432.9 acres located on the southeast corner of Sierra Highway and Columbia Way in the City. The area is bound by Columbia Way to the north, 15<sup>th</sup> Street East to the east, Sierra Highway and Union Pacific Railroad tracks to the west, and Avenue M-12 to the south. Assessor's Parcel Numbers associated with the Project include 3126-022-926, -927, -928, and -929. The United State Air Force Plant 42 and Palmdale Regional Airport lies southeast of the Project area.

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<sup>2</sup> "Take" is defined in Section 86 of the Fish and Game Code as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill."

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**Timeframe:** Buildout of the Project is anticipated to occur in four phases. According to the EIR, construction of Phase I was anticipated to commence in June 2024 and end in August 2025. Phase II is anticipated to commence in June 2026 and end in August 2027. Phase III is anticipated to commence June 2028 and end in August 2029. Phase IV is anticipated to commence in October 2030 and end in December 2031.

**Biological Setting:** Various biological surveys were conducted on the Project area from March through July 2022, with survey findings compiled in a Biological Resources Technical Report. Additionally, a jurisdictional delineation was conducted which identified an unnamed sandy wash in the northwest corner of the Project area. Species-specific mitigation measures are included in the EIR to avoid, minimize, and/or mitigate adverse Project impacts on western Joshua trees (*Yucca brevifolia*; CESA candidate threatened), plants protected by CDNPA, burrowing owl (*Athene cunicularia*; CESA candidate species), desert kit fox (*Vulpes macrotis arsipus*), and nesting birds and raptors. Additionally, mitigation measures detailing best management practices, night lighting, and landscaping are also included in the EIR.

**Project History:** CDFW previously submitted a comment letter to the City on September 27, 2022, in response to a Notice of Preparation, and an additional comment letter was submitted to the City in response to the Draft EIR (DEIR) on August 5, 2024.

## **COMMENTS AND RECOMMENDATIONS**

### **Comment #1: Wildlife Movement.**

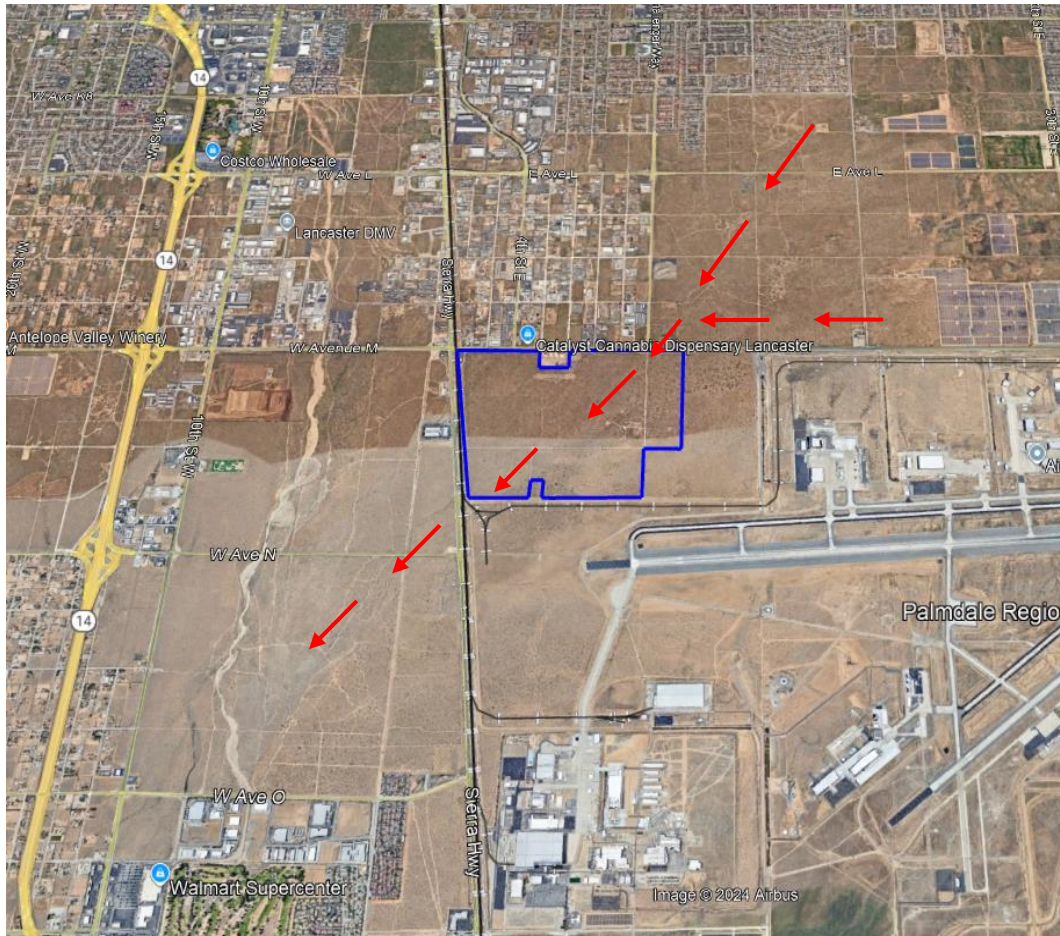
CDFW disagrees with the FEIR's conclusion that an appropriate analysis of wildlife movement and substantial evidence was provided in the DEIR. The wildlife movement impact analysis is based on assumptions derived from biological surveys and aerial imagery. General biological surveys capture wildlife presence at one moment in time and do not accurately capture local wildlife movement pathways. Additionally, aerial imagery as shown in Figure 1 below demonstrates that this Project would block access for wildlife to move from the east to the west and vice versa. For small reptiles and mammals that are not able to travel over long distances, protecting smaller movement routes can be critical to their survival. This is because development can disrupt or alter the micro-habitat that supports them (DCMA 2021). Given that current development from the north and south boundaries already create a pinch point at the Project area, this Project would create two fragmented areas of habitat with no connectivity for local wildlife movement. Again, a wildlife movement study should be conducted to determine how the Project would impact local wildlife movement pathways in the area (CDFW 2024). Without this wildlife study, CDFW asserts that the City is unable to make the determination that the Project's effects have been reduced to a less than significant level.

We also disagree with the FEIR's conclusion that the Project would not affect larger population species genetics. This conclusion was presented without any support from

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scientific data or peer reviewed literature. The creation of two fragmented habitat areas as a result of this Project will have a significant impact on local wildlife that use this area. Loss of genetic variation, increase in genetic differentiation, and inbreeding are several factors that may contribute to a species' population viability as a result of habitat fragmentation and limited dispersal (Munguia-Vega et al. 2013). Moreover, habitat fragmentation coupled with other factors such as barriers and isolation have been studied in larger mammals that demonstrate low genetic diversity and an increased risk of extinction of subpopulations (CBD 2019).

Finally, the FEIR asserts that Mitigation Measure 9, 10, 11, and 12 would effectively minimize impacts on adjacent areas, which would allow for continued local movement. Mitigation Measure 9 outlines best management practices for spillages, staging, and maintenance of equipment. Mitigation Measure 10 describes night lighting being reflected downwards and away from adjacent areas. Mitigation Measure 11 and 12 outlines landscaping of native plants and prevention of weed species, respectively. While CDFW appreciates the incorporation of these mitigation measures, they all minimize indirect impacts of the Project; none of them alleviate the direct impacts to wildlife movement as a result of habitat fragmentation. Only a modification to the Project



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description or compensatory mitigation will reduce these direct impacts to less than significant.

*Figure 1. Antelope Valley Commerce Center Project Site*

**Comment #2: Crotch's Bumble Bee.**

The FEIR notes that Crotch's bumble bee (*Bombus crotchii*; CESA candidate species) observations recorded in California Natural Diversity Database (CNDDDB) are historical and that Crotch's bumble bee is extremely uncommon in the Project region and concludes that Crotch's bumble bee is not expected to occur on the Project site or would not be impacted by Project implementation. CDFW disagrees with this conclusion given that the vegetation composition throughout the Project site has potential to support Crotch's bumble bee. Since their designation as a CESA candidate species, more focused surveys have been conducted with positive findings throughout Antelope Valley. For example, focused surveys for the Palmdale Ditch Conversion Project in the City of Palmdale, recorded 24 Crotch's bumble bee between May through June 2024. The Project sites are approximately 8 miles of each other and have similar vegetation characteristics (e.g., desert scrub, western Joshua tree woodland) that support Crotch's bumble bee.

In crafting a response to our comment, the CNDDDB was utilized as a source to identify historical occurrences of Crotch's bumble bee. The CNDDDB is a statewide inventory, managed by the CDFW, and is routinely updated with the location and condition of the state's rare and declining species and habitats. Although the CNDDDB is a valuable tool for tracking positive occurrences of special status species, it contains only those records that have been reported and does not replace the need for timely physical surveys.

CDFW appreciates the incorporation of Mitigation Measure 13, which outlines surveys and avoidance actions to this species; however, avoidance measures may still result in unauthorized take of the species. We recommend that the measure be revised to require focused surveys rather than a preconstruction survey. The measure should also include that if presence of Crotch's bumble bee is confirmed, the Project proponent will coordinate with CDFW prior to any additional Project activities.

**Comment #3: Compensatory Mitigation.** CDFW remains concerned that the City is relying on compensatory mitigation in an Incidental Take Permit (ITP) to provide compensatory mitigation for other special-status species. Mitigation Measure 3 in the FEIR requires the Project proponent to obtain an ITP through CESA or the [Western Joshua Tree Conservation Act](#)<sup>3</sup> (WJTCA). The FEIR states, "[t]he CDFW ITP mechanism is expected to result in habitat enhancement, restoration, creation, and or preservation in the region. As a result, special-status plant and wildlife species

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<sup>3</sup> <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213498&inline>

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associated with the dominant vegetation type on the Project site are expected to benefit from such mitigation further reducing impacts” (page F-79).

While acquisition or conservation of western Joshua trees benefits the desert ecosystem in general, the CDFW ITP through the CESA and WJTCA provides compensatory mitigation solely for western Joshua trees, and not for all flora and fauna associated with western Joshua tree woodland habitat. The WJTCA states, “[a]ny moneys in the fund are continuously appropriated to the department solely for the purposes of acquiring, conserving, and managing western Joshua tree conservation lands...” (CDFW 2023). The WJTCA does not stipulate that the collected funds would go directly to acquiring or conserving land near the Project site, nor serve as mitigation for additional wildlife species impacted by an individual Project. Additionally, an ITP through CESA adheres to CDFW’s Fully Mitigated Standard for CESA-listed or candidate species and is not analyzed for the benefit of other species. As indicated in our 2023 comment letter, the DEIR does not prescribe any compensatory mitigation in the event that special-status-species are confirmed on the Project site. Consistent with our prior communications and letters, impacts such as permanent loss of habitat is considered a significant impact to special-status species and should be mitigated for distinct from compensatory mitigation for western Joshua tree.

There is recent precedent that compensatory mitigation should be provided for each special-status species that would be adversely impacted by the Project. For example, the Palmdale Warehouse Project in the City of Palmdale has obtained a CESA ITP which outlines separate compensatory mitigation for western Joshua trees and Mohave ground squirrel. Additionally, western burrowing owl were observed on site, and separate compensatory mitigation is being provided for unavoidable impacts to their confirmed habitat. Without this modification to the Project’s compensatory mitigation strategy, CDFW asserts that the City is unable to make the determination that the Project’s effects to these sensitive species and habitats have been reduced to a less than significant level.

## **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 CNDDDB. The [CNDDDB website](https://wildlife.ca.gov/Data/CNDDDB)<sup>4</sup> provides direction regarding the types of information that should be reported and allows on-line submittal of field survey forms.

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<sup>4</sup> <https://wildlife.ca.gov/Data/CNDDDB>

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In addition, information on special status native plant populations and sensitive natural communities, should be submitted to CDFW's Vegetation Classification and Mapping Program using the [Combined Rapid Assessment and Relevé Form](#)<sup>5</sup>.

## FILING FEES

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

## CONCLUSION

CDFW appreciates the opportunity to comment on the FEIR.

Questions regarding this letter or further coordination should be directed to Julisa Portugal, Environmental Scientist, at (562) 330-7563 or [Julisa.portugal@wildlife.ca.gov](mailto:Julisa.portugal@wildlife.ca.gov).

Sincerely,

DocuSigned by:



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<sup>5</sup> <https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities/Submit>

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