



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Inland Deserts Region
3602 Inland Empire Blvd., Suite C220
Ontario, CA 91764
wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



October 26, 2022
Sent via email

Louis Morales, Contract Planner
City of Adelanto Community Development Department, Planning Division
11600 Air Expressway
San Bernardino, CA 92301
lmorales@ci.adelanto

Subject: Mitigated Negative Declaration
LDP-22-13 Project
State Clearinghouse No. 2022090643

Dear Mr. Morales:

The California Department of Fish and Wildlife (CDFW) received a Mitigated Negative Declaration (MND) from the City of Adelanto (City) for the LDP-22-13 Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

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

CDFW ROLE

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

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.

Louis Morales, Contract Planner
City of Adelanto
October 26, 2022
Page 2 of 22

(Id., § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

The Project site is located in the City, within San Bernardino County; Latitude 34.556111 N and Longitude -117.395278 W in between Rancho Road and Primrose Road. The Project proposes the construction of a 660,925 square foot warehouse/distribution facility on approximately 35 acres of undeveloped land on Assessor's Parcel Number 312-82-9103.

Timeframe: Unavailable

COMMENTS AND RECOMMENDATIONS

The MND recognizes the potential for burrowing owl (*Athene cunicularia*, CDFW species of special concern), desert tortoise (*Gopherus agassizii*, State Threatened proposed endangered species), Mohave ground squirrel (*Xerospermophilus mohavensis*, state-threatened), sensitive plants, and nesting birds to occur onsite. The MND also recognizes the presence of 23 western Joshua tree (*Yucca brevifolia*) on the Project site, a Candidate species for listing as Threatened pursuant CESA. CDFW appreciates that a habitat assessment was conducted on May 27, 2022 by Nexus Environmental, LLC and provided as Appendix B. It is worth noting that the biological (BIO) resources mitigation measures (MM) differ between those listed in the MND and those presented in the Habitat Assessment. CDFW considered both sets of measures for commenting herein.

Louis Morales, Contract Planner
City of Adelanto
October 26, 2022
Page 3 of 22

CDFW appreciates that within the MND and within the Habitat Assessment biological resources mitigation measures were adopted as previously recommended by CDFW for past projects in the City. CDFW offers the comments and recommendations presented below and in Attachment 1 (Mitigation Monitoring and Reporting Program) to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

Assessment of Biological Resources

Burrowing Owl (*Athene cunicularia*)

CDFW appreciates the incorporation of MM BIO-1 and MM BIO-2 in the MND and MM BIO-9 and MM BIO-10 in the Habitat Assessment as mitigation for burrowing owl. CDFW requests that in the final MND the City adopts MM BIO-1 as revised below (edits are in ~~strike through~~ and **bold**) and MM-BIO-2 as is in the MND versus MM BIO-9 and MM BIO-10 in the Habitat Assessment simply to streamline numbering of measures herein, since otherwise the measures are comparable.

Biological Resources Mitigation Measure No. 1

Burrowing Owl Pre-Construction Survey: Prior to any ground disturbance, pre-construction surveys for Burrowing Owls on the project site and in the surrounding area in accordance with the Staff Report on Burrowing Owl Mitigation, State of California Natural Resource Agency, Department of Fish and Game, May 7, 2012, shall be conducted no more than 14-**days** prior to the beginning of project activities-~~construction~~, and a secondary survey must be conducted by a qualified biologist within 24 hours prior to the beginning of project construction to determine if the project site contains suitable burrowing owl or sign thereof ~~habitat~~ and to avoid any potential impacts to the species. The surveys shall include 100 percent coverage of the project site. If both surveys reveal no burrowing owls are present or sign thereof, no additional actions related to this measure are required and a letter shall be prepared by the qualified biologist documenting the results of the survey. The letter shall be submitted to CDFW prior to construction. If occupied active burrows or sign thereof are found within the development footprint during the pre-construction clearance survey, Mitigation Measure BIO-2 shall apply.

Louis Morales, Contract Planner
City of Adelanto
October 26, 2022
Page 4 of 22

Biological Resources Mitigation Measure No. 2

Burrowing Owl Avoidance/Relocation: If active burrows or signs thereof are found within the development footprint during the pre-construction clearance surveys, site-specific non-disturbance buffer zones shall be established by the qualified biologist and shall be no less than 300 feet. If determined appropriate, a smaller buffer may be established by the qualified biologist following monitoring and assessments of the Project's effects on the burrowing owls. If it is not possible to avoid active burrows, passive relocation shall be implemented if a qualified biologist has determined there are no nesting owls and/or juvenile owls are no longer dependent on the burrows. A qualified biologist, in coordination with the applicant and the City, shall prepare and submit a passive relocation program in accordance with Appendix E (i.e., Example Components for Burrowing Owl Artificial Burrow and Exclusion Plans) of the CDFW's Staff Report on Burrowing Owl Mitigation (CDFG 2012) for CDFW review/approval prior to the commencement of disturbance activities onsite and proposed mitigation for permanent loss of occupied burrow(s) and habitat consistent with the 2012 Staff Report on Burrowing Owl Mitigation. When a qualified biologist determines that burrowing owls are no longer occupying the Project site and passive relocation is complete, construction activities may begin. A final letter report shall be prepared by the qualified biologist documenting the results of the passive relocation. The letter shall be submitted to CDFW.

Mohave Ground Squirrel

While the Habitat Assessment lacks a mitigation measure for Mohave ground squirrel, CDFW appreciates the incorporation of MM BIO-3 in the MND as mitigation for Mohave ground squirrel. CDFW recommends MM BIO-3 for inclusion in a final MND as exactly proposed in the MND (see below).

Biological Resources Mitigation Measure No. 3

Mojave Ground Squirrel Pre-Construction Survey: Pre-construction surveys following the Mohave Ground Squirrel Survey Guidelines (CDFG 2010), or most recent version shall be performed by a qualified biologist authorized by a Memorandum of Understanding issued by CDFW. The pre-construction surveys shall cover the Project Area and a 50- foot buffer zone. Should Mohave ground squirrel presence be confirmed during the survey, the Project Proponent should obtain an ITP for Mohave ground squirrel prior to the start of Project activities. CDFW shall be notified if Mohave ground squirrel presence is confirmed during

Louis Morales, Contract Planner
City of Adelanto
October 26, 2022
Page 5 of 22

the preconstruction survey. If a Mohave ground squirrel is observed during Project activities, and the Project Proponent does not have an ITP, all work shall immediately stop, and the observation shall be immediately reported to CDFW.

Desert Tortoise

CDFW appreciates that a habitat assessment for desert tortoise was conducted in May, during a time when desert tortoise is known to be active. The habitat assessment included walking 15-meter parallel transects despite proper protocol (i.e., U.S. Fish and Wildlife Service 2019 desert tortoise survey methodology) recommending walking 10-meter parallel transects. Nonetheless, the habitat assessment revealed sign of potential desert tortoise burrow attempts or juvenile burrows. As such, CDFW appreciates that both the MND and the Habitat Assessment consider potential impacts to desert tortoise as evidenced by MM BIO-4 in the MND, which requires pre-construction surveys for desert tortoise and MM BIO-5 to MM BIO-8 in the Habitat Assessment, which require pre-construction desert tortoise presence/absence surveys (MM BIO-5), Worker Environmental Awareness Training (MM BIO-6), protocol for addressing deceased or injured tortoise within the Project site (MM BIO-7) and species avoidance (MM BIO-8). CDFW has compared and contrasted the aforementioned mitigation measures and recommends the below mitigation measures with minor revision for adoption in the final MND to avoid potential impacts to desert tortoise (edits are in ~~strike through~~ and **bold**).

Biological Resources Mitigation Measure No. 5

Pre-construction desert tortoise presence/absence surveys: A CDFW – approved biologist shall conduct pre-construction presence/absence surveys for desert tortoise during the desert tortoise active season (April to May or September to October) 48 hours prior to initiation of Project activities and after any pause in Project activities lasting 30 days or more. Desert tortoise preconstruction surveys shall be conducted in accordance with the U.S. Fish and Wildlife Service (USFWS) 2019 desert tortoise survey methodology. Preconstruction surveys shall be completed using 100-percent visual coverage for desert tortoise and their sign and shall use perpendicular survey routes within the Project site and 50-foot buffer zone. Pre-construction surveys cannot be combined with other surveys conducted for other species while using the same personnel. Project Activities cannot start until 2 negative results from consecutive surveys using perpendicular survey routes for desert tortoise are documented.

Louis Morales, Contract Planner
City of Adelanto
October 26, 2022
Page 6 of 22

Results of the survey shall be submitted to CDFW prior to start of Project activities. If the survey confirms desert tortoise absence, the CDFW-approved biologist shall ensure desert tortoise do not enter the Project area.

Should desert tortoise presence be confirmed during the survey, the Project Proponent shall submit to CDFW for review and approval a desert tortoise specific avoidance plan detailing the protective avoidance measures to be implemented to ensure complete avoidance of take (California Fish and Game Code Section 86 defines "take" as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill") to desert tortoise. If complete avoidance of desert tortoise cannot be achieved, the Project Proponent ~~will~~ **shall** not undertake Project activities, and Project activities **shall** be postponed until appropriate authorization (i.e., California Endangered Species Act (CESA) Incidental Take Permit (ITP) under Fish and Game Code section 2081) is obtained.

If complete avoidance of desert tortoise is infeasible, CDFW recommends that the Project Proponent ~~would be required to~~ apply for a CESA ITP and prepare a site-specific Desert Tortoise Translocation Plan (Plan) that will provide details on the proposed recipient site, desert tortoise clearance surveys and relocation, definitions for Authorized Biologists and qualified desert tortoise biologists, exclusion fencing guidelines, protocols for managing desert tortoise found during active versus inactive seasons, protocols for incidental tortoise death or injury, and **shall** be consistent with project permits and current USFWS and CDFW guidelines. The Plan shall also include a requirement for communication and coordination with the Bureau of Land Management (BLM) regarding the desert tortoise recipient site.

Prior to construction, the Plan shall be subject to the review and approval of the CDFW and the USFWS. Impacts shall be offset through acquisition of compensatory land within occupied desert tortoise habitat and/or ~~monetary contributions to other recovery efforts in the West Mojave and/or~~ mitigation bank credit purchase from a CDFW-approved mitigation bank mitigated at a ratio of ~~no less than 3:1~~ **determined by CDFW after Project analysis.**

Louis Morales, Contract Planner
City of Adelanto
October 26, 2022
Page 7 of 22

Biological Resources Mitigation Measure No. 6

Worker Environmental Awareness Training: A qualified biologist must present a biological resource information training for desert tortoise, **Mohave ground squirrel, and burrowing owl** prior to project activities to all personnel that will be present **working** within the project site. **The same instruction shall be provided for any new workers prior to their performing any work on-site. Interpretation shall be provided for any non-English speaking workers.**

Biological Resources Mitigation Measure No. 7

Deceased or Injured Tortoise Within the Project Site: ~~The CDFW-~~ ~~approved biologist will inform~~ USFWS and CDFW shall be informed of any injured or deceased desert tortoise (and other special-status species) found on site (verbal **notice** within 24-hours and written notification within 5-days).

Biological Resources Mitigation Measure No. 8

Species Avoidance: If during project activities a desert tortoise is discovered within the project site, all activities ~~must~~ **shall immediately** stop ~~within 50-feet~~ and the CDFW-~~approved biologist must~~ **shall** be **immediately notified (within 24 hours)**. Coordination with respective State and Federal resource agencies ~~will~~ **shall** be required prior to restarting activities **to determine appropriate avoidance, minimization, and mitigation measures.**

Nesting Birds

CDFW appreciates the incorporation of MM BIO-5 in the draft MND and MM BIO-11 in the Habitat Assessment to avoid impacts to nesting birds. CDFW considered both measures, and both measures are similar and suitable; however, because CDFW has previously suggested MM BIO-5 verbatim, CDFW requests that the City proceed with MM BIO-5 with minor updates (edits are in ~~strike through~~ and **bold**), as per below and as MM BIO-9 to distinguish it from the aforementioned MM BIO-5: Pre-construction desert tortoise presence/absence surveys.

Louis Morales, Contract Planner
City of Adelanto
October 26, 2022
Page 8 of 22

Biological Resources Mitigation Measure No. 9:

Nesting Bird Pre-Construction Survey. ~~If construction occurs during the non-nesting season (typically September 16 through December 31),~~ **Regardless of the time of year**, a pre-construction sweep shall be performed to verify absence of nesting birds. A qualified biologist shall conduct the pre-activity sweep within the Project areas (including access routes) and a ~~300-~~ **500** foot buffer surrounding the Project areas, within 2 hours prior to initiating Project activities. ~~If project activities are planned during bird nesting season (generally, raptor nesting season is January 1 through September 15; and passerine bird nesting season is February 1 through September 1)~~ **Additionally**, a nesting bird survey shall be conducted by a qualified biologist no more than three (3) days prior to the initiation of project activities, including, but not limited to clearing, grubbing, and/or rough grading **to prevent impacts to birds and their nests.** The survey will be conducted by a qualified biologist. **Surveys shall include any potential habitat (including trees, shrubs, the ground, or nearby structures) that may be impacted by activities resulting in nest destruction or abandonment.** If nesting bird activity is present, a no disturbance buffer zone shall be established by the qualified biologist around each nest **to prevent nest destruction and disruption of breeding or rearing behavior.** The buffer shall be a minimum of ~~300~~ **500** feet for raptors and ~~400-~~ **300** feet for songbirds, unless a smaller buffer is specifically determined by a qualified biologist familiar with the nesting phenology of the nesting species. The buffer areas shall be avoided until the nests are no longer occupied and the juvenile birds can survive independently from the nests, **as confirmed by a qualified biologist. A qualified biologist shall inspect the active nest to determine whether construction activities are disturbing the nesting birds or nestlings. If the qualified biologist determines that construction activities pose a disturbance to nesting, construction work shall be stopped in the area of the nest and the 'no disturbance buffer' shall be expanded.** If there is no nesting activity, then no further action is need for this measure.

Western Joshua Tree

CDFW appreciates that western Joshua tree (WJT) were inventoried. As stated in the Habitat Assessment, at least 23 WJT occur onsite. Both the MND and the Habitat Assessment consider an ITP in MM BIO-6 and MM BIO-1, respectively. Through comparison, CDFW noted that MM BIO-6 and MM BIO-1 are identical

Louis Morales, Contract Planner
City of Adelanto
October 26, 2022
Page 9 of 22

and verbatim as previously recommended my CDFW. As such, CDFW has no comments on the measures, but requests that the measure for WJT be revised to MM BIO-10 to avoid conflict with measure MM BIO-1 and MM-BIO-6 established above.

Biological Resources Mitigation Measure No. 10

If any western Joshua trees are to be relocated, removed, or otherwise taken, the Project Proponent shall obtain an incidental take permit (ITP) from California Department of Fish and Wildlife (CDFW) under CDFW under §2081 of the California Endangered Species Act (CESA), prior to the relocation, removal, or take (California Fish and Game Code Section 86 defines “take” as “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill”) of western Joshua tree, a Candidate for Threatened CESA-listed species. Take of any CESA-listed species is prohibited except as authorized by state law (Fish and Game Code, §§ 2080 & 2085). Permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate project-related impacts of the taking of CESA-listed species. CDFW recommends permanent protection through either the purchase of conservation or mitigation bank credits or the establishment of a conservation easement, development of a long-term management plan, and securing funding sufficient to implement management plan tasks in perpetuity. These tasks should be completed, or financial security must be provided before starting any Project activities. To execute an ITP, CDFW requires documentation of CEQA compliance. CDFW requires the CEQA document have a State Clearing House number, show proof of filing fees, and proof the document has been circulated.

Rare Plants

CDFW appreciates the inclusion of MM BIO-3 in the Habitat Assessment, which requires pre-construction rare plant surveys. CDFW is concerned that the MND disregards MM BIO-3 given the potential for rare plants such as short joint beaver tail cactus (*Opuntia basilaris* var. *brachyclada*, State Rare Plant Rank [SRPR]1B.2), white pygmy poppy (*Canbya candida*, SRPR S3S4), Mojave spineflower (*Chorizanthe spinosa*, SRPR S4), Mojave fish-hook cactus (*Sclerocactus polyancistrus*, SRPR S3), Mojave monkeyflower (*Diplacus mohavensis*; SRPR S2), and Sagebrush loeflingia (*Loeflingia squarrosa* var. *artemisiarum*; SRPR S2) to occur onsite. CDFW therefore recommends the

Louis Morales, Contract Planner
 City of Adelanto
 October 26, 2022
 Page 10 of 22

inclusion of MM BIO-3 in the final MND as MM BIO-11 to avoid conflict in numbering with measures for desert tortoise. In addition, CDFW offers the following minor revisions (edits are in ~~strike through~~ and **bold**):

Biological Resources Mitigation Measure No. 11

Pre-construction rare plant clearance survey: Prior to Project implementation, and during the appropriate season, **a qualified biologist** ~~the Applicant~~ shall conduct botanical field surveys within the Project area following protocols set forth in the California Department of Fish and Wildlife's (CDFW) 2018 Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018). The surveys shall be conducted by a CDFW approved botanist(s) experienced in conducting floristic botanical field surveys, knowledgeable of plant taxonomy and plant community ecology and classification, familiar with the plants of the area, including special-status and locally significant plants, and familiar with the appropriate state and federal statutes related to plants and plant collecting. The botanical field surveys shall be conducted at the appropriate time of year when plants will both be evident and identifiable (usually, during flowering or fruiting) and, in a manner, which maximizes the likelihood of locating special-status plants and sensitive natural communities that may be present. Botanical field surveys shall be conducted floristic in nature, meaning that every plant taxon that occurs in the project area is identified to the taxonomic level necessary to determine rarity and listing status. If any special-status plants are identified, the City shall ~~either avoid the plant(s), with an appropriate buffer (i.e., fencing or flagging), or~~ **complete avoidance is not feasible, the City shall** mitigate the loss of the plant(s) through the purchase of mitigation credits from a CDFW-approved bank or land acquisition and conservation at a ~~minimum 3:1 (replacement to impact) ratio~~ **mitigation ratio determined by CDFW after Project analysis**. ~~Note that a higher ratio may be warranted if the proposed mitigation lands are located far away from the Project site (i.e., within a separate watershed) or is not occupied by or available to special-status species.~~ If the Project has the potential to impact a state-listed species, the **Project** Applicant should apply for a California Endangered Species Act (CESA) Incidental Take Permit (ITP) with CDFW.

Louis Morales, Contract Planner
City of Adelanto
October 26, 2022
Page 11 of 22

DROUGHT-TOLERANT LANDSCAPING

Because California has entered another period of extended drought, CDFW recommends xeriscaping with locally native California species and installing water-efficient and targeted irrigation systems (such as drip irrigation). Local water agencies/districts and resource conservation districts in your area may be able to provide information on plant nurseries that carry locally native species. Information on drought-tolerant landscaping and water-efficient irrigation systems is available on California's Save our Water website: [Around the Yard \(saveourwater.com\)](http://AroundtheYard.saveourwater.com)

ENVIRONMENTAL DATA

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

FILING FEES

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

CONCLUSION

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

Louis Morales, Contract Planner
City of Adelanto
October 26, 2022
Page 12 of 22

CDFW appreciates the opportunity to comment on LDP-22-13 Project (SCH No. 2022090643) and hopes our comments will assist the City in identifying, avoiding, minimizing, and mitigating Project impacts on fish and wildlife resources.

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

ATTACHMENTS

Attachment 1: MMRP for CDFW-Proposed Mitigation Measures

Sincerely,

DocuSigned by:

84FBB8273E4C480...

Alisa Ellsworth
Environmental Program Manager

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

Louis Morales, Contract Planner
City of Adelanto
October 26, 2022
Page 13 of 22

REFERENCES

California Department of Fish and Game (CDFG). 2010. Mohave Ground Squirrel Survey Guidelines. Available for download at:

<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83975&inline>

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>

California Department of Fish and Wildlife. 2018. Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities. Available for download at:

<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>

Sawyer, J. O., T. Keeler-Wolf, and J. M. Evens. 2009. A manual of California Vegetation, 2nd ed. California Native Plant Society Press, Sacramento, California. <http://vegetation.cnps.org/>

U.S. Fish and Wildlife Service. 2019. Preparing for any action that may occur within the range of the Mojave desert tortoise (*Gopherus agassizii*).

USFWS Desert Tortoise Recovery Office. Reno, NV.

Louis Morales, Contract Planner
 City of Adelanto
 October 26, 2022
 Page 14 of 22

ATTACHMENT 1: MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

PURPOSE OF THE MMRP

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

TABLE OF MITIGATION MEASURES

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

Biological (BIO) Mitigation Measures (MM)	Implementation Schedule	Responsible Party
<p>MM BIO-1</p> <p><u>Burrowing Owl Pre-Construction Survey</u>: Prior to any ground disturbance, pre-construction surveys for Burrowing Owls on the project site and in the surrounding area in accordance with the Staff Report on Burrowing Owl Mitigation, State of California Natural Resource Agency, Department of Fish and Game, May 7, 2012, shall be conducted no more than 14-days prior to the beginning of project activities, and a secondary survey must be conducted by a qualified biologist within 24 hours prior to the beginning of project construction to determine if the project site contains suitable burrowing owl or sign thereof and to avoid any potential impacts to the species. The surveys shall include 100 percent coverage of the project site. If both surveys reveal no burrowing owls are present or sign thereof, no additional actions related to this measure are required and a letter shall be prepared by the qualified biologist documenting the results of the survey.</p>	<p>Prior to initiating Project activities</p>	<p>Project Proponent</p>

Louis Morales, Contract Planner
 City of Adelanto
 October 26, 2022
 Page 15 of 22

<p>The letter shall be submitted to CDFW prior to construction. If occupied active burrows or sign thereof are found within the development footprint during the pre-construction clearance survey, Mitigation Measure BIO-2 shall apply.</p>		
<p>MM BIO-2</p> <p><u>Burrowing Owl Avoidance/Relocation:</u> If active burrows or signs thereof are found within the development footprint during the pre-construction clearance surveys, site-specific non-disturbance buffer zones shall be established by the qualified biologist and shall be no less than 300 feet. If determined appropriate, a smaller buffer may be established by the qualified biologist following monitoring and assessments of the Project's effects on the burrowing owls. If it is not possible to avoid active burrows, passive relocation shall be implemented if a qualified biologist has determined there are no nesting owls and/or juvenile owls are no longer dependent on the burrows. A qualified biologist, in coordination with the applicant and the City, shall prepare and submit a passive relocation program in accordance with Appendix E (i.e., Example Components for Burrowing Owl Artificial Burrow and Exclusion Plans) of the CDFW's Staff Report on Burrowing Owl Mitigation (CDFG 2012) for CDFW review/approval prior to the commencement of disturbance activities onsite and proposed mitigation for permanent loss of occupied burrow(s) and habitat consistent with the 2012 Staff Report on Burrowing Owl Mitigation. When a qualified biologist determines that burrowing owls are no longer occupying the Project site and passive relocation is complete, construction activities may begin. A final letter report shall be prepared by the qualified biologist documenting the results of the passive</p>	<p>Prior to initiating Project activities</p>	<p>Project Proponent</p>

Louis Morales, Contract Planner
 City of Adelanto
 October 26, 2022
 Page 16 of 22

relocation. The letter shall be submitted to CDFW.		
<p>MM BIO-3</p> <p><u>Mojave Ground Squirrel Pre-Construction Survey</u>: Pre-construction surveys following the Mohave Ground Squirrel Survey Guidelines (CDFG 2010), or most recent version shall be performed by a qualified biologist authorized by a Memorandum of Understanding issued by CDFW. The pre-construction surveys shall cover the Project Area and a 50- foot buffer zone. Should Mohave ground squirrel presence be confirmed during the survey, the Project Proponent should obtain an ITP for Mohave ground squirrel prior to the start of Project activities. CDFW shall be notified if Mohave ground squirrel presence is confirmed during the preconstruction survey. If a Mohave ground squirrel is observed during Project activities, and the Project Proponent does not have an ITP, all work shall immediately stop, and the observation shall be immediately reported to CDFW.</p>	Prior to initiating Project activities	Project Proponent
<p>MM BIO-5</p> <p><u>Pre-construction desert tortoise presence/absence surveys</u>: A CDFW – approved biologist shall conduct pre-construction presence/absence surveys for desert tortoise during the desert tortoise active season (April to May or September to October) 48 hours prior to initiation of Project activities and after any pause in Project activities lasting 30 days or more. Desert tortoise preconstruction surveys shall be conducted in accordance with the U.S. Fish and Wildlife Service (USFWS) 2019 desert tortoise survey methodology. Preconstruction surveys shall be completed using 100-percent visual coverage for desert tortoise and their sign and shall use perpendicular survey routes within the Project</p>	Prior to initiating Project activities	Project Proponent

Louis Morales, Contract Planner
City of Adelanto
October 26, 2022
Page 17 of 22

<p>site and 50-foot buffer zone. Pre-construction surveys cannot be combined with other surveys conducted for other species while using the same personnel. Project Activities cannot start until 2 negative results from consecutive surveys using perpendicular survey routes for desert tortoise are documented. Results of the survey shall be submitted to CDFW prior to start of Project activities. If the survey confirms desert tortoise absence, the CDFW-approved biologist shall ensure desert tortoise do not enter the Project area.</p> <p>Should desert tortoise presence be confirmed during the survey, the Project Proponent shall submit to CDFW for review and approval a desert tortoise specific avoidance plan detailing the protective avoidance measures to be implemented to ensure complete avoidance of take (California Fish and Game Code Section 86 defines “take” as “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill”) to desert tortoise. If complete avoidance of desert tortoise cannot be achieved, the Project Proponent shall not undertake Project activities, and Project activities shall be postponed until appropriate authorization (i.e., California Endangered Species Act (CESA) Incidental Take Permit (ITP) under Fish and Game Code section 2081) is obtained.</p> <p>If complete avoidance of desert tortoise is infeasible, the Project Proponent should apply for a CESA ITP and prepare a site-specific Desert Tortoise Translocation Plan (Plan) that will provide details on the proposed recipient site, desert tortoise clearance surveys and relocation, definitions for Authorized Biologists and qualified desert tortoise biologists, exclusion fencing guidelines, protocols for managing desert tortoise found during active versus inactive seasons, protocols for</p>		
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Louis Morales, Contract Planner
 City of Adelanto
 October 26, 2022
 Page 18 of 22

<p>incidental tortoise death or injury, and shall be consistent with project permits and current USFWS and CDFW guidelines. The Plan shall also include a requirement for communication and coordination with the Bureau of Land Management (BLM) regarding the desert tortoise recipient site.</p> <p>Prior to construction, the Plan shall be subject to the review and approval of the CDFW and the USFWS. Impacts shall be offset through acquisition of compensatory land within occupied desert tortoise habitat and/or mitigation bank credit purchase from a CDFW-approved mitigation bank mitigated at a ratio determined by CDFW after Project analysis.</p>		
<p>MM BIO-6</p> <p><u>Worker Environmental Awareness Training:</u> A qualified biologist must present a biological resource information training for desert tortoise, Mohave ground squirrel, and burrowing owl prior to project activities to all personnel that will be working within the project site. The same instruction shall be provided for any new workers prior to their performing any work on-site. Interpretation shall be provided for any non-English speaking workers.</p>	<p>Prior to initiating Project activities</p>	<p>Project Proponent</p>
<p>MM BIO-7</p> <p><u>Deceased or Injured Tortoise Within the Project Site:</u> USFWS and CDFW shall be informed of any injured or deceased desert tortoise (and other special-status species) found on site (verbal notice within 24-hours and written notification within 5-days).</p>	<p>During Project activities</p>	<p>Project Proponent</p>
<p>MM BIO-8</p> <p><u>Species Avoidance:</u> If during project activities a desert tortoise is discovered within the project site, all activities shall immediately stop and</p>	<p>During Project activities</p>	<p>Project Proponent</p>

Louis Morales, Contract Planner
 City of Adelanto
 October 26, 2022
 Page 19 of 22

<p>the CDFW-shall be immediately notified (within 24 hours). Coordination with respective State and Federal resource agencies shall be required prior to restarting activities to determine appropriate avoidance, minimization, and mitigation measures.</p>		
<p>MM BIO-9</p> <p><u>Nesting Bird Pre-Construction Survey.</u> Regardless of the time of year, a pre-construction sweep shall be performed to verify absence of nesting birds. A qualified biologist shall conduct the pre-activity sweep within the Project areas (including access routes) and a 500-foot buffer surrounding the Project areas, within 2 hours prior to initiating Project activities. Additionally, a nesting bird survey shall be conducted by a qualified biologist no more than three (3) days prior to the initiation of project activities, including, but not limited to clearing, grubbing, and/or rough grading to prevent impacts to birds and their nests. The survey will be conducted by a qualified biologist. Surveys shall include any potential habitat (including trees, shrubs, the ground, or nearby structures) that may be impacted by activities resulting in nest destruction or abandonment. If nesting bird activity is present, a no disturbance buffer zone shall be established by the qualified biologist around each nest to prevent nest destruction and disruption of breeding or rearing behavior. The buffer shall be a minimum of 500 feet for raptors and 300 feet for songbirds, unless a smaller buffer is specifically determined by a qualified biologist familiar with the nesting phenology of the nesting species. The buffer areas shall be avoided until the nests are no longer occupied and the juvenile birds can survive independently from the nests, as confirmed by a qualified biologist. A qualified biologist shall inspect the active nest to determine whether construction activities are</p>	<p>Prior to initiating Project activities</p>	<p>Project Proponent</p>

Louis Morales, Contract Planner
 City of Adelanto
 October 26, 2022
 Page 20 of 22

<p>disturbing the nesting birds or nestlings. If the qualified biologist determines that construction activities pose a disturbance to nesting, construction work shall be stopped in the area of the nest and the 'no disturbance buffer' shall be expanded. If there is no nesting activity, then no further action is need for this measure.</p>		
<p>MM BIO-10</p> <p>If any western Joshua trees (WJT) are to be relocated, removed, or otherwise taken, the Project Proponent shall obtain an incidental take permit (ITP) from California Department of Fish and Wildlife (CDFW) under CDFW under §2081 of the California Endangered Species Act (CESA), prior to the relocation, removal, or take (California Fish and Game Code Section 86 defines “take” as “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill”) of western Joshua tree, a Candidate for Threatened CESA-listed species. Take of any CESA-listed species is prohibited except as authorized by state law (Fish and Game Code, §§ 2080 & 2085). Permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate project-related impacts of the taking of CESA-listed species. CDFW recommends permanent protection through either the purchase of conservation or mitigation bank credits or the establishment of a conservation easement, development of a long-term management plan, and securing funding sufficient to implement management plan tasks in perpetuity. These tasks should be completed, or financial security must be provided before starting any Project activities. To execute an ITP, CDFW requires documentation of CEQA compliance. CDFW requires the CEQA document have a State Clearing House number, show proof of filing</p>	<p>Prior to initiating Project activities</p>	<p>Project Proponent</p>

Louis Morales, Contract Planner
 City of Adelanto
 October 26, 2022
 Page 21 of 22

<p>fees, and proof the document has been circulated.</p>		
<p>MM BIO-11</p> <p><u>Pre-construction rare plant clearance survey:</u> Prior to Project implementation, and during the appropriate season, a qualified biologist shall conduct botanical field surveys within the Project area following protocols set forth in the California Department of Fish and Wildlife’s (CDFW) 2018 Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018). The surveys shall be conducted by a CDFW approved botanist(s) experienced in conducting floristic botanical field surveys, knowledgeable of plant taxonomy and plant community ecology and classification, familiar with the plants of the area, including special-status and locally significant plants, and familiar with the appropriate state and federal statutes related to plants and plant collecting. The botanical field surveys shall be conducted at the appropriate time of year when plants will both be evident and identifiable (usually, during flowering or fruiting) and, in a manner, which maximizes the likelihood of locating special-status plants and sensitive natural communities that may be present. Botanical field surveys shall be conducted floristic in nature, meaning that every plant taxon that occurs in the project area is identified to the taxonomic level necessary to determine rarity and listing status. If any special-status plants are identified, the City shall avoid the plant(s), with an appropriate buffer (i.e., fencing or flagging). If complete avoidance is not feasible, the City shall mitigate the loss of the plant(s) through the purchase of mitigation credits from a CDFW-approved bank or land acquisition and conservation at a mitigation ratio determined by CDFW after Project analysis. If</p>	<p>Prior to initiating Project activities</p>	<p>Project Proponent</p>

Louis Morales, Contract Planner
City of Adelanto
October 26, 2022
Page 22 of 22

the Project has the potential to impact a state-listed species, the Project Applicant should apply for a California Endangered Species Act (CESA) Incidental Take Permit (ITP) with CDFW.		
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