



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Inland Deserts Region  
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Ontario, CA 91764  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



Governor's Office of Planning & Research

May 5, 2023  
*Sent via email*

**May 05 2023**

**STATE CLEARINGHOUSE**

Mr. Daniel Alcayaga, Planning Manager  
Town of Apple Valley  
14955 Dale Evans Parkway  
Apple Valley, California 92307

Subject: Notice of Preparation of a Draft Environmental Impact Report  
Development at Dale Evans & Lafayette Project  
State Clearinghouse No. 2022120356

Dear Mr. Alcayaga:

The California Department of Fish and Wildlife (CDFW) received a Draft Environmental Impact Report (DEIR) from the Town of Apple Valley for the Development at Dale Evans & Lafayette Project (Project) pursuant 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, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

### **CDFW ROLE**

CDFW is California's Trustee Agency for fish and wildlife resources, and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As

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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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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 proposed Project is located in the northern section of the Town of Apple Valley, East of Interstate 15 and the Mojave River, in San Bernardino County. The project site is bounded by Lafayette Street to the north, Dachshund Avenue to the east, Burbank Avenue to the south, and Dale Evans Parkway to the west at APNs 0463-231-11, 0463-231-12, 0463-231-13, 0463-231-14, 0463-231-15, 0463-231-16, 0463-231-34, 0463-231-35, 0463-231-36, 0463-231-37, coordinates Latitude 34.591680, Longitude - 117.203210.

The Project includes the development of a 1,207,544 square foot warehouse distribution center with accompanying office spaces on a 78± acre parcel of land. A dry wash occurs across the property, which conveys storm flows from the north, through the site and southeasterly via sheet flow under current conditions. These flows will be intercepted at the northwestern boundary of the site, conveyed through the site in a perimeter channel to be constructed by the Project, and released at the south boundary of the property. In addition, on-site retention facilities are proposed to contain the Project's incremental increase in 100-year storm flows within the site.

## **COMMENTS AND RECOMMENDATIONS**

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

### Rare Plant Survey

The CDFW appreciates the inclusion of MM BIO 1 which considers surveys conducted to identify special status plants between the months of April and May for white pygmy-poppy (*Canbya candida*), desert cymopterus (*Cymopterus deserticola*), Mojave monkeyflower (*Diplacus mohavensis*), Barstow woolly sunflower (*Eriophyllum mohavense*), Torrey's box-thorn (*Lycium torreyi*), solitary blazing star (*Mentzelia eremophila*), beaver dam breadroot (*Pediomelum castoreum*), and Mojave fish-hook cactus (*Sclerocactus polyancistrus*). Many of these plants have blooming periods March to July.

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The DEIR should include detailed documentation of a botanical field survey following protocols set forth in the Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018). The botanist(s) should be 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 should be conducted at the appropriate time of year when plants will both be evident and identifiable and, in a manner, which maximizes the likelihood of locating special status plants and sensitive natural communities that may be present. Botanical field surveys should 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.

Additionally, CDFW is concerned that the measure does not provide an effective mitigation measure, as the Apple Valley MSHCP/NCCP has not been approved and take coverage has not been authorized. The DEIR should identify specific mitigation measures for impacts to rare plants.

Following the 2018 CDFW Protocol, the DEIR should include an assessment from project related impacts

- A discussion of the significance of special status plant populations in the project area considering nearby populations and total range and distribution;
- A discussion of the significance of sensitive natural communities in the project area considering nearby occurrences and natural community distribution;
- A discussion of project related direct, indirect, and cumulative impacts to special status plants and sensitive natural communities;
- A discussion of the degree and immediacy of all threats to special status plants and sensitive natural communities, including those from invasive species;
- A discussion of the degree of impact, if any, of the project on unoccupied, potential habitat for special status plants; and
- Recommended measures to avoid, minimize, or mitigate impacts to special status plants and sensitive natural communities.

CDFW offers the following revisions to MM BIO-1 (edits are in ~~strikethrough~~ and **bold**)

#### **MM BIO-1**

A ~~Spring (April-May)~~ plant survey shall be completed following the CDFW 2018 Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities in a manner which maximizes the likelihood of locating special status plants and sensitive natural communities that may be present. ~~prior to any ground disturbance on the site.~~ If any of the ~~eight~~ special status plant species known to occur in the Project area (see **Table 2.5-3**) are found on site

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during ~~Spring~~ **the** surveys, the population size of the species and importance to the overall population should be determined. If a **special status plant** species occurs on the site, ~~is found to be important to the overall population,~~ and cannot be avoided, it should be transplanted and/or have seeds/topsoil collected. ~~The Town of Apple Valley must also be consulted if species proposed for coverage under the MSHCP/NCCP are found.~~

#### Desert Tortoise (*Gopherus agassizii*)

The DEIR states that the vegetation community occurring on the project site (creosote bush scrub) is a habitat typically utilized by desert tortoises. Although no desert tortoises or their sign were detected during the reconnaissance or focused surveys, the CNDDDB reports four occurrences within a 5-mile radius, a desert tortoise carcass was photographed approximately 1.5 miles north-northeast of the project site in June 2022 and a live desert tortoise was photographed approximately 2 miles to the northwest in June 2020. CDFW recommends that prior to start of Project activities, a preconstruction survey and pre-construction sweep be conducted to ensure the absence of this species. CDFW recommends the following revisions to MM BIO-5 and MM BIO-6 below (edits are in ~~strike through~~ and **bold**):

#### **MM BIO-5**

**A qualified biologist shall conduct pre-construction surveys within the Project area and a 500-foot buffer surrounding these areas 14-21 days prior to initiating Project activities. The surveys shall be conducted to identify and map for avoidance of any special-status species with the potential to occur on the site such as desert tortoise. The qualified biologist shall ensure that the methods used to locate, identify, map, avoid, and buffer individuals or habitat are appropriate and effective, including the assurance that the surveyor has attained 100% visual coverage of the entirety of the potential impact areas, and an appropriate buffer surrounding those areas. Appropriate survey methods and timeframes shall be established, to ensure that chances of detecting the target species are maximized. In the event that listed species, such as the desert tortoise, are detected and avoidance is infeasible, proper authorization (i.e., incidental take permit (ITP)) from the USFWS and CDFW must be obtained.** Construction and maintenance personnel shall be required to inspect for desert tortoises under vehicles prior to moving the vehicle. If a desert tortoise is found beneath a vehicle, it may not be moved ~~until the desert tortoise has left of its own accord.~~ All desert tortoise observations shall be noted by the contractor and reported to a qualified biologist and federal and State wildlife agencies.

#### **MM BIO-6**

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

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**areas, no more than 2 hours prior to initiating Project activities. The pre-construction sweeps shall confirm and mark/map for avoidance the location of any special-status species such as desert tortoise and shall verify that no additional special-status species have occupied the Project areas or adjacent habitats. If any additional special-status species (or sign of presence) are identified within or adjacent to the project areas during the pre-construction sweep, the qualified biologist shall determine whether the proposed avoidance measures will be effective in fully avoiding impacts of the project on the identified resource(s) prior to initiating Project activities. If full avoidance cannot be accomplished, Permittee shall postpone the Project, and contact CDFW to discuss an appropriate action.** A qualified biologist shall periodically monitor construction to ensure that **desert** tortoises do not enter the work area and that **if one enters the project area, work is halted until the desert tortoise leaves by its own accord and they are not disturbed if present. Moving, relocating or handling of desert tortoise requires authorization from CDFW and USFWS. If full avoidance cannot be accomplished, Permittee shall postpone the Project, and contact CDFW to discuss an appropriate action.** ~~Isolating the site with~~ **Using** tortoise-proof fencing ~~will also may reduce or eliminate this need~~ **tortoise entry onto the Project site.**

### Nesting Birds

Shown on Table 3 of Appendix C are special status birds that may occur on the Project site. These include golden eagle (*Aquila chrysaetos*), burrowing owl (*Athene cunicularia*), Swainson's hawk (*Buteo swainsoni*), Costa's hummingbird (*Calypte costae*), prairie falcon (*Falco mexicanus*), loggerhead shrike (*Lanius ludovicianus*), and Le Conte's thrasher (*Toxostoma lecontei*). Please note that it is the Project proponent's responsibility to avoid "take" of all nesting birds. California Fish and Game Code Section 86 defines "take" as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill". Fish and Game Code section 3503 makes it unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by the rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.). Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto. These regulations apply anytime nests or eggs exist on the Project site. To address the above issues and help the Project applicant avoid unlawful take of nests and eggs, CDFW offers the following revisions to MM BIO-8 and MM BIO-9. (edits are in ~~strikethrough~~ and **bold**).

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### MM BIO-8

Any vegetation removal or grading ~~occurring during the nesting season (generally February 1 through August 31)~~ will require at least one nesting bird survey to be conducted by a qualified biologist no more than three days prior to site disturbance. **Surveys shall include any potential habitat (including trees, shrubs, the ground, or nearby structures) that may be impacted by Project activities.** If no nests are found, construction may proceed. If active nests are found, impact avoidance measures (e.g., “no work” buffers, sound and/or visual barriers) will be put in place around the nest until young have fledged. This also applies to offsite nests identified by the biologist during the nesting survey which may be indirectly impacted by site development.

### MM BIO-9

The CDFW recommends ~~avoidance buffers of approximately 500 feet for birds-of-prey and listed species, and 100-300 feet for other unlisted birds~~ **the extent of the ‘no-disturbance buffer’ shall be no less than 300 feet (500 feet for raptors) although a smaller buffer may be determined by a qualified biologist.** Appropriate buffers shall be established on a case-by-case basis by the nesting bird biologist. **Limits of construction to avoid an active nest will be established in the field with flagging, fencing, or other appropriate barriers; and construction personnel will be instructed on the sensitivity of nest areas. 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.**

#### Burrowing Owl (*Athene cunicularia*)

The Project site has the potential to provide suitable foraging and/or nesting habitat for burrowing owl. Take of individual burrowing owls and their nests is defined by Fish and Game Code section 86, and prohibited by sections 3503, 3503.5 and 3513. Take is defined in Fish and Game Code section 86 as “hunt, pursue, catch, capture or kill, or attempt to hunt, pursue, catch, capture or kill.”

CDFW appreciates that the Town of Apple Valley will follow the recommendations and guidelines provided in the *Staff Report on Burrowing Owl Mitigation* (Department of Fish and Game, March 2012); available for download from CDFW’s website:

<https://www.wildlife.ca.gov/conservation/survey-protocols>. The Staff Report on Burrowing Owl Mitigation, specifies three steps for project impact evaluations:

- a. A habitat assessment;
- b. Surveys; and
- c. An impact assessment

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CDFW appreciates the inclusion of MM BIO-10 which considers pre-construction surveys for burrowing owl and offers the following revisions (edits are in ~~strikethrough~~ and **bold**).

### **MM BIO-10**

A survey for potential burrows followed by four breeding season surveys of areas found to have potential for burrowing owl occupation must be conducted in accordance with the Staff Report on Burrowing Owl Mitigation (CDFG 2012). The burrow survey can be conducted any time, but the breeding season focused survey cannot begin prior to February 1. **Prior to initiating Project activities, a qualified biologist shall conduct at least one survey covering the entire Project area and surrounding 15-meter buffer to identify the presence of suitable burrows and/or burrow surrogates (>11 cm in diameter [height and width] and >150 cm in depth) for burrowing owl and sign of burrowing owl (e.g., pellets, prey remains, whitewash, or decoration, etc.)** If burrowing owls or suitable burrows and/or sign of burrowing owl are documented on-site, a breeding season survey for burrowing owl in accordance with the Staff Report on Burrowing Owl Mitigation (Department of Fish and Game, March 2012) shall be conducted by a qualified biologist prior to start of Project activities. If no burrowing owl, active burrowing owl burrows, or sign thereof are found, no further action is necessary. If burrowing owl, active burrowing owl burrows, or sign thereof are found the qualified biologist shall prepare and implement a plan for avoidance, minimization, and mitigation measures to be approved by CDFW prior to commencing Project activities and propose mitigation for permanent loss of occupied burrow(s) and habitat.

### Lake and Streambed Alteration

CDFW appreciates that the Project proponent recognizes that notification to CDFW is required, pursuant to section 1602 of the Fish and Game Code.

### Moving out of Harm's Way

To avoid direct mortality, CDFW recommends that the lead agency condition the DEIR to require that a CDFW-approved qualified biologist be retained to be onsite prior to and during all ground- and habitat-disturbing activities to move out of harm's way special status species or other wildlife of low or limited mobility that would otherwise be injured or killed from project-related activities. Movement of wildlife out of harm's way should be limited to only those individuals that would otherwise be injured or killed, and individuals should be moved only as far as necessary to ensure their safety (i.e., CDFW does not recommend relocation to other areas). Furthermore, it should be noted that the temporary relocation of onsite wildlife does not constitute effective mitigation for the purposes of offsetting project impacts associated with habitat loss.

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## **California Endangered Species Act**

CDFW is responsible for ensuring appropriate conservation of fish and wildlife resources including threatened, endangered, and/or candidate plant and animal species, pursuant to the California Endangered Species Act (CESA). A CESA ITP is issued to conserve, protect, enhance, and restore State-listed CESA species and their habitats. CDFW recommends that a CESA ITP be obtained if the Project has the potential to result in “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 CESA-listed species. Take of any CESA-listed species is prohibited except as authorized by state law (Fish and Game Code, §§ 2080 & 2085). If the Project, including the Project construction or any Project-related activity during the life of the Project cannot fully avoid take of a CESA-listed species, CDFW recommends that the Project proponent seek appropriate authorization prior to Project implementation through an ITP. Desert tortoise is a CESA-listed threatened and proposed endangered species that has potential to occur within the Project Area. If pre-construction surveys identify presence of desert tortoise, CDFW encourages early consultation with CDFW.

## **ENVIRONMENTAL DATA**

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). Information can be submitted online or via completion of the CNDDDB field survey form at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email address: [CNDDDB@wildlife.ca.gov](mailto:CNDDDB@wildlife.ca.gov). The types of information reported to CNDDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

## **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 NOP of a DEIR for the Development at Dale Evans & Lafayette Project (SCH No. 2022120356) and



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recommends that the Town of Apple Valley address the CDFW's comments and concerns in the forthcoming DEIR. If you should have any questions pertaining to the comments provided in this letter, please contact Julian Potier, Environmental Scientist, at (909) 938-6112 or at [julian.potier@wildlife.ca.gov](mailto:julian.potier@wildlife.ca.gov).

Sincerely,

DocuSigned by:



Alisa Ellsworth

Environmental Program Manager

## ATTACHMENTS

Attachment 1: MMRP for CDFW-Proposed Mitigation Measures

cc: Office of Planning and Research, State Clearinghouse, Sacramento  
[state.clearinghouse@opr.ca.gov](mailto:state.clearinghouse@opr.ca.gov)

## REFERENCES

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

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

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

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## 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 measures.

Biological (BIO) Mitigation Measure	Implementation Schedule	Responsible Party
<p><b>Biological Resources Mitigation Measure No. 1</b></p> <p>A plant survey shall be completed prior to any ground disturbance on the site. If any of the eight special status plant species known to occur in the Project area (see Table 2.5-3) are found on site during the surveys, the population size of the species and importance to the overall population should be determined. If a special status plant species occurs on the site, and cannot be avoided, it should be transplanted and/or have seeds/topsoil collected.</p>	<p>Prior to commencing ground- or vegetation-disturbing activities</p>	<p>Project Proponent</p>
<p><b>Biological Resources Mitigation Measure No. 5</b></p> <p>A qualified biologist shall conduct pre-construction surveys within the Project area and a 500-foot buffer surrounding these areas 14-21 days prior to initiating Project activities. The surveys shall be conducted to identify and map for avoidance of any special-status species with the potential to occur on the site such as desert tortoise. The qualified biologist shall ensure that</p>	<p>Prior to commencing ground- or vegetation-disturbing activities</p>	<p>Project Proponent</p>

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<p>the methods used to locate, identify, map, avoid, and buffer individuals or habitat are appropriate and effective, including the assurance that the surveyor has attained 100% visual coverage of the entirety of the potential impact areas, and an appropriate buffer surrounding those areas. Appropriate survey methods and timeframes shall be established, to ensure that chances of detecting the target species are maximized. In the event that listed species, such as the desert tortoise, are detected and avoidance is infeasible, proper authorization (i.e., incidental take permit (ITP)) from the USFWS and CDFW must be obtained. If nesting birds are detected, avoidance measures shall be implemented to ensure that nests are not disturbed until after young have fledged. Construction and maintenance personnel shall be required to inspect for desert tortoises under vehicles prior to moving the vehicle. If a desert tortoise is found beneath a vehicle, it may not be moved. All desert tortoise observations shall be noted by the contractor and reported to a qualified biologist and federal and State wildlife agencies.</p>		
<p><b>Biological Resources Mitigation Measure No. 6</b></p> <p>A qualified biologist shall conduct pre-construction sweeps within the Project area (including access routes) and a 500-foot buffer surrounding the Project areas, no more than 2 hours prior to initiating Project activities. The pre-construction sweeps shall confirm and mark/map for avoidance the location of any special-status species such as desert tortoise and shall verify that no additional special-status species have occupied the Project areas or adjacent habitats. If any additional special-status species (or sign of presence) are identified within or adjacent to the project areas during the pre-construction sweep, the qualified biologist shall determine whether the proposed avoidance measures will be effective in fully avoiding impacts of the project on the identified resource(s) prior to initiating Project activities. If full avoidance cannot be accomplished, Permittee shall postpone the Project, and contact CDFW to discuss an appropriate action. A qualified biologist shall monitor construction to ensure that desert tortoises do not enter the work area and that if one enters the project area, work is halted until the desert tortoise leaves by its own accord and they are not</p>	<p>Prior to commencing ground- or vegetation-disturbing activities</p>	<p>Project Proponent</p>

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<p>disturbed if present. Moving, relocating or handling of desert tortoise requires authorization from CDFW and USFWS. If full avoidance cannot be accomplished, Permittee shall postpone the Project, and contact CDFW to discuss an appropriate action. Using tortoise-proof fencing may reduce tortoise entry onto the Project site.</p>		
<p><b>Biological Resources Mitigation Measure No. 8</b></p> <p>Any vegetation removal or grading will require at least one nesting bird survey to be conducted by a qualified biologist no more than three days prior to site disturbance. Surveys shall include any potential habitat (including trees, shrubs, the ground, or nearby structures) that may be impacted by Project activities. If no nests are found, construction may proceed. If active nests are found, impact avoidance measures (e.g., “no work” buffers, sound and/or visual barriers) will be put in place around the nest until young have fledged. This also applies to offsite nests identified by the biologist during the nesting survey which may be indirectly impacted by site development.</p>	<p>Prior to commencing ground- or vegetation-disturbing activities</p>	<p>Project Proponent</p>
<p><b>Biological Resources Mitigation Measure No. 9</b></p> <p>The CDFW recommends the extent of the ‘no-disturbance buffer’ shall be no less than 300 feet (500 feet for raptors) although a smaller buffer may be determined by a qualified biologist. Appropriate buffers shall be established on a case-by-case basis by the nesting bird biologist. Limits of construction to avoid an active nest will be established in the field with flagging, fencing, or other appropriate barriers; and construction personnel will be instructed on the sensitivity of nest areas. 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.</p>	<p>Prior to commencing ground- or vegetation-disturbing activities</p>	<p>Project Proponent</p>

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<p><b>Biological Resources Mitigation Measure No. 10</b></p> <p>A survey for potential burrows followed by four breeding season surveys of areas found to have potential for burrowing owl occupation must be conducted in accordance with the Staff Report on Burrowing Owl Mitigation (CDFG 2012). The burrow survey can be conducted any time, but the breeding season focused survey cannot begin prior to February 1. Prior to initiating Project activities, a qualified biologist shall conduct at least one survey covering the entire Project area and surrounding 15-meter buffer to identify the presence of suitable burrows and/or burrow surrogates (&gt;11 cm in diameter [height and width] and &gt;150 cm in depth) for burrowing owl and sign of burrowing owl (e.g., pellets, prey remains, whitewash, or decoration, etc.) If burrowing owls or suitable burrows and/or sign of burrowing owl are documented on-site, a breeding season survey for burrowing owl in accordance with the Staff Report on Burrowing Owl Mitigation (Department of Fish and Game, March 2012) shall be conducted by a qualified biologist prior to start of Project activities. If no burrowing owl, active burrowing owl burrows, or sign thereof are found, no further action is necessary. If burrowing owl, active burrowing owl burrows, or sign thereof are found the qualified biologist shall prepare and implement a plan for avoidance, minimization, and mitigation measures to be approved by CDFW prior to commencing Project activities and propose mitigation for permanent loss of occupied burrow(s) and habitat.</p>	<p>Prior to commencing ground- or vegetation-disturbing activities</p>	<p>Project Proponent</p>
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