State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Inland Deserts Region
3602 Inland Empire Blvd
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www.wildlife.ca.gov

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



March 21, 2023

James Hirsch, Planner
City of Adelanto
11600 Air Expressway
San Bernardino, CA 92301

Subject: Initial Study and Mitigated Negative Declaration
AT&T New Tower CSL00199
State Clearing House No. 2023020546

Dear Mr. Hirsch:

The California Department of Fish and Wildlife (CDFW) received an Initial Study and Mitigated Negative Declaration (IS/MND) from the City of Adelanto (City) for the AT&T New Tower 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. (*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**

**Proponent:** AT&T Mobility Services

**Objective:** The Project will install a 75- foot-tall AT&T mobility mono-eucalyptus tower with a 26- foot diameter branch span, within a 24-foot by 34-foot outdoor shelter area, surrounded by a new 10-foot-tall concrete masonry unit wall enclosure with metal security lid. Approximately 240 feet of electrical and telco trenching will be required from the proposed site eastward toward Highway 395, then northerly along the Highway 395 right of way, to an existing utility pole for AT&T's point of connection. Access to the proposed site is via a 12-foot by approximately 171-foot path which will have a gravel base.

**Location:** The Project site is in the City of Adelanto, San Bernardino County, California; Latitude, 34.537584 N and Longitude -117.400317 W, on Assessor's Parcel Number 3128-531-14-0000. The Project site consists of 15 acres of undeveloped land.

**Timeframe:** Unavailable

**COMMENTS AND RECOMMENDATIONS**

CDFW offers the comments and recommendations below to assist the City of Adelanto in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document.

**COMMENT 1: Burrowing Owl**

**Biological Resource Assessment, Section 3.2, Mitigation Measure (MM) BIO-3, page 127.**

**Issue**: The Project may have a significant impact on burrowing owl (*Athena cunicularia*), a California Species of Special Concern (SSC).

**Specific impact:** Staging of construction equipment, vehicles, and foot traffic may result in the collapse of occupied burrows and result in direct mortality and/or injury to burrowing owl. Project construction and activities may result in injury or mortality of burrowing owls, disrupt natural burrowing owl breeding behavior, and reduce reproductive capacity. Additionally, raptors are known to use man-made structures such as communication towers for perching and nesting. The installation of the 75- foot-tall AT&T mobility mono-eucalyptus tower has the potential to introduce/facilitate burrowing owl predators, resulting in mortality and or less suitable habitat.

**Why impact would occur:** The Biological Resource Assessment states that at least two burrowing owls, with five active burrows and one inactive burrow were found on site when Circle Mountain Biological Consultants, Inc. (CMBC) conducted a habitat assessment on November 17,2022. The biologists stated that "while none of the active burrows occur in the planned project area, they are close enough (within 500 feet) to be impacted by construction activities on the site." Project construction would require ground-disturbance (e.g., trenching, grading, and earth-moving activities) and vegetation removal, both using heavy equipment. These activities create elevated levels of noise, human activity, dust, ground vibrations, and vegetation disturbance. These activities occurring near wintering sites could flush burrowing owls, cause burrowing owls to abandon their burrow, and reduce the likelihood of winter survival. In addition, these activities occurring near potential nests could result in reduced reproductive capacity and cause burrowing owls to abandon their nests, resulting in the loss of fertile eggs or nestlings. Project related impacts on burrowing owl during the wintering and breeding seasons, which includes potential populations in undeveloped land adjacent to the Project site, could cause local burrowing owl declines because of increased burrowing owl mortalities due to increased stress and injury, reproductive suppression, and loss of young.

The MND provides measures to mitigate for the Project's impact on burrowing owl. However, the mitigation currently proposed may not be effective. First, measures have yet to be provided to address cumulative impacts. Second, the Project's MND proposes a buffer zone of at least 50 feet around occupied burrows during the nesting season in order to protect breeding pairs, females, or offspring. The proposed buffer zone of 50 feet is below the recommendation provided in the Staff Report on Burrowing Owl Mitigation. A 50-foot buffer may not be sufficient to avoid impacts on burrowing owls during the breeding season.

**Evidence impact would be significant:** Habitat loss due to development is a threat to burrowing owls (CDFG, 2012). Burrowing owls are dependent on burrows at all times of the year for survival and/or reproduction, evicting them from nesting, roosting, and

satellite burrows may lead to indirect impacts or take. Loss of access to burrows will likely result in varying levels of increased stress on burrowing owls and could depress reproduction, increase predation, increase energetic costs, and introduce risks posed by having to find and compete for available burrows (CDFG, 2012). Burrowing owl are also dependent on adjacent habitat, and forage within 600 meters of nest burrows (Rosenberg and Haley, 2004).

Burrowing owl is a CDFW Species of Special Concern (ca.gov). CEQA provides protection not only for CESA-listed species, but for any species including but not limited to SSC which can be shown to meet the criteria for State listing. Burrowing owl is a SSC that meets the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380). 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."

**Recommended Potentially Feasible Mitigation Measure(s) (Regarding Environmental Setting and Related Impact Shortcoming)**

**To reduce impacts to less than significant:**

While CDFW appreciates the inclusion of performing burrowing owl breeding surveys, in southern California, burrowing owls are partial migrants, with some individuals migrating in winter, while others within the same breeding population remaining relatively sedentary. CDFW considers burrowing owl residency status difficult to ascertain – with the distribution of stopovers and pathways used by migrating birds being poorly understood, as well as disease, predation, drought, high rainfall, or site disturbances possibly precluding the presence of burrowing owls in any given year. Finally, while CDFW agrees with the inclusion of a process to avoid direct take, impacts to habitat should be mitigated by assessing the way the habitat onsite is used, or could be used by owls, and the effects the installation of the AT&T tower Project will have on those uses. Since the habitat on the Project site is occupied by burrowing owls (non-breeding surveys 2022), CDFW considers impacts to the habitat to be potentially significant based on location and species status in the area. The City of Adelanto should be aware that for individual projects, mitigation must be roughly proportional to the level of impacts, including cumulative impacts, in accordance with the provisions of CEQA (CEQA Guidelines, §§ 15126.4(a)(4)(B), 15064, 15065, and 16355). The ISMND should also discuss site-specific and regionally significant and cumulative impacts, as well as address mitigation goals.

CDFW offers the following revisions to MM BIO-2 (edits are in strikethrough and **bold**):

Mitigation Measure BIO-2

Burrowing Owl**.** Since burrowing owls and signs were found, it will be necessary to perform breeding burrowing owl surveys during the spring and summer as outlined in CDFG (2012) prior to any ground disturbance**. Breeding season surveys shall be implemented by a qualified Biologist. Four breeding season survey visits shall be conducted: (1) at least one site visit between February 15 and April 15, and (2) a minimum of three survey visits, at least 3 weeks apart, between April 15 and July 15, with at least one visit after June 15. The results of the breeding season and nonbreeding season surveys shall be reported to CDFW.**

**If breeding season surveys are negative for burrowing owl, the Project applicant shall implement the following:**
**The project applicant shall retain a qualified Biologist to perform a pre-construction burrowing owl survey in order to determine whether burrowing owls are present no more than 14 days prior to construction activities, according to California Department of Fish and Wildlife (CDFW) (2012) Guidelines. If construction is delayed or suspended for more than 30 days after the survey, the area shall be resurveyed. The preconstruction survey shall be completed on the project site and areas within 500 feet from the project boundary (where possible and appropriate based on**

**habitat). All occupied burrows will be mapped on an aerial photo. At least 7 days prior to the expected start of any project-related ground disturbance activities, or restart of activities, the City of Adelanto shall provide a burrowing owl survey report and mapping to the CDFW. If no burrowing owl are detected during the pre-construction survey, no further action is necessary.**

**If a burrowing owl is observed during breeding surveys and/or pre-construction surveys, CDFW will be immediately informed of its location and status.** Given this information, CMBC reiterates that it is highly advisable (and cost effective) to avoid impacts. CDFG (2012) states the following. If avoidance is the preferred method of dealing with potential project impacts, then the following would apply:
• No Disturbance within 50 meters (approximately 160 feet), **around occupied burrows during the nonbreeding season (September 1 through January 31)** which may result in harassment of owls at occupied burrows.
• **No Disturbance within 200 meters (approximately 656 feet) around occupied burrows during the breeding season (February 1 through August 31), within which construction activities may not occur until a qualified Biologist has determined that**
**(1) nonbreeding season owls have dispersed from the area; or**
**(2) breeding season owls have fledged their juveniles from the occupied burrows and the juveniles are foraging independently and are capable of independent survival or have dispersed from the area.**
• No Destruction of natural or artificial burrows (i.e., culverts, concrete slabs, and debris piles that provide shelter to burrowing owls)~~; and~~
• No Destruction and/or degradation of foraging habitat adjacent within ~~100~~ **200** meters (approximately ~~320~~ **656** feet) of an occupied burrow(s).
• **Develop and implement a worker awareness program to increase the on-site worker's recognition of and commitment to burrowing owl protection.**
• **Place visible markers near burrows to ensure that heavy equipment and other machinery does not collapse burrows.**

If impacts cannot be avoided, **a Burrowing Owl Protection Plan (plan) will be prepared by a qualified biologist, which must be approved by CDFW prior to initiating the project. The plan will include conserving all nesting, occupied and satellite burrows and/or burrowing owl habitat such that the habitat acreage, number of burrows and burrowing owls impacted are maintained and/or replaced.**

Specified mitigation measures include:
(a) avoiding occupied burrows during the breeding season, between February 1 and August 31;
(b) purchasing and permanently protecting 6.5 acres of foraging habitat per pair or unpaired resident bird impacted;
(c) creating new burrows or enhancing others when destruction of occupied burrows is unavoidable;
(d) implementing passive relocation if owls must be moved; and
(e) provide funding for long-term management and monitoring of protected lands.

**COMMENT 2: Western Joshua Tree**

**Biological Resource Assessment, Section 4.2, Mitigation Measure (MM) BIO-3, page 132.**

**Issue**: Take of western Joshua tree (*Yucca brevifolia*), a candidate species under CESA.

**Specific impact:** Project activities are expected to result in the removal of at least two western Joshua tree (WJT) individuals. In addition, based on the illustration (Figure 2. AT&T Adelanto Telecom Facility: Site Map, pg. 116) of biological resources on site, the Project could impact additional western Joshua tree individuals and seedbank.

**Why impact would occur:** According to the Biological Assessment, nineteen Joshua trees were identified during the site survey and two trees, both under 3 feet tall are located within the Project footprint. A larger tree is located just outside of the planned

area of impact and eight trees are within 150 feet of the Project area boundary. The Project has the potential for take of WJT individuals and associated seedbank through the removal of individuals and roots; clearing vegetation; general operation of vehicles and heavy equipment; grading; construction staging for the new mono-eucalyptus tower and stockpiling. Impacts to WJT's obligate pollinating moth (*Tegeticula synthetica*) which would impact the ability of WJT to sexually recruit new individuals (Sweet et al. 2019); the disruption of the seed dispersal behavior of rodents, the primary way that WJT seeds are buried at a soil depth suitable for successful germination (Waitman et al. 2012); and the elimination of nurse plants that are critical for WJT seedling survival (Brittingham and Walker 2000).

**Evidence impact would be significant:** The western Joshua tree is a species designated as candidate for listing as threatened pursuant to CESA (Fish & G. Code, § 2050 *et seq*.). Take of western Joshua tree is defined as any activity that results in the removal of a western Joshua tree, or any part thereof, or impacts the seedbank surrounding one or more western Joshua trees (CDFW 2022a). The western Joshua tree is granted full protection of a threatened species under CESA. Take of any endangered, threatened, candidate species that results from the Project is prohibited, except as authorized by State law (Fish & G. Code, §§ 86, 2062, 2067, 2068, 2080, 2085; Cal. Code Regs., tit. 14, § 786.9).

CDFW appreciates that the ISMND provides a measure to mitigate for the Project's impacts on western Joshua trees and recognized the need for an Incidental Take Permit. However, CDFW is concerned that the ISMND does not include an impact analysis assessing potential impacts to WJT within a 186-foot buffer zone, as well as a mitigation strategy for impacts to WJT individuals, WJT seedbank, and indirect impacts to WJT from destruction or modification of habitat at the Project location.

**Recommended Potentially Feasible Mitigation Measure(s) (Regarding Environmental Setting and Related Impact Shortcoming)**

**To reduce impacts to less than significant:** CDFW concurs with Mitigation Measure 3 and offers the following minor revisions to MM BIO-3 (edits are in strikethrough and **bold**):

Mitigation Measure BIO-3

Western Joshua tree. CDFW has recently recommended the following analysis for impacts to Western Joshua trees (WJT) and specific permitting and mitigation for another project in Adelanto, and are likely to have similar requirements for this project.
1) assessing potential impacts to WJTs within a 186-foot buffer zone for each WJT (Vander Wall et al. 2006),
2) implementation of a 300-foot buffer around each WJT not scheduled for removal,
3) a mitigation strategy addressing impacts to Joshua tree individuals, the WJT seedbank, and indirect impacts to WJT.

Western Joshua Tree Take: 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)~~**California Fish and Game Code**, prior to the relocation, removal, or **any activity that may 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 western Joshua tree, a Candidate for Threatened CESA-listed species. 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. (CDFW to City of Adelanto Planning, 7 November 2022). CMBC recommends that all **western** Joshua trees be avoided to the extent possible. If it is necessary to remove and/or salvage a tree, the California Department of Fish and Wildlife **recommends the project proponent submit an application for** ~~should be contacted to obtain the necessary permissions and procedures~~ **an Incidental Take Permit.**

## Additional Recommendations

CDFW recommends modifying MM BIO-4 (edits are in strikethrough and **bold**):

Mitigation Measure BIO-4

Nesting birds. ~~If it is necessary to commence project construction between March 15 and September 15~~ **Regardless of the time of year**, a qualified biologist should survey all shrubs and structures within the project site for nesting birds, prior to project activities (including construction and/or site preparation) **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 should be conducted at the appropriate time of day ~~during the breeding season, and surveys would end~~ no more than three days prior to clearing. CDFW is typically notified in writing prior to the start of the surveys. Documentation of surveys and findings should be submitted to the CDFW within ten days of the last survey. If no nesting birds were observed, project activities may begin**. If nesting bird activity is present within the work area or the Project's zone of influence (generally 100- 300 feet), a no-disturbance buffer zone shall be established by the qualified biologist around each nest to prevent nest destruction or abandonment. 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 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 an active bird nest is located, the plant in which it occurs should be left in place until the birds leave the nest. No construction is allowed near active bird nests of threatened or endangered species~~. If an active nest is encountered during the construction by contractors or future maintenance activities, work should stop immediately until a biologist can determine the status of the nest and when work can proceed without risking violation to state or federal laws.

**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 (CNDDB). The CNNDB field survey form can be filled out and submitted online at the following link: Submitting Data to the CNDDB (ca.gov). The types of information reported to CNDDB can be found at the following link: CNDDB - Plants and Animals (ca.gov).

**ENVIRONMENTAL DOCUMENT FILING FEES**

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

**CONCLUSION**

CDFW appreciates the opportunity to comment on the ISMND for the Project to assist the City of Adelanto in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Lydia Rodriguez, Senior Environmental Scientist (Specialist) at lydia.rodriguez@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Alisa Ellsworth
84FBB8273E4C480...

Alisa Ellsworth
Environmental Program Manager

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

**ATTACHMENTS**

Attachment 1: MMRP for CDFW-Proposed Mitigation Measures

**REFERENCES**

Brittingham, S. and L. R. Walker. 2000. Facilitation of *Yucca brevifolia* recruitment by Mojave Desert shrubs. Western North American Naturalist 60(4): 374-383

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

Rosenberg, D. K., and K. L. Haley. 2004. The ecology of burrowing owls in the agroecosystem of the Imperial Valley, California. Studies in Avian Biology 27:120-135.

Sweet, L. C., T. Green, J. G. C. Heintz, N. Frakes, N. Graver, J. S. Rangitsch, J. E. Rodgers, S. Heacox, and C. W. Barrows. 2019. Congruence between future distribution models and empirical data for an iconic species at Joshua Tree National Park. Ecosphere 10(6): e02763.

Vander Wall, S.B., T.C. Esque, B.A. Waitman, D.F. Haines, and M.G. Garnett. 2006. Joshua tree (*Yucca brevifolia*) seeds are dispersed by seed-caching rodents. Ecoscience 13: 539-543.

Waitman, B. A., S. B. Vander Wall, and T. C. Esque. 2012. Seed dispersal and seed fate in Joshua tree (*Yucca brevifolia*). Journal of Arid Environments

# 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 |
|---|---|---|
| **MM BIO-2**<br>Burrowing Owl**.** Since burrowing owls and signs were found, it will be necessary to perform breeding burrowing owl surveys during the spring and summer as outlined in CDFG (2012) prior to any ground disturbance**.** Breeding season surveys shall be implemented by a qualified Biologist. Four breeding season survey visits shall be conducted: (1) at least one site visit between February 15 and April 15, and (2) a minimum of three survey visits, at least 3 weeks apart, between April 15 and July 15, with at least one visit after June 15. The results of the breeding season and nonbreeding season surveys shall be reported to CDFW.<br><br>If breeding season surveys are negative for burrowing owl, the Project applicant shall implement the following: The project applicant shall retain a qualified Biologist to perform a pre-construction<br>burrowing owl survey in order to determine whether burrowing owls are present<br>no more than 14 days prior to construction activities, according to California Department of Fish and Wildlife (CDFW) (2012) Guidelines. If construction is delayed or suspended for more than 30 days after the survey, the area shall be resurveyed. The preconstruction survey shall be completed on the project site and areas within 500 feet from the project boundary (where possible and appropriate based on habitat). All occupied burrows will be mapped on an aerial photo. At least 7 days prior to the expected start of any project-related ground disturbance activities, or restart of activities, the City of Adelanto shall provide a burrowing owl survey report and mapping to the CDFW. If no burrowing owl are detected during the pre-construction survey, no further action is necessary.<br><br>If a burrowing owl is observed during breeding surveys and/or pre-construction surveys, CDFW will be immediately informed of its location and status. Given this information, CMBC reiterates that it is highly advisable (and cost effective) to avoid impacts. CDFG (2012) states the following. If avoidance is the preferred method of dealing with potential project impacts, then | Prior to commencing ground- or vegetation-disturbing activities | Project Proponent |

| | | |
|---|---|---|
| the following would apply:<br>• No Disturbance within 50 meters (approximately 160 feet), around occupied burrows during the nonbreeding season (September 1 through January 31) which may result in harassment of owls at occupied burrows.<br>• No Disturbance within 200 meters (approximately 656 feet) around occupied burrows during the breeding season (February 1 through August 31), within which construction activities may not occur until a qualified Biologist has determined that<br>(1) nonbreeding season owls have dispersed from the area; or<br>(2) breeding season owls have fledged their juveniles from the occupied burrows and the juveniles are foraging independently and are capable of independent survival or have dispersed from the area.<br>• No Destruction of natural or artificial burrows (i.e., culverts, concrete slabs, and debris piles that provide shelter to burrowing owls)<br>• No Destruction and/or degradation of foraging habitat adjacent within 200 meters (approximately 656 feet) of an occupied burrow(s).<br>• Develop and implement a worker awareness program to increase the on-site worker's recognition of and commitment to burrowing owl protection.<br>• Place visible markers near burrows to ensure that heavy equipment and other machinery does not collapse burrows.<br><br>If impacts cannot be avoided, a Burrowing Owl Protection Plan (plan) will be prepared by a qualified biologist, which must be approved by CDFW prior to initiating the project. The plan will include conserving all nesting, occupied and satellite burrows and/or burrowing owl habitat such that the habitat acreage, number of burrows and burrowing owls impacted are maintained and/or replaced.<br>Specified mitigation measures include:<br>(a) avoiding occupied burrows during the breeding season, between February 1 and August 31;<br>(b) purchasing and permanently protecting 6.5 acres of foraging habitat per pair<br>or unpaired resident bird impacted;<br>(c) creating new burrows or enhancing others when destruction of occupied<br>burrows is unavoidable;<br>(d) implementing passive relocation if owls must be moved; and<br>(e) provide funding for long-term management and monitoring of protected lands. | | |
| **MM BIO-3**<br>Western Joshua tree. CDFW has recently recommended the following analysis for impacts to Western Joshua trees (WJT) and specific permitting and mitigation for another project in Adelanto, and are likely to have similar requirements for this project.<br>1) assessing potential impacts to WJTs within a 186-foot buffer zone for each WJT (Vander Wall et al. 2006),<br>2) implementation of a 300-foot buffer around each WJT not scheduled for removal, | Prior to commencing ground- or vegetation-disturbing activities | Project Proponent |

| | | |
|---|---|---|
| 3) a mitigation strategy addressing impacts to Joshua tree individuals, the WJT seedbank, and indirect impacts to WJT.<br><br>Western Joshua Tree Take: If any western Joshua trees are to be relocated, removed, or otherwise taken, the Project Proponent shall obtain an incidental take permit (ITP) from CDFW under §2081 of the California Fish and Game Code, prior to the relocation, removal, or any activity that may 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 western Joshua tree, a Candidate for Threatened CESA-listed species. 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. (CDFW to City of Adelanto Planning, 7 November 2022). CMBC recommends that all western Joshua trees be avoided to the extent possible. If it is necessary to remove and/or salvage a tree, the California Department of Fish and Wildlife recommends the project proponent submit an application for an Incidental Take Permit. | | |
| **MM BIO-4**<br>Nesting birds. Regardless of the time of year, a qualified biologist should survey all shrubs and structures within the project site for nesting birds, prior to project activities (including construction and/or site preparation) 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 should be conducted at the appropriate time of day no more than three days prior to clearing. CDFW is typically notified in writing prior to the start of the surveys. Documentation of surveys and findings should be submitted to the CDFW within ten days of the last survey. If no nesting birds were observed, project activities may begin. If nesting bird activity is present within the work area or the Project's zone of influence (generally 100- 300 feet), a no-disturbance buffer zone shall be established by the qualified biologist around each nest to prevent nest destruction or abandonment. 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 | Prior to commencing ground- or vegetation-disturbing activities | Project Proponent |

| | | |
|---|---|---|
| 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 an active nest is encountered during the construction by contractors or future maintenance activities, work should stop immediately until a biologist can determine the status of the nest and when work can proceed without risking violation to state or federal laws. | | |