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Mr. Diego Guillen
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Subject: Draft Mitigated Negative Declaration, Valley Boulevard Widening Project, State Clearinghouse No. 2023050208, City of Menifee, Riverside County

Dear Mr. Guillen:

The California Department of Fish and Wildlife (CDFW) received a Mitigated Negative Declaration (MND) from the City of Menifee (City) for the Valley Boulevard Widening Project (Project) for the City of Menifee (Project Applicant/Proponent) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines¹.

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, subdivision (a) & 1802; Pub. Resources Code, § 21070; California Environmental Quality Act (CEQA) Guidelines, § 15386, subdivision (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 state 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, including

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.

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.*), or CESA-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & G. Code, §1900 *et seq.*), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

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

PROJECT DESCRIPTION AND SUMMARY

Description: The City of Menifee (City; Lead Agency and Project Applicant) are proposing the Valley Boulevard Widening Project (Project). The proposed Project will consist of the widening of the existing Valley Boulevard roadway between Murrieta Road and Chambers Avenue from a two-lane road to a four-lane facility and extend the roadway through two locations: a 700-foot segment north of McCall Boulevard and an 800-foot segment at the recently constructed Eastern Municipal Water District (EMWD) Desalination Facility near Murrieta Road. The project will include raised medians, turn lanes, and seven new traffic signals at major intersections. Additionally, the project will create a multi-modal network of sidewalks and bike lanes on both sides of the roadway.

The proposed widening of Valley Boulevard would also potentially require utility relocations. Additional Project Activities needed to support the design of the project include potholing and geotechnical investigations within the existing roadway and proposed improvement locations.

Location: The Project site is located along the existing Valley Boulevard, between Chambers Avenue and Murrieta Road, in the City of Menifee, Riverside County, California, in Township 5 South, Section 14, Range 3 West, of the U.S. Geological Survey 7.5”, California topographic quadrangle map.

COMMENTS AND RECOMMENDATIONS

Based on the documents for review, CDFW offers the comments and recommendations below to assist the City in adequately identifying, avoiding, 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 are also included to improve the environmental document. CDFW recommends the measures or

revisions below be included in a science-based monitoring program that contains adaptive management strategies as part of the Project's CEQA mitigation, monitoring and reporting program (Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15097).

ASSESSMENT OF IMPACTS TO BIOLOGICAL RESOURCES

The MND identifies that general biological assessment of the Project was completed in 2022 and references the "*Valley Boulevard Widening Project Biological Resources Technical Report*". In addition, small mammal surveys have been completed and targeted protocol-level bird surveys for species that may occur (such as coastal California gnatcatcher) have also been conducted. However, no additional details (the methods, times, results, etc.) were provided regarding the focused surveys mentioned within the MND. The CDFW is concerned that, for the purposes of CEQA, the surveys may be inadequate to form a complete inventory of the species present in the Project area.

CDFW recommends that the "*Valley Boulevard Widening Project Biological Resources Technical Report*" and any additional reports be included as Appendices to the revised MND to provide a current and defensible assessment of Project impacts to biological resources.

Western Riverside County Multiple Species Habitat Conservation Plan

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

To be considered a covered activity, Permittees need to demonstrate that proposed actions are consistent with the MSHCP, the Permits, and the Implementing Agreement. The City is the Lead Agency and is signatory to the Implementing Agreement of the MSHCP. To demonstrate consistency with the MSHCP, as part of the CEQA review, the City shall ensure the Project pays Local Development Mitigation Fees and other relevant fees as set forth in Section 8.5 of the MSHCP; and demonstrates compliance with: 1) the Protection of Species Associated with Riparian/Riverine Areas and Vernal Pools (Section 6.1.2 of the MSHCP); 2) the Urban/Wildlands Interface Guidelines (Section 6.1.4 of the MSHCP); 3) the policies set forth in Section 6.3.2; and 5) the Best Management Practices and the siting, construction, design, operation and maintenance guidelines as set forth in Section 7.0 and Appendix C of the MSHCP.

Specific Comments

Comment #1: Protection of Riparian/Riverine and Vernal Pool Resources (MSHCP Section 6.1.2)

The procedures described in the Protection of Species Associated with Riparian/Riverine Areas and Vernal Pools section of the MSHCP (MSHCP Section 6.1.2) are to ensure that the biological functions and values of these areas are maintained throughout the MSHCP Area (including all areas of the Plan located outside the Criteria Area). Additionally, this process helps identify areas to consider for priority acquisition, as well as those functions that may affect downstream values related to Conservation of Covered Species within the MSHCP Conservation Area. The assessment of riparian/riverine and vernal pool resources may be completed as part of the CEQA review process as set forth in Article V of the State CEQA Guidelines. However, the MSHCP identifies that the U.S. Fish and Wildlife Service and CDFW shall be notified in advance of approval of public or private projects of draft determinations for the biologically equivalent or superior determination findings associated within Section 6.1.2 of the MSHCP (MSHCP Section 6.11). Completion of the DBESP process prior to adoption of the environmental document helps to ensure that the Project will be consistent with the MSHCP, and provides public disclosure and transparency during the CEQA process by identifying the Project impacts and mitigation for wetland habitats and species, a requirement of CEQA Guidelines, §§ 15071, subs.(a)-(e).

The MSHCP identifies that assessment of these areas include identification and mapping of riparian/riverine areas and vernal pools. The assessment shall consider species composition, topography/ hydrology, and soil analysis, where appropriate. The documentation for the assessment shall include mapping and a description of the functions and values of the mapped areas with respect to the species identified in Section 6.1.2 of the MSHCP. Factors to be considered include hydrologic regime, flood storage and flood-flow modification, nutrient retention and transformation, sediment trapping and transport, toxicant trapping, public use, wildlife Habitat, and aquatic Habitat.

The MSHCP identifies that for mapped riparian/riverine and vernal pool resources that are not included in the MSHCP conservation area, applicable mitigation under CEQA, shall be imposed by the Permittee (in this case the Lead Agency). Further, the MSHCP identifies that to ensure the standards in Section 6.1.2 are met, the Permittee shall ensure that, through the CEQA process, project applicants develop project alternatives demonstrating efforts that first avoid, and then minimize direct and indirect effects to the wetlands mapped pursuant to Section 6.1.2. If an avoidance alternative is not feasible, a practicable alternative that minimizes direct and indirect effects to riparian/riverine areas and vernal pools and associated functions and values to the greatest extent possible shall be selected. Those impacts that are unavoidable shall be mitigated such that the lost functions and values as they relate to Covered Species are replaced as through the Determination of Biologically Equivalent or Superior Preservation (DBESP).

The City is required to ensure the Applicant completes the DBESP process prior to completion of the MND to demonstrate implementation of MSHCP requirements in the CEQA documentation.

CDFW appreciate the analysis of impacts provided within the MND and General Biological Resource Assessment. However, the MSHCP implementation process is not complete because a DBESP has not been prepared and has not been submitted to CDFW for review and response, to determine if the mitigation proposed for the impacts to riparian/riverine resources is biologically equivalent or superior preservation to avoidance. It is not appropriate for the City to adopt the MND until the DBESP is complete because the City is required to notify CDFW in advance of approval of public and private projects for identified MSHCP activities, such as completion of the DBESP for the riparian/riverine policy. CDFW request that to demonstrate implementation of the MSHCP, the City of Menifee complete the DBESP process by submitting the DBESP to both CDFW and the U.S. Fish and Wildlife Service for review and comment prior to adoption of the MND.

Comment #2: Coastal California Gnatcatcher

Issue: The Project may have a significant impact on coastal California gnatcatcher (*Polioptila californica californica*), a Species of Special Concern (SSC) and ESA-listed species.

Specific impact: Project construction and activities may result in injury or mortality of coastal California gnatcatcher, disrupt natural coastal California gnatcatcher breeding behavior, and reduce reproductive capacity. Also, the Project may impact breeding, wintering, and foraging habitat for the species. Populations of coastal California gnatcatcher have been found to be genetically isolated from other populations within their range. Lack of genetic mixing between other geographical populations is likely due to heightened fragmentation and loss of suitable habitat across their range in southern California (Vandergast 2019).

Why impacts would occur: There is approximately 31.48 acres of potential habitat (coastal sage scrub) for coastal California gnatcatcher within the Project site and surrounding 500-foot buffer. The proposed Project activities would temporarily impact 1.06 acres and permanently impact 1.00 acres of coastal California gnatcatcher habitat. The MND states that California gnatcatcher was determined to present onsite during the 2022 protocol surveys; however, no other information was provided regarding gnatcatcher occupancy of the Project site.

Since the MSHCP implementation process has not yet been completed take of habitat is not covered. Thus, surveys for coastal California gnatcatcher are necessary to understand the impacts the Project may have on gnatcatcher nesting habitat and to identify occupied gnatcatcher habitat to meet MSHCP requirements. Coastal California gnatcatcher is an ESA-listed species as Threatened, and the USFWS permit for the

MSHCP restricts clearing of coastal California gnatcatcher-occupied habitat during the nesting season: “clearing of occupied habitat within [Public/Quasi-Public (PQP)] lands and the Criteria Area between March 1 and August 15 is prohibited.” (per Condition 5b of the USFWS MSHCP permit). This condition protects gnatcatchers during the nesting season and prevents take of active nests.

Gnatcatchers are territorial, year-round residents with high-site fidelity, and can be extremely quiet during brooding and therefore difficult to detect when nesting. There must be a clear understanding of habitat use by coastal California gnatcatcher before any vegetation removal or ground disturbance occurs. The Project Applicant cannot rely on nesting bird surveys just prior to grading to determine gnatcatcher use of coastal sage scrub and chapparal on the Project site. CDFW recommend protocol surveys to determine coastal California gnatcatcher use of the site within one year of start of project activities or adherence to the vegetation removal restriction periods in the permits.

Evidence impacts would be significant: Coastal California gnatcatcher is an ESA-listed species and a California SSC. ESA-listed species are considered endangered, rare, or threatened species under CEQA (CEQA Guidelines, § 15380). Take under the ESA is more broadly defined than CESA. Take under ESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. CEQA provides protection not only for State and federally listed species, but for any species including, but not limited to SSC, which can be shown to meet the criteria for State listing. SSC’s meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15065). Take of SSC’s could require a mandatory finding of significance (CEQA Guidelines, § 15065).

Coastal California gnatcatchers are non-migratory, territorial, and have been found not to disperse far from their natal nests (Bailey 1998; Vandergast 2019). Thus, the preservation of sensitive natural communities which they have been documented to utilize is paramount.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: To address the above issues and help the Project applicant avoid unlawfully taking of nesting birds, CDFW requests the City include the following mitigation measures in the MND per below (edits are in ~~strikethrough~~ and **bold**), and also included in Attachment 1 “Mitigation Monitoring and Reporting Program.

MM BIO-8: Prior to grading or other ground-disturbing activities, a qualified biologist shall survey all potential nesting vegetation within and adjacent to the site for nesting coastal California gnatcatcher according to United States Fish and Wildlife Service (USFWS) 2019 survey protocol guidelines. The City of Menifee (City) shall impose conditions of approval on future

grading permits requiring focused surveys to be conducted prior to ground disturbance or discing activities. A minimum of three (3) surveys shall be conducted at least one week apart to determine presence/absence of coastal California gnatcatcher. Surveys shall be conducted by the Designated Biologist at the appropriate time of day/night, during appropriate weather conditions, no more than 3 days prior to the initiation of project activities. Survey duration shall take into consideration the size of the project site; density, and complexity of the habitat; number of survey participants; survey techniques employed; and shall be sufficient to ensure the data collected is complete and accurate. Written and mapped qualitative descriptions of plant communities (including dominant species and habitat quality) on and adjacent to the area surveyed will also be provided with survey results to USFWS and California Department of Fish and Wildlife (CDFW), within 45 days following the field surveys, prior to ground disturbing activities. The results of the focused surveys shall be provided to the City, CDFW, and USFWS for review and approval prior to commencement of ground disturbing or discing activities.

If feasible, clearing and grubbing within coastal sage scrub habitat will occur outside of coastal California gnatcatcher (*Polioptila californica californica*) breeding season (March 1 to August 15). **In the event that the focused surveys do not identify the presence of California gnatcatcher, habitat has been confirmed to be unoccupied by California gnatcatcher, and MM BIO-9 has been completed, then ground disturbance or discing may occur during the nesting season (i.e., between March 1 and August 15).** ~~If clearing and grubbing must occur within the breeding season, the Project biologist will first inspect the vegetation immediately prior to removal and monitor during initial vegetation clearing as appropriate.~~ **In the event that the focused surveys identify the presence of California gnatcatchers, then ground disturbance or discing of the occupied areas shall be prohibited between March 1 and August 15.** If an active coastal California gnatcatcher nest is discovered, ~~the Project biologist will take reasonable steps to avoid direct mortality of the species, such as relocating the nest or taking the nest to a local wildlife rehabilitation center to increase the chance of survival of the offspring.~~ **the nest site shall be fenced with a buffer of a minimum of 500 feet in all directions, and this area shall not be disturbed until after the nest becomes inactive, the young have fledged, the young are no longer being fed by the parents, the young have left the area, as confirmed by a qualified biologist. If a nest is suspected, but not confirmed, the Designated Biologist shall establish a disturbance-free buffer until additional surveys can be completed, or until the location can be inferred based on observations. If a nest is observed, but thought to be inactive, the Designated Biologist shall monitor the nest for one hour (four hours for raptors during the non-breeding season) prior to approaching the nest to determine status. The Designated Biologist shall use their best**

professional judgement regarding the monitoring period and whether approaching the nest is appropriate. Project contractors shall be required to ensure compliance with these requirements and permit periodic inspection of the construction site by City of Menifee staff or its designee to confirm compliance.

Comment #3: Burrowing Owl

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

Specific impacts: Project construction and activities may result in injury or mortality of burrowing owl, disrupt natural burrowing owl breeding behavior, and reduce reproductive capacity. Also, the Project may impact breeding, wintering, and foraging habitat for the species. Habitat loss could result in local extirpation of the species and contribute to local, regional, and State-wide declines of burrowing owl.

Why impacts would occur: The MND identifies that burrowing owl have a high potential to occur within the Project site; however, it's unclear if focused surveys of the Project site were completed, as described in the *2006 Burrowing Owl Survey Instructions for the Western Riverside Multiple Species Habitat Conservation Plan Area*. No additional details (the survey dates, times, etc.) were provided regarding the burrowing owl surveys mentioned within the MND if they were conducted. The "Burrowing Owl Survey Instructions for the Western Riverside Multiple Species Habitat Conservation Plan Area" specify a written report must be provided detailing results of the habitat assessment with photographs and indicating whether the project site contains suitable burrowing owl habitat and burrow locations.

There is insufficient information provided to determine if the proposed avoidance and minimization measures will mitigate Project impacts below a level of significance. BIO-9 would require a no-work buffer around nesting birds, which would apply to occupied burrowing owl burrows, both during the nesting season and outside breeding season to be determined by the biologist. However, no-work buffer could be an insufficient buffer from occupied burrows and adjacent foraging grounds given the types of disturbance associated with the Project. Burrowing owls could react to low level disturbances such as surveys, drive by, or minimal ground disturbance/excavation (Environment Canada 2009). The Project is proposing a buffer that may be more suitable for low level disturbances; however, the Project could generate noise and ground vibrations more consistent with medium to high level disturbance. Project construction would generate noise and ground vibrations during daytime and nighttime earthmoving activities, demolition, tunneling, spoils hauling, and operation of large machinery. A buffer from occupied burrows during these types of disturbances could result in burrowing owls abandoning active nests, potentially causing loss of eggs or developing young, and noise could cause birds to avoid suitable nesting habitat. Finally, a buffer would not protect important foraging habitat during burrowing owl nesting season.

Implementation of “50-foot no-disturbance buffer” is not sufficient to avoid take of burrowing owl nests, which means that the mitigation proposed is not an enforceable requirement. Finally, CDFW does not issue permits for the take of nesting birds, nests, or eggs. BIO-9 does not provide any performance standards suitable for successfully mitigating impacts on burrowing owl habitat. The mitigation measure proposed in the MND may not satisfy the CEQA standards for mitigation that formulation of mitigation measures shall not be deferred until some future date (CEQA Guidelines, § 15126.4).

Evidence impact would be significant: Burrowing owl is a SSC, an SSC is a species, subspecies, or distinct population of an animal native to California that currently satisfies one or more of the following (not necessarily mutually exclusive) criteria:

- is extirpated from the State or, in the case of birds, is extirpated in its primary season or breeding role;
- is listed as ESA-, but not CESA-, threatened, or endangered; meets the State definition of threatened or endangered but has not formally been listed;
- is experiencing, or formerly experienced, serious (noncyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status; and/or,
- has naturally small populations exhibiting high susceptibility to risk from any factor(s), that if realized, could lead to declines that would qualify it for CESA threatened or endangered status (CDFW 2022b). CEQA provides protection not only for ESA and CESA-listed species, but for any species including but not limited to SSC which can be shown to meet the criteria for State listing. These SSC meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380). In addition, migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (Code of Federal Regulations, Title 50, § 10.13). Sections 3503, 3503.5, and 3513 of the California Fish and Game Code prohibit take of all birds and their active nests including raptors and other migratory nongame birds (as listed under the Federal MBTA). It is unlawful to take, possess, or needlessly destroy the nest or eggs of any raptor.

In California, burrowing owls are in decline primarily because of habitat loss, as well as disease, predation, and drought. Burrowing owls require specific soil and microhabitat conditions, occur in few locations within a broad habitat category of grassland and some forms of agricultural land, require a relatively large home range to support their life history requirements, occur in relatively low numbers, and are semi-colonial.

The Project’s impact on burrowing owl has yet to be mitigated below a significant level. Accordingly, the Project continues to have a substantial adverse effect, either directly or

through habitat modifications, on a species identified as a candidate, sensitive, or special-status species by CDFW.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: To avoid take of active burrowing owl burrows (nests), CDFW requests the City include the following mitigation measures in the MND per below (edits are in ~~strike through~~ and **bold**), and also included in Attachment 1 “Mitigation Monitoring and Reporting Program.

MM-Bio XX: To avoid project-related impacts to burrowing owls potentially occurring on or in the vicinity of the project site, a project-specific habitat assessments and pre-construction survey for burrowing owl in accordance with the March 2006 Burrowing Owl Survey Instructions for the Western Riverside County Multiple Species Habitat Conservation Plan Area will be conducted by a qualified biologist within 30 days prior to the commencement of ground disturbing activities including vegetation clearing, grubbing, tree removal, or site watering. In addition, a preconstruction survey for burrowing owl shall be conducted within 3 days prior to initiation of Project activities and reported to CDFW. Additionally, if ground-disturbing activities occur, but the site is left undisturbed for more than 30 days, a pre-construction survey shall again be necessary to minimize the possibility burrowing owl have not colonized the site since it was last disturbed. If burrowing owls are found, the same coordination described above shall be necessary.

If no burrowing owls are observed during the survey, site preparation and construction activities may begin. If burrowing owl are present within the survey area, then avoidance or minimization measures shall be undertaken in consultation with the City of Menifee, California Department of Fish and Wildlife (CDFW) and US Fish and Wildlife Service (USFWS). CDFW shall be sent written notification within 48 hours of detection of burrowing owls. If active nests are identified on an implementing project site during the pre-construction survey, the Project applicant shall not commence activities until no sign is present that the burrows are being used by adult or juvenile owls or following CDFW approval of a Burrowing Owl Plan as described below. If owl presence is difficult to determine, a qualified biologist shall monitor the burrows with motion-activated trail cameras for at least 24 hours to evaluate burrow occupancy. The onsite qualified biologist will verify the nesting effort has finished according to methods identified in the Burrowing Owl Plan.

The qualified biologist and Project Applicant shall coordinate with the City, CDFW, and USFWS to develop a Burrowing Owl Plan to be approved by the City, CDFW, and USFWS prior to commencing Project activities. The Burrowing Owl Plan shall describe proposed avoidance, relocation, monitoring, minimization, and/or mitigation actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites and details on proposed buffers if avoiding the burrowing owls or information on the adjacent or nearby suitable habitat available to owls for relocation. If no suitable habitat is available nearby for relocation, details regarding the creation and funding of artificial burrows (numbers, location, and type of burrows) and management activities for relocated owls shall also be included in the Burrowing Owl Plan. The City will implement the Burrowing Owl Plan following CDFW and USFWS review and approval.

If burrowing owls are observed within Project Site(s) during Project implementation and construction, the Project applicant shall notify CDFW immediately in writing within 48 hours of detection. A Burrowing Owl Plan will be submitted to CDFW for review and approval within two weeks of detection and no Project activity will continue within 1000 feet of the burrowing owls until CDFW approves the Burrowing Owl Plan. The City shall be responsible for implementing appropriate avoidance and mitigation measures, including burrow avoidance, passive or active relocation, or other appropriate mitigation measures as identified in the Burrowing Owl Plan.

A final report shall be prepared by a qualified biologist documenting the results of the burrowing owl surveys and detailing avoidance, minimization, and mitigation measures. The final report will be submitted to the City and CDFW within 30 days of completion of the survey and burrowing monitoring for mitigation monitoring compliance record keeping.

Comment #4: Nesting Bird

Issue: The Project may have a significant impact on nesting birds, including Species of Special Concern and fully protected species, that are subject to Fish and Game Code section 3513 and the Migratory Bird Treaty Act of 1918.

Specific impact: Project implementation could result in the loss of nesting and/or foraging habitat for passerine and raptor species from the removal of vegetation onsite.

Why impacts would occur: Project activities could result in temporary or long-term loss of suitable nesting and foraging habitats. Construction during the breeding season of nesting birds could potentially result in the incidental loss of breeding success or otherwise lead to nest abandonment. Noise from road use, generators, and heavy

equipment may disrupt nesting bird mating calls or songs, which could impact reproductive success (Patricelli and Blickley 2006, Halfwerk et al. 2011). Noise has also been shown to reduce the density of nesting birds (Francis et al. 2009), and songbird abundance and density was significantly reduced in areas with high levels of noise (Bayne et al. 2008). Additionally, noise exceeding 70 dB(A) may affect feathers and body growth of young birds (Kleist et al. 2018). In addition to construction activities, residential development and increased human presence in the Project site could contribute to nesting bird impacts.

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

The duration of a pair to build a nest and incubate eggs varies considerably, therefore, CDFW recommends surveying for nesting behavior and/or nests and construction within three days prior to start of Project construction to ensure all nests on site are identified and to avoid take of nests. Without appropriate species-specific avoidance measures, biological construction monitoring may be ineffective for detecting nesting birds. This may result in Take of nesting birds. Project ground-disturbing activities such as grading and grubbing may result in habitat destruction, causing the death or injury of adults, juveniles, eggs, or hatchlings. In addition, the Project may remove habitat by eliminating native vegetation that may support essential foraging and breeding habitat.

Evidence impacts would be significant: It is the Project proponent's responsibility to avoid Take of all nesting birds. Fish and Game Code section 3503 makes it unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by the rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.). Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto. These regulations apply anytime nests or eggs exist on the Project site.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: To address the above issues and help the Project applicant avoid unlawfully taking of nesting birds, CDFW requests the City include the following

mitigation measures in the MND per below (edits are in ~~striketrough~~ and **bold**), and also included in Attachment 1 “Mitigation Monitoring and Reporting Program.

Mitigation Measure Bio-9: To maintain compliance with the Migratory Bird Treaty Act and California Fish and Game Code Sections 3503, 3503.5, and 3513, site preparation activities (such as ground disturbance, construction activities, and/or removal of trees and vegetation) for all implementing development and infrastructure projects shall be avoided, to the greatest extent possible, during the nesting season. Prior to vegetation removal or initial ground disturbance during the nesting bird season (~~February 1 to September 30~~), a pre-construction nesting bird survey of the Project area will be conducted by a ~~Project~~-**Qualified** biologist ~~prior to the start of work~~ **within 3 days prior to initiation of activity**. ~~Survey methods will include inspecting trees, shrubs, and the ground with binoculars for signs of active nests or nesting behavior.~~ The survey area will include the area of direct impact plus a 50-foot buffer **project impact footprint and a 500-foot buffer where legal access is granted around the disturbance footprint within 3 days prior to initiation of activity**. Within 72 hours of the nesting bird survey, all areas surveyed by the biologist will be cleared by the Contractor or a supplemental nesting bird survey is required. **The survey results shall be provided to the City’s Planning Department. The Project Applicant shall adhere to the following:**

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

If no nesting birds are observed during the survey, site preparation and construction activities may begin. A 50-foot no-disturbance buffer will be established around any active nest of migratory birds or raptors, unless applicable “take” coverage of the species has been acquired for the Project or the species is covered under the MSHCP (e.g., Coastal California gnatcatcher, burrowing owl). If an active nest or nesting birds (including nesting raptors) are detected during the nesting bird survey, avoidance buffers shall be implemented as determined by a qualified biologist and approved by the City of Menifee, based on their best professional judgement and experience. The Contractor will immediately stop work in the buffer area and is prohibited from conducting work that could disturb the birds (as determined by the **Project Qualified** biologist and in coordination with Wildlife Agencies) in the buffer area until the Project biologist determines the young have fledged **and dispersed or it is confirmed that the nest has been unsuccessful or abandoned. The buffer shall be of a distance to ensure avoidance of adverse effects to the nesting bird by accounting for topography, ambient conditions, species, nest location, and activity type. All nests shall be monitored as determined by the qualified biologist until nestlings have fledged and dispersed or it is confirmed that the nest has been unsuccessful or abandoned. A reduced buffer can be established if determined appropriate by the Project biologist, in coordination with CDFW. The Designated Biologist shall monitor the nest at the onset of project activities, and at the onset of any changes in such project activities (e.g., increase in number or type of equipment, change in equipment usage, etc.) to determine the efficacy of the buffer. The qualified biologist shall halt all construction activities within proximity to an active nest if it is determined that the activities are harassing the nest and may result in nest abandonment or take. The qualified biologist shall also have the authority to require implementation of avoidance measures related to noise, vibration, or light pollution if indirect impacts are resulting in harassment of the nest. Work can resume within these avoidance areas when no other active nests are found. Upon completion of the survey and nesting bird monitoring, a report shall be prepared and submitted to the City for mitigation monitoring compliance record keeping.**

Comment #5: Impacts to Aquatic and Riparian Resources; Lake and Streambed Alteration Agreement (LSAA)

Issue: Based on review of material submitted with the MND and review of aerial photography, the Project has the potential to impact fish and wildlife resources subject to Fish and Game Code section 1600 et seq.

Specific Impact: Based on review of material submitted with the MND and review of aerial photography, the Project has the potential to impact fish and wildlife resources

subject to Fish and Game Code section 1600 et seq. The MND identified a “a runoff conveyance channel owned and operated by Riverside County Flood Control” and at least one additional drainage appears to flow through the Project area near the current terminus of Valley Boulevard, near the intersection with McCall Boulevard. The Project activities have the potential to impact fish and wildlife resources through the deposition of debris, waste or other materials that could pass into any river, stream, or lake.

Why Impact Would Occur: Project-related activities could potentially alter drainage patterns and water quality within, upstream, and downstream of the Project site, including: volume, velocity, and frequency of existing and post-Project surface flows; polluted runoff; soil erosion and/or sedimentation in streams and water bodies; and post-Project fate of runoff from the Project site.

Evidence Impact Would Be Significant: The Project may substantially adversely affect the existing stream pattern and geomorphologic processes of the Project site through the deposition of debris, waste or other materials that could pass into any river, stream or lake. Depending on how the Project is designed and constructed, it is likely that the Project applicant will need to notify CDFW per Fish and Game Code section 1602. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following: substantially divert or obstruct the natural flow of any river, stream or lake; substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or deposit debris, waste or other materials that could pass into any river, stream or lake. Please note that “any river, stream or lake” includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow.

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

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

Recommended potentially feasible mitigation measure(s):

Mitigation Measure #1: To ensure compliance with Fish and Game Code section 1602 CDFW recommends that the City condition the MND to include a mitigation measure for consultation with CDFW to determine if Fish and Game Code section 1600 et seq. resources may occur within the proposed Project alignment.

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

Mitigation Measure XX: If jurisdictional waters are impacted as a result of project implementation, the City of Menifee shall obtain all appropriate permits pursuant to Section 404 of the Clean Water Act from the U.S. Army Corps of Engineers, a Water Quality Certification pursuant to Section 401 of the Clean Water Act from the Regional Water Quality Control Board, and a Streambed Alteration Agreement from CDFW pursuant to Sections 1600–1616 of the California Fish and Game Code. Prior to the grading the Project site and prior to the start of Project activities, the Applicant shall notify the California Department of Fish and Wildlife (CDFW) for impacts to Fish and Game Code section 1602 resources. The applicant shall either receive a Streambed Alteration Agreement (SAA) or written documentation from CDFW that a Streambed Alteration Agreement is not needed.

The notification to CDFW should provide the following information:

1. A stream delineation including the bed, bank and channel;
2. Linear feet and/or acreage of streams and associated natural communities that would be permanently and/or temporarily impacted by the Project. This includes impacts as a result of routine maintenance and fuel modification. Plant community names should be provided based on vegetation association and/or alliance per the Manual of California Vegetation (Sawyer et al 2009);
3. A discussion as to whether impacts on streams within the Project site would impact those streams immediately outside of the Project site where there is hydrologic connectivity. Potential impacts such as changes to drainage pattern, runoff, and sedimentation should be discussed; and
4. A hydrological evaluation of the 100-year storm event to provide information on how water and sediment is conveyed through the Project site.

Additional Recommendations

Weed Management Plan. A weed management plan should be developed for the Project site and implemented during the duration of this long-term Project. On-going soil disturbance promotes establishment and growth of non-native weeds. As part of the Project, non-native weeds should be prevented from becoming established. The Projects site should be monitored via mapping for new introductions and expansions of non-native weeds.

Mitigation and Monitoring Reporting Plan

CDFW recommends updating the MND's proposed Biological Resources Mitigation Measures to include mitigation measures recommended in this letter. Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments [(Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15126.4(a)(2)]. As such, CDFW has provided comments and recommendations to assist the City in developing mitigation measures that are (1) consistent with CEQA Guidelines section 15126.4; (2) specific; (3) detailed (i.e., responsible party, timing, specific actions, location), and (4) clear for a measure to be fully enforceable and implemented successfully via mitigation, monitoring, and/or reporting program (Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15097). The City is welcome to coordinate with CDFW to further review and refine the Project's mitigation measures. Per Public Resources Code section 21081.6(a)(1), CDFW has provided the City with a summary of our suggested mitigation measures and recommendations in the form of an attached Draft Mitigation and Monitoring Reporting Plan (MMRP; Attachment 1).

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

ENVIRONMENTAL DOCUMENT FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental document filing fee is required in order for the underlying project approval to be operative, vested, and final.

Mr. Diego Guillen
City of Menifee
June 12, 2023
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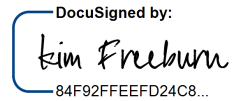
(Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

CDFW appreciates the opportunity to comment on the MND for the Valley Boulevard Widening Project, State Clearinghouse No. 2023050208 to assist in identifying and mitigating Project impacts on biological resources. CDFW personnel are available for consultation regarding biological resources and strategies to minimize impacts. CDFW requests that the City of Menifee addresses CDFW's comments and concerns prior to adoption of the MND for the Project.

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

Sincerely,

DocuSigned by:

84F92FFEEFD24C8...

Kim Freeburn
Environmental Program Manager

ec: **California Department of Fish and Wildlife**
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state.clearinghouse@opr.ca.gov.

REFERENCES

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



State of California – Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
 Inland Deserts Region
 3602 Inland Empire Boulevard, Suite C-220
 Ontario, CA 91764
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Attachment A: Draft Mitigation and Monitoring Reporting Plan

CDFW recommends the following language to be incorporated into a future environmental document for the Project. A final MMRP shall reflect results following additional plant and wildlife surveys and the Project’s final on and/or off-site mitigation plans.

Biological Resources (BIO)			
Mitigation Measure (MM)		Timing	Responsible Party
California Gnatcatcher	<p>MM BIO-8: Prior to grading or other ground-disturbing activities, a qualified biologist shall survey all potential nesting vegetation within and adjacent to the site for nesting coastal California gnatcatcher according to United States Fish and Wildlife Service (USFWS) 2019 survey protocol guidelines. The City of Menifee (City) shall impose conditions of approval on future grading permits requiring focused surveys to be conducted prior to ground disturbance or discing activities. A minimum of three (3) surveys shall be conducted at least one week apart to determine presence/absence of coastal California gnatcatcher. Surveys shall be conducted by the Designated Biologist at the appropriate time of day/night, during appropriate weather conditions, no more than 3 days prior to the initiation of project activities. Survey duration shall take into consideration the size of the project site; density, and complexity of the habitat; number of survey participants; survey techniques employed; and shall be sufficient to ensure the data collected is complete and accurate. Written and mapped qualitative descriptions of plant communities (including dominant species and habitat quality) on and adjacent to the area surveyed will also be provided with survey results to USFWS and California Department of Fish and Wildlife (CDFW), within 45 days following the field surveys, prior to ground disturbing activities. The results of the focused surveys shall be provided to the City, CDFW, and</p>		

	<p>USFWS for review and approval prior to commencement of ground disturbing or discing activities.</p> <p>If feasible, clearing and grubbing within coastal sage scrub habitat will occur outside of coastal California gnatcatcher (<i>Poliioptila californica californica</i>) breeding season (March 1 to August 15). In the event that the focused surveys do not identify the presence of California gnatcatcher, habitat has been confirmed to be unoccupied by California gnatcatcher, and MM BIO-9 has been completed, then ground disturbance or discing may occur during the nesting season (i.e., between March 1 and August 15). In the event that the focused surveys identify the presence of California gnatcatchers, then ground disturbance or discing of the occupied areas shall be prohibited between March 1 and August 15. If an active coastal California gnatcatcher nest is discovered, the nest site shall be fenced with a buffer of a minimum of 500 feet in all directions, and this area shall not be disturbed until after the nest becomes inactive, the young have fledged, the young are no longer being fed by the parents, the young have left the area, as confirmed by a qualified biologist. If a nest is suspected, but not confirmed, the Designated Biologist shall establish a disturbance-free buffer until additional surveys can be completed, or until the location can be inferred based on observations. If a nest is observed, but thought to be inactive, the Designated Biologist shall monitor the nest for one hour (four hours for raptors during the non-breeding season) prior to approaching the nest to determine status. The Designated Biologist shall use their best professional judgement regarding the monitoring period and whether approaching the nest is appropriate. Project contractors shall be required to ensure compliance with these requirements and permit periodic inspection of the construction site by City of Menifee staff or its designee to confirm compliance.</p>		
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<p>Burrowing Owl</p>	<p>MM BIO-XX: To avoid project-related impacts to burrowing owls potentially occurring on or in the vicinity of the project site, a project-specific habitat assessments and pre-construction survey for burrowing owl in accordance with the March 2006 Burrowing Owl Survey Instructions for the Western Riverside County Multiple Species Habitat Conservation Plan Area shall be conducted by a qualified biologist within 30 days prior to the commencement of ground disturbing activities including vegetation clearing, grubbing, tree removal, or site watering. In addition, a preconstruction survey for burrowing owl shall be conducted within 3 days prior to initiation of Project activities and reported to CDFW. Additionally, if ground-disturbing activities occur, but the site is left undisturbed for more than 30 days, a pre-construction survey shall again be necessary to minimize the possibility burrowing owl have not colonized the site since it was last disturbed. If burrowing owls are found, the same coordination described above shall be necessary.</p> <p>If no burrowing owls are observed during the survey, site preparation and construction activities may begin. If burrowing owl are present within the survey area, then avoidance or minimization measures will be undertaken in consultation with the City of Menifee, California Department of Fish and Wildlife (CDFW) and US Fish and Wildlife Service (USFWS). CDFW shall be sent written notification within 48 hours of detection of burrowing owls. If active nests are identified on an implementing project site during the pre-construction survey, the Project applicant shall not commence activities until no sign is present that the burrows are being used by adult or juvenile owls or following CDFW approval of a Burrowing Owl Plan as described below. If owl presence is difficult to determine, a qualified biologist shall monitor the burrows with motion-activated trail cameras for at least 24 hours to evaluate burrow occupancy. The onsite qualified biologist will verify the nesting effort has finished according to methods identified in the Burrowing Owl Plan.</p>	<p>Prior to commencing ground- or vegetation disturbing activities</p>	<p>Project Proponent</p>
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	<p>The qualified biologist and Project Applicant shall coordinate with the City, CDFW, and USFWS to develop a Burrowing Owl Plan to be approved by the City, CDFW, and USFWS prior to commencing Project activities. The Burrowing Owl Plan shall describe proposed avoidance, relocation, monitoring, minimization, and/or mitigation actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites and details on proposed buffers if avoiding the burrowing owls or information on the adjacent or nearby suitable habitat available to owls for relocation. If no suitable habitat is available nearby for relocation, details regarding the creation and funding of artificial burrows (numbers, location, and type of burrows) and management activities for relocated owls shall also be included in the Burrowing Owl Plan. The City shall implement the Burrowing Owl Plan following CDFW and USFWS review and approval.</p> <p>If burrowing owls are observed within Project Site(s) during Project implementation and construction, the Project applicant shall notify CDFW immediately in writing within 48 hours of detection. A Burrowing Owl Plan shall be submitted to CDFW for review and approval within two weeks of detection and no Project activity shall continue within 1000 feet of the burrowing owls until CDFW approves the Burrowing Owl Plan. The City shall be responsible for implementing appropriate avoidance and mitigation measures, including burrow avoidance, passive or active relocation, or other appropriate mitigation measures as identified in the Burrowing Owl Plan.</p> <p>A final report shall be prepared by the qualified biologist documenting the results of the burrowing owl surveys and detailing avoidance, minimization, and mitigation measures. The final report will be submitted to the City and CDFW within 30 days of completion of the survey and burrowing monitoring for mitigation monitoring compliance record keeping.</p>		
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<p>Nesting Birds</p>	<p>MM BIO-9: To maintain compliance with the Migratory Bird Treaty Act and California Fish and Game Code Sections 3503, 3503.5, and 3513, site preparation activities (such as ground disturbance, construction activities, and/or removal of trees and vegetation) for all implementing development and infrastructure projects shall be avoided, to the greatest extent possible, during the nesting season. Prior to vegetation removal or initial ground disturbance during the nesting bird season, a pre-construction nesting bird survey of the Project area will be conducted by a Qualified biologist within 3 days prior to initiation of activity. The survey area will include the project impact footprint and a 500-foot buffer where legal access is granted around the disturbance footprint within 3 days prior to initiation of activity. Within 72 hours of the nesting bird survey, all areas surveyed by the biologist will be cleared by the Contractor or a supplemental nesting bird survey is required. The survey results shall be provided to the City's Planning Department. The Project Applicant shall adhere to the following:</p> <ol style="list-style-type: none"> 1. Applicant shall designate a biologist (Designated Biologist) experienced in: identifying local and migratory bird species of special concern; conducting bird surveys using appropriate survey methodology; nesting surveying techniques, recognizing breeding and nesting behaviors, locating nests and breeding territories, and identifying nesting stages and nest success; determining/establishing appropriate avoidance and minimization measures; and monitoring the efficacy of implemented avoidance and minimization measures. 2. Pre-activity field surveys shall be conducted at the appropriate time of day/night, during appropriate weather conditions, no more than 3 days prior to the initiation of Project activities. Surveys shall encompass all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures. Survey duration shall take into 	<p>Prior to commencing ground- or vegetation disturbing activities</p>	<p>Project Proponent</p>
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	<p>consideration the size of the Project site; density, and complexity of the habitat; number of survey participants; survey techniques employed; and shall be sufficient to ensure the data collected is complete and accurate.</p> <p>If no nesting birds are observed during the survey, -site preparation and construction activities may begin. If an active nest or nesting birds (including nesting raptors) are detected during the nesting bird survey, avoidance buffers shall be implemented as determined by a qualified biologist and approved by the City of Menifee, based on their best professional judgement and experience. The Contractor will immediately stop work in the buffer area and is prohibited from conducting work (as determined by the Qualified biologist and in coordination with Wildlife Agencies) in the buffer area until the Project biologist determines the young have fledged and dispersed or it is confirmed that the nest has been unsuccessful or abandoned. The buffer shall be of a distance to ensure avoidance of adverse effects to the nesting bird by accounting for topography, ambient conditions, species, nest location, and activity type. All nests shall be monitored as determined by the qualified biologist until nestlings have fledged and dispersed or it is confirmed that the nest has been unsuccessful or abandoned. The Designated Biologist shall monitor the nest at the onset of project activities, and at the onset of any changes in such project activities (e.g., increase in number or type of equipment, change in equipment usage, etc.) to determine the efficacy of the buffer. The qualified biologist shall halt all construction activities within proximity to an active nest if it is determined that the activities are harassing the nest and may result in nest abandonment or take. The qualified biologist shall also have the authority to require implementation of avoidance measures related to noise, vibration, or light pollution if indirect impacts are resulting in harassment of the nest. Work can resume within these avoidance areas when no other active nests are found. Upon completion of the survey and nesting bird monitoring,</p>		
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	<p>a report shall be prepared and submitted to the City for mitigation monitoring compliance record keeping.</p>		
<p>Impacts to Aquatic and Riparian Resources</p>	<p>Mitigation Measure XX: If jurisdictional waters are impacted as a result of project implementation, the City of Menifee shall obtain all appropriate permits pursuant to Section 404 of the Clean Water Act from the U.S. Army Corps of Engineers, a Water Quality Certification pursuant to Section 401 of the Clean Water Act from the Regional Water Quality Control Board, and a Streambed Alteration Agreement from CDFW pursuant to Sections 1600–1616 of the California Fish and Game Code. Prior to the grading the Project site and prior to the start of Project activities, the Applicant shall notify the California Department of Fish and Wildlife (CDFW) for impacts to Fish and Game Code section 1602 resources. The applicant shall either receive a Streambed Alteration Agreement (SAA) or written documentation from CDFW that a Streamed Alteration Agreement is not needed.</p> <p>The notification to CDFW should provide the following information:</p> <ol style="list-style-type: none"> 1. A stream delineation including the bed, bank and channel; 2. Linear feet and/or acreage of streams and associated natural communities that would be permanently and/or temporarily impacted by the Project. This includes impacts as a result of routine maintenance and fuel modification. Plant community names should be provided based on vegetation association and/or alliance per the Manual of California Vegetation (Sawyer et al 2009); 3. A discussion as to whether impacts on 	<p>Prior to commencing ground- or vegetation disturbing activities</p>	<p>Project Proponent</p>

	<p>streams within the Project site would impact those streams immediately outside of the Project site where there is hydrologic connectivity. Potential impacts such as changes to drainage pattern, runoff, and sedimentation should be discussed; and</p> <p>4. A hydrological evaluation of the 100-year storm event to provide information on how water and sediment is conveyed through the Project site.</p>		
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