



State of California – Natural Resources Agency  
 DEPARTMENT OF FISH AND WILDLIFE  
 Inland Deserts Region  
 3602 Inland Empire Blvd  
 Ontario, CA 91764  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

GAVIN NEWSOM, Governor  
 CHARLTON H. BONHAM, Director



Governor's Office of Planning & Research

JUNE 2 2023

June 2, 2023  
 Sent via email

## STATE CLEARINGHOUSE

Louis Morales, Planning Consultant  
 City of Adelanto  
 1600 Air Expressway  
 Adelanto, CA 932301  
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Subject: Initial Study and Mitigated Negative Declaration  
 Daisy Road and Holly Road Development CUP 22-14, LDP 22-11, TPM 20590  
 State Clearinghouse No. 2023050358

Dear Mr. Morales:

The California Department of Fish and Wildlife (CDFW) received an Initial Study/Mitigated Negative Declaration (IS/MND) from the City of Adelanto (City) for the Daisy Road and Holly Road Development, CUP 22-14, LDP 22-11, and TPM 20590 (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, 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. 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:** City of Adelanto

**Objective:** The Project will develop ten single-level buildings ranging from 8,000 square feet to 15,000 square feet for the cultivation, manufacturing, and distribution of adult and medicinal cannabis on approximately 7.31 acres on Assessor's Parcel Numbers 3128-121-006, 3128-121-008, and 3128-121-014. Buildings 1 through 7, 9 and 10 will include 10 standard parking spaces, 2 ADA parking spaces, and 2 truck loading spaces. Building 8 will include 14 standard parking spaces, 2 ADA parking spaces, and 2 truck loading

<sup>1</sup> CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

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spaces. The proposed Project will also include the construction of a retention basin for each building.

**Location:** The Project site is in the City of Adelanto, San Bernardino County, California; Latitude 34.544812 N and Longitude -117.428968 W. The Project site is composed of vacant, undeveloped land located south of Pansy Road and east of Daisy Road.. The Project site is bordered by vacant undeveloped land to the north, east, west, and south.

**Timeframe:** The Project is expected to begin in January 2024 and will take approximately twelve months to complete.

## **COMMENTS AND RECOMMENDATIONS**

CDFW appreciates that the City has adopted Biological resources (BIO) mitigation Measures (MM) previously recommended by CDFW for previous projects in the City of Adelanto. CDFW offers the comments and recommendations below to further assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts to biological resources onsite.

### **COMMENT #1: Nesting Birds**

#### **IS/MND, Section 3.4, MM BIO-1, page 44.**

**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:** Potential take of nesting birds and loss of bird nesting and/or foraging habitat.

**Why impact would occur:** Project implementation could result in the loss of nesting and/or foraging habitat for nesting birds onsite and in the vacant lots immediately adjacent to the Project site.

**Evidence impact would be significant:** The biggest threat to birds includes habitat loss and the conversion of natural vegetation into commercial, residential, and industrial land uses. 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 MBTA).

**Recommended potentially feasible mitigation measure(s) to reduce impacts to less than significant:** CDFW appreciates the inclusion of MM BIO-1 and offers minor revisions (edits are in ~~strikethrough~~ and **bold**) for inclusion in the final MND, as per below to avoid impacts to nesting birds:

#### *Biological Resources Mitigation Measure No. 1*

Regardless of the time of year, a pre-construction survey shall be performed to verify absence of nesting birds. A qualified biologist shall conduct the pre-activity survey within the Project areas (including access routes) and a 500-foot buffer surrounding the Project areas, no more than three (3) days prior to the initiation of project activities, including, but not limited to clearing, grubbing, and/or rough grading to prevent impacts to birds and their nests. Pre-construction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified biologist shall make every effort to avoid potential nest predation as a result of survey and monitoring efforts. 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 to be marked on the ground around each nest. 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. Active nest(s) and an established buffer distance(s) shall be monitored daily by the qualified biologist until the qualified

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biologist has determined the young have fledged or the Project has been completed. The qualified biologist has the authority to stop work if nesting pairs exhibit signs of disturbance. If there is no nesting activity, then no further action is needed for this measure. **If an active nest is encountered during the Project construction, construction shall stop immediately until a qualified biologist can determine the status of the nest and when work can proceed without risking violation to state or federal laws.**

**COMMENT #2: Burrowing Owl (*Athene cunicularia*)**

**IS/MND, Section 3.4, MM BIO-2 and MM BIO-3, pages 44-45.**

**Issue:** The Project may have a significant impact on borrowing owl, a 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 may result in the disruption of natural burrowing owl breeding behavior and reduce reproductive capacity. Grading, ground disturbance, and vegetation clearing may result in the permanent loss of up to 7.31 acres of burrowing owl habitat.

**Why impact would occur:** The IS/MND and Biological Resource Assessment state that a burrowing owl habitat survey was conducted on September 20, 2022, by RCA associates. RCA biologists indicated that no burrowing owls were seen, and minimal suitable habitat was observed on the Project site. It is worth noting that only one habitat assessment was conducted during the non-breeding season, with no indication that a recent species-specific survey was conducted. It is unclear if the adjacent areas within 150 meters of the Project site were surveyed as recommended in the [Staff Report on Burrowing Owl Mitigation](#). Burrowing owls have been known to use marginal habitat where existing burrows are available. Further, multiple occurrences of burrowing owl have been recorded within one mile of the Project site according to the California Natural Diversity Database (CNDDDB 2023) and Biological Assessment Reports for other Projects occurring in the City of Adelanto.

**Evidence impact would be significant:** Burrowing owl is a CDFW species of special concern (SSC). 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 an 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 to reduce impacts to less than significant:** Due to the potential for burrowing owl to occur on the Project site, CDFW appreciates the inclusion of MM BIO-2 and MM BIO-3 and offers minor revisions (edits are in ~~strike through~~ and **bold**) for inclusion in the final MND, as per below to avoid impacts to burrowing owl.

*Biological Resources Mitigation Measure BIO-2*

Prior to grading or any other ground-disturbing activity, a pre-construction burrowing owl clearance survey must be conducted in accordance with the Staff Report on Burrowing Owl Mitigation, State of California Natural Resource Agency, Department of Fish and Game, May 7, 2012, by a qualified biologist **no more than 14** ~~within 30~~ days prior to the beginning of project activities. **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).** A secondary survey must be conducted by a qualified biologist within 24 hours prior to the beginning of project construction to determine if the project site contains burrowing owl or sign thereof to avoid any potential impacts to the species. The surveys shall include 100 percent coverage of the project site. If both surveys reveal no burrowing owls are present or sign thereof, no additional actions related to this measure are required and a letter shall be prepared by the

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qualified biologist documenting the results of the survey. The letter shall be submitted to CDFW prior to construction. If occupied active burrows or sign thereof are found within the development footprint during the pre- construction clearance survey, **Project activities shall not commence, and** Biological Resources Mitigation Measure 3 shall also apply.

*Biological Resources Mitigation Measure BIO-3*

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

**COMMENT #3: Western Joshua Tree (*Yucca Brevifolia*)**

**IS/MND, Section 3.4, MM BIO-4, page 45.**

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

**Specific Impact:** Within the 7.31-acre site, Project activities are expected to result in the removal of approximately 20 WJT individuals.

**Why impact would occur:** Take of WJT is defined as any activity that results in the removal of WJT, any parts thereof or impacts to the seedbank surrounding one or more WJT (CDFW 2022a). Grading, ground disturbance, vegetation clearing, staging of construction equipment, vehicles, and foot traffic may result in the permanent loss of mature and juvenile WJT onsite and may result in the disruption to the WJT seedbank onsite.

The IS/MND recognizes the presence of WJT on the Project site. Although CDFW appreciates that the IS/MND considers a CESA Incidental Take Permit (ITP) for the removal of WJT, CDFW is concerned that no focused surveys were conducted to quantify WJT present on the Project site. Based on Aerial imagery, CDFW has determined that the Project has at least 20 WJT individuals on site. To properly calculate demographics and estimate the quality of WJT habitat onsite, CDFW recommends that the City conduct an impact assessment to quantify the entire population of WJT onsite through focused surveys. The WJT survey results should be provided in the final MND and include the following: a) GPS coordinates and accompanying map for each WJT within the Project Area; b) the age class for each WJT; c) the number of clonal WJT associated with each parent plant and the methodology used to make this determination; d) a unique numbering system for each WJT, and e) geo-referenced, representative photos of parent trees, clones, and general distribution of WJT across the Project site.

Further, the final MND should include: 1) an impact analysis assessing potential impacts to WJT 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, and 3) a mitigation strategy addressing impacts to WJT individuals, the WJT seedbank, and indirect impacts to WJT, as noted above.

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**Evidence impact would be significant:** WJT is a candidate threatened species under CESA. Under CESA, species classified as a candidate species are afforded the same protection as CESA-listed species. Take of any CESA-listed species is prohibited except as authorized by state law (Fish and Game Code, §§ 2080 & 2085). 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 to reduce impacts to less than significant:** CDFW recommends the final MND adequately identify and disclose Project impacts (i.e., direct, indirect, and cumulative) to WJT, propose mitigation to offset impacts to WJT, and demonstrate that impacts to WJT are less than significant and, for the purposes of CESA permitting, are fully mitigated. Further, CDFW offers the following revisions to MM BIO-4 (edits are in ~~strikethrough~~ and **bold**) for inclusion in the final MND, as per below.

*Biological Resources Mitigation Measure BIO-4*

**If any western Joshua trees are to be relocated, removed, or otherwise taken,** the project Applicant ~~shall~~ ~~should~~ ~~will be required to~~ obtain an ~~California Endangered Species Act (CESA) Incidental Take Permit (ITP) from the State of California Department of Fish and Wildlife (CDFW)~~ **under §2081 of the California Fish and Game Code, prior** related to the removal, replanting or any activity that may result in take of western Joshua Trees located on-site. 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”. During candidacy of the western Joshua tree, all western Joshua trees and parts thereof shall be buffered for avoidance. For full avoidance of WJT a 300-foot buffer around each western Joshua tree parent, seedling, and sprout shall be established. Project activities may not occur within the buffer. Should full avoidance be infeasible (during candidacy or if the species is listed under CESA), CDFW **strongly** recommends that the Project Proponent obtain an Incidental Take Permit from CDFW prior to initiating **any** Project activities. ~~Prior to commencing ground or vegetation disturbing activities.~~

**COMMENT #4: Mohave ground squirrel (*Xerospermophilus mohavensis*)**

**IS/MND, Section 3.4, MM BIO-5, page 46.**

**Issue:** The Project site contains suitable habitat for the California Endangered Species Act (CESA)-threatened, Mohave ground squirrel.

**Specific Impact:** Potential take of Mohave ground squirrel and loss of Mohave ground squirrel habitat.

**Why impact would occur:** 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 Mohave ground squirrel.. Grading, ground disturbance, and vegetation clearing may result in the permanent loss of up to 7.31 acres of Mohave ground squirrel habitat.

**Evidence impact would be significant:** The ISMND acknowledges that the Project site occurs within the range of the Mohave ground squirrel but concludes that they are not expected to occur onsite due to the lack of suitable habitat and that only “two recent sightings” have been documented within the last 20 years in the Adelanto area. Considering that focused surveys according to CDFW-accepted protocols (i.e., *Mohave Ground Squirrel Survey Guidelines* (CDFG 2010) or most recent version) were not conducted to evaluate presence for Mohave ground squirrel and the Projects location, MGS could be impacted by Project activities.

**Recommended potentially feasible mitigation measure to reduce impacts to less than significant:** CDFW appreciates the inclusion of MM BIO-5 and offers minor revisions (edits are in ~~strikethrough~~ and **bold**) for inclusion in the final MND, as per below to avoid impacts to Mohave ground squirrel.

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*Biological Resources Mitigation Measure BIO-5*

Pre-construction surveys following the Mohave Ground Squirrel Survey Guidelines (CDFG 2010) or most recent version shall be performed by a qualified biologist authorized by a Memorandum of Understanding issued by **the California Department of Fish and Wildlife (CDFW)**. The pre-construction surveys shall cover the Project Area and a 50-foot buffer zone. Should Mohave ground squirrel presence be confirmed during the survey, the Project Proponent should obtain an **Incidental Take Permit (ITP)** for Mohave ground squirrel prior to the start of Project activities. CDFW shall be notified if Mohave ground squirrel presence is confirmed during the pre-construction survey. If a Mohave ground squirrel is observed during Project activities, and the Project Proponent does not have an ITP, all work shall immediately stop, and **the Project Proponent shall consult with CDFW on next steps, including obtaining an ITP and the** observation shall be immediately reported to CDFW.

**COMMENT #4: Desert Tortoise (*Gopherus agassizii*)**

**IS/MND, Section 3.4, MM BIO 6, page 46.**

**Issue:** The Project site lies within the known distribution of desert tortoise (CNDDDB) state-threatened, proposed endangered species under CESA.

**Specific Impact:** Potential take of desert tortoise and loss of desert tortoise habitat.

**Why impact would occur:** Staging of construction equipment, vehicles, and foot traffic may result in the collapse of occupied burrows and direct mortality and/or injury to desert tortoise. Grading, ground disturbance, and vegetation clearing may result in the permanent loss of up to 7.31 acres of desert tortoise habitat.

**Evidence impact would be significant:** Primary threats to desert tortoise are habitat loss resulting from urban/industrial development, agriculture development, degradation of habitat by off-highway vehicles (OHV), intentional killing of tortoises, and killing by cars and OHV (Doak, Kareiva, Kleptka, 1994). Project activities may result in the loss of potential desert tortoise habitat through conversion, may increase habitat fragmentation, and expand urbanization into the area.

**Recommended Potentially Feasible Mitigation Measure(s) to reduce impacts to less than significant:** CDFW appreciates the inclusion of MM BIO-6 and offers the following revisions for inclusion in the final MND, as per below to avoid impacts to desert tortoise (edits are in ~~strikethrough~~ and **bold**):

*Biological Resources Mitigation Measure BIO-6*

A CDFW-approved biologist shall conduct a protocol level presence or absence survey within the project area and 50-foot buffer no more than 48 hours prior to Project activities and after any pause in Project activities lasting 30 days or more during desert tortoise active season (April to May or September to October), in accordance with the U.S. Fish and Wildlife Service 2019 desert tortoise survey methodology. The survey shall utilize perpendicular survey routes and 100-percent visual coverage for desert tortoise and their sign. **Pre-construction surveys cannot be combined with other surveys conducted for other species while using the same personnel. Project activities cannot start until 2 negative results from consecutive surveys using perpendicular survey routes for desert tortoise are documented.** Results of the survey shall be submitted to CDFW **prior to start of Project activities.** If the survey confirms absence, the CDFW-approved biologist shall ensure desert tortoise do not enter the Project area. If the survey confirms presence, the Project proponent shall submit to CDFW for review and approval a desert tortoise-specific avoidance plan detailing the protective avoidance measures to be implemented to ensure complete avoidance of take to (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") desert tortoise. If complete avoidance cannot be achieved, ~~CDFW recommends~~ **the Project proponent shall not undertake Project activities and Project activities should be postponed until appropriate authorization (i.e., California Endangered Species Act CESA Incidental Take Permit ITP under Fish and Game Code section 2081) is obtained.**

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## **Additional Comments and Recommendations**

### **Landscaping**

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

### **ENVIRONMENTAL DATA**

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be 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. (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 IS/MND 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 Corina Jimenez, Environmental Scientist at [Corina.Jimenez@wildlife.ca.gov](mailto:Corina.Jimenez@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
84FBB8273E4C480...  
Alisa Ellsworth  
Environmental Program Manager

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

### **ATTACHMENTS**

Attachment 1: MMRP for CDFW-Proposed Mitigation Measures

### **REFERENCES**

California Natural Diversity Database (CNDDDB) Government [ds45]. 2023. Calif. Dept. of Fish and Wildlife. Biogeographic Information and Observation System. Accessed May 18,2023.

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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>

Doak, D., Kareiva, P. and Kleptka, B., 1994. Modeling population viability for the desert tortoise in the western Mojave Desert. Ecological Applications, August 1994.

## **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.

<b>Biological Resources (BIO) Mitigation Measures (MM)</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>
<p>Biological Resources Mitigation Measure No. 1</p> <p>Regardless of the time of year, a pre-construction survey shall be performed to verify absence of nesting birds. A qualified biologist shall conduct the pre-activity survey within the Project areas (including access routes) and a 500-foot buffer surrounding the Project areas, no more than three (3) days prior to the initiation of project activities, including, but not limited to clearing, grubbing, and/or rough grading to prevent impacts to birds and their nests. Pre-construction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified biologist shall make every effort to avoid potential nest predation as a result of survey and monitoring efforts. 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 to be marked on the ground around each nest. 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. Active nest(s) and an established buffer distance(s) shall be monitored daily by the qualified biologist until the qualified biologist has determined the young have fledged or the Project has been completed. The qualified biologist has the authority to stop work if nesting pairs exhibit signs of disturbance. If there is no nesting activity,</p>	<p>Prior to commencing ground or vegetation disturbing activities</p>	<p>Project Proponent</p>



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<p>then no further action is needed for this measure. If an active nest is encountered during the Project construction, construction shall stop immediately until a qualified biologist can determine the status of the nest and when work can proceed without risking violation to state or federal laws.</p>		
<p>Biological Resources Mitigation Measure BIO-2</p> <p>Prior to grading or any other ground-disturbing activity, a pre-construction burrowing owl clearance survey must be conducted in accordance with the Staff Report on Burrowing Owl Mitigation, State of California Natural Resource Agency, Department of Fish and Game, May 7, 2012, by a qualified biologist no more than 14 days prior to the beginning of project activities. 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). A secondary survey must be conducted by a qualified biologist within 24 hours prior to the beginning of project construction to determine if the project site contains burrowing owl or sign thereof to avoid any potential impacts to the species. The surveys shall include 100 percent coverage of the project site. If both surveys reveal no burrowing owls are present or sign thereof, no additional actions related to this measure are required and a letter shall be prepared by the qualified biologist documenting the results of the survey. The letter shall be submitted to CDFW prior to construction. If occupied active burrows or sign thereof are found within the development footprint during the pre- construction clearance survey, Project activities shall not commence, and Biological Resources Mitigation Measure 3 shall also apply.</p>	<p>Prior to commencing ground or vegetation disturbing activities</p>	<p>Project Proponent</p>
<p>Biological Resources Mitigation Measure BIO-3</p> <p>If active burrows or signs thereof are found within the development footprint during the preconstruction clearance surveys, site-specific non-disturbance buffer zones shall be established by the qualified biologist shall be no less than 300 feet. If determined appropriate, a smaller buffer may be established by the qualified biologist following monitoring and assessments of the Project's effects on the burrowing owls. All occupied burrows shall 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 CDFW. If it is not possible to avoid active burrows, passive relocation shall be implemented if a qualified biologist has determined there are no nesting owls and/or juvenile owls are no longer dependent on the</p>	<p>Prior to commencing ground or vegetation disturbing activities</p>	<p>Project Proponent</p>

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<p>burrows. A qualified biologist, in coordination with the applicant and the City, shall prepare and submit a passive relocation program in accordance with Appendix E (i.e., Example Components for Burrowing Owl Artificial Burrow and Exclusion Plans) of the CDFW's Staff Report on Burrowing Owl Mitigation (CDFG 2012) for CDFW review/approval prior to the commencement of disturbance activities onsite and proposed mitigation for permanent loss of occupied burrow(s) and habitat consistent with the 2012 Staff Report on Burrowing Owl Mitigation. When a qualified biologist determines that burrowing owls are no longer occupying the Project Site and passive relocation is complete, construction activities may begin. A final letter report shall be prepared by the qualified biologist documenting the results of the passive relocation. The letter shall be submitted to CDFW.</p>		
<p><b>Biological Resources Mitigation Measure BIO-4</b></p> <p>If any western Joshua trees are to be relocated, removed, or otherwise taken, the project Applicant shall obtain an Incidental Take Permit (ITP) from CDFW under §2081 of the California Fish and Game Code, prior to the removal, replanting or any activity that may result in take of western Joshua Trees located on-site. 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". During candidacy of the western Joshua tree, all western Joshua trees and parts thereof shall be buffered for avoidance. For full avoidance of WJT a 300-foot buffer around each western Joshua tree parent, seedling, and sprout shall be established. Project activities may not occur within the buffer. Should full avoidance be infeasible (during candidacy or if the species is listed under CESA), CDFW strongly recommends that the Project Proponent obtain an Incidental Take Permit from CDFW prior to initiating any Project activities</p>	<p>Prior to commencing ground or vegetation disturbing activities</p>	<p>Project Proponent</p>
<p><b>Biological Resources Mitigation Measure BIO-5</b></p> <p>Pre-construction surveys following the Mohave Ground Squirrel Survey Guidelines (CDFG 2010) or most recent version shall be performed by a qualified biologist authorized by a Memorandum of Understanding issued by the California Department of Fish and Wildlife (CDFW). The pre-construction surveys shall cover the Project Area and a 50- foot buffer zone. Should Mohave ground squirrel presence be confirmed during the survey, the Project Proponent should obtain an Incidental Take Permit (ITP) for Mohave ground squirrel prior to the start of Project activities. CDFW shall be notified if Mohave ground squirrel presence is confirmed during the pre-construction survey. If a Mohave ground squirrel is observed during Project activities, and the Project</p>	<p>Prior to commencing ground or vegetation disturbing activities</p>	<p>Project Proponent</p>

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<p>Proponent does not have an ITP, all work shall immediately stop, and the Project Proponent shall consult with CDFW on next steps, including obtaining an ITP and the observation shall be immediately reported to CDFW.</p>		
<p><b>Biological Resources Mitigation Measure BIO-6</b></p> <p>A CDFW-approved biologist shall conduct a protocol level presence or absence survey within the project area and 50-foot buffer no more than 48 hours prior to Project activities and after any pause in Project activities lasting 30 days or more during desert tortoise active season (April to May or September to October), in accordance with the U.S. Fish and Wildlife Service 2019 desert tortoise survey methodology. The survey shall utilize perpendicular survey routes and 100- percent visual coverage for desert tortoise and their sign. Pre- construction surveys cannot be combined with other surveys conducted for other species while using the same personnel. Project activities cannot start until 2 negative results from consecutive surveys using perpendicular survey routes for desert tortoise are documented. Results of the survey shall be submitted to CDFW prior to start of Project activities. If the survey confirms absence, the CDFW-approved biologist shall ensure desert tortoise do not enter the Project area. If the survey confirms presence, the Project proponent shall submit to CDFW for review and approval a desert tortoise-specific avoidance plan detailing the protective avoidance measures to be implemented to ensure complete avoidance of take to (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”) desert tortoise. If complete avoidance cannot be achieved the Project proponent shall not undertake Project activities and Project activities should be postponed until appropriate authorization (i.e., California Endangered Species Act CESA Incidental Take Permit ITP under Fish and Game Code section 2081) is obtained.</p>	<p>Prior to commencing ground or vegetation disturbing activities</p>	<p>Project Proponent</p>