



STATE OF CALIFORNIA • NATURAL RESOURCES AGENCY Gavin Newson, Governor
DEPARTMENT OF FISH AND WILDLIFE Charlton H. Bonham, Director

South Coast Region
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Via Electronic Mail Only

July 27, 2023

Jocelyn Swain
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**Subject: Site Plan Review No. 23-004, Mitigated Negative Declaration,
SCH #2023060708, City of Lancaster, Los Angeles County**

Dear Ms. Swain:

The California Department of Fish and Wildlife (CDFW) has reviewed a Mitigated Negative Declaration (MND) from the City of Lancaster (City) for Site Plan Review No. 23-004 (Project). The Project Applicant for the Project is Northpoint Development. CDFW appreciates the opportunity to provide comments regarding aspects of the Project that could affect fish and wildlife resources and be subject to CDFW's regulatory authority under the Fish and Game Code.

CDFW'S 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.

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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 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 Applicant obtain appropriate authorization under the Fish and Game Code.

PROJECT DESCRIPTION AND SUMMARY

Objective: The Project proposes the construction and operation of a 647,000 square-foot warehouse and distribution facility on 38 acres. The facility will be constructed towards the center of the Project site and is intended to be used for storage and distribution purposes. Within the facility, 40,000 square feet will be designated as office space. Parking spaces for loading docks and trailers will be installed along the north and south sides of the facility. A total of 447 parking spaces for employees and visitors will be installed on the eastern and western sides of the facility. Access to the site will occur from a driveway on Avenue G and two driveways along 45th Street West. In addition to the proposed facility and parking, a detention basin will be constructed along the northern and southern portion of the Project site. Moreover, enhanced landscaping will be installed throughout the site along with lighting, fencing, and utility improvements. Construction is anticipated to commence in October 2023 and be completed in October 2024.

Location: The Project site encompasses undeveloped land located in the northeast corner of 45th Street West and Avenue G in the City of Lancaster, Los Angeles County. The Project site is bound by Lancaster Armory to the north, vacant land to the east, 45th Street West to the west, and West Avenue G to the south. The Assessor’s Parcel Numbers associated with the Project site include 3105-001-011, 3105-001-012, 3105-001-013, and 3105-001-014.

COMMENTS AND RECOMMENDATIONS

CDFW offers 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

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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).

Specific Comments

Comment #1: Impacts on Species of Special Concern – Reptiles

Issue: The Project may impact coastal whiptail (*Aspidoscelis tigris stejnegeri*) and northern California legless lizard (*Anniella pulchra*), species designated as California Species of Special Concern (SSC).

Specific impacts: Project construction and activities, directly or through habitat modification, may result in direct injury or mortality (e.g., trampling, crushing), reduced reproductive capacity, population declines, or local extirpation of SSC. Also, loss of foraging, breeding, or nursery habitat for SSC may occur.

Why impacts would occur: According to the Biological Resources Report (BRR), coastal whiptail was observed within the Project site during the field survey. Additionally, the northern California legless lizard was not observed during the field survey but has been recorded on [California's Natural Diversity Database \(CNDDDB\)](#) within 2 miles of the Project site (CDFW 2023a). The BRR states that the Project does not support the preferred habitat for northern California legless lizard. However, given that fact there have been recorded observations within the vicinity of the Project, there is potential for the species to enter the site from surrounding undeveloped land and be present during construction activities. Moreover, during the field survey, the northern sagebrush lizard (*Sceloporus graciosus graciosus*) was observed within the Project site. Although the northern sagebrush lizard is not a SSC, this species is listed under [CDFW's Special Animals List](#) and has a state rank of S3, which designates it as vulnerable in California (CDFW 2023d). The MND does not discuss the Project's impact on reptile species or note that a SSC was observed within the Project site. The mitigation measures proposed in the MND does not consider reptile species being present during Project activities. Without appropriate avoidance or minimization measures, impacts to SSC could result from ground-disturbing activities and vegetation removal. Wildlife may be trapped or crushed under structures. Large equipment, equipment and material staging, and vehicle and foot traffic could trample or bury wildlife. SSC could be injured or killed. Impacts on these SSC are more likely

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to occur because these are cryptic species that are less mobile and seek refuge under structures.

Evidence impacts would be significant: A [California Species of Special Concern](#) 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 threatened or endangered under Endangered Species Act (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 2023f).

CEQA provides protection not only for CESA-listed species, but for any species including but not limited to SSC that 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). The MND does not provide mitigation for potential impacts on SSC. Inadequate avoidance, minimization, and mitigation measures for impacts to sensitive or special status species will result in the Project continuing to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species by CDFW.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: Biological Monitor – To avoid direct injury and mortality of any SSC, CDFW recommends the City require the Project Applicant to have a qualified biologist on site to move out of harm's way wildlife of low mobility that would be injured or killed. Wildlife should be protected, allowed to move away on its own (non-invasive, passive relocation), or relocated to suitable habitat adjacent to the Project site. In areas where any SSC was found, work may only occur in these areas after a qualified biologist has determined it is safe to do so. Even so, the qualified biologist should advise workers to proceed with caution near flagged areas. A qualified biologist should be on site daily during initial ground- and habitat-disturbing activities and vegetation removal. Then, the qualified biologist should be on site weekly or bi-weekly (once every 2 weeks) for

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the remainder of the Project until the cessation of all ground-disturbing activities to ensure that no wildlife of any kind is harmed.

Mitigation Measure #2: Scientific Collecting Permit – CDFW recommends the City require the Project Applicant retain a qualified biologist with appropriate handling permits, or should obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities. CDFW has the authority to issue permits for the take or possession of wildlife, including mammals; birds, nests, and eggs; reptiles; amphibians; fish; plants; and invertebrates (Fish & G. Code, §§ 1002, 1002.5, 1003). Effective October 1, 2018, a Scientific Collecting Permit is required to monitor project impacts on wildlife resources, as required by environmental documents, permits, or other legal authorizations; and, to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with otherwise lawful activities (Cal. Code Regs., tit. 14, § 650). Please visit CDFW's [Scientific Collection Permits](#) webpage for information (CDFW 2023g). Pursuant to the [California Code of Regulations, title 14, section 650](#), the Project Applicant/qualified biologist must obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities.

Mitigation Measure #3: Wildlife Relocation Plan – Prior to initial ground- and habitat-disturbing activities and vegetation removal, CDFW recommends the Project Applicant retain a qualified biologist to prepare a Wildlife Relocation Plan. The Wildlife Relocation Plan should describe all wildlife species that could occur within the Project site and proper handling and relocation protocols. The Wildlife Relocation Plan should include species-specific relocation areas, at least 200 feet outside of the Project site and in suitable and safe relocation areas. The Project Applicant should submit a copy of a Wildlife Relocation Plan to the City prior to initial ground- and habitat-disturbing activities and vegetation removal. No wildlife nests, eggs, or nestlings may be removed or relocated at any time.

Mitigation Measure #4: Injured or Dead Wildlife – If any SSC are harmed during relocation or a dead or injured animal is found, work in the immediate area should stop immediately, the qualified biologist should be notified, and dead or injured wildlife documented immediately. A formal report should be sent to CDFW and the City within 3 calendar days of the incident or finding. The report should include the date, time of the finding or incident (if known), and location of the carcass or injured animal and circumstances of its death or injury (if known). Work in the immediate area may only resume once the proper notifications have been made and additional mitigation measures have been

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identified to prevent additional injury or death.

Comment #2: Impacts on Rare Plants

Issue: The Project may impact rare plants.

Specific impacts: Project construction and activities may result in loss of suitable habitat, loss of population, and direct mortality of Rosamond eriastrum (*Eriastrum rosamondense*) and alkali mariposa lily (*Calochortus striatus*).

Why impacts would occur: According to CNDDDB, there are multiple recorded observations of Rosamond eriastrum and alkali mariposa lily within a mile of the Project site. Alkali mariposa lily is native to California and has a California Rare Plant Ranking (CRPR) of 1B.2. Rosamond eriastrum has a CRPR of 1B.1 and has only been observed and recorded in Antelope Valley within Southern California (Calflora 2023). The BRR concluded that there is a high potential for both rare plants to be present on the Project site. Although no observations of these species were observed during the field survey, the field survey was conducted approximately a month prior to the blooming period for both rare plants. To offset any potential Project-related impacts towards both rare plants, Mitigation Measure 5 is proposed in the MND. Mitigation Measure 5 does require the Project Applicant to perform a spring-time rare plant survey before issuance of any construction related permits; however, there is an option to not perform spring-time surveys and instead map areas containing suitable habitat and pay \$2,405/acre for these areas. Botanical field surveys are necessary to provide information on the Project's potential impacts on rare, sensitive, and special status plants. Project construction and activities proceeding based on false-negative surveys may result in the Project having an impact on rare plants. Rare plants and seedbank could be buried, crushed, and trampled. The Project may result in permanent loss of rare plants and its seedbank by developing 38 acres of habitat. The Project's potential impact on rare plants may result in local population declines or extirpation of a species.

Evidence impacts would be significant: Impacts on rare flora could be considered a significant effect on the environment. Plants with a CRPR of 1B are rare throughout their range, endemic to California, and are seriously or fairly threatened. Most of the plants that are ranked 1B have declined significantly over the last century (CNPS 2023). The additional threat rank of 0.1 indicates a species with over 80 percent of its occurrences threatened in California. The additional threat rank of 0.2 indicates a species with 20 to 80 percent of its occurrences threatened (CNPS 2023). Impacts to CRPR 1B plant species and

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their habitat meet the definition of endangered, rare, or threatened species (CEQA Guidelines, § 15380). Some CRPR 3 and 4 species meet the definitions of endangered, rare, or threatened under CEQA. Impacts to CRPR 1B plant species and their habitat may result in a mandatory finding of significance because the Project would have the potential to threaten to eliminate a plant community and substantially reduce the number or restrict the range of an endangered, rare, or threatened species (CEQA Guidelines, § 15065).

Insufficient mitigation may result in unmitigated temporal or permanent impacts to a rare plant species. Subsequently, the Project would continue to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species by CDFW.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #5: Mitigation Measure 5 – CDFW recommends the City revise Mitigation Measure 5 by incorporating the underlined language and removing the language with strikethrough:

Prior to the issuance of any construction related permits, the Project applicant shall retain a qualified biologist to conduct a ~~springtime~~ sensitive plant survey specifically focused on alkali mariposa lilies and Rosamond eriastrum within the Project site and adjacent areas. Surveys shall be conducted according to CDFW's [Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities](#) (CDFW 2018). Surveys shall also be conducted at the appropriate blooming period for optimal detection. The Project Applicant shall submit a survey report, including negative findings, to the City and CDFW. At a minimum, the survey report shall provide the following information:

- 1) A description and map of the survey area;
- 2) Field survey conditions that shall include name(s) of qualified botanists(s) and brief qualifications; date and time of survey; survey duration; general weather conditions; survey goals, and species searched;
- 3) If rare plants are found, a map(s) showing the location of individual plants or populations, and number of plants or density of plants per square feet occurring at each location. The map should distinguish between species found and which plants/populations will be avoided versus impacted by Project construction and activities that would require mitigation;
- 4) A description of physical (e.g., soil, moisture, slope) and biological (e.g.,

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- plant composition) conditions where each rare plant or population is found. A sufficient description of biological conditions, primarily impacted habitat, should include native plant composition (e.g., density, cover, and abundance) within impacted habitat (e.g., species list separated by vegetation class, density, cover, and abundance of each species); and
- 5) If rare plants are found, species-specific measures to mitigate impacts to rare plants and habitat (see Mitigation Measure #6).

~~In the event that a springtime survey cannot be conducted, the biologist shall map all habitat suitable for these special status plant species. The biologist's report shall include the total acreage of each special status species present or the suitable habitat for these species and the applicant shall be required to pay \$2,405/acre for these areas. The funds shall be placed into a designated account and utilized for the acquisition of conservation habitat within the Antelope Valley.~~

Mitigation Measure #6: Compensatory Mitigation – If impacts on the species listed above and their habitat cannot be avoided, the Project Applicant should provide compensatory mitigation at no less than 2:1. The abundance of a rare plant species and total habitat acreage within the mitigation lands should be no less than 2:1. Mitigation lands should be in the same watershed as the Project site and support habitat that contains the rare plant species impacted. The Project applicant should protect replacement habitat in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands pursuant to Assembly Bill 1094. The Project applicant should record the conservation easement prior to commencement of Project-related activities.

Comment #3: Inadequate Disclosure of Adequacy of Biological Impact Fee

Issue: The MND does not provide sufficient information for CDFW to evaluate the adequacy of the \$770/acre fee (Biological Impact Fee) for offsetting cumulative loss of biological resources in the Antelope Valley and the \$2,405/acre fee (Biological Impact Fee for Special Status Plants) for offsetting cumulative loss of habitat suitable for special status plants supporting species such as Rosamond eriastrum and alkali mariposa lily.

Specific impacts: The Project would develop approximately 38 acres of undeveloped land. This would result in permanent loss of habitat that may support rare plants and/or SSCs.

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Why impacts would occur: The Project's cumulative impacts on biological resources in the Antelope Valley would be mitigated through payment of a \$770/acre Biological Impact Fee. According to page 27 of the MND, the Biological Impact Fee would "[...] offset the cumulative loss of biological resources in the Antelope Valley as a result of development. This fee is required of all projects occurring on previously undeveloped land regardless of the biological resources present and is utilized to enhance biological resources through education programs and the acquisition of property for conservation. Therefore, no impacts would occur." The MND does not explain why payment of the Biological Impact Fee is adequate to offset Project impacts so that the Project would have no impacts. The Project's cumulative impacts on special status plants including Rosamond eriastrum and alkali mariposa lily would be mitigated through payment of \$2,405/acre if the Project proceeds with no focused rare plant surveys. According to page 25 of the MND, "The biologist's report shall include the total acreage of each special status species present or the suitable habitat for these species and Applicant shall be required to pay \$2,405/acre for these areas. The funds shall be placed into a designated account and utilized for the acquisition of conservation habitat within the Antelope Valley." The MND does not explain why payment of this fee is adequate to offset the Project impacts so that the Project would have no impacts to rare plants. The MND does not discuss or provide the following information for the Biological Impact Fee or the Biological Impact Fee for Special Status Plants, hereafter referred to as "Fees":

- 1) Whether the Fees are going towards an established program;
- 2) How that program is designed to (and will) mitigate the effects at issue at a level meaningful for purposes of CEQA;
- 3) What the Fees would acquire. It is unclear if the Fees would be used to acquire land for preservation, enhancement, and/or restoration purposes, or if the Fees would be used to purchase credits at a mitigation bank, or none of the above;
- 4) What biological resources would the Fees protect/conserve;
- 5) Why these Fees are appropriate for mitigating cumulative loss of biological resources in the Antelope Valley;
- 6) How these Fees are sufficient to purchase land or credits at a mitigation bank;
- 7) Where the City may acquire land or purchase credits at a mitigation bank so that these Fees would offset Project impacts on biological resources and sensitive plant species in the Antelope Valley;
- 8) When the City would use these Fees. Mitigation payment does not equate to mitigation if the funds are not being used. Also, temporal impacts on

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biological resources may occur as long as the City fails to implement its proposed mitigation;

- 9) How the City would commit the Project Applicant to paying these Fees. For example, when would the City require payment from the Project Applicant, how long would the Project Applicant have to pay these Fees, and what mechanisms would the City implement to ensure these Fees are paid? Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments (CEQA Guidelines, § 15126.4);
- 10) What performance measures the proposed mitigation would achieve (CEQA Guidelines, § 15126.4);
- 11) What type(s) of potential action(s) that can feasibly achieve those performance standards (CEQA Guidelines, § 15126.4); and,
- 12) How these Fees would be adequate such that no impacts would occur as a result of the Project.

Evidence impacts would be significant: The basic purpose of an environmental document is to provide public agencies and the public in general with detailed information about the effect a proposed Project is likely to have on the environment, and ways and manners in which the significant effects of such a Project might be minimized (Pub. Resources Code, §§ 21002.1, 21061). The MND is insufficient as an informational document because it fails to discuss the ways and manners in which these Fees would mitigate for the Project's cumulative impacts on biological resources and sensitive plant species including Rosamond eriastrum and alkali mariposa lily in the Antelope Valley. Mitigation measures should be adequately discussed and the basis for setting a particular measure should be identified [CEQA Guidelines, § 15126.4(a)(1)(B)]. The MND does not provide enough information to facilitate meaningful public review and comment on the appropriateness of these Fees at mitigating for impacts to biological resources and to sensitive plant species including Rosamond eriastrum and alkali mariposa lily.

This Project may have a significant effect on the environment because the Project may reduce habitat for rare plants or wildlife; cause rare plants or wildlife population to drop below self-sustaining levels; and threaten to eliminate a plant or animal community [CEQA Guidelines, § 15065(a)(1)]. Furthermore, the Project may contribute to the ongoing loss of sensitive, special status, threatened, and/or endangered plants, wildlife, and vegetation communities in the Antelope Valley. The Project may have possible environmental effects that are cumulatively considerable [CEQA Guidelines, § 15065(a)(3)]. The City is acknowledging that the Project would contribute to the cumulative loss of biological resources in the Antelope Valley because the City is proposing these

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Fees as compensatory mitigation. These Fees may be inadequate mitigation absent commitment, specific performance standards, and actions to achieve performance standards. Inadequate avoidance and mitigation measures will result in the Project continuing to have a substantial adverse direct and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status in local or regional plans, policies, or regulations, or by CDFW or United States Fish and Wildlife Service (USFWS).

Recommended Potentially Feasible Mitigation Measure(s):

Recommendation #1: CDFW recommends the City revise the MND to provide adequate, complete, and good-faith disclosure of information that would address the following in relation to the Project:

- 1) Whether the Fees are going towards an established program;
- 2) How that program is designed to (and will) mitigate the effects at issue at a level meaningful for purposes of CEQA;
- 3) What the Fees would acquire. It is unclear if the Fees would be used to acquire land for preservation, enhancement, and/or restoration purposes, or if the Fees would be used to purchase credits at a mitigation bank, or none of the above;
- 4) What biological resources would the Fees protect/conserve;
- 5) Why these Fees are appropriate for mitigating cumulative loss of biological resources in the Antelope Valley;
- 6) How these Fees are sufficient to purchase land or credits at a mitigation bank;
- 7) Where the City may acquire land or purchase credits at a mitigation bank so that these Fees would offset Project impacts on biological resources and sensitive plant species in the Antelope Valley;
- 8) When the City would use these Fees. Mitigation payment does not equate to mitigation if the funds are not being used. Also, temporal impacts on biological resources may occur as long as the City fails to implement its proposed mitigation;
- 9) How the City would commit the Project Applicant to paying these Fees. For example, when would the City require payment from the Project Applicant, how long would the Project Applicant have to pay these Fees, and what mechanisms would the City implement to ensure these Fees are paid? Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments (CEQA Guidelines, § 15126.4).
- 10) What performance measures the proposed mitigation would achieve

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(CEQA Guidelines, § 15126.4);

- 11) What type(s) of potential action(s) that can feasibly achieve those performance standards (CEQA Guidelines, § 15126.4); and,
- 12) How these Fees would be adequate such that no impacts would occur as a result of the Project.

Recommendation #2: The MND should include a discussion describing commitment to mitigation via the Fees. For example, the MND should provide specifics as to when the City would use the Fees; what mechanisms the City would implement to ensure the Fees is paid; and when and where the Fees would be used to offset the Project's impacts. Also, the MND should provide specific performance standards as well as actions to achieve those performance standards.

Additional Recommendations

Nesting Birds. The MND proposes Mitigation Measure 4 to serve as mitigation for nesting birds; however, the mitigation measure as proposed may be inadequate to reduce the Project impact on nesting birds to less than significant. CDFW recommends the City revise Mitigation Measure 4 by incorporating the underlined language and removing the language with strikethrough:

Construction, ground-disturbing activities, and vegetation removal shall avoid avian breeding season which generally runs from February 15 through September 15 (as early as January 1 for some raptors) to avoid take of birds, raptors, or their eggs. A nesting bird survey shall be conducted by a qualified biologist within 7-14 days prior to the start of construction/ground disturbing activities. If active bird nests are identified during the nesting bird and raptor survey, the qualified biologist shall establish no-disturbance buffers to minimize impacts on active nests. ~~the applicant shall contact the California Department of Fish and Wildlife to determine the appropriate mitigation/management requirements.~~ Impacts to nesting birds will be avoided by delay of work or establishing a minimum no-disturbance buffer of 300 feet for passerines, 500 feet for raptors, and 0.5 mile for special status species (e.g., CESA listed), if feasible. ~~500 feet around active raptor nests and 50 feet around other migratory bird species.~~ A qualified biologist shall periodically monitor any active bird nests to determine if project-related activities occurring outside the "no-disturbance" buffer disturbs the birds and if the buffer shall be increased. Personnel working on the Project, including all contractors working on site, shall be instructed on the presence of nesting birds, restricted areas, and adherence to no-

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disturbance buffers. The buffer shall remain in place until young have fledged or a nest becomes inactive as determined by a qualified biologist. Once the young have fledged and left the nest, or the nest otherwise becomes inactive under natural conditions, project activities within the “no-disturbance” buffer may occur following an additional survey by the qualified biologist to search for any new bird nests in the restricted area.

Landscaping. CDFW recommends the use of native plants for any project proposing revegetation and landscaping. CDFW strongly recommends avoiding non-native, invasive plants for landscaping, particularly any species listed as ‘Moderate’ or ‘High’ by the California Invasive Plant Council (Cal-IPC 2023). CDFW recommends the use of native species found in naturally occurring plant communities within or adjacent to the Project area. Finally, CDFW recommends planting species of vegetation with high insect and pollinator value.

Data. CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database (i.e., California Natural Diversity Database) which may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Information on special status species should be submitted to the CNDDDB by completing and submitting [CNDDDB Field Survey Forms](#) (CDFW 2023b). Information on special status native plant populations and sensitive natural communities, the [Combined Rapid Assessment and Relevé Form](#) should be completed and submitted to CDFW’s Vegetation Classification and Mapping Program (CDFW 2023c).

Mitigation and Monitoring Reporting Plan. CDFW recommends the City update the Project’s proposed Biological Resources Mitigation Measures and condition the environmental document to include mitigation measures recommended in this letter. CDFW provides comments to assist the City in developing mitigation measures that are specific, detailed (i.e., responsible party, timing, specific actions, location), and clear in order for a measure to be fully enforceable and implemented successfully via a mitigation monitoring and/or reporting program (CEQA Guidelines, § 15097; Pub. Resources Code, § 21081.6). 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 A).

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Filing Fees

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the City and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required 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

We appreciate the opportunity to comment on the Project to assist the City in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that the City has to our comments and to receive notification of any forthcoming hearing date(s) for the Project [CEQA Guidelines, § 15073(e)]. If you have any questions or comments regarding this letter, please contact Julisa Portugal, Environmental Scientist, at Julisa.Portugal@wildlife.ca.gov or (562) 330-7563.

Sincerely,

DocuSigned by:

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Erinn Wilson-Olgin
Environmental Program Manager I
South Coast Region

ec: CDFW

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- [CDFWb] California Department of Fish and Wildlife. 2023. Submitting Data to the CNDDDB. Available from: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>
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Attachment A: Draft Mitigation and Monitoring Reporting Plan

CDFW recommends the following language to be incorporated into the Project's environmental document.

Biological Resources (BIO)			
Mitigation Measure (MM) or Recommendation (REC)		Timing	Responsible Party
MM-BIO-1- Biological Monitor	To avoid direct injury and mortality of any SSC, the City shall require the Project Applicant to have a qualified biologist on site to move out of harm's way wildlife of low mobility that would be injured or killed. Wildlife shall be protected, allowed to move away on its own (non-invasive, passive relocation), or relocated to suitable habitat adjacent to the Project site. In areas where any SSC was found, work shall only occur in these areas after a qualified biologist has determined it is safe to do so. Even so, the qualified biologist shall advise workers to proceed with caution near flagged areas. A qualified biologist shall be on site daily during initial ground- and habitat-disturbing activities and vegetation removal. Then, the qualified biologist shall be on site weekly or bi-weekly (once every 2 weeks) for the remainder of the Project until the cessation of all ground-disturbing activities to ensure that no wildlife of any kind is harmed.	Prior to finalizing Project's CEQA Document/ During Project activities	City/ Project Applicant/ Biological Monitor
MM-BIO-2- Scientific	The City shall require the Project Applicant to retain a qualified biologist with appropriate handling permits, or shall obtain appropriate handling permits to capture,	Prior to and during ground-	City / Project Applicant/



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<p>Collecting Permit</p>	<p>temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities. CDFW has the authority to issue permits for the take or possession of wildlife, including mammals; birds, nests, and eggs; reptiles; amphibians; fish; plants; and invertebrates. Effective October 1, 2018, a Scientific Collecting Permit is required to monitor project impacts on wildlife resources, as required by environmental documents, permits, or other legal authorizations; and, to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with otherwise lawful activities. Pursuant to the California Code of Regulations, title 14, section 650, the Project Applicant/qualified biologist shall obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities.</p>	<p>disturbing activities or vegetation removal</p>	<p>Qualified Biologist</p>
<p>MM-BIO-3-Wildlife Relocation Plan</p>	<p>Prior to initial ground- and habitat-disturbing activities and vegetation removal, the Project Applicant shall retain a qualified biologist to prepare a Wildlife Relocation Plan. The Wildlife Relocation Plan shall describe all wildlife species that could occur within the Project site and proper handling and relocation protocols. The Wildlife Relocation Plan shall include species-specific relocation areas, at least 200 feet outside of the Project site and in suitable and safe relocation areas. The Project Applicant shall submit a copy of a Wildlife Relocation Plan to the City prior to initial ground- and habitat-disturbing activities and</p>	<p>Prior to Project activities</p>	<p>Project Applicant/ Qualified Biologist</p>



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	vegetation removal. No wildlife nests, eggs, or nestlings may be removed or relocated at any time.		
MM-BIO-4- Injured or Dead Wildlife	If any SSC are harmed during relocation or a dead or injured animal is found, work in the immediate area shall stop immediately, the qualified biologist shall be notified, and dead or injured wildlife documented immediately. A formal report shall be sent to CDFW and the City within 3 calendar days of the incident or finding. The report shall include the date, time of the finding or incident (if known), and location of the carcass or injured animal and circumstances of its death or injury (if known). Work in the immediate area shall only resume once the proper notifications have been made and additional mitigation measures have been identified to prevent additional injury or death.	During ground-disturbing activities or vegetation removal	Qualified Biologist
MM-BIO-5- Mitigation Measure 5	Prior to the issuance of any construction related permits, the Project applicant shall retain a qualified biologist to conduct a sensitive plant survey specifically focused on alkali mariposa lilies and Rosamond eriastrum within the Project site and adjacent areas. Surveys shall be conducted according to CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities. Surveys shall also be conducted at the appropriate blooming period for optimal detection. The Project Applicant shall submit a survey report, including negative findings, to the City and CDFW. At a minimum, the survey report shall provide the following information:	Prior to ground-disturbing activities or vegetation removal	Project Applicant/ Qualified Biologist



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	<ol style="list-style-type: none">1) A description and map of the survey area;2) Field survey conditions that shall include name(s) of qualified botanists(s) and brief qualifications; date and time of survey; survey duration; general weather conditions; survey goals, and species searched;3) If rare plants are found, a map(s) showing the location of individual plants or populations, and number of plants or density of plants per square feet occurring at each location. The map should distinguish between species found and which plants/populations will be avoided versus impacted by Project construction and activities that would require mitigation;4) A description of physical (e.g., soil, moisture, slope) and biological (e.g., plant composition) conditions where each rare plant or population is found. A sufficient description of biological conditions, primarily impacted habitat, should include native plant composition (e.g., density, cover, and abundance) within impacted habitat (e.g., species list separated by vegetation class, density, cover, and abundance of each species); and5) If rare plants are found, species-specific measures to mitigate impacts to rare plants and habitat.		
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<p>MM-BIO-6- Compensatory Mitigation</p>	<p>If impacts on the species listed above and their habitat cannot be avoided, the Project Applicant shall provide compensatory mitigation at no less than 2:1. The abundance of a rare plant species and total habitat acreage within the mitigation lands shall be no less than 2:1. Mitigation lands shall be in the same watershed as the Project site and support habitat that contains the rare plant species impacted. The Project applicant shall protect replacement habitat in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands pursuant to Assembly Bill 1094. The Project applicant shall record the conservation easement prior to commencement of Project-related activities.</p>	<p>Prior to Project activities</p>	<p>Project Applicant</p>
<p>MM-BIO-7- Nesting Birds</p>	<p>Construction, ground-disturbing activities, and vegetation removal shall avoid avian breeding season which generally runs from February 15 through September 15 (as early as January 1 for some raptors) to avoid take of birds, raptors, or their eggs. A nesting bird survey shall be conducted by a qualified biologist within 7 days prior to the start of construction/ground disturbing activities. If active bird nests are identified during the nesting bird and raptor survey, the qualified biologist shall establish no-disturbance buffers to minimize impacts on active nests. Impacts to nesting birds will be avoided by delay of work or establishing a minimum no-disturbance buffer of 300 feet for passerines, 500 feet for raptors, and 0.5 mile for special</p>	<p>Prior to and during ground-disturbing activities or vegetation removal</p>	<p>Qualified Biologist</p>



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	<p>status species (e.g., CESA listed), if feasible. A qualified biologist shall periodically monitor any active bird nests to determine if project-related activities occurring outside the “no-disturbance” buffer disturbs the birds and if the buffer shall be increased. Personnel working on the Project, including all contractors working on site, shall be instructed on the presence of nesting birds, restricted areas, and adherence to no-disturbance buffers. The buffer shall remain in place until young have fledged or a nest becomes inactive as determined by a qualified biologist. Once the young have fledged and left the nest, or the nest otherwise becomes inactive under natural conditions, project activities within the “no-disturbance” buffer may occur following an additional survey by the qualified biologist to search for any new bird nests in the restricted area.</p>		
<p>REC - 1 - MND Revisions</p>	<p>CDFW recommends the City revise the MND to provide adequate, complete, and good-faith disclosure of information that would address the following in relation to the Project:</p> <ol style="list-style-type: none"> 1) Whether the Fees are going towards an established program; 2) How that program is designed to (and will) mitigate the effects at issue at a level meaningful for purposes of CEQA; 3) What the Fees would acquire. It is unclear if the Fees would be used to acquire land for preservation, enhancement, and/or restoration 	<p>Prior to finalizing the CEQA document</p>	<p>City</p>



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	<p>purposes, or if the Fees would be used to purchase credits at a mitigation bank, or none of the above;</p> <ol style="list-style-type: none">4) What biological resources would the Fees protect/conserve;5) Why these Fees are appropriate for mitigating cumulative loss of biological resources in the Antelope Valley;6) How these Fees are sufficient to purchase land or credits at a mitigation bank;7) Where the City may acquire land or purchase credits at a mitigation bank so that these Fees would offset Project impacts on biological resources and sensitive plant species in the Antelope Valley;8) When the City would use these Fees. Mitigation payment does not equate to mitigation if the funds are not being used. Also, temporal impacts on biological resources may occur as long as the City fails to implement its proposed mitigation;9) How the City would commit the Project Applicant to paying these Fees. For example, when would the City require payment from the Project Applicant, how long would the Project Applicant have to pay these Fees, and what mechanisms would the City implement to ensure these Fees are paid? Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments.		
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	<p>10) What performance measures the proposed mitigation would achieve;</p> <p>11) What type(s) of potential action(s) that can feasibly achieve those performance standards; and,</p> <p>12) How these Fees would be adequate such that no impacts would occur as a result of the Project.</p>		
REC- 2 – Mitigation Commitment	<p>The MND should include a discussion describing commitment to mitigation via the Fees. For example, the MND should provide specifics as to when the City would use the Fees; what mechanisms the City would implement to ensure the Fees is paid; and when and where the Fees would be used to offset the Project's impacts. Also, the MND should provide specific performance standards as well as actions to achieve those performance standards.</p>	<p>Prior to finalizing the CEQA document</p>	<p>City</p>
REC – 3- Landscaping	<p>CDFW recommends the use of native plants for any project proposing revegetation and landscaping. CDFW strongly recommends avoiding non-native, invasive plants for landscaping, particularly any species listed as 'Moderate' or 'High' by the California Invasive Plant Council. CDFW recommends the use of native species found in naturally occurring plant communities within or adjacent to the Project area. Finally, CDFW recommends planting species of vegetation with high insect and pollinator value.</p>	<p>Prior to finalizing the CEQA document or Project activities</p>	<p>City/Project Applicant</p>
REC- 4 - Data	<p>CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database (i.e.,</p>	<p>Prior to ground-disturbing</p>	<p>Biologist</p>



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	<p>California Natural Diversity Database) which may be used to make subsequent or supplemental environmental determinations. Information on special status species should be submitted to the CNDDDB by completing and submitting CNDDDB Field Survey Forms. Information on special status native plant populations and sensitive natural communities, the Combined Rapid Assessment and Relevé Form should be completed and submitted to CDFW's Vegetation Classification and Mapping Program.</p>	<p>activities or vegetation removal</p>	
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