



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
South Coast Region
3883 Ruffin Road
San Diego, CA 92123
(858) 467-4201
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



November 17, 2023

Governor's Office of Planning & Research

Nov 17 2023

STATE CLEARINGHOUSE

Sam Dominguez
38250 Sierra Highway
Palmdale, CA 93550
SDominguez@cityofpalmdale.org

SUBJECT: CONDITIONAL USE PERMIT 17-12 MAJOR MODIFICATION NO.1 AND SITE PLAN REVIEW 22-019 (PROJECT); MITIGATED NEGATIVE DECLARATION (MND); SCH #2023100539

Dear Sam Dominguez:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from the City of Palmdale (City) for the Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW'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.

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

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.

Sam Dominguez
November 17, 2023
Page 2 of 19

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.

Project Description Summary

Proponent: The Quikrete Companies

Objective: The Project proposes the construction and operation of a concrete bagging and paver manufacturing facility on approximately 30 acres. The Project would entail development of a Quikrete production facility, paverstone production areas, an office building, covered and outside storage areas, landscaping, two detention basins, and asphalt and paver areas. Additionally, a parking area in the northern portion of the Project site would consist of 162 parking spaces and 27 clean air vehicles and electric vehicle charging spaces. Prior to construction activities, the entire Project site will be graded. Construction of the Project is anticipated to commence in Spring 2024 and operational activities would begin in Spring 2025.

Location: The 30-acre Project site is approximately 340 feet southeast of the intersection of 75th Street East and East Palmdale Boulevard in the City of Palmdale, California. The Project site is bound by East Palmdale Boulevard to the north, vacant land to the east and south, and 75th Street East to the west. The Assessor's Parcel Numbers associated with the Project site include 3024-002-021, 3024-002-022, and 3024-002-007.

Biological Setting: The Project site consists of three parcels situated along the northern slopes of the San Gabriel Mountains, in an area that supports the Little Rock Wash. Little Rock Wash is a 19-mile-long stream that flows through Antelope Valley. Beyond the immediate borders of the Project site, parcels consist of undeveloped vacant land with native desert scrub to the north and east, residential development to the west, and a quarry and recycling facility to the south. Moreover, the Project site is located within the Little Rock Wash Significant Ecological Area (SEA).

The Project site consists of open desert scrub with 79 Joshua trees (*Yucca brevifolia*; candidate CESA-listed species) scattered throughout. Vegetation communities that would be impacted from Project activities include Joshua tree woodland (4.37 acres); Mormon tea shrubland (*Ephedra nevadensis*; 1.34 acres); fourwing saltbush scrub (*Atriplex canescens*; 22.25 acres); and scale broom (*Lepidospartum squamatum*; 1.84 acres). Additionally, 0.23 acre of disturbed land cover would be impacted.

Field surveys of the Project site were conducted on March 18 and 20, 2022, with findings compiled in a Biological Habitat Assessment Report (BHA). Wildlife observed during the field surveys include but is not limited to loggerhead shrike (*Lanius ludovicianus*; California Species of special Concern (SSC)), red-tailed hawk (*Buteo jamaicensis*), common raven (*Corvus corax*), rock wren (*Salpinctes obsoletus*), desert cottontail (*Sylvilagus audobonii*), black-tailed jackrabbit (*Lepus californicus*), white-tailed antelope squirrel

Sam Dominguez
November 17, 2023
Page 3 of 19

(*Ammospermophilus leucurus*), and side-blotched lizard (*Uta stansburiana*). Sensitive species that have been identified to occur within the City and are of potential concern for the Project include Mohave ground squirrel (*Xerospermophilus mohavensis*; CESA listed-threatened), burrowing owl (*Athene cunicularia*; SSC), and raptors and migratory birds.

Comments and Recommendations

CDFW offers the recommendations below to assist the City in adequately identifying 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).

Specific Comments

Comment #1: Little Rock Wash SEA

Issue: The Project will impact Little Rock Wash SEA.

Specific impacts: Ground-disturbing activities such as grading, vegetation clearing, and construction activities would significantly impact the biological resources within the SEA.

Why impacts would occur: Although the Project site is located within the Little Rock Wash SEA, the Project is not subject to Los Angeles County's SEA ordinance because, "...the City regulations supersede the County regulations" (page 28). SEAs are officially designated within Los Angeles County to contain irreplaceable biological resources. Whether or not a SEA will be regulated or not regulated under the Los Angeles County's SEA Ordinance, a Project that will adversely impact an SEA should provide mitigation to offset the permanent and temporal loss of the biological resources therein.

Recommended Potentially Feasible Mitigation Measure(s):

Recommendation #1: SEA MND Revision - CDFW recommends that the City reevaluate the Project impact on the biological resources within this SEA and consider providing compensatory mitigation at the habitat level to offset the Project impact on Little Rock SEA, at a ratio of no less than 2:1.

Comment #2: Impacts on Little Rock Wash

Issue: The proposed Project will impact Little Rock Wash.

Specific impacts: The Project site is within the Little Rock Wash and contains dryland ephemeral streams that would be adversely impacted by ground-disturbing activities such as grading, vegetation clearing, and construction activities. Furthermore, the MND does not recognize the potential need for Section 1602 Lake and Streambed Alteration Agreement (LSA), nor does it prescribe, require, or impose specific actions that would

Sam Dominguez
November 17, 2023
Page 4 of 19

substantially mitigate impacts on dryland streams. Without fulfilling permitting obligations, impacts of the Project on ephemeral streams could be significant without mitigation.

Why impacts would occur: The BHA and MND note that there are no ephemeral, perennial or intermittent drainages detected within the Project site. Additionally, the BHA states that the soil composition is relatively loose and unconsolidated riverwash due to the Project site containing, "...relic or inactive channels from the Little Rock Wash which is east of the site" (page 6). CDFW disagrees with this assessment. Based on aerial imagery, it is evident that the Project site is located within the Little Rock Wash floodplain and may receive water during heavy rain events. Although there was no water present on site during the field surveys, that does not eliminate the potential for ephemeral water to flow throughout the Project site during the wet season. The [National Flood Hazard Layer Dataset](#) demonstrates that the Project site is located within the 100-year flood zone (Esri 2023), providing additional evidence that ephemeral washes are present.

Evidence impacts would be significant: CDFW exercises its regulatory authority as provided by Fish and Game Code section 1600 et seq. to conserve fish and wildlife resources which includes rivers, streams, or lakes and associated natural communities. Fish and Game Code section 1602 requires any person, state or local governmental agency, or public utility to notify CDFW prior to beginning any activity that may do one or more of the following:

- 1) Divert or obstruct the natural flow of any river, stream, or lake;
- 2) Change the bed, channel, or bank of any river, stream, or lake;
- 3) Use material from any river, stream, or lake; or
- 4) Deposit or dispose of material into any river, stream, or lake.

The Project may adversely affect the existing water features and the hydrology pattern of the Project site. 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 species in local or regional plans, policies, or regulations, or by CDFW.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: Jurisdictional Delineation – The Project shall prepare a jurisdictional delineation and impact assessment for impacts to Little Rock Wash.

Mitigation Measure #2: LSA Notification – The Project proponent shall notify CDFW pursuant to Fish and Game Code 1602 and obtain a LSA Agreement from CDFW prior to obtaining a grading permit. The LSA Notification shall include a hydrology report to evaluate whether altering streams within the Project site may impact hydrologic activity. The hydrology report shall also include a hydrological evaluation of any potential scour or erosion at the Project site due to a 100, 50, 25, 10, 5, and 2-year frequency storm event for existing and proposed conditions. The Project proponent shall comply with the mitigation measures detailed in an LSA Agreement issued by CDFW. The Project proponent shall also provide compensatory mitigation at no less than 2:1 for any impacted stream and associated natural community, or at a ratio acceptable to CDFW. Please visit CDFW's

Sam Dominguez
November 17, 2023
Page 5 of 19

[Lake and Streambed Alteration Program](#) webpage for more information (CDFW 2023a).

Recommendation #2: CEQA – CDFW’s issuance of an LSA Agreement for a Project is subject to CEQA. As a Responsible Agency, CDFW may consider the CEQA document from the lead agency/project proponent for the project. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 et seq. and/or under CEQA, a project’s CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement. To compensate for any on- and off-site impacts to aquatic and riparian resources, additional mitigation conditioned in any LSA Agreement may include the following: erosion and pollution control measures; avoidance of resources; protective measures for downstream resources; on- and/or off-site habitat creation; enhancement or restoration; and/or protection and management of mitigation lands in perpetuity.

Comment #3: Impacts on Mohave Ground Squirrel

Issue: Mitigation Measure BIO-2, as currently written, may not adequately reduce the Project’s impact on Mohave ground squirrel. Analysis of ground squirrel impacts provided in the BHA is not reflected in the Initial Study and the MND.

Specific impacts: Project construction and ground-disturbing activities (e.g., equipment staging, mobilization, and grading) may result in mortality or injury to Mohave ground squirrel, habitat destruction, and may contribute to further habitat decline within the regional population. The MND states that there is no suitable habitat for Mohave ground squirrel located within or around the immediate area. However, this is not supported by the BHA which states that there is potential for Mohave ground squirrel to occur within the Project site and recommends surveys to confirm Mohave ground squirrel presence.

Why impacts would occur: Desert shrub vegetation such as Mojave creosote bush scrub and desert saltbush scrub are known to provide habitat for Mohave ground squirrel (CDFW 2010), and Joshua tree woodland and fourwing saltbush scrub within the Project site provides moderate to high suitable habitat for Mohave ground squirrel. Mitigation Measure BIO-2 in the MND suggest that consultation with CDFW will occur after Mohave ground squirrels are found during a general preconstruction survey. Waiting until after CEQA circulation to provide specific measures to avoid, minimize, and/or mitigate for the Project’s impact on Mohave ground squirrel does not satisfy the CEQA standards for deferred mitigation [CEQA Guidelines, § 15126.4(a)(1)(B)]. Additionally, Mohave ground squirrels are challenging to detect, and a general preconstruction survey may result in a false negative outcome. Focused protocol surveys should be conducted to confirm the presence or absence of this CESA-listed species and findings should be disclosed in the MND for public review. Without focused protocol surveys during the appropriate survey period, Project activities may adversely impact Mohave ground squirrel.

Evidence impacts would be significant: The Mohave ground squirrel has a restricted geographic range in the western Mojave Desert, where it has suffered from habitat loss as a result of conversion or degradation of native vegetation. CDFW considers adverse impacts to a species protected by CESA to be significant without mitigation under CEQA.

Sam Dominguez
November 17, 2023
Page 6 of 19

Inadequate avoidance, minimization, and mitigation measures for impacts on the Mohave ground squirrel will result in the Project continuing to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on a wildlife species identified as special status by CDFW and USFWS. As to CESA, take of any endangered, threatened, candidate species that results from the Project is prohibited, except as authorized by State law (Fish & G. Code, §§ 86, 2062, 2067, 2068, 2080, 2085; Cal. Code Regs., tit. 14, § 786.9).

Recommended Potentially Feasible Mitigation Measure(s):

CDFW recommends the City revise Mitigation Measure BIO-2 by incorporating the underlined language and removing the language with strikethrough:

Mitigation Measure #3: MM BIO-2 – A qualified biologist familiar with the species' behavior and life history shall conduct focused surveys for Mohave ground squirrel throughout the Project site. Focused Mohave ground squirrel surveys shall follow the [California Department of Fish and Game Mohave Ground Squirrel Survey Guidelines](#) (CDFW 2010). If Mohave ground squirrel is observed on site or captured during any of the trapping sessions, the Project proponent shall secure an Incidental Take Permit (ITP) for Mohave ground squirrel before ground-disturbing activities commence. The ITP will specify avoidance, minimization, and mitigation conditions for temporary and/or permanent impacts to Mohave ground squirrel including habitat acquisition at a CDFW-approved location and mitigation ratio. If, during the preconstruction survey, the Mohave ground squirrel is determined to be present on the site, then Project-specific measures will be determined through consultation with the California Department of Fish and Wildlife (CDFW) as part of a Section 2081 permit application. Measures may include purchase of suitable off-site habitat for the species. If the Project proponent elects to trap to determine occupancy, then protocols established by the CDFW for identifying habitat and individuals shall be followed.

Mitigation Measure #4: Incidental Take Permit – The Project proponent may choose to forgo focused Mohave ground squirrel presence/absence surveys and assume presence of Mohave ground squirrel on site. Under this option, an ITP shall be obtained for Mohave ground squirrel prior to ground/vegetation disturbance activities. The Project shall mitigate temporary and/or permanent impacts to Mohave ground squirrel habitat as specified in conditions of the ITP through habitat acquisition at a CDFW-approved location and mitigation ratio.

Recommendation #3: CEQA – CDFW's issuance of an ITP for a Project is subject to CEQA. As a Responsible Agency, CDFW may consider the CEQA document from the lead agency/Project proponent for the project. However, additional documentation may be required as part of an ITP application for the Project in order for CDFW to adequately develop an accurate take analysis and identify measures that would fully mitigate for take of CESA-listed species. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 2081 and/or under CEQA, a project's CEQA document should fully identify the potential impacts to Mohave ground squirrel and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the ITP.

Sam Dominguez
November 17, 2023
Page 7 of 19

Recommendation #4: MND Revision – CDFW recommends that the MND is amended to incorporate the data and analysis provided in the BHA, provide an updated discussion regarding the Project's impact to Mohave ground squirrel, and modify/add mitigation measures listed in the MND (see Mitigation Measure #3 and #4).

Comment #4: Impacts on Burrowing Owl

Issue: The Project may impact over-wintering burrowing owls.

Why impacts would occur: Burrowing owls are known to occur throughout Antelope Valley and are observed utilizing a variety of habitats such as grasslands, open land with sparse vegetation, and Joshua tree woodlands. According to the BHA, “[p]otential habitat is present but no burrows, owls, or sign was observed” (page 18). Although no burrowing owls were detected, CDFW concurs with the BHA that surveys should be conducted prior to Project activities to ensure no burrowing owl have moved on site. The MND notes that there is no suitable habitat for burrowing owl and does not provide mitigation measures specific to burrowing owls (page 26). Given that the Project site supports a Joshua tree woodland and small burrowing mammals were detected during field surveys, there is potential for burrowing owl to be present during Project activities. Without appropriate avoidance, minimization, and mitigation measures in the MND, the Project would continue to have an adverse impact on burrowing owls. Project ground-disturbing activities such as vegetation removal will result in habitat destruction and may lead to death or injury of adults, juveniles, eggs, or hatchlings. Project construction and activities may also disrupt natural burrowing owl breeding behavior.

Evidence impacts would be significant: A 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:

- 1) if the species is extirpated from the State or, in the case of birds, is extirpated in its primary season or breeding role;
- 2) if the species is listed as threatened or endangered under Endangered Species Act (ESA)-, but not CESA-, threatened, or endangered;
- 3) if the species meets the State definition of threatened or endangered but has not formally been listed;
- 4) if the species 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,
- 5) if 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 2023b).

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). 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

Sam Dominguez
November 17, 2023
Page 8 of 19

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

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #5: Burrowing Owl Surveys – The Project proponent shall retain a qualified biologist to conduct focused surveys adhering to survey methods described in CDFW’s March 7, 2012, [Staff Report on Burrowing Owl Mitigation](#) (CDFW 2012). Burrowing owl surveys shall be conducted by a qualified biologist on the Project site and within 100 feet (minimum) of the Project site where there is suitable habitat. In California, the burrowing owl breeding season extends from February 1 to August 31 with some variances by geographic location and climatic conditions. Survey protocol for breeding season owl surveys states to conduct four survey visits: 1) at least one site visit between February 15 and April 15, and 2) a minimum of three survey visits, at least three weeks apart, between April 15 and July 15, with at least one visit after June 15. If burrowing owls are identified, the Project proponent shall prepare an Impact Assessment and Burrowing Owl Mitigation Plan in accordance with the 2012 Staff Report on Burrowing Owl Mitigation. The Project proponent shall contact CDFW to develop appropriate mitigation/management procedures. The Project proponent shall submit a final Burrowing Owl Mitigation Plan to the City prior to the City issuing construction permits.

Mitigation Measure #6: Compensatory Mitigation – If the Project will impact habitat supporting burrowing owls, the City shall offset impacts on habitat supporting burrowing owl at no less than a 2:1 mitigation ratio. The City shall set aside replacement habitat either onsite or offsite at a mitigation ratio approved by CDFW. Replacement habitat shall be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity, which shall include an appropriate endowment to provide for the long-term management of mitigation lands.

Recommendation #5: Rodenticides – In order to limit the biomagnification of poisons in burrowing owls and their prey, CDFW recommends that the City require avoidance of any rodenticides and second-generation anticoagulant rodenticides during facility operations.

Comment #5: Impacts on Loggerhead Shrike

Issue: The MND does not discuss the presence of loggerhead shrike within the Project site and does not provide mitigation to offset the Project’s impact on nesting and foraging habitat.

Specific Impacts: Ground-disturbing activities (e.g., grading and vegetation removal) may result in loss of injury or mortality of loggerhead shrike as well as loss of nesting and/or foraging habitat.

Why impacts would occur: Loggerhead shrikes are observed throughout Antelope Valley in agricultural fields, pastures, riparian areas, and desert scrublands. According to the BHA, loggerhead shrike was observed during the field surveys. It was undisclosed in the BHA if the SSC species was foraging or nesting within the Project site, nevertheless, the site provides suitable nesting and foraging habitat for this SSC. The MND does not

Sam Dominguez
November 17, 2023
Page 9 of 19

mention that loggerhead shrike was observed within the Project site and does not provide any mitigation to offset habitat destruction. Inadequate avoidance, minimization, and mitigation measures for impacts to loggerhead shrike will result in the Project continuing to have a substantial effect on this species.

Evidence impacts would be significant: Loggerhead shrike are designated as an SSC. 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).

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #7: Compensatory Mitigation – The Project proponent shall offset the Project’s impact on loggerhead shrike habitat at no less than a 2:1 mitigation ratio. Replacement habitat shall be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity, which shall include an appropriate endowment to provide for the long-term management of mitigation lands.

Recommendation #6: MND Revision – CDFW recommends that the MND is revised to disclose that loggerhead shrike was observed during the field surveys. The MND should also analyze and discuss the Project’s impact on the nesting and foraging habitat for loggerhead shrike.

Additional Recommendations

1. **Mitigation Measure BIO-1**. CDFW appreciates that the City provided a mitigation measure that outlines a preconstruction survey for a variety of wildlife. However, the mitigation measure should be revised to address the species separately. CDFW recommends the City revise Mitigation Measure BIO-1 by incorporating the underlined language and removing the language with strikethrough:

“A preconstruction survey conducted by a qualified biologist shall be implemented prior to ground-disturbing activities. The following preconstruction survey schedules shall be implemented as necessary:

Preconstruction nesting bird survey prior ground-disturbing activities during the nesting season (February 1 to September 1, as early as January 1 for some raptors). Survey for active nests must be conducted by a qualified biologist one to two weeks prior to the activities to determine the presence/absence, location, and status of any active nests on or adjacent to the project site. If no active nests are discovered or identified, no further mitigation is required. In the event that active nests are discovered on site, a suitable buffer determined by the qualified biologist (~~e.g., 30 to 50 feet for passerines~~) should be established around such active nests. A minimum 100-foot no- disturbance buffer shall be placed around passerine nests. For raptors, the no-disturbance buffer shall be expanded to 500 feet. No ground-disturbing activities shall occur within this buffer until the biologist has confirmed that breeding/nesting is completed, and the young have fledged the nest. Limits of construction to avoid a nest site shall be

Sam Dominguez
November 17, 2023
Page 10 of 19

established in the field by a qualified biologist with flagging and stakes or construction fencing. Construction personnel shall be instructed regarding the ecological sensitivity of the fenced area. The results of the survey shall be documented and filed with the City.

~~Preconstruction survey for desert kit foxes and rare plant species shall be conducted within 1430 days prior to ground-disturbing activities. If individual desert kit foxes and their associated burrows are observed within the Project site, the Project proponent shall consult with CDFW prior to ground-disturbing activities to determine the appropriate avoidance and minimization measures. and cannot be avoided, the burrows will require passive relocation, excavation measures, and consultation with CDFW prior to disturbance.~~

The Project proponent shall retain a qualified biologist to conduct a rare plant survey within the Project site. 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 proponent shall submit a survey report, including negative findings, to the City and CDFW. If any rare plants are encountered, the Project proponent 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. CDFW-approved mitigation lands shall be in the same watershed as the Project site and support habitat that contains the rare plant species impacted. they will be relocated off the Project site limits in a similar substrate and similar orientation."

Environmental 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 2023c). 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 2023d).

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).

Sam Dominguez
November 17, 2023
Page 11 of 19


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

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:

C3D449ECB7C14DE...

Jennifer Turner, signing for

David Mayer
Environmental Program Manager
South Coast Region

ec: CDFW
Cindy Hailey, San Diego – Cindy.Hailey@wildlife.ca.gov
CEQA Program Coordinator, Sacramento – CEQACommentLetters@wildlife.ca.gov

OPR
State Clearinghouse, Sacramento – State.Clearinghouse@opr.ca.gov

References:

- [CDFW] California Department of Fish and Game. 2010. Mohave Ground Squirrel Survey Guidelines. Available at:
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83975>
- [CDFW] California Department of Fish and Wildlife. 2012. Staff Report on Burrowing Owl Mitigation. Available at:
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Sam Dominguez
November 17, 2023
Page 12 of 19

[CDFW] California Department of Fish and Wildlife. 2018. Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities. Available at:

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[CDFW] California Department of Fish and Wildlife. 2023a. Lake and Streamed Alteration Program. Available at: <https://wildlife.ca.gov/Conservation/Environmental-Review/LSA>

[CDFW] California Department of Fish and Wildlife. 2023b. Threatened and Endangered Species. Available at: <https://wildlife.ca.gov/Conservation/CESA>

[CDFW] California Department of Fish and Wildlife. 2023c. Submitting Data to the CNDDDB. Available at: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>.

[CDFW] California Department of Fish and Wildlife. 2023d. Combined Rapid Assessment and Releve Form. Available at:

<https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities/Submit>

Esri. ArcGIS. 2023. National Flood Hazard Layer 1% 100 Year Flood Dataset. Available at: https://map.dfg.ca.gov/arcgis/rest/services/Base_Hydrography/Hydrography/MapServer/12

Sam Dominguez
November 17, 2023
Page 13 of 19

Attachment A:

CDFW Draft Mitigation, Monitoring, and Reporting Plan and Associated Recommendations

Recommendation	Mitigation Measures	Timing	Responsible Party
MM-BIO-1 – Jurisdictional Delineation	The Project shall prepare a jurisdictional delineation and impact assessment for impacts to Little Rock Wash.	Prior to Project activities	Project proponent/ Qualified Biologist
MM-BIO-2- LSA Notification	The Project proponent shall notify CDFW pursuant to Fish and Game Code 1602 and obtain an LSA Agreement from CDFW prior to obtaining a grading permit. The LSA Notification shall include a hydrology report to evaluate whether altering streams within the Project site may impact hydrologic activity. The hydrology report shall also include a hydrological evaluation of any potential scour or erosion at the Project site due to a 100, 50, 25, 10, 5, and 2-year frequency storm event for existing and proposed conditions. The Project proponent shall comply with the mitigation measures detailed in an LSA Agreement issued by CDFW. The Project proponent shall also provide compensatory mitigation at no less than 2:1 for any impacted stream and associated natural community, or at a ratio acceptable to CDFW.	Prior to Project activities	Project proponent/ Qualified Biologist
MM-BIO-3 – MM BIO-2 Mohave Ground Squirrel	A qualified biologist familiar with the species' behavior and life history shall conduct focused surveys for Mohave ground squirrel throughout the Project site. Focused Mohave ground squirrel surveys shall follow the California Department of Fish and Game Mohave Ground Squirrel Survey Guidelines. If Mohave ground squirrel is observed on site or captured during any of the trapping sessions, the Project proponent shall secure an	Prior to and during Project activities	Project proponent/ Qualified Biologist

Sam Dominguez
 November 17, 2023
 Page 14 of 19

	Incidental Take Permit (ITP) for Mohave ground squirrel before ground-disturbing activities commence. The ITP will specify avoidance, minimization, and mitigation conditions for temporary and/or permanent impacts to Mohave ground squirrel including habitat acquisition at a CDFW-approved location and mitigation ratio.		
MM-BIO-4- Incidental Take Permit	The Project proponent may choose to forgo focused Mohave ground squirrel presence/absence surveys and assume presence of Mohave ground squirrel on site. Under this option, an ITP shall be obtained for Mohave ground squirrel prior to ground/vegetation disturbance activities. The Project shall mitigate temporary and/or permanent impacts to Mohave ground squirrel habitat as specified in conditions of the ITP through habitat acquisition at a CDFW-approved location and mitigation ratio.	Prior to Project activities	Project proponent
MM-BIO-5- Burrowing Owl Surveys	The Project proponent shall retain a qualified biologist to conduct focused surveys adhering to survey methods described in CDFW's March 7, 2012, Staff Report on Burrowing Owl Mitigation. Burrowing owl surveys shall be conducted by a qualified biologist on the Project site and within 100 feet (minimum) of the Project site where there is suitable habitat. In California, the burrowing owl breeding season extends from February 1 to August 31 with some variances by geographic location and climatic conditions. Survey protocol for breeding season owl surveys states to conduct four survey visits: 1) at least one site visit between February 15 and April 15, and 2) a minimum of three survey visits, at least three weeks apart, between April 15 and July 15, with at least one visit after June 15. If burrowing owls are	Prior to Project activities	Project proponent/ Qualified biologist

Sam Dominguez
 November 17, 2023
 Page 15 of 19

	<p>identified, the Project proponent shall prepare an Impact Assessment and Burrowing Owl Mitigation Plan in accordance with the 2012 Staff Report on Burrowing Owl Mitigation. The Project proponent shall contact CDFW to develop appropriate mitigation/management procedures. The Project proponent shall submit a final Burrowing Owl Mitigation Plan to the City prior to the City issuing construction permits.</p>		
<p>MM-BIO-6- Burrowing Owl Compensatory Mitigation</p>	<p>If the Project will impact habitat supporting burrowing owls, the City shall offset impacts on habitat supporting burrowing owl at no less than a 2:1 mitigation ratio. The City shall set aside replacement habitat either onsite or offsite at a mitigation ratio approved by CDFW. Replacement habitat shall be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity, which shall include an appropriate endowment to provide for the long-term management of mitigation lands.</p>	<p>Prior to Project activities</p>	<p>City</p>
<p>MM-BIO-7- Loggerhead Shrike Compensatory Mitigation</p>	<p>The Project proponent shall offset the Project's impact on loggerhead shrike habitat at no less than a 2:1 mitigation ratio. Replacement habitat shall be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity, which shall include an appropriate endowment to provide for the long-term management of mitigation lands.</p>	<p>Prior to and during Project activities</p>	<p>Project proponent/ Qualified biologist</p>
<p>MM-BIO-8 – MM- BIO-1 Preconstruction Surveys</p>	<p>A preconstruction survey conducted by a qualified biologist shall be implemented prior to ground-disturbing activities. The following preconstruction survey schedules shall be implemented as necessary:</p>	<p>Prior to and during Project activities</p>	<p>Project proponent/ Qualified biologist</p>

Sam Dominguez
November 17, 2023
Page 16 of 19

	<p>Preconstruction nesting bird survey prior ground-disturbing activities during the nesting season (February 1 to September 1, as early as January 1 for some raptors). Survey for active nests must be conducted by a qualified biologist one to two weeks prior to the activities to determine the presence/absence, location, and status of any active nests on or adjacent to the project site. If no active nests are discovered or identified, no further mitigation is required. In the event that active nests are discovered on site, a suitable buffer determined by the qualified biologist-should be established around such active nests. A minimum 100-foot no- disturbance buffer shall be placed around passerine nests. For raptors, the no-disturbance buffer shall be expanded to 500 feet. No ground-disturbing activities shall occur within this buffer until the biologist has confirmed that breeding/nesting is completed, and the young have fledged the nest. Limits of construction to avoid a nest site shall be established in the field by a qualified biologist with flagging and stakes or construction fencing. Construction personnel shall be instructed regarding the ecological sensitivity of the fenced area. The results of the survey shall be documented and filed with the City.</p> <p>Preconstruction survey for desert kit foxes shall be conducted within 14 days prior to ground-disturbing activities. If individual desert kit foxes and their associated burrows are observed within the Project site, the Project proponent shall consult with CDFW prior to ground-disturbing activities to determine the appropriate avoidance and minimization measures.</p>		
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Sam Dominguez
 November 17, 2023
 Page 17 of 19

	<p>The Project proponent shall retain a qualified biologist to conduct a rare plant survey within the Project site. 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 proponent shall submit a survey report, including negative findings, to the City and CDFW. If any rare plants are encountered, the Project proponent 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. CDFW-approved mitigation lands shall be in the same watershed as the Project site and support habitat that contains the rare plant species impacted.</p>		
<p>REC-1 –SEA MND Revision</p>	<p>CDFW recommends that the City reevaluate the Project impact on the biological resources within this SEA and consider providing compensatory mitigation at the habitat level to offset the Project impact on Little Rock SEA, at a ratio of no less than 2:1.</p>	<p>Prior to MND adoption</p>	<p>City</p>
<p>REC-2- LSA CEQA</p>	<p>CDFW's issuance of an LSA Agreement for a project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document from the lead agency/project proponent for the project. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 et seq. and/or under CEQA, a project's CEQA document should fully identify the potential impacts to the stream or riparian resources and provide</p>	<p>Prior to Project activities</p>	<p>Project proponent</p>

Sam Dominguez
 November 17, 2023
 Page 18 of 19

	adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement. To compensate for any on- and off-site impacts to aquatic and riparian resources, additional mitigation conditioned in any LSA Agreement may include the following: erosion and pollution control measures; avoidance of resources; protective measures for downstream resources; on- and/or off-site habitat creation; enhancement or restoration; and/or protection and management of mitigation lands in perpetuity.		
REC-3 – CEQA	CDFW’s issuance of an ITP for a Project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document from the lead agency/Project proponent for the project. However, additional documentation may be required as part of an ITP application for the Project in order for CDFW to adequately develop an accurate take analysis and identify measures that would fully mitigate for take of CESA-listed species. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 2081 and/or under CEQA, a project’s CEQA document should fully identify the potential impacts to Mohave ground squirrel and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the ITP.	Prior to Project activities	Project proponent
REC-4- MND Revision	CDFW recommends that the MND is amended to incorporate the data and analysis provided in the BHA, provide an updated discussion regarding the Project’s impact to Mohave ground squirrel, and modify/add mitigation measures listed in the MND (see Mitigation Measure #3 and #4).	Prior to MND adoption	City

Sam Dominguez
 November 17, 2023
 Page 19 of 19

<p>REC-5 - Rodenticides</p>	<p>In order to limit the biomagnification of poisons in burrowing owls and their prey, CDFW recommends that the City require the avoidance of any rodenticides and second-generation anticoagulant rodenticides during facility operations.</p>	<p>Prior to MND adoption</p>	<p>City</p>
<p>REC-6 – Loggerhead Shrike MND Revision</p>	<p>CDFW recommends that the MND is revised to disclose that loggerhead shrike was observed during the field surveys. The MND should also analyze and discuss the Project’s impact on the nesting and foraging habitat for loggerhead shrike.</p>	<p>Prior to MND adoption</p>	<p>City</p>
<p>REC-7 – Environmental Data</p>	<p>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. 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>Prior to Project activities</p>	<p>Qualified Biologist</p>