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Mar 11 2024

STATE CLEARING HOUSE

**Subject: Mitigated Negative Declaration for Lancaster Clean Energy Center
(Conditional Use Permit No 23-019) Project, SCH #2024020266, City of
Lancaster, Los Angeles County**

Dear Jocelyn Swain:

The California Department of Fish and Wildlife (CDFW) has reviewed the Mitigated Negative Declaration (MND) for the Lancaster Clean Energy Center (Conditional Use Permit No 23-019) Project (Project) proposed by the City of Lancaster (City). Supporting documentation for the Project includes the *Aquatic Resources Delineation and Habitat Assessment Lancaster Clean Energy Center, Lancaster, Los Angeles County, California* (HA). 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.

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.

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Code, §1900 et seq.), CDFW recommends the City obtain appropriate authorization under the Fish and Game Code.

Project Summary

Project Applicant: Element New Energy Lancaster 1, LLC.

Objective: The proposed Project will construct and operate the Lancaster Clean Energy Center, a hydrogen production plant powered by photovoltaic (PV) solar. The proposed Project will be developed on approximately 1,338 acres, divided into two sites: Site 1 (Caruso Property) and Site 2 (Bolthouse Property). Site 1 will be developed with solar facilities; no hydrogen production will occur on this parcel. Site 2 will be developed with solar facilities with the hydrogen production component of the Project. The entire facility will be self-sufficient, integrated, and off-grid. It will consist of a 650-megawatt PV solar generating facility; 330 MWh battery long duration energy storage system; and a green hydrogen production plant incorporating 400 MWe of electrolyzers. It will also include liquefied hydrogen storage in up to two horizontal cylindrical tanks with a capacity of 30 metric tons each, and up to three 100 metric ton spherical liquefied hydrogen tanks. Onsite gaseous hydrogen storage consists of approximately 30 metric tons in a linear surface pipe storage arrangement. All hydrogen production would be located along 70th Street East.

Location: The Project is located in the eastern portion of the City, in an area that is predominantly rural and undeveloped. The Project is bounded by Avenue J, Avenue L, 40th Street East, and 70th Street East, Lancaster, CA. Site 1 consists of approximately 442 acres of land and is generally bound by Avenue K, Avenue L, 40th Street East, and 50th Street East. Site 2 consists of approximately 896 acres and is generally bound by Avenue J, Avenue K, 50th Street East, and 70th Street East.

Biological Setting: The Project site is mostly used for agricultural production (typically carrots, onions, or alfalfa) and includes undeveloped areas. The Project site is surrounded by vacant land to the east, south, and partially west and agricultural fields to the north and west; all of which are separated from the Project site by paved and unpaved roads. There are also single-family residences scattered throughout the area.

Vegetation communities on site are comprised of non-native grassland (112.90 acres), five-horned smotherweed (*Bassia hyssopifolia*), semi-natural alliance (2.76 acres), fourwing saltbush scrub (2.70 acres), and rubber rabbitbrush shrubland (0.11 acre). Little Rock Wash flows through the middle of Site 2.

Sensitive species that have been identified to occur within the City and are of potential concern for the Project include northern California legless lizard (*Anniella pulchra*, California Species of Special Concern (SSC)), coast horned lizard (*Phrynosoma blainvillii*, SSC), California glossy snake (*Arizona elegans occidentalis*, SSC), burrowing owl (*Athene cunicularia*, SSC), Crotch's bumble bee (*Bombus crotchii*, CESA-listed

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candidate species), Swainson's hawk (*Buteo swainsoni*, CESA-listed [threatened]), and migratory birds.

Comments and Recommendations

CDFW met with the City to discuss the Project on February 22, 2024. During this meeting, CDFW was informed that the MND for the Project includes tiered off mitigation from the Eastside Overlay Zone Programmatic EIR (PEIR; June 2023). CDFW offers the comments and recommendations below to assist the City in adequately identifying, avoiding, and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources. CDFW is concerned about the adequacy of the impact analysis and the mitigation measures proposed in the IS/MND and the ability of the Project to mitigate the significant, or potentially significant, direct and indirect impacts to native habitats and species that rely on these habitats. CDFW therefore recommends, rather than an MND, that a complete draft Environmental Impact Report (DEIR) be circulated for public review and comment. The DEIR should adequately disclose impacts and measures for CDFW and the public to review and comment on the proposed Project and ensure that proposed impacts to fish and wildlife resources are properly identified and mitigated. CDFW recommends the additional information and analyses identified in this letter should be included in the DEIR.

Comment #1: Impacts to Swainson's Hawk (*Buteo swainsoni*)

Issue: The CEQA document does not adequately analyze Project impacts on Swainson's hawk.

Specific impacts: Swainson's hawks are regularly observed foraging throughout the Palmdale and Lancaster area. The Project may potentially result in the loss of foraging habitat for a CESA-listed raptor species.

During the meeting with the City, CDFW inquired about potential impacts to Swainson's hawk. The City indicated that mitigation for Swainson's hawk for the Project is tiered under the PEIR. During the public comment period for the PEIR, CDFW recommended the City include Swainson's hawk specific mitigation measures. However, there is no mitigation specific to Swainson's hawk in the PEIR. In addition, the City's [Responses to Comments](#) for the final PEIR (Lancaster 2023) (pp. 2-44) states "[Swainson's hawk mitigation] would occur at the project level and not at a programmatic level under the Draft PEIR. Additionally, future light industrial projects proposed in accordance with the overlay zone would require separate environmental review under CEQA to evaluate project- and site-specific impacts and additional mitigation measures would be identified." There does not appear to be mitigation measures regarding Swainson's hawk in either the PEIR or MND for this Project.

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Why impact would occur: Appendix A of the HA states that “the site has limited habitat available for roosting and nesting but can be used for foraging.” A search of the California Natural Diversity Database (CNDDDB) indicates a Swainson’s hawk nest on the east side of 50th St E, about 0.2 miles south of E Avenue L, was recorded in 2020. Although the site has foraging opportunities present for Swainson’s hawk within the Project area, the MND does not provide avoidance measures to minimize impacts to Swainson’s hawk. In addition, no protocol-level survey(s) was conducted for Swainson’s hawk. Absent appropriate surveys, Project activities could result in injury or mortality of unidentified Swainson’s hawks. The Project itself is expected to result in a significant loss of suitable habitat (1,338 acres).

Evidence impact would be significant: Consistent with CEQA Guidelines, section 15380, the status of the Swainson’s hawk as a threatened species under CESA qualifies it as an endangered, rare, or threatened species under CEQA. The estimated historical population of Swainson’s hawk was nearly 17,000 pairs; however, in the late 20th century, Bloom (1980) estimated a population of only 375 pairs. The decline was primarily a result of habitat loss from development (CDFW 2016). The most recent survey conducted in 2009 estimated the population at 941 breeding pairs. The species is currently threatened by loss of nesting and foraging habitat (e.g., from agricultural shifts to less crops that provide less suitable habitat), urban development, environmental contaminants (e.g., pesticides), and climate change (CDFW 2016). CDFW considers a Swainson’s hawk nest site to be active if it was used at least once within the past five years and impacts suitable habitat or individual birds within a 5-mile radius of an active nest as significant.

Based on the nest recorded in 2020 and the foraging areas available in the Project footprint, Project impacts may potentially reduce the number and/or restrict the range of Swainson’s hawk or contribute to the abandonment of an active nest and/or the loss of significant foraging habitat for a given nest territory and thus result in “take” as defined under CESA.

The Project’s impact on Swainson’s hawk has yet to be mitigated below a significant level. Therefore, Project impacts on Swainson’s hawk would be potentially significant.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: Prior to recirculation of the Project as a DEIR, the City should require a qualified avian biologist with appropriate handling permits to conduct focused surveys for Swainson’s hawk following CDFW’s 2010 guidance entitled [Swainson’s Hawk Survey Protocols, Impact Avoidance, and Minimization Measures for Renewable Energy Projects in the Antelope Valley of Los Angeles and Kern Counties, California](#) (2010). The results should be disclosed in the Project’s environmental documentation. If “take” of Swainson’s hawk would occur from Project construction or operation, the Project Applicant should obtain CESA authorization (i.e., incidental take permit (ITP)).

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CDFW may consider the City's CEQA documentation for its CESA-related actions if it adequately analyzes/discloses impacts and mitigation to CESA-listed species. 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.

Mitigation Measure #2: CDFW recommends compensation for the loss of Swainson's Hawk foraging habitat. To mitigate Project-related impacts to Swainson's hawk foraging habitat, Project Applicant should compensate for the permanent loss of Swainson's hawk foraging habitat by setting aside replacement acreage at a minimum of 1:1 mitigation ratio (mitigation:loss). Mitigation lands should be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate conservation methods and be managed in perpetuity through an endowment with an appointed land manager. For proposed preservation and/or restoration, the final environmental document should include measures to protect the targeted habitat values in perpetuity from direct and indirect negative impacts. The objective should be to offset the Project-induced qualitative and quantitative losses of wildlife habitat values. Issues that should be addressed include, but are not limited to, restrictions on access, proposed land dedications, monitoring and management programs, control of illegal dumping, water pollution, and human intrusion. An appropriate non-wasting endowment should be provided for the long-term monitoring and management of mitigation lands. Mitigation should occur at a CDFW-approved bank or via an entity that has been approved to hold and manage mitigation lands pursuant to Assembly Bill 1094 (2012), which amended [Government Code, sections 65965-65968](#). Under Government Code, section 65967(c), the lead agency must exercise due diligence in reviewing the qualifications of a governmental entity, special district, or nonprofit organization to effectively manage and steward land, water, or natural resources on mitigation lands it approves.

Comment #2: Impacts to Crotch's Bumble Bee

Issue: The Project may impact suitable habitat for Crotch's bumble bee (*Bombus crotchii*), a candidate CESA-listed species. The MND does not discuss or provide mitigation measures to reduce impacts to Crotch's bumble bee.

Specific impacts: The Project may result in temporal or permanent loss of suitable nesting and foraging habitat of Crotch's bumble bee. Project ground disturbing activities may cause death or injury of adults, eggs, and larva; burrow collapse; nest abandonment; and reduced nest success.

Why impacts would occur: The MND does not discuss the Project's direct, indirect, or cumulative impacts on Crotch's bumble bee. Without sufficient species-specific avoidance, minimization, or mitigation measures, impacts to Crotch's bumble bee may occur.

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According to [California's Natural Diversity Database \(CNDDDB\)](#), there have been historical observations of Crotch's bumble bee in the Antelope Valley (CDFW 2024a). Crotch's bumble bee may fly throughout the City and utilize areas that have suitable nesting habitat and floral resources. Aerial photography shows areas, especially around Little Rock Wash, where Crotch's bumble bee may inhabit the Project site. Crotch's bumble bee primarily nest in late February through late October underground in abandoned small mammal burrows. They may also nest under perennial bunch grasses or thatched annual grasses, under brush piles, in old bird nests, and in dead trees or hollow logs (Williams et al. 2014; Hatfield et al. 2018). Overwintering sites utilized by Crotch's bumble bee mated queens include soft, disturbed soil (Goulson 2010), or under leaf litter or other debris (Williams et al. 2014). Ground disturbance and vegetation removal associated with Project implementation during the breeding season could result in the incidental loss of breeding success or otherwise lead to nest abandonment in areas adjacent to the Project site. Potential habitat loss, as a result of the proposed Project, could also reduce foraging habitat for this species in the broader landscape, as urban development continues to eliminate large tracts of native vegetation.

Evidence impacts would be significant:

A petition to list the Crotch's bumble bee, an endangered species under CESA, is currently pending before the California Fish and Game Commission (Commission) (Cal. Reg. Notice Register 2018, No. 45-Z, pp. 1986–1987 [November 9, 2018]). The Commission designated the Crotch's bumble bee as a candidate species under CESA in June 2019 (Cal. Reg. Notice Register 2019, No. 26-Z, pp. 954–955 [June 28, 2019]). The Commission's decision to designate the Crotch's bumble bee as a candidate species is the subject of a pending legal challenge (Almond Alliance of California v. Fish and Game Commission [2022] 79 Cal. App. 5th 337, pet. for review pending, S275412). On September 30th, 2022, candidacy was reinstated for the four bumble bee species petitioned for listing – Franklin's, Crotch's, western, and suckley cuckoo.

Crotch's bumble bee is also listed as an invertebrate of conservation priority under the [California Terrestrial and Vernal Pool Invertebrates of Conservation Priority](#) (CDFW 2017). Crotch's bumble bee has a State ranking of S1/S2. This means that the Crotch's bumble bee is considered critically imperiled or imperiled and is extremely rare (often 5 or fewer populations). Also, Crotch's bumble bee has a very restricted range and steep population declines make the species vulnerable to extirpation from the State (CDFW 2017). Accordingly, Crotch's bumble bee meets the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380). Therefore, take of Crotch's bumble bee could require a mandatory finding of significance by the District (CEQA Guidelines, § 15065).

Recommended Potentially Feasible Mitigation Measure(s):

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Mitigation Measure #3: The Project Applicant should retain a qualified entomologist with appropriate handling permits and familiar with the species behavior and life history of the species. Focused surveys should follow CDFW's [Survey Considerations for California Endangered Species Act \(CESA\) Candidate Bumble Bee Species](#) (CDFW 2023). Prior to finalizing the CEQA document, focused surveys should be conducted throughout the entire Project site during the appropriate flying season to ensure no missed detection of Crotch's bumble bee occurs. If Crotch's bumble bee is detected within the Project area, the Project Applicant should consult with CDFW and obtain appropriate take authorization from CDFW (pursuant to Fish & G. Code, § 2080 et seq). The Project Applicant should have a copy of a fully executed take authorization prior to any ground disturbance and vegetation removal. If an ITP through CESA will be pursued, then the DEIR should also include details of impacts to the species and compensatory mitigation including land protection instruments and in-perpetuity funding.

Comment #3: Impacts to Streams

Issue: Mitigation Measure #7 of the MND may be insufficient to mitigate impacts to Little Rock Wash.

Specific impacts: Per Mitigation Measure #7, the City will not submit a Lake or Streambed Alteration (LSA) notification prior to Project implementation. The HA (pp. 5-4) states if the Project will require an LSA Agreement, "[a]n analysis of project impacts as per [CEQA] would be required prior to issuance of either permit." The MND also indicates that the Project will avoid impacts to Little Roch Wash with a 100-foot buffer and the HA indicates that "site development activity (including temporary vehicle crossings or permanent utility crossings) [may] occur in Little Rock Wash".

Why impacts would occur: Development over and/or adjacent to the stream may result in ground-disturbing activities and vegetation removal. Ground-disturbing activities during PV solar panel installation could result in erosion. According to the Federal Emergency Management Agency ([FEMA Flood Map](#)), the Project will be constructing solar panels within Special Flood Hazard Areas surrounding Little Rock Wash, which is within and beyond the 100-foot buffer that is established within the MND (FEMA 2024). The MND does not indicate that an LSA Agreement notification will be submitted; therefore, it has not been determined that an LSA Agreement will be required for this Project. As a result, the Project could result in unmitigated impacts to streams and associated habitats.

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:

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

CDFW requires an LSA Agreement when a Project activity may substantially adversely affect fish and wildlife resources. The Project may result in significant impacts on streams and associated natural communities if development would be in close proximity to these resources. Without appropriate mitigation, the Project continues to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on fish and wildlife resources, including rivers, streams, or lakes and associated natural communities identified by CDFW.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #4: The Project Applicant should notify CDFW pursuant to Fish and Game Code, section 1602 and may need to obtain an LSA Agreement from CDFW prior to obtaining a grading permit. The Project Applicant should comply with the mitigation measures detailed in an LSA Agreement issued by CDFW. The Project Applicant should also provide compensatory mitigation for any impacted stream and associated natural community. Please visit CDFW's [Lake and Streambed Alteration Program](#) webpage for more information (CDFW 2024b).

Recommendation #1: 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 applicant 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 #4: Cumulative Impacts

Issue: The Project may have a cumulative impact on biological resources.

Specific Impacts: The Project's incremental effect may be cumulatively considerable due to the size and nature of the Project activities. The cumulative effect of the Project

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was not considered or analyzed because the environmental document for this Project is an MND.

Why impacts would occur: Cumulative impacts on biological resources can result from individually minor but collectively significant projects. The Project will impact 1,338 acres; this, in combination with other projects (especially future solar projects), may be a significant impact on biological resources in the Antelope Valley. The Project, when considered collectively with prior, concurrent, and probable future projects, may have a significant cumulative effect and potential to substantially reduce the number or restrict the range of endangered, rare, or threatened species. Special status species that may be impacted by the Project include (but is not limited to) burrowing owl and Swainson's hawk.

In addition, Mitigation Measure #1 states, "[p]rior to issuance of a grading or building permit, the project applicant shall provide to the City of Lancaster Community Development Department within evidence of the completion of the implemented off-site permanent preservation method(s) or that such preservation is infeasible." There appears to be no contingency measures in the event preservation is infeasible. The Project would therefore provide no compensatory mitigation for impacts to biological resources, resulting in a net loss of these resources and continued cumulative impact in the Antelope Valley.

Evidence impact would be significant: The Project may have a significant effect on the environment if the possible effects of the Project are individually limited but cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects (Pub. Resources Code, § 21083(b)). When assessing whether a cumulative effect requires an Environmental Impact Report, the City "shall consider whether the cumulative impact is significant and whether the effects of the Project are cumulatively considerable" (CEQA Guidelines, § 15064(h)(1)). When using a threshold of significance, the City should briefly explain how compliance with the threshold means that the Project's impacts are less than significant. A threshold of significance is an identifiable quantitative, qualitative, or performance level of a particular environmental effect (CEQA Guidelines, § 15064.7). Compliance with the threshold does not relieve the City's obligation to consider substantial evidence indicating that the Project's environmental effects may still be significant (CEQA Guidelines, § 15064(b)(2)). If the Project might contribute to a significant cumulative impact, but the contribution will be rendered less than cumulatively considerable through mitigation measures set forth in a Mitigated Negative Declaration, the initial study should briefly indicate and explain how the contribution has been rendered by the City to be less than cumulatively considerable (CEQA Guidelines, § 15064(h)(2)). A conclusion about whether cumulative impact is significant may be insufficient without an analysis describing the analytic route that the City traveled from evidence to action/determination.

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Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #5: A complete DEIR should be circulated by the City for public review and comment. The additional information and analyses identified in this letter should be included in the DEIR.

Comment #5: Impacts to Habitat

Issue: The MND does not provide sufficient information for CDFW to evaluate the adequacy of the Biological Impact Fee used to offset impacts to biological resources in the Antelope Valley.

Specific Impacts: The Project would result in permanent loss of habitat that may support special status species.

Why impacts would occur: According to the MND (p. 32), the Project's cumulative impacts on biological resources in the Antelope Valley would be mitigated through payment of a \$770/acre Biological Impact Fee. The MND does not explain or make a connection as to why payment of the Biological Impact Fee is adequate to offset Project impacts, incrementally or cumulatively, so that the Project would not have a cumulative impact on biological resources in the Antelope Valley. CDFW disagrees that an in-lieu fee program is an appropriate mechanism for offsetting this impact, and strongly recommends that the DEIR include a discussion and analysis of habitat-level impacts, including compensatory mitigation which will offset those impacts such that they are less than significant. Moreover, CDFW has made similar comments regarding the Biological Impact Fee on environmental documents from the City over 35 times (approximately) over the past two years alone (CEQAnet 2024). CDFW is concerned that the number of Projects occurring or proposed to occur within a short period of time may indicate that cumulative impacts on biological resources is likely occurring or will occur.

Mitigation Measure #1 (p. 20) states, “[t]he applicant shall mitigate the project’s impacts to Prime Farmland through the permanent preservation of off-site agricultural land within the County of Los Angeles of equal or better agricultural, at a ratio of 1:1 for net acreage before conversion [...]”. The MND goes on to say (p. 30) that Mitigation Measure #1 “[...] would ensure the continued existence of foraging habitat for [bird] species.” It is unclear if the Biological Impact Fee will cover this mitigation measure (see Issue #2 in Comment #1) or if the Fee will be a separate action to mitigate impacts to biological resources in the Antelope Valley.

Evidence impacts would be significant: The basic purpose of an environmental document is to provide public/agencies 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

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to discuss the manner in which the Biological Impact Fee would mitigate for the Project's cumulative impacts on biological resources in the Antelope Valley. The MND does not provide enough information to facilitate meaningful public review and comment on the appropriateness of the Biological Impact Fee used to mitigate impacts on biological resources. Furthermore, the Project may contribute to the ongoing loss of sensitive, special status, threatened, and/or endangered plants, wildlife, and natural 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 a Biological Impact Fee as compensatory mitigation. The Biological Impact Fee 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 the United States Fish and Wildlife Service (USFWS).

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #6: The DEIR should include a discussion and analysis of habitat-level impacts, including compensatory mitigation, which will offset those impacts such that they are less than significant. Compensatory mitigation should include land protection instruments and in-perpetuity funding (e.g., a conservation easement).

Recommendation #2: CDFW recommends the City include the following in the DEIR to provide adequate, complete, and good-faith disclosure of information in relation to the Project:

- 1) Whether the Biological Impact Fee is going towards an established program;
- 2) How the Biological Impact Fee/program is designed to (and will) mitigate the effects at issue at a level meaningful for purposes of CEQA;
- 3) What the Biological Impact Fee would acquire;
- 4) What biological resources would the Biological Impact Fee protect/conserve;
- 5) Why the Biological Impact Fee is appropriate for mitigating the cumulative loss of biological resources in the Antelope Valley;
- 6) Why the Biological Impact Fee is sufficient to purchase land or credits at a mitigation bank;
- 7) Where land would be acquired or where the mitigation bank is located;
- 8) When the Biological Impact Fee would be used; and,
- 9) How the Biological Impact Fee would be adequate such that the Project would not have a cumulative impact on biological resources in the Antelope Valley.

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The DEIR should provide any technical data, maps, plot plans, diagrams, and similar relevant information in addressing these concerns (CEQA Guidelines, § 15147).

Comment #6: Impacts on Species of Special Concern

Issue: The Project may impact designated SSC, including American badger (*Taxidea taxus*), northern California legless lizard, coast horned lizard, and California glossy snake.

Specific impacts: Project activities, directly or through habitat modification, may result in direct injury or mortality (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: These species are known to be in the Antelope Valley. This may especially be true in areas of the Project site not previously developed for agricultural farmland. The MND includes no avoidance, minimization, or mitigation measures. As such, there is potential for the Project to impact SSC. Without appropriate avoidance or minimization measures, impacts to an 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 to occur because these are cryptic species that may 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 Federal 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 2024b).

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.

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These SSC meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380).

Impacts to any sensitive or special status species should be considered significant under CEQA unless they are clearly mitigated below a level of significance. 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 #7- Biological Monitor: A qualified biologist should be on site daily to move out of harm's way wildlife of low mobility, including but not limited to SSC, that would be injured or killed during all Project activities. 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 is found, work may only occur in these areas after a qualified biologist has determined it is safe to do so, and the qualified biologist should advise workers to proceed with caution near flagged areas.

Mitigation Measure #8- Scientific Collecting Permit: The City should require the Project Applicant retain a qualified biologist with appropriate [handling permits](#) (CDFW 2024c), 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.

Mitigation Measure #9- 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 within three 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 identified to prevent additional injury or death.

Mitigation Measure #10- Compensatory Mitigation: The City should require the Project Applicant provide compensatory mitigation for temporary and permanent loss of any habitat supporting SSC. There should be no net loss of habitat supporting SSC [CEQA Guidelines, § 15370]. Compensatory mitigation should provide appropriate habitat (depending on the species), refugia, and habitat structures that supports that species (e.g., woody material, rocks, brush piles, pools, burrows). Any proposed mitigation area/plan should include a discussion on the territory size; nesting, breeding,

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foraging, and refuge locations; invasive, non-native plant and wildlife species present; food availability; and how all life cycle functions will be mitigated. Mitigation for impacts to an SSC should adhere to CDFW and/or USFWS established protocol/guidelines, if available.

Additional Recommendations

Recommendation #3: The MND provides mitigation for burrowing owl; however, language in the Project's mitigation measure for burrowing owl may be unnecessary. The HA provides evidence that burrowing owls may be found on the Project site due to the presence of suitable habitat. CDFW recommends the City revise Mitigation Measure #5 by adding underlined language and removing the language that has strikethrough:

~~“A preconstruction Protocol level burrowing owl surveys shall be conducted in accordance with the survey methods described in the California Department of Fish and Wildlife (CDFW) March 7, 2012, *Staff Report on Burrowing Owl Mitigation* to determine if any owls have moved onto the project site. The habitat assessment/preconstruction survey shall determine whether or not protocol-level surveys are needed for burrowing owls.~~

All survey efforts shall be conducted by a qualified biologist. ~~If protocol-level surveys are necessary,~~ Survey protocol for breeding season owl surveys require 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 no burrowing owls or occupied burrows are detected, project activities may begin, and no additional avoidance and minimization measures shall be required. If an occupied burrow is found outside, but within 500 feet, of the development footprint, the qualified biologist shall establish a “no disturbance” buffer around the burrow location(s). The size of the “no-disturbance” buffer shall be determined in consultation with CDFW and be based on the species status (i.e., breeding, non-breeding) and proposed level of disturbance. If an occupied burrow is found within the development footprint and cannot be avoided, a burrowing owl exclusion and mitigation plan shall be prepared and submitted to CDFW for approval prior to initiating project activities.”

Recommendation #4: Rodenticides and second-generation anticoagulant rodenticides should be prohibited both during and over the life of the Project.

Recommendation #5: CDFW recommends that any fencing used during and after the Project be constructed with materials that are not harmful to wildlife. Prohibited materials should include, but are not limited to, spikes, glass, razor, or barbed wire. Use of chain link and steel stake fence should be avoided or minimized as this type of fencing can injure wildlife or create barriers to wildlife dispersal. All hollow posts and pipes should be capped to prevent wildlife entrapment and mortality. These structures

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mimic the natural cavities preferred by various bird species and other wildlife for shelter, nesting, and roosting. Raptor's talons can become entrapped within the bolt holes of metal fence stakes resulting in mortality. Metal fence stakes used on the Project site should be plugged with bolts or other plugging materials to avoid this hazard. Fences should not have any slack that may cause wildlife entanglement.

Mitigation and Monitoring Reporting Plan

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

Environmental Data

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, sub€(e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data> (CDFW 2024e). The types of information reported to CNDDDB can be found at the following [link: https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals](https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals).

Environmental Document Filing Fees

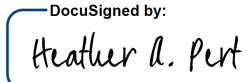
The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental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

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Conclusion

CDFW appreciates the opportunity to provide comments and recommendations regarding the Project to assist the City of Lancaster in adequately analyzing and minimizing/mitigating impacts to biological resources. To ensure significant impacts are adequately mitigated to a level less-than-significant, the feasible mitigation measures described above should be incorporated as enforceable conditions in the DEIR for the Project. CDFW requests an opportunity to review and comment on any responses that the City has to our comments and to receive notification on forthcoming hearing dates for the Project. Further, we request a meeting with the City to discuss our comments, please contact Felicia Silva, Senior Environmental Scientist (Specialist), at Felicia.Silva@wildlife.ca.gov or (562) 292-8105 to schedule a meeting with CDFW.

Sincerely,

DocuSigned by:


DF423498814B441...
Heather A. Pert

Environmental Program Manager I

EC: California Department of Fish and Wildlife
Baron Barrera, Senior Environmental Scientist (Supervisory)
Fritz Rieman, Senior Environmental Scientist (Specialist)
Cindy Hailey, Staff Services Analyst
CEQA Program Coordinator – Sacramento

OPR

State Clearinghouse - State.Clearinghouse@opr.ca.gov

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- Bloom, P. H. 1980. The status of the Swainson's hawk in California, 1979. Bureau of Land Management, Sacramento, CA, USA
- CEQAnet. 2024. Available from: [https://ceqanet.opr.ca.gov/Search?StartRange=2022-02-28&EndRange=2024-02-28&LeadAgency=Lancaster%2c+City+of&StateReviewAgency=Fish+and+Wildlife%2c+Region+5+-+South+Coast%2c+San+Diego+\(CDFW\)&County=Los+Angeles](https://ceqanet.opr.ca.gov/Search?StartRange=2022-02-28&EndRange=2024-02-28&LeadAgency=Lancaster%2c+City+of&StateReviewAgency=Fish+and+Wildlife%2c+Region+5+-+South+Coast%2c+San+Diego+(CDFW)&County=Los+Angeles)
- [CDFW] California Department of Fish and Wildlife and California Energy Commission. 2010. Swainson's Hawk Survey Protocols, Impact Avoidance, and Minimization Measures for Renewable Energy Projects in the Antelope Valley of Los Angeles and Kern Counties, California. Available at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83991&inline>
- [CDFW] California Department of Fish and Wildlife. 2016. Status review: Swainson's hawk (*Buteo swainsoni*) in California. Report to the California Fish and Game Commission, Sacramento, CA, USA.
- [CDFW] California Department of Fish and Wildlife. 2017. California Terrestrial and Vernal Pool Invertebrates of Conservation Priority. Available from: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149499&inline>
- [CDFW] California Department of Fish and Wildlife. 2023. Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species. Available at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150&inline>
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- [CDFW] California Department of Fish and Wildlife. 2024b. Lake and Streambed Alteration Program. Available from: <https://wildlife.ca.gov/Conservation/LSA>
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State of California – Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
 South Coast Region
 3883 Ruffin Rd.
 San Diego, CA 92123
 www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Attachment A: Draft Mitigation and Monitoring Reporting Plan

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

Biological Resources (BIO)			
	Mitigation Measure (MM) or Recommendation (REC)	Timing	Responsible Party
MM-BIO-1-Swainson's Hawk Survey Protocol	Prior to recirculation of the Project as a DEIR, the City shall require a qualified avian biologist with appropriate handling permits to conduct focused surveys for Swainson's hawk following CDFW's 2010 guidance entitled Swainson's Hawk Survey Protocols, Impact Avoidance, and Minimization Measures for Renewable Energy Projects in the Antelope Valley of Los Angeles and Kern Counties, California (2010). If "take" of Swainson's hawk would occur from Project construction or operation, the Project Applicant shall obtain CESA authorization [(i.e., incidental take permit (ITP)]. CDFW may consider the City's CEQA documentation for its CESA-related actions if it adequately analyzes/discloses impacts and mitigation to CESA-listed species. 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.	Prior to issuance of development permit	City of Lancaster (City)/Project Applicant
MM-BIO-2-Swainson's hawk mitigation	To mitigate Project-related impacts to Swainson's hawk foraging habitat, Project Applicant shall compensate for the permanent loss of Swainson's hawk foraging habitat shall be offset by setting aside replacement acreage at a minimum of 1:1 mitigation ratio (mitigation:loss). Mitigation lands shall be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate conservation methods and be managed in perpetuity through an endowment with an appointed	Prior to issuance of development permit	City/Project Applicant

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	<p>land manager. For proposed preservation and/or restoration, the final environmental document shall include measures to protect the targeted habitat values in perpetuity from direct and indirect negative impacts. The objective shall be to offset the Project-induced qualitative and quantitative losses of wildlife habitat values. Issues that shall be addressed include, but are not limited to, restrictions on access, proposed land dedications, monitoring and management programs, control of illegal dumping, water pollution, and increased human intrusion. An appropriate non-wasting endowment shall be provided for the long-term monitoring and management of mitigation lands. Mitigation shall occur at a CDFW-approved bank or via an entity that has been approved to hold and manage mitigation lands pursuant to Assembly Bill 1094 (2012), which amended Government Code sections 65965-65968. Under Government Code section 65967(c), the lead agency must exercise due diligence in reviewing the qualifications of a governmental entity, special district, or nonprofit organization to effectively manage and steward land, water, or natural resources on mitigation lands it approves.</p>		
<p>MM-BIO-3-Crotch's bumble bee</p>	<p>The Project Applicant shall retain a qualified entomologist with appropriate handling permits and familiar with the species behavior and life history of the species. Focused surveys shall follow CDFW's Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species (CDFW 2023c). Focused surveys shall be conducted throughout the entire Project site during the appropriate flying season to ensure no missed detection of Crotch's bumble bee occurs. If Crotch's bumble bee is detected within the Project area, the Project applicant shall consult with CDFW and obtain appropriate take authorization from CDFW (pursuant to Fish & Game Code, § 2080 <i>et seq</i>). The Project applicant shall provide a copy of a fully executed take authorization prior to any ground disturbance and vegetation removal. If an ITP through CESA will be pursued, then the DEIR shall also include</p>	<p>Prior to finalizing CEQA document</p>	<p>City/Project Applicant</p>

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	details of impacts to the species and compensatory mitigation including land protection instruments and in-perpetuity funding.		
MM-BIO-4-LSA Notification	The Project Applicant will notify CDFW pursuant to Fish and Game Code, section 1602 and may need to obtain an LSA Agreement from CDFW prior to obtaining a grading permit. The City shall comply with the mitigation measures detailed in an LSA Agreement issued by CDFW. The City shall also provide compensatory mitigation for any impacted stream and associated natural community. Please visit CDFW's Lake and Streambed Alteration Program webpage for more information (CDFW 2024a).	Prior to issuance of development permit	City/Project Applicant
REC-1-CEQA Compliance	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 applicant 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.	Prior to issuance of development permit	City/Project Applicant
MM-BIO-5-Cumulative Impacts	A complete DEIR shall be circulated by the City for public review and comment. The additional information and analyses identified in this letter shall be included in the DEIR.	Prior to issuance of development permit	City/Project Applicant

<p>MM-BIO-6- Habitat Impacts</p>	<p>The DEIR shall include a discussion and analysis of habitat-level impacts, including compensatory mitigation, which will offset those impacts such that they are less than significant. Compensatory mitigation shall include land protection instruments and in-perpetuity funding (e.g., a conservation easement and non-wasting endowment).</p>	<p>Prior to finalizing CEQA document</p>	<p>City/Project Applicant</p>
<p>REC-2- Disclosure</p>	<p>The City will revise the document 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 Biological Impact Fee is going towards an established program; 2) How the Biological Impact Fee/program is designed to (and will) mitigate the effects at issue at a level meaningful for purposes of CEQA; 3) What the Biological Impact Fee would acquire; 4) What biological resources would the Biological Impact Fee protect/conserve; 5) Why the Biological Impact Fee is appropriate for mitigating the cumulative loss of biological resources in the Antelope Valley; 6) Why the Biological Impact Fee is sufficient to purchase land or credits at a mitigation bank; 7) Where land would be acquired or where the mitigation bank is located; 8) When the Biological Impact Fee would be used; and, How the Biological Impact Fee would be adequate such that the Project would not have a cumulative impact on biological resources in the Antelope Valley. The recirculated DEIR should provide any technical data, maps, plot plans, diagrams, and similar relevant information in addressing these concerns (CEQA Guidelines, § 15147). 	<p>Prior to issuance of development permit</p>	<p>City/Project Applicant</p>

MM-BIO-7- Biological Monitor	A qualified biologist shall be on site daily to move out of harm's way wildlife of low mobility, including but not limited to California legless lizards, that would be injured or killed during all Project activities. 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 is found, work may only occur in these areas after a qualified biologist has determined it is safe to do so, and the qualified biologist shall advise workers to proceed with caution near flagged areas.	Prior to issuance of development permit	City/Project Applicant
MM-BIO-8- Scientific Collecting Permit	The City shall require the Project Applicant retain a qualified biologist with appropriate handling permits, or shall obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities.	Prior to issuance of development permit	City/Project Applicant
MM-BIO-9- 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 three 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 may only resume once the proper notifications have been made and additional mitigation measures have been identified to prevent additional injury or death.	Prior to issuance of development permit	City/Project Applicant
MM-BIO-10- Compensatory Mitigation	The City shall require the Project Applicant to provide compensatory mitigation for temporary and permanent loss of any habitat supporting SSC. There shall be no net loss of habitat supporting SSC [CEQA Guidelines, § 15370(e)]. Compensatory mitigation shall provide appropriate habitat (depending on the species), refugia, and habitat structures that supports that species (e.g., woody material, rocks, brush piles, pools, burrows). Any	Prior to issuance of development permit	City/Project Applicant

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	<p>proposed mitigation area/plan shall include a discussion on the territory size; nesting, breeding, foraging, and refuge locations; invasive, non-native plant and wildlife species present; food availability; and how all life cycle functions will be mitigated. Mitigation for impacts to an SSC shall adhere to CDFW and/or USFWS established protocol/guidelines, if available.</p>		
<p>REC-3- Burrowing Owl</p>	<p>The MND provides mitigation for burrowing owl; however, language in the Project’s mitigation measure for burrowing owl may be unnecessary. The HA provides evidence that burrowing owls may be found on the Project site due to the presence of suitable habitat. CDFW recommends the City revise Mitigation Measure #5 by adding underlined language and removing the language that has strikethrough:</p> <p>“A preconstruction Protocol level burrowing owl surveys shall be conducted in accordance with the survey methods described in the California Department of Fish and Wildlife (CDFW) March 7, 2012, <i>Staff Report on Burrowing Owl Mitigation</i> to determine if any owls have moved onto the project site. The habitat assessment/preconstruction survey shall determine whether or not protocol-level surveys are needed for burrowing owls.</p> <p><u>“A preconstruction Protocol level burrowing owl surveys</u> shall be conducted in accordance with the survey methods described in the California Department of Fish and Wildlife (CDFW) March 7, 2012, <i>Staff Report on Burrowing Owl Mitigation</i> to determine if any owls have moved onto the project site. The habitat assessment/preconstruction survey shall determine whether or not protocol-level surveys are needed for burrowing owls.</p> <p>All survey efforts shall be conducted by a qualified biologist. If protocol-level surveys are necessary, <u>Survey</u> protocol for breeding season owl surveys require 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 no burrowing owls or occupied burrows are detected, project activities may begin, and no additional avoidance and minimization measures shall be required. If an occupied burrow is found outside, but within 500 feet, of the development footprint, the qualified biologist shall establish a “no disturbance” buffer around the burrow location(s). The size of the “no-disturbance”</p>	<p>Prior to finalizing CEQA document</p>	<p>City/Project Applicant</p>

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	buffer shall be determined in consultation with CDFW and be based on the species status (i.e., breeding, non-breeding) and proposed level of disturbance. If an occupied burrow is found within the development footprint and cannot be avoided, a burrowing owl exclusion and mitigation plan shall be prepared and submitted to CDFW for approval prior to initiating project activities.”		
REC-4-Rodenticides	Rodenticides and second-generation anticoagulant rodenticides shall be prohibited both during and over the life of the Project.	Prior to finalizing CEQA document	City/Project Applicant
REC-5-Wildlife fencing	CDFW recommends that any fencing used during and after the Project be constructed with materials that are not harmful to wildlife. Prohibited materials shall include, but are not limited to, spikes, glass, razor, or barbed wire. Use of chain link and steel stake fence shall be avoided or minimized as this type of fencing can injure wildlife or create barriers to wildlife dispersal. All hollow posts and pipes shall be capped to prevent wildlife entrapment and mortality. These structures mimic the natural cavities preferred by various bird species and other wildlife for shelter, nesting, and roosting. Raptor’s talons can become entrapped within the bolt holes of metal fence stakes resulting in mortality. Metal fence stakes used on the Project site shall be plugged with bolts or other plugging materials to avoid this hazard. Fences shall not have any slack that may cause wildlife entanglement.	Prior to finalizing CEQA document	City/Project Applicant