State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Inland Deserts Region
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Ontario, CA 91764
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director

March 28, 2024
Sent via email.

Mina Morgan
City of Victorville Planning Department
14343 Civic Drive
Victorville CA, 92393

Tentative Tract Map Case No. PLAN22-00015 (PROJECT)
Mitigated Negative Declaration (MND)
SCH# 2024021228

Dear Ms. Morgan,

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to adopt a MND from the City of Victorville (Lead Agency) 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 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 and G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id*., § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on Project related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15981.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish and G. Code, § 1600 et seq.) Likewise, to the

[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.

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 and G. Code, § 2050 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

Proponent: City of Victorville

Objective: Tentative Tract Map No. 20525 is a proposal to subdivide approximately 30.1 acres into 109 residential lots with a minimum lot size of 7,200 square feet and 5 lettered lots in the City of Victorville. Two water quality control basins will be installed at the northwest corner of the Project site and will also be used for recreational purposes. Ancilary actions include half-width road improvements, including curbs, gutters, and sidewalks along both Amethyst Road and Mojave Drive. Tawney Ridge Lane will be extended from its current location 1,203 feet west and 26 feet wide to intersect with Amethyst Road in order to provide easy access for the Fire Department. Development of TTM No. 20525 will include installation of a new sewer line, water lines, and other underground utilities within the site to connect the new residences to these utilities. Landscaping will occur after development of the residential homes.

Location: The Project site is a 30-acre site located in the northeast portion of the City of Victorville, east of Highway 395 and west of Interstate 15. The site is border by Amethyst Road to the west, Mojave Drive to the south and Tawny Ridge Lane (dirt road) to the north. The site is depicted on the Victorville quadrangle of the United States Geological Survey's (USGS) 7.5-minute map series within Section 12 of Township 5 North, Range 5 West. The Project is located on undeveloped land with undeveloped land to the north and residential housing along the eastern boundary and on the southern side of Mojave Drive.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City of Victorville in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources.

COMMENT #1: Burrowing Owl (*Athene cunicularia*)

Issue: CDFW is concerned that the MND does not sufficiently identify Project impacts to burrowing owl (*Athene cunicularia*) or ensure that impacts are mitigated to a level less than significant. The Project site has the potential to provide suitable foraging and/or nesting habitat for burrowing owl.

Specific impact: CDFW is concerned regarding the MND's analysis and supporting documentation that the Project site lacks burrowing owl habitat. The MND's conclusion that, based on a single survey conducted on February 7, 2022, determines no focused

surveys are required. CDFW is concerned that there are several gaps in information that are needed to make such a determination.

The Project site is within burrowing owl habitat and CNDDB records show burrowing owl located in adjacent properties close to the Project site. Burrowing owls have a high potential to move into disturbed sites prior to and during construction activities. Burrowing owls frequently move into disturbed areas since they are adapted to highly modified habitats (Chipman et al. 2008; Coulombe 1971). Impacts to burrowing owl from the Project could include take of burrowing owls, their nests, or eggs or destroying nesting, foraging, or over-wintering habitat, thus impacting burrowing owl populations. Impacts can result from grading, earthmoving, burrow blockage, heavy equipment compaction and crushing of burrows, general Project disturbance that has the potential to harass owls at occupied burrows, and other activities.

Why impact would occur: According to the California Natural Diversity Database, burrowing owl occurrences have been reported in close adjacent properties to the Project site. Additionally, when comparing the Project site against habitat characteristics of burrowing owl there are no distinct physical barriers or habitat qualities that would preclude burrowing owl from occurring on site. Finally, the biological resources report Attachment D indicates that there were no suitable burrows surrounding the Project site, however Page 5 of the Biological Resources Report also indicates that California ground squirrel was observed in the Project site. CDFW is concerned that these observations contradict the MND's determination and supporting documentation.

Evidence impact would be significant: Burrowing owl is a California Species of Special Concern. Take of individual burrowing owls and their nests is defined by Fish and Game Code section 86, and prohibited by sections 3503, 3503.5 and 3513. Take is defined in Fish and Game Code section 86 as "hunt, pursue, catch, capture or kill, or attempt to hunt, pursue, catch, capture or kill."

Burrowing owl surveys provide information needed to determine the potential effects of proposed Project and activities on burrowing owls, and to avoid take in accordance with FGC sections 86, 3503, and 3503.5. Impact assessments evaluate the extent to which burrowing owls and their habitat may be impacted, directly or indirectly, on and within a reasonable distance of a proposed CEQA Project activity.

Recommended potentially feasible mitigation measure(s) to reduce impacts to less than significant: CDFW recommends the inclusion of MM BIO-3 and MM BIO-4, which includes breeding season surveys for burrowing owl to be conducted with follow up pre-construction surveys.

If burrowing owls are found to occupy the Project site and avoidance is not possible, it is important to note that according to the Staff Report (CDFG 2012), exclusion is not a take avoidance, minimization, or mitigation method and is considered a potentially significant impact under CEQA. However, if necessary, CDFW recommends that burrow exclusion be conducted by qualified biologists and only during the non-breeding season,

before breeding behavior is exhibited and after the burrow is confirmed empty through non-invasive methods, such as surveillance. CDFW recommends replacement of occupied burrows with artificial burrows at a ratio of 2 artificial burrow constructed to 1 natural burrow collapsed (2:1) as minimization for the potentially significant impact of evicting burrowing owls. Burrowing owls may attempt to colonize or re-colonize an area that will be impacted; thus, CDFW recommends ongoing surveillance of the Project site during Project activities, at a rate that is sufficient to detect burrowing owls if they return. CDFW also recommends that when temporary or permanent burrow exclusion and/or burrow closure is implemented, burrowing owls should not be excluded from burrows unless or until a Burrowing Owl Exclusion Plan is developed and approved by CDFW; permanent loss of occupied burrow(s) and habitat is mitigated in accordance with the Staff Report; site monitoring is conducted prior to, during, and after exclusion of burrowing owls from their burrows sufficient to ensure take is avoided; and excluded burrowing owls are documented using artificial or natural burrows on an adjoining mitigation site.

If burrowing owls are found to occupy the Project site and avoidance is not possible, CDFW recommends mitigation for permanent impacts to nesting, occupied and satellite burrows and/or burrowing owl habitat such that the habitat acreage, number of burrows and burrowing owls impacted are replaced. The mitigation lands may require habitat enhancements including enhancement or expansion of burrows for breeding, shelter and dispersal opportunity, and removal or control of population stressors. CDFW recommends permanent protection of mitigation land through a conservation easement deeded to a nonprofit conservation organization or public agency with a conservation mission, development and implementation of a mitigation land management plan to address long-term ecological sustainability and maintenance of the site for burrowing owls, and funding for the maintenance and management of mitigation land through the establishment of a long-term funding mechanism such as an endowment.

Recommended Potentially Feasible Mitigation Measure to reduce adequately address burrowing owl: CDFW offers the following measures to adequately address burrowing owl, Mitigation Measure (MM) BIO-4 and MM BIO-3 (edits are in strikethrough and additions are in bold):

MM BIO-3:

Prior to any ground disturbance, a survey for potential burrows followed by four breeding season surveys of areas found to have potential for burrowing owl occupation must be conducted in accordance with the Staff Report on Burrowing Owl Mitigation, State of California Natural Resource Agency, Department of Fish and Game, May 7, 2012. The surveys shall include 100 percent coverage of the Project site. A report summarizing the breeding season survey including all requirement for survey reports (page 30 of the 2012 Staff Report) shall be submitted to CDFW for review and approval.

If no burrowing owl, active burrowing owl burrows, or sign thereof are found, no further action is necessary. If burrowing owl, active burrowing owl burrows, or sign thereof are found the qualified biologist shall prepare and implement a plan for avoidance, minimization, and mitigation measures to be review and approved by CDFW prior to commencing Project activities. The plan shall propose mitigation for permanent loss of occupied burrow(s) and habitat. The mitigation lands may require habitat enhancements including enhancement or expansion of burrows for breeding, shelter and dispersal opportunity, and removal or control of population stressors. Permanent protection of mitigation land through a conservation easement deeded to a nonprofit conservation organization or public agency with a conservation mission, development and implementation of a mitigation land management plan to address long-term ecological sustainability and maintenance of the site for burrowing owls, and funding for the maintenance and management of mitigation land through the establishment of a long-term funding mechanism such as an endowment. The ratio of acquisition to loss must in most cases exceed 1:1 for any species, particularly burrowing owl. The ratio should be higher for rarer species, particularly for those that occupy irreplaceable habitats.

MM BIO-4:

To ensure that the Project avoids impacts to burrowing owl, a qualified biologist shall complete a take avoidance survey no less than 14 days prior to initiating ground disturbance activities using the recommended methods described in the 2012 Staff Report. Burrowing owls may re-colonize a site after only a few days. Time lapses between Project activities trigger subsequent take avoidance surveys including but not limited to a final survey conducted within 24 hours prior to ground disturbance.

COMMENT #2: Crotch's Bumble Bee (*Bombus crotchii*)

Issue: The MND does not address potential Project impacts to Crotch's bumble bee, a candidate for listing under the California Endangered Species Act. Crotch's bumble bee has the potential to occur throughout the Project site, The MND and Biological Resources Report does not indicate that surveys were conducted or provide any avoidance, minimization or mitigation measures to ensure that the project impacts are less than significant. CDFW is concerned the lack of the MND's analysis and determination of Project related impacts to Crotch's Bumble Bee. According to the CNDDB, INaturalist there are several records of Crotch's bumble bee within the vicinity of the Project. Additionally, the Project is located within the species range.

Specific impact: Potential take of Crotch's bumble bee and loss of nesting and foraging habitat.

Why this impact would occur: Crotch's bumble bee occurs primarily in California, including the Mediterranean region, Pacific Coast, Western Desert, Great Valley and

adjacent to foothills through most of southwestern California (Williams et. al 2014). Crotch's bumble bee are generalist foragers and have been reported visiting a wide variety of flower plants. The plant families most commonly associated with Crotch's bumble bee observations or collections from California include Fabaceae, Apocynaceae, Asteraceae, Lamiaceae, Boraginaceae and Asclepiadaceae. Ground disturbance (e.g., trenching, grading, soil compaction, burrow loss, and earth-moving activities) and vegetation removal have the potential to destroy Crotch's bumble bee burrows. Additionally, these activities create elevated levels of noise, human activity, dust, ground vibrations, and vegetation disturbance.

Evidence impact would be significant: Crotch's bumble bee is a candidate species for listing under CESA; therefore, it receives the same legal protection afforded to endangered or threatened species under CESA pursuant to Fish & G. Code §§ 2074.2 & 2085. If found on-site, the Project could result in crushing or killing Crotch's bumble bees, reduction in sufficient food resources such as nectar and pollen, and/or removal of nesting and overwintering sites. Many bumble bee species, once common in the western United States, have undergone a dramatic decline in both distribution and abundance and are now extirpated from much of their historic ranges (Hatfield et al. 2018). Many bumble bees are threatened with extinction due primarily to reductions in habitat from urbanization, intensive agriculture, and invasive species introductions (ibid). If Crotch's bumble bee occurs at the Project site and Project impacts to Crotch's bumble bee occur, this could result in a substantial reduction in the species' population, which would be a mandatory finding of significance (CEQA Guidelines, § 15065).

Recommended Potentially Feasible Mitigation Measure to reduce adequately address Crotch's bumble bee: CDFW offers the following Mitigation Measure to adequately address Crotch's bumble bee, MM BIO-5

MM BIO 5

Crotch's bumble bee is a candidate threatened species under the California Endangered Species Act. Prior to the initiation of Project activities, the Project proponent must obtain a qualified biologist to conduct surveys for the candidate bumble bee species. There are a range of potential qualifications including coursework, bumble bee-specific workshops, and focused surveys. It is important to consider the type of training or field work when evaluating whether it provided relevant experience. The qualified biologist will conduct habitat mapping no less than 120 days prior to initiation of Project activities with the submittal of a complete baseline habitat mapping report encompassing Fish and Game Code 1602 resources. Mapping will identify habitat alliances following Sawyer et al. (2009) and the report will identify species composition for each mapped alliance. If habitat mapping identifies the presence of plants (e.g., *genera Antirrhinum, Phacelia, Clarkia, Cordylanthus, Dendromecon, Eschscholzia, Eriogonum Hypericum, Lantana, Lupinus, Salvia, Asclepias, Cirsium, Monardella, Keckiella, Acmispon, Euthamia, Ehrendorferia, Vicia*, and/or *Trichostema*) or other suitable habitat, then a qualified biologist approved by CDFW shall prepare

a draft survey plan and conduct surveys for Crotch's bumble bee. The survey plan will identify the timing, number, and duration of survey efforts, and procedures to follow in the event that Crotch's bumble bee is detected within the Project area. Survey methodology shall generally follow the U.S. Fish and Wildlife Service protocol for the Rusty Patched bumble bee (USFWS 2019). CDFW also recommends completing multiple surveys, coinciding with the peak bloom periods of the plants listed above. Following the completion of surveys, and no less than 30 days prior to initiation of Project activities, survey results shall be submitted to CDFW for review and comment. If Crotch's bumble bee is detected during surveys, Project activities shall not occur in any occupied habitat areas the qualified biologist shall immediately notify CDFW.

COMMENT #3: <u>Desert Tortoise (Gopherus agassizii)</u>

Issue: The Project may have impacts to Desert Tortoise, a California Endangered Species Act threatened species.

Specific impact: Desert tortoise is a State and federally listed threatened species. This species is impacted by ongoing threats, including loss, degradation, and fragmentation of habitat, due to development. Staging of construction equipment, vehicles, and foot traffic may result in the collapse of occupied burrows and result in direct mortality and/or injury to desert tortoise. Project construction and related activities may result in collision with or crushing by vehicles or heavy equipment; entrapment within open trenches and pipes; entrapment or entanglement within materials and equipment staged and moved; crushing or burial of individuals or eggs in burrows; destruction of burrows and refugia; and increased predation.

Why impact would occur: The Project site is located within desert tortoise habitat. The CNDDB notes desert tortoise sightings on adjacent properties to the Project site. The Biological Resources Assessment survey was conducted in February of 2022, which is well outside of the appropriate protocol level timeframe to survey for desert tortoise and their sign. A separate protocol level survey for desert tortoise was also not conducted. CDFW is concerned about the lack of inclusion of desert tortoise surveys for the property site. CDFW also strongly encourages the Project proponent to apply for a CESA incidental take permit (ITP) for take of desert tortoise if full avoidance is not feasible.

Evidence impact would be significant: Desert tortoise is a California Endangered Species Act (CESA)-listed species. Take of any CESA listed species is prohibited except as authorized by state law (Fish and Game Code, §§ 2080 & 2085). Consequently, if a Project, including Project construction or any Project-related activity during the life of the Project, results in take of CESA-listed species, CDFW recommends that the Project proponent seek appropriate authorization prior to Project implementation. This may include an incidental take permit or a consistency determination (Fish and Game Code, §§ 2080.1 & 2081).

Desert tortoise populations have declined significantly in recent decades as a result of human activities in their native habitat including land development, off-road vehicle use, overgrazing, agricultural development, military activities, predation, and the spread of invasive plant species (USFWS 2011). The desert tortoise population in the western Mojave Desert has declined by 90% since the 1980s. Desert tortoises can take up to 20 years to reach sexual maturity, which limits their ability to recover from even small losses in population numbers (USFWS 2011).

Recommended Potentially Feasible Mitigation Measure(s) to reduce impacts to less than significant: CDFW recommends inclusion of the following changes to the mitigation measures for desert tortoise (edits are in strikethrough and additions are in bold):

MM BIO-6

A CDFW-approved biologist shall conduct a protocol level presence or absence survey within the Project area and 500-foot buffer of suitable habitat, no more than 48-hours prior to Project activities and after any pause in Project activities lasting 30 days or more, in accordance with U.S. Fish and Wildlife Service 2009 desert tortoise survey methodology. The survey shall utilize perpendicular survey routes and 100-percent visual coverage for desert tortoise and their sign. Pre-construction surveys cannot be combined with other surveys conducted for other species while using the same personnel. Project activities cannot start until 2 negative results from consecutive surveys using perpendicular survey routes for desert tortoise are documented. Results of the survey shall be submitted to CDFW prior to start of Project activities. If the survey confirms absence, the CDFW-approved biologist shall ensure desert tortoise do not enter the Project area. If the survey confirms presence, the Project proponent shall submit to CDFW for review and approval a desert tortoise-specific avoidance plan detailing the protective avoidance measures to be implemented to ensure complete avoidance of take of desert tortoises. If complete avoidance cannot be achieved, the Project proponent shall not undertake Project activities and Project activities shall be postponed until the appropriate authorization [i.e., California Endangered Species Act (CESA) incidental take permit under the Fish and Game Code section 2081] is obtained.

COMMENT #4: Special-Status Plant Species

Issue: Page 7 of the Biological Resources Assessment noted that one special status plant species has been recorded in the Victorville quadrangle, western Joshua tree. CDFW is concerned that the Biological Resources Assessment missed several sensitive plant species including Beaver Dam breadroot (*Pediomelum castoreum*), white pygmy-poppy (*Canbya candida*), and Booth's evening primrose (Eremothera boothii ssp. boothii). Additionally, in the table provided in Attachment D – Potentially Occurring Special Status Biological Resources in the Biological Resources Assessment there are several additional species that were not noted in the habitat assessment document,

including Mojave spineflower (*Chorizanthe spinosa*), sagebrush loeflingia (*Loeflingia squarrosa* var. *artemisiarum*) and crowned muilla (*Mullia coronata*). CDFW is concerned with these inconsistencies of the Biological Resources Assessment and associated attachments. Several of these species have a California Rare Plant Rank of 1B or 2B and any potential impacts require public disclosure of such impacts. The determinations of special-status plants potential to occur were made based on habitat assessments that were conducted on February 7, 2022, and protocol-level botanical surveys were not conducted. For several of the species, this time was outside of the flowering season, and it appears that surveys where not conducted according to CDFW 2018 Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018).

If sensitive species and/or their habitat may be impacted from the Project, CDFW recommends the inclusion of specific mitigation in the MND. CEQA Guidelines section 15126.4, subdivision (a)(1)(8) states that formulation of feasible mitigation measures should not be deferred until some future date. The Court of Appeal in *San Joaquin Raptor Rescue Center* v. *County* of *Merced* (2007) 149 Cal.App.4th 645 struck down mitigation measures which required formulating management plans developed in consultation with State and Federal wildlife agencies after Project approval. Courts have also repeatedly not supported conclusions that impacts are mitigable when essential studies, and therefore impact assessments, are incomplete *(Sundstrom* v. *County* of *Mendocino* (1988) 202 Cal. App. 3d. 296; *Gentry* v. *City* of *Murrieta (1995)* 36 Cal. App. 4th 1359; *Endangered Habitat League, Inc.* v. *County* of *Orange* (2005) 131 Cal. App. 4th 777).

Specific impact: The Project has the likely hood of Project related impacts to special status plant species due to ground disturbing activities associated with the development of the Project site.

Why impact would occur: The Project has the potential to impact several special-status plants and it is unclear why protocol surveys were not completed to determine and support the analysis within the MND. The Biological Resources Analysis Attachment D – Potentially Occurring Special Status Biological Resources indicates that there the special-status plant species are Presumed Absent, and for the majority the supporting evidence is that there is “no suitable habitat within or adjacent to the Project site”. CDFW is concerned regarding this determination and provides specific justification below:

> White pygmy-poppy - According to Attachment D, " Occurs on gravelly, sandy, granitic soils in Joshua tree woodland, Mojavean desert scrub, and pinyon and juniper woodland. Found at elevations ranging from 2,297 to 5,249 feet above mean sea level (msl). Blooming period is from March to June” Based on the habitat characteristics provided in Attachment D, and the habitat description provided in the Biological Resources Assessment, CDFW disagrees with the MND’s determination and understands that the Project site does contain suitable

habitat (Joshua tree woodland, Mojavean desert scrub, and pinyon and juniper woodland) and is within the range of white pygmy-poppy.

Mojave spineflower – According to Attachment D, "grows in alkaline or non-alkaline soils in chenopod scrub, Joshua tree woodland, Mojavean desert scrub, and playas. Found at elevations ranging from 20 to 4,265 feet. Blooming period is from March to July." Based on the habitat characteristics provided in Attachment D, and the habitat description provided in the Biological Resources Assessment, CDFW disagrees with the MND's determination and understands that the Project site does contain suitable habitat (Joshua tree woodland, Mojavean desert scrub) and is within the range of Mojave spineflower.

Sagebrush loeflingia– According to Attachment D, " Grows in sandy soils within desert dunes, Great Basin scrub, and Sonoran desert scrub habitats. Blooming period is from April to May. Grows in elevation from 2,297 to 5,299 feet." Based on the habitat characteristics provided in Attachment D, and the habitat description provided in the Biological Resources Assessment, CDFW disagrees with the MND's determination and understands that the Project site does contain suitable habitat and is within the range of sagebrush loeflingia.

Crowned muilla– According to Attachment D, " Found in chenopod scrub, Joshua tree woodland, Mojavean desert scrub, and pinyon and juniper woodland habitats. Blooming period is from May to April. Grows in elevation from 2,198 to 6,430 feet" Based on the habitat characteristics provided in Attachment D, and the habitat description provided in the Biological Resources Assessment, CDFW disagrees with the MND's determination and understands that the Project site does contain suitable habitat and is within the range of crowned muilla.

Beaver Dam breadroot– According to Attachment D, " Occurs in sandy soils, washes, and roadcuts within Joshua tree woodland and Mojavean desert scrub. Found at elevations ranging from 2,000 to 5,000 feet. Blooming period is from April to May" Based on the habitat characteristics provided in Attachment D, and the habitat description provided in the Biological Resources Assessment, CDFW disagrees with the MND's determination and understands that the Project site does contain suitable habitat and is within the range of Beaver Dam breadroot.

Evidence impact would be significant:

Plants constituting California Rare Plant Ranks 1A, 1B, 2A, and 2B generally meet the criteria of a CESA-listed species and should be considered as an endangered, rare or threatened species for the purposes of CEQA analysis. Likewise, CDFW considers State listed communities to be imperiled habitats having both local and regional significance. Plant communities, alliances, and associations with a statewide ranking of S1, S2, and S3 should be considered sensitive and declining at the local and regional level. These ranks can be obtained by querying the CNDDB and are included in the

Manual of California Vegetation and California Native Plant Society (cnps.org) (CNPS 2023)

Recommended Potentially Feasible Mitigation Measure to reduce impacts to less than significant: CDFW offers the following Mitigation Measures for Sensitive Plant Species (edits are in strikethrough and additions are in bold):

MM BIO-5

Pre-construction rare plant clearance survey: Prior to Project implementation, and during the appropriate season, a qualified biologist shall conduct botanical field surveys within the Project area following protocols set forth in the California Department of Fish and Wildlife's (CDFW) 2018 Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018). The surveys shall be conducted by a CDFW approved botanist(s) experienced in conducting floristic botanical field surveys, knowledgeable of plant taxonomy and plant community ecology and classification, familiar with the plants of the area, including special-status and locally significant plants, and familiar with the appropriate state and federal statutes related to plants and plant collecting. The botanical field surveys shall be conducted at the appropriate time of year when plants will both be evident and identifiable (usually, during flowering or fruiting) and, in a manner, which maximizes the likelihood of locating special-status plants and sensitive natural communities that may be present. Botanical field surveys shall be conducted floristic in nature, meaning that every plant taxon that occurs in the Project area is identified to the taxonomic level necessary to determine rarity and listing status. If any special-status plants are identified, the Project Applicant shall avoid the plant(s), with an appropriate buffer (i.e., fencing or flagging).

MM BIO 6

If complete avoidance of a special status plant is not feasible, the Project Applicant shall mitigate the loss of the plant(s) through off-site compensation including: 1) permanent protection of an existing off-site native population; 2) permanent protection of an off-site introduced population; 3) a combination of 1) and 2); or 4) mitigation banking. The ratio of acquisition to loss must in most cases exceed 1:1 for any species. The ratio should be higher for rarer species, particularly for those that occupy irreplaceable habitats.

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, § , subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDB). The CNDDB field survey form can be filled out and submitted

online at the following link: https://wildlife.ca.gov/Data/CNDDB/Submitting-Data. The types of information reported to CNDDB can be found at the following link: https://www.wldlife.ca.gov/Data/CNDDB/Plants-and-Animals.

ENVIRONMENTAL DOCUMENT FILING FEE

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.)

CONCLUSIONS

CDFW appreciates the opportunity to comment on the Tentative Tract Map Case No. PLAN22-00015 Project and help the City of Victorville in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Marlee Poff, Environmental Scientist at email marlee.poff@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Jeff Brandt
6BBFAB19FE504F9...

For Alisa Ellsworth
Environmental Program Manager

Attachments:

Mitigation and Monitoring Reporting Program (MMRP) for CDFW-Proposed Mitigation Measures

ATTACHMENT 1: MITIGATION MONITORING AND REPORTING PROGRAM(MMRP)

PURPOSE OF THE MMRP

The purpose of the MMRP is to ensure compliance with mitigation measures during Project implementation. Mitigation measures must be implemented within the time periods indicated in the table below.

TABLE OF MITIGATION MEASURES

The following items are identified for each mitigation measure: Mitigation Measure, Implementation Schedule, and Responsible Party. The Mitigation Measure column summarizes the mitigation requirement. The Implementation Schedule column shows the date or phase when each mitigation measure will be implemented. The Responsible Party column identifies the person or agency that is primarily responsible for implementing mitigation measures.

Biological (BIO) Mitigation Measure	**Implementation Schedule**	**Responsible Party**
BIO-3: Prior to any ground disturbance, a survey for potential burrows followed by four breeding season surveys of areas found to have potential for burrowing owl occupation must be conducted in accordance with the Staff Report on Burrowing Owl Mitigation, State of California Natural Resource Agency, Department of Fish and Game, May 7, 2012. The surveys shall include 100 percent coverage of the Project site. A report summarizing the breeding season survey including all requirement for survey reports (page 30 of the 2012 Staff Report) shall be submitted to CDFW for review and approval. If no burrowing owl, active burrowing owl burrows, or sign thereof are found, no further action is necessary. If burrowing owl, active burrowing owl burrows, or sign thereof are found the qualified biologist shall prepare and implement a plan for avoidance, minimization, and mitigation measures to be review and approved by CDFW prior to commencing Project	Prior to commencing ground- or vegetation-disturbing activities	Project Proponent

activities. The plan shall propose mitigation for permanent loss of occupied burrow(s) and habitat. The mitigation lands may require habitat enhancements including enhancement or expansion of burrows for breeding, shelter and dispersal opportunity, and removal or control of population stressors. Permanent protection of mitigation land through a conservation easement deeded to a nonprofit conservation organization or public agency with a conservation mission, development and implementation of a mitigation land management plan to address long-term ecological sustainability and maintenance of the site for burrowing owls, and funding for the maintenance and management of mitigation land through the establishment of a long-term funding mechanism such as an endowment.		
BIO-4: To ensure that the Project avoids impacts to burrowing owl, a qualified biologist shall complete a take avoidance survey no less than 14 days prior to initiating ground disturbance activities using the recommended methods described in the 2012 Staff Report. Burrowing owls may re-colonize a site after only a few days. Time lapses between Project activities trigger subsequent take avoidance surveys including but not limited to a final survey conducted within 24 hours prior to ground disturbance.	Prior to commencing ground- or vegetation-disturbing activities	Project Proponent
MM BIO 5 Crotch's bumble bee is a candidate threatened species under the California Endangered Species Act. Prior to the initiation of Project activities, the Project proponent must obtain a qualified biologist to conduct surveys for the candidate bumble bee species. There are a range of potential qualifications including coursework, bumble bee-specific workshops, and focused surveys. It is	Prior to commencing ground- or vegetation-disturbing activities	Project Proponent

important to consider the type of training or field work when evaluating whether it provided relevant experience. The qualified biologist will conduct habitat mapping no less than 120 days prior to initiation of Project activities with the submittal of a complete baseline habitat mapping report encompassing Fish and Game Code 1602 resources. Mapping will identify habitat alliances following Sawyer et al. (2009) and the report will identify species composition for each mapped alliance. If habitat mapping identifies the presence of plants (e.g., *genera Antirrhinum, Phacelia, Clarkia, Cordylanthus, Dendromecon, Eschscholzia, Eriogonum Hypericum, Lantana, Lupinus, Salvia, Asclepias, Cirsium, Monardella, Keckiella, Acmispon, Euthamia, Ehrendorferia, Vicia*, and/or *Trichostema*) or other suitable habitat, then a qualified biologist approved by CDFW shall prepare a draft survey plan and conduct surveys for Crotch's bumble bee. The survey plan will identify the timing, number, and duration of survey efforts, and procedures to follow in the event that Crotch's bumble bee is detected within the Project area. Survey methodology shall generally follow the U.S. Fish and Wildlife Service protocol for the Rusty Patched bumble bee (USFWS 2019). CDFW also recommends completing multiple surveys, coinciding with the peak bloom periods of the plants listed above. Following the completion of surveys, and no less than 30 days prior to initiation of Project activities, survey results shall be submitted to CDFW for review and comment. If Crotch's bumble bee is detected during surveys, Project activities shall not occur in any occupied habitat areas the qualified biologist shall immediately notify CDFW.		

MM BIO-6 A CDFW-approved biologist shall conduct a protocol level presence or absence survey within the Project area and 500-foot buffer of suitable habitat, no more than 48-hours prior to Project activities and after any pause in Project activities lasting 30 days or more, in accordance with U.S. Fish and Wildlife Service 2009 desert tortoise survey methodology. The survey shall utilize perpendicular survey routes and 100-percent visual coverage for desert tortoise and their sign. Pre-construction surveys cannot be combined with other surveys conducted for other species while using the same personnel. Project activities cannot start until 2 negative results from consecutive surveys using perpendicular survey routes for desert tortoise are documented. Results of the survey shall be submitted to CDFW prior to start of Project activities. If the survey confirms absence, the CDFW-approved biologist shall ensure desert tortoise do not enter the Project area. If the survey confirms presence, the Project proponent shall submit to CDFW for review and approval a desert tortoise-specific avoidance plan detailing the protective avoidance measures to be implemented to ensure complete avoidance of take of desert tortoises. If complete avoidance cannot be achieved, the Project proponent shall not undertake Project activities and Project activities shall be postponed until the appropriate authorization [i.e., California Endangered Species Act (CESA) incidental take permit under the Fish and Game Code section 2081] is obtained.	Prior to commencing ground- or vegetation-disturbing activities	Project Proponent

MM BIO-7 Pre-construction rare plant clearance survey: Prior to Project implementation, and during the appropriate season, a qualified biologist shall conduct botanical field surveys within the Project area following protocols set forth in the California Department of Fish and Wildlife's (CDFW) 2018 Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018). The surveys shall be conducted by a CDFW approved botanist(s) experienced in conducting floristic botanical field surveys, knowledgeable of plant taxonomy and plant community ecology and classification, familiar with the plants of the area, including special-status and locally significant plants, and familiar with the appropriate state and federal statutes related to plants and plant collecting. The botanical field surveys shall be conducted at the appropriate time of year when plants will both be evident and identifiable (usually, during flowering or fruiting) and, in a manner, which maximizes the likelihood of locating special-status plants and sensitive natural communities that may be present. Botanical field surveys shall be conducted floristic in nature, meaning that every plant taxon that occurs in the Project area is identified to the taxonomic level necessary to determine rarity and listing status. If any special-status plants are identified, the Project Applicant shall avoid the plant(s), with an appropriate buffer (i.e., fencing or flagging).	Prior to commencing ground- or vegetation-disturbing activities	Project Proponent
MM BIO 8 If complete avoidance of a special status plant is not feasible, the Project Applicant shall mitigate the loss of the plant(s) through off-site compensation including: 1)	Prior to commencing ground- or vegetation-disturbing activities	Project Proponent

permanent protection of an existing off-site native population; 2) permanent protection of an off-site introduced population; 3) a combination of 1) and 2); or 4) mitigation banking. The ratio of acquisition to loss must in most cases exceed 1:1 for any species. The ratio should be higher for rarer species, particularly for those that occupy irreplaceable habitats.		