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Governor's Office of Planning & Research

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STATE CLEARINGHOUSE

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Subject: Draft Mitigated Negative Declaration, Valle Reseda/Silverbeach -Tentative Tract Map 38066 (P21-010) Project, State Clearinghouse No. 2024030654, City of San Jacinto

Dear Kevin White:

The California Department of Fish and Wildlife (CDFW) received a Mitigated Negative Declaration (MND) from the City of San Jacinto (City), as the Project Applicant/Proponent, for the Valle Reseda/Silverbeach – Tentative Tract Map 38066 Project (Project) for Rennsport Properties, LLC (Project Applicant/Proponent), pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines¹.

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

CDFW ROLE

CDFW is California's Trustee Agency for fish and wildlife resources and holds those resources in trust by statute for all the people of the State [Fish & G. Code, §§ 711.7, 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

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.

potential to adversely affect state fish and wildlife resources.

CDFW is also submitting comments as a Responsible Agency under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code, including lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 *et seq.*). Likewise, to the extent implementation of the Project as proposed may result in “take”, as defined by State law, of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 *et seq.*), or CESA-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & G. Code, §1900 *et seq.*), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

CDFW issued Natural Community Conservation Plan approval and take authorization in 2004 for the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP), as per Section 2800, *et seq.*, of the California Fish and Game Code. The MSHCP established a multiple species conservation program to minimize and mitigate habitat loss and the incidental take of covered species in association with activities covered under the permit. CDFW is providing the following comments as they relate to the Project’s consistency with the MSHCP and CEQA.

PROJECT DESCRIPTION AND SUMMARY

Description: The City of San Jacinto (City; Lead Agency), as the Project Applicant, is proposing the Valle Reseda/Silver Beach – Tentative Tract Map 38066 Project (Project). The proposed Project is a 37.87-acre development with 206 single-family homes to be located near the intersection of North Ramona Boulevard and Ranch View Lane in the City of San Jacinto, CA. The three vacant parcels will be developed with homes, roads, sidewalks, and utilities. The proposed Project will improve drainage by collecting in two separates onsite storm drain systems and conveying to two detention basins, Basin A and Basin B.

Location: The Project site is located near the intersection of North Ramona Boulevard and Ranch View Lane in the City of San Jacinto. The site is identified by Assessor’s Parcel Numbers (APN) 436-040-006, 436-040-008, and 430-030-005.

COMMENTS AND RECOMMENDATIONS

Based on the documents for review, 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. Editorial comments or other suggestions are also included to improve the environmental document. CDFW recommends the measures or revisions below be included in a science-based monitoring program that contains adaptive management strategies as part of the Project’s CEQA mitigation,

monitoring, and reporting program (Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15097).

Western Riverside County Multiple Species Habitat Conservation Plan

Compliance with approved habitat plans, such as the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP), is discussed in CEQA. Specifically, Section 15125(d) of the CEQA Guidelines requires that the CEQA document discuss any inconsistencies between a proposed project and applicable general plans and regional plans, including habitat conservation plans and natural community conservation plans. An assessment of the impacts to the MSHCP as a result of this Project is necessary to address CEQA requirements.

The proposed Project occurs within the MSHCP area and is subject to the provisions and policies of the MSHCP. To be considered a covered activity, Permittees need to demonstrate that proposed actions are consistent with the MSHCP, the Permits, and the Implementing Agreement. The City is the Lead Agency and is signatory to the Implementing Agreement of the MSHCP. To demonstrate consistency with the MSHCP, as part of the CEQA review, the City shall ensure the Project pays Local Development Mitigation Fees and other relevant fees as set forth in Section 8.5 of the MSHCP; and demonstrates compliance with: 1) the Protection of Species Associated with Riparian/Riverine Areas and Vernal Pools (Section 6.1.2 of the MSHCP); and 2) the policies set forth in Additional Survey Needs and Procedures for burrowing owl (Section 6.3.2 of the MSHCP); and 3) the Best Management Practices and the siting, construction, design, operation and maintenance guidelines as set forth in Section 7.0 and Appendix C of the MSHCP.

Specific Comments

Comment #1: Protection of Riparian/Riverine and Vernal Pool Resources (MSHCP Section 6.1.2)

The procedures described in the Protection of Species Associated with Riparian/Riverine Areas and Vernal Pools section of the MSHCP Plan (MSHCP Section 6.1.2) are to ensure that the biological functions and values of these areas are maintained throughout the MSHCP Plan Area (including all areas of the Plan located outside the Criteria Area). Additionally, this process helps identify areas to consider for priority acquisition, as well as those functions that may affect downstream values related to Conservation of Covered Species within the MSHCP Conservation Area. The assessment of riparian/riverine and vernal pool resources may be completed as part of the CEQA review process as set forth in Article V of the State CEQA Guidelines. However, the MSHCP identifies that the U.S. Fish and Wildlife Service and CDFW shall be notified in advance of approval of public or private projects of draft determinations for the biologically equivalent or superior determination findings associated with the Protection of Species Associated with Riparian/Riverine Areas and Vernal Pools

policies presented in Section 6.1.2 of the MSHCP (MSHCP Section 6.11). As required by the MSHCP Plan, its Implementation Agreement, and the City's associated take permits from USFWS and CDFW, completion of the DBESP process prior to adoption of the environmental document helps to ensure that the Project will be consistent with the MSHCP Plan, and provides public disclosure and transparency during the CEQA process by identifying the Project impacts and mitigation for wetland habitats and species, a requirement of CEQA Guidelines, §§ 15071, subds.(a)-(e).

The MSHCP identifies that assessment of these areas include identification and mapping of riparian/riverine areas and vernal pools. The assessment shall consider species composition, topography/ hydrology, and soil analysis, where appropriate. The documentation for the assessment shall include mapping and a description of the functions and values of the mapped areas with respect to the species identified in Section 6.1.2 of the MSHCP. Factors to be considered include hydrologic regime, flood storage and flood-flow modification, nutrient retention and transformation, sediment trapping and transport, toxicant trapping, public use, wildlife Habitat, and aquatic Habitat.

The MSHCP identifies that for mapped riparian/riverine and vernal pool resources that are not included in the MSHCP conservation area, applicable mitigation under CEQA, shall be imposed by the Permittee (in this case the Lead Agency). Furthermore, the MSHCP identifies that to ensure the standards in Section 6.1.2 are met, the Permittee shall ensure that, through the CEQA process, project applicants develop project alternatives demonstrating efforts that first avoid, and then minimize direct and indirect effects to the wetlands mapped pursuant to Section 6.1.2. If an avoidance alternative is not feasible, a practicable alternative that minimizes direct and indirect effects to riparian/riverine areas and vernal pools and associated functions and values to the greatest extent possible shall be selected. Those impacts that are unavoidable shall be mitigated such that the lost functions and values as they relate to Covered Species are replaced as through the Determination of Biologically Equivalent or Superior Preservation (DBESP) process.

The City is required to ensure the Applicant completes the DBESP process prior to completion of the MND to demonstrate implementation of MSHCP requirements in the CEQA documentation. The Wildlife Agencies appreciate the analysis of impacts provided within the MND and its General Biological Assessment (Appendix C). However, the MSHCP implementation process is not complete, because a DBESP has not been prepared and submitted to the Wildlife Agencies for review and response for us to determine if the mitigation proposed for the impacts to riparian/riverine resources is biologically equivalent or superior preservation to avoidance. It is not appropriate for the City to adopt the MND until the DBESP is complete because the City is required to notify the Wildlife Agencies in advance of approval of public and private projects for identified MSHCP activities, such as completion of the DBESP for the riparian/riverine policy (Section 6.11 of the MSHCP).

The Wildlife Agencies request that the City of San Jacinto complete the DBESP process, and once the DBESP is complete, then update the MND with the riparian/riverine mitigation measures identified in the DBESP. This process would demonstrate the Project's consistency with and the City's implementation of the MSHCP.

Comment #2: Burrowing Owl

Issue: The Project may have a significant impact on burrowing owl (*Athene cunicularia*), a Species of Special Concern (SSC).

Specific impacts: Project construction and activities may result in injury or mortality of burrowing owl, disrupt natural burrowing owl breeding behavior, and reduce reproductive capacity. Also, the Project may impact breeding, wintering, and foraging habitat for the species. Habitat loss could result in local extirpation of the species and contribute to local, regional, and State-wide declines of burrowing owl.

Why impacts would occur: The MND and Appendix D identifies that the Project site was evaluated for burrowing owl habitat, and at least three potentially suitable burrows were found. Therefore, focused burrowing owl surveys are required by the MSHCP. Appendix D provided the burrowing owl survey results; however, those surveys were done in November and December of 2020 outside of nesting season, as described in the 2006 Burrowing Owl Survey Instruction for the Western Riverside Multiple Species Habitat Conservation Plan Area. The "Burrowing Owl Survey Instructions for the Western Riverside Conservation Plan Area" specify that focused surveys for burrowing owl should be conducted during the breeding season March 1 – August 31 to describe if, when, and how the site is used by burrowing owls.

Without survey information during the breeding season and understanding how the site may be used by owls (e.g., breeding, overwintering, foraging, etc.), the MND may not be able to determine whether the project can mitigate its impacts to less than significant. However, if the City chooses not to collect and disseminate this information, then the mitigation measure should be updated, as provided below to address a scenario in which the site is determined to be occupied.

Burrowing owls could react to low level disturbances such as surveys, drive by, or minimal ground disturbance/excavation (Environment Canada 2009). The Project could generate noise and ground vibrations more consistent with medium to high level disturbance. Project construction would generate noise and ground vibrations during daytime and nighttime earthmoving activities, demolition, tunneling, spoils hauling, and operation of large machinery. These types of disturbances could result in burrowing owls abandoning active nests, potentially causing loss of eggs, or developing young, and noise could cause birds to avoid suitable nesting habitat.

There is insufficient information provided to determine if the proposed avoidance and

minimization measures will mitigate Project impacts below a level of significance. MM-BIO-1 states that “a preconstruction burrowing owl survey within 30 days of the onset of grading is required because the site includes potential foraging habitat for the burrowing owl as existing ground squirrel burrows could be occupied between the time of the writing of this report and the start of grading.” However, there is no further information regarding what steps will be taken if burrowing owls are found on the project site. No detailed avoidance or mitigation measures are described in BIO-1 to mitigate Project impacts if owls are found onsite.

Evidence impact would be significant: Burrowing owl is an SSC, an SSC is a species, subspecies, or distinct population of an animal native to California that currently satisfies one or more of the following (not necessarily mutually exclusive) criteria:

- is extirpated from the State or, in the case of birds, is extirpated in its primary season or breeding role;
- is listed as 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 2022b). CEQA provides protection not only for ESA and CESA-listed species, but for any species including but not limited to SSC which can be shown to meet the criteria for State listing. These SSC meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380). In addition, migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (Code of Federal Regulations, Title 50, § 10.13). Sections 3503, 3503.5, and 3513 of the California Fish and Game Code prohibit take of all birds and their active nests including raptors and other migratory nongame birds (as listed under the Federal MBTA). It is unlawful to take, possess, or needlessly destroy the nest or eggs of any raptor.

In California, burrowing owls are in decline primarily because of habitat loss, as well as disease, predation, and drought. Burrowing owls require specific soil and microhabitat conditions, occur in few locations within a broad habitat category of grassland and some forms of agricultural land, require a relatively large home range to support their life history requirements, occur in relatively low numbers, and are semi-colonial.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: To avoid take of active burrowing owl burrows (nests), CDFW requests the City include the following mitigation measures in the MND per below (edits are in ~~striketrough~~ and **bold**), and also included in Attachment 1 "Mitigation Monitoring and Reporting Program.

MM-BIO 1: Burrowing Owl. Due to the presence of potentially suitable habitat, four focused burrowing owl surveys shall be conducted on the Project area and within a 500-foot buffer during the burrowing owl breeding season (March 1 through August 31) in accordance with the Western Riverside MSHCP Burrowing Owl Survey Instructions (County of Riverside, 2006). If survey results are negative (i.e., no occupied burrows or live burrowing owls are detected) and ground-disturbing Project activities are scheduled to begin within 30 days of the final survey, then no additional preconstruction survey or biological monitoring requirements will be necessary. A preconstruction burrowing owl survey within 30 days of the onset of grading is required **prior to initial ground-disturbing activities (including vegetation, clearing, clearing, and grubbing, tree removal, site watering, equipment, staging, grading, etc.).** because the site includes potential foraging habitat for the burrowing owl as existing ground squirrel burrows could be occupied between the time of the writing of this report and the start of grading.

If burrowing owls have colonized the project site prior to the initiation of ground-disturbing activities, the project proponent will immediately inform the Regional Conservation Authority (RCA) and the Wildlife Agencies and will need to coordinate further with RCA and the Wildlife Agencies, including the possibility of preparing a Burrowing Owl Protection and Relocation Plan, prior to initiating ground disturbance. An experienced biologist will need to verify if any burrowing owls within the project site are breeding or wintering, a Burrowing Owl Protection and Relocation Plan will be prepared detailing passive (e.g., use of one-way doors and collapse of burrows) and/or active (e.g., capturing owls, relocating to a new site, and collapse of burrows) relocation methods. The Burrowing Owl Protection and Relocation Plan will be submitted to CDFW and USFWS for approval prior to initiating ground disturbance within the project site. The Burrowing Owl Plan shall describe proposed avoidance, monitoring, relocation, minimization, and/or mitigation actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites, acres of burrowing owl habitat that will be impacted, details of site monitoring, and details on proposed buffers and other avoidance measures if avoidance is proposed. If impacts to occupied burrowing owl habitat or burrow cannot be avoided, the Burrowing Owl Plan shall also

describe minimization and compensatory mitigation actions that will be implemented. Proposed implementation of burrow exclusion and closure should only be considered as a last resort, after all other options have been evaluated as exclusion is not in itself an avoidance, minimization, or mitigation method and has the possibility to result in take. The Burrowing Owl Plan shall identify compensatory mitigation for the temporary or permanent loss of occupied burrow(s) and habitat. If impacts to occupied burrows cannot be avoided, information shall be provided regarding adjacent or nearby suitable habitat available to owls. If no suitable habitat is available nearby, details regarding the creation and funding of artificial burrows (numbers, location, and type of burrows) and management activities for relocated owls shall also be included in the Burrowing Owl Plan. The Project proponent shall implement the Burrowing Owl Plan following CDFW and USFWS review and approval.

If ground-disturbing activities occur, but the site is left undisturbed for more than 30 days, a pre-construction survey will again be necessary to ensure burrowing owl has not colonized the site since it was last disturbed. If burrowing owl is found, the same coordination described above will be necessary.

Comment #3: Impacts to Aquatic and Riparian Resources; Lake and Streambed Alteration Agreement (LSAA)

Issue: Based on review of material submitted with the MND and review of aerial photography, the Project has the potential to impact fish and wildlife resources subject to Fish and Game Code section 1600 et seq.

Specific Impact: The MND identified that the Project would improvement of the drainage by collecting the flows in two separate onsite storm drain systems, and the project site is hydrologically connected to the San Jacinto River. The Project activities have the potential to impact fish and wildlife resources through the deposition of debris, waste or other materials that could pass into any river, stream, or lake.

Why Impact Would Occur: Project-related activities could potentially alter drainage patterns and water quality within, upstream, and downstream of the Project site, including: volume, velocity, and frequency of existing and post-Project surface flows; polluted runoff; soil erosion and/or sedimentation in streams and water bodies; and post-Project fate of runoff from the Project site.

Evidence Impact Would Be Significant: The Project may substantially adversely affect the existing stream pattern and geomorphologic processes of the Project site through the deposition of debris, waste or other materials that could pass into any river, stream, or lake. Depending on how the Project is designed and constructed, it is

likely that the Project applicant will need to notify CDFW per Fish and Game Code section 1602. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following: substantially divert or obstruct the natural flow of any river, stream or lake; substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or deposit debris, waste or other materials that could pass into any river, stream or lake. Please note that “any river, stream or lake” includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow.

Upon receipt of a complete notification, CDFW determines if the proposed Project activities may substantially adversely affect existing fish and wildlife resources and whether a Lake and Streambed Alteration (LSA) Agreement is required. An LSA Agreement includes measures necessary to protect existing fish and wildlife resources. CDFW may suggest ways to modify the project that would eliminate or reduce harmful impacts to fish and wildlife resources.

CDFW’s issuance of an LSA Agreement is a “project” subject to CEQA (see Pub. Resources Code, § 21065). To facilitate issuance of an LSA Agreement, if necessary, the MND should fully identify the potential impacts to the lake, stream, or riparian resources, and provide adequate avoidance, mitigation, and monitoring and reporting commitments. Early consultation with CDFW is recommended, since modification of the proposed Project may be required to avoid or reduce impacts to fish and wildlife resources. To obtain a Lake or Streambed Alteration notification package, please go to <https://www.wildlife.ca.gov/Conservation/LSA/Forms>.

Recommended potentially feasible mitigation measure(s):

Mitigation Measure #1: To ensure compliance with Fish and Game Code section 1602 CDFW recommends that the City condition the MND to include a mitigation measure for consultation with CDFW to determine if Fish and Game Code section 1600 et seq. resources may occur within the proposed Project alignment.

CDFW recommends the inclusion of the following measure in the MND per the edits below (edits are in ~~strike through~~ and **bold**), and also included in Attachment 1 “Mitigation Monitoring and Reporting Program”:

Mitigation Measure XX: Direct and indirect permanent impacts to CDFW jurisdictional non-wetland waters shall be addressed through Section 1602 of the California Fish and Game Code. Prior to the grading of the Project site and prior to the start of Project activities, the Applicant shall notify the California Department of Fish and Wildlife (CDFW) for impacts to Fish and Game Code section 1602 resources and obtain one of the following: a CDFW-executed Streambed Alteration

Agreement (SAA) authorizing impacts to Fish and Game Code section 1602 resources associated with the Project, written documentation from CDFW that notification is not required, or written documentation that a Streamed Alteration Agreement is not required.

The notification to CDFW should provide the following information:

- 1. A stream delineation including the bed, bank and channel;**
- 2. Linear feet and/or acreage of streams and associated natural communities that would be permanently and/or temporarily impacted by the Project. This includes impacts as a result of routine maintenance and fuel modification. Plant community names should be provided based on vegetation association and/or alliance per the Manual of California Vegetation (Sawyer et al 2009);**
- 3. A discussion as to whether impacts on streams within the Project site would impact those streams immediately outside of the Project site where there is hydrologic connectivity. Potential impacts such as changes to drainage pattern, runoff, and sedimentation should be discussed; and**
- 4. A hydrological evaluation of the 100-year storm event to provide information on how water and sediment is conveyed through the Project site.**

If an SAA is required, the Applicant shall provide compensatory mitigation at no less than 3:1 for impacts to streams and associated natural communities, or at a ratio acceptable to CDFW per a LSA Agreement. Mitigation should occur within the Western Riverside County. Onsite mitigation measures may include the enhancement of existing streams. A conceptual Habitat Mitigation and Monitoring Plan shall be prepared, if necessary, for the enhancement activities, which may include non-native species removal and revegetation followed by periodic monitoring. The plan shall specify the criteria and standards by which the enhancement actions will compensate for impacts of the project on streams.

Comment #4: Nesting Birds

Issue: The Project may have a significant impact on nesting birds, including Species of Special Concern and fully protected species, that are subject to Fish and Game Code section 3513 and the Migratory Bird Treaty Act of 1918.

Specific impact: Project implementation could result in the loss of nesting and/or foraging habitat for passerine and raptor species from the removal of vegetation onsite.

Why impacts would occur: Project activities could result in temporary or long-term loss of suitable nesting and foraging habitats. Construction during the breeding season of nesting birds could potentially result in the incidental loss of breeding success or otherwise lead to nest abandonment. Noise from road use, generators, and heavy equipment may disrupt nesting bird mating calls or songs, which could impact reproductive success (Patricelli and Blickley 2006, Halfwerk et al. 2011). Noise has also been shown to reduce the density of nesting birds (Francis et al. 2009), and songbird abundance and density was significantly reduced in areas with high levels of noise (Bayne et al. 2008). Additionally, noise exceeding 70 dB(A) may affect feather and body growth of young birds (Kleist et al. 2018). In addition to construction activities, residential development and increased human presence in the Project site could contribute to nesting bird impacts.

The timing of the nesting season varies greatly depending on several factors, such as the bird species, weather conditions in any given year, and long-term climate changes (e.g., drought, warming, etc.). CDFW staff have observed that changing climate conditions may result in the nesting bird season occurring earlier and later in the year than historical nesting season dates. CDFW recommends the completion of nesting bird survey regardless of time of year to ensure compliance with all applicable laws pertaining to nesting and to avoid take of nests.

The duration of a pair to build a nest and incubate eggs varies considerably, therefore, CDFW recommends surveying for nesting behavior and/or nests and construction within three days prior to start of Project construction to ensure all nests on site are identified and to avoid take of nests. Without appropriate species-specific avoidance measures, biological construction monitoring may be ineffective for detecting nesting birds. This may result in Take of nesting birds. Project ground-disturbing activities such as grading and grubbing may result in habitat destruction, causing the death or injury of adults, juveniles, eggs, or hatchlings. In addition, the Project may remove habitat by eliminating native vegetation that may support essential foraging and breeding habitat.

Evidence impacts would be significant: It is the Project proponent's responsibility to avoid Take of all nesting birds. Fish and Game Code section 3503 makes it unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by the rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.). Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto. These

regulations apply anytime nests or eggs exist on the Project site.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: To address the above issues and help the Project applicant avoid unlawfully taking of nesting birds, CDFW requests the City include the following mitigation measures in the MND per below (edits are in ~~strike through~~ and **bold**), and also included in Attachment 1 "Mitigation Monitoring and Reporting Program.

Mitigation Measure XX: Preconstruction Surveys for Nesting Birds and Raptors.

To prevent direct impacts to nesting birds, including raptors, protected under the federal MBTA and CFG Code Sections 3503, 3503.5, and 3513, the following measures shall be implemented:

Construction should be conducted outside of the avian and raptor breeding season. If construction must take place during the nesting season, a qualified biologist shall perform a pre-construction survey for nesting birds within the project site, including a 500ft buffer around the disturbance footprint to confirm the absence of active nests belonging to migratory birds and raptors afforded protection under the MBTA and CFG Code.

The pre-construction nesting bird survey shall be performed no more than three days prior to the start of construction. The results of the pre-construction survey shall be documented by the qualified biologist and shall be provided to the Applicant. The Project Applicant shall adhere to the following:

- 1. Applicant shall designate a biologist (Designated Biologist) experienced in: identifying local and migratory bird species of special concern; conducting bird surveys using appropriate survey methodology; nesting surveying techniques, recognizing breeding and nesting behaviors, locating nests and breeding territories, and identifying nesting stages and nest success; determining/establishing appropriate avoidance and minimization measures; and monitoring the efficacy of implemented avoidance and minimization measures.**
- 2. Pre-activity field surveys shall be conducted at the appropriate time of day/night, during appropriate weather conditions, no more than 3 days prior to the initiation of Project activities. Surveys shall encompass all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures. Survey duration shall take into consideration the size of the Project site; density, and complexity of the habitat; number of survey**

participants; survey techniques employed; and shall be sufficient to ensure the data collected is complete and accurate.

If nesting birds are not found within the project site, site preparation and construction activities may begin during the nesting/breeding season. If nesting birds or active nests (including nesting raptors) are identified, then avoidance or minimization measures shall be undertaken in consultation with the City of San Jacinto and the California Department of Fish and Wildlife. Measures shall include immediate establishment of avoidance buffers which shall be implemented as determined by the qualified biologist and approved by the City of San Jacinto, based on their best professional judgement and experience. The buffer shall be of a distance to ensure avoidance of adverse effects to the nesting bird by accounting for topography, ambient conditions, species, nest location, and activity type. The buffer around the nest shall be delineated and flagged, and all work within these buffers shall be halted until a qualified biologist determines the nesting effort is finished (i.e., the juveniles are surviving independent from the nest, or the nest has failed). The biologist shall monitor the nest at the onset of project activities, and at the onset of any changes in such project activities (e.g., increase in number or type of equipment, change in equipment usage, etc.) to determine the efficacy of the buffer. If the biologist determines that such project activities may be causing an adverse effect, alternative avoidance and minimization measures, such as redirecting or rescheduling construction or erecting sound barriers, shall be implemented. If vegetation clearing is not initiated within 72 hours of a negative survey during the nesting season, the nesting survey must be repeated to confirm the absence of nesting birds. Upon completion of the survey and nesting bird monitoring, a report shall be prepared and submitted to City of San Jacinto Planning Division for mitigation monitoring compliance record keeping.

Additional Recommendations

Weed Management Plan. A weed management plan should be developed for the Project site and implemented during the duration of this Project. On-going soil disturbance promotes establishment and growth of non-native weeds. As part of the Project, non-native weeds should be prevented from becoming established. The Projects site should be monitored via mapping for new introductions and expansions of non-native weeds.

Mitigation and Monitoring Reporting Plan

CDFW recommends updating the MND's proposed Biological Resources Mitigation Measures to include mitigation measures recommended in this letter. 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 City 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, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be filled out and submitted online at the following link:

<https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link:

<https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

ENVIRONMENTAL DOCUMENT FILING FEES

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

CONCLUSION


CDFW appreciates the opportunity to comment on the MND for the Valle Reseda Silverbeach Project, State Clearinghouse No. 2024030654 to assist in identifying and mitigating Project impacts on biological resources. CDFW personnel are available for consultation regarding biological resources and strategies to minimize impacts. CDFW requests that the City of San Jacinto address CDFW's comments and concerns prior to adoption of the MND for the Project.

Questions regarding this letter or further coordination should be directed to Breanna

Kevin White
City of San Jacinto
April 17, 2024
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Machuca, Senior Environmental Scientist Specialist, at
Breanna.Machuca@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Kim Freeburn
Environmental Program Manager

Ec: **California Department of Fish and Wildlife**
Carly Beck, Senior Environmental Scientist Supervisor
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Attachment A: Draft Mitigation and Monitoring Reporting Plan

CDFW recommends the following language to be incorporated into a future environmental document for the Project. A final MMRP shall reflect results following additional plant and wildlife surveys and the Project’s final on and/or off-site mitigation plans.

Biological Resources (BIO)			
	Mitigation Measure (MM)	Timing	Responsible Party
Burrowing Owl	MM-BIO 1: Burrowing Owl. Due to the presence of potentially suitable habitat, four focused burrowing owl surveys shall be conducted on the Project area and within a 500-foot buffer during the burrowing owl breeding season (March 1 through August 31) in accordance with the Western Riverside MSHCP Burrowing Owl Survey Instructions (County of Riverside, 2006). If survey results are negative (i.e., no occupied burrows or live burrowing owls are detected) and ground-disturbing Project activities are scheduled to begin within 30 days of the final survey, then no additional preconstruction survey or biological monitoring requirements will be necessary. A preconstruction burrowing owl survey within 30 days of the onset of grading is required prior to initial ground-disturbing activities (including vegetation, clearing, clearing, and grubbing, tree removal, site watering, equipment, staging, grading, etc.) because the site includes potential foraging habitat for the burrowing owl as existing ground squirrel burrows could be occupied between the time	Prior to commencing ground- or vegetation disturbing activities	Project Proponent

	<p>of the writing of this report and the start of grading.</p> <p>If burrowing owls have colonized the project site prior to the initiation of ground-disturbing activities, the project proponent will immediately inform the Regional Conservation Authority (RCA) and the Wildlife Agencies and will need to coordinate further with RCA and the Wildlife Agencies, including the possibility of preparing a Burrowing Owl Protection and Relocation Plan, prior to initiating ground disturbance. An experienced biologist will need to verify if any burrowing owls within the project site are breeding or wintering, a Burrowing Owl Protection and Relocation Plan will be prepared detailing passive (e.g., use of one-way doors and collapse of burrows) and/or active (e.g., capturing owls, relocating to a new site, and collapse of burrows) relocation methods. The Burrowing Owl Protection and Relocation Plan will be submitted to CDFW and USFWS for approval prior to initiating ground disturbance within the project site. The Burrowing Owl Plan shall describe proposed avoidance, monitoring, relocation, minimization, and/or mitigation actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites, acres of burrowing owl habitat that will be impacted, details of site monitoring, and details on proposed buffers and other avoidance measures if avoidance is proposed. If impacts to occupied burrowing owl habitat or burrow cannot be avoided, the Burrowing Owl Plan shall also describe</p>		
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	<p>minimization and compensatory mitigation actions that will be implemented. Proposed implementation of burrow exclusion and closure should only be considered as a last resort, after all other options have been evaluated as exclusion is not in itself an avoidance, minimization, or mitigation method and has the possibility to result in take. The Burrowing Owl Plan shall identify compensatory mitigation for the temporary or permanent loss of occupied burrow(s) and habitat. If impacts to occupied burrows cannot be avoided, information shall be provided regarding adjacent or nearby suitable habitat available to owls. If no suitable habitat is available nearby, details regarding the creation and funding of artificial burrows (numbers, location, and type of burrows) and management activities for relocated owls shall also be included in the Burrowing Owl Plan. The Project proponent shall implement the Burrowing Owl Plan following CDFW and USFWS review and approval.</p> <p>If ground-disturbing activities occur, but the site is left undisturbed for more than 30 days, a pre-construction survey will again be necessary to ensure burrowing owl has not colonized the site since it was last disturbed. If burrowing owl is found, the same coordination described above will be necessary.</p>		
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<p>Lake or Streambed Alteration Agreement</p>	<p>Mitigation Measure XX: Direct and indirect permanent impacts to CDFW jurisdictional non-wetland waters shall be addressed through Section 1602 of the California Fish and Game Code. Prior to the grading of the Project site and prior to the start of Project activities, the Applicant shall notify the California Department of Fish and Wildlife (CDFW) for impacts to Fish and Game Code section 1602 resources and obtain one of the following: a CDFW-executed Streambed Alteration Agreement (SAA) authorizing impacts to Fish and Game Code section 1602 resources associated with the Project, written documentation from CDFW that notification is not required, or written documentation that a Streambed Alteration Agreement is not required.</p> <p>The notification to CDFW should provide the following information:</p> <ol style="list-style-type: none"> 1. A stream delineation including the bed, bank and channel; 2. Linear feet and/or acreage of streams and associated natural communities that would be permanently and/or temporarily impacted by the Project. This includes impacts as a result of routine maintenance and fuel modification. Plant community names should be provided based on vegetation association and/or alliance per the Manual of California 	<p>Prior to commencing ground- or vegetation disturbing activities</p>	<p>Project Proponent</p>
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Vegetation (Sawyer et al 2009);

3. A discussion as to whether impacts on streams within the Project site would impact those streams immediately outside of the Project site where there is hydrologic connectivity. Potential impacts such as changes to drainage pattern, runoff, and sedimentation should be discussed; and
4. A hydrological evaluation of the 100-year storm event to provide information on how water and sediment is conveyed through the Project site.

If an SAA is required, the Applicant shall provide compensatory mitigation at no less than 3:1 for impacts to streams and associated natural communities, or at a ratio acceptable to CDFW per a LSA Agreement. Mitigation should occur within the Western Riverside County. Onsite mitigation measures may include the enhancement of existing streams. A conceptual Habitat Mitigation and Monitoring Plan shall be prepared, if necessary, for the enhancement activities, which may include non-native species removal and revegetation followed by periodic monitoring. The plan shall specify the criteria and standards by which the enhancement actions will compensate for impacts of the

	<p>project on streams.</p>		
<p>Nesting Birds</p>	<p>Mitigation Measure XX: Preconstruction Surveys for Nesting Birds and Raptors. To prevent direct impacts to nesting birds, including raptors, protected under the federal MBTA and CFG Code Sections 3503, 3503.5, and 3513, the following measures shall be implemented:</p> <p>Construction should be conducted outside of the avian and raptor breeding season. If construction must take place during the nesting season, a qualified biologist shall perform a pre-construction survey for nesting birds within the project site, including a 500ft buffer around the disturbance footprint to confirm the absence of active nests belonging to migratory birds and raptors afforded protection under the MBTA and CFG Code.</p> <p>The pre-construction nesting bird survey shall be performed no more than three days prior to the start of construction. The results of the pre-construction survey shall be documented by the qualified biologist and shall be provided to the Applicant. The Project Applicant shall adhere to the following:</p> <ol style="list-style-type: none"> 1. Applicant shall designate a biologist (Designated Biologist) experienced in: identifying local and migratory bird species of special concern; conducting bird surveys using appropriate survey methodology; nesting surveying techniques, recognizing breeding and nesting behaviors, locating 	<p>Prior to commencing ground- or vegetation disturbing activities</p>	<p>Project Proponent</p>

nests and breeding territories, and identifying nesting stages and nest success; determining/establishing appropriate avoidance and minimization measures; and monitoring the efficacy of implemented avoidance and minimization measures.

2. Pre-activity field surveys shall be conducted at the appropriate time of day/night, during appropriate weather conditions, no more than 3 days prior to the initiation of Project activities. Surveys shall encompass all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures. Survey duration shall take into consideration the size of the Project site; density, and complexity of the habitat; number of survey participants; survey techniques employed; and shall be sufficient to ensure the data collected is complete and accurate.

If nesting birds are not found within the project site, site preparation and construction activities may begin during the nesting/breeding season. If nesting birds or active nests (including nesting raptors) are identified, then avoidance or minimization measures shall be undertaken in consultation with the City of San Jacinto and the California Department of Fish and Wildlife. Measures shall include immediate establishment of avoidance buffers which shall be implemented as determined by the qualified biologist and approved by the City of San Jacinto, based on their best professional

	<p>judgement and experience. The buffer shall be of a distance to ensure avoidance of adverse effects to the nesting bird by accounting for topography, ambient conditions, species, nest location, and activity type. The buffer around the nest shall be delineated and flagged, and all work within these buffers shall be halted until a qualified biologist determines the nesting effort is finished (i.e., the juveniles are surviving independent from the nest, or the nest has failed). The biologist shall monitor the nest at the onset of project activities, and at the onset of any changes in such project activities (e.g., increase in number or type of equipment, change in equipment usage, etc.) to determine the efficacy of the buffer. If the biologist determines that such project activities may be causing an adverse alternative avoidance and minimization measures, such as redirecting or rescheduling construction or erecting sound barriers. If vegetation clearing is not initiated within 72 hours of a negative survey during the nesting season, the nesting survey must be repeated to confirm the absence of nesting birds. Upon completion of the survey and nesting bird monitoring, a report shall be prepared and submitted to City of San Jacinto Planning Division for mitigation monitoring compliance record keeping.</p>		
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