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DEPARTMENT OF FISH AND WILDLIFE
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GAVIN NEWSOM, Governor
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October 17, 2024

Brenda Magana
City of Palmdale
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**SUBJECT: MITIGATED NEGATIVE DECLARATION FOR THE TENTATIVE TRACT
MAP 82364 TIME EXTENSION PROJECT, SCH NO. 2024090712, LOS
ANGELES COUNTY, CA**

Dear Brenda Magana:

The California Department of Fish and Wildlife (CDFW) reviewed the Mitigated Negative Declaration (MND) from the City of Palmdale (City; Lead Agency) for the Tentative Tract Map 82364 Time Extension Project (Project) 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, CDFW appreciates 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, 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 (Fish & G. Code, § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

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.

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CDFW may also act 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. As proposed, for example, the Project may be subject to CDFW's 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 law² of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.) or the Native Plant Protection Act (NPPA; Fish & G. Code, §1900 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

Proponent: Duke Engineering

Objective: The Project proposes to subdivide the property into 16 lots for the construction of 15 single-family residential lots and one detention basin lot. Four existing structures would be demolished and 15 single-family residential homes, with associated infrastructure, would be constructed. Road improvements such as sidewalks and curbs would be installed along Avenue R-8 and Avenue R-9. Prior to construction activities, vegetation would be removed, and the entire site would be graded. Access to the Project would occur via Avenue R-9.

Location: The 5-acre Project site is located south of the intersection of East Avenue R-8 and 3rd Street East in the City, Los Angeles County. The Project site is bound by East Avenue R-8 to the north, Kimberly Lane to the west, Avenue R-9 to the south, and 4th Street East to the east. The Assessor's Parcel Number associated with the Project is 3010-009-007.

Timeframe: The Project was anticipated to commence July 2024 for a duration of one year. No updated commencement date is provided in the MND.

Biological Setting: There are several existing structures on the western side of the Project site and the entire site is surrounded by residential development. A vehicular survey was conducted on October 21, 2023, and a general field survey was conducted on October 26, 2023. Findings from both surveys were compiled in a Biological Resource Assessment (BRA). In total, 34 plant species and 13 wildlife species were observed. The existing home and associated infrastructure encompass approximately 3.5 acres and approximately 1.5 acres consist of creosote bush (*Larrea tridentata*) scrub habitat. In the BRA, it is estimated that the Project site supports more than 50 individual western Joshua trees (*Yucca brevifolia*; CESA candidate species). No additional special-status plant species were observed within the Project site. Additionally, there are no water features within or adjacent to the Project site. During the

² "Take" is defined in Section 86 of the Fish and Game Code as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill."

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surveys, common wildlife species were observed, however, the Project site has habitat that may support Crotch's bumble bee (*Bombus crotchii*; CESA candidate species). The City has incorporated specific mitigation measures in the MND for western Joshua trees and migratory birds.

Project History: The Project was originally approved by the City of Palmdale Planning Commission on March 20, 2020, prior to the listing of western Joshua tree as a candidate species under CESA and adoption of the Western Joshua Tree Conservation Act. The City provided CDFW the MND for a preliminary review of the document on May 6, 2024. Comments and revisions to mitigation measures were provided to the City via email correspondence on May 15, 2024.

COMMENTS AND RECOMMENDATIONS

While CDFW appreciates the City's prior efforts to incorporate CDFW's comments, we have additional comments and recommendations below to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Additional comments or other suggestions may also be included to improve the document.

COMMENT # 1: Impacts on Crotch's Bumble Bee

Issue: The Project may adversely impact Crotch's bumble bee.

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

Why impact would occur: According to CDFW's [Crotch's Bumble Bee Range – CDFW \[ds3095\]³](#) dataset, the Project site lies within the current home range for Crotch's bumble bee (CDFW 2024a). Historical observations of Crotch's bumble bee has also been recorded within a mile of the Project site through the [California Natural Diversity Database⁴](#) (CNDDDB) (CDFW 2024b). In addition to historical observations, current observations of Crotch's bumble bee have been recorded on a regional scale throughout Antelope Valley. Crotch's bumble bee may fly throughout the City and utilize areas that have suitable nesting habitat and floral resources.

The MND states, "No Crotch's bumble bee observations have been documented since 1945 in Palmdale. This species is not considered present within the site" (page 18). The general survey was conducted in October which is outside the blooming period for most flowering plants. CDFW recommended an updated survey be conducted during the appropriate flowering period prior to circulation of the Project's environmental document,

³ <https://data.ca.gov/dataset/crotchs-bumble-bee-range-cdfw-ds3095>

⁴ <https://wildlife.ca.gov/Data/CNDDDB>

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however, no new information or updated surveys have been conducted or incorporated in the MND. It remains unproven by the City that Crotch's bumble bee is absent from the Project site. While Crotch's bumble bee primarily use abandoned small mammal burrows to nest, this species may nest under perennial bunch grasses or thatched annual grasses, under brush piles, in old bird nests, and in dead trees or hollow logs (Williams et al. 2014; Hatfield et al. 2018). Overwintering sites utilized by Crotch's bumble bee mated queens include soft, disturbed soil (Goulson 2010), or under leaf litter or other debris (Williams et al. 2014). Given that the Project site has disturbed soil, annual grasses, trees, and creosote scrub habitat, there is potential for this CESA candidate species to be detected on site. If the Project proceeds without appropriate focused surveys, the Project may result in mortality and/or injury of undetected individual Crotch's bumble bee that may be present during Project activities. Ground disturbance and vegetation removal associated with Project implementation during the breeding season could also result in the incidental loss of breeding success or otherwise lead to nest abandonment in areas adjacent to the Project site. Potential habitat loss, as a result of the proposed Project, may further reduce foraging habitat for this species in the broader landscape, as development increases throughout the City.

Evidence impact would be significant: The California Fish and Game Commission accepted a petition to list the Crotch's bumble bee as endangered under CESA, determining the listing "may be warranted" and advancing the species to the candidacy stage of the CESA listing process. The Project may substantially reduce and adversely modify habitat as well as reduce and potentially impair the viability of populations of Crotch's bumble bee. The Project may also reduce the number and range of the species without considering the likelihood that special status species on adjacent and nearby natural lands may rely upon the habitat that occurs on the proposed Project site. In addition, Crotch's bumble bee has a State Ranking of S1/S2. This means that the Crotch's bumble bee is considered critically imperiled or imperiled and is extremely rare (often 5 or fewer populations). Crotch's bumble bee is also listed as an invertebrate of conservation priority under the [California Terrestrial and Vernal Pool Invertebrates of Conservation Priority](#)⁵ (CDFW 2017). Accordingly, Crotch's bumble bee meets the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380). Therefore, take of Crotch's bumble bee could require a mandatory finding of significance by the District (CEQA Guidelines, § 1565).

Recommended Potentially Feasible Mitigation Measure(s)

Recommendation #1: Crotch's Bumble Bee Revisions – The MND should be revised to acknowledge that Crotch's bumble bee is a candidate species protected under CESA and remove the sentence, "The fate of Crotch's bumble bee has had elevated concern by some agencies lately" (page 18). The MND should also provide a thorough discussion on habitat suitability for Crotch's bumble bee within and adjacent to the Project site. The discussion should disclose the Project's potential direct and indirect

⁵ <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=148248>

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impacts on Crotch's bumble bee. If the Project may impact Crotch's bumble bee, the MND should incorporate measures to minimize, and/or mitigate potential impacts to Crotch's bumble bee as well as habitat supporting the species. The discussion should be of a depth and scope that a CESA Incidental Take Permit (ITP) can be issued based on the analysis provided in the MND.

Recommendation #2: CEQA – CDFW's issuance of an ITP for a Project is subject to CEQA. As a Responsible Agency, CDFW may consider the CEQA document from the lead agency/Project proponent for the Project. However, additional documentation may be required as part of an ITP application for the Project in order for CDFW to adequately develop an accurate take analysis and identify measures that would fully mitigate for take of CESA-listed species. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 2081 and/or under CEQA, a project's CEQA document should fully identify the potential impacts to Crotch's bumble bee and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the ITP.

Mitigation Measure #1: Crotch's Bumble Bee Surveys - The Project proponent shall retain a qualified entomologist with the appropriate handling permits to conduct focused surveys. Focused surveys shall follow CDFW's [Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species](#)⁶ (CDFW 2023). Focused surveys shall also be conducted throughout the entire Project site and during the appropriate flying season to ensure no missed detection of Crotch's bumble bee occurs. Survey results, including negative findings, shall be submitted to CDFW and the City prior to implementing Project ground-disturbing activities.

Mitigation Measure #2: Incidental Take Permit – If Crotch's bumble bee is detected the Project proponent shall coordinate with CDFW and obtain appropriate take authorization from CDFW (pursuant to Fish & Game Code, § 2080 et seq). The Project proponent shall comply with the mitigation measures detailed in the take authorization issued by CDFW. The Project proponent shall provide a copy of a fully executed take authorization to the City prior to implementing Project ground-disturbing activities and vegetation removal.

ADDITIONAL COMMENTS

Nesting Birds and Raptors. CDFW recommends that Mitigation Measure BIO-2 is revised to incorporate the underlined language and omit the language in strikethrough:

Project activities shall occur outside of the nesting season for birds and raptors, which generally runs from February 15 through September 15, and as early January 1 for some raptors. If project grading/construction activities are scheduled to occur during the nesting season a pre-construction nesting bird and raptor survey shall be conducted by a qualified biologist. The pre-construction survey shall occur within 7 days of Project activities throughout the entire Project site. If Project activities are delayed or

⁶ <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150&inline>

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suspended for more than 7 days during the breeding season, surveys shall be repeated before activities can begin or restart. In the event that If active bird or raptor nests are found, impacts to nests will be avoided by either delaying work or establishing initial buffer areas of a minimum of 100 50-feet (16 meter (m)) around active migratory passerine bird species nests and a minimum of 500 feet (160 m) around raptor nests. These buffers shall be maintained until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest of parental care for survival. A qualified biologist shall monitor the nest(s) weekly after commencement of activities to ensure that nesting behavior is not adversely affected by such activities. These buffers shall be increased to protect the nesting birds as determined by a qualified biologist. ~~The project biologist will determine if the buffer areas should be increased or decreased based on the nesting bird response to disturbances.~~

Landscaping. The Project may involve landscaping throughout the 15 residential lots. The Project proponent should use only native species found in naturally occurring vegetation communities within or adjacent to the Project site. The Project proponent should not plant, seed, or otherwise introduce non-native, invasive plant species to areas that are adjacent to and/or near native habitat areas. CDFW recommends the Project proponent restrict use of any species, particularly 'moderate' or 'high' listed by the [California Invasive Plant Council](#)⁷ (Cal-IPC 2024). These species are documented to have substantial and severe ecological impacts on physical processes, plant and animal communities, and vegetation structure.

Mitigation and Monitoring Reporting Plan. CDFW recommends the Project's environmental document include the mitigation measures recommended in this letter. CDFW has provided comments via a mitigation monitoring and reporting plan to assist in the development of feasible, specific, detailed (i.e., responsible party, timing, specific actions, location), and fully enforceable mitigation measures (CEQA Guidelines, § 15097; Pub. Resources Code, § 21081.6). The Lead Agency 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 a summary of our suggested mitigation measures and recommendations in the form of an attached Draft Mitigation Monitoring and Reporting Plan (Attachment A).

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 CNDDDB. The CNDDDB website provides

⁷ <https://www.cal-ipc.org/plants/inventory/>

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direction regarding the types of information that should be reported and allows on-line submittal of field survey forms.

In addition, information on special status native plant populations and sensitive natural communities, should be submitted to CDFW's Vegetation Classification and Mapping Program using the [Combined Rapid Assessment and Relevé Form](#)⁸ (CDFW 2024c).

The City should ensure data collected for the preparation of the MND is properly submitted.

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 to assist the City in identifying and mitigating Project impacts on biological resources. CDFW requests an opportunity to review and comment on any response that the City has to our comments and to receive notification of any forthcoming hearing date(s) for the Project (CEQA Guidelines, § 15073(e)).

Questions regarding this letter or further coordination should be directed to Julisa Portugal⁹, Environmental Scientist.

Sincerely,

DocuSigned by:

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Victoria Tang
Environmental Program Manager
South Coast Region

⁸ <https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities/Submit>
<https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities/Submit>

⁹ Phone: 562-330-7563; Email: Julisa.Portugal@wildlife.ca.gov

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ATTACHMENTS

Attachment A: Draft Mitigation, Monitoring, and Reporting Program

cc: California Department of Fish and Wildlife
Victoria Tang, Environmental Program Manager
Jennifer Turner, CEQA Senior Environmental Scientist (Supervisory)
Steve Gibson, CESA Senior Environmental Scientist (Supervisory)
Julisa Portugal, Environmental Scientist

Office of Planning and Research
State.Clearinghouse@opr.ca.gov

REFERENCES

- [Cal-IPC] California Invasive Plant Council. 2024. The Cal-IPC Inventory. Available at: <https://www.cal-ipc.org/plants/inventory/>
- [CDFW] California Department of Fish and Wildlife. 2017. California Terrestrial and Vernal Pool Invertebrates of Conservation Priority. Available at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149499&inline>
- [CDFW] California Department of Fish and Wildlife. 2023. Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species. Available at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150&inline>
- [CDFW] California Department of Fish and Wildlife. 2024a. Crotch's Bumble Bee Range – CDFW [ds3095]. Available at: <https://data.ca.gov/dataset/crotchs-bumble-bee-range-cdfw-ds3095>
- [CDFW] California Department of Fish and Wildlife. 2024b. California Natural Diversity Database. Available at: <https://wildlife.ca.gov/Data/CNDDDB>
- [CDFW] California Department of Fish and Wildlife. 2024b. Combined Rapid Assessment and Revele Form. Available at: <https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities/Submit>
- Goulson, D. 2010. Bumblebees: behavior, ecology, and conservation. Oxford University Press, New York. 317pp.
- Hatfield, R., Jepsen, S., Foltz Jordan, S., Blackburn, M., Code, Aimee. 2018. A Petition to the State of California Fish and Game Commission to List Four Species of Bumblebees as Endangered Species.
- Williams, P. H., R. W. Thorp, L. L. Richardson, and S.R. Colla. 2014. Bumble bees of North America: An Identification guide. Princeton University Press, Princeton, New Jersey. 208pp

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ATTACHMENT A: DRAFT MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

CDFW provides the following language to be incorporated into the MMRP for the Project.

Mitigation Measure	Timing	Responsible Party
<p>Mitigation Measure #1: Crotch’s Bumble Bee Surveys</p> <p>The Project proponent shall retain a qualified entomologist with the appropriate handling permits to conduct focused surveys. Focused surveys shall follow CDFW’s Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species. Focused surveys shall also be conducted throughout the entire Project site and during the appropriate flying season to ensure no missed detection of Crotch’s bumble bee occurs. Survey results, including negative findings, shall be submitted to CDFW and the City prior to implementing Project ground-disturbing activities.</p>	<p>Prior to Project activities</p>	<p>Project Proponent / Qualified Botanist</p>
<p>Mitigation Measure #2: Incidental Take Permit</p> <p>If Crotch’s bumble bee is detected the Project proponent shall coordinate with CDFW and obtain appropriate take authorization from CDFW (pursuant to Fish & Game Code, § 2080 et seq). The Project proponent shall comply with the mitigation measures detailed in the take authorization issued by CDFW. The Project proponent shall provide a copy of a fully executed take authorization to the City prior to implementing Project ground-disturbing activities and vegetation removal.</p>	<p>Prior to Project activities</p>	<p>Project Proponent</p>
<p>Mitigation Measure #3: Nesting Bird and Raptor Measure</p> <p>Project activities shall occur outside of the nesting season for birds and raptors, which generally runs from February 15 through September 15, and as early January 1 for some raptors. If project grading/construction activities are scheduled to occur during the nesting season a pre-construction nesting bird and raptor survey shall be conducted by a qualified biologist. The pre-construction survey shall occur within 7</p>	<p>Prior to and during Project activities</p>	<p>Qualified Biologist</p>

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Mitigation Measure	Timing	Responsible Party
<p>days of Project activities throughout the entire Project site. If Project activities are delayed or suspended for more than 7 days during the breeding season, surveys shall be repeated before activities can begin or restart. In the event that active bird or raptor nests are found, impacts to nests will be avoided by either delaying work or establishing initial buffer areas of a minimum of 100 feet around active migratory passerine bird species nests and a minimum of 500 feet around raptor nests. These buffers shall be maintained until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest of parental care for survival. A qualified biologist shall monitor the nest(s) weekly after commencement of activities to ensure that nesting behavior is not adversely affected by such activities. These buffers shall be increased to protect the nesting birds as determined by a qualified biologist.</p>		
<p>Recommendation #1: Crotch’s Bumble Bee Revisions</p> <p>The MND should be revised to acknowledge that Crotch’s bumble bee is a candidate species protected under CESA and remove the sentence, “The fate of Crotch’s bumble bee has had elevated concern by some agencies lately”. The MND should also provide a thorough discussion on habitat suitability for Crotch’s bumble bee within and adjacent to the Project site. The discussion should disclose the Project’s potential direct and indirect impacts on Crotch’s bumble bee. If the Project may impact Crotch’s bumble bee, the MND should incorporate measures to minimize, and/or mitigate potential impacts to Crotch’s bumble bee as well as habitat supporting the species. The discussion should be of a depth and scope that a CESA Incidental Take Permit can be issued based on the analysis provided in the MND.</p>	<p>Prior to adoption of MND</p>	<p>Lead Agency</p>

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Mitigation Measure	Timing	Responsible Party
<p>Recommendation #2: CEQA</p> <p>To minimize additional requirements by CDFW pursuant to Fish and Game Code section 2081 and/or under CEQA, a project’s CEQA document should fully identify the potential impacts to Crotch’s bumble bee and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the ITP.</p>	<p>Prior to adoption of MND</p>	<p>Lead Agency</p>
<p>Recommendation #3: Landscaping</p> <p>The Project proponent should use only native species found in naturally occurring vegetation communities within or adjacent to the Project site. The Project proponent should not plant, seed, or otherwise introduce non-native, invasive plant species to areas that are adjacent to and/or near native habitat areas. CDFW recommends the Project proponent restrict use of any species, particularly ‘moderate’ or ‘high’ listed by the California Invasive Plant Council. These species are documented to have substantial and severe ecological impacts on physical processes, plant and animal communities, and vegetation structure.</p>	<p>Prior to Project activities</p>	<p>Project Proponent</p>