



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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GAVIN NEWSOM, Governor
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November 21, 2024

Brenda Magana
City of Palmdale
38250 Sierra Highway
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SUBJECT: MAVERIK FUELING STATION - PALMDALE, SCH NO. 2024101037, 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 Maverik Fueling Station – Palmdale General Plan 23-0002, Conditional Use Permit 24-0001, Zone Change 24-0003, Site Plan Review 24-0005, Development Agreement 24-0007 (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: Site Design Collaborative

Objective: The Project is the construction and operation of a 5,637 square-foot fueling station with a convenience store. The fueling station would consist of 24 fuel pumps, an air pump station, two underground fuel storage tanks, storage generators, and a covered trash enclosure. Additionally, an on-site alternative wastewater treatment system would be installed. Access to the Project site would be provided via two access driveways along West Avenue S. Moreover, 35 parking spaces would be installed throughout the Project site. Landscaping would be installed around the site perimeter, and lighting would be installed along the eastern and southern site boundaries.

Location: The 6.09-acre Project site is located north of the intersection of West Avenue S and Guyon Avenue within the City. The Project site is directly bound by West Avenue S to the south and undeveloped land to the north, east, and west. The Assessor's Parcel Number associated with the Project site is 3004-016-032.

Timeframe: Construction of the Project is anticipated to occur over a nine-month period.

Biological Setting: The Project site is currently vacant with rock outcroppings, trees, shrubs, grass cover, and unpaved trails. A general biological field survey of the Project site was conducted on August 7, 2023, and findings were compiled in a Biological Resource Assessment (BRA). A jurisdictional delineation was also conducted on June 17, 2024. Natural communities on the Project site consists of a western Joshua tree (*Yucca brevifolia*; CESA candidate species) woodland and a California juniper (*Juniperus californica*) woodland. Special-status plant species observed on site include western Joshua trees and short joint beavertail (*Opuntia basilaris* var. *brachyclada*; California Rare Plant Rank (CRPR) 1B.2). During the general field survey, an

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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ephemeral drainage was observed on the Project site and flows from the northern to the southern boundary.

Common wildlife species were observed during the general survey; however, the Project site provides suitable habitat for various special-status species including, but not limited to, Mohave ground squirrel (*Xerospermophilus mohavensis*; CESA-listed threatened), northern California legless lizard (*Anniella pulchra*; SSC), California glossy snake (*Arizona elegans occidentalis*; SSC), coast horned lizard (*Phrynosoma blainvillii*; SSC), and western burrowing owl (*Athene cunicularia hypugaea*; CESA candidate species). The City has incorporated 11 mitigation measures in the MND regarding biological resources. The majority of the mitigation measures are species specific and include details regarding surveys and avoidance if presence is confirmed. If avoidance is unachievable, compensatory mitigation is proposed in Mitigation Measure BIO-2, BIO-4, BIO-7, BIO-8, and BIO-9.

COMMENTS AND RECOMMENDATIONS

CDFW offers the 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 Western Burrowing Owl

Issue: Mitigation Measure (MM) BIO-4 may not adequately reduce Project-related impacts on western burrowing owl to a level less than significant.

Specific impact: Project ground-disturbing activities such as vegetation removal and grading will result in habitat loss and may lead to death or injury of individuals. Project construction activities may also disrupt foraging behavior for over-wintering western burrowing owl present on site.

Why impact would occur: On October 15, 2024, the Fish and Game Commission published a Notice of Findings that designates western burrowing owl as a CESA candidate species. The MND states that there are multiple burrows throughout the Project site to support a variety of species, including western burrowing owl (pg. 35). MM BIO-4 is provided in the MND and outlines the requirements for focused surveys and a CDFW-approved avoidance plan. If avoidance is not achievable, mitigation will be provided. While CDFW acknowledges that avoidance is generally preferred over take of listed species, full avoidance of this species is unlikely. Western burrowing owl have high site fidelity and may return to the same Project site throughout Project activities. Western burrowing owls may also utilize the site as overwintering habitat, in which case they may be present year-round. Moreover, if Project activities overlap with the breeding season for western burrowing owl there is a high potential for Project activities to result in abandonment of burrows, burrow collapse, or injury/mortality of owlets. To alleviate

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the potential of unauthorized take, MM BIO-4 should be revised to coordinate with CDFW to obtain appropriate take authorization if western burrowing owl is identified on site.

Evidence impact would be significant: Western burrowing owl is a species designated as candidate for listing as threatened or endangered pursuant to CESA (Fish & G. Code, § 2050 *et seq.*). Take of any endangered, threatened, or candidate species that results from the Project is prohibited, except as authorized by State law (Fish & G. Code, §§ 86, 2062, 2067, 2068, 2080, 2085; Cal. Code Regs., tit. 14, § 786.9). Additionally, take of individual western burrowing owl 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.” Inadequate avoidance and mitigation measures will result in the Project continuing to have a substantial adverse direct and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW.

Recommended Potentially Feasible Mitigation Measure(s)

Recommendation #1: Western Burrowing Owl Observation - Table 7. Animal Species lists western burrowing owl as observed on site, which contradicts the findings in the BRA that states only general wildlife species were observed. CDFW recommends the City clarify whether western burrowing owl were observed on site during surveys. If they were not observed, the City should revise the presence determination in Table 7 to reflect an appropriate finding. If western burrowing owl were observed on site, the MND should be revised to provide a thorough discussion and detailed maps pertaining to the location of burrows and number of observed western burrowing owl within the Project site. 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 western burrowing owl and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the ITP.

Mitigation Measure #1: MM BIO-4 – The City should revise MM BIO-4 to incorporate the underlined language and omit language in strikethrough:

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~~No more than 14 days prior to the commencement of ground disturbing activity, the~~ The Project proponent shall obtain a qualified biologist to conduct focused surveys for burrowing owls prior to Project activities. Focused surveys shall adhere to survey methods described in CDFW's March 7, 2012, [Staff Report on Burrowing Owl Mitigation](#)³ (CDFW 2012) or CDFW's most recent guidance. The survey area ~~shall~~ should include the Project site and 150 meters from the Project site where suitable habitat is present. Survey protocol for breeding season owl surveys states to conduct four survey visits: 1) at least one site visit between February 15 and April 15, and 2) a minimum of three survey visits, at least three weeks apart, between April 15 and July 15, with at least one visit after June 15. Findings from the focused surveys ~~shall~~ should be provided to the City and CDFW for review.

~~If an occupied burrow or burrowing owl is found within the development footprint, the Project proponent shall coordinate with CDFW and obtain appropriate take authorization from CDFW. 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. the biologist shall prepare an Impact Assessment and Burrowing Owl Mitigation Plan in accordance with the 2012 Staff Report on Burrowing Owl Mitigation. The Project proponent shall contact CDFW to develop appropriate mitigation/management procedures and a final Burrowing Owl Mitigation Plan shall be submitted to the City and CDFW for review and approval prior to Project activities. If avoidance cannot be achieved, the Project proponent shall offset impacts on habitat supporting an SSC at a minimum of 2:1 to ensure no net loss of burrowing owl habitat. The Project proponent shall set aside comparable replacement habitat to be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity, which should include an appropriate endowment to provide for the long term management of mitigation lands.~~

COMMENT # 2: Impacts on Short Joint Beavertail

Issue: The Project will impact short joint beavertail.

Specific impact: Vegetation removal and grading activities of the Project site will result in loss of suitable habitat, loss of population, and direct mortality of short joint beavertail. Project activities will also result in the seedbank being buried, crushed, or trampled on.

Why impact would occur: Short joint beavertail is a rare plant endemic to California and is documented to occur in Los Angeles and San Bernardino counties (NatureServe 2024). To offset any Project-related impacts to this rare plant, the MND proposes MM BIO-6. MM BIO-6 describes surveys and avoidance of short joint beavertail. Avoidance through fencing or flagging of each individual does not guarantee that construction activities would not impact individual or a population of short joint beavertail. Project activities near individual rare plants or a population of rare plants may result in adverse

³ <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline>

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impacts through dust suppression, removal of individual plants, human disturbance, and encroachment on roots. In lieu of avoidance actions that may not result in effective avoidance, the Project proponent should offset the loss of short joint beavertail through compensatory mitigation. CDFW recommends that the City incorporates a mitigation measure that outlines replacement of short joint beavertail habitat that is permanently protected by a conservation easement, managed by a qualified land management entity, and funded by an endowment that will ensure adaptive management of the mitigation lands in-perpetuity.

Evidence impact would be significant: Impacts on rare flora could be considered a significant effect on the environment. Impacts to CRPR 1 and 2 plant species and their habitat meet the definition of endangered, rare, or threatened species (CEQA Guidelines, § 15380). Impacts to CRPR 1 and 2 plant species and their habitat may result in a mandatory finding of significance because the Project would have the potential to threaten to eliminate a plant community and substantially reduce the number or restrict the range of an endangered, rare, or threatened species (CEQA Guidelines, § 15065). Insufficient mitigation may result in unmitigated temporal or permanent impacts to a rare plant species. Subsequently, the Project would continue to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species by CDFW.

Recommended Potentially Feasible Mitigation Measure(s)

Recommendation #3: Short Joint Beavertail Observation – The MND states that short joint beavertail was observed within the Project site but does not provide additional information regarding the population size and approximate number of individuals observed. CDFW recommends the MND should be revised to provide additional information and detailed maps pertaining to the location and number of short joint beavertail on site.

Mitigation Measure #2: MM BIO-6 – The City should revise MM BIO-6 to incorporate the underlined language and omit language in strikethrough:

Prior to the commencement of ground disturbing activities, the Project proponent shall retain a qualified botanist to conduct focused surveys a floristic survey shall be conducted for short-joint beavertail during the appropriate bloom period (April to June). Methods during the surveys shall adhere to guidance provided in CDFW’s [Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities](#)⁴ (CDFW 2018). Findings from the surveys shall be provided to the City and CDFW prior to ground disturbing activities. 14 days prior to the commencement of ground disturbing activities.. If detected, each individual shall be flagged or fenced for avoidance prior to the commencement of construction activities. If avoidance is not feasible, a qualified biologist shall develop a short join beavertail removal and

⁴ <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>

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~~reintroduction plan for any impacted plants. This plan must be approved by CDFW and the City prior to the issuance of grading permits.~~

The Project proponent shall also provide compensatory mitigation to offset the Project's impact on short joint beavertail observed on site at no less than 2:1. The total habitat acreage within the mitigation land shall be no less than 2:1. The Project proponent shall acquire CDFW approved mitigation land that has presence of both plant species and is located in the same watershed as the Project site. The mitigation land shall also provide equivalent or greater habitat value than that of the Project site. The Project proponent shall protect replacement habitat in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands pursuant to Assembly Bill 1094. Recordation of the conservation easement shall occur prior to commencement of Project activities. An appropriate endowment shall also be provided for the long-term monitoring and management of mitigation lands.

Mitigation Measure #3: Habitat Management and Monitoring Plan - The Project proponent shall retain a certified botanist to draft a Habitat Management and Monitoring Plan (HMMP) and submit it to the City and CDFW for review and approval prior to Project activities. The HMMP shall outline initial and long-term management and maintenance activities that would occur on mitigation lands. The HMMP shall provide measurable goals and success criteria for establishing self-sustaining populations (e.g., percent survival rate, absolute cover). Maintenance activities outlined in the HMMP shall include measures pertaining to control of exotic vegetation, irrigation schedule, and protection from future maintenance activities.

COMMENT # 3: Impacts on California Species of Special Concern

Issue: The mitigation measure proposed in the MND will not be sufficient to minimize Project impacts on SSC.

Specific impact: Direct impacts to SSC could result from Project activities (e.g., equipment staging, mobilization, and grading); ground disturbance; vegetation clearing; trampling or crushing from construction equipment, vehicles, and foot traffic. Project ground-disturbing activities such as vegetation removal will also result in habitat destruction, causing the death or injury of adults, juveniles, eggs, or hatchlings.

Why impact would occur: According to the MND, there is a moderate to high potential for California glossy snake, coast horned lizard, and northern California legless lizard to occur during the construction phase of the Project. To reduce Project impacts, the City incorporates MM BIO-10 in the MND, which would allow SSC to leave the area or be relocated. It is unclear at what point the biologist would determine relocation is the appropriate method rather than allow the species to move out of harm's way. Moreover, the location of where SSC would be relocated is undisclosed. Injury or death of SSC may occur during the transit process when relocating a species from one area to another. With a high level of risk involved in relocating species, SSC should be allowed

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to move out of harm's way on their own accord rather than actively relocated. In addition to relocation of SSC, the mitigation measure do not outline any compensatory mitigation if SSC presence is confirmed. Given that habitat loss on a local and regional scale is a major cause of population decline for these SSC, removal of confirmed SSC habitat would be considered a significant impact and should be mitigated appropriately.

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

- 1) if the species is extirpated from the State or, in the case of birds, is extirpated in its primary season or breeding role;
- 2) if the species is listed as threatened or endangered under ESA-, but not CESA-, threatened, or endangered;
- 3) if the species meets the State definition of threatened or endangered but has not formally been listed;
- 4) if the species is experiencing, or formerly experienced, serious (nonscyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status; and,
- 5) if naturally small populations exhibiting high susceptibility to risk from any factor(s), that if realized, could lead to declines that would qualify it for CESA threatened or -endangered status (CDFW 2024a).

CEQA provides protection not only for CESA-listed species, but for any species including but not limited to SSC that can be shown to meet the criteria for State listing. These SSC meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380). The MND does not provide mitigation for potential impacts on SSC. Inadequate avoidance, minimization, and mitigation measures for impacts to sensitive or special status species will result in the Project continuing to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species by CDFW.

Recommended Potentially Feasible Mitigation Measure(s)

Mitigation Measure #4: MM BIO-10 – The City should revise MM BIO-10 to incorporate the underlined language and omit language in strikethrough:

No more than 72 hours prior to the commencement of construction activities, a qualified biologist shall conduct a survey throughout the Project site for California glossy snake, coast horned lizard, and Northern California legless lizard. If any of these species are found to be present on the Project site, they shall be passively ushered out of harm's way to an area that is unaffected by the Project. If the Project requires SCC to be removed, disturbed, or otherwise handled, the qualified biologist shall obtain all

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appropriate permits and prepare a species-specific list (or plan) of proper handling and passive relocation protocols. The list (or plan) of protocols shall be implemented during Project construction and activities/biological construction monitoring. The City/qualified biologist may coordinate with CDFW to prepare a passive relocation plan and shall be submitted to CDFW for review and comment prior to implementing Project ground-disturbing activities. ~~no construction activities shall commence until the individuals have left the area or have been relocated by a qualified biologist in accordance with CDFW protocols.~~

Mitigation Measure #5: SSC Compensatory Mitigation - For SSC that have been confirmed and/or are expected to occur within the Project site, the Project proponent shall provide compensatory mitigation for temporary and permanent loss of any habitat supporting SSC. There shall be no net loss of habitat supporting SSC [CEQA Guidelines, § 15370(e)]. Compensatory mitigation shall be provided within the Project boundary at no less than 2:1. Mitigation shall provide appropriate habitat (depending on the species), refugia, and habitat structures that supports that species (e.g., woody material, rocks, brush piles, pools, burrows). Any proposed mitigation area/plan shall include a discussion on the territory size; nesting, breeding, foraging, and refuge locations; invasive, non-native plant and wildlife species present; food availability; and how all life cycle functions will be mitigated. Any mitigation plan for SSC shall be distributed and approved by CDFW prior to Project activities. The replacement habitat shall be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity, which should include an appropriate endowment to provide for the long-term management of mitigation lands.

ADDITIONAL COMMENTS

Mitigation Measure BIO-9. CDFW recommends that the City revise MM BIO-9 to incorporate the underlined language and omit language in strikethrough:

~~To ensure acceptance by CDFW, please revise to the below.~~

A qualified biologist shall conduct focused surveys for Mohave ground squirrel throughout the Project site, ~~14 days~~ prior to ground disturbance. Focused Mohave ground squirrel surveys shall adhere to California Department of Fish and Wildlife Mohave Ground Squirrel Survey Guidelines (CDFW 2023). If Mohave ground squirrel is observed on site or captured during any of the trapping sessions, the Project proponent shall secure a CESA Incidental Take Permit (ITP) for Mohave ground squirrel before the issuance of City permits. The ITP shall specify avoidance, minimization, and mitigation conditions for temporary and/or permanent impacts to Mohave ground squirrel including habitat acquisition at a CDFW-approved location and mitigation ratio.

Lighting. The MND states that lighting would be provided along the eastern and southern boundaries of the site (page 6). Given that the Project site is primarily surrounded by undeveloped land, CDFW recommends exterior lighting is directed

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downwards toward the fueling station and convenience store and away from any open space areas.

Landscaping. The Project proposes landscaped areas around the site perimeter. The MND notes that the native trees and flowering shrubs would comply with the City's ordinance (page 6). CDFW recommends that the City incorporate a planting palette into the MND, specifying the vegetation that will be used as landscaping for this Project. The Project proponent should only plant 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](#)⁵(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 the California Natural Diversity Database (CNDDDB). The [CNDDDB website](#)⁶ provides direction regarding the types of information that should be reported and allows on-line submittal of field survey forms (CDFW 2024b).

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](#)⁷ (CDFW 2024c).

⁵ <https://www.cal-ipc.org/plants/inventory/>

⁶ <https://wildlife.ca.gov/Data/CNDDDB> <https://wildlife.ca.gov/Data/CNDDDB>

⁷ <https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities/Submit>

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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 Portugal⁸, Environmental Scientist.

Sincerely,

DocuSigned by:

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Victoria Tang
Environmental Program Manager
South Coast Region

ATTACHMENTS

Attachment A: Draft Mitigation, Monitoring, and Reporting Program

ec: 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

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REFERENCES

- [Cal-IPC] California Invasive Plant Council. The Cal-IPC Inventory. Available at:
<https://www.cal-ipc.org/plants/inventory/>
- [CDFW] California Department of Fish and Wildlife. 2012. Staff Report on Burrowing Owl Mitigation. Available at:
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline>
- [CDFW] California Department of Fish and Wildlife. 2018. Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and natural Communities. Available at:
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- [CDFW] California Department of Fish and Wildlife. 2024a. Threatened and Endangered Species. Available at: <https://wildlife.ca.gov/Conservation/CESA>
- [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. 2024c. Combined Rapid Assessment and Revele Form. Available at:
<https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities/Submit>
- [NatureServe] Nature Serve Explorer. Short Joint Beavertail. 2024. Available at:
https://explorer.natureserve.org/Taxon/ELEMENT_GLOBAL.2.159896/Opuntia_basilaris_var_brachyclada

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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: MM BIO-4 - The Project proponent shall obtain a qualified biologist to conduct focused surveys for burrowing owls prior to Project activities. Focused surveys shall adhere to survey methods described in CDFW’s March 7, 2012, Staff Report on Burrowing Owl Mitigation (CDFW 2012) or CDFW’s most recent guidance. The survey area shall include the Project site and 150 meters from the Project site where suitable habitat is present. Survey protocol for breeding season owl surveys states to conduct four survey visits: 1) at least one site visit between February 15 and April 15, and 2) a minimum of three survey visits, at least three weeks apart, between April 15 and July 15, with at least one visit after June 15. Findings from the focused surveys shall be provided to the City and CDFW for review.</p> <p>If an occupied burrow or burrowing owl is found within the development footprint, the Project proponent shall coordinate with CDFW and obtain appropriate take authorization from CDFW. 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>Qualified Biologist</p>
<p>Mitigation Measure #2: MM BIO-6 - Prior to the commencement of ground disturbing activities, the Project proponent shall retain a qualified botanist to conduct focused surveys for short-joint beavertail during the appropriate bloom period (April to June). Methods during the surveys shall adhere to guidance provided in CDFW’s Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and</p>	<p>Prior to Project activities</p>	<p>Qualified Botanist/Project proponent</p>

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Mitigation Measure	Timing	Responsible Party
<p>Natural Communities. Findings from the surveys shall be provided to the City and CDFW prior to ground disturbing activities.</p> <p>The Project proponent shall also provide compensatory mitigation to offset the Project's impact on short joint beavertail observed on site at no less than 2:1. The total habitat acreage within the mitigation land shall be no less than 2:1. The Project proponent shall acquire CDFW approved mitigation land that has presence of both plant species and is located in the same watershed as the Project site. The mitigation land shall also provide equivalent or greater habitat value than that of the Project site. The Project proponent shall protect replacement habitat in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands pursuant to Assembly Bill 1094. Recordation of the conservation easement shall occur prior to commencement of Project activities. An appropriate endowment shall also be provided for the long-term monitoring and management of mitigation lands.</p>		
<p>Mitigation Measure #3: Habitat Management and Monitoring Plan - The Project proponent shall retain a certified botanist to draft a Habitat Management and Monitoring Plan (HMMP) and submit it to the City and CDFW for review and approval prior to Project activities. The HMMP shall outline initial and long-term management and maintenance activities that would occur on mitigation lands. The HMMP shall provide measurable goals and success criteria for establishing self-sustaining populations (e.g., percent survival rate, absolute cover). Maintenance activities outlined in the HMMP shall include measures pertaining to control of exotic vegetation, irrigation schedule, and protection from future maintenance activities.</p>	<p>Prior to Project activities</p>	<p>Qualified Biologist/ Project proponent</p>

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Mitigation Measure	Timing	Responsible Party
<p>Mitigation Measure #4: MM BIO-10 - No more than 72 hours prior to the commencement of construction activities, a qualified biologist shall conduct a survey throughout the Project site for California glossy snake, coast horned lizard, and Northern California legless lizard. If any of these species are found to be present on the Project site, they shall be passively ushered out of harm's way to an area that is unaffected by the Project. If the Project requires SCC to be removed, disturbed, or otherwise handled, the qualified biologist shall obtain all appropriate permits and prepare a species-specific list (or plan) of proper handling and passive relocation protocols. The list (or plan) of protocols shall be implemented during Project construction and activities/biological construction monitoring. The City/qualified biologist may coordinate with CDFW to prepare a passive relocation plan and shall be submitted to CDFW for review and comment prior to implementing Project ground-disturbing activities.</p>	<p>Prior to and during Project activities</p>	<p>Qualified Biologist</p>
<p>Mitigation Measure #5: SSC Compensatory Mitigation - For SSC that have been confirmed and/or are expected to occur within the Project site, the Project proponent shall provide compensatory mitigation for temporary and permanent loss of any habitat supporting SSC. There shall be no net loss of habitat supporting SSC. Compensatory mitigation shall be provided within the Project boundary at no less than 2:1. Mitigation shall provide appropriate habitat (depending on the species), refugia, and habitat structures that supports that species (e.g., woody material, rocks, brush piles, pools, burrows). Any proposed mitigation area/plan shall include a discussion on the territory size; nesting, breeding, foraging, and refuge locations; invasive, non-native plant and wildlife species present; food availability; and how all life cycle functions will be mitigated. Any mitigation plan for SSC shall be distributed and approved by CDFW prior to Project activities. The replacement habitat shall be protected in perpetuity under a conservation easement dedicated to a local land</p>	<p>Prior to Project activities</p>	<p>Project proponent</p>

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Mitigation Measure	Timing	Responsible Party
<p>conservancy or other appropriate entity, which should include an appropriate endowment to provide for the long-term management of mitigation lands.</p>		
<p>Mitigation Measure #6: MM BIO-9 - A qualified biologist shall conduct focused surveys for Mohave ground squirrel throughout the Project site, prior to ground disturbance. Focused Mohave ground squirrel surveys shall adhere to California Department of Fish and Wildlife Mohave Ground Squirrel Survey Guidelines. If Mohave ground squirrel is observed on site or captured during any of the trapping sessions, the Project proponent shall secure a CESA Incidental Take Permit (ITP) for Mohave ground squirrel before the issuance of City permits. The ITP shall specify avoidance, minimization, and mitigation conditions for temporary and/or permanent impacts to Mohave ground squirrel including habitat acquisition at a CDFW-approved location and mitigation ratio.</p>	<p>Prior to Project activities</p>	<p>Qualified Biologist/ Project proponent</p>
<p>Recommendation #1: Western Burrowing Owl Observation - CDFW recommends the City clarify whether western burrowing owl were observed on site during surveys. If they were not observed, the City should revise the presence determination in Table 7 to reflect an appropriate finding. If western burrowing owl were observed on site, the MND should be revised to provide a thorough discussion and detailed maps pertaining to the location of burrows and number of observed western burrowing owl within the Project site. 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>
<p>Recommendation #2: CEQA - 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 western burrowing owl 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>

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Mitigation Measure	Timing	Responsible Party
<p>Recommendation #3: Short Joint Beavertail Observation - CDFW recommends the MND should be revised to provide additional information and detailed maps pertaining to the location and number of short joint beavertail on site.</p>	<p>Prior to adoption of MND</p>	<p>Lead Agency</p>
<p>Recommendation #4: Lighting - CDFW recommends exterior lighting is directed downwards toward the fueling station and convenience store and away from any open space areas.</p>	<p>Prior to adoption of MND</p>	<p>Lead Agency</p>
<p>Recommendation #5: Landscaping - CDFW recommends that the City incorporates a planting palette into the MND, specifying the vegetation that will be used as landscaping for this Project. The Project proponent should only plant 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 adoption of MND</p>	<p>Lead Agency</p>