



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Inland Deserts Region
3602 Inland Empire Blvd. C-220
Ontario, CA 91764
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



December 2, 2024
Sent via email

James Hirsch, Senior Contract Planner
City of Adelanto
11600 Air Expressway
Adelanto, CA 92301
JHirsch@ci.adelanto.ca.us

Dear James Hirsch:

LDP 23-06 Adelanto Industrial Center Project
MITIGATED NEGATIVE DECLARATION (MND)
SCH# 2024110133

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from City of Adelanto for the LDP 23-06 Adelanto Industrial Center Project (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

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

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the state. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

PROJECT DESCRIPTION SUMMARY

Proponent: Taher Shams, c/o Blue Civil Engineering

Objective: The Project's objective is to construct twelve 10,000-square foot industrial buildings on twelve standalone building pads within 9.11-acre development site. Each building pad is approximately $\frac{3}{4}$ of an acre in size and will provide driveway access from

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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either Cassia Road or from a new internal public street that intersects with Daisy Road. Project activities will include site preparation, grading, building construction, and paving. The Project also includes street improvement and water quality detention basins.

Location: The Project site is located in the City of Adelanto, San Bernardino County, California at Latitude 34.54939 N and Longitude -117.42897 W. The Project site is located on the southeast corner of Cassia Road and Daisy Road, with Assessor's Parcel Number (APN) 3128-111-06-0000. The Project site is currently undeveloped, land surrounding the site is composed of a mix of undeveloped, vacant land and residential and industrial developments.

Timeframe: Construction is estimated for a 279-day schedule, no start date for construction is specified.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist City of Adelanto in adequately identifying 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 may also be included to improve the document. Based on the Project's avoidance of significant impacts on biological resources with implementation of mitigation measures, including those CDFW recommends in Attachment A, CDFW concludes that a Mitigated Negative Declaration is appropriate for the Project.

Environmental Setting and Related Impact Shortcoming

COMMENT #1 Western Joshua Tree (*Yucca brevifolia*) and Mitigation Measure BIO-1

IS/MND: Page 37 and Western Joshua Tree Census Appendix C

Issue: The IS/MND recognizes the presence of western Joshua tree (WJT), a candidate species under California Endangered Species Act (CESA), on the proposed Project site. Ground-disturbing activities would lead to the removal of both live and dead WJT from the Project site and might impact live WJT in adjacent parcels.

Specific impact: CDFW appreciates that the IS/MND includes Mitigation Measure BIO-1 which considers obtaining an Incidental Take Permit (ITP) either through the [Western Joshua Tree Conservation Act](#) (ca.gov)(WJTCA) or CESA. Within the 9.11-acre Project site, the Project would remove at least eighty-four (84) WJTs to construct the Project. However, Table 4-1 on page 4 of the WJT census, indicates that only the 77 live WJT trees would require mitigation fees. CDFW would like to point out that take of WJT is defined as any activity that results in the removal of WJT or any parts thereof (CDFW 2024) including dead individuals. Additionally, under the WJTCA ITP each WJT stem or trunk arising from the ground must be considered an individual tree requiring mitigation regardless of proximity to any other Joshua tree stem or trunk. Since pictures were not provided with the census, CDFW is unable to verify if the Project site may contain more WJT individuals than those included in Table 4-1. Finally, Page 3 of the WJT census conducted on October 19, 2023, by RCA Associates, Inc., indicates that a 50-foot buffer was not included in the census due to a lack of landowner permission. For the purposes of the census, the Project site is defined as the area(s) where Project activities are expected to occur (e.g., access, staging, construction etc.). The census area is defined as the

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project site plus an additional 15- meter (~50 ft) census buffer around the Project site. Based on aerial imagery the un-surveyed WJT census buffer zone of (~50 ft) around the project boundary appears to contain WJT. Ground-disturbing activities would lead to the removal of both live and dead WJT from the Project site and might impact live WJT in adjacent parcels.

Why impact would occur: Take of WJT is defined as any activity that results in the removal of WJT or any parts thereof (CDFW 2024). The IS/MND should address the presence of all dead and live WJTs within the Project site, as well as the Project's impact on any live WJTs within and adjacent to the Project site. Access and construction occurring adjacent to WJTs in the off-site parcels could impact WJTs as a result of ground disturbing activities, encroachment, compaction, trampling, or disturbance of the root zone and seedbank by heavy equipment, vehicles or foot traffic, and increased dust, water, and wind erosion during construction.

Evidence impact would be significant: The Project as described will result in direct take of WJT and parts thereof and would result in the loss of the habitats on which they depend on. WJT is a candidate threatened species under CESA. Under CESA, species classified as a candidate species are afforded the same protection as CESA-listed species. Take of any CESA-listed species is prohibited except as authorized by state law (Fish and Game Code, §§ 2080 & 2085). Additionally, western Joshua tree is protected under the WJTCA. The WJTCA was enacted in July 2023 and prohibits the import, export, take, possession, purchase, or sale of any western Joshua tree in California unless authorized by CDFW (CDFW 2024). Grading, vegetation clearing, staging of construction equipment, vehicles, and foot traffic may result in direct or indirect loss of WJT on the Project site, might impact WJT in adjacent areas, and may result in the disruption to WJT seedbank.

Recommended Potentially Feasible Mitigation Measure to reduce impacts to less than significant: CDFW appreciates that a WJT census was provided and that the IS/MND provides a measure to minimize the Project's impacts to western Joshua trees. If the Project proponent applies for an Incidental Take Permit (ITP) through the WJTCA, CDFW recommends the Project revise their WJT census to include all WJT stems and include all WJTs within the census buffer zone (~50 ft). Additionally per the [WJTCA ITP Relocation Guidelines and Protocol](#) (Guidelines), CDFW may require relocation of WJT based upon your final census. If the census buffer area extends onto neighboring properties, landowner(s) permission should be obtained, whenever possible, to document any WJTs on adjacent properties. If landowner permission isn't available, WJT may be observed from the property boundary. More information regarding the WJTCA can be found here: [Western Joshua Tree Conservation Permitting](#). CDFW recommends the following revisions to MM BIO-1 (edits are in strikethrough and **bold**):

Biological Resources Mitigation Measure 1 (MM BIO-1)

The western Joshua tree is a candidate threatened species under the California Endangered Species Act. If any western Joshua trees are to be relocated, removed, or otherwise taken, the Project Proponent shall obtain an Incidental Take Permit (ITP) from the California Department of Fish and Wildlife (CDFW) under Section ~~CDFW under~~ §2081**b** of the California Endangered Species Act (CESA), ~~or any other appropriate take authorization under CESA~~ or under the Western Joshua Tree Conservation Act (Fish & G.

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Code, §§ 1927-1927.12), prior to the relocation, removal, or take. (California Fish and Game Code Section 86 defines "take" as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill") of western Joshua tree, a Candidate for Threatened CESA-listed species. Take of any CESA-listed species is prohibited except as authorized by state law (Fish and Game Code, §§ 2080 & 2085 and §§ 1927-1927.12). **Mitigation for CESA will occur at a minimum 1:1 or per the stem count per the WJTCA census in lieu fee.** ~~Permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate project-related impacts of the taking of CESA listed species. CDFW recommends permanent protection through either the purchase of conservation or mitigation bank credits or the establishment of a conservation easement, the development of a long-term management plan, and securing funding sufficient to implement management plan tasks in perpetuity. These tasks should be completed, or financial security must be provided before starting any Project activities. To execute an ITP, CDFW requires documentation of CEQA compliance. CDFW requires the CEQA document have a State Clearing House number, show proof of filing fees, and proof the document has been circulated.~~ **Per Section 1927.4 of the WJTCA, CDFW may authorize, by permit, the taking of a western Joshua tree if all of the following conditions are met: (1) The permittee submits to CDFW for its approval a census of all western Joshua trees on the project site, including photographs, that categorize the trees according to the following size classes: a. Less than one meter in height. b. One meter or greater but less than five meters in height. c. Five meters or greater in height. (2) The permittee avoids and minimizes impacts to, and the taking of, the western Joshua tree to the maximum extent practicable. Minimization may include trimming, encroachment on root systems, relocation, or other actions that result in detrimental but nonlethal impacts to western Joshua tree. (3) The permittee mitigates all impacts to, and taking of, the western Joshua tree. In lieu of completing the mitigation on its own, the permittee may elect to pay mitigation fees. (4) CDFW may require the permittee to relocate one or more of the western Joshua trees. The City of Adelanto falls within an area of the WJTCA which qualifies for reduced Mitigation Fees for impacts to western Joshua trees (Fish and Wildlife Code, Section 1927). Mitigation fees are updated annually. For the current fees, please visit: [Western Joshua Tree Conservation Act Incidental Take Permit](#). Each western Joshua tree stem or trunk arising from the ground shall be considered an individual tree requiring mitigation, regardless of proximity to any other western Joshua tree stem or trunk. Mitigation is required of all trees, regardless of whether they are dead or alive. It is recommended that specific Joshua tree mitigation measures or determination of in-lieu fees be addressed through consultation with CDFW.**

Comment #2: Burrowing Owl (*Athene cunicularia hypugaea*) and Mitigation Measure BIO-2

IS/MND page 34, General Biological Assessment pages 6-9

Issue: On October 25th, 2024, the western burrowing owl was designated as a candidate CESA-listed species. The Project may impact burrowing owl and its habitat. The MND includes Mitigation Measure BIO-2, which outlines a plan for focused and pre-construction surveys for burrowing owl. However, this measure may not be adequate to fully avoid or minimize impacts to the species. Furthermore, the Habitat Assessment does not appear to

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follow the current guidelines for a burrowing owl habitat assessment in accordance to the 2012 Staff Report on Burrowing Owl Mitigation (CDFG 2012 or most recent version).

Specific impact: The General Biological Assessment states that a reconnaissance survey and habitat assessment for the desert tortoise, burrowing owl, and Mohave ground squirrel were conducted on July 19, 2023, by RCA Associates, Inc. However, the assessment does not specify the amount of time that was spent on-site, or the buffer distances surveyed. Without this information, CDFW is concerned that the habitat assessment may not have been conducted in accordance with the Staff Report on Burrowing Owl Mitigation (CDFG 2012 or most recent version), which recommends surveying adjoining areas within 500 feet. The census that was conducted on October 19, 2023, indicates that a 50-foot buffer was not included in the census due to lack of landowner permission, which may have also applied to the reconnaissance survey and the habitat assessment. Nevertheless, CDFW appreciates the inclusion of mitigation measure BIO-2, which calls for focused burrowing owl surveys to be conducted by a qualified biologist in accordance with the Staff Report on Burrowing Owl Mitigation (CDFG 2012 or most recent version).

Why impact would occur: Burrowing owls have been known to use highly degraded and marginal habitats where existing burrows are available. As stated in page 3 of the General Biological Assessment, the site supports suitable habitat for burrowing owl. Small mammals including California ground squirrels (*Otospermophilus beecheyi*), Antelope ground squirrels (*Ammospermophilus leucurus*), and Merriam's kangaroo rats (*Dipodomys merriami*) are expected to inhabit the site due to the availability of suitable burrows and distribution in the region. Burrowing owls may use small mammal burrows throughout the Project site and adjacent areas as overwintering, breeding, and nesting habitat. Additionally, the California Natural Diversity Database (CNDDDB) dataset, [Burrowing Owl Predicted Habitat](#) (CDFW 2024) display a high potential for burrowing owl presence within the Project area, along with several observations of burrowing owls within 5 miles of the Project site (CDFW 2024). Project implementation, including grading, vegetation clearing and construction, may result in direct mortality, population declines, or local extirpation of burrowing owl not previously identified. Burrowing owls also have a high potential to move into disturbed areas since they are adapted to highly modified habitats (Chipman et al., 2008; Coulombe, 1971).

Evidence impacts would be significant: Habitat loss is a threat to burrowing owls (CDFG, 2012). Burrowing owls are dependent on burrows at all times of the year for survival and/or reproduction, evicting them from nesting, roosting, and satellite burrows may lead to indirect impacts or take. Loss of access to burrows will likely result in varying levels of increased stress on burrowing owls and could depress reproduction, increase predation, increase energetic costs, and introduce risks posed by having to find and compete for available burrows (CDFG, 2012). Burrowing owls are also dependent on adjacent habitat, and forage within 600 meters of nest burrows (Rosenberg and Haley, 2004). As a candidate species, Western Burrowing Owl is granted full protection of a threatened species under CESA. 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." CESA allows CDFW to authorize project proponents to take state-listed threatened, endangered, or candidate species if certain conditions are met. Take must be incidental to

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an otherwise lawful activity. The issuance of a permit cannot jeopardize the continued existence of the species, and the impacts must be minimized and fully mitigated.

Recommended Potentially Feasible Mitigation Measure to reduce impacts to less than significant: CDFW recommends that prior to commencing Project activities, focused and pre-construction surveys for burrowing owl be conducted by a qualified biologist in accordance with the *Staff Report on Burrowing Owl Mitigation* (CDFG 2012 or most recent version). The surveys shall include 100 percent coverage of the Project site and 500-foot buffer in adjacent habitat. To support the City of Adelanto in reducing impacts to burrowing owl to a level less than significant, CDFW offers the following revisions to MM BIO-2 (edits are in strikethrough and **bold**):

Biological Resources Mitigation Measure 2 (MM BIO-2)

Prior to any ground disturbance, a survey for potential burrows followed by four breeding season surveys of areas found to have potential for focused burrowing owl surveys occupation shall be conducted by a qualified biologist according to the Staff Report on Burrowing Owl Mitigation (CDFG 2012 or most recent version). **Specifically, these reports suggest four surveys be conducted during daylight with each visit occurring at least three weeks apart during the peak breeding season (i.e., April 15 to July 15), when burrowing owl are most detectable. The surveys shall include 100 percent coverage and include a minimum 500-foot buffer in adjacent habitat. A report summarizing the breeding season survey including all requirements for survey reports (page 30 of the 2012 Staff Report) shall be submitted to CDFW for review.**

If no burrowing owl, active burrowing owl burrows, or sign (molted feathers, cast pellets, prey remains, eggshell fragments, decoration, or excrement) thereof are found, no further action is necessary.

If burrowing owls, **active burrowing owl burrows, or sign thereof** are detected during the focused surveys, the qualified biologist and Project proponent shall prepare a Burrowing Owl Plan that shall be submitted to CDFW for review and approval **at least 30 days** prior to **ground disturbing** ~~commencing~~ Project activities. The Burrowing Owl Plan shall describe proposed avoidance, minimization, and monitoring 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. **Project activities shall not occur within 1000 feet of an active burrow until CDFW approves the Burrowing Owl Plan.** ~~If impacts to occupied burrowing owl habitat or burrow cannot be avoided, the Burrowing Owl Plan shall also describe relocation 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. If impacts to occupied burrows cannot be avoided, information shall be provided regarding adjacent or nearby suitable habitat available to owls along with proposed relocation actions. The Permittee shall implement the Burrowing Owl Plan following CDFW review and approval.~~ **If the Project cannot ensure burrowing owls and their burrows are fully avoided, consultation with CDFW is warranted to discuss how to implement**

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the Project and avoid take; or if avoidance is not feasible, to potentially acquire an ITP prior to any ground disturbing activities, pursuant Fish and Game Code section 2081 subdivision (b). Full mitigation often involves the permanent conservation of quality habitat benefiting the species through a conservation easement, along with habitat enhancement and ongoing management funded appropriately. Passive relocation, performed according to the Staff Report on Burrowing Owl Mitigation (CDGW, 2012) may be authorized through the incidental take permit as a minimization measure.

Take avoidance Pre-construction surveys for burrowing owl **occupation** shall be conducted **by a qualified biologist(s)** prior to the start of **Project-related activities** ~~construction~~. The surveys shall follow the methods described in the CDFW's Staff Report on Burrowing Owl Mitigation (CDFW 2012). Pre-construction surveys shall be conducted no less than 14 days before initial ground disturbance (e.g., grading, grubbing, construction). Burrowing owls may re-colonize a site after only a few days. Time lapses between Project activities trigger subsequent take avoidance surveys including but not limited to a final survey conducted within 24 hours prior to ground disturbance. If burrowing owls or suitable burrowing owl burrows with sign (e.g., whitewash, pellets, feathers, prey remains) are identified on the Project site during the survey, Project activities shall be immediately halted. The qualified biologist shall ~~notify~~ ~~coordinate with~~ the CDFW and prepare a Burrowing Owl Plan that shall be submitted to CDFW for review and approval ~~prior to commencing Project activities~~. **If avoidance is not feasible, the Project Proponent shall consult with CDFW on next steps, including obtaining an Incidental Take Permit (ITP) for burrowing owl prior to the start of Project activities.**

Comment #3: Mohave ground squirrel (*Xerospermophilus mohavensis*)

IS/MND page 34, General Biological Assessment page 5-7

Issue: The Project site is within the range of the CESA-threatened Mohave ground squirrel (MGS) and the Project has the potential to result in permanent loss, degradation, and impacts to Mohave ground squirrel habitat.

Specific Impact: The IS/MND does not provide any avoidance, or mitigation measures specific to Mohave ground squirrel. Focused surveys were not conducted, and the site contains occupiable burrows as stated in the IS/MND. Project activities have the potential to lead to the take of MGS.

Why impact would occur: The General Biological Assessment states that a reconnaissance survey and habitat assessment were conducted for desert tortoise, burrowing owl, and Mohave ground squirrel. Page 7 of the Biological Assessment states "it is the opinion of RCA Associates, Inc. that the habitat is not prime Mohave ground squirrel habitat and is very unlikely to support populations of the species based on the following criteria, that there have been two recent sightings, within 20 years, of the species in the Adelanto quadrangle". CDFW would like to point out that this does not exclude the potential for Mohave ground squirrel to inhabit the area. Additionally, the Biological Assessment also noted that occupiable burrows were found on site and the site does support minimal suitable habitat. Project activities including staging of construction equipment, vehicles, and foot traffic may result in the collapse of occupied burrows and result in direct mortality and/or injury to MGS. Ground disturbing activity including grading,

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vegetation clearing, and paving may result in the permanent loss of up to 9.11 acres of MGS habitat.

Evidence impact would be significant: The IS/MND states that the Project site supports “minimal suitable habitat” for Mohave ground squirrel due to the presence of occupiable burrows. While the biological assessment concludes that the species is not likely to inhabit the site due to lack of recent documented sightings in the immediate are, CDFW would like to point out that the California Natural Diversity Database (CNDDDB) is not exhaustive in terms of the data it houses, nor is it an absence database. A lack of recorded observations near a Project site does not provide sufficient merit to make the definitive statement that no impacts would occur without conducting protocol-level focused surveys. Mohave ground squirrels are challenging to detect, and a general survey may not provide an accurate assessment of presence/absence. The CNDDDB data should not be substituted for on-site surveys. However, the Project site is within the range of the CESA threatened Mohave ground squirrel and an observation from 2011 is documented on CNDDDB 0.53 miles away from the Project site. Additionally, desert shrub vegetation such as creosote bush scrub (*Larrea tridentata*, present at Project site) are known to provide habitat for Mohave ground squirrel. According to CDFW’s [Mohave Ground Squirrel Predicted Habitat - CWHR M073 \[ds2531\] GIS Dataset](#), the Project site provides moderately suitable habitat for Mohave ground squirrel (CDFW 2016). Without focused protocol surveys during the appropriate survey period, Project activities may adversely impact Mohave ground squirrel.

Recommended Potentially Feasible Mitigation Measure to reduce impacts to less than significant: CDFW offers the following measure for inclusion in the final MND:

Biological Resources Mitigation Measure 5 (MM BIO-5)

Prior to the initiation of ground disturbing activities, focused pre-construction clearance surveys throughout the Project site for Mojave ground squirrel will be conducted by a qualified biologist familiar with the species’ behavior and life history. Focused Mohave ground squirrel surveys shall follow the California Department of Fish and Game Mohave Ground Squirrel Survey Guidelines (CDFW 2023). Visual surveys will be conducted prior to ground disturbing activities commencing between March 15 and April 15, visual surveys shall be conducted on the Project site during daylight hours by a qualified biologist who can readily identify Mohave ground squirrel (*Xerospermophilus mohavensis*) and white-tailed antelope squirrel (*Ammospermophilus leucurus*). If the results of the survey confirm absence, then the Qualified Biologist shall ensure Mojave ground squirrels do not enter the Project site. If the survey or monitoring throughout the duration of the Project confirms presence, the Project proponent shall obtain an Incidental Take Permit (ITP) for Mohave ground squirrel. The ITP will 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.

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ADDITIONAL COMMENTS AND RECOMMENDATIONS

Management of Water Quality/Detention Basins: CDFW is concerned about potential impacts to biological resources resulting from management of the proposed detention basins. Since these basins have the potential to create habitat that attracts wildlife, proper management is essential. Maintenance of the detention basins raises several concerns, including work periods/seasons, nesting birds, vegetation removal, and sensitive species surveys. The IS/MND should incorporate an analysis of these issues.

Native Landscaping: To ameliorate the water demands of this Project, CDFW recommends incorporation of water-wise concepts in Project landscape design plans. In particular, CDFW recommends xeriscaping with locally native California species, and installing water efficient and targeted irrigation systems (such as drip irrigation). Native plants support butterflies, birds, reptiles, amphibians, small mammals, bees, and other pollinators that evolved with those plants, more information on native plants suitable for the Project location and nearby nurseries is available at: [Calscape - Restore Nature One Garden at a Time](#). Water agencies/districts and resource conservation districts in your area may be able to provide information on plant nurseries that carry locally native species. Additionally, some facilities display drought tolerant locally native species demonstration gardens. Information on drought-tolerant landscaping and water-efficient irrigation systems is available on California's Save our Water website: [Home - Save Our Water, California](#).

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a data base 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.)

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CONCLUSION

CDFW appreciates the opportunity to comment on the MND to assist the City of Adelanto in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Kelly Connor, Environmental Scientist at kelly.connor@wildlife.ca.gov.

Sincerely,

DocuSigned by:

84FBB8273E4C480...

Alisa Ellsworth
Environmental Program Manager

ec: Office of Planning and Research, State Clearinghouse, Sacramento
State.Clearinghouse@opr.ca.gov

ATTACHMENTS

Attachment A: MMRP for CDFW-Proposed Mitigation Measures

REFERENCES

- California Department of Fish and Game (CDFG). 2012. Staff report on burrowing owl mitigation. State of California, Natural Resources Agency. Available for download at: [Microsoft Word - BUOW Staff Report final_030712 REV 1.doc](#)
- Rosenberg, D. K., and K. L. Haley. 2004. The ecology of burrowing owls in the agroecosystem of the Imperial Valley, California. *Studies in Avian Biology* 27:120-135.
- California Department of Fish and Wildlife. 2023. Mohave Ground Squirrel Survey Guidelines.
- California Department of Fish and Wildlife. 2016. Mohave Ground Squirrel Predicted Habitat – CWHR M073 [ds2531]. Available at: <https://map.dfg.ca.gov/metadata/ds2531.html>
- Chipman, Erica D., et al. "Effects of human land use on western Burrowing Owl foraging and activity budgets." *Journal of Raptor Research* 42.2 (2008): 87-98
- Coulombe, Harry N. "Behavior and population ecology of the burrowing owl, *Speotyto cunicularia*, in the Imperial Valley of California." *The Condor* 73.2 (1971): 162- 176

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Attachment A

Draft Mitigation Monitoring and Reporting Program and Draft Recommendations

Draft Mitigation Monitoring and Reporting Program (MMRP)

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

Biological Resources (BIO)		
Mitigation Measure (MM) Description	Implementation Schedule	Responsible Party
<p>MM BIO-1:</p> <p>The western Joshua tree is a candidate threatened species under the California Endangered Species Act. If any western Joshua trees are to be relocated, removed, or otherwise taken, the Project Proponent shall obtain an Incidental Take Permit (ITP) from the California Department of Fish and Wildlife (CDFW) under Section §2081b of the California Endangered Species Act (CESA), or under the Western Joshua Tree Conservation Act (Fish & G. Code, §§ 1927-1927.12), prior to the relocation, removal, or take. (California Fish and Game Code Section 86 defines "take" as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill") of western Joshua tree, a Candidate for Threatened CESA-listed species. Take of any CESA-listed species is prohibited except as authorized by state law (Fish and Game Code, §§ 2080 & 2085 and §§ 1927-1927.12). Mitigation for CESA will occur at a minimum 1:1 or per the stem count per the WJTCA census in lieu fee. Per Section 1927.4 of the WJTCA, CDFW may authorize, by permit, the taking of a western Joshua tree if all of the following conditions are met: (1) The permittee submits to CDFW for its approval a census of all western Joshua trees on the project site, including photographs, that categorize the trees according to the following size classes: a. Less than one meter in height. b. One meter or greater but less than five meters in height. c. Five meters or greater in height. (2) The permittee avoids and minimizes impacts to, and the taking of, the western Joshua tree to the maximum extent practicable. Minimization may include trimming, encroachment on root systems, relocation, or other actions that result in detrimental but nonlethal impacts to western Joshua tree. (3) The permittee mitigates all impacts to, and taking of, the western Joshua tree. In lieu of completing the mitigation on its own, the permittee may elect to pay mitigation fees. (4) CDFW may require the permittee to relocate one or more of the western Joshua trees.</p>	<p>Prior to commencing ground or vegetation disturbing activities</p>	<p>Project Proponent</p>

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<p>The City of Adelanto falls within an area of the WJTCA which qualifies for reduced Mitigation Fees for impacts to western Joshua trees (Fish and Wildlife Code, Section 1927). Mitigations fees are updated annually. For the current fees, please visit: Western Joshua Tree Conservation Act Incidental Take Permit. Each western Joshua tree stem or trunk arising from the ground shall be considered an individual tree requiring mitigation, regardless of proximity to any other western Joshua tree stem of trunk. Mitigation is required of all trees, regardless of whether they are dead or alive. It is recommended that specific Joshua tree mitigation measures or determination of in-lieu fees be addressed through consultation with CDFW.</p>		
<p>MM BIO-2:</p> <p>Prior to any ground disturbance, a survey for potential burrows followed by four breeding season surveys of areas found to have potential for burrowing owl occupation shall be conducted by a qualified biologist according to the Staff Report on Burrowing Owl Mitigation (CDFG 2012 or most recent version). Specifically, these reports suggest four surveys be conducted during daylight with each visit occurring at least three weeks apart during the peak breeding season (i.e., April 15 to July 15), when burrowing owl are most detectable. The surveys shall include 100 percent coverage and include a minimum 500-foot buffer in adjacent habitat. A report summarizing the breeding season survey including all requirements for survey reports (page 30 of the 2012 Staff Report) shall be submitted to CDFW for review.</p> <p>If no burrowing owl, active burrowing owl burrows, or sign (molted feathers, cast pellets, prey remains, eggshell fragments, decoration, or excrement) thereof are found, no further action is necessary.</p> <p>If burrowing owls, active burrowing owl burrows, or sign thereof are detected during the focused surveys, the qualified biologist and Project proponent shall prepare a Burrowing Owl Plan that shall be submitted to CDFW for review and approval at least 30 days prior to ground disturbing activities. The Burrowing Owl Plan shall describe proposed avoidance, minimization, and monitoring 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. Project activities shall not occur within 1000 feet of an active burrow until CDFW</p>	<p>Prior to commencing ground or vegetation disturbing activities</p>	<p>Project Proponent</p>

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<p>approves the Burrowing Owl Plan. If the Project cannot ensure burrowing owls and their burrows are fully avoided, consultation with CDFW is warranted to discuss how to implement the Project and avoid take; or if avoidance is not feasible, to potentially acquire an ITP prior to any ground disturbing activities, pursuant Fish and Game Code section 2081 subdivision (b). Full mitigation often involves the permanent conservation of quality habitat benefiting the species through a conservation easement, along with habitat enhancement and ongoing management funded appropriately. Passive relocation, performed according to the Staff Report on Burrowing Owl Mitigation (CDGW, 2012) may be authorized through the incidental take permit as a minimization measure.</p> <p>Take avoidance pre-construction surveys for burrowing owl occupation shall be conducted by a qualified biologist(s) prior to the start of Project-related activities. The surveys shall follow the methods described in the CDFW's Staff Report on Burrowing Owl Mitigation (CDFW 2012). Pre-construction surveys shall be conducted no less than 14 days before initial ground disturbance (e.g., grading, grubbing, construction). Burrowing owls may re-colonize a site after only a few days. Time lapses between Project activities trigger subsequent take avoidance surveys including but not limited to a final survey conducted within 24 hours prior to ground disturbance. If burrowing owls or suitable burrowing owl burrows with sign (e.g., whitewash, pellets, feathers, prey remains) are identified on the Project site during the survey, Project activities shall be immediately halted. The qualified biologist shall notify the CDFW and prepare a Burrowing Owl Plan that shall be submitted to CDFW for review and approval. If avoidance is not feasible, the Project Proponent shall consult with CDFW on next steps, including obtaining an Incidental Take Permit (ITP) for burrowing owl prior to the start of Project activities.</p>		
<p>MM BIO-5:</p> <p>Prior to the initiation of ground disturbing activities, focused pre-construction clearance surveys throughout the Project site for Mojave ground squirrel will be conducted by a qualified biologist familiar with the species' behavior and life history. Focused Mohave ground squirrel surveys shall follow the California Department of Fish and Game Mohave Ground Squirrel Survey Guidelines (CDFW 2023). Visual surveys will be conducted prior to ground disturbing activities commencing between March 15 and April 15, visual surveys shall be conducted on the Project site during daylight hours by a qualified biologist who can readily</p>	<p>Prior to commencing ground or vegetation disturbing activities</p>	<p>Project Proponent</p>

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<p>identify Mohave ground squirrel (<i>Xerospermophilus mohavensis</i>) and white-tailed antelope squirrel (<i>Ammospermophilus leucurus</i>). If the results of the survey confirm absence, then the Qualified Biologist shall ensure Mojave ground squirrels do not enter the Project site. If the survey or monitoring throughout the duration of the Project confirms presence, the Project proponent shall obtain an Incidental Take Permit (ITP) for Mohave ground squirrel. The ITP will 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>		
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