



State of California – Natural Resources Agency  
 DEPARTMENT OF FISH AND WILDLIFE  
 Inland Deserts Region  
 3602 Inland Empire Boulevard, Suite C-220  
 Ontario, CA 91764  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

GAVIN NEWSOM, Governor  
 CHARLTON H. BONHAM, Director



December 13, 2024  
 Sent via email

James Hirsch  
 Senior Contract Planner  
 City of Adelanto  
 11600 Air Expressway  
 Adelanto, CA 92301  
[JHirsch@ci.adelanto.ca.us](mailto:JHirsch@ci.adelanto.ca.us)

Dear Mr. Hirsch:

Tire Recycling Facility (CUP 23-08 & 23-10) (PROJECT)  
 MITIGATED NEGATIVE DECLARATION (MND)  
 SCH# 2024110618

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from the City of Adelanto for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

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.

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. 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 law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

#### PROJECT DESCRIPTION SUMMARY

**Proponent:** Mr. Alan Brown, Danivan LLC.

**Objective:** The objective of the Project is to construct a 158,000 square foot building form to use as a tire recycling facility, including 264 parking spaces, 8 truck dock high doors on the building's northwest and northeast corner, and two underground storage tanks. The project would be accessed by two driveways: one on the southeast of the project site that would connect with the north side of Cactus Road and one driveway located on the northwest side of the site that would connect with the east side of Beaver Road.

**Location:** The proposed project site is located north of Cactus Road and to the east of Beaver Road, in the southern portion of the City of Adelanto. There is no current address that has been assigned to the project site. The project is located on Assessor Parcel

<sup>1</sup> 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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Numbers (APN) 3129-551-05. The proposed project's latitude and longitude is 34.536619, -117.458761. The Project site is largely undeveloped and undisturbed.

**Timeframe:** The Project is estimated to start July of 2025 and to take approximately 8 months to complete.

## COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the 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: Burrowing Owl (*Athene cunicularia hypugaea*) and Mitigation Measure BIO-2

#### IS/MND page 33-36, Biological Resource Assessment page 5

**Issue:** Western burrowing owl is a candidate listed species under the California Endangered Species Act, and as such is granted the full protection of a threatened species under CESA. The mitigation measure describes that, if burrowing owls are detected during the focused surveys, a Burrowing Owl Plan would be proposed that would include relocation actions if the burrowing owl habitat and burrow cannot be avoided.

**Specific impact:** Although no evidence of burrowing owl was detected within the Project site or in the adjoining areas, the Project site is within predicted burrowing owl habitat (CNDDDB). The Project site also has suitable nesting habitat as stated in the biological assessment. The site has the presence of occupiable burrows for Mohave ground squirrel, antelope ground squirrel, and California ground squirrel which burrowing owls may use as overwintering, breeding, and nesting habitat. Therefore, there is the potential for burrowing owl to occur on site. CDFW is concerned that Mitigation Measure BIO-2, as currently written, is not sufficient to prevent impacts to burrowing owls. BIO-2 includes passive relocation and active relocation; however, these methods pose a high risk of take from exposure, predation, and heat stress. CDFW strongly recommends any form of relocation only be performed under the take authorization of a CESA incidental take permit (ITP) because of these risks.

**Why impact would occur:** Burrowing owls are well-adapted to open, relatively flat expanses and vacant lots and prefer habitats with generally short sparse vegetation with few shrubs such as those occurring on the Project site. 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).

**Evidence impact would be significant:** Habitat loss is a threat to burrowing owls (CDFG, 2012). 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 an otherwise lawful activity. The issuance of an incidental take permit (ITP) 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 the following revisions to MM BIO-2 (edits are in

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strikethrough and **bold**) and recommends the MND reflect the current protection status of western burrowing owl:

### **Biological Resources Mitigation Measure No. 2 (MM BIO-2)**

Prior to the ~~start of Project activities~~ **initiation of construction activities (i.e., grubbing, clearing, staging, digging)**, focused burrowing owl surveys shall be conducted by a qualified biologist according to the Staff Report on Burrowing Owl Mitigation **for the project site and surrounding 500 ft radius (CDFG 2012 or most recent version)**. **Take avoidance surveys shall be conducted no less than 14 days prior to the start of Project-related activities. 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, in accordance with the Staff Report on Burrowing Owl Mitigation (CDFG 2012 or most recent version). If the surveys confirm the presence of burrowing owls, active burrows or signs thereof, Project activities shall be immediately halted. The qualified biologist shall coordinate with CDFW and prepare a Burrowing Owl Plan that shall be submitted to CDFW for review and approval prior to commencing Project activities. If burrowing owls 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 prior to 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 **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 (CDFG, 2012) may be authorized through the incidental take permit as a minimization measure.** ~~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. Take avoidance surveys shall be conducted no less than 14 days prior to the start of Project-related activities. 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, in accordance with the Staff Report on Burrowing Owl Mitigation (CDFG 2012 or most recent version). If the surveys confirm occupied burrowing owl habitat, Project activities shall be immediately halted. The qualified biologist shall coordinate with CDFW and prepare a Burrowing Owl Plan that shall be submitted to CDFW for review and approval prior to commencing Project activities.~~

### **COMMENT #2: Desert Tortoise (*Gopherus agassizii*) and Existing Mitigation Measure BIO-3**

**IS/MND page 36-37, and Biological Resources Assessment page 5 & 10**

**Issue:** The Project site lies within the range of Desert Tortoise habitat, a candidate listed species under CESA, and the property supports marginal habitat for desert tortoise.

**Specific impact:** The Project site is located within desert tortoise habitat range however focused surveys were not conducted. The Project and Project related activities have the potential to take desert tortoise.

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**Why impact would occur:** Desert tortoise population is impacted by ongoing threats, including loss, degradation, and fragmentation of habitat, due to development. Staging of construction equipment, vehicles, and foot traffic may result in collapse of occupied burrows and result in direct mortality and/ or crushing by vehicles and heavy equipment; entrapment within open trenches and pipes; entanglement within materials and equipment staged and moved; destruction of burrows and refugia; and increased predation.

**Evidence impact would be significant:** Take of any CESA listed species is prohibited except as authorized by state law (Fish and Game Code, §§ 2080 & 2085). Consequently, if a Project, including Project construction or any Project-related activity during the life of the Project results in take of CESA-listed species, CDFW recommends that the Project proponent seek appropriate authorization *prior* to Project implementation. This may include an incidental take permit or a consistency determination (Fish and Game Code, §§ 2080.1 & 2081). Desert tortoise populations have declined significantly in recent decades as a result of human activities in their native habitat including land development, off-road vehicle use, overgrazing, agricultural development, military activities, predation, and the spread of invasive plant species (USFWS 2011).

**Recommended Potentially Feasible Mitigation Measure to reduce impact to less than significant:** CDFW appreciates that a Desert Tortoise Mitigation Measure was included in the IS/MND to minimize the Project's impact to desert tortoise. CDFW recommends the following revisions to MM BIO-3 (edits are in strikethrough and **bold**):

### **Biological Resources Mitigation Measure No. 3 (MM BIO-3)**

Prior to the initiation of construction activities (i.e., grubbing, clearing, staging, digging), a preconstruction survey for desert tortoise is recommended following the USFWS guidelines for Preparing for any Action that may occur Within the Range of the Mojave Desert Tortoise (*Gopherus agassizii*). This would consist of one complete (100% coverage) **protocol level presence or absence** survey of the ~~action-area~~ **Project area and 500-foot buffer of suitable habitat** prior to the initiation of construction at any time of year. The survey should be conducted ~~within 7 days~~ **no more than 48 hours** prior to construction beginning **and after any pause in Project activities lasting 30 days or more, in accordance with the USFWS 2009 desert tortoise survey methodology** by a ~~City~~ **CDFW Approved Biologist. Pre-construction surveys cannot be combined with other surveys conducted for other species while using the same personnel. Project activities cannot start until 2 negative results from consecutive surveys using perpendicular survey routes for desert tortoise are documented. Results of the survey shall be submitted to CDFW prior to the start of Project activities. If the survey confirms absence, the CDFW-approved biologist shall ensure desert tortoise do not enter the Project area.** If desert tortoise is found on the project site during preconstruction surveys, construction will be halted until the tortoise has left the area on its own and is no longer in danger. If the tortoise does not leave on its own, translocation of desert tortoise ~~should~~ **shall** only be conducted with necessary federal ESA and state CESA permitting, and via an approved translocation plan pursuant to the above permits. **The Project proponent shall not undertake Project activities and Project activities shall be postponed until appropriate authorization [i.e., California Endangered Species Act (CESA) Incidental Take Permit under Fish and Game Code section 2081] is obtained.** Prior to the start of construction or any ground disturbance, a qualified biologist should prepare a Desert Tortoise Translocation Plan (DTTP) to be administered during the construction and operation of the project. The DTTP should be submitted to the City of Adelanto for review and approval and shall be updated and utilized for translocation and monitoring after construction. The DTTP should include, but not be limited to the following:

1. Discussion on temporary construction fencing (if any),
2. Description of clearance surveys of permanent exclusion areas,
3. Transportation and release procedures,
4. Construction schedule,
5. Translocation/relocation areas,
6. Monitoring and reporting.

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**Comment #3: Impacts to Aquatic and Riparian Resources; Lake and Streambed Alteration Agreement (LSAA) and Existing Mitigation Measure 6**

**IS/MND pages 34 & 38 and Biological Resources Assessment pages 3 & 8**

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

**Specific Impact:** The MND stated that the Project would be providing site access through two driveways located on the northwest and southeast corners of the site, the Project would also be grading and paving the site, staging equipment, and installing underground utility infrastructure. These Project activities have the potential to impact fish and wildlife resources through alteration of the natural flow or the bed, bank, and channel of any river, stream, or lake.

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

**Evidence Impact Would Be Significant:** The Project may substantially adversely affect the existing stream pattern and geomorphologic processes of the Project site through the deposition of debris, waste or other materials that could pass into any river, stream, or lake. Depending on how the Project is designed and constructed, it is likely that the Project applicant will need to notify CDFW per Fish and Game Code section 1602. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following: substantially divert or obstruct the natural flow of any river, stream or lake; substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or deposit debris, waste or other materials that could pass into any river, stream or lake. Please note that “any river, stream or lake” includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams, desert washes, and water courses with a subsurface flow. Additionally, any person who wishes to cultivate cannabis in the state of California must notify CDFW.

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

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

**Recommended Potentially Feasible Mitigation Measure(s):** CDFW recommends the following revisions to MM BIO-6 (edits are in strikethrough and **bold**):

**Biological Resources Mitigation Measure 6 (MM BIO-6)**

~~A comprehensive jurisdictional analysis may be required in the future to analyze the impacts and area of the channel located on site.~~ **Direct and indirect permanent impacts to CDFW jurisdictional non-wetland waters shall be addressed through Section 1602 of the California Fish and Game Code. Prior to the grading of the Project site and prior to the start of Project activities, the Applicant shall notify the California Department of Fish and Wildlife (CDFW) for impacts to Fish and Game Code section 1602 resources and obtain one of the following: a CDFW-executed Streambed Alteration Agreement (SAA) authorizing impacts to Fish and Game Code section**

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**1602 resources associated with the Project, written documentation from CDFW that notification is not required, or written documentation that a Streamed Alteration Agreement is not required.**

**The notification to CDFW should provide the following information:**

**A stream delineation including the bed, bank and channel;**

**Linear feet and/or acreage of streams and associated natural communities that would be permanently and/or temporarily impacted by the Project. This includes impacts as a result of routine maintenance and fuel modification. Plant community names should be provided based on vegetation association and/or alliance per the Manual of California Vegetation (Sawyer et al 2009);**

**A discussion as to whether impacts on streams within the Project site would impact those streams immediately outside of the Project site where there is hydrologic connectivity. Potential impacts such as changes to drainage pattern, runoff, and sedimentation should be discussed; and**

**A hydrological evaluation of the 100-year storm event to provide information on how water and sediment is conveyed through the Project site.**

**If an LSAA is required, the Applicant shall provide compensatory mitigation at a rate approved by CDFW for impacts to streams and associated natural communities, or at a ratio acceptable to CDFW per the LSA Agreement. Mitigation should occur within the Mojave River watershed. Onsite mitigation measures may include the enhancement of existing streams. A conceptual Habitat Mitigation and Monitoring Plan shall be prepared, if necessary, for the enhancement activities, which may include non-native species removal and revegetation followed by periodic monitoring. The plan shall specify the criteria and standards by which the enhancement actions will compensate for impacts of the project on streams.**

#### **Editorial Comments and/or Suggestions**

CDFW would like to mention that Western Joshua Tree Conservation Act Incidental Take Permit (WJTCA ITP) mitigation fees are updated annually beginning January 1<sup>st</sup> of each calendar year. For current WJTCA ITP fees, please visit:

<https://wildlife.ca.gov/Conservation/Environmental-Review/WJT/Permitting/WJTCA-ITP>.

#### **ENVIRONMENTAL DATA**

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be filled out and submitted online at the following link:

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

#### **ENVIRONMENTAL DOCUMENT FILING FEES**

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

#### **CONCLUSION**

CDFW appreciates the opportunity to comment on the MND 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](mailto:kelly.connor@wildlife.ca.gov).

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Sincerely,

DocuSigned by:  
  
84FBB8273E4C480...

Alisa Ellsworth  
Environmental Program Manager

ec: Office of Planning and Research, State Clearinghouse, Sacramento  
[State.Clearinghouse@opr.ca.gov](mailto:State.Clearinghouse@opr.ca.gov)

#### ATTACHMENTS

Attachment A: MMRP for CDFW Proposed Mitigation Measures

#### REFERENCES

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 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](#)

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**Draft Mitigation Monitoring and Reporting Program (MMRP)**

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

<b>Biological Resources (BIO)</b>		
<b>Mitigation Measure (MM) Description</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>
<p><b>MM BIO-2:</b></p> <p><b>Burrowing Owl</b></p> <p>Prior to the initiation of construction activities (i.e., grubbing, clearing, staging, digging), focused burrowing owl surveys shall be conducted by a qualified biologist according to the Staff Report on Burrowing Owl Mitigation for the project site and surrounding 500 ft radius. Take avoidance surveys shall be conducted no less than 14 days prior to the start of Project-related activities. 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, in accordance with the Staff Report on Burrowing Owl Mitigation (CDFG 2012 or most recent version). If the surveys confirm the presence of burrowing owls, active burrows or signs thereof, Project activities shall be immediately halted. The qualified biologist shall coordinate with CDFW and prepare a Burrowing Owl Plan that shall be submitted to CDFW for review and approval prior to 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 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 (CDFG, 2012) may be authorized through the incidental take permit as a minimization measure.</p>	<p>Prior to commencing ground or vegetation disturbing activities</p>	<p>Project Proponent</p>
<p><b>MM BIO-3:</b></p> <p><b>Desert Tortoise</b></p> <p>Prior to the initiation of construction activities (i.e., grubbing, clearing, staging, digging), a preconstruction survey for desert tortoise is recommended following the USFWS guidelines for Preparing for any Action that may occur Within the Range of the Mojave Desert Tortoise (<i>Gopherus agassizii</i>). This would consist of one complete (100% coverage) protocol level presence or absence survey of the Project area and 500-foot buffer of suitable habitat prior to the initiation of construction at</p>	<p>Prior to commencing ground or vegetation disturbing activities</p>	<p>Project Proponent</p>



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<p>any time of year. The survey should be conducted no more than 48 hours prior to construction beginning and after any pause in Project activities lasting 30 days or more, in accordance with the USFWS 2009 desert tortoise survey methodology by a CDFW Approved Biologist. Pre-construction surveys cannot be combined with other surveys conducted for other species while using the same personnel. Project activities cannot start until 2 negative results from consecutive surveys using perpendicular survey routes for desert tortoise are documented. Results of the survey shall be submitted to CDFW prior to the start of Project activities. If the survey confirms absence, the CDFW-approved biologist shall ensure desert tortoise do not enter the Project area. If desert tortoise is found on the project site during preconstruction surveys, construction will be halted until the tortoise has left the area on its own and is no longer in danger. If the tortoise does not leave on its own, translocation of desert tortoise shall only be conducted with necessary federal ESA and state CESA permitting, and via an approved translocation plan pursuant to the above permits. The Project proponent shall not undertake Project activities and Project activities shall be postponed until appropriate authorization [i.e., California Endanger Species Act (CESA) Incidental Take Permit under Fish and Game Code section 2081] is obtained. Prior to the start of construction or any ground disturbance, a qualified biologist should prepare a Desert Tortoise Translocation Plan (DTTP) to be administered during the construction and operation of the project. The DTTP should be submitted to the City of Adelanto for review and approval and shall be updated and utilized for translocation and monitoring after construction. The DTTP should include, but not be limited to the following:</p> <ol style="list-style-type: none"> <li>1. Discussion on temporary construction fencing (if any),</li> <li>2. Description of clearance surveys of permanent exclusion areas,</li> <li>3. Transportation and release procedures,</li> <li>4. Construction schedule,</li> <li>5. Translocation/relocation areas,</li> <li>6. Monitoring and reporting.</li> </ol>		
<p><b>MM BIO-6:</b> <b>LSAA</b></p> <p>Direct and indirect permanent impacts to CDFW jurisdictional non-wetland waters shall be addressed through Section 1602 of the California Fish and Game Code. Prior to the grading of the Project site and prior to the start of Project activities, the Applicant shall notify the California Department of Fish and Wildlife (CDFW) for impacts to Fish and Game Code section 1602 resources and obtain one of the following: a CDFW-executed Streambed Alteration Agreement (SAA) authorizing impacts to Fish and Game Code section 1602 resources associated with the Project, written documentation from CDFW that notification is not required, or written documentation that a Streambed Alteration Agreement is not required.</p>	<p>Prior to commencing ground or vegetation disturbing activities</p>	<p>Project Proponent</p>

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<p>The notification to CDFW should provide the following information:</p> <p>A stream delineation including the bed, bank and channel;</p> <p>Linear feet and/or acreage of streams and associated natural communities that would be permanently and/or temporarily impacted by the Project. This includes impacts as a result of routine maintenance and fuel modification. Plant community names should be provided based on vegetation association and/or alliance per the Manual of California Vegetation (Sawyer et al 2009);</p> <p>A discussion as to whether impacts on streams within the Project site would impact those streams immediately outside of the Project site where there is hydrologic connectivity. Potential impacts such as changes to drainage pattern, runoff, and sedimentation should be discussed; and</p> <p>A hydrological evaluation of the 100-year storm event to provide information on how water and sediment is conveyed through the Project site.</p> <p>If an LSAA is required, the Applicant shall provide compensatory mitigation at a rate approved by CDFW for impacts to streams and associated natural communities, or at a ratio acceptable to CDFW per the LSA Agreement. Mitigation should occur within the Mojave River watershed. Onsite mitigation measures may include the enhancement of existing streams. A conceptual Habitat Mitigation and Monitoring Plan shall be prepared, if necessary, for the enhancement activities, which may include non-native species removal and revegetation followed by periodic monitoring. The plan shall specify the criteria and standards by which the enhancement actions will compensate for impacts of the project on streams.</p>		
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