



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Inland Deserts Region
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



March 13, 2020
Sent via email

Governor's Office of Planning & Research

MAR 16 2020

STATE CLEARINGHOUSE

Ryan Leonard
AICP, Senior Planner
City of Hesperia Development Services Dept.
9700 Seventh Ave.
Hesperia, CA 92345

SITE PLAN REVIEW (SPR19-00015) (PROJECT)
MITIGATED NEGATIVE DECLARATION (MND)
SCH# 2020029035

Dear Mr. Leonard:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from City of Hesperia for the Project (or Project Area) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines¹.

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

CDFW ROLE

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

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.

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: Steeno Design Studio

Objective: The objective of the Project is to construct a 123,748 square foot manufacturing/industrial building and 865 square foot administrative office building. Primary Project activities include construction of the buildings, parking, landscaping, and sidewalk improvements resulting in development of approximately 8.2 acres of habitat.

Location: City of Hesperia, San Bernardino County, southeast corner of Highway 395 and Popular Street, 34.414743°, -117.398229°

Timeframe: Unknown

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist City of Hesperia 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.

I. Mitigation Measure and Related Impact Shortcoming

Would the Project have a substantial adverse 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 or USFWS?

COMMENT 1: Mitigation Measure 1

Page 2 of MND

Issue: CDFW appreciates City of Hesperia conditioned the environmental document to require pre-construction surveys for burrowing owls, a Species of Special Concern. However, the City did not provide any additional avoidance, minimization,

and mitigation measures to reduce significant impacts to burrowing owls should the pre-construction survey confirm presence.

Specific impact: Burrowing owls have been documented in the area (CNNDB, 2020). The Project and Project-related activities have potential to take burrowing owl individuals and their nests and may result in loss of burrowing owl habitat.

Why impact would occur: Potentially significant impacts to burrowing owls are not mitigated to the extent feasible.

Evidence impact would be significant: Take of individual burrowing owls and their nests is defined by FGC section 86, and prohibited by sections 3503, 3503.5 and 3513. Take is defined in FGC Section 86 as "hunt, pursue, catch, capture or kill, or attempt to hunt, pursue, catch, capture or kill." 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. Temporary or permanent closure of burrows may result in significant loss of burrows and habitat for reproduction and other life history requirements. Depending on the proximity and availability of alternate habitat, 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).

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Mitigation Measure or Alternative and Related Impact Shortcoming)

Mitigation Measure:

To minimize significant impacts: CDFW recommends the City of Hesperia update Mitigation Measure 1 to include the following:

Pre-construction Burrowing Owl Surveys. Burrowing owl surveys shall be conducted at least 30 days prior to any Project activities, at any time of year. Surveys shall be completed following the recommendations and guidelines provided within the *Staff Report on Burrowing Owl Mitigation* (CDFG, March 2012) or most recent version by a qualified biologist. If an active burrowing owl burrow is detected within any project disturbance area, or within a 500-foot buffer of the disturbance area(s), a 300-foot radius buffer zone surrounding the burrow shall be flagged, and no impacts to soils or vegetation or noise levels above 65 dBA shall be permitted while the burrow remains active or occupied. Disturbance-free buffers may be modified based on site-specific conditions in consultation with CDFW. The qualified biologist shall monitor active burrows daily and will increase buffer sizes as needed if owls show signs of disturbance. If active burrowing owl burrows are located within any work area, a qualified biologist shall submit a burrowing owl exclusion plan to CDFW for review

and approval. Passive relocation shall take place outside the nesting season (1 February to 31 August).

II. Environmental Setting and Related Impact Shortcoming

Would the Project interfere substantially with movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede use of native wildlife nursery sites?

COMMENT 2: Nesting Birds

Issue: CDFW has concerns the environmental document lacks a mitigation measure for avoiding significant impacts to nesting birds.

Specific impact: Project activities have the potential to take nesting bird individuals and their nest.

Why impact would occur: A potentially significant impact to nesting birds is not evaluated in the MND, therefore the impact is not mitigated to the extent feasible.

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

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Environmental Setting and Related Impact Shortcoming)

Mitigation Measure:

To minimize significant impacts: CDFW recommends the inclusion of the following new measure in the Final MND:

MM BIO-[X]: Nesting Birds. All Project activities shall be conducted outside of nesting season (January 15 to August 31) to the maximum extent feasible. During the nesting bird season, a qualified biologist shall conduct pre-project nesting bird surveys, implement nest buffers, and conduct monitoring at all active nests within

the work area and surrounding 300-foot buffer. Nesting bird surveys shall be conducted by a qualified biologist within 300 feet of all work areas, no more than 3 days prior to commencement of project activities. If active nests containing eggs or young are found, a qualified biologist shall establish an appropriate nest buffer. Nest buffers are species-specific and may range from 15 to 100 feet for passerines and 50 to 300 feet for raptors, depending on the planned activity's level of disturbance, site conditions, and the observed bird behavior. Established buffers shall remain until a qualified biologist determines the young have fledged or the nest is no longer active. Active nests shall be monitored until the biologist has determined the young have fledged or the Project is finished. The qualified biologist has the authority to stop work if nesting pairs exhibit signs of disturbance.

Would the Project have a substantial adverse 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 or USFWS?

Comment 3: Desert Kit Fox and American Badger

Issue: It is unclear from The General Biological Resources Assessment performed by RCA Associates if the potential presence of desert kit fox and American badger in the Project Area or surrounding area was evaluated.

Specific impact: Project activities have the potential to take desert kit fox and American badger, and development may result in loss of habitat and/or foraging habitat.

Why impact would occur: The environmental document did not assess habitat suitability or potential for presence of the species, therefore lacks avoidance, minimization, and mitigation measures for the species.

Evidence impact would be significant: Desert kit fox are a protected species and may not be taken at any time pursuant to Title 14 of the California Code of Regulations Section 460. American badger is a Species of Special Concern.

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Mitigation Measure or Alternative and Related Impact Shortcoming)

Mitigation Measure: CDFW recommends the inclusion of the following new measure in the Final MND:

MM BIO-[X]: Pre-Construction Desert Kit Fox and American Badger Surveys. No more than 30 days prior to the beginning of ground disturbance and/or Project activities, a qualified biologist shall conduct a survey to determine if potential desert kit fox or American badger burrows are present in the Project Area. If potential

burrows are located, they shall be monitored by the qualified biologist. If the burrow is determined to be active, the qualified biologist shall verify there are suitable burrows outside of the Project Area prior to undertaking passive relocation actions. If no suitable burrows are located, artificial burrows shall be created at least 14 days prior to passive relocation. The qualified biologist shall block the entrance of the active burrow with soil, sticks, and debris for 3-5 days to discourage the use of the burrow prior to Project activities. The entrance shall be blocked to an incrementally greater degree over the 3-5 day period. After the qualified biologist has determined there are no active burrows the burrows shall be hand-excavated to prevent re-use. No disturbance of active dens shall take place when juvenile desert kit fox and juvenile American badgers may be present and dependent on parental care. A qualified biologist shall determine appropriate buffers and maintain connectivity to adjacent habitat should natal burrows be present.

Comment 4: Sensitive Plant Species

Issue: The General Biological Resources Assessment performed by RCA Associates, Inc. describes the methods of the general plant survey as walking meandering transects to document plants present on site and the surrounding area. It is unclear if the entire Project area was systematically covered, and all plants were identified to the taxonomic level necessary to determine rarity and listing status. Additionally, Table 1, page 21 of the assessment notes that the list of plants provided is not intended to be a comprehensive list of every plant that may occur in the Project area or surrounding area.

Specific impact: The Project has potential to impact sensitive plant species that were not identified during the general plant survey during September 2019, and the environmental document lacks avoidance, minimization, and mitigation measures should presence be confirmed.

Why impact would occur: Botanical field surveys should be conducted during times of year when plants are evident and identifiable (i.e. flowering or fruiting), which may warrant multiple surveys during the season to capture floristic diversity (CDFW, 2018). Habitats, such as desert plant communities that have annual and short-lived perennial plants as major floristic components may require yearly surveys to accurately document baseline conditions for purposes of impact assessment (CDFW, 2018).

Evidence impact would be significant: Sensitive plant species are listed under the California Endangered Species Act (CESA) as threatened, or endangered, or proposed or candidates for listing; designated as rare under the Native Plant Protection Act; or plants that otherwise meet the definition of rare, threatened, or endangered species under CEQA. Plants constituting California Rare Plant Ranks 1A, 1B, 2A, and 2B generally meet the criteria of a CESA listed species and should

be considered as an endangered, rare or threatened species for the purposes of CEQA analysis. Take of any CESA-listed species is prohibited except as authorized by state law (Fish and Game Code, §§ 2080 & 2085). If the Project, including the 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 through an incidental take permit. Fish and Game Code Sections 1900–1913 includes provisions that prohibit the take of endangered and rare plants from the wild and a salvage requirement for landowners.

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Mitigation Measure or Alternative and Related Impact Shortcoming)

Mitigation Measure: CDFW recommends the inclusion of the following new measure in the Final MND:

MM BIO-[X]: Sensitive Plant Species. A thorough floristic-based assessment of special status plants and natural communities, following CDFW's *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (CDFW, March 2018) or most recent version shall be performed by a qualified biologist prior to commencing Project activities. Should any state-listed plant species be present in the Project Area, the Project Proponent shall obtain an ITP for those species prior to the start of Project activities. Should other special status plants or natural communities be present in the Project Area, a qualified restoration specialist shall assess whether perennial species may be successfully transplanted to an appropriate natural site or whether on-site or off-site conservation is warranted to mitigate Project impacts. If successful transplantation of perennial species is determined by a qualified restoration specialist, the receiver site shall be identified, and transplantation shall occur at the appropriate time of year. Additionally, the qualified restoration specialist shall perform seed collection and dispersal from annual species to a natural site as a conservation strategy to minimize and mitigate Project impacts. If these measures are implemented, monitoring of plant populations shall be conducted annually for 5 years to assess the mitigation's effectiveness. The performance standard for mitigation shall be no net reduction in the size or viability of the local population.

Comment 5: Mohave Ground Squirrel

Issue: The General Biological Resources Assessment performed by RCA Associates, Inc. states the Project Area is within the distribution of Mohave ground squirrel, a threatened species. Additionally, Table 1-1 states the site supports suitable habitat for the species, and the species has been documented in the area.

Specific impact: The Project is within Mohave ground squirrel distribution range, and Project activities have the potential to take Mohave ground squirrels.

Why impact would occur: Protocol surveys were not performed during the appropriate time of year to determine Mohave ground squirrel presence, and the environmental document lacks avoidance, minimization, and mitigation measures for the species should presence be confirmed.

Evidence impact would be significant: Mohave ground squirrel is a CESA-listed species and take (hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill) is prohibited unless authorized by state law (Fish and Game Code, §§ 2080 & 2085). If the Project, including the 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 through an incidental take permit. Information on how to obtain an ITP can be found at <https://wildlife.ca.gov/Conservation/CESA/Permitting/Incidental-Take-Permits>.

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Mitigation Measure or Alternative and Related Impact Shortcoming)

Mitigation Measure:

To minimize significant impacts: CDFW recommends the inclusion of the following new measures in the Final MND:

MM BIO-[X]: Pre-Construction Surveys for Mohave Ground Squirrel. Pre-construction surveys following the *Mohave Ground Squirrel Survey Guidelines* (CDFG, 2010) or most recent version shall be performed by a qualified biologist authorized by a Memorandum of Understanding issued by CDFW. The preconstruction surveys shall cover the Project Area and a 50-foot buffer zone. Should Mohave ground squirrel presence be confirmed during the survey, the Project Proponent shall obtain an ITP for Mohave ground squirrel prior to the start of Project activities. CDFW shall be notified if Mohave ground squirrel presence is confirmed during the pre-construction survey.

MM BIO-[X]: Mohave Ground Squirrel Observations. If a Mohave ground squirrel is observed during Project Activities, and the Project Proponent does not have an ITP, all work shall immediately stop and the observation shall be immediately reported to CDFW.

Comment 6: Desert Tortoise

Issue: CDFW has concerns the environmental document does not include a mitigation measure should desert tortoise be present on the site prior to commencement of Project activities.

Specific impact: The Project is within desert tortoise distribution range, and Project activities have the potential to take desert tortoise.

Why impact would occur: The environmental document lacks avoidance, minimization, and mitigation measures for the species should presence be confirmed.

Evidence impact would be significant: Desert tortoise is a CESA-listed species and take (hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill) is prohibited unless authorized by state law (Fish and Game Code, §§ 2080 & 2085). If the Project, including the 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 through an incidental take permit. Information on how to obtain an ITP can be found at <https://wildlife.ca.gov/Conservation/CESA/Permitting/Incidental-Take-Permits>.

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Mitigation Measure or Alternative and Related Impact Shortcoming)

Mitigation Measure:

To minimize significant impacts: CDFW recommends the inclusion of the following new measures in the Final MND:

MM BIO-[X]: Pre-Construction Desert Tortoise Surveys. No more than 30 calendar days prior to start of Project activities a qualified biologist shall conduct pre-construction surveys for desert tortoise as described in the most recent United States Fish and Wildlife Service Desert Tortoise (Mojave Population) Field Manual. Pre-construction surveys shall be completed using perpendicular survey routes within the Project Area and 50-foot buffer zone. Pre-construction surveys cannot be combined with other surveys conducted for other species while using the same personnel. Project Activities cannot start until two negative results from consecutive surveys using perpendicular survey routes for desert tortoise are documented. Should desert tortoise presence be confirmed during the survey, the Project Proponent shall obtain an ITP for desert tortoise prior to the start of Project activities. Should desert tortoise presence be confirmed during the survey the qualified biologist shall notify CDFW.

MM BIO-[X]: Desert Tortoise Observations. If a desert tortoise is observed during Project Activities and the Project Proponent does not have an ITP, all work shall immediately stop and the observation shall be immediately reported to CDFW.

III. Editorial Comments and/or Suggestions

Section IV, Page 10 of MND

In response to the question, "Would the Project have a substantial adverse 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 or USFWS?" the Lead Agency selected "No Impact". CDFW suggests the Lead Agency reconsider their selection due to the potential impacts to the species noted above.

Additional Mitigation Measures

CDFW recommends the inclusion of the following new mitigation measures to reduce potential impacts to biological resources within the Project area:

MM BIO-[X]: On-site Education. A qualified biologist shall conduct an education program for all persons employed or otherwise working on the Project site prior to performing any work on-site. The program shall consist of a presentation that includes a discussion of the biology of the habitats and species that may be present at the site. The qualified biologist shall also include as part of the education program information about the distribution and habitat needs of any special status species that may be present, legal protections for those species, penalties for violations, and mitigation measures. Education should include but not be limited to desert tortoise, burrowing owl, desert kit fox, American badger, nesting birds, and special-status plants. Interpretation shall be provided for non-English speaking workers, and the same instruction shall be provided for any new workers prior to their performing work on-site.

MM BIO-[X]: Minimize Impacts on Other Species. A qualified biologist shall be onsite prior to and during all ground- and habitat-disturbing activities to move out of harm's way wildlife that would otherwise be injured or killed from Project-related activities. Movement of wildlife out of harm's way should be limited to only those individuals that would otherwise be injured or killed, and individuals should be moved only as far as necessary to ensure their safety. Measures shall be taken to prevent wildlife from re-entering the Project site. Only biologists with authorization by CDFW shall move CESA-listed species.

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 found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB_FieldSurveyForm.pdf. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/plants_and_animals.asp.

FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of 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 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 City of Hesperia in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Ashley Rosales, Environmental Scientist at 909-980-8607 or Ashley.Rosales@Wildlife.ca.gov.

Sincerely,



Scott Wilson
Environmental Program Manager

Attachment: Draft Mitigation Monitoring and Reporting Program for CDFW-proposed Mitigation Measures.

ec: Office of Planning and Research, State Clearinghouse, Sacramento

HCPB CEQA Coordinator
Habitat Conservation Planning Branch

RESOURCES

California Department of Fish and Game (CDFG). 2012. Staff Report on Burrowing Owl Mitigation. (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline>)

California Department of Fish and Game (CDFG). 2010. Mohave Ground Squirrel Survey Guidelines.
(<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83975&inline>)

California Department of Fish and Wildlife (CDFW). 2018. Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities.
(<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>)

California Natural Diversity Database (CNDDDB) Government [ds45]. 2020. Calif. Dept. of Fish and Wildlife. Biogeographic Information and Observation System.

ATTACHMENT 1

MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

PURPOSE OF THE MMRP

The purpose of the MMRP is to ensure compliance with mitigation measures during project implementation. Mitigation measures must be implemented within the time periods indicated in the table below.

TABLE OF MITIGATION MEASURES

The following items are identified for each mitigation measure: Mitigation Measure, Implementation Schedule, and Responsible Party for implementing the mitigation measure. The Mitigation Measure column summarizes the mitigation requirements. The Implementation Schedule column shows the date or phase when each mitigation measure will be implemented. The Responsible Party column identifies the person or agency that is primarily responsible for implementing the mitigation measure.

Mitigation Measure	Implementation Schedule	Responsible Party
<p><u>Pre-construction Burrowing Owl Surveys.</u></p> <p>Burrowing owl surveys shall be conducted at least 30 days prior to any Project activities, at any time of year. Surveys shall be completed following the recommendations and guidelines provided within the <i>Staff Report on Burrowing Owl Mitigation</i> (CDFG, March 2012) or most recent version by a qualified biologist. If an active burrowing owl burrow is detected within any project disturbance area, or within a 500-foot buffer of the disturbance area(s), a 300- foot radius buffer zone surrounding the burrow shall be flagged, and no impacts to soils or vegetation or noise levels above 65 dBA shall be permitted while the burrow remains active or occupied. Disturbance-free buffers may be modified based on site-specific conditions in consultation with CDFW. The qualified biologist will monitor active burrows daily and will increase buffer sizes as needed if owls show signs of disturbance. If active burrowing owl burrows are located within any work area, a qualified biologist shall submit a burrowing owl exclusion plan to CDFW for review and approval. Passive relocation shall take place</p>	<p>Before commencing ground- or vegetation-disturbing activities/Entire Project</p>	<p>Project Proponent</p>

outside the nesting season (1 February to 31 August).		
<p><u>Nesting Birds.</u> All Project activities shall be conducted outside of nesting season (January 15 to August 31) to the maximum extent feasible. During the nesting bird season, a qualified biologist shall conduct pre-project nesting bird surveys, implement nest buffers, and conduct monitoring at all active nests within the work area and surrounding 300-foot buffer. Nesting bird surveys shall be conducted by a qualified biologist within 300 feet of all work areas, no more than 3 days prior to commencement of project activities. If active nests containing eggs or young are found, a qualified biologist shall establish an appropriate nest buffer. Nest buffers are species-specific and may range from 15 to 100 feet for passerines and 50 to 300 feet for raptors, depending on the planned activity's level of disturbance, site conditions, and the observed bird behavior. Established buffers shall remain until a qualified biologist determines the young have fledged or the nest is no longer active. Active nests shall be monitored until the biologist has determined the young have fledged or the Project is finished. The qualified biologist has the authority to stop work if nesting pairs exhibit signs of disturbance.</p>	Before commencing ground- or vegetation-disturbing activities/Entire Project	Project Proponent
<p><u>Pre-Construction Desert Kit Fox and American Badger Surveys.</u> No more than 30 days prior to the beginning of ground disturbance and/or Project activities, a qualified biologist shall conduct a survey to determine if potential desert kit fox or American badger burrows are present in the Project Area. If potential burrows are located, they shall be monitored by the qualified biologist. If the burrow is determined to be active, the qualified biologist shall verify there are suitable burrows outside of the Project Area prior to undertaking passive relocation actions. If no suitable burrows are located, artificial burrows shall be created at least 14 days prior to passive</p>	Before commencing ground- or vegetation-disturbing activities/Entire project	Project Proponent

relocation. The qualified biologist shall block the entrance of the active burrow with soil, sticks, and debris for 3-5 days to discourage the use of the burrow prior to Project activities. The entrance shall be blocked to an incrementally greater degree over the 3-5 day period. After the qualified biologist has determined there are no active burrows the burrows shall be hand-excavated to prevent re-use. No disturbance of active dens shall take place when juvenile desert kit fox and juvenile American badgers may be present and dependent on parental care. A qualified biologist shall determine appropriate buffers and maintain connectivity to adjacent habitat should natal burrows be present.		
Should any state-listed plant species be present in the Project Area, the Project Proponent shall obtain an ITP for those species prior to the start of Project activities. Should other special status plants or natural communities be present in the Project Area, a qualified restoration specialist shall assess whether perennial species may be successfully transplanted to an appropriate natural site or whether on-site or off-site conservation is warranted to mitigate Project impacts. If successful transplantation of perennial species is determined by a qualified restoration specialist, the receiver site shall be identified, and transplantation shall occur at the appropriate time of year. Additionally, the qualified restoration specialist shall perform seed collection and dispersal from annual species to a natural site as a conservation strategy to minimize and mitigate Project impacts. If these measures are implemented, monitoring of plant populations shall be conducted annually for 5 years to assess the mitigation's effectiveness. The performance standard for mitigation shall be no net reduction in the size or viability of the local population.	Before commencing ground- or vegetation-disturbing activities/Entire Project/Post Construction	Project Proponent

<p><u>Pre-Construction Surveys for Mohave Ground Squirrel.</u> Pre-construction surveys following the <i>Mohave Ground Squirrel Survey Guidelines</i> (CDFG, 2010) or most recent version shall be performed by a qualified biologist authorized by a Memorandum of Understanding issued by CDFW. The preconstruction surveys shall cover the Project Area and a 50-foot buffer zone. Should Mohave ground squirrel presence be confirmed during the survey, the Project Proponent shall obtain an ITP for Mohave ground squirrel prior to the start of Project activities. CDFW shall be notified if Mohave ground squirrel presence is confirmed during the pre-construction survey.</p>	<p>Before commencing ground- or vegetation-disturbing activities/Entire Project</p>	<p>Project Proponent</p>
<p><u>Mohave Ground Squirrel Observations.</u> If a Mohave ground squirrel is observed during Project Activities, and the Project Proponent does not have an ITP, all work shall immediately stop and the observation shall be immediately reported to CDFW.</p>	<p>Entire Project</p>	<p>Project Proponent</p>
<p><u>Pre-Construction Desert Tortoise Surveys.</u> No more than 30 calendar days prior to start of Project activities a qualified biologist shall conduct pre-construction surveys for desert tortoise as described in the most recent United States Fish and Wildlife Service Desert Tortoise (Mojave Population) Field Manual. Pre-construction surveys shall be completed using perpendicular survey routes within the Project Area and 50-foot buffer zone. Pre-construction surveys cannot be combined with other surveys conducted for other species while using the same personnel. Project Activities cannot start until two negative results from consecutive surveys using perpendicular survey routes for desert tortoise are documented. Should desert tortoise presence be confirmed during the survey, the Project Proponent shall obtain an ITP for desert tortoise prior to the start of Project activities. Should desert tortoise presence be confirmed during the survey the qualified biologist shall notify CDFW.</p>	<p>Before commencing ground- or vegetation-disturbing activities/Entire Project</p>	<p>Project Proponent</p>

<p><u>Desert Tortoise Observations.</u> If a desert tortoise is observed during Project Activities and the Project Proponent does not have an ITP, all work shall immediately stop and the observation shall be immediately reported to CDFW.</p>	<p>Entire Project</p>	<p>Project Proponent</p>
<p><u>On-site Education.</u> A qualified biologist shall conduct an education program for all persons employed or otherwise working on the Project site prior to performing any work on-site. The program shall consist of a presentation that includes a discussion of the biology of the habitats and species that may be present at the site. The qualified biologist shall also include as part of the education program information about the distribution and habitat needs of any special status species that may be present, legal protections for those species, penalties for violations, and mitigation measures. Education should include but not be limited to desert tortoise, burrowing owl, desert kit fox, American badger, nesting birds, and special-status plants. Interpretation shall be provided for non-English speaking workers, and the same instruction shall be provided for any new workers prior to their performing work on-site.</p>	<p>Before commencing ground- or vegetation-disturbing activities/Entire Project</p>	<p>Project Proponent</p>
<p><u>Minimize Impacts on Other Species.</u> A qualified biologist shall be onsite prior to and during all ground- and habitat-disturbing activities to move out of harm's way wildlife that would otherwise be injured or killed from Project-related activities. Movement of wildlife out of harm's way should be limited to only those individuals that would otherwise be injured or killed, and individuals should be moved only as far as necessary to ensure their safety. Measures shall be taken to prevent wildlife from re-entering the Project site. Only biologists with authorization by CDFW shall move CESA-listed species.</p>	<p>Before commencing ground- or vegetation-disturbing activities/Entire Project</p>	<p>Project Proponent</p>