

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



May 15, 2020

Governor's Office of Planning & Research

Ms. Mitzi Alvarado
City of Lancaster
Development Services Department
Community Development Division
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MAY 15 2020

STATE CLEARINGHOUSE

Subject: Comments on the Tentative Tract Map No. 82830 and 82831 Project, Mitigated Negative Declaration (MND), SCH #2020040187, Los Angeles County

Dear Ms. Alvarado:

The California Department of Fish and Wildlife (CDFW) has reviewed the above-referenced Tentative Tract Map No. 82830 and 82831 (Project). The Tentative Tract Map's (TTM) supporting documentation includes a *Reevaluation of biological resources on two parcels (APNs 3203-008-045 & -046) in the City of Lancaster, Los Angeles County, CA* (Bio Report).

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's 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 & Game Code, §§ 711.7, subdivision (a) & 1802; Public Resources Code, § 21070; California Environmental Quality Act (CEQA) Guidelines, § 15386, subdivision (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 state fish and wildlife resources.

CDFW is also submitting comments as a Responsible Agency under CEQA (Public Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code, including lake and streambed alteration regulatory authority (Fish & Game 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 & Game Code, § 2050 et seq.), or state-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish

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& Game Code, §1900 et seq.) authorization as provided by the applicable Fish and Game Code will be required.

Project Description and Summary

Objective: The proposed projects consist of two residential subdivisions totaling 34 single family residential lots in the R-7,000 zone: TTM 82830 and 82831. TTM 82830 is approximately 6.5 acres and would involve the construction of 22 single family residential lots. TTM 82831 is approximately 3.27 acres and would involve the construction of 12 single family residential lots.

Location: The Project site is located north of Avenue J, between 70th Street West and 60th Street West on western portion of the City of Lancaster (City) in Los Angeles County, California. Assessor's Parcel Numbers (APNs) associated with the Project are APNs 3203-008-045 & -046.

Comments and Recommendations

CDFW offers the comments and recommendations below to assist the City in adequately identifying, avoiding, and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

CDFW recommends the measures or revisions below be included in a science-based monitoring program that contains adaptive management strategies as part of the Project's CEQA mitigation, monitoring and reporting program (Public Resources Code, § 21081.6 and CEQA Guidelines, § 15097). Additional comments or other suggestions may also be included to improve the document.

Project Description and Related Impact Shortcoming

Comment #1: Impacts to Burrowing Owl (*Athene cunicularia*)

Issue #1: The supplemental Bio Report states, "an actual burrowing owl was flushed from near the center of the 6.5-acre site" during the field survey. In addition, a review of the California Natural Diversity Database (CNDDB) indicates nine (9) occurrences of burrowing owl within approximately five-mile radius surrounding the Project site. Burrowing owls are also known to regularly occur throughout the Palmdale and Lancaster area.

Issue #2: Burrowing owl survey protocols require surveys to be conducted during the breeding season to determine if, when, and how the site is used by burrowing owls. However, the surveys conducted for this Project, occurred in January, when burrowing owl nesting season begins as early as February 1 and continues through August 31.

Specific impact: Identification of potential for burrowing owls during non-winter months, including the nesting season, may be missed. Therefore, the Project may result in direct and indirect burrowing owl mortality or injury; the disruption of natural burrowing owl breeding behavior; and loss of breeding, wintering and foraging habitat for the species. Project impacts would contribute to statewide population declines for burrowing owl. Within the Antelope Valley, the species persists in low densities and continues to experience significant direct and cumulative habitat loss.

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Why impact would occur: Burrowing owls have been known to use highly degraded and marginal habitat where existing burrows or stem pipes are available. Nest and roost burrows of the burrowing owl are most commonly dug by ground squirrels, but they have also been known to use a variety of other species dens or holes, including coyote (Gervais, J.A., Rosenberg, D.K., & Comrack, L.A., 2008). Impacts to burrowing owl could result from vegetation clearing and other ground disturbing activities. Project disturbance activities may result in crushing or filling of active owl burrows, causing the death or injury of adults, eggs, and young. In addition, the Project will remove burrowing owl foraging habitat by eliminating native vegetation that supports essential rodent, insect, and reptile that are prey for burrowing owl. Rodent control activities could result in direct and secondary poisoning of burrowing owl ingesting treated rodents.

Evidence impact would be significant: Take of individual burrowing owls and their nests is defined by Fish and Game Code section 86 and prohibited by sections 3503, 3503.5, and 3513. Take is defined in Fish and Game Code section 86 as "hunt, pursue, catch, capture or kill, or attempt to hunt, pursue, catch, capture or kill." Without appropriate take avoidance surveys prior to Project operations including, but not limited to, ground and vegetation disturbing activities and rodent control activities, adverse impacts to burrowing owl may occur because species presence/absence has not been verified. In addition, burrowing owl qualifies for enhanced consideration afforded to species under CEQA, which can be shown to meet the criteria for listing as endangered, rare or threatened (CEQA Guidelines, § 15380(d)).

Insufficient survey efforts for burrowing owl may conclude false negative results, which would not require avoidance and mitigation measure implementation. Inadequate avoidance and mitigation measures will result in the Project continuing to have a substantial adverse direct and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or United States Fish and Wildlife Service (USFWS).

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: To reduce impacts to burrowing owl, CDFW recommends that the Project adhere to CDFW's March 7, 2012, *Staff Report on Burrowing Owl Mitigation*. All survey efforts should be conducted prior to any project activities that could result in habitat disturbance to soil, vegetation or other sheltering habitat for burrowing owl. In California, the burrowing owl breeding season extends from 1 February to 31 August with some variances by geographic location and climatic conditions. Survey protocol for breeding season owl surveys states to conduct 4 survey visits: 1) at least one site visit between 15 February and 15 April, and 2) a minimum of three survey visits, at least three weeks apart, between 15 April and 15 July, with at least one visit after 15 June.

Mitigation Measure #2: Permanent impacts to occupied owl burrows and adjacent foraging habitat should be offset by setting aside replacement habitat to be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity, which should include an appropriate non-wasting endowment to provide for the long-term management of mitigation lands. CDFW recommends that the County require a burrowing owl mitigation plan be submitted to CDFW for review and comment prior to project implementation.

Mitigation Measure #3: For proposed preservation and/or restoration, the final environmental

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document should include measures to protect the targeted habitat values in perpetuity from direct and indirect negative impacts. The objective should be to offset the project-induced qualitative and quantitative losses of wildlife habitat values. Issues that should be addressed include, but are not limited to, restrictions on access, proposed land dedications, monitoring and management programs, control of illegal dumping, water pollution, and increased human intrusion. An appropriate non-wasting endowment should be provided for the long-term monitoring and management of mitigation lands. CDFW recommends that mitigation occur at a state-approved bank or via an entity that has been approved to hold and manage mitigation lands pursuant to Assembly Bill 1094 (2012), which amended Government Code sections 65965-65968. Under Government Code section 65967(c), the lead agency must exercise due diligence in reviewing the qualifications of a governmental entity, special district, or nonprofit organization to effectively manage and steward land, water, or natural resources on mitigation lands it approves.

Mitigation Measure #4: Project use of rodenticides that could result in direct or secondary poisoning to burrowing owl should be avoided.

Comment #2: Impacts to Swainson's Hawk (*Buteo swainsoni*)

Issue: A review of CNDDDB indicates recorded observations of Swainson's hawk, a CESA-listed threatened species, within an approximate 5-mile radius of the Project site. Swainson's hawk are also regularly observed foraging throughout the Palmdale and Lancaster area.

Specific impacts: The Project will likely result in the loss of foraging habitat for a CESA-listed raptor species.

Why impact would occur: Vegetation removal and ground clearing activities will potentially result in the loss of foraging habitat for listed raptor species.

Evidence impact would be significant: Consistent with CEQA Guidelines, Section 15380, the status of the Swainson's hawk as a threatened species under CESA qualifies it as an endangered, rare, or threatened species under CEQA. The estimated historical population of Swainson's hawk was nearly 17,000 pairs; however, in the late 20th century, Bloom (1980) estimated a population of only 375 pairs. The decline was primarily a result of habitat loss from development (CDFW 2016). The most recent survey conducted in 2009 estimated the population at 941 breeding pairs. The species is currently threatened by loss of nesting and foraging habitat (e.g., from agricultural shifts to less crops that provide less suitable habitat), urban development, environmental contaminants (e.g., pesticides), and climate change (CDFW 2016). CDFW considers a Swainson's hawk nest site to be active if it was used at least once within the past five years and impacts to suitable habitat or individual birds within a five-mile radius of an active nest as significant. Based on the foregoing, Project impacts would potentially reduce the number and/or restrict the range of Swainson's hawk or contribute to the abandonment of an active nest and/or the loss of significant foraging habitat for a given nest territory and thus result in "take" as defined under CESA.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: CDFW released guidance for this species entitled *Swainson's Hawk Survey Protocols, Impact Avoidance, and Minimization Measures for Renewable Energy*

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Projects in the Antelope Valley of Los Angeles and Kern Counties, California (2010). CDFW recommends conducting focused surveys for Swainson's hawk following the 2010 guidance and disclosing the results in the Project's environmental documentation. If "take" of Swainson's hawk would occur from Project construction or operation, CESA authorization [(i.e., incidental take permit (ITP))] would be required for the Project. CDFW may consider the Lead Agency's CEQA documentation for its CESA-related actions if it adequately analyzes/discloses impacts and mitigation to state-listed species. Additional documentation may be required as part of an ITP application for the Project in order for CDFW to adequately develop an accurate take analysis and identify measures that would fully mitigate for take of state-listed species.

Mitigation Measure #2: Permanent impacts to foraging habitat for Swainson's hawk should be offset by setting aside replacement acreage to be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity [also see Comment #1 (Burrowing Owl), Mitigation Measure #3].

Comment #3: Impacts to Special-Status Plant Species

Issue: A review of CNDDDB indicate multiple occurrences of alkali mariposa lily (*Calochortus stiiatus*) within four and half miles of the Project site. Alkali mariposa lily (*Calochortus stiiatus*) has a shrinking population and is ranked by California Native Plant Society (CNPS) List 1B species (rare, endangered, or threatened in California).

Specific impact: CDFW considers plant communities, alliances, and associations with a statewide ranking of S1, S2, and S3 as sensitive and declining at the local and regional level (Sawyer et al. 2008). An S3 ranking indicates there are 21-80 occurrences of this community in existence in California, S2 has 6-20 occurrences, and S1 has less than 6 occurrences. The Project may have direct or indirect effects to these sensitive species.

Why impact would occur: Project implementation includes grading, vegetation clearing, road construction, housing construction, utilities construction, road maintenance, and other activities that may result in direct mortality, population declines, or local extirpation of sensitive plant species.

Evidence impact would be significant: Impacts to special status plant species should be considered significant under CEQA unless they are clearly mitigated below a level of significance. Inadequate avoidance, minimization, and mitigation measures for impacts to these sensitive plant species will result in the Project continuing to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or United States Fish and Wildlife Service (USFWS).

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: CDFW recommends conducting focused surveys for sensitive/rare plants on-site and disclosing the results in the CEQA document. Based on the *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities* (CDFW, 2018), a qualified biologist should "conduct botanical surveys in the field at the times of year when plants will be both evident and identifiable. Usually this is

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during flowering or fruiting.” The final CEQA documentation should provide a thorough discussion on the presence/absence of sensitive plants on-site and identify measures to protect sensitive plant communities from project-related direct and indirect impacts.

Mitigation Measure #2: CDFW recommends avoiding any sensitive natural communities found on the Project. If avoidance is not feasible, mitigating at a ratio of no less than 5:1 for impacts to S3 ranked communities and 7:1 for S2 communities should be implemented. This ratio is for the acreage and the individual plants that comprise each unique community. All revegetation/restoration areas that will serve as mitigation should include preparation of a restoration plan, to be approved by USFWS and CDFW prior to any ground disturbance. The restoration plan should include restoration and monitoring methods; annual success criteria; contingency actions should success criteria not be met; long-term management and maintenance goals; and, a funding mechanism to assure for in perpetuity management and reporting. Areas proposed as mitigation should have a recorded conservation easement and be dedicated to an entity which has been approved to hold/manage lands (AB 1094; Government Code, §§ 65965-65968).

Recommendation #3: In 2007, the State Legislature required CDFW to develop and maintain a vegetation mapping standard for the state (Fish & Game Code, § 1940). This standard complies with the National Vegetation Classification System, which utilizes alliance and association-based classification of unique vegetation stands. CDFW utilizes vegetation descriptions found in the Manual of California Vegetation (MCV), found online at <http://vegetation.cnps.org/>. To determine the rarity ranking of vegetation communities on the Project site, the MCV alliance/association community names should be provided as CDFW only tracks rare natural communities using this classification system.

Comment #4: Impacts to California Species of Special Concern

Issue: A review of CNDDDB indicates multiple occurrences of the northern California legless lizard (*Anniella pulchra*) within 5 miles of the Project site.

Specific impact: Project ground disturbing activities such as grading and grubbing may result in habitat destruction, causing the death or injury of adults, juveniles, eggs, or hatchlings. In addition, the Project may remove habitat by eliminating native vegetation that may support essential foraging and breeding habitat.

Why impact would occur: Project implementation includes grading, vegetation clearing, and other activities that may result in direct mortality, population declines, or local extirpation of Special Status reptile species.

Evidence impact would be significant: CEQA provides protection not only for state and federally listed species, but for any species including but not limited to California Species of Special Concern which can be shown to meet the criteria for State listing. These Species of Special Concern meet the CEQA definition of rare, threatened or endangered species (CEQA Guidelines, § 15065). Take of Species of Special Concern could require a mandatory finding of significance by the Lead Agency, (CEQA Guidelines, § 15065).

Recommended Potentially Feasible Mitigation Measure(s):

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Mitigation Measure #1: Due to potentially suitable habitat within the Project site, prior to vegetation removal and/or grading, qualified biologists familiar with the reptile species behavior and life history should conduct specialized surveys to determine the presence/absence of Species of Special Concern. Surveys should be conducted during active season when the reptiles are most likely to be detected, between March 1 to October 31 (Thomson, R.C. et al., 2016). Survey results, including negative findings, should be submitted to CDFW prior to initiation of Project activities.

Mitigation Measure #2: To further avoid direct mortality, CDFW recommends that a qualified biological monitor approved by CDFW be on-site during ground and habitat disturbing activities to move out of harm's way special status species that would be injured or killed by grubbing or Project-related grading activities. It should be noted that the temporary relocation of on-site wildlife does not constitute effective mitigation for the purposes of offsetting Project impacts associated with habitat loss. If the Project requires species to be removed, disturbed, or otherwise handled, we recommend that the Project clearly identify that the designated entity should obtain all appropriate state and federal permits.

Comment #5: Impacts to Nesting Birds, including Special Status Species

Issue #1: The Bio Report indicates that a loggerhead shrike (*Lanius ludovicianus*), a CDFW Species of Special Concern, was flushed from a parcel adjacent to the Project site. In addition, presence of other bird species on site, as identified by the Initial Study in Table 5, indicate potential for nesting birds on site.

Issue #2: The Bio Report also states, "Shrikes are likely to forage on both sites and their development will result in an incremental loss of foraging habitat, which is not considered to be a significant impact."

Specific impacts: Construction during the breeding season of nesting birds could result in the incidental loss of fertile eggs or nestlings or otherwise lead to nest abandonment. The Project could also lead to the loss of foraging habitat for special status bird species.

Why impact would occur: Impacts to nesting birds could result from vegetation clearing and other ground disturbing activities. Project disturbance activities could result in mortality or injury to nestlings, as well temporary or long-term loss of suitable nesting and foraging habitats. Construction during the breeding season of nesting birds could result in the incidental loss of breeding success or otherwise lead to nest abandonment.

Evidence impact would be significant: Without subsequent foraging habitat in the nest vicinity, birds must take longer foraging trips. Studies show that this reflects in lower chick feeding rates, lower fledging success and reduced chick fitness (Catry, I. et al 2013). The loss of occupied habitat or reductions in the number of rare bird species, either directly or indirectly through nest abandonment or reproductive suppression, would constitute a significant impact absent appropriate mitigation. Furthermore, nests of all native bird species are protected under state laws and regulations, including Fish and Game Code sections 3503 and 3503.5.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: To protect nesting birds that may occur on site or adjacent to the

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Project boundary, CDFW recommends that no construction should occur from February 15 (January 1 for raptors) through August 31 unless a qualified biologist completes a survey for nesting bird activity within a 500-foot radius of the construction site. Based on local conditions, the nesting bird surveys should be conducted at appropriate nesting times and concentrate on potential roosting or perch sites. CDFW recommends the Lead Agency require surveys be conducted by a qualified biologist no more than 7 days prior to the beginning of any Project-related activity likely to impact raptors and migratory songbirds, for the entire Project site. If Project activities are delayed or suspended for more than 7 days during the breeding season, repeat the surveys. If nesting raptors and migratory songbirds are identified, CDFW recommends the following minimum no-disturbance buffers be implemented: 300 feet around active passerine (perching birds and songbirds) nests, 500 feet around active non-listed raptor nests and 0.5 mile around active listed bird nests.

These buffers should be maintained until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival.

Comment #6: Impacts to Streams

Issue: A review of aerial photography indicates that the Project site has the potential to be subject to notification for a Lake and Streambed Alteration Agreement. The open areas in and around the Project site contain ephemeral drainages, connecting claypans, and dune geomorphology. "Soft clay pans may indicate potential water flow below and above the surface. These areas indicate that a large quantity of water flows through and pools within the area..." (LADPW 2013). The presence of claypans, and their characteristic cracked surface, is indicative of a streambed as determined by CDFW.

A review of aerial imagery appears to indicate that portions of the Project site may contain claypans and may be within a historic stream channel flowing in a southwest to northeastern direction. The Project location may support streams subject to notification under Fish and Game code section 1600 *et seq.*

Specific impacts: The Project may result in the loss of streams and associated watershed function and biological diversity. Grading and construction activities will likely alter the topography, and thus the hydrology, of the Project site.

Why impacts would occur: Ground disturbing activities from grading and filling, water diversions and dewatering would physically remove or otherwise alter existing streams or their function and associated riparian habitat on the Project site. Downstream streams and associated biological resources beyond the Project development footprint may also be impacted by Project related releases of sediment and altered watershed effects resulting from Project activities.

Evidence impacts would be significant: The Project may substantially adversely affect the existing stream pattern of the Project site through the alteration or diversion of ephemeral streams, which absent specific mitigation, could result in substantial erosion or siltation on site or off site of the Project. "Surface flow (storm water runoff) from the surrounding mountains (San Gabriel, Tehachapi) and hills across alluvial fans and through deeply excised washes makes its way from the headwaters filling vernal pool like clay pan depressions, wetlands such as Piute

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Ponds, percolating into sand dunes where water is sequestered for summer use to the lowest point” (LADPW 2013). The Bio Report states, “seven locations of alkali Mariposa lilies including one on the northwest corner of the 6.5-acre site” and a review of CNDDDB also indicates that there are numerous records of alkali mariposa lily found on parcels adjacent to the Project site. Alkali mariposa lily is hydrophytic vegetation that is typically sustained by an ephemeral source of water. Thus, the existence of claypans in the Antelope Valley is indicative of natural flow in the region.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: CDFW has concluded that the Project has the potential to result in the alteration of streams. For any such activities, the Project applicant (or “entity”) must provide written notification to CDFW pursuant to section 1600 *et seq.* of the Fish and Game Code. Based on this notification and other information, CDFW determines whether a Lake and Streambed Alteration Agreement (LSA) with the applicant is required prior to conducting the proposed activities. A notification package for a LSA may be obtained by accessing CDFW’s web site at www.wildlife.ca.gov/habcon/1600.

CDFW’s issuance of an LSA for a Project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document of the Lead Agency for the Project. However, the MND does not meet CDFW’s standard at this time. To minimize additional requirements by CDFW pursuant to section 1600 *et seq.* and/or under CEQA, the CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for issuance of the LSA.

Mitigation Measure #2: Any LSA Agreement issued for the Project by CDFW may include additional measures protective of streambeds on and downstream of the Project. The LSA may include further erosion and pollution control measures. To compensate for any on-site and off-site impacts to riparian resources, additional mitigation conditioned in any LSA may include the following: avoidance of resources, on-site or off-site creation, enhancement or restoration, and/or protection and management of mitigation lands in perpetuity.

Mitigation Measure #3: CDFW recommends the Project proponent actively implement Best Management Practices (BMPs) to prevent erosion and the discharge of sediment and pollutants into ephemeral stream beds during Project activities. BMPs should be monitored and repaired, if necessary, to ensure maximum erosion, sediment, and pollution control. The Project proponent should prohibit the use of erosion control materials potentially harmful to fish and wildlife species, such as mono-filament netting (erosion control matting) or similar material, within stream areas. All fiber rolls, straw wattles, and/or hay bales utilized within and adjacent to the Project site should be free of nonnative plant materials. Fiber rolls or erosion control mesh should be made of loose-weave mesh that is not fused at the intersections of the weave, such as jute, or coconut (coir) fiber, or other products without welded weaves. Non-welded weaves reduce entanglement risks to wildlife by allowing animals to push through the weave, which expands when spread.

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Filing Fees

The Project, as proposed, could 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 & Game Code, § 711.4; Pub. Resources Code, § 21089).

Conclusion

We appreciate the opportunity to comment on the project to assist the City in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that the City has to our comments and to receive notification of any forthcoming hearing date(s) for the project. If you have any questions or comments regarding this letter, please contact Felicia Silva, Environmental Scientist, at Felicia.Silva@wildlife.ca.gov or (562) 430-0098.

Sincerely,

DocuSigned by:



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Erinn Wilson

Environmental Program Manager I

cc: CDFW

Victoria Tang – Los Alamitos
Felicia Silva – Los Alamitos
Andrew Valand – Los Alamitos
Frederic Reiman – Los Alamitos
Susan Howell – San Diego

State Clearinghouse

References:

- Bloom, P. H. 1980. The status of the Swainson's hawk in California, 1979. Bureau of Land Management, Sacramento, CA, USA.
- California Department of Fish and Wildlife [CDFW]. March 20, 2018. Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (see <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>).
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- California Department of Fish and Wildlife [CDFW]. June 2, 2010. Swainson's Hawk Survey Protocols, Impact Avoidance, and Minimization Measures for Renewable Energy Projects in the Antelope Valley of Los Angeles and Kern Counties, California (2010). (see <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843>).
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Sacramento, CA, USA.

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CDFW recommends the following language to be incorporated into a future environmental document for the Project.

| Biological Resources | | | |
|--------------------------------|---|-----------------------|--------------------------|
| | Mitigation Measure | Timing | Responsible Party |
| MM-BIO-1- Burrowing Owl | The Project shall adhere to CDFW's March 7, 2012, <i>Staff Report on Burrowing Owl Mitigation</i> as referenced in the MND. All survey efforts shall be conducted prior to any project activities that could result in habitat disturbance to soil, vegetation or other sheltering habitat for burrowing owl. In California, the burrowing owl breeding season extends from 1 February to 31 August with some variances by geographic location and climatic conditions. Survey protocol for breeding season owl surveys states to conduct 4 survey visits: 1) at least one site visit between 15 February and 15 April, and 2) a minimum of three survey visits, at least three weeks apart, between 15 April and 15 July, with at least one visit after 15 June. | Prior to Construction | City of Lancaster |
| MM-BIO-2- Burrowing Owl | Permanent impacts to occupied owl burrows and adjacent foraging habitat shall be offset by setting aside replacement habitat to be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity, which shall include an appropriate non-wasting endowment to provide for the long-term management of mitigation lands. The County shall require a burrowing owl mitigation plan be submitted to CDFW for review and comment prior to project implementation. | Prior to Construction | City of Lancaster |
| MM-BIO-3- Burrowing Owl | For proposed preservation and/or restoration, the final environmental document shall include measures to protect the targeted habitat values in perpetuity from direct and indirect negative impacts. The objective shall | Prior to Construction | City of Lancaster |

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| | <p>be to offset the project-induced qualitative and quantitative losses of wildlife habitat values. Issues that shall be addressed include, but are not limited to, restrictions on access, proposed land dedications, monitoring and management programs, control of illegal dumping, water pollution, and increased human intrusion. An appropriate non-wasting endowment shall be provided for the long-term monitoring and management of mitigation lands. Mitigation shall occur at a state-approved bank or via an entity that has been approved to hold and manage mitigation lands pursuant to Assembly Bill 1094 (2012), which amended Government Code sections 65965-65968. Under Government Code section 65967(c), the lead agency must exercise due diligence in reviewing the qualifications of a governmental entity, special district, or nonprofit organization to effectively manage and steward land, water, or natural resources on mitigation lands it approves.</p> | | |
| MM-BIO-4- Burrowing Owl | <p>Project use of rodenticides that could result in direct or secondary poisoning to burrowing owl shall be avoided.</p> | <p>During Construction</p> | <p>City of Lancaster Project Proponent</p> |
| MM-BIO-5- Swainson's Hawk | <p>CDFW released guidance for this species entitled <i>Swainson's Hawk Survey Protocols, Impact Avoidance, and Minimization Measures for Renewable Energy Projects in the Antelope Valley of Los Angeles and Kern Counties, California</i> (2010). Focused surveys shall be conducted for Swainson's hawk following the 2010 guidance and disclosing the results in the Project's environmental documentation. If "take" of Swainson's hawk would occur from Project construction or operation, CESA authorization [(i.e., incidental take permit (ITP))] would be required for the Project. CDFW may consider the Lead Agency's CEQA documentation for its CESA-</p> | <p>Prior to Construction</p> | <p>City of Lancaster</p> |

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| | related actions if it adequately analyzes/discloses impacts and mitigation to state-listed species. Additional documentation may be required as part of an ITP application for the Project in order for CDFW to adequately develop an accurate take analysis and identify measures that would fully mitigate for take of state-listed species. | | |
| MM-BIO-6- Swainson's Hawk | Permanent impacts to foraging habitat for Swainson's hawk shall be offset by setting aside replacement acreage to be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity [also see Comment #1 (Burrowing Owl), Mitigation Measure #3]. | Prior to Construction | City of Lancaster |
| MM-BIO-7- Special Status Plant Species | Focused surveys shall be conducted for sensitive/rare plants on-site and disclosing the results in the CEQA document. Based on the <i>Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities</i> (CDFW, 2018), a qualified biologist shall "conduct botanical surveys in the field at the times of year when plants will be both evident and identifiable. Usually this is during flowering or fruiting." The final CEQA documentation shall provide a thorough discussion on the presence/absence of sensitive plants on-site and identify measures to protect sensitive plant communities from project-related direct and indirect impacts. | Prior to Construction | City of Lancaster |
| MM-BIO-8- Special Status Plant Species | The Project proponent shall avoid any sensitive natural communities found on the Project. If avoidance is not feasible, mitigating at a ratio of no less than 5:1 for impacts to S3 ranked communities and 7:1 for S2 communities shall be implemented. This ratio is for the acreage and the individual plants that comprise each unique community. All revegetation/restoration areas that will serve as mitigation shall include preparation of a | During Construction | City of Lancaster Project Proponent |

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| | restoration plan, to be approved by USFWS and CDFW prior to any ground disturbance. The restoration plan shall include restoration and monitoring methods; annual success criteria; contingency actions shall success criteria not be met; long-term management and maintenance goals; and, a funding mechanism to assure for in perpetuity management and reporting. Areas proposed as mitigation shall have a recorded conservation easement and be dedicated to an entity which has been approved to hold/manage lands (AB 1094; Government Code, §§ 65965-65968). | | |
| MM-BIO-9- CA Species of Special Concern | Due to potentially suitable habitat within the Project site, prior to vegetation removal and/or grading, qualified biologists familiar with the reptile species behavior and life history shall conduct specialized surveys to determine the presence/absence of Species of Special Concern. Surveys shall be conducted during active season when the reptiles are most likely to be detected, between March 1 to October 31 (Thomson, R.C. et al., 2016). Survey results, including negative findings, shall be submitted to CDFW prior to initiation of Project activities. | Prior to Construction | City of Lancaster |
| MM-BIO-10- CA Species of Special Concern | To further avoid direct mortality, a qualified biological monitor approved by CDFW be on-site during ground and habitat disturbing activities to move out of harm's way special status species that would be injured or killed by grubbing or Project-related grading activities. It shall be noted that the temporary relocation of on-site wildlife does not constitute effective mitigation for the purposes of offsetting Project impacts associated with habitat loss. If the Project requires species to be removed, disturbed, or otherwise handled, we recommend that the Project clearly identify that the designated entity shall obtain all appropriate state and federal permits. | During Construction | City of Lancaster |

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| <p>MM-BIO-11- Nesting Birds</p> | <p>To protect nesting birds that may occur on site or adjacent to the Project boundary, no construction shall occur from February 15 (January 1 for raptors) through August 31 unless a qualified biologist completes a survey for nesting bird activity within a 500-foot radius of the construction site. The nesting bird surveys shall be conducted at appropriate nesting times and concentrate on potential roosting or perch sites. The Lead Agency shall require surveys be conducted by a qualified biologist no more than 7 days prior to the beginning of any Project-related activity likely to impact raptors and migratory songbirds, for the entire Project site. If Project activities are delayed or suspended for more than 7 days during the breeding season the qualified biologist shall repeat the surveys. If nesting raptors and migratory songbirds are identified, Minimum no-disturbance buffers be implemented: 300 feet around active passerine (perching birds and songbirds) nests, 500 feet around active non-listed raptor nests and 0.5 mile around active listed bird nests.</p> <p>These buffers shall be maintained until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival.</p> | <p>Prior to and during Construction</p> | <p>City of Lancaster Project Proponent</p> |
| <p>MM-BIO-12- Ephemeral Streams</p> | <p>The Project has the potential to result in the alteration of streams. For any such activities, the Project applicant (or "entity") must provide written notification to CDFW pursuant to section 1600 <i>et seq.</i> of the Fish and Game Code. Based on this notification and other information, CDFW determines whether a Lake and Streambed Alteration Agreement (LSA) with the applicant is required prior to conducting the proposed activities. A notification</p> | <p>Prior to Construction</p> | <p>City of Lancaster Project Proponent</p> |

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| | <p>package for a LSA may be obtained by accessing CDFW's web site at www.wildlife.ca.gov/habcon/1600.</p> <p>CDFW's issuance of an LSA for a Project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document of the Lead Agency for the Project. However, the MND does not meet CDFW's standard at this time. To minimize additional requirements by CDFW pursuant to section 1600 <i>et seq.</i> and/or under CEQA, the CEQA document shall fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for issuance of the LSA.</p> | | |
| MM-BIO-13- Ephemeral Streams | To compensate for any on-site and off-site impacts to riparian resources, additional mitigation conditioned in any LSA may include the following: avoidance of resources, on-site or off-site creation, enhancement or restoration, and/or protection and management of mitigation lands in perpetuity. | Prior to Construction | City of Lancaster Project Proponent |
| MM-BIO-14- Ephemeral Streams | The Project proponent shall actively implement Best Management Practices (BMPs) to prevent erosion and the discharge of sediment and pollutants into ephemeral stream beds during Project activities. BMPs shall be monitored and repaired, if necessary, to ensure maximum erosion, sediment, and pollution control. The Project proponent shall prohibit the use of erosion control materials potentially harmful to fish and wildlife species, such as mono-filament netting (erosion control matting) or similar material, within stream areas. All fiber rolls, straw wattles, and/or hay bales utilized within and adjacent to the Project site shall be free of nonnative plant materials. Fiber rolls or erosion control mesh shall | Prior to Construction | City of Lancaster Project Proponent |

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| | <p>be made of loose-weave mesh that is not fused at the intersections of the weave, such as jute, or coconut (coir) fiber, or other products without welded weaves. Non-welded weaves reduce entanglement risks to wildlife by allowing animals to push through the weave, which expands when spread.</p> | | |
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