

State of California – Natural Resources Agency

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director

DEPARTMENT OF FISH AND WILDLIFE

South Coast Region
3883 Ruffin Road
San Diego, CA 92123
(858) 467-4201

www.wildlife.ca.gov

Via Electronic Mail Only

September 27, 2022

Megan Taggart
City of Palmdale
38250 Sierra Highway
Palmdale, CA 91350
mtaggart@cityofpalmdale.org

Subject: Notice of Preparation of a Draft Environmental Impact Report for Antelope Valley Commerce Center: General Plan Amendment 22-001, Zone Change 22-001, Specific Plan 22-001, Tentative Parcel Map 83738, and Site Plan Review 22-008, SCH # 2022090009, City of Palmdale, Los Angeles County

Dear Ms. Taggart:

The California Department of Fish and Wildlife (CDFW) has reviewed a Notice of Preparation (NOP) of a Draft Environmental Impact Report (EIR) from the City of Palmdale (City) for the Antelope Valley Commerce Center: General Plan Amendment 22-001, Zone Change 22-001, Specific Plan 22-001, Tentative Parcel Map 83738, and Site Plan Review 22-008 (Project). 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 & G. Code, §§ 711.7, subdivision (a) & 1802; Pub. 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 (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, including 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

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species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 *et seq.*), or CESA-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & G. Code, §1900 *et seq.*), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

Project Description and Summary

Objective: The Project proposes a general plan amendment, zone change, specific plan, tentative parcel map (Tentative Parcel Map 83738), and site plan review (Site Plan Review 22-008) for the 433.7-acre property. The general plan and zone change will allow for modification of the land use element and zoning from Industrial to Specific Plan. The Specific Plan will detail the long-term master development plan for the property. Based on the proposed Specific Plan, approximately 379.4 acres will be allocated for industrial uses, 7.1 acres for commercial flex uses, 20.4 acres for roadways, and 26.8 acres for open space. Industrial uses may include a mixture of manufacturing, warehousing, parcel hub, fulfillment center, light industrial, and associated uses. Tentative Parcel Map 83738 is proposed to subdivide the 433.7-acre Project site into 15 parcels and three lettered lots to facilitate future development. Complete development of the Project site is anticipated to occur in four phases. Site Plan Review 22-008 proposes construction of six buildings, which will serve as the first phase of development. The six buildings will be constructed in the northern portion of the property with varying building areas and uses. The remaining three phases are not proposed with this specific Project.

Location: The Project site encompasses 433.7 acres located on the southeast corner of Sierra Highway and Columbia Way, in the City of Palmdale, Los Angeles County. The Project site is bounded by Columbia Way to the north, 15th Street East to the east, Sierra Highway to the west, and Avenue M-12 to the south. The Project site is located on Assessor Parcel Numbers: 3126-022-926, 3126-022-927, 3126-002-928, 3126-022-929.

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. The EIR should provide adequate and complete disclosure of the Project's potential impacts on biological resources [Pub. Resources Code, § 21061; CEQA Guidelines, §§ 15003(i), 15151]. CDFW looks forward to commenting on the EIR when it is available.

Specific Comments

1) Impacts on Western Joshua Tree (*Yucca brevifolia*). Based on Google Imagery, there are western Joshua trees on the Project site. In order for the Project to be completed as proposed, western Joshua trees would need to be removed and western Joshua tree seedbank would be impacted through ground disturbing activities. Any of the following occurring completely or partially near western Joshua trees could impact western Joshua trees, root zone, and seedbank: ground-disturbing activities; staging areas; vegetation and debris piles; operation of heavy machinery; vehicles; installation of roads and drive aisles, and installation of temporary and/or permanent fencing.

a) Protection Status. The western Joshua tree is a species designated as candidate for

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listing as threatened pursuant to CESA (Fish & G. Code, § 2050 *et seq.*). Take of western Joshua tree is defined as any activity that results in the removal of a western Joshua tree, or any part thereof, or impacts the seedbank surrounding one or more western Joshua trees (CDFW 2022h). The western Joshua tree is granted full protection of a threatened species under CESA. Take of any endangered, threatened, candidate species that results from the Project is prohibited, except as authorized by State law (Fish & G. Code, §§ 86, 2062, 2067, 2068, 2080, 2085; Cal. Code Regs., tit. 14, § 786.9). Impacts on western Joshua tree requires a mandatory finding of significance under CEQA (CEQA Guidelines, § 15065).

- b) Analysis and Disclosure. The EIR should provide information as to where western Joshua trees occur within the survey area, number of trees, tree height, age class (e.g., seedling, juvenile, mature), and any observations of flowers and/or fruits. The EIR should also provide information on the natural communities supporting western Joshua trees in the survey area (also see General Comment #1a). The EIR should provide complete disclosure of the Project's impact on western Joshua tree, seedbank, and natural communities supporting western Joshua tree. Both direct and indirect impacts should be discussed and disclosed. The EIR should discuss if the Project would result in changes to on-site drainage patterns. Surface flow from the Project site directed off site where there may be western Joshua trees could result in soil erosion and disturbance to the root zone.
- c) Surveys. In preparation of the EIR, CDFW recommends the City require the Project Applicant to retain a qualified biologist to survey the Project site and areas around the Project site for western Joshua trees. The qualified biologist should survey all areas within 300 feet of the Project site for western Joshua trees.
- d) Avoidance. CDFW recommends the City require the Project Applicant to fully avoid impacts on western Joshua tree and seedbank to the maximum extent feasible. CDFW recommends the EIR be conditioned with a mitigation measure to avoid all impacts on western Joshua tree and seedbank through implementation of a 300-foot buffer. No work or access should occur within the buffer until the Project is complete. In addition, CDFW recommends the City require the Project Applicant to design the Project so that drainage from the Project site is not directed to adjacent areas where there may be western Joshua trees. The EIR should discuss how the Project has been designed to fully avoid impacts on western Joshua tree and seedbank.
- e) Compensatory Mitigation. If the Project is unable to fully avoid impacts on western Joshua tree and seedbank, CDFW recommends the City require the Project Applicant to provide mitigation to compensate for those impacts. Appropriate mitigation for the Project's impact on western Joshua tree would include obtaining appropriate take authorization under CESA prior to implementing the Project (pursuant to Fish & Game Code, § 2080 *et seq.*).
- f) CESA. CDFW considers adverse impacts to a species protected by CESA to be significant without mitigation under CEQA. As to CESA, take of any endangered, threatened, candidate species, or CESA-listed plant species that results from a project is prohibited, except as authorized by State law (Fish & G. Code §§ 2080, 2085; Cal. Code Regs., tit. 14, §786.9). Consequently, if the Project and any Project-related activity

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during the life of the Project will result in take of a species designated as endangered or threatened, or a candidate for listing under CESA, CDFW recommends that the project proponent seek appropriate take authorization under CESA prior to implementing the project. Appropriate authorization from CDFW may include an Incidental Take Permit (ITP) or a Consistency Determination in certain circumstances, among other options [Fish & Game Code, §§ 2080.1, 2081, subds. (b) and (c)]. Early consultation is encouraged, as significant modification to the project and mitigation measures may be required to obtain an ITP. Revisions to the Fish and Game Code, effective January 1998, may require that CDFW issue a separate CEQA document for the issuance of an ITP unless the project's CEQA document addresses all project impacts to CESA-listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of an ITP. For these reasons, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for an ITP.

- 2) Impacts on Mohave Ground Squirrel (*Xerospermophilus mohavensis*). Mohave ground squirrels have been documented historically to occur within the Antelope Valley region. According to the [California Natural Diversity Database \(CNDDB\)](#), observations of Mohave ground squirrels has been documented within a mile of the Project site (CDFW 2022a). The Project site may support requisite habitat elements for Mohave ground squirrel. This includes burrows under vegetation found in desert scrub and Joshua tree woodland. The limits of Mohave ground squirrel's geographic range are not known precisely; surveys may be required in areas up to five miles from currently documented boundaries (CDFW 2003). In addition, Mohave ground squirrel may have occurred, or could possibly still occur, outside the geographic range currently recognized by CDFW (CDFW 2019).
 - a) Protection Status. Mohave ground squirrel is a CESA-listed species. As to CESA, take of any endangered, threatened, candidate species, or CESA-listed plant species that results from a project is prohibited, except as authorized by State law (Fish & G. Code §§ 2080, 2085; Cal. Code Regs., tit. 14, §786.9).
 - b) Analysis and Disclosure. The EIR should provide full disclosure of the presence of Mohave ground squirrel on the Project site. Conclusions made in regard to habitat quality and suitability should be substantiated by scientific and factual data, which may include maps, diagrams, and similar relevant information sufficient to permit full assessment of significant impacts by reviewing agencies. Potential direct and indirect impacts on Mohave ground squirrel should be discussed in the Project's environmental document. If the Project would impact Mohave ground squirrel and habitat, the EIR should provide measures to avoid and/or mitigate potential impacts to Mohave ground squirrel and habitat supporting the species. For unavoidable impacts, appropriate mitigation may include consultation with CDFW and obtaining appropriate take authorization under CESA.
 - c) Surveys. In preparation of an EIR, CDFW recommends the City require the Project Applicant to retain a qualified biologist to conduct a visual survey for Mohave ground squirrel and habitat quality according to established [Mohave Ground Squirrel Survey Guidelines](#) (CDFW 2003). If visual surveys do not reveal presence of Mohave ground squirrel on the Project site but potential habitat is present, standard small mammal trapping grids should be established in potential Mohave ground squirrel habitat.

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- 3) Impacts on Desert tortoise (*Gopherus agassizii*). The proposed Project is within the home range of desert tortoise. Desert tortoises spend the majority of the year underground in burrows throughout the Mojave Desert. Over the past 20 years, the population densities of desert tortoise have greatly declined (CDFW 2022f). Project activities such as grading, vegetation removal, and construction activities may result in loss of burrowing habitat, foraging habitat, and cause the death or injury of adults, juveniles, eggs, or hatchlings mortality.
- a) Protection Status. Desert tortoise is an Endangered Species Act (ESA) and CESA-listed species. Desert tortoise has full protection of a threatened species under CESA. Take of any endangered, threatened, candidate species, or CESA-listed plant species that results from a project is prohibited, except as authorized by State law (Fish & G. Code §§ 2080, 2085; Cal. Code Regs., tit. 14, §786.9). In addition, impacts on desert tortoise requires a mandatory finding of significance under CEQA (CEQA Guidelines, § 15065).
 - b) Analysis and Disclosure. The EIR should provide full disclosure of the presence or absence of desert tortoise within the Project site. The EIR should also analyze and discuss the Project's direct and indirect impacts on desert tortoise and habitat. Surveys and assessments for the species should be disclosed with the EIR and not deferred until a later time (i.e., preconstruction surveys). If the Project would impact desert tortoise and habitat, the EIR should provide measures to avoid and/or mitigate potential impacts to desert tortoise as well as habitat. For unavoidable impacts, appropriate mitigation may include consultation with CDFW and/or U.S. Fish and Wildlife Service (USFWS) and obtaining appropriate take authorization under CESA and ESA prior to implementing the Project.
 - c) Surveys. In preparation of the EIR, CDFW recommends the City require the Project Applicant to retain a qualified biologist to prepare a habitat assessment and conduct 10-meter-wide belt transects covering the Project site and adjacent areas in order to determine the presence of desert tortoise. The habitat assessment and transects should be performed adhering to methods described in [Preparing for Any Action That May Occur Within the Range of the Mojave Desert Tortoise](#) (USFWS 2019).
- 4) Impacts on Foraging Habitat for Swainson's Hawk (*Buteo swainsoni*). According to CNDDDB, Swainson's hawk have been observed within a mile of the Project site (CDFW 2022a). Nesting pairs in the Antelope Valley primarily forage in agricultural areas within the region, as well as other desert scrub habitat that support a suitable prey base of small rodents (ICF 2019). Swainson's hawk is 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 (i.e., pesticides); and climate change (ICF 2019; CDFW 2016).
- a) Protection Status. Swainson's hawk is granted full protection as a threatened CESA-listed species. Take of any endangered, threatened, candidate species that results from the Project is prohibited, except as authorized by State law (Fish & G. Code, §§ 86, 2062, 2067, 2068, 2080, 2085; Cal. Code Regs., tit. 14, § 786.9). Impacts on Swainson's hawk requires a mandatory finding of significance under CEQA (CEQA Guidelines, § 15065).

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- b) Analysis and Disclosure. The EIR should provide full disclosure of the Project impacts on Swainson's hawk and foraging habitat. To permit full assessment of significant impacts, surveys and assessments for the species should be disclosed in the EIR and not deferred until a later time (i.e., preconstruction surveys). In addition, the EIR should evaluate and discuss the Project's impact on Swainson's hawk population at a local and region scale. If the Project would result in loss of nesting and/or foraging habitat, CDFW recommends the EIR include measures to mitigate for those impacts. Any proposed compensatory mitigation should ensure no net loss of foraging habitat for Swainson's hawk. Appropriate mitigation may also include consulting with CDFW and obtaining appropriate take authorization under CESA prior to implementing the Project (pursuant to Fish & Game Code, § 2080 et seq.).
- c) Surveys. In preparation of the EIR, CDFW recommends the City require the Project Applicant to retain a qualified biologist to survey the Project site for nesting habitat and five miles around the Project site where nesting habitat occurs. The qualified biologist should also assess Swainson's hawk foraging habitat in the Project site and areas off site that could be impacted by the Project. The survey protocol should be performed adhering to methods described in [Swainson's Hawk Survey Protocols, Impact Avoidance, and Minimization Measures for Renewable Energy Projects in the Antelope Valley for Los Angeles and Kern Counties, California](#) (CDFW 2010).
- 5) Impact on Species of Special Concern (SSC) - Reptiles. The coast horned lizard (*Phrynosoma blainvillii*) and Northern California legless lizard (*Anniella pulchra*) have both been observed and recorded within a mile of the Project site (CNDDDB 2022a). Project activities related to ground disturbing activities, such as grading and construction of buildings, may result in reptile habitat destruction, causing the death or injury of adults, juveniles, eggs, or hatchlings. Moreover, the Project may remove essential foraging and breeding habitat for the species.
- a) Protection Status. Both species are designated as SSC. CEQA provides protection not only for CESA-listed species, but for any species including but not limited to SSC which can be shown to meet the criteria for State listing. These SSC meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380). Therefore, take of SSC could require a mandatory finding of significance (CEQA Guidelines, § 15065).
- b) Analysis and Disclosure. CDFW recommends the EIR provide full disclosure of the presence of these SSC species and potential impacts on habitat. To allow for a full assessment of significant impacts, surveys and assessments for the species should be disclosed in the EIR and not deferred until a later time (i.e., preconstruction surveys). If the Project would result in loss of suitable habitat for these SSC, CDFW recommends the EIR include measures to mitigate for those impacts.
- c) Surveys and Avoidance. CDFW recommends qualified biologist(s) familiar with the reptile species behavior and life history conduct focused surveys to determine the presence/absence of these SSC. Surveys should be conducted during active season when the reptile species are most likely to be detected. Additionally, CDFW recommends that a qualified biological monitor be on site during ground and habitat disturbing activities to move out of harm's way special status species (see General Comment #2) that would be injured or killed by grubbing or Project-related grading

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activities. It should be noted that the temporary relocation of on-site wildlife does not constitute as effective mitigation for the purposes of offsetting Project impacts associated with habitat loss.

- 6) Impacts to Nesting Birds. The Joshua tree woodland and associated vegetation within the Project site provide potential nesting habitat for a variety of nesting birds and raptors. The proposed Project may impact nesting birds through grading activities and removal of vegetation and trees within the Project site. Furthermore, Project activities occurring during the nesting bird season, especially in areas providing suitable nesting habitat, could result in the incidental loss of fertile eggs or nestlings, or nest abandonment.
 - a) Protection Status. Migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (Code of Federal Regulations, Title 50, § 10.13). Sections 3503, 3503.5, and 3513 of the California Fish and Game Code prohibit take of all birds and their active nests including raptors and other migratory nongame birds (as listed under the Federal MBTA). It is unlawful to take, possess, or needlessly destroy the nest or eggs of any raptor.
 - b) Analysis and Disclosure. CDFW recommends the EIR discuss the Project's potential impact on nesting birds and raptors within the Project site. A discussion of potential impacts should include impacts that may occur during ground-disturbing activities and vegetation removal. The EIR should analyze and discuss the Project's impact on bird and raptor nesting and breeding habitat. The EIR should also disclose the acreage of bird and raptor nesting and breeding habitat that could be impacted and lost as a result of the proposed Project.
 - c) Avoidance. CDFW recommends the EIR include a measure to fully avoid impacts to nesting birds and raptors. To the extent feasible, no construction, ground-disturbing activities (e.g., mobilizing, staging, drilling, and excavating), and vegetation removal during the avian breeding season which generally runs from February 15 through September 15 (as early as January 1 for some raptors) to avoid take of birds, raptors, or their eggs.

If impacts to nesting birds and raptors cannot be avoided, CDFW recommends the EIR include measures to minimize impacts on nesting birds and raptors. Prior to starting ground-disturbing activities and vegetation removal, a qualified biologist should conduct nesting bird and raptor surveys to identify nests. The qualified biologist should establish no-disturbance buffers to minimize impacts on those nests. CDFW recommends a minimum 300-foot no disturbance buffer around active bird nests. For raptors, the no disturbance buffer should be expanded to 500 feet and 0.5 mile for special status species, if feasible. Personnel working on the Project, including all contractors working on site, should be instructed on the presence of nesting birds, area sensitivity, and adherence to no-disturbance buffers. Reductions in the buffer distance may be appropriate depending on the avian species involved, ambient levels of human activity, screening vegetation, or possibly other factors determined by a qualified biologist.

- 7) Landscaping. The proposed Project may entail landscaping around the constructed buildings. CDFW recommends the City only use native species found in naturally occurring vegetation communities within or adjacent to the Project site. The proposed Project should

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not plant, seed, or otherwise introduce non-native, invasive plant species to areas that are adjacent to and/or near native habitat areas. Accordingly, CDFW recommends the City restrict use of any species, particularly 'Moderate' or 'High' listed by the [California Invasive Plant Council](#) (Cal-IPC 2022). These species are documented to have substantial and severe ecological impacts on physical processes, plant and animal communities, and vegetation structure.

- 8) Use of Rodenticides. If the Project results in enhanced landscaping, vegetation may need to be managed via chemical methods. Herbicides, pesticides, and rodenticides may impact wildlife. Second generation anticoagulant rodenticides are known to have harmful effects on the ecosystem and wildlife. [Assembly Bill 1788](#) prohibits the use of any second-generation anticoagulant rodenticides because second generation anticoagulant rodenticides have a higher toxicity and are more dangerous to nontarget wildlife (California Legislative Information 2020). CDFW recommends the EIR include a discussion as to the Project's use of herbicides, pesticides, and second-generation anticoagulant rodenticides to maintain the restored areas within the Project site in perpetuity. CDFW recommends the City include measures that would prohibit the use of any second-generation anticoagulant rodenticides throughout the Project.

General Comments

- 1) Biological Baseline Assessment. The EIR should provide an adequate biological resources assessment, including a complete assessment and impact analysis of the flora and fauna within and adjacent to the Project site and where the Project may result in ground disturbance. The assessment and analysis should place emphasis upon identifying endangered, threatened, sensitive, regionally, and locally unique species, and sensitive habitats. Impact analysis will aid in determining any direct, indirect, and cumulative biological impacts, as well as specific mitigation or avoidance measures necessary to offset those impacts. CDFW recommends avoiding any sensitive natural communities found on or adjacent to the Project site. CDFW also considers impacts to SSC a significant direct and cumulative adverse effect without implementing appropriate avoidance and/or mitigation measures. An environmental document should include the following information:
 - a) Information on the regional setting that is critical to an assessment of environmental impacts, with special emphasis on resources that are rare or unique to the region [CEQA Guidelines, § 15125(c)]. The EIR should include measures to fully avoid and otherwise protect Sensitive Natural Communities from Project-related impacts. CDFW considers these communities as threatened habitats having both regional and local significance. Plant communities, alliances, and associations with a state-wide ranking of S1, S2, and S3 should be considered sensitive and declining at the local and regional level. These ranks can be obtained by visiting the [Vegetation Classification and Mapping Program - Natural Communities](#) webpage (CDFW 2022b);
 - b) A thorough, recent, 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 Sensitive Natural Communities](#) (CDFW 2018). Adjoining habitat areas should be included where Project construction and activities could lead to direct or indirect impacts off site;

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- c) Floristic, alliance- and/or association-based mapping and vegetation impact assessments conducted at a Project site and within the neighboring vicinity. The [Manual of California Vegetation Online](#) should also be used to inform this mapping and assessment (CNPS 2022). Adjoining habitat areas should be included in this assessment the Project could lead to direct or indirect impacts off site. Habitat mapping at the alliance level will help establish baseline vegetation conditions;
 - d) A complete, recent, assessment of the biological resources associated with each habitat type on site and within adjacent areas that could also be affected by a Project. California Natural Diversity Database in Sacramento should be contacted to obtain current information on any previously reported sensitive species and habitat. An assessment should include a nine-quadrangle search of the CNDDDB to determine a list of species potentially present at a Project site. A lack of records in the CNDDDB does not mean that rare, threatened, or endangered plants and wildlife do not occur in the Project site. Field verification for the presence or absence of sensitive species is necessary to provide a complete biological assessment for adequate CEQA review [CEQA Guidelines, § 15003(i)];
 - e) A complete, recent, assessment of rare, threatened, and endangered, and other sensitive species on site and within the area of potential effect, including California Species of Special Concern and California Fully Protected Species (Fish & G. Code, §§ 3511, 4700, 5050, and 5515). Species to be addressed should include all those which meet the CEQA definition of endangered, rare, or threatened species (CEQA Guidelines, § 15380). Seasonal variations in use of a Project site should also be addressed such as wintering, roosting, nesting, and foraging habitat. Focused species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, may be required if suitable habitat is present. See CDFW's [Survey and Monitoring Protocols and Guidelines](#) for established survey protocol for select species (CDFW 2022c). Acceptable species-specific survey procedures may be developed in consultation with CDFW and the USFWS; and
 - f) A recent wildlife and rare plant survey. CDFW generally considers biological field assessments for wildlife to be valid for a one-year period, and assessments for rare plants may be considered valid for a period of up to three years. Some aspects of a proposed Project may warrant periodic updated surveys for certain sensitive taxa, particularly if build out could occur over a protracted time frame or in phases.
- 2) Scientific Collecting Permit. Pursuant to the California Code of Regulations, title 14, section 650, qualified biologist(s) must obtain appropriate handling permits to capture, temporarily possess, and relocated wildlife to avoid harm or mortality in connection with Project-related activities. CDFW has the authority to issue permits for the take or possession of wildlife, including mammals; birds, nests, and eggs; reptiles, amphibians, fish, plants; and invertebrates (Fish & G. Code, §§ 1002, 1002.5, 1003). Effective October 1, 2018, a Scientific Collecting Permit is required to monitor project impacts on wildlife resources, as required by environmental documents, permits, or other legal authorizations; and, to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with otherwise lawful activities (Cal. Code Regs., tit. 14, § 650). Please visit CDFW's [Scientific Collection Permits](#) webpage for information (CDFW 2022e).

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- 3) Translocation/Salvage of Plants and Animal Species. Translocation and transplantation is the process of removing plants and wildlife from one location and permanently moving it to a new location. CDFW generally does not support the use of translocation or transplantation as the primary mitigation strategy for unavoidable impacts to endangered, rare, or threatened plants and animals. Studies have shown that these efforts are experimental and the outcome unreliable. CDFW has found that permanent preservation and management of habitat capable of supporting these species is often a more effective long-term strategy for conserving plants and animals and their habitats.

- 4) Lake and Streambed Alteration Program. The EIR should provide a stream delineation and analysis of impacts. The delineation should be conducted pursuant to the to the USFWS wetland definition adopted by CDFW (Cowardin et al. 1979). Be advised that some wetland and riparian habitats subject to CDFW's authority may extend beyond the jurisdictional limits of the U.S. Army Corps of Engineers' Section 404 permit and Regional Water Quality Control Board Section 401 Certification. Modifications to a river, creek, or stream in one area may result in bank erosion, channel incision, or drop in water level along that stream outside of the immediate impact area. Therefore, CDFW recommends the EIR discuss the potential impact to any stream that may be located within or surrounding the Project site.
 - a) CDFW has authority over activities in streams and/or lakes that will divert or obstruct the natural flow, or change the bed, channel, or bank (including vegetation associated with the stream or lake) of a river or stream or use material from a streambed. For any such activities, the project applicant (or "entity") must notify CDFW pursuant to Fish and Game Code Section 1600 *et seq.* CDFW's issuance of a Lake and Streambed Alteration (LSA) Agreement 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 environmental document of the local jurisdiction (Lead Agency) for the Project. To minimize additional requirements by CDFW pursuant to section 1600 *et seq.* and/or under CEQA, the environmental 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 Agreement. Please visit CDFW's [Lake and Streambed Alteration Program](#) webpage for more information (CDFW 2022i).
 - b) As part of the LSA Notification process, CDFW requests a hydrological evaluation of the 100-year storm event to provide information on how water and sediment is conveyed through the Project site. Additionally, the hydrological evaluation should assess the 100, 50, 25, 10, 5, and 2-year frequency flood events to evaluate existing and proposed conditions and erosion/scour potential. CDFW recommends the EIR discuss the results and address avoidance, minimization, and/or mitigation measures that may be necessary to reduce potential significant impacts.

- 5) Disclosure. A EIR should provide an adequate, complete, and detailed disclosure about the effect which a proposed Project is likely to have on the environment (Pub. Resources Code, § 20161; CEQA Guidelines, §15151). Adequate disclosure is necessary so CDFW may provide comments on the adequacy of proposed avoidance, minimization, or mitigation measures, as well as to assess the significance of the specific impact relative to plant and wildlife species impacted (e.g., current range, distribution, population trends, and connectivity).

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- 6) **Mitigation Measures.** Public agencies have a duty under CEQA to prevent significant, avoidable damage to the environment by requiring changes in projects through the use of feasible alternatives or mitigation measures [CEQA Guidelines, §§ 15002(a)(3), 15021]. Pursuant to CEQA Guidelines section 15126.4, an environmental document “shall describe feasible measures which could mitigate for impacts below a significant level under CEQA.”
 - a) **Level of Detail.** Mitigation measures must be feasible, effective, implemented, and fully enforceable/imposed by the Lead Agency through permit conditions, agreements, or other legally binding instruments (Pub. Resources Code, § 21081.6(b); CEQA Guidelines, § 15126.4). A public agency “shall provide the measures that are fully enforceable through permit conditions, agreements, or other measures” (Pub. Resources Code, § 21081.6). CDFW recommends the City provide mitigation measures that are specific, detailed (i.e., responsible party, timing, specific actions, location), and clear in order for a measure to be fully enforceable and implemented successfully via a mitigation monitoring and/or reporting program (Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15097). Adequate disclosure is necessary so CDFW may provide comments on the adequacy and feasibility of proposed mitigation measures.
 - b) **Disclosure of Impacts.** If a proposed mitigation measure would cause one or more significant effects, in addition to impacts caused by the Project as proposed, the EIR should include a discussion of the effects of proposed mitigation measures [CEQA Guidelines, § 15126.4(a)(1)]. In that regard, the EIR should provide an adequate, complete, and detailed disclosure about a project’s proposed mitigation measure(s). Adequate disclosure is necessary so CDFW may assess the potential impacts of proposed mitigation measures.
- 7) **Data.** CEQA requires that information developed in environmental impact reports 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 by completing and submitting [CNDDDB Field Survey Forms](#) (CDFW 2022d). To submit information on special status native plant populations and sensitive natural communities, the [Combined Rapid Assessment and Relevé Form](#) should be completed and submitted to CDFW’s Vegetation Classification and Mapping Program (CDFW 2022g). The City should ensure data collected for the preparation of the EIR be properly submitted, with all data fields applicable filled out. The data entry should also list pending development as a threat and then update this occurrence after impacts have occurred.
- 8) **Biological Direct, Indirect, and Cumulative Impacts.** CDFW recommends providing a thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources, with specific measures to offset such impacts. The EIR should address the following:
 - a) A discussion regarding Project-related indirect impacts on biological resources, including resources in nearby public lands, open space, adjacent natural habitats, riparian ecosystems, and any designated and/or proposed or existing reserve lands [e.g., preserve lands associated with a Natural Community Conservation Plan (Fish & G. Code, § 2800 et. seq.)]. Impacts on, and maintenance of, wildlife corridor/movement

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- areas, including access to undisturbed habitats in adjacent areas, should be fully evaluated in the EIR;
- b) A discussion of both the short-term and long-term effects to species population distribution and concentration and alterations of the ecosystem supporting the species impacted [CEQA Guidelines, § 15126.2(a)];
 - c) A discussion of potential adverse impacts from lighting, noise, temporary and permanent human activity, and exotic species, and identification of any mitigation measures;
 - d) A discussion of Project-related changes on drainage patterns; the volume, velocity, and frequency of existing and post-Project surface flows; polluted runoff; soil erosion and/or sedimentation in streams and water bodies; and post-Project fate of runoff from the Project sites. The discussion should also address the potential water extraction activities and the potential resulting impacts on the habitat (if any) supported by the groundwater. Mitigation measures proposed to alleviate such Project impacts should be included;
 - e) An analysis of impacts from proposed changes to land use designations and zoning, and existing land use designation and zoning located nearby or adjacent to natural areas that may inadvertently contribute to wildlife-human interactions. A discussion of possible conflicts and mitigation measures to reduce these conflicts should be included in the EIR; and
 - f) A cumulative effects analysis, as described under CEQA Guidelines section 15130. General and specific plans, as well as past, present, and anticipated future projects, should be analyzed relative to their impacts on similar plant and wildlife species, habitat, and vegetation communities. If the City determines that the Project would not have a cumulative impact, the EIR should indicate why the cumulative impact is not significant. The City's conclusion should be supported by facts and analyses [CEQA Guidelines, § 15130(a)(2)].
- 9) Compensatory Mitigation. The EIR should include mitigation measures for adverse Project-related direct or indirect impacts to sensitive plants, animals, and habitats. Mitigation measures should emphasize avoidance and reduction of Project-related impacts. For unavoidable impacts, on-site habitat restoration or enhancement should be discussed in detail. If on-site mitigation is not feasible or would not be biologically viable and therefore not adequately mitigate the loss of biological functions and values, off-site mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed. Areas proposed as mitigation lands should be protected in perpetuity with a conservation easement, financial assurance and dedicated to a qualified entity for long-term management and monitoring. Under Government Code, section 65967, 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.
- 10) Long-term Management of Mitigation Lands. For proposed preservation and/or restoration, an EIR should include measures to protect the targeted habitat values from direct and indirect negative impacts in perpetuity. The objective should be to offset the Project-induced qualitative and quantitative losses of wildlife habitat values. Issues that should be addressed

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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 set aside to provide for long-term management of mitigation lands.

Conclusion

We appreciate the opportunity to comment on the NOP for the Antelope Valley Commerce Center: General Plan Amendment 22-001, Zone Change 22-001, Specific Plan 22-001, Tentative Parcel Map 83738, and Site Plan Review 22-008 Project to assist the City in identifying and mitigating Project impacts on biological resources. If you have any questions or comments regarding this letter, please contact Julisa Portugal, Environmental Scientist, at Julisa.Portugal@wildlife.ca.gov or (562) 330-7563.

Sincerely,

DocuSigned by:



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Erinn Wilson-Olgin

Environmental Program Manager I
South Coast Region

ec: CDFW

Erinn Wilson-Olgin – Erinn.Wilson-Olgin@wildlife.ca.gov
Victoria Tang – Los Alamitos – Victoria.Tang@wildlife.ca.gov
Ruby Kwan-Davis – Los Alamitos – Ruby.Kwan-Davis@wildlife.ca.gov
Felicia Silva – Los Alamitos – Felicia.Silva@wildlife.ca.gov
Cindy Hailey – San Diego – Cindy.Hailey@wildlife.ca.gov
CEQA Program Coordinator – Sacramento – CEQACommentLetters@wildlife.ca.gov
State Clearinghouse - state.clearinghouse@opr.ca.gov

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