



STATE OF CALIFORNIA • NATURAL RESOURCES AGENCY Gavin Newson, Governor  
DEPARTMENT OF FISH AND WILDLIFE Charlton H. Bonham, Director

South Coast Region  
3883 Ruffin Road | San Diego, CA 92123  
wildlife.ca.gov



June 7, 2023

Cynthia Campaña  
City of Lancaster  
44933 Fern Ave  
Lancaster, CA 93534  
[ccampana@cityoflanasterca.gov](mailto:ccampana@cityoflanasterca.gov)

**Subject: Draft Environmental Impact Report for Eastside Overlay Zone (Project),  
SCH #2022100641, City of Lancaster, Los Angeles County**

Dear Ms. Campaña:

The California Department of Fish and Wildlife (CDFW) has reviewed the Eastside Overlay Zone (Project) proposed by the City of Lancaster (City). CDFW appreciates the opportunity to provide comments regarding aspects of the Project that could affect fish and wildlife resources and be subject to CDFW's 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 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

Cynthia Campaña

June 7, 2023

Page 2 of 37

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.), 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 City is proposing to establish an East Side Overlay Zone in the eastern portion of Lancaster. In addition to the permitted uses under the existing RR-2.5 (Rural Residential, 1 du/ac) and R-7,000 (Single Family Residential, minimum lot size 7,000 square feet) zones, the overlay zone would allow for additional uses. Generally, the proposed overlay zone would permit new light industrial uses such as alcohol production, contractor storage yards, and research and development. Other new uses subject to conditional use permits include alternative energy uses; automobile repair; building trades and related uses; distribution; food manufacturing, processing, wholesale sales, and storage; light manufacturing; and warehousing. The proposed overlay zone also provides development standards related to parking, height, noise, and other additional standards for light industrial uses.

**Location:** The Project site encompasses an approximately 5,841-acre area identified as the East Side Overlay Zone in the City of Lancaster, which is located in the Antelope Valley in northern Los Angeles County. The proposed overlay zone is generally bound by Avenue J to the north, 110th Street East to the east, Avenue L to the south, and 40th Street East to the west.

## **Comments and Recommendations**

CDFW offers comments and recommendations below to assist the City in adequately identifying the Project’s significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources. CDFW recommends the City consider our comments and recommendations when preparing an environmental document that may provide adequate and complete disclosure of the Project’s potential impacts on biological resources [Pub. Resources Code, § 21061; CEQA Guidelines, §§ 15003(i), 15151].

## **Specific Comments**

### **Comment #1: Impacts to Swainson’s Hawk (*Buteo swainsoni*)**

Cynthia Campaña

June 7, 2023

Page 3 of 37

**Issue:** The Project may impact habitat for Swainson's hawk.

**Specific impacts:** Swainson's hawk are regularly observed foraging and nesting throughout the Palmdale and Lancaster area. The Project may potentially result in the loss of habitat for a CESA-listed raptor species.

**Why impact would occur:** The DEIR states that Swainson's hawk were "observed during a field survey conducted in 2022 by Michael Baker within a portion of the project site." Despite the observation within the Project area, the DEIR does not provide avoidance measures to minimize the impacts to Swainson's hawk. Aside from no avoidance measures in the DEIR, no protocol-level focused survey was conducted or recommended for Swainson's hawk presence. If a protocol-level Swainson's hawk survey was conducted, there is potential that further species presence may be observed. Project activities without surveys could result in injury or mortality of unidentified Swainson's hawk. Lastly, Project construction activities will result in loss of habitat if Swainson's hawk are present.

**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 20<sup>th</sup> 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 may 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) Required for Future Projects:**

**Mitigation Measure #1:** CDFW released guidance for this species entitled [Swainson's Hawk Survey Protocols, Impact Avoidance, and Minimization Measures for Renewable Energy Projects in the Antelope Valley of Los Angeles](#)

Cynthia Campaña

June 7, 2023

Page 4 of 37

[and Kern Counties, California](#) (2010). CDFW recommends the City require future project applicants to conduct focused surveys for Swainson's hawk following the 2010 guidance and disclose 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 CESA-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 CESA-listed species.

**Mitigation Measure #2:** Permanent impacts to 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 conservation methods. For proposed preservation and/or restoration, the final environmental 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 CDFW-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.

## **Comment #2: Impacts on Species of Special Concern**

**Issue:** The Project may impact designated California Species of Special Concern (SSC), including American badger (*Taxidea taxus*).

**Specific impacts:** Future project construction and activities, directly or through habitat modification, may result in direct injury or mortality (trampling, crushing), reduced reproductive capacity, population declines, or local extirpation of SSC.

Cynthia Campaña

June 7, 2023

Page 5 of 37

Also, loss of foraging, breeding, or nursery habitat for SSC may occur.

**Why impacts would occur:** The DEIR states that signs of American badger “have been previously observed on-site.” However, there were no avoidance, minimization, or mitigation measures provided in the DEIR. As such, there is potential for the Project to impact SSC. Without appropriate avoidance or minimization measures, impacts to an SSC could result from ground-disturbing activities and vegetation removal. Wildlife may be trapped or crushed under structures. Large equipment, equipment and material staging, and vehicle and foot traffic could trample or bury wildlife. SSC could be injured or killed. Impacts on these SSC are more likely to occur because these are cryptic species that may seek refuge under structures.

**Evidence impacts would be significant:** A [California Species of Special Concern](#) is a species, subspecies, or distinct population of an animal native to California that currently satisfies one or more of the following (not necessarily mutually exclusive) criteria: is extirpated from the State or, in the case of birds, is extirpated in its primary season or breeding role;

- is listed as ESA-, but not CESA-, threatened, or endangered; meets the State definition of threatened or endangered but has not formally been listed;
- is experiencing, or formerly experienced, serious (noncyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status; and/or
- has naturally small populations exhibiting high susceptibility to risk from any factor(s), that if realized, could lead to declines that would qualify it for CESA threatened or endangered status (CDFWa 2023).

CEQA provides protection not only for CESA-listed species, but for any species including but not limited to SSC that 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).

Impacts to any sensitive or special status species should be considered significant under CEQA unless they are clearly mitigated below a level of significance. The DEIR does not provide mitigation for potential impacts on SSC. Inadequate avoidance, minimization, and mitigation measures for impacts to sensitive or special status 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,

Cynthia Campaña

June 7, 2023

Page 6 of 37

sensitive, or special-status species by CDFW.

### **Recommended Potentially Feasible Mitigation Measure(s) for Future Projects:**

**Mitigation Measure #3: Biological Monitor** - To avoid direct injury and mortality of any SSC, CDFW recommends the City require future project applicants to have a qualified biologist on site to move out of harm's way wildlife of low mobility that would otherwise be injured or killed. Wildlife should be protected, allowed to move away on its own (non-invasive, passive relocation), or relocated to suitable habitat adjacent to the Project site. In areas where any SSC was found, work may only occur in these areas after a qualified biologist has determined it is safe to do so. Even so, the qualified biologist should advise workers to proceed with caution near flagged areas. A qualified biologist should be on site daily during initial ground and habitat disturbing activities and vegetation removal. Then, the qualified biologist should be on site weekly or bi-weekly (once every two weeks) for the remainder of the project until the cessation of all ground disturbing activities to ensure that no wildlife of any kind is harmed.

**Mitigation Measure #4: Scientific Collecting Permit** – CDFW recommends the City require future project applicants retain a qualified biologist with appropriate handling permits, or should obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and 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 (CDFWb 2023). Pursuant to the [California Code of Regulations, title 14, section 650](#), the Project Applicant/qualified biologist must obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities. An LSA Agreement may provide similar take or possession of species as described in the conditions of the agreement.

**Mitigation Measure #5: Wildlife Relocation Plan** - Prior to initial ground and habitat disturbing activities and vegetation removal, CDFW recommends the Project Applicant retain a qualified biologist to prepare a Wildlife Relocation Plan. The Wildlife Relocation Plan should describe all wildlife species that could



Cynthia Campaña

June 7, 2023

Page 7 of 37

occur within the Project site and proper handling and relocation protocols. The Wildlife Relocation Plan should include species-specific relocation areas, at least 200 feet outside of the Project site and in suitable and safe relocation areas. The Project Applicant should submit a copy of a Wildlife Relocation Plan to the City prior to initial ground and habitat disturbing activities and vegetation removal. No wildlife nests, eggs, or nestlings may be removed or relocated at any time.

**Mitigation Measure #6: Injured or Dead Wildlife** – If any SSC are harmed during relocation or a dead or injured animal is found, work in the immediate area should stop immediately, the qualified biologist should be notified, and dead or injured wildlife documented immediately. A formal report should be sent to CDFW and the City within three calendar days of the incident or finding. The report should include the date, time of the finding or incident (if known), and location of the carcass or injured animal and circumstances of its death or injury (if known). Work in the immediate area may only resume once the proper notifications have been made and additional mitigation measures have been identified to prevent additional injury or death.

### **Comment #3: Impacts to Nesting Birds**

**Issue:** Project activities may impact special status nesting birds, including western snowy plover (*Charadrius alexandrinus nivosus*), California horned lark (*Eremophila alpestris actia*), loggerhead shrike (*Lanius ludovicianus*), and yellow-headed blackbird (*Xanthocephalus xanthocephalus*).

**Specific impacts:** Construction during the breeding season of special status nesting birds could result in the incidental loss of fertile eggs or nestlings or otherwise lead to nest abandonment in habitat adjacent to a Project site.

**Why impact would occur:** A review of California Natural Diversity Database (CNDDDB) indicates occurrences of western snowy plover (ESA-listed, California Species of Special Concern) within and adjacent to the Project area. In addition, the DEIR states the California horned lark, loggerhead shrike, and yellow-headed blackbird were “observed during a field survey conducted in 2022 by Michael Baker within a portion of the project site.” The DEIR does not provide any specific avoidance or minimization measures for nesting birds. Without any protective measures, impacts to nesting birds could result from ground disturbing activities. Furthermore, impacts could result from noise disturbances, increased human activity, increased lighting, fugitive dust, other ground disturbing activities (e.g., staging, access, excavation, grading), and vibrations caused by heavy equipment. Project disturbance activities could result in mortality or injury to nestlings, as well temporary or long-term loss of

Cynthia Campaña

June 7, 2023

Page 8 of 37

suitable 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:** 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) Required for Future Projects:**

**Mitigation Measure #7:** To protect nesting birds that may occur within the Project boundary, CDFW recommends that no vegetation removal or ground-disturbing activities occur from February 1 through September 15, as early as January 1 for some raptors.

#### **Comment #4: Inadequate Disclosure of Adequacy of Biological Impact Fee**

**Issue:** The DEIR does not provide sufficient information for CDFW to evaluate the adequacy of the Biological Impact Fee to offset the cumulative loss of biological resources in the Antelope Valley.

**Specific Impacts:** The Project area encompasses 5,841 acres of land, much of which is open space. Development across this area may result in permanent loss of habitat that may support rare plants and/or SSCs.

**Why impacts would occur:** According to page 5.4-13 in the DEIR, the Project's cumulative impacts on biological resources in the Antelope Valley would be mitigated through payment of a \$770/acre Biological Impact Fee. The Biological Impact Fee would "mitigate long-term incremental impacts of new development on biological resources on a regional basis." The DEIR does not explain or make a connection as to why payment of the Biological Impact Fee is adequate to offset Project impacts so that the Project would not have a cumulative impact on biological resources in the Antelope Valley. The DEIR does not discuss or provide the following information:

- 1) Whether the Biological Impact Fee is going towards an established program;



Cynthia Campaña

June 7, 2023

Page 9 of 37

- 2) How that program is designed to (and will) mitigate the effects at issue at a level meaningful for purposes of CEQA;
- 3) What the Biological Impact Fee would acquire. It is unclear if the Biological Impact Fee would be used to acquire land for preservation, enhancement, and/or restoration purposes, or if the Biological Impact Fee would be used to purchase credits at a mitigation bank, or none of the above;
- 4) What biological resources would the Biological Impact Fee protect/conserv;
- 5) Why the Biological Impact Fee is appropriate for mitigating cumulative loss of biological resources in the Antelope Valley;
- 6) How \$770/acre is sufficient to purchase land or credits at a mitigation bank;
- 7) Where the City may acquire land or purchase credits at a mitigation bank so that the Biological Impact Fee would offset Project impacts on biological resources in the Antelope Valley;
- 8) When the City would use the Biological Impact Fee. Mitigation payment does not equate to mitigation if the funds are not being used. Also, temporal impacts on biological resources may occur as long as the City fails to implement its proposed mitigation;
- 9) How the City would commit the Project to paying the Biological Impact Fee. For example, when would the City require payment, how long would the Project Applicant have to pay the fee, and what mechanisms would the City implement to ensure the fee is paid? Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments (CEQA Guidelines, § 15126.4).
- 10) What performance measures the proposed mitigation would achieve (CEQA Guidelines, § 15126.4);
- 11) What type(s) of potential action(s) that can feasibly achieve those performance standards (CEQA Guidelines, § 15126.4); and
- 12) How the Biological Impact Fee would be adequate such that the Project would not have a cumulative impact on biological resources in the Antelope Valley.

**Evidence impacts would be significant:** The basic purpose of an environmental document is to provide public agencies and the public in general with detailed information about the effect a proposed project is likely to have on the environment, and ways and manners in which the significant effects of such a project might be minimized (Pub. Resources Code, §§ 21002.1, 21061). The DEIR is insufficient as an informational document because it fails to discuss the ways and manners in which the Biological Impact Fee would mitigate for the Project's cumulative impacts on biological resources in the Antelope Valley. Mitigation

Cynthia Campaña

June 7, 2023

Page 10 of 37

measures should be adequately discussed and the basis for setting a particular measure should be identified [CEQA Guidelines, § 15126.4(a)(1)(B)]. The DEIR does not provide enough information to facilitate meaningful public review and comment on the appropriateness of the Biological Impact Fee at mitigating for impacts on biological resources. This Project may have a significant effect on the environment because the Project may reduce habitat for rare plants or wildlife; cause rare plants or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; and substantially reduce the number or restrict the range of an endangered, rare, or threatened species [CEQA Guidelines, § 15065(a)(1)]. Furthermore, the Project may contribute to the ongoing loss of sensitive, special status, threatened, and/or endangered plants, wildlife, and natural communities in the Antelope Valley. The Project may have possible environmental effects that are cumulatively considerable [CEQA Guidelines, § 15065(a)(3)]. The City is acknowledging that the Project would contribute to the cumulative loss of biological resource in the Antelope Valley because the City is proposing a Biological Impact Fee as compensatory mitigation. The Biological Impact Fee may be inadequate mitigation absent commitment, specific performance standards, and actions to achieve performance standards. 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 in local or regional plans, policies, or regulations, or by CDFW or USFWS.

### **Recommended Potentially Feasible Mitigation Measure(s) Required for Future Projects:**

**Recommendation #1:** CDFW recommends the City revise the DEIR to provide adequate, complete, and good-faith disclosure of information that would address the following in relation to the Project:

- 1) Whether the Biological Impact Fee is going towards an established program;
- 2) How the Biological Impact Fee/program is designed to (and will) mitigate the effects at issue at a level meaningful for purposes of CEQA;
- 3) What the Biological Impact Fee would acquire;
- 4) What biological resources would the Biological Impact Fee protect/conserve;
- 5) Why the Biological Impact Fee is appropriate for mitigating the cumulative loss of biological resources in the Antelope Valley;
- 6) Why the Biological Impact Fee is sufficient to purchase land or credits at a mitigation bank;

Cynthia Campaña

June 7, 2023

Page 11 of 37

- 7) Where land would be acquired or where the mitigation bank is located;
- 8) When the Biological Impact Fee would be used; and,
- 9) How the Biological Impact Fee would be adequate such that the Project would not have a cumulative impact on biological resources in the Antelope Valley. The MND should provide any technical data, maps, plot plans, diagrams, and similar relevant information in addressing these concerns (CEQA Guidelines, § 15147).

**Recommendation #2:** The DEIR should include a discussion describing commitment to mitigation via the Biological Impact Fee. For example, the DEIR should provide specifics as to when the City would pay the Biological Impact Fee; what mechanisms the City would implement to ensure the Biological Impact Fee is paid; and when and where the Biological Impact Fee would be used to offset the Project's impacts. Also, the DEIR should provide specific performance standards as well as actions to achieve those performance standards.

### **Additional Recommendations**

**Recommendation #3:** CDFW recommends modifying BIO-1 to include underlined language and remove language with strikethrough:

"Each future development within the overlay zone subject to California Environmental Quality Act (CEQA) review (meaning, subject to discretionary action and non-exempt from CEQA) shall be screened by the City of Lancaster Community Development Department to determine whether a Biological Resources Assessment is required. Screening shall consider the type of project and project site conditions. If the site is fully developed with no existing vegetation, then a Biological Resources Assessment shall not be required. If the site has existing vegetation on-site and/or is undeveloped and vacant, prior to issuance of any permits required to conduct ground disturbing activities, the City may require a Biological Resources Assessment be prepared by a qualified biologist for review and approval by the City of Lancaster Community Development Department. The assessment shall include biological field survey(s) of the project site to characterize the extent and quality of habitat that would be impacted by development. The potential presence of special-status species on-site may support conducting focused plant or wildlife species surveys. Surveys shall be conducted by qualified biologists and/or botanists in accordance with California Department of Fish and Wildlife

Cynthia Campaña

June 7, 2023

Page 12 of 37

(CDFW) and/or United States Fish and Wildlife Service (USFWS) survey protocols for target species. If no special status/sensitive species, sensitive habitats/natural communities, or federally protected wetlands are observed during the field survey, then no further mitigation will be required. If biological resources are documented on the project site, the project proponent shall comply with the applicable requirements of the regulatory agencies and shall apply mitigation determined through the agency permitting process. Biological Resources Assessments shall provide and include the following:

1. A complete, recent, assessment of rare, threatened, and endangered species, regionally and locally unique species, and sensitive habitats at the project 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 shall include all those which meet the CEQA definition of endangered, rare, or threatened species (CEQA Guidelines, § 15380). Seasonal variations in use of land around the project site shall also be addressed. A nine-quadrangle search of CDFW's [California Natural Diversity Database](#) (CNDDDB) shall be conducted to obtain current information on any previously reported sensitive species and habitat (CDFW 2023c);
2. A thorough, recent, floristic-based assessment of special status plants and natural communities following CDF's [Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities](#) (CDFW 2018). Adjoining habitat areas shall be included where project construction and activities could lead to direct or indirect impacts off site;
3. Floristic, alliance- and/or association-based mapping and vegetation impact assessments conducted at the project site and within the area of potential effect. The [Manual of California Vegetation](#) (MCV), second edition, shall be used to inform this mapping and assessment;
4. A rare plant assessment using online databases for rare, threatened, and endangered plants, including the California Native Plant Society (CNPS) [Online Inventory of Rare and Endangered Plants of California](#) (CNPS 2022) as well as the Calflora's [Information on Wild California Plants](#) database (Calflora 2022);

Cynthia Campaña

June 7, 2023

Page 13 of 37

5. A discussion regarding project-related indirect impacts on biological 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.)]; and
6. Impacts on, and maintenance of, wildlife corridor/movement areas, including access to undisturbed habitats in areas adjacent to the project site.

**Recommendation #4:** CDFW recommends modifying BIO-2 to include underlined language and remove language with strikethrough:

“Should a future project require the removal of western Joshua trees (*Yucca brevifolia brevifolia*; a State Candidate species for listing), an accurate census of the number of trees to be impacted shall be conducted by a qualified biologist in accordance with California Department of Fish and Wildlife (CDFW) protocols. The census report shall be submitted for review and approval by the City of Lancaster Community Development Department. An Incidental Take Permit shall also be obtained from the CDFW prior to any ground disturbing activities that may adversely affect the western Joshua tree. Early consultation with CDFW is encouraged, as significant modification to the Project and mitigation measures may be required to obtain an ITP. In the event an Incidental Take Permit (ITP) is required, the City shall require future project applicants to submit an ITP Application to CDFW that provides the following information (at a minimum):

1. An analysis of individual western Joshua trees (clonal and non-clonal) and western Joshua tree seedbank that would be impacted both within the Project site and within 300 feet of the Project site;
2. An analysis of the acres of natural communities supporting western Joshua trees that would be impacted both within the Project site and within 300 feet of the Project site provided according to alliance and/or association-based natural communities found in the [Manual of California Vegetation](#) (MCV), second edition (Sawyer et al. 2009);
3. A map of the Project’s site plan overlaid on location of western Joshua trees and natural communities; and
4. A discussion of whether development could impact any in-situ western Joshua trees adjacent to the Project site.

Cynthia Campaña

June 7, 2023

Page 14 of 37

The future project applicant shall provide compensatory mitigation for any future project's impact on western Joshua trees at no less than 2:1, or as required in an ITP for western Joshua trees issued by CDFW. Mitigation shall be higher if the project will impact a western Joshua tree population that is increasing through seedling recruitment. Mitigation lands provided by the City shall (at a minimum):

1. Support western Joshua trees of similar density, abundance, and age structure;
2. Support natural communities of similar native plant species composition, density, structure, and function to habitat that was impacted;
3. Support nursery plants for western Joshua tree recruits; and
4. Not be exposed or have the potential to be exposed to disturbances such as OHV activity, illegal access, and encroachment from pending or future development.

The City shall require the project applicants to protect mitigation lands in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands pursuant to Assembly Bill 1094 (2012). Assembly Bill 1094 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. An appropriate non-wasting endowment shall be provided for the long-term management of mitigation lands. A mitigation plan shall include measures to protect the targeted habitat values in perpetuity from direct and indirect negative impacts. Issues that shall be addressed include but are not limited to the following: protection from any future development and zone changes; restrictions on access; proposed land dedications; control of illegal dumping; water pollution; and, increased human intrusion. A conservation easement and endowment funds shall be fully acquired, established, transferred, or otherwise executed prior to impacts on western Joshua trees.

Future applicants shall disclose the Project's impacts in subsequent CEQA documents on western Joshua tree by providing the following information:



Cynthia Campaña

June 7, 2023

Page 15 of 37

1. The Project's potential impact on western Joshua tree seedbank within the Project site;
2. The Project's potential impact on western Joshua trees and seedbank adjacent to the Project site;
3. The Project's potential impact on each unique native and non-native natural community supporting western Joshua trees within and adjacent to the Project site;
4. The Project's construction, operation, and maintenance activities that could impact western Joshua trees and seedbank within and adjacent to the Project site; and
5. The Project's cumulative impact on western Joshua tree.

**Recommendation #5:** CDFW recommends modifying BIO-3 to include underlined language and remove language with strikethrough:

"If suitable habitat for burrowing owl is observed during A habitat assessment shall be conducted as a part of the biological field survey conducted as part of Mitigation Measure BIO-1., two separate pre-construction burrowing owl clearance surveys shall be conducted prior to any vegetation removal or ground disturbing activities. One survey shall be conducted no less than 14 days prior to disturbance and the other survey within 24 hours prior to ground disturbance. The habitat assessment shall adhere to survey methods described in CDFW's March 7, 2012, [Staff Report on Burrowing Owl Mitigation](#) (CDFW 2012) to determine no owls have moved on site. The habitat assessment will determine whether or not protocol-level surveys are needed for burrowing owls. It is advisable to conduct preconstruction surveys with protocol level surveys in mind since they have specific number and timing requirements, according to the Staff Report (see below).

All survey efforts shall be conducted by a qualified biologist. If protocol-level surveys are necessary, survey protocol for breeding season owl surveys require four survey visits: 1) at least one site visit between February 15 and April 15; and, 2) a minimum of three survey visits, at least three weeks apart, between April 15 and July 15, with at least one visit after June 15. Full disclosure of the presence/absence of burrowing owls is necessary to help the City's determination of whether the Project would impact burrowing owls, thus requiring mitigation. The Project and environmental document shall be conditioned to avoid and/or mitigate for potential impacts to burrowing owl and habitat.

Cynthia Campaña

June 7, 2023

Page 16 of 37

~~The survey shall be conducted by a qualified biologist and in accordance with the methods outlined in the *Staff Report on Burrowing Owl Mitigation* (California Department of Fish and Game 2012).~~ Documentation of surveys and findings shall be submitted to the City of Lancaster Community Development Department for review and file. If no burrowing owls or occupied burrows are detected, project activities may begin, and no additional avoidance and minimization measures shall be required. If an occupied burrow is found outside, but within 500 feet, of the development footprint, the qualified biologist shall establish a "no disturbance" buffer around the burrow location(s). The size of the "no-disturbance" buffer shall be determined in consultation with California Department of Fish and Wildlife (CDFW) and be based on the species status (i.e., breeding, non-breeding) and proposed level of disturbance. If an occupied burrow is found within the development footprint and cannot be avoided, a burrowing owl exclusion and mitigation plan shall be prepared and submitted to CDFW for approval prior to initiating project activities."

**Recommendation #6:** CDFW recommends modifying BIO-3 to include underlined language and remove language with strikethrough:

"Each future development within the overlay zone subject to California Environmental Quality Act (CEQA) review (meaning, subject to discretionary action and non-exempt from CEQA) shall be screened by the City of Lancaster Community Development Department to determine whether a formal jurisdictional delineation is required. Screening shall consider the type of project and project site conditions. If there is no presence for any potential jurisdictional resource(s), then a formal jurisdictional delineation shall not be required. If the site has the potential for jurisdictional resources to occur on-site, prior to issuance of any permits required to conduct ground disturbing activities, the City may require a formal jurisdiction delineation to be conducted by a qualified biologist to confirm the presence or absence of any identified aquatic features, including features not visible via aerial imagery. The jurisdictional delineation shall determine the extent of State and Federal jurisdictional areas. The formal jurisdictional delineation shall be submitted for review, approval, and final determination of jurisdictional limits by the City of Lancaster Development Services Department, Community Development Division and applicable regulatory agency(ies) (i.e., U.S. Army Corps of Engineers, Regional Water Quality Control Board, and/or California Department of Fish and Wildlife).

Cynthia Campaña

June 7, 2023

Page 17 of 37

For any impacts to streams, the project applicant will notify CDFW pursuant to Fish and Game Code 1602 and obtain an LSA Agreement from CDFW prior to obtaining a grading permit. The project applicant shall comply with the mitigation measures detailed in an LSA Agreement issued by CDFW. The project applicant shall also provide compensatory mitigation at no less than 2:1 for the impacted stream and associated natural community, or at a ratio acceptable to CDFW. Please visit CDFW's [Lake and Streambed Alteration Program](#) webpage for more information (CDFWd 2023).

The LSA Notification shall include a hydrology report to evaluate whether altering upslope vegetation within the project site may impact hydrologic activity downslope and downstream of the project site. The hydrology report shall also include an analysis to determine if project activities will impact the current hydrologic regime or change the velocity of flows entering the streams and downstream. CDFW also requests a hydrological evaluation of any potential scour or erosion at the Project site and downstream due to a 100, 50, 25, 10, 5, and 2-year frequency storm event for existing and proposed conditions to determine how the project activities may change the hydrology on site.

Any Best Management Practice (BMPs) infrastructure that are installed will 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 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."

**Recommendation #7:** CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database [i.e., CNDDDB] which may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Information on special status species should be submitted to the CNDDDB by completing and submitting [CNDDDB Field Survey Forms](#) (CDFWe 2023). Information on special status native plant populations and sensitive natural

Cynthia Campaña

June 7, 2023

Page 18 of 37

communities, the [Combined Rapid Assessment and Relevé Form](#) should be completed and submitted to CDFW's Vegetation Classification and Mapping Program (CDFWf 2023).

**Recommendation #8:** Rodenticides and second-generation anticoagulant rodenticides should be prohibited both during and over the life of the Project.

**Recommendation #9:** CDFW recommends the City update the Project's proposed Biological Resources Mitigation Measures and condition the environmental document to include mitigation measures recommended in this letter. CDFW provides comments to assist the City in developing mitigation measures that are specific, detailed (i.e., responsible party, timing, specific actions, location), and clear for a measure to be fully enforceable and implemented successfully via a mitigation monitoring and/or reporting program (CEQA Guidelines, § 15097; Pub. Resources Code, § 21081.6). The City is welcome to coordinate with CDFW to further review and refine the Project's mitigation measures. Per Public Resources Code section 21081.6(a)(1), CDFW has provided the City with a summary of our suggested mitigation measures and recommendations in the form of an attached Draft Mitigation and Monitoring Reporting Plan (MMRP; Attachment A).

## Conclusion

CDFW appreciates the opportunity to provide comments and recommendations regarding the Project to assist the City of Lancaster in adequately analyzing and minimizing/mitigating impacts to biological resources. If you have any questions or comments regarding this letter, please contact Felicia Silva, Environmental Scientist, at [Felicia.Silva@wildlife.ca.gov](mailto:Felicia.Silva@wildlife.ca.gov) or (562) 292-8105.

Sincerely,

DocuSigned by:



Erin Wilson-Olgin

Environmental Program Manager I

EC: CDFW

Victoria Tang – Seal Beach – [Victoria.Tang@wildlife.ca.gov](mailto:Victoria.Tang@wildlife.ca.gov)

Ruby Kwan-Davis – Seal Beach – [Ruby.Kwan-Davis@wildlife.ca.gov](mailto:Ruby.Kwan-Davis@wildlife.ca.gov)

Julisa Portugal – Seal Beach – [Julisa.Potugal@wildlife.ca.gov](mailto:Julisa.Potugal@wildlife.ca.gov)

Felicia Silva – Seal Beach – [Felicia.Silva@wildlife.ca.gov](mailto:Felicia.Silva@wildlife.ca.gov)

Andrew Aitken – Seal Beach – [Andrew.Aitken@wildlife.ca.gov](mailto:Andrew.Aitken@wildlife.ca.gov)

Cynthia Campaña

June 7, 2023

Page 19 of 37

Cindy Hailey – San Diego – [Cindy.Hailey@wildlife.ca.gov](mailto:Cindy.Hailey@wildlife.ca.gov)  
Jennifer Ludovissy – San Diego – [Jennifer.Ludovissy@wildlife.ca.gov](mailto:Jennifer.Ludovissy@wildlife.ca.gov)  
CEQA Program Coordinator – Sacramento –  
[CEQACommentLetters@wildlife.ca.gov](mailto:CEQACommentLetters@wildlife.ca.gov)

State Clearinghouse - [state.clearinghouse@opr.ca.gov](mailto:state.clearinghouse@opr.ca.gov)

## References:

- Bloom, P. H. 1980. The status of the Swainson's hawk in California, 1979. Bureau of Land Management, Sacramento, CA, USA.
- Calflora. 2022. Information on Wild California Plants. Available from:  
<https://www.calflora.org/>
- 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>).
- [CDFW] California Department of Fish and Wildlife. 2012. Staff Report on Burrowing Owl Mitigation. Available from:  
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843>.
- California Department of Fish and Wildlife [CDFW]. 2016. Status review: Swainson's hawk (*Buteo swainsoni*) in California. Report to the California Fish and Game Commission, Sacramento, CA, USA.
- [CDFW] California Department of Fish and Wildlife. 2018. Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities. Available from:  
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959>
- [CDFWa] California Department of Fish and Wildlife. 2023. Scientific Collecting Permit. Available from: <https://wildlife.ca.gov/Licensing/Scientific-Collecting#53949678>
- [CDFWb] California Department of Fish and Wildlife. 2023. Species of Special Concern. Available from: <https://wildlife.ca.gov/Conservation/SSC>
- [CDFWc] California Department of Fish and Wildlife. 2022. California Natural Diversity Database. Available from: <https://wildlife.ca.gov/Data/CNDDDB/Maps-andData#43018408-cnddb-in-bios>
- [CDFWd] California Department of Fish and Wildlife. 2023. Lake and Streambed Alteration Program. Available from:  
<https://wildlife.ca.gov/Conservation/Environmental-Review/LSA>

Cynthia Campaña

June 7, 2023

Page 20 of 37

[CDFWe] California Department of Fish and Wildlife. 2023. Submitting Data to the CNDDDB. Available from: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>.

[CDFWf] California Department of Fish and Wildlife. 2023. Combined Rapid Assessment and Releve Form. Available from: <https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities/Submit>

[CNPS] California Native Plant Society, Rare Plant Program. 2022. Inventory of Rare and Endangered Plants of California (online edition, v9-01 1.0). Available from: <https://www.rareplants.cnps.org>

[MCV]. A Manual of California Vegetation, 2nd ed. (2022) Available from: <https://vegetation.cnps.org/>





STATE OF CALIFORNIA • NATURAL RESOURCES AGENCY Gavin Newsom, Governor  
DEPARTMENT OF FISH AND WILDLIFE Charlton H. Bonham, Director

South Coast Region  
3883 Ruffin Road | San Diego, CA 92123  
wildlife.ca.gov

## Attachment A: Draft Mitigation and Monitoring Reporting Plan

CDFW recommends the following language to be incorporated into the Project's environmental document.

Biological Resources (BIO)		
Mitigation Measure (MM) or Recommendation (REC)		Timing
<b>MM-BIO-1-Swainson's Hawk</b>	CDFW released guidance for this species entitled <a href="#"><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></a> (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-related actions if it adequately analyzes/discloses impacts and mitigation to CESA-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 CESA-listed species.	Prior to issuance of development permit
<b>MM-BIO-2-Swainson's Hawk</b>	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 conservation methods. For proposed preservation and/or	Prior to issuance of development permit



STATE OF CALIFORNIA • NATURAL RESOURCES AGENCY Gavin Newson, Governor  
DEPARTMENT OF FISH AND WILDLIFE Charlton H. Bonham, Director

South Coast Region  
3883 Ruffin Road | San Diego, CA 92123  
wildlife.ca.gov

	<p>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 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 CDFW-approved bank or via an entity that has been approved to hold and manage mitigation lands pursuant to Assembly Bill 1094 (2012), which amended <a href="#">Government Code sections 65965-65968</a>. 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>	
<b>MM-BIO-3-Biological Monitor</b>	<p>To avoid direct injury and mortality of SSC, the City shall require the Project Applicant to have a qualified biologist on site to move out of harm's way wildlife of low mobility that would be injured or killed. Wildlife shall be protected, allowed to move away on its own (non-invasive, passive relocation), or relocated to suitable habitat adjacent to the Project site. In areas where SSC was found, work may only occur in these areas after a qualified biologist has determined it is safe to do so. Even so, the qualified biologist shall advise workers to proceed with caution near flagged areas. A qualified biologist shall be on site daily during initial ground and</p>	<p>Prior to Project ground disturbing activities</p>



STATE OF CALIFORNIA • NATURAL RESOURCES AGENCY Gavin Newson, Governor  
DEPARTMENT OF FISH AND WILDLIFE Charlton H. Bonham, Director

South Coast Region  
3883 Ruffin Road | San Diego, CA 92123  
wildlife.ca.gov

	habitat disturbing activities and vegetation removal. Then, the qualified biologist shall be on site weekly or bi-weekly (once every two weeks) for the remainder of Project until the cessation of all ground disturbing activities to ensure that no wildlife is harmed.	
<b>MM-BIO-4-Scientific Collecting Permit</b>	The City shall require the Project Applicant retain a qualified biologist with appropriate handling permits, or shall obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and 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 <a href="#">Scientific Collection Permits</a> webpage for information (CDFW 2022d). Pursuant to the <a href="#">California Code of Regulations, title 14, section 650</a> , the Project Applicant/qualified biologist must obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities. The LSA Agreement may provide similar take or possession of species as described in the conditions of the agreement.	Prior to Project ground disturbing activities
<b>MM-BIO-5-Wildlife Relocation Plan</b>	Prior to initial ground and habitat disturbing activities and vegetation removal, the Project Applicant shall retain a qualified biologist to prepare a Wildlife Relocation Plan. The	Prior to Project ground



STATE OF CALIFORNIA • NATURAL RESOURCES AGENCY Gavin Newson, Governor  
DEPARTMENT OF FISH AND WILDLIFE Charlton H. Bonham, Director

South Coast Region  
3883 Ruffin Road | San Diego, CA 92123  
wildlife.ca.gov

	Wildlife Relocation Plan shall describe all wildlife species that could occur within the Project site and proper handling and relocation protocols. The Wildlife Relocation Plan shall include species-specific relocation areas, at least 200 feet outside of the Project site and in suitable and safe relocation areas. The Project Applicant shall submit a copy of a Wildlife Relocation Plan to the City prior to initial ground and habitat disturbing activities and vegetation removal. No bird nests, eggs, or nestlings may be removed or relocated at any time.	disturbing activities
<b>MM-BIO-6- Injured or Dead Wildlife</b>	If any SSC are harmed during relocation or a dead or injured animal is found, work in the immediate area shall stop immediately, the qualified biologist shall be notified, and dead or injured wildlife documented immediately. A formal report shall be sent to CDFW and the City within three calendar days of the incident or finding. The report shall include the date, time of the finding or incident (if known), and location of the carcass or injured animal and circumstances of its death or injury (if known). Work in the immediate area may only resume once the proper notifications have been made and additional mitigation measures have been identified to prevent additional injury or death.	Prior to Project ground disturbing activities
<b>MM-BIO-7- Nesting Birds</b>	To protect nesting birds that may occur within to the Project boundary, CDFW recommends that no construction occur from February 1 through September 15, as early as January 1 for some raptors.	Prior to Project ground disturbing activities
<b>REC-1- Biological Impact Fee</b>	CDFW recommends the City revise the DEIR to provide adequate, complete, and good-faith disclosure of	Prior to finalizing



STATE OF CALIFORNIA • NATURAL RESOURCES AGENCY Gavin Newsom, Governor  
DEPARTMENT OF FISH AND WILDLIFE Charlton H. Bonham, Director

South Coast Region  
3883 Ruffin Road | San Diego, CA 92123  
wildlife.ca.gov

	<p>information that would address the following in relation to the Project:</p> <ol style="list-style-type: none"> <li>1) Whether the Biological Impact Fee is going towards an established program;</li> <li>2) How the Biological Impact Fee/program is designed to (and will) mitigate the effects at issue at a level meaningful for purposes of CEQA;</li> <li>3) What the Biological Impact Fee would acquire;</li> <li>4) What biological resources would the Biological Impact Fee protect/conserve;</li> <li>5) Why the Biological Impact Fee is appropriate for mitigating the cumulative loss of biological resources in the Antelope Valley;</li> <li>6) Why the Biological Impact Fee is sufficient to purchase land or credits at a mitigation bank;</li> <li>7) Where land would be acquired or where the mitigation bank is located;</li> <li>8) When the Biological Impact Fee would be used; and, How the Biological Impact Fee would be adequate such that the Project would not have a cumulative impact on biological resources in the Antelope Valley. The MND should provide any technical data, maps, plot plans, diagrams, and similar relevant information in addressing these concerns (CEQA Guidelines, § 15147).</li> </ol>	CEQA document
<b>REC-2-Biological Impact Fee</b>	<p>The DEIR should include a discussion describing commitment to mitigation via the Biological Impact Fee. For example, the DEIR should provide specifics as to when the City would pay the Biological Impact Fee; what mechanisms the City would implement to ensure the Biological Impact Fee is paid; and when and where the Biological Impact Fee would be used to</p>	Prior to Project ground disturbing activities



STATE OF CALIFORNIA • NATURAL RESOURCES AGENCY Gavin Newson, Governor  
DEPARTMENT OF FISH AND WILDLIFE Charlton H. Bonham, Director

South Coast Region  
3883 Ruffin Road | San Diego, CA 92123  
wildlife.ca.gov

	offset the Project's impacts. Also, the DEIR should provide specific performance standards as well as actions to achieve those performance standards.	
<b>REC-3-Nesting Birds</b>	<p>CDFW recommends modifying BIO-1 to include <u>underlined</u> language and remove language with strikethrough:</p> <p>“Each future development within the overlay zone subject to California Environmental Quality Act (CEQA) review (meaning, subject to discretionary action and non-exempt from CEQA) shall be screened by the City of Lancaster Community Development Department to determine whether a Biological Resources Assessment is required. Screening shall consider the type of project and project site conditions. If the site is fully developed with no existing vegetation, then a Biological Resources Assessment shall not be required. If the site has existing vegetation on-site and/or is undeveloped and vacant, prior to issuance of any permits required to conduct ground disturbing activities, the City may require a Biological Resources Assessment be prepared by a qualified biologist for review and approval by the City of Lancaster Community Development Department. The assessment shall include biological field survey(s) of the project site to characterize the extent and quality of habitat that would be impacted by development. The potential presence of special-status species on-site may support conducting focused plant or wildlife species surveys. Surveys shall be conducted by qualified biologists and/or botanists in accordance with California Department of Fish and Wildlife (CDFW)</p>	Prior to Project ground disturbing activities





STATE OF CALIFORNIA • NATURAL RESOURCES AGENCY Gavin Newson, Governor  
DEPARTMENT OF FISH AND WILDLIFE Charlton H. Bonham, Director

South Coast Region  
3883 Ruffin Road | San Diego, CA 92123  
wildlife.ca.gov

	<p>and/or United States Fish and Wildlife Service (USFWS) survey protocols for target species. If no special status/sensitive species, sensitive habitats/natural communities, or federally protected wetlands are observed during the field survey, then no further mitigation will be required. If biological resources are documented on the project site, the project proponent shall comply with the applicable requirements of the regulatory agencies and shall apply mitigation determined through the agency permitting process. <u>Biological Resources Assessments shall provide and include the following:</u></p> <p>7. <u>A complete, recent, assessment of rare, threatened, and endangered species, regionally and locally unique species, and sensitive habitats at the project site and within the area of potential effect, including California Species of Special Concern and California Fully Protected Species (Fish &amp; G. Code, §§ 3511, 4700, 5050, and 5515). Species to be addressed shall include all those which meet the CEQA definition of endangered, rare, or threatened species (CEQA Guidelines, § 15380). Seasonal variations in use of land around the project site shall also be addressed. A nine-quadrangle search of CDFW's <a href="#">California Natural Diversity Database</a> (CNDDB) shall be conducted to obtain current information on any previously reported sensitive species and habitat (CDFW 2023c);</u></p> <p>8. <u>A thorough, recent, floristic-based assessment of special status plants and natural communities</u></p>	
--	--	--



STATE OF CALIFORNIA • NATURAL RESOURCES AGENCY Gavin Newson, Governor  
DEPARTMENT OF FISH AND WILDLIFE Charlton H. Bonham, Director

South Coast Region  
3883 Ruffin Road | San Diego, CA 92123  
wildlife.ca.gov

	<p>following CDFW's <a href="#">Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities</a> (CDFW 2018). Adjoining habitat areas shall be included where project construction and activities could lead to direct or indirect impacts off site;</p> <p>9. <a href="#">Floristic, alliance- and/or association-based mapping and vegetation impact assessments conducted at the project site and within the area of potential effect. The <a href="#">Manual of California Vegetation</a> (MCV), second edition, shall be used to inform this mapping and assessment;</a></p> <p>10. <a href="#">A rare plant assessment using online databases for rare, threatened, and endangered plants, including the California Native Plant Society (CNPS) <a href="#">Online Inventory of Rare and Endangered Plants of California</a> (CNPS 2022) as well as the Calflora's <a href="#">Information on Wild California Plants</a> database (Calflora 2022);</a></p> <p>11. <a href="#">A discussion regarding project-related indirect impacts on biological 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 &amp; G. Code, § 2800 et. seq.)]; and</a></p> <p>12. <a href="#">Impacts on, and maintenance of, wildlife corridor/movement areas, including access to undisturbed habitats in areas adjacent to the project site.</a></p>	
--	--	--



STATE OF CALIFORNIA • NATURAL RESOURCES AGENCY Gavin Newson, Governor  
DEPARTMENT OF FISH AND WILDLIFE Charlton H. Bonham, Director

South Coast Region  
3883 Ruffin Road | San Diego, CA 92123  
wildlife.ca.gov

REC-4-Joshua Tree	<p>CDFW recommends modifying BIO-2 to include <u>underlined</u> language and remove language with strikethrough:</p> <p>“Should a future project require the removal of western Joshua trees (<i>Yucca brevifolia brevifolia</i>; a State Candidate species for listing), an accurate census of the number of trees to be impacted shall be conducted by a qualified biologist in accordance with California Department of Fish and Wildlife (CDFW) protocols. The census report shall be submitted for review and approval by the City of Lancaster Community Development Department. An Incidental Take Permit shall also be obtained from the CDFW prior to any ground disturbing activities that may adversely affect the western Joshua tree. Early consultation with CDFW is encouraged, as significant modification to the Project and mitigation measures may be required to obtain an ITP. In the event an Incidental Take Permit (ITP) is required, <u>the City shall require future project applicants to submit an ITP Application to CDFW that provides the following information (at a minimum):</u></p> <p>5. <u>An analysis of individual western Joshua trees (clonal and non-clonal) and western Joshua tree seedbank that would be impacted both within the Project site and within 300 feet of the Project site;</u></p>	Prior to Project ground disturbing activities



STATE OF CALIFORNIA • NATURAL RESOURCES AGENCY Gavin Newson, Governor  
DEPARTMENT OF FISH AND WILDLIFE Charlton H. Bonham, Director

South Coast Region  
3883 Ruffin Road | San Diego, CA 92123  
wildlife.ca.gov

	<ol style="list-style-type: none"> <li>6. <u>An analysis of the acres of natural communities supporting western Joshua trees that would be impacted both within the Project site and within 300 feet of the Project site provided according to alliance and/or association-based natural communities found in the <a href="#">Manual of California Vegetation</a> (MCV), second edition (Sawyer et al. 2009);</u></li> <li>7. <u>A map of the Project's site plan overlaid on location of western Joshua trees and natural communities; and</u></li> <li>8. <u>A discussion of whether development could impact any in-situ western Joshua trees adjacent to the Project site.</u></li> </ol> <p><u>The City shall provide compensatory mitigation for any future project's impact on western Joshua trees at no less than 2:1, or as required in an ITP for western Joshua trees issued by CDFW. Mitigation shall be higher if the project will impact a western Joshua tree population that is increasing through seedling recruitment. Mitigation lands provided by the City shall (at a minimum):</u></p> <ol style="list-style-type: none"> <li>5. <u>Support western Joshua trees of similar density, abundance, and age structure;</u></li> <li>6. <u>Support natural communities of similar native plant species composition, density, structure, and function to habitat that was impacted;</u></li> <li>7. <u>Support nursery plants for western Joshua tree recruits; and</u></li> </ol>
--	---



STATE OF CALIFORNIA • NATURAL RESOURCES AGENCY Gavin Newson, Governor  
DEPARTMENT OF FISH AND WILDLIFE Charlton H. Bonham, Director

South Coast Region  
3883 Ruffin Road | San Diego, CA 92123  
wildlife.ca.gov

8. Not be exposed or have the potential to be exposed to disturbances such as OHV activity, illegal access, and encroachment from pending or future development.

The City shall require the project applicants to protect mitigation lands in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands pursuant to Assembly Bill 1094 (2012). Assembly Bill 1094 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. An appropriate non-wasting endowment shall be provided for the long-term management of mitigation lands. A mitigation plan shall include measures to protect the targeted habitat values in perpetuity from direct and indirect negative impacts. Issues that shall be addressed include but are not limited to the following: protection from any future development and zone changes; restrictions on access; proposed land dedications; control of illegal dumping; water pollution; and, increased human intrusion. A conservation easement and endowment funds shall be fully acquired, established, transferred, or otherwise executed prior to impacts on western Joshua trees.



STATE OF CALIFORNIA • NATURAL RESOURCES AGENCY Gavin Newson, Governor  
DEPARTMENT OF FISH AND WILDLIFE Charlton H. Bonham, Director

South Coast Region  
3883 Ruffin Road | San Diego, CA 92123  
wildlife.ca.gov

	<p><u>The City shall revise the DEIR to require future applicants to disclose the Project's impacts in subsequent CEQA documents on western Joshua tree by providing the following information:</u></p> <ol style="list-style-type: none"> <li>6. <u>The Project's potential impact on western Joshua tree seedbank within the Project site;</u></li> <li>7. <u>The Project's potential impact on western Joshua trees and seedbank adjacent to the Project site;</u></li> <li>8. <u>The Project's potential impact on each unique native and non-native natural community supporting western Joshua trees within and adjacent to the Project site;</u></li> <li>9. <u>The Project's construction, operation, and maintenance activities that could impact western Joshua trees and seedbank within and adjacent to the Project site; and</u></li> <li>10. <u>The Project's cumulative impact on western Joshua tree.</u></li> </ol>	
<b>REC-5- Burrowing Owl</b>	<p>CDFW recommends modifying BIO-3 to include <u>underlined</u> language and remove language with strikethrough:</p> <p><del>"If suitable habitat for burrowing owl is observed during</del> A habitat assessment shall be conducted as a part of the biological field survey conducted as part of Mitigation Measure BIO-1., <del>two separate pre-construction burrowing owl clearance surveys shall be conducted prior to any vegetation removal or ground disturbing activities. One survey shall be conducted no less than 14 days prior to disturbance and the other</del></p>	Prior to Project ground disturbing activities





STATE OF CALIFORNIA • NATURAL RESOURCES AGENCY Gavin Newson, Governor  
DEPARTMENT OF FISH AND WILDLIFE Charlton H. Bonham, Director

South Coast Region  
3883 Ruffin Road | San Diego, CA 92123  
wildlife.ca.gov

survey within 24 hours prior to ground disturbance. The habitat assessment shall adhere to survey methods described in CDFW's March 7, 2012, [Staff Report on Burrowing Owl Mitigation](#) (CDFW 2012) to determine no owls have moved on site. The habitat assessment will determine whether or not protocol-level surveys are needed for burrowing owls. It is advisable to conduct preconstruction surveys with protocol level surveys in mind since they have specific number and timing requirements, according to the Staff Report (see below).

All survey efforts shall be conducted by a qualified biologist. If protocol-level surveys are necessary, survey protocol for breeding season owl surveys require four survey visits: 1) at least one site visit between February 15 and April 15; and, 2) a minimum of three survey visits, at least three weeks apart, between April 15 and July 15, with at least one visit after June 15. Full disclosure of the presence/absence of burrowing owls is necessary to help the City's determination of whether the Project would impact burrowing owls, thus requiring mitigation. The Project and environmental document shall be conditioned to avoid and/or mitigate for potential impacts to burrowing owl and habitat.

The survey shall be conducted by a qualified biologist and in accordance with the methods outlined in the [Staff Report on Burrowing Owl Mitigation](#) (California Department of Fish and Game 2012). Documentation



STATE OF CALIFORNIA • NATURAL RESOURCES AGENCY Gavin Newson, Governor  
DEPARTMENT OF FISH AND WILDLIFE Charlton H. Bonham, Director

South Coast Region  
3883 Ruffin Road | San Diego, CA 92123  
wildlife.ca.gov

	<p>of surveys and findings shall be submitted to the City of Lancaster Community Development Department for review and file. If no burrowing owls or occupied burrows are detected, project activities may begin, and no additional avoidance and minimization measures shall be required. If an occupied burrow is found outside, but within 500 feet, of the development footprint, the qualified biologist shall establish a “no disturbance” buffer around the burrow location(s). The size of the “no-disturbance” buffer shall be determined in consultation with California Department of Fish and Wildlife (CDFW) and be based on the species status (i.e., breeding, non-breeding) and proposed level of disturbance. If an occupied burrow is found within the development footprint and cannot be avoided, a burrowing owl exclusion and mitigation plan shall be prepared and submitted to CDFW for approval prior to initiating project activities.”</p>	
<p><b>REC-6-LSA Permit</b></p>	<p>CDFW recommends modifying BIO-4 to include <u>underlined</u> language and remove language with strikethrough:</p> <p>“Each future development within the overlay zone subject to California Environmental Quality Act (CEQA) review (meaning, subject to discretionary action and non-exempt from CEQA) shall be screened by the City of Lancaster Community Development Department to determine whether a formal jurisdictional delineation is required. Screening shall consider the type of project and project site conditions. If there is no presence for any potential jurisdictional resource(s), then a formal jurisdictional</p>	<p>Prior to Project ground disturbing activities</p>



**STATE OF CALIFORNIA • NATURAL RESOURCES AGENCY** Gavin Newson, Governor  
**DEPARTMENT OF FISH AND WILDLIFE** Charlton H. Bonham, Director

South Coast Region  
3883 Ruffin Road | San Diego, CA 92123  
wildlife.ca.gov

delineation shall not be required. If the site has the potential for jurisdictional resources to occur on-site, prior to issuance of any permits required to conduct ground disturbing activities, the City may require a formal jurisdiction delineation to be conducted by a qualified biologist to confirm the presence or absence of any identified aquatic features, including features not visible via aerial imagery. The jurisdictional delineation shall determine the extent of State and Federal jurisdictional areas. The formal jurisdictional delineation shall be submitted for review, approval, and final determination of jurisdictional limits by the City of Lancaster Development Services Department, Community Development Division and applicable regulatory agency(ies) (i.e., U.S. Army Corps of Engineers, Regional Water Quality Control Board, and/or California Department of Fish and Wildlife).

For any impacts determined on jurisdictional areas, the project applicant will notify CDFW pursuant to Fish and Game Code 1602 and obtain an LSA Agreement from CDFW prior to obtaining a grading permit. The project applicant shall comply with the mitigation measures detailed in an LSA Agreement issued by CDFW. The project applicant shall also provide compensatory mitigation at no less than 2:1 for the impacted stream and associated natural community, or at a ratio acceptable to CDFW. Please visit CDFW's [Lake and Streambed Alteration Program](#) webpage for more information (CDFWd 2023).



STATE OF CALIFORNIA • NATURAL RESOURCES AGENCY Gavin Newson, Governor  
DEPARTMENT OF FISH AND WILDLIFE Charlton H. Bonham, Director

South Coast Region  
3883 Ruffin Road | San Diego, CA 92123  
wildlife.ca.gov

	<p><u>The LSA Notification shall include a hydrology report to evaluate whether altering upslope vegetation within the project site may impact hydrologic activity downslope and downstream of the project site. The hydrology report shall also include an analysis to determine if project activities will impact the current hydrologic regime or change the velocity of flows entering the streams and downstream. CDFW also requests a hydrological evaluation of any potential scour or erosion at the Project site and downstream due to a 100, 50, 25, 10, 5, and 2-year frequency storm event for existing and proposed conditions to determine how the project activities may change the hydrology on site.</u></p> <p><u>Any Best Management Practice (BMPs) infrastructure that are installed will 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 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</u></p>	
--	---	--



STATE OF CALIFORNIA • NATURAL RESOURCES AGENCY Gavin Newson, Governor  
DEPARTMENT OF FISH AND WILDLIFE Charlton H. Bonham, Director

South Coast Region  
3883 Ruffin Road | San Diego, CA 92123  
wildlife.ca.gov

	<u>allowing animals to push through the weave, which expands when spread."</u>	
REC-7-CNNDDB	CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database [i.e., CNDDDB] which may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Information on special status species should be submitted to the CNDDDB by completing and submitting <a href="#">CNDDDB Field Survey Forms</a> (CDFWe 2023). Information on special status native plant populations and sensitive natural communities, the <a href="#">Combined Rapid Assessment and Relevé Form</a> should be completed and submitted to CDFW's Vegetation Classification and Mapping Program (CDFWf 2023).	Prior to Project ground disturbing activities
REC-8-Rodenticide	Rodenticides and second-generation anticoagulant rodenticides should be prohibited both during and over the life of the Project.	Prior to Project ground disturbing activities