

Appendix J Responses to Comments on Draft Initial Study / Mitigated Negative Declaration

The City of Hesperia (City), as CEQA Lead Agency, distributed the Draft Initial Study/Mitigated Negative Declaration (Initial Study/MND) for the “General Pump – Hesperia Construction Yard (SPR24-00018)” for public review on July 3, 2025, initiating a 30-day public review period ending on August 2, 2025. The document was made available online, and at the City’s office. A total of two letters and emails were received before the close of the public comment period. Pursuant to California Environmental Quality Act (CEQA) Guidelines §15088(a), “the lead agency shall evaluate comments on environmental issues received from persons who reviewed the Draft EIR and shall prepare a written response.” All comment letters received on the Draft MND, including any letters received after the close of the public comment period, were evaluated for environmental issues, and written responses to comments on environmental issues were prepared. A list of the comment letters received, including details on the agency, organization, or individual that submitted the letter and the date of the letter is provide in **Table J-1 - Comment Letters on the Draft Initial Study/MND for the General Pump – Hesperia Construction Yard (SPR24-00018)**. This appendix presents written responses to comments on environmental issues raised in these letters. The written responses describe the disposition of significant environmental issues raised, as required by CEQA Guidelines §15088(c). The following responses to comments will address the letters/emails and any applicable attachments to the letters and emails only, and **Attachment J-1 Comment Letters** contains the letters and attachments in their entirety.

Table J-1 - Comment Letters General Pump – Hesperia Construction Yard (SPR24-00018)

Letter Number	Public Agency, Organization or Individual	Date of Letter/Email
A	Mojave Water Agency	July 7, 2025
B	California Department of Fish and Wildlife	July 22, 2025

Where comments necessitated revisions to the Draft Initial Study/MND, as well as minor administrative technical edits to correct typographical errors, added text is reflected in underlined shaded text (added text) and deletions are reflected in shaded strikeout text (~~deleted text~~). None of the revisions constituted significant or new information that requires this Initial Study to be recirculated in accordance with CEQA Guidelines Section 15088.5

Comment Letter A – Mojave Water Agency

Response to Comment Letter A

Response A-1: Comment noted.



July 7th, 2025

Edgar Gonzalez, Senior Planner
 City of Hesperia, Planning Department
 9700 Seventh Ave.
 Hesperia, CA. 92345

Regarding: SPR24-00018

Dear Edgar,

This confirms that the Mojave Water Agency has no conflict with this project.

Sincerely,
 Christy Huiner
 Senior Water Resource Analyst
 Mojave Water Agency
chuiner@mojavewater.org
 760-946-7066

A-1



Comment Letter B – California Dep of Fish & Wildlife

July 22, 2025
Sent via email

Edgar Gonzalez
Senior Planner
City of Hesperia
9700 7th Avenue
Hesperia, CA 92345
egonzalez@hesperiaca.gov

General Pump-Hesperia Construction Yard (PROJECT)
MITIGATED NEGATIVE DECLARATION (MND)
SCH# 2025070289

Dear Edgar Gonzalez:

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

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

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code will be required.

PROJECT DESCRIPTION SUMMARY

Proponent: Karen Jacobs, R.I.C Construction Co Inc for General Pump Company

Objective: The Project proposes the construction of a well drilling equipment storage and repair yard on approximately 5.7 acres of vacant land. The development will include 13,548 square feet of building space and 2.5 acres of open yard area for equipment storage. The site plan includes a fueling station in the northern portion of the site that would contain a 1,000 gallon

Response to Comment Letter B

Response to Comment B-1: Comment noted.

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Eugene Gonzalez, Senior Planner
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above-ground storage tank. The Project also includes improvements to Hercules Street and I Avenue including new asphalt, sidewalks and landscaping consisting of 4.53 net acres. Additionally, 1.56 acres will remain undisturbed and will be fenced off for western Joshua tree avoidance.

Location: The Project site is located on the southwest corner of Hercules Street and I Avenue in the City of Hesperia, San Bernardino County. The corresponding Assessor Parcel Number is 0410-072-06 at latitude 34.4296 N and longitude -117.28202 W. Surrounding land use includes a mix of undeveloped land and commercial and residential development.

Timeframe: Construction will commence in late Fall 2025, and last for approximately 12 months.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document. Based on the Project's avoidance of significant impacts on biological resources with implementation of mitigation measures, including those CDFW recommends in Attachment A, CDFW concludes that a Mitigated Negative Declaration is appropriate for the Project.

I. Environmental Setting and Related Impact Shortcoming

COMMENT #1 Burrowing Owl (*Athene cunicularia hypugaea*) and Mitigation Measure BIO-2

IS/MND page 40, Biological Resources Assessment pages 8-10

Issue: Western burrowing owl is a candidate listed species under CESA, as such is granted the full protection of a threatened species under CESA. The Project has the potential to impact burrowing owl.

Specific impact: Although no evidence of burrowing owls was detected within the Project site, and a 200-foot buffer, the Project site is within potential burrowing owl habitat and burrowing owls have been documented within three miles of the Project site. Additionally, California ground squirrels were observed on site. CDFW is concerned that Mitigation Measure BIO-2, as currently written, is not sufficient to prevent impacts to burrowing owls. Project activities include vegetation removal, grading, and construction, and the Project may result in take of burrowing owl during Project activities.

Why impact would occur: Burrowing owls have been known to use highly degraded and marginal habitats where existing burrows are available. The nest and roost burrows of the burrowing owl are most commonly dug by ground squirrels, but they have also been known to use a variety of other species' dens or holes (Gervais, J.A., Rosenberg, D.K., & Comrack, L.A., 2008). Burrowing owls may use small mammal burrows throughout the Project site and adjacent areas as overwintering, breeding, and nesting habitat. Additionally, the California Natural Diversity Database (CNDDB) dataset, [Burrowing Owl Predicted Habitat - CWHR B269 \[ds2184\] - Dataset - California Open Data](#) (CDFW 2025) displays a high potential for burrowing owl presence within the Project area, along with several observations of burrowing owls within 3 miles of the Project site (CDFW 2025). Burrowing owls also have a high potential to move into disturbed areas since they are adapted to highly modified habitats (Chipman et al., 2008; Coulombe, 1971).

Evidence impact would be significant: Habitat loss is a threat to burrowing owls (CDFG, 2012). As a candidate species, western burrowing owl is granted full protection of a threatened or endangered species under CESA. Take is defined in Fish and Game Code section 86 as "hunt, pursue, catch, capture or kill, or attempt to hunt, pursue, catch, capture or kill." CESA allows CDFW to authorize project proponents to take state-listed threatened, endangered, or candidate species if certain conditions are met. Take must be incidental to an otherwise lawful

Response to Comment Letter B

Response to Comment B-2. The mitigation measure for BIO-2 to address burrowing owl has been revised as requested.

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activity. The issuance of an incidental take permit (ITP) cannot jeopardize the continued existence of the species, and the impacts must be minimized and fully mitigated.

Recommended Potentially Feasible Mitigation Measure to reduce impacts to less than significant: CDFW recommends the following revision to MM BIO-2 (edits are in strikethrough and bold:

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

~~A pre-construction clearance survey shall be conducted prior to any ground disturbance or vegetation removal activities to ensure that burrowing owls remain absent, and impacts do not occur to occupied burrows on or within 500 feet of the Project site. In accordance with the CDFW's Staff Report on Burrowing Owl Mitigation (CDFW 2012), two (2) pre-construction clearance surveys should be conducted 14 – 30 days and 24 hours prior to any ground disturbance or vegetation removal activities.~~

Pre-construction surveys for burrowing owl occupation shall be conducted by a qualified biologist(s) prior to the start of Project-related activities. The surveys shall follow the methods described in the CDFW's Staff Report on Burrowing Owl Mitigation (CDFW 2012). Pre-construction surveys shall be conducted no less than 14 days before the initial ground disturbance (e.g., grading, grubbing, construction). Burrowing owls may re-colonize a site after only a few days. Time lapses between Project activities trigger subsequent take avoidance surveys including but not limited to a final survey conducted within 24 hours prior to ground disturbance. If burrowing owls or suitable burrowing owl burrows with sign (e.g., whitewash, pellets, feathers, prey remains) are identified on the Project site during the pre-construction clearance surveys or during construction, Project activities shall be immediately halted. The Project Proponent shall consult with CDFW on the next steps, including obtaining an Incidental Take Permit (ITP) for burrowing owl prior to the start of Project activities.

COMMENT #2 Nesting Birds Survey and Mitigation Measure BIO-3

IS/MND page 40 and Biological Resources Assessment pages 6.

Issue: The Project may have impacts on nesting birds, including CESA-listed birds, Species of Special Concern, and common birds that are subject to Fish and Game Code sections 3503.5, and 3513, and the Migratory Bird Treaty Act of 1918.

Specific impact: Various bird species were observed during the general survey including common raven (*Corvus corax*), house finch (*Haemorhous mexicanus*), house sparrow (*Passer domesticus*), Say's phoebe (*Sayornis saya*), European starling (*Sturnus vulgaris*), and mourning dove (*Zenaida macroura*). Mitigation Measure BIO-3 states that vegetation clearing and ground-disturbing activities shall be conducted outside of the bird nesting season (generally February through August) to the greatest extent possible. If avoidance of the nesting season is not feasible, then a qualified biologist will conduct a nesting bird survey within seven days prior to issuance of grading permits. To adequately identify nesting bird presence in the Project area, nesting pre-construction surveys should be conducted by a qualified biologist no more than three (3) days prior to the initiation of project activities, at the appropriate time of day/night, during appropriate weather conditions regardless of the time of the year.

Why impact would occur: While MM BIO-3 establishes dates for passerine and raptor general nesting season, it is important to remember that the timing of the nesting season varies greatly depending on several factors, such as the bird species, weather conditions in any given year, and long-term climate changes (e.g., drought, warming, etc.). CDFW staff have observed that changing climate conditions may result in the nesting bird season occurring earlier and later in the year than historical nesting season dates. Species that nest outside the peak breeding season should also be considered (e.g., hummingbirds may nest year-round, and raptors may nest outside the peak breeding season). If nesting birds are detected during surveys, CDFW recommends that buffers be established around nest sites with the following distances: a minimum of 300 feet for songbirds, and 500 feet for raptors. Reductions in buffer may be appropriate based on screening vegetation, ambient levels of human activities, or other factors.

Response to Comment Letter B

Response to Comment B-3: The mitigation measure for BIO-3 to address nesting birds has been revised as requested.

B-2

B-3

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Evidence impact would be significant: The biggest threat to birds includes habitat loss and the conversion of natural vegetation into commercial, residential, and industrial land uses. The Project will involve grading and removal of existing vegetation. In addition to direct removal of habitat, construction noise, vibration, dust, or human disturbance could result in temporary or long-term disturbance of nesting birds on the Project site. 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 MBTA).

Recommended Potentially Feasible Mitigation Measure to reduce impacts to less than significant: CDFW recommends that the measure be revised to the following (edits are in strikethrough and **bold**) for inclusion in the final MND:

Biological Resources Mitigation Measure 3 (MM BIO-3)

In order to avoid violation of the Migratory Bird Treaty Act (MBTA) and the California Fish and Game Code, site-preparation activities (removal of trees and vegetation) for all projects shall be avoided, to the greatest extent possible, during the nesting season (generally February 1 to August 31) of potentially occurring native and migratory bird species. ~~If site preparation activities for an implementing projects are proposed during the nesting/breeding season (February 1 to August 31), a pre-activity field survey shall be conducted by a qualified biologist at least seven days prior to the issuance of grading permits for such project, to determine if active nests of species protected by the MBTA or the California Fish and Game Code are present in the construction zone.~~ Regardless of the time of year, a pre-construction survey shall be performed to verify absence of nesting birds. A qualified biologist shall conduct the pre-activity survey within the Project areas (including access routes) and a 500-foot buffer surrounding the Project areas, no more than three (3) days prior to the initiation of Project activities, including, but not limited to clearing, grubbing, and/or rough grading to prevent impacts to birds and their nests. The survey shall focus on all suitable nesting areas such as but not limited to: trees, shrubs, bare ground, burrows, cavities, and structures. Pre-construction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified biologist shall make every effort to avoid potential nest predation as a result of survey and monitoring efforts. If active nests or nesting bird activity are identified within the work area or the Project's zone of influence (generally 100-300 feet), a no disturbance buffer zone shall be established by the qualified biologist to be marked on the ground around each nest. The buffer shall be a minimum of 500 feet for raptors and 300 feet for songbirds, unless a smaller buffer is specifically determined by a qualified biologist familiar with the nesting phenology of the nesting species. The buffer areas shall be avoided until the nests are no longer occupied and the juvenile birds can survive independently from the nests. Active nest(s) and an established buffer distance(s) shall be monitored daily by the qualified biologist until the qualified biologist has determined the young have fledged or the Project has been completed. The qualified biologist has the authority to stop work if nesting pairs exhibit signs of disturbance. If there is no nesting activity, then no further action is needed for this measure. If an active nest is encountered during the Project construction, construction shall stop immediately until a qualified biologist can determine (1) the status of the nest, and (2) when work can proceed without risking violation to state or federal laws.

ADDITIONAL COMMENTS AND RECOMMENDATIONS

Native Landscaping: CDFW recommends incorporation of water-wise concepts in Project landscape design plans. In particular, CDFW recommends xeriscaping with locally native California species, and installing water efficient and targeted irrigation systems (such as drip irrigation). Native plants support butterflies, birds, reptiles, amphibians, small mammals, bees, and other pollinators that evolved with those plants, more information on native plants suitable for the Project location and nearby nurseries is available at: [Calscape - Restore Nature One Garden at a Time](#). Water agencies/districts and resource conservation districts in your area may be able to provide information on plant nurseries that carry local native species. Additionally, some facilities display drought tolerant locally native species demonstration gardens (for

Response to Comment Letter B

Response to Comment B-4: Comment Noted. The landscaping will comply with the City's standard.

B-3

B-4

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example the Riverside-Corona Resource Conservation District in Riverside). Information on drought-tolerant landscaping and water-efficient irrigation systems is available on California's Save our Water website: [Home - Save Our Water, California](#).

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ENVIRONMENTAL DATA

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

ENVIRONMENTAL DOCUMENT FILING FEES

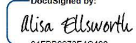
The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental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

CONCLUSION

CDFW appreciates the opportunity to comment on the MND to assist the City of Adelanto in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Lydia Rodriguez, Senior Environmental Scientist via email lydia.rodriguez@wildlife.ca.gov.

Sincerely,

DocuSigned by:

94F86273E4C460

Alisa Ellsworth,
Environmental Program Manager

ec: Office of Planning and Research, State Clearinghouse, Sacramento
State.Clearinghouse@opr.ca.gov

ATTACHMENTS

Attachment A: MMRP for CDFW-Proposed Mitigation Measures

REFERENCES

California Natural Diversity Database (CNDDDB) Government [ds45]. 2023. Calif. Dept. of Fish and Wildlife. Biogeographic Information and Observation System

California Department of Fish and Game (CDFG). 2012. Staff report on burrowing owl mitigation. State of California, Natural Resources Agency. Available for download at: Microsoft Word - [BUOW Staff Report_final_030712 REV 1.doc](#)

Chipman, Erica D., et al. "Effects of human land use on western Burrowing Owl foraging and activity budgets." *Journal of Raptor Research* 42.2 (2008): 87-98

Comment Letter B – California Dep of Fish & Wildlife

Response to Comment Letter B

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Coulombe, Harry N. "Behavior and population ecology of the burrowing owl, *Speotyto cunicularia*, in the Imperial Valley of California." *The Condor* 73.2 (1971): 162- 176

Gervais, J.A., Rosenberg, D.K., and Comrack, L.A. Burrowing Owl (*Athene cunicularia*). Shuford, W.D., and Gardali, T., editors. 2008. California Bird Species of Special Concern: A ranked assessment of species, subspecies, and distinct populations of birds of immediate conservation concern in California. Studies of Western Birds 1. Western Field Ornithologists, Camarillo, California, and California Department of Fish and Game, Sacramento.

Appendix J-1 Comment Letters



July 7th, 2025

Edgar Gonzalez, Senior Planner
City of Hesperia, Planning Department
9700 Seventh Ave.
Hesperia, CA. 92345

Regarding: SPR24-00018

Dear Edgar,

This confirms that the Mojave Water Agency has no conflict with this project.

Sincerely,
Christy Huiner
Senior Water Resource Analyst
Mojave Water Agency
chuiner@mojavewater.org
760-946-7066



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Inland Deserts Region
3602 Inland Empire Blvd. C-220
Ontario, CA, 91764
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



July 22, 2025
Sent via email

Edgar Gonzalez
Senior Planner
City of Hesperia
9700 7th Avenue
Hesperia, CA 92345
egonzalez@hesperiaca.gov

General Pump-Hesperia Construction Yard (PROJECT)
MITIGATED NEGATIVE DECLARATION (MND)
SCH# 2025070289

Dear Edgar Gonzalez:

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

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

CDFW ROLE

CDFW is California’s **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

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PROJECT DESCRIPTION SUMMARY

Proponent: Karen Jacobs, R.I.C Construction Co Inc for General Pump Company

Objective: The Project proposes the construction of a well drilling equipment storage and repair yard on approximately 5.7 acres of vacant land. The development will include 13,548 square feet of building space and 2.5 acres of open yard area for equipment storage. The site plan includes a fueling station in the northern portion of the site that would contain a 1,000 gallon

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The “CEQA Guidelines” are found in Title 14 of the California Code of Regulations, commencing with section 15000.

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above-ground storage tank. The Project also includes improvements to Hercules Street and I Avenue including new asphalt, sidewalks and landscaping consisting of 4.53 net acres. Additionally, 1.56 acres will remain undisturbed and will be fenced off for western Joshua tree avoidance.

Location: The Project site is located on the southwest corner of Hercules Street and I Avenue in the City of Hesperia, San Bernardino County. The corresponding Assessor Parcel Number is 0410-072-06 at latitude 34.4296 N and longitude -117.28202 W. Surrounding land use includes a mix of undeveloped land and commercial and residential development.

Timeframe: Construction will commence in late Fall 2025, and last for approximately 12 months.

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I. Environmental Setting and Related Impact Shortcoming

COMMENT #1 Burrowing Owl (*Athene cunicularia hypugaea*) and Mitigation Measure BIO-2

IS/MND page 40, Biological Resources Assessment pages 8-10

Issue: Western burrowing owl is a candidate listed species under CESA, as such is granted the full protection of a threatened species under CESA. The Project has the potential to impact burrowing owl.

Specific impact: Although no evidence of burrowing owls was detected within the Project site, and a 200-foot buffer, the Project site is within potential burrowing owl habitat and burrowing owls have been documented within three miles of the Project site. Additionally, California ground squirrels were observed on site. CDFW is concerned that Mitigation Measure BIO-2, as currently written, is not sufficient to prevent impacts to burrowing owls. Project activities include vegetation removal, grading, and construction, and the Project may result in take of burrowing owl during Project activities.

Why impact would occur: Burrowing owls have been known to use highly degraded and marginal habitats where existing burrows are available. The nest and roost burrows of the burrowing owl are most commonly dug by ground squirrels, but they have also been known to use a variety of other species’ dens or holes (Gervais, J.A., Rosenberg, D.K., & Comrack, L.A., 2008). Burrowing owls may use small mammal burrows throughout the Project site and adjacent areas as overwintering, breeding, and nesting habitat. Additionally, the California Natural Diversity Database (CNDDB) dataset, [Burrowing Owl Predicted Habitat - CWHR B269 \[ds2184\] - Dataset - California Open Data](#) (CDFW 2025) displays a high potential for burrowing owl presence within the Project area, along with several observations of burrowing owls within 3 miles of the Project site (CDFW 2025). Burrowing owls also have a high potential to move into disturbed areas since they are adapted to highly modified habitats (Chipman et al., 2008; Coulombe, 1971).

Evidence impact would be significant: Habitat loss is a threat to burrowing owls (CDFG, 2012). As a candidate species, western burrowing owl is granted full protection of a threatened or endangered species under CESA. Take is defined in Fish and Game Code section 86 as “hunt, pursue, catch, capture or kill, or attempt to hunt, pursue, catch, capture or kill.” CESA allows CDFW to authorize project proponents to take state-listed threatened, endangered, or candidate species if certain conditions are met. Take must be incidental to an otherwise lawful

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activity. The issuance of an incidental take permit (ITP) cannot jeopardize the continued existence of the species, and the impacts must be minimized and fully mitigated.

Recommended Potentially Feasible Mitigation Measure to reduce impacts to less than significant: CDFW recommends the following revision to MM BIO-2 (edits are in strikethrough and **bold**):

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

~~A pre-construction clearance survey shall be conducted prior to any ground disturbance or vegetation removal activities to ensure that burrowing owls remain absent, and impacts do not occur to occupied burrows on or within 500 feet of the Project site. In accordance with the CDFW's Staff Report on Burrowing Owl Mitigation (CDFW 2012), two (2) pre-construction clearance surveys should be conducted 14—30 days and 24 hours prior to any ground disturbance or vegetation removal activities.~~

Pre-construction surveys for burrowing owl occupation shall be conducted by a qualified biologist(s) prior to the start of Project-related activities. The surveys shall follow the methods described in the CDFW's Staff Report on Burrowing Owl Mitigation (CDFW 2012). Pre-construction surveys shall be conducted no less than 14 days before the initial ground disturbance (e.g., grading, grubbing, construction). Burrowing owls may re-colonize a site after only a few days. Time lapses between Project activities trigger subsequent take avoidance surveys including but not limited to a final survey conducted within 24 hours prior to ground disturbance. If burrowing owls or suitable burrowing owl burrows with sign (e.g., whitewash, pellets, feathers, prey remains) are identified on the Project site during the pre-construction clearance surveys or during construction, Project activities shall be immediately halted. The Project Proponent shall consult with CDFW on the next steps, including obtaining an Incidental Take Permit (ITP) for burrowing owl prior to the start of Project activities.

COMMENT #2 Nesting Birds Survey and Mitigation Measure BIO-3

IS/MND page 40 and Biological Resources Assessment pages 6.

Issue: The Project may have impacts on nesting birds, including CESA-listed birds, Species of Special Concern, and common birds that are subject to Fish and Game Code sections 3503.5, and 3513, and the Migratory Bird Treaty Act of 1918.

Specific impact: Various bird species were observed during the general survey including common raven (*Corvus corax*), house finch (*Haemorhous mexicanus*), house sparrow (*Passer domesticus*), Say's phoebe (*Sayornis saya*), European starling (*Sturnus vulgaris*), and mourning dove (*Zenaida macroura*). Mitigation Measure BIO-3 states that vegetation clearing and ground-disturbing activities shall be conducted outside of the bird nesting season (generally February through August) to the greatest extent possible. If avoidance of the nesting season is not feasible, then a qualified biologist will conduct a nesting bird survey within seven days prior to issuance of grading permits. To adequately identify nesting bird presence in the Project area, nesting pre-construction surveys should be conducted by a qualified biologist no more than three (3) days prior to the initiation of project activities, at the appropriate time of day/night, during appropriate weather conditions regardless of the time of the year.

Why impact would occur: While MM BIO-3 establishes dates for passerine and raptor general nesting season, it is important to remember that the timing of the nesting season varies greatly depending on several factors, such as the bird species, weather conditions in any given year, and long-term climate changes (e.g., drought, warming, etc.). CDFW staff have observed that changing climate conditions may result in the nesting bird season occurring earlier and later in the year than historical nesting season dates. Species that nest outside the peak breeding season should also be considered (e.g., hummingbirds may nest year-round, and raptors may nest outside the peak breeding season). If nesting birds are detected during surveys, CDFW recommends that buffers be established around nest sites with the following distances: a minimum of 300 feet for songbirds, and 500 feet for raptors. Reductions in buffer may be appropriate based on screening vegetation, ambient levels of human activities, or other factors.

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Evidence impact would be significant: The biggest threat to birds includes habitat loss and the conversion of natural vegetation into commercial, residential, and industrial land uses. The Project will involve grading and removal of existing vegetation. In addition to direct removal of habitat, construction noise, vibration, dust, or human disturbance could result in temporary or long-term disturbance of nesting birds on the Project site. 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 MBTA).

Recommended Potentially Feasible Mitigation Measure to reduce impacts to less than significant: CDFW recommends that the measure be revised to the following (edits are in strikethrough and **bold**) for inclusion in the final MND:

Biological Resources Mitigation Measure 3 (MM BIO-3)

In order to avoid violation of the Migratory Bird Treaty Act (MBTA) and the California Fish and Game Code, site-preparation activities (removal of trees and vegetation) for all projects shall be avoided, to the greatest extent possible, during the nesting season (generally February 1 to August 31) of potentially occurring native and migratory bird species. ~~If site-preparation activities for an implementing projects are proposed during the nesting/breeding season (February 1 to August 31), a pre-activity field survey shall be conducted by a qualified biologist at least seven days prior to the issuance of grading permits for such project, to determine if active nests of species protected by the MBTA or the California Fish and Game Code are present in the construction zone.~~ **Regardless of the time of year, a pre-construction survey shall be performed to verify absence of nesting birds. A qualified biologist shall conduct the pre-activity survey within the Project areas (including access routes) and a 500-foot buffer surrounding the Project areas, no more than three (3) days prior to the initiation of Project activities, including, but not limited to clearing, grubbing, and/or rough grading to prevent impacts to birds and their nests. The survey shall focus on all suitable nesting areas such as but not limited to: trees, shrubs, bare ground, burrows, cavities, and structures. Pre-construction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified biologist shall make every effort to avoid potential nest predation as a result of survey and monitoring efforts. If active nests or nesting bird activity are identified within the work area or the Project's zone of influence (generally 100-300 feet), a no disturbance buffer zone shall be established by the qualified biologist to be marked on the ground around each nest. The buffer shall be a minimum of 500 feet for raptors and 300 feet for songbirds, unless a smaller buffer is specifically determined by a qualified biologist familiar with the nesting phenology of the nesting species. The buffer areas shall be avoided until the nests are no longer occupied and the juvenile birds can survive independently from the nests. Active nest(s) and an established buffer distance(s) shall be monitored daily by the qualified biologist until the qualified biologist has determined the young have fledged or the Project has been completed. The qualified biologist has the authority to stop work if nesting pairs exhibit signs of disturbance. If there is no nesting activity, then no further action is needed for this measure. If an active nest is encountered during the Project construction, construction shall stop immediately until a qualified biologist can determine (1) the status of the nest, and (2) when work can proceed without risking violation to state or federal laws.**

ADDITIONAL COMMENTS AND RECOMMENDATIONS

Native Landscaping: CDFW recommends incorporation of water-wise concepts in Project landscape design plans. In particular, CDFW recommends xeriscaping with locally native California species, and installing water efficient and targeted irrigation systems (such as drip irrigation). Native plants support butterflies, birds, reptiles, amphibians, small mammals, bees, and other pollinators that evolved with those plants, more information on native plants suitable for the Project location and nearby nurseries is available at: [Calscape - Restore Nature One Garden at a Time](#). Water agencies/districts and resource conservation districts in your area may be able to provide information on plant nurseries that carry local native species. Additionally, some facilities display drought tolerant locally native species demonstration gardens (for

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example the Riverside-Corona Resource Conservation District in Riverside). Information on drought-tolerant landscaping and water-efficient irrigation systems is available on California's Save our Water website: [Home - Save Our Water, California](#).

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDB). The CNDDB field survey form can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDB/Submitting-Data>. The types of information reported to CNDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDB/Plants-and-Animals>.

ENVIRONMENTAL DOCUMENT FILING FEES

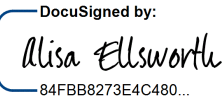
The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental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

CONCLUSION

CDFW appreciates the opportunity to comment on the MND to assist the City of Adelanto in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Lydia Rodriguez, Senior Environmental Scientist via email lydia.rodriquez@wildlife.ca.gov.

Sincerely,

DocuSigned by:

84FBB8273E4C480...

Alisa Ellsworth,
Environmental Program Manager

ec: Office of Planning and Research, State Clearinghouse, Sacramento
State.Clearinghouse@opr.ca.gov

ATTACHMENTS

Attachment A: MMRP for CDFW-Proposed Mitigation Measures

REFERENCES

California Natural Diversity Database (CNDDB) Government [ds45]. 2023. Calif. Dept. of Fish and Wildlife. Biogeographic Information and Observation System

California Department of Fish and Game (CDFG). 2012. Staff report on burrowing owl mitigation. State of California, Natural Resources Agency. Available for download at: Microsoft Word - [BUOW Staff Report final 030712 REV 1.doc](#)

Chipman, Erica D., et al. "Effects of human land use on western Burrowing Owl foraging and activity budgets." *Journal of Raptor Research* 42.2 (2008): 87-98

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Coulombe, Harry N. "Behavior and population ecology of the burrowing owl, *Speotyto cunicularia*, in the Imperial Valley of California." *The Condor* 73.2 (1971): 162- 176

Gervais, J.A., Rosenberg, D.K., and Comrack, L.A. Burrowing Owl (*Athene cunicularia*). Shuford, W.D., and Gardali, T., editors. 2008. California Bird Species of Special Concern: A ranked assessment of species, subspecies, and distinct populations of birds of immediate conservation concern in California. Studies of Western Birds 1. Western Field Ornithologists, Camarillo, California, and California Department of Fish and Game, Sacramento.

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Attachment A

Draft Mitigation and Reporting Program and Draft Recommendations

Draft Mitigation Monitoring and Reporting Program (MMRP)

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

Biological Resources (BIO)		
Mitigation Measure (MM) Description	Implementation Schedule	Responsible Party
MM BIO-2: Pre-construction surveys for burrowing owl occupation shall be conducted by a qualified biologist(s) prior to the start of Project-related activities. The surveys shall follow the methods described in the CDFW’s Staff Report on Burrowing Owl Mitigation (CDFW 2012). Pre-construction surveys shall be conducted no less than 14 days before the initial ground disturbance (e.g., grading, grubbing, construction). Burrowing owls may re-colonize a site after only a few days. Time lapses between Project activities trigger subsequent take avoidance surveys including but not limited to a final survey conducted within 24 hours prior to ground disturbance. If burrowing owls or suitable burrowing owl burrows with sign (e.g., whitewash, pellets, feathers, prey remains) are identified on the Project site during the pre-construction clearance surveys or during construction, Project activities shall be immediately halted. The Project Proponent shall consult with CDFW on the next steps, including obtaining an Incidental Take Permit (ITP) for burrowing owl prior to the start of Project activities.	Prior to commencing ground or vegetation disturbing activities	Project Proponent
MM BIO-3: In order to avoid violation of the Migratory Bird Treaty Act (MBTA) and the California Fish and Game Code, site-preparation activities (removal of trees and vegetation) for all projects shall be avoided, to the greatest extent possible, during the nesting season (generally February 1 to August 31) of potentially occurring native and migratory bird species. Regardless of the time of year, a pre-construction survey shall be performed to verify absence of nesting birds. A qualified biologist shall conduct the pre-activity survey within the Project areas (including access routes) and a 500-foot buffer surrounding the Project areas, no more than three (3) days prior to the initiation of Project activities, including, but not limited to clearing, grubbing, and/or rough grading to prevent impacts to birds and their nests. The survey shall focus on all suitable nesting areas such as but not limited to: trees, shrubs, bare ground, burrows, cavities, and structures. Pre-construction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified biologist shall make every effort to avoid potential nest predation as a result of survey and monitoring efforts. If active nests or nesting bird activity are identified within the work area or the Project’s zone of influence (generally 100-300 feet), a no disturbance buffer zone shall be established by the qualified biologist to be marked on the ground around each nest. The	Prior to commencing ground or vegetation disturbing activities	Project Proponent

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buffer shall be a minimum of 500 feet for raptors and 300 feet for songbirds, unless a smaller buffer is specifically determined by a qualified biologist familiar with the nesting phenology of the nesting species. The buffer areas shall be avoided until the nests are no longer occupied and the juvenile birds can survive independently from the nests. Active nest(s) and an established buffer distance(s) shall be monitored daily by the qualified biologist until the qualified biologist has determined the young have fledged or the Project has been completed. The qualified biologist has the authority to stop work if nesting pairs exhibit signs of disturbance. If there is no nesting activity, then no further action is needed for this measure. If an active nest is encountered during the Project construction, construction shall stop immediately until a qualified biologist can determine (1) the status of the nest, and (2) when work can proceed without risking violation to state or federal laws.		
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