

Leilani Henry

From: Chris Anderson <canderson1138@gmail.com>
Sent: Thursday, January 22, 2026 10:07 AM
To: Leilani Henry
Subject: Hesperia Phelan CUP24-00012 Initial Study/Mitigated Negative Declaration

You don't often get email from canderson1138@gmail.com. [Learn why this is important](#)

Hi,

I would like to comment that the study does not appropriately evaluate the impacts on thru traffic westbound along Phelan Rd at the entrance to the proposed gas station. Appropriations must be made to ensure safety of motorists entering and passing by the station along Phelan road similar to the planned widening improvements on Highway 395, i.e Phelan Rd must have a dedicated right turn lane into the gas station as PHelan Rd is a major roadway as established within the Initial Study and the City's Plan.

Thank you

Chris Anderson

Mojave Desert Air Quality Management District

Brad Poiriez, *Executive Director*

14306 Park Avenue, Victorville, CA 92392-2310

760.245.1661 • Fax 760.245.2022

www.MDAQMD.ca.gov • @MDAQMD



January 22, 2026

Leilani Henry, Planner
City of Hesperia, Planning Department
9700 Seventh Avenue
Hesperia, CA 92345

Project: Hesperia Phelan (CUP24-00012) Project

Dear Ms. Henry:

The Mojave Desert Air Quality Management District (District) has reviewed the Project Notice for the Au Energy Fueling Station Project. The project proposes to construct and operate a 5,915-square-foot convenience store, five fuel islands (10 pumps total) beneath a 4,080-square-foot canopy, and a 1,968-square-foot automated car wash tunnel on an approximately 115,870-square-foot (2.66-acre) site.

We have reviewed the project as proposed and based on the information available to us at this time, the District requires that fugitive dust best management practices (including but not limited to applicable provisions of District Rule 403) are implemented on all non-paved transport roads, access points, and parking areas. The District also requires that the proponent obtain District permits for any miscellaneous process equipment that may not be exempt under District Rule 219 including, but not limited to; fuel storage and dispensing equipment, and internal combustion engines with a manufacture's maximum continuous rating greater than or equal to 50 brake horsepower. An asbestos checklist is required for any demolition or renovation of existing buildings. MDAQMD asbestos informational flowchart and notification forms are available at: <https://www.mdaqmd.ca.gov/permitting/asbestos-information>.

Thank you for the opportunity to review this project. If you have any questions regarding this letter, please contact me at (760) 245-1661, extension 1846, or Bertrand Gaschot at extension 4020.

Sincerely,

Chris Anderson
Planning and Air Monitoring Supervisor

CA/bg

Hesperia CUP24-00012 2026 22 Jan



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

GAVIN NEWSOM, Governor
VALERIE TERMINI, Acting Director



February 6, 2026
Sent via email

Leilani Henry
Associate Planner
City of Hesperia
9700 Seventh Avenue
Hesperia, California 92345
Elena.Barragan@lus.sbcounty.gov

Subject: Hesperia Phelan CUP24-00012 (Project)
Mitigated Negative Declaration (MND)
SCH# 2026010656

Dear Leilani Henry:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from City of Hesperia (City) 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.

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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City of Hesperia
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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.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

Project Proponent: Au Energy, LLC

Objective: The Project proposes to construct and operate a 5,915-square-foot convenience store, five fuel islands (10 pumps total) beneath a 4,080-square-foot canopy, and a 1,968-square-foot automated car wash tunnel on an approximately 2.66-acre site. The entire 2.66-acre site will be developed with approximately 1.88 acres of paved surface area and 0.78-acres of landscaped area. Other Project elements include 40 parking spaces, two driveways both off U.S. Highway 395 (US-395) and Phelan Road, installation of traffic signals, widening of the southbound side of US-395 by 58-feet from centerline, and underground petroleum storage tanks.

Location: The Project is located in the City of Hesperia in the Mojave Desert of San Bernardino County, north of Phelan Road, west of US-395, and south of Yucca Terrace Dr. The Project is located on Accessor's Parcel Number (APN) 3064-401-10 with grading and landscaping extending onto APNs 3064-401-06 and 3064-401-09, and the proposed sewer line extending onto APN 3064-401-09. The Project site's latitude and longitude are 34.427541°N and -117.400975°W.

Timeframe: Undescribed

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. Please note that no biological studies were conducted for the Project prior to the circulation of the MND.

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COMMENT # 1: Burrowing Owl (*Athene cunicularia*)

Issue: The Project has the potential to result in permanent loss, degradation, and impacts to burrowing owl habitat. The Project may result in the take of burrowing owl, a candidate species under the CESA, during construction of the Project and the life of the Project. California Fish and Game Code Section 86 defines "take" as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill".

Specific impact: Project related activities may result in direct or indirect take of burrowing owl by reducing/eliminating suitable habitat for the species, restricting species movement, or causing injury or mortality.

Why impact would occur: Mitigation Measure (MM) BIO-2 proposes to conduct a pre-construction survey to identify burrows of species with the potential to occur on the Project site. This general approach concerns CDFW, as surveys may not follow proper protocols and may miss sign or presence of burrowing owl. Additionally, no surveys for burrowing owl have been conducted consistent with Appendix D of the CDFW 2012 Staff Report on Burrowing Owl Mitigation (CDFG 2012) to properly assess whether burrowing owl may be present within the Project site or surrounding areas. Impacts to burrowing owl may be significant if burrowing owl is not properly identified on-site. Additionally, Mitigation Measure MM BIO-3 details actions to avoid and minimize impacts to burrowing owl; for example, buffers and a mortality reduction or avoidance plan. However, if surveys detect burrowing owl, the Project Applicant should fully avoid impacts to burrowing owl or obtain a CESA Incidental Take Permit (ITP).

Evidence impact would be significant: On October 10, 2024, the Fish and Game Commission determined that burrowing owl warrants protection as a candidate species under CESA (Fish & G. Code, § 2050 et seq.). During the candidacy period, burrowing owl is afforded the same protection as a threatened and endangered species under CESA. The Project, as described, may result in injury, direct mortality, indirect mortality, disruption of breeding behavior, and/or may reduce reproductive capacity of the species. CDFW considers the direct and indirect take of burrowing owl, and the loss of the species' habitat as a significant impact, unless mitigated to a level of less than significant and in compliance with State (*i.e.*, Fish and Game Code sections 3503.5, *etc.*) and Federal laws (*i.e.*, Migratory Bird Treaty Act). If Project activities could result in take, appropriate CESA authorization (*i.e.*, ITP under Fish and Game Code section 2081) should be obtained prior to commencement of Project activities.

Recommended Potentially Feasible Mitigation Measure(s) to Reduce Impacts to Less than Significant: CDFW appreciates that the MND provided mitigation measures, MM BIO-2 and MM BIO-3 to avoid and minimize the Project's impacts to burrowing owl. In consideration of the above-mentioned, CDFW offers the following revisions to MM BIO-2 and MM BIO-3 (edits are in ~~strikethrough~~ and **bold**) for inclusions in the final MND.

MM BIO-2: Pre-Construction Burrow Surveys (Revised)

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A qualified biologist will perform **breeding season and non-breeding season burrowing owl** one pre-construction burrow surveys of the Project work area **according to the CDFW Staff Report on Burrowing Owl Mitigation (2012 or most recent version)** ~~no more than 14 days prior to ground-disturbing activities, and a second pre-construction burrow survey within 24 hours of ground-disturbing activities.~~ **If performing both breeding season and non-breeding season surveys is infeasible, Project Proponent shall coordinate with CDFW regarding whether to proceed with either breeding season surveys or non-breeding season surveys, which will be determined by CDFW and depend on Project timelines.** The qualified biologist **conducting the surveys** will identify, flag, and map all burrows potentially occupied by burrowing owl and then confirm occupation of all potential burrows ~~for buffers and avoidance.~~ Methods of determining burrow occupancy may include, but will not be limited to, visual observations of scat or tracks outside burrow entrances, ~~dusting burrow entrances with a tracking medium for a period of 3 days,~~ installing trail cameras for nocturnal observations, ~~small mammal trapping,~~ or a combination of these methods as appropriate. If burrows occupied by burrowing owl **or sign is** are identified, ~~they will be avoided in accordance with MM BIO-3 shall apply.~~

Mitigation Measure MM BIO-3: Burrow Avoidance

If burrows occupied by burrowing owl are found during pre-construction ~~burrow~~ surveys, adequate buffers will be established around burrows. Adequate buffers will be determined by a qualified biologist based on field conditions and the CDFW Staff Report on Burrowing Owl Mitigation (2012). **However, the Project Proponent shall ensure full avoidance of impacts to burrowing owl occurs.** If occupied burrows cannot be avoided **or if any other impact to burrowing owl cannot be fully avoided,** the CDFW will be consulted ~~and a CESA ITP shall be obtained,~~ and a burrowing owl-specific mortality reduction or avoidance plan will be developed. ~~This plan may include, but will not be limited to the following:~~

- ~~• Detailed description of trapping methodology,~~
- ~~• Detailed burrow excavation methods,~~
- ~~• Release location(s), Detailed release methods,~~
- ~~• Artificial burrow design and installation methods,~~
- ~~• Description of exclusion fencing type and implementation, and~~
- ~~• Identification of a wildlife rehabilitation center or veterinary facility capable of and willing to treat injured burrowing owl.~~

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~~Any other construction activities that may impact burrows occupied by burrowing owl (including movement of construction equipment and other activities outside of the fenced/paved areas within wildlife habitat) will be monitored by a qualified biologist. The monitor/inspector will have the authority to stop work activities upon the discovery of burrowing owl sign and allow construction to proceed after the identification and implementation of steps required to avoid or minimize impacts to burrowing owl.~~

COMMENT #2: Nesting Birds

Issue: The Project may have impacts on nesting birds, including CESA-listed birds, Species of Special Concern (SSC), and birds that are subject to Fish and Game Code Sections 3503, 3503.5, and 3513, and the Migratory Bird Treaty Act of 1918.

Specific impact: The Project could result in direct take of birds associated with grading, vegetation removal, and vehicle and equipment strike and indirect take associated with Project operations such as attracting predators and displacement. Further, the Project may lead to the reduction of habitat and habitat quality. For example, the Project is likely to permanently remove foraging and nesting habitat for avian species, such as but not limited to grey vireo (*Vireo vicinor*) (SSC), Cooper's hawk (*Accipiter cooperii*) (SSC), loggerhead shrike (*Lanius ludovicianus*) (SSC), and LeConte's thrasher (*Toxostoma lecontei*) (SSC).

Why impact would occur: MM BIO-4 of the MND proposes to conduct pre-construction surveys for nesting birds; however, MM BIO-4 limits pre-construction surveys for nesting birds to the typical bird nesting season (i.e., February to August). CDFW recommends that disturbance to occupied nests of non-migratory passerine birds, migratory birds, and raptors within the Project site and surrounding area be avoided *any time* birds are nesting onsite. This is in consideration that studies have shown that migratory bird species arrive earlier in the season partially in response to higher temperatures influenced by climate change (Usui et. al. 2016). In addition, in response to warming, birds have been reported to breed earlier and CDFW staff have observed that climate change conditions may result in nesting bird season occurring earlier and later in the year than historical nesting season dates.

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

Recommended Potentially Feasible Mitigation Measure(s) to Reduce Impacts to Less than Significant: CDFW appreciates that the draft MND provided a mitigation measure, MM BIO-4, to minimize the Project's impacts to nesting birds. CDFW offers the following revisions to MM BIO-4 (edits are in ~~strikethrough~~ and bold) for inclusions in the final MND to avoid and minimize impacts to nesting birds.

Mitigation Measure: MM BIO-4: Nesting Bird Survey.

A pre-construction nesting bird survey will be conducted prior to vegetation removal or **initial Project ground disturbance** ~~relocation activities between the nesting bird season (i.e., February 15 through August 31).~~ If an active bird nest that may be impacted by Project-related activities is observed, AMMs, including delaying construction within the immediate vicinity of the active nest or establishing a nest buffer determined by a qualified biologist until the young have fledged or the nest has failed, will be implemented.

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

Leilani Henry, Associate Planner
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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 in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Jason Bill, Senior Environmental Scientist (Specialist) at Christopher.Bill@wildlife.ca.gov

Sincerely,

DocuSigned by:


84FBB8273E4C480...

Alisa Ellsworth
Environmental Program Manager

ec: Office of Planning and Research, State Clearinghouse, Sacramento
state.clearinghouse@lci.ca.gov

Sunny Goyal, Vice President
Au Energy, LLC
sunny@loopneighborhood.com

Matt Winter, Lead Planner
Insignia Environmental Consulting Firm
mwinter@insigniaenv.com

ATTACHMENTS

Attachment A: Mitigation Monitoring and Reporting Plan

REFERENCES

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 \(ca.gov\)](#)

Usui, T., Butchart, S.H.M., and Philmore A.B., (2016). Temporal Shifts and Temperature Sensitivity of Avian Spring Migratory Phenology: A Phylogenetic Meta-analysis. *Journal of Animal Ecology* 86(2): 250-261.

Leilani Henry, Associate Planner
 City of Hesperia
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Attachment A

Mitigation Monitoring and Reporting Plan

Biological Resources (BIO)		
Mitigation Measure (MM)	Implementation Schedule	Responsible Party
MM BIO-2: Pre-Construction Surveys A qualified biologist will perform breeding season and non-breeding season burrowing owl pre-construction surveys of the Project work area according to the CDFW Staff Report on Burrowing Owl Mitigation (2012 or most recent version). If performing both breeding season and non-breeding season surveys is infeasible, Project Proponent shall coordinate with CDFW regarding whether to proceed with either breeding season surveys or non-breeding season surveys, which will be determined by CDFW and depend on Project timelines. The qualified biologist conducting the surveys will identify, flag, and map all burrows potentially occupied by burrowing owl and confirm occupation of all potential burrows. Methods of determining burrow occupancy may include, but will not be limited to, visual observations of scat or tracks outside burrow entrances, installing trail cameras for nocturnal observations, or a combination of these methods as appropriate. If burrows occupied by burrowing owl or sign is identified, MM BIO-3 shall apply.	Prior to initiation of all ground disturbing activities	Project proponent and Qualified Biologist
MM BIO-3: Burrow Avoidance If burrows occupied by burrowing owl are found during pre-construction surveys, adequate buffers will be established around burrows. Adequate buffers will be determined by a qualified biologist based on field conditions and the CDFW Staff Report on Burrowing Owl Mitigation (2012).	Prior to initiation of all ground disturbing activities	Project proponent and Qualified Biologist

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 City of Hesperia
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However, the Project Proponent shall ensure full avoidance of impacts to burrowing owl occurs. If occupied burrows cannot be avoided or if any other impact to burrowing owl cannot be fully avoided, the CDFW will be consulted and a CESA ITP shall be obtained.		
MM BIO 4: Nesting Bird Survey A pre-construction nesting bird survey will be conducted prior to vegetation removal or initial Project ground disturbance. If an active bird nest that may be impacted by Project-related activities is observed, AMMs, including delaying construction within the immediate vicinity of the active nest or establishing a nest buffer determined by a qualified biologist until the young have fledged or the nest has failed, will be implemented.	Prior to vegetation removal or initial ground disturbance	Project proponent and Qualified Biologist

California Department of Transportation

DISTRICT 8
464 WEST 4TH STREET
SAN BERNARDINO CA, 92401
(909) 963-8604
www.dot.ca.gov



February 18, 2026

Route & Postmile #: US-395/R5.655
Cross Street: US-395 & Phelan Rd.
GTS ID: 38981

City of Hesperia
Planning Division
Attn: Leilani Henry
9700 Seventh Avenue,
Hesperia, CA, 92345

Subject: Comments on the Initial Study Mitigated Negative Declaration (IS/MND) for Hesperia Phelan CUP24-00012 Project

Dear Leilani Henry:

Thank you for including The California Department of Transportation (Caltrans), District 8, Local Development Review (LDR) branch in the environmental review process. We are committed to ensuring that impacts to the State's multimodal transportation system and to our natural environment are identified and mitigated to support a safe, sustainable, integrated and efficient transportation system. The following comments are based on our review of the IS/MND for Hesperia Phelan CUP24-00012 project.

Project Understanding:

The proposed project is located on the northwest corner of the United States (U.S.) Highway 395 and Phelan Road in the City of Hesperia (City) in San Bernardino County, California (Assessor's Parcel Number 3064-401-10). The project proposes to construct and operate a 5,915-square-foot convenience store, five fuel islands (10 pumps total) beneath a 4,080-square-foot canopy, and a 1,968-square-foot automated car wash tunnel on an approximately 115,870-square-foot (2.66-acre) site. In addition, the proposed project includes improvements to U.S. Highway 395 and the traffic signal on the northwestern corner of the Phelan Road and U.S. Highway 395 intersection. This IS/MND evaluates project-level impacts for commercial development, improvements to U.S. Highway 395, and the enhancements to traffic signal.

Traffic Operations:

General:

1. Please include distance from curb return at the intersection of Phelan Road and US 395 to the proposed driveway on US 395.
2. Please include Responses to Review Comments memorandum for your next review submittal.

Traffic Analysis Report:

3. Please provide a Traffic Impact Analysis with the items below:
 - a. Please include discussion on the type of trucks this facility will service and provide truck turning templates for the intersection of Phelan Rd/US-395.
 - b. Please perform a queuing analysis for the intersection of Phelan Rd/US-395 and any additional locations that will generate additional trips on the State Highway System.
 - i. Please provide traffic data to support the queuing analysis.
 - ii. Add queuing analysis for the existing conditions, opening year, and horizon year.
4. In the Hesperia Loop and Gas Trip Distribution Map, the location of Study intersection #3 is incorrect. It is currently shown at Acacia Rd in the figure. Please correct to show Yucca Terrace Drive.

Safety Reviews:

5. The proposed project will generate additional trips on the State Highway System, please provide traffic safety review as a stand-alone report for the intersection Rd and US 395. See the attached [Local Development Review \(LDR\) Safety Review Practitioner's Guidance](#).
 - a. To request crash data on the State Highway System, please submit your request via our California Public Records Act (CPRA) portal at mycusthelp.com.
 - b. Please analyze the existing crash data and discuss project's impact on safety as needed.
 - c. Provide appropriate countermeasures (if any) to mitigate/reduce project's impact.

Equitable Access:

If any Caltrans facilities are impacted by the project, they must comply with the American Disabilities Act (ADA) Standards upon project completion. Additionally, the project must ensure the maintenance of bicycle and pedestrian access throughout the construction phase. These access considerations align with Caltrans' equity mission to provide a safe, sustainable, and equitable transportation network for all users.

Caltrans Encroachment Permit:

Please be advised that any permanent work or temporary traffic control that encroaches onto Caltrans' Right-of-Way (R/W) requires a Caltrans-issued encroachment permit.

For information regarding the Encroachment Permit application and submittal requirements, contact:

Caltrans Office of Encroachment Permits
464 West 4th Street, Basement, MS 619
San Bernardino, CA 92401-1400
(909) 383-4526

D8.E-permits@dot.ca.gov

<https://dot.ca.gov/programs/traffic-operations/ep>

Important Note: All permit applications must now be submitted through our CEPS Online Portal at: <https://ceps.dot.ca.gov/>

Please be advised that LDR's point of contact role will conclude upon the completion of the development entitlement process. Once the project is entitled, the Encroachment Permit Office will serve as the primary point of contact moving forward.

Thank you again for including Caltrans in the review process. Should you have any questions regarding this letter, or for future notifications and requests for review of new projects, please email LDR-D8@dot.ca.gov or call 909-963-8604.

Sincerely,

A handwritten signature in black ink that reads "Janki Patel". The signature is written in a cursive, flowing style.

Janki Patel
Branch Chief - Local Development Review
Division of Transportation Planning
Caltrans District 08

DEPARTMENT OF WATER RESOURCES

P.O. BOX 942836
SACRAMENTO, CA 94236-0001
(916) 653-5791



February 19, 2026

Leilani Henry
Associate Planner
City of Hesperia
9700 Seventh Ave.
Hesperia, California 92345
lherry@hesperiaca.gov

SCH# 2026010656 Notice of Intent to Adopt a Mitigated Negative Declaration (MND) for the proposed AU Energy, LLC Hesperia Phelan CUP24-00012 Project, City of Hesperia

Dear Ms. Henry:

The California Department of Water Resources (DWR) Division of Operations and Maintenance (O&M) staff have reviewed the Notice of Intent to adopt the MND from the City of Hesperia's (City) for the proposed Phelan CUP24-00012 Project (CUP24) and appreciates the opportunity to provide the following comments.

Project Description

The Project is located at the intersection of Hwy395 and Phelan Rd in City of Hesperia which is adjacent to and due west of the Arroyo Gande Wash and west of CA Aqueduct. The 2.66-acre site surface will include 1.88 acres of paved surface area and 0.78-acreas of landscaped area. The Project includes the construction and operation of a 5,915-square-foot convenience store with five fuel islands (10 pumps total) beneath a 4,080-square-foot canopy, a 1,968-square-foot automated car wash tunnel and underground petroleum storage tanks (USTs) will be located in the southeastern corner of the Project site. The project site slope is from northeast to southwest with an approximate slope of 3 percent. The entire Project site will be graded to create a flat surface except for approximately .43 acres of sloped landscape area.

Comments:**1.7.1 Project Structures****1. Figure 1 Regional Location**

Figure 1 indicates the City Boundary with a red hashed line filled with gray color. The gray color is sufficiently opaque to mask important details and landmarks within the city limits. A photograph, similar to the google maps (figure 1.) which labels the California

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Aqueduct and provides adequate detail to identify streets and the location of the Arroyo Grande Wash needs to be added for the public and agencies to evaluate the potential significant impacts of the project.



Figure 2 Project Site is not current and needs to be updated to include the Amazon facility, the structures that appear to be located on Phelan Road, grading work that has been done adjacent to the Amazon facility and then overlay the location of the three parcels. Those updates are needed to demonstrate how the existing Amazon development and other improvements and the three parcels will integrate and to provide reviewers accurate information.



1.9 OTHER PUBLIC AGENCIES WHOSE APPROVAL IS REQUIRED

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Section 1.7.5 Utilities states that the storm drain will extend off the Project site. The IS/MND does not provide information on the Project's off-site drainage pattern, if project stormwater discharges, including from on-site storm drain outlets discharge into or direct flows towards DWR's right of way, an encroachment permit would be needed.

4. ENVIRONMENTAL ANALYSIS

The impacts conclusions throughout this document of less than significant storm water run-off impacts are not supported by technical information. Additional analysis is needed to support the less than significant impact conclusions.

The project location is described as undeveloped land composed of bare ground and sparse vegetation. This is correct, but the description fails to explain that bare ground and sparse vegetation is typical of the area and the natural drainage in the area consists of sheet flows over bare ground which flow to the Oro Grande Wash. The Oro Grande Wash flows near the Phelan Road and Highway 395 intersection and then passes under the California Aqueduct Box Culvert at Mile Post (MP) 394.5 and continues flowing from the northeast side of the Aqueduct. Increased drainage discharges into the Wash increase the sediment load onto the DWR right-of-way.

The IS/MND explains that "[t]o mitigate the addition of 1.88 acres of impervious surfaces proposed by the Project, which can inhibit the infiltration of stormwater, the proposed on-site storm drain system will connect to an underground retention facility located east of the proposed fueling station to retain any additional stormwater runoff and discharge through a new proposed storm drain to Phelan Road. The underground retention facility will be capable of retaining stormwater flows from a 100-year storm event".

The IS/MND does not provide essential information on the new proposed storm drain on Phelan Road, even though it is assumed that storm drain will be completed prior to the completion of the project construction. Will the proposed Phelan storm drain discharge into the Oro Grande Wash? If not, where is the discharge location? Based on drawing SP1 showing proposed and existing utilities, the outlet from proposed underground retention facility will drain into *existing* storm drains located underneath Phelan Road. The IS/MND needs to provide information that the drainage which will be routed through existing Phelan Road storm drains will not discharge at the storm drain and outlet structure located at the north end of Cataba Road (located east of proposed development). The Cataba Road discharge causes significant erosion and sedimentation issues within DWR right of way. Any Project discharge at the Cataba Road location requires an impact analysis .

A Hydrology/Drainage Study analyzing the pre- and post-development runoff volumes and showing that the proposed underground retention facility is sized sufficiently to

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accommodate expected attenuating peak run-off velocities rather than the 100-year flood event is needed. The Hydrology/Drainage Study needs to analyze the pre and post flows into nearby DWR Cross Drainage Structures mentioned above. If no flows are expected to be discharged downstream impacting DWR cross drainage facilities, then provide analysis and calculation justifying that all stormwater will be collected on-site or be infiltrated. The concerns are uncontrolled runoff directed towards DWR right of way causing ponding, erosion and scour. Provide hydrology or drainage maps for this area showing pre-and post-development flows.

If you have any questions or need additional information, please contact me at (916) 820-8124 or via email at Nancy.finch@water.ca.gov.

Sincerely,

Nancy E Finch

Nancy Finch
Attorney III

Attachments