



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
CHARLTON H. BONHAM, Director



Attachment 5e

July 11, 2025
Sent via email

Ryan Leonard
Principal Planner
City of Hesperia
9700 Seventh Avenue
Hesperia, CA 92345

Dear Ryan Leonard:

Cargo Solutions Truck Warehouse and Truck Stop Hesperia Project (PROJECT)
Mitigated Negative Declaration (MND)
SCH# 2025060948

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

Proponent: Bobby Kang

Objective: The objective of the Project is to develop two warehouse buildings and associated parking lots and utilities across five Assessor Parcel Numbers (APNs) (see Project location below for APNs). The warehouses are intended for truck storage and will encompass 20.32 acres. Truck Warehouse 1 will encompass 10.52 acres and include a 75,894-square foot (sf) warehouse with office and grade level doors, 121,975 sf of surface parking space for passenger vehicles and truck/trailer parking, and 26,864 sf of landscaping. Truck Warehouse 2 will encompass 9.8 acres and include a 75,894-sf warehouse with office and grade level warehouse space, 143,708 sf surface parking lot for passenger vehicles and truck/trailer parking, and 58,389 sf of landscaping. Utilities including domestic water, sewer lines, fire suppression, irrigation lines, gas, and electricity will be needed across the Project site for both warehouses. The Project will also include interior and exterior lighting and the installation of an 8-foot-tall wall and an 8-foot-tall iron fence separating the two warehouses. The Project intends to operate 24 hours a day, 7 days a week, and is estimated to result in employing 448 staff for both warehouses.

Location: The Project is located in the City of Hesperia in the southeast corner of Three Flags Avenue and Poplar Street, County of San Bernardino, State of California. The Project will occur on APNs 3064-591-12, -13, -17, -18 and 3064-631-01. The Project is centered at Latitude 34.4148905 and Longitude -117.3926335.

Timeframe: The Project is expected to occur in one phase and is estimated to commence October 2025 and be completed in November 2026.

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.

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COMMENT #1: Mohave ground squirrel (*Xerospermophilus mohavensis*)

Section #4.4 Biological Resources, Page #72-73

Issue: The Project has the potential to result in take of Mohave ground squirrel, a CESA listed species, and in the permanent loss of potential habitat for the species. 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: Mohave ground squirrel was identified by the MND to have a low potential to occur within the biological study area (BSA), but no focused surveys were conducted, nor were any species-specific avoidance or mitigation measures included in the MND.

Why impact would occur: The Project would permanently impact 20.32 acres of open space through grading, staging, construction of two large warehouses, and installation of parking lots. CDFW is concerned that the Project may impact Mohave ground squirrel considering that the MND mentions the presence of burrows and creosote bush (*Larrea tridentata*), which are known to provide habitat for Mohave ground squirrel and no focused surveys to determine presence/absence of Mohave ground squirrel were conducted.

Evidence impact would be significant: The MND mentions that Mohave ground squirrel has a low potential to occur onsite and that the BSA offers minimal habitat value for fossorial species, such as Mohave ground squirrel. Thus, considering that the Project site offers some habitat value and there is vegetation suitable for Mohave ground squirrel (i.e., creosote bush), CDFW is concerned that mitigation measures were not included in the MND to ensure impacts to Mohave ground squirrel are mitigated to a level of less than significant. Furthermore, California Natural Diversity Database (CNNDDB) indicates the Project is within the Mohave ground squirrel distribution range and Mohave ground squirrel occurs within 2.5 miles of the Project site. In fact, burrows were detected onsite, which the MND attributes to belonging to an unknown ground squirrel species.

Recommended Potentially Feasible Mitigation Measures to reduce impacts to less than significant: CDFW offers the following measure for inclusion in the final MND:

Mitigation Measure Biological Resources 6 (MM-BIO-6) (New): Mohave ground squirrel

Visual surveys for Mohave ground squirrel shall be conducted by a qualified biologist prior to ground disturbing activities. Visual surveys shall be conducted between March 15 and April 15 according to the California Department of Fish and Game Mohave Ground Squirrel Survey Guidelines

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(CDFW 2023). Visual surveys shall be conducted on the Project site during daylight hours by a qualified biologist who can readily identify Mohave ground squirrel and white-tailed antelope squirrel (*Amмосpermophilus leucurus*). If the survey or monitoring throughout the duration of the Project confirms presence of Mohave ground squirrel, the Project proponent shall fully avoid impacts to Mohave ground squirrel or should obtain an Incidental Take Permit (ITP) for Mohave ground squirrel if impacts are unavoidable.

COMMENT #2: Western Joshua tree (*Yucca brevifolia*)

Section #2.3.4 Environmental Setting, 4.4 Biological Resources, Page #25, 67, 72, 73, 77, 80-81, 191

Issue: The Project may impact western Joshua tree; a candidate species protected under CESA and Fish and Game Code section 1927.

Specific impact: The Project, as described, will result in the lethal take of western Joshua trees present onsite. In fact, the MND confirms that direct and indirect take of western Joshua tree is likely to occur.

Why impact would occur: Project activities, such as grubbing and grading may result in removal of western Joshua tree or may impact their root system. Under Fish and Game Code section 1927, the take of western Joshua trees and parts thereof, including roots, is prohibited. Damage to roots can lead to the death of the tree.

Evidence impact would be significant: The MND is not clear regarding how many western Joshua trees are present on site, but states that there are between 1 to 6 western Joshua trees present and CDFW confirmed the presence of western Joshua trees onsite through aerial imagery. The MND also does not provide information regarding the extent that the Project may impact the species but in BIO-1 (see below) discusses the need for an Incidental Take Permit (ITP) under Fish and Game Code section 2081. Please note that the Project may also receive an ITP under Fish and Game Code section 1927 through the Western Joshua Tree Conservation Act (WJTCA), which will require a census of all trees dead or alive within the Project site and a 50-foot buffer. For further information please visit [Western Joshua Tree Conservation Permitting](#).

Recommended Potentially Feasible Mitigation Measures to reduce impacts to less than significant: CDFW offers the following revisions to BIO-1 for inclusion in the final MND (edits are in ~~strike through~~ and **bold**):

MM-BIO-1 (Revised): Section 2081 FGC Incidental Take Permit

Western Joshua trees are a state candidate for listing under CESA and will require a § 2081 FGC Incidental Take Permit (ITP) with compensatory mitigation for impacts,

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in addition to the surveys that are recommended in the discussion of MM BIO-6. The exceptions and permitting process under the California Desert Native Plants Act and the separate exceptions under the Native Plant Protection Act will not apply to western Joshua tree in any manner. For projects where take is incidental to carrying out an otherwise lawful activity, an ITP may be obtained from CDFW. **The Project may also obtain take authorization through § 1927 of the Western Joshua Tree Conservation Act (WJTCA).**

Per Section 1927.4 of the WJTCA, CDFW may authorize, by permit, the taking of a western Joshua tree if all of the following conditions are met: (1) The permittee submits to CDFW for its approval a census of all western Joshua trees on the Project site, including photographs, that categorize the trees according to the following size classes: a. Less than one meter in height. b. One meter or greater but less than five meters in height. c. Five meters or greater in height. (2) The permittee avoids and minimizes impacts to, and the taking of, the western Joshua tree to the maximum extent practicable. Minimization may include trimming, encroachment on root systems, relocation, or other actions that result in detrimental but nonlethal impacts to western Joshua tree. (3) The permittee mitigates all impacts to, and taking of, the western Joshua tree through the payment of in lieu mitigation fees. For the current fees, please visit: Western Joshua Tree Conservation Act Incidental Take Permit. Each western Joshua tree stem or trunk arising from the ground shall be considered an individual tree requiring mitigation, regardless of proximity to any other western Joshua tree stem or trunk. Mitigation is required of all trees, regardless of whether they are dead or alive. (4) CDFW may require the permittee to relocate one or more of the western Joshua trees.

COMMENT #3: Burrowing owl (*Athene cunicularia hypugaea*)

Section #4.4 Biological Resources, Page #68, 73, 76-77

Issue: The Project has the potential to significantly impact burrowing owl; a candidate species protected under CESA.

Specific impact: The Project may result in take of burrowing owl through Project activities such as mass grading. Additionally, the Project may lead to the permanent elimination of habitat for burrowing owls from warehouse development.

Why impact would occur: The MND states that suitable habitat is present onsite for burrowing owl; for example, sparse vegetation, burrows, and suitable soils. As a result, the MND included BIO-2 (see below). CDFW appreciates that BIO-2 considers focused surveys for burrowing owls and is in line with previous guidance provided by CDFW. However, CDFW would like to note that since burrowing owl became a CESA candidate species in March 2024, CDFW cannot accept relocation plans outside of a CESA ITP. Instead, BIO-2 should consider obtaining an ITP if

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burrowing owls are detected and impacts cannot be avoided. Thus, the change in regulatory status for burrowing owl requires changes to measure BIO-2 as recommended by CDFW below.

Recommended Potentially Feasible Mitigation Measures to reduce impacts to less than significant: CDFW offers the following revisions to BIO-2 for inclusion in the final MND (edits are in ~~strike through~~ and **bold**):

MM-BIO-2 (Revised): Focused Burrowing Owl Survey

Although BUOW was not observed on site during the general wildlife survey, the BSA contains suitable habitat to potentially support BUOW in the future. A qualified biologist ~~shall would~~ conduct a focused BUOW survey in accordance with the Staff Report on Burrowing Owl Mitigation (CDFW, 2012).

Following the completion of the survey, the biologist ~~shall would~~ prepare a letter report summarizing the results of the survey. The report would be submitted to the **CDFW and the City** prior to initiating any ground disturbance activities.

If no BUOWs or signs of BUOW are observed during the survey and concurrence is received from Environmental Management Division of the San Bernardino County Department of Public Works (County EMD) and CDFW, project activities may begin and no further mitigation would be required.

If BUOW or signs of BUOW are observed during the survey, the site ~~shall would~~ be considered occupied **and the Project proponent shall fully avoid impacts to burrowing owl or should obtain a CESA ITP if impacts are unavoidable.** ~~The biologist would implement mitigation measure BIO-2 and contact the City of Hesperia, EMD, and CDFW to assist in the development of avoidance, minimization, and mitigation measures, prior to commencing project activities. The list of potential measures to avoid and minimize impacts to BUOWs described below would be implemented.~~

~~BUOW Protection Measures~~

~~If BUOWs or signs of BUOW are observed during the survey, then the site would be considered occupied and the biologist shall contact the City, EMD, and CDFW to assist in the development of avoidance, minimization, and mitigation measures discussed below, prior to commencing project activities.). If no BUOW or signs of BUOW are observed during the focused surveys, the components of this measure (discussed below) would not be applicable.~~

~~Planning BUOW Protection~~

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~~Grading, construction, and other project activities on all grassland habitat will be delayed until the qualified biologist has implemented burrow exclusion and closure. No ground-disturbing activities within 165 feet of an active BUOW burrow will be permitted until burrow exclusion and closure have been implemented. No destruction of foraging habitat will be permitted until burrow exclusion and closure have been implemented.~~

~~Preconstruction BUOW Protection~~

~~Prior to the initiation of grading and construction activities, the biologist shall implement passive relocation of an active BUOW burrow by installing a one-way door and then permanently excluding the BUOW from returning once it is confirmed that no BUOW individuals remain in the burrow. A biological monitor will visit the site daily to verify that the burrow is empty by monitoring and scoping the burrow.~~

~~Construction BUOW Protection Measures~~

~~A biological monitor will be onsite to monitor any BUOW or signs of BUOW. If any BUOW are observed then the biologist will consult with the County EMD and CDFW to determine the appropriate measures.~~

Comment #4: Nesting Birds

Section #4.4 Biological Resources, Page #68, 69, 72, 73, 75-77

Issue: The Project has the potential to impact nesting birds, including CDFW Species of Special Concern (SSC), and common 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: Project implementation could result in the loss of nesting and/or foraging habitat for (non-)passerine and raptor species.

Why impact would occur: Nesting avian species could be directly or indirectly impacted during construction and for the life of the Project through the removal of potential foraging habitat, loss of and/or modification of habitat features, construction of warehouses, installation of new artificial lighting, creation of noise and vibration, and the removal of vegetation. Nest destruction, nest abandonment, behavioral disturbance, increased risk of predation, and degradation of suitable habitat could also lead to significant impacts to nesting avian species and local populations.

The MND indicates that pre-construction nesting bird surveys would only occur during February-August. However, CDFW recommends the completion of nesting bird survey regardless of time of year to ensure compliance with all applicable laws pertaining to nesting and to avoid take of nests. This is in consideration that the timing of the bird nesting season varies greatly depending on several factors, such

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as the bird species, weather conditions in any given year, and long-term climate changes (e.g., drought, warming, etc.). CDFW staff have also observed that changing climate conditions may result in the nesting bird season occurring earlier and/or later in the year than historical nesting season dates.

Evidence impact would be significant: Fish and Game Code section 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 and Game Code section 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 and Game Code section 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 Measures to reduce impacts to less than significant: CDFW offers the following revisions to BIO-5 for inclusion in the final MND (edits are in ~~strike through~~ and **bold**):

MM-BIO-5 (Revised): Pre-Construction Breeding Bird Survey

To maintain compliance with the Migratory Bird Treaty Act (MBTA) and Fish and Game Code, and to avoid impacts or take of migratory non-game breeding birds, their nests, young, and eggs, the following measures will be implemented. The measures below will help to reduce direct and indirect impacts caused by construction on migratory non-game breeding birds to less than significant levels.

Project activities that will remove or disturb potential nest sites, such as open ground, trees, shrubs, grasses, or burrows, during the breeding season would be a potential significant impact if migratory non-game breeding birds are present. Project activities that will remove or disturb potential nest sites will be scheduled outside the breeding bird season to avoid potential direct impacts to migratory non-game breeding birds protected by the MBTA and Fish and Game Code. The breeding bird nesting season is typically from February 15 through September 15, but can vary slightly from year to year, usually depending on weather conditions. Removing all physical features that could potentially serve as nest sites will also help to prevent birds from nesting within the project site during the breeding season and during construction activities.

- ~~If project activities cannot be avoided during February 15 through September 15, a~~ **A** qualified biologist will conduct a pre-construction breeding bird survey for breeding birds and active nests or potential nesting sites within the limits of project

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disturbance. The survey will be conducted ~~at least seven days~~ **within 72 hours** prior to the onset of scheduled activities, such as mobilization and staging. ~~It will end no more than three days prior to vegetation, substrate, and structure removal and/or disturbance.~~

- If no breeding birds or active nests are observed during the pre-construction survey or they are observed and **the qualified biologist determines they** will not be impacted, project activities may begin and no further mitigation will be required.
- If a breeding bird territory or an active bird nest is located during the pre-construction survey and will potentially be impacted, the site will be mapped on engineering drawings and a no activity buffer zone will be marked (fencing, stakes, flagging, orange snow fencing, etc.) a minimum of 100 feet in all directions or 500 feet in all directions for listed bird species and all raptors. The biologist will determine the appropriate buffer size based on the type of activities planned near the nest and the type of bird that created the nest. Some bird species are more tolerant than others of noise and activities occurring near their nest. This no-activity buffer zone will not be disturbed until a qualified biologist has determined that the nest is inactive, the young have fledged, the young are no longer being fed by the parents, the young have left the area, or the young will no longer be impacted by project activities. Periodic monitoring by a biologist will be performed to determine when nesting is complete. Once the nesting cycle has finished, project activities may begin within the buffer zone.
- If listed bird species are observed within the project site during the pre-construction survey, the biologist will immediately map the area and notify the appropriate resource agency, **including CDFW**, to determine suitable protection measures and/or mitigation measures and to determine if additional surveys or focused protocol surveys are necessary. Project activities may begin within the area only when concurrence is received from the appropriate resource agency, **including CDFW**.
- Birds or their active nests will not be disturbed, captured, handled or moved. ~~Active nests cannot be removed or disturbed; however, nests can be removed or disturbed if determined inactive by a qualified biologist.~~

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

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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 City in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Steven Recinos, Environmental Scientist at 909-731-5954 or by email at Steven.Recinos@wildlife.ca.gov.

Sincerely,

DocuSigned by:

6BBFAB19FE504F9...
For Alisa Ellsworth
Environmental Program Manager

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

ATTACHMENTS

Attachment A: Mitigation Monitoring Reporting Plan

REFERENCES

California Department of Fish and Wildlife. 2023. Mohave Ground Squirrel Survey Guidelines.

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California Department of Fish and Game. 2003. CDFG [currently CDFW] unpublished guidelines. Mohave Ground Squirrel Survey Guidelines. January 2003; minor process and contact changes in July 2010). Sacramento, CA

California Department of Fish and Wildlife. 2019. Mohave Ground Squirrel Range-CWHR M073 [ds908]. Calif. Dept. of Fish and Wildlife. Biogeographic Information and Observation System.

California Natural Diversity Database (CNDDDB) Government [ds45]. 2024. Calif. Dept. of Fish and Wildlife. Biogeographic Information and Observation System.

Attachment A

Mitigation Monitoring and Reporting Plan

Biological Resources (BIO)		
Mitigation Measure (MM)	Implementation Schedule	Responsible Party
<p>MM BIO-6</p> <p>Visual surveys for Mohave ground squirrel shall be conducted by a qualified biologist prior to ground disturbing activities. Visual surveys shall be conducted between March 15 and April 15 according to the California Department of Fish and Game Mohave Ground Squirrel Survey Guidelines (CDFW 2023). Visual surveys shall be conducted on the Project site during daylight hours by a qualified biologist who can readily identify Mohave ground squirrel and white-tailed antelope squirrel (<i>Ammospermophilus leucurus</i>). If the survey or monitoring throughout the duration of the Project confirms presence of Mohave ground squirrel, the Project proponent shall fully avoid impacts to Mohave ground squirrel or should obtain an Incidental Take Permit (ITP) for Mohave ground squirrel if impacts are unavoidable.</p>	<p>Prior to initiation of all ground disturbing activities</p>	<p>Project proponent and Qualified Biologist</p>

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<p>MM BIO-1</p> <p>Western Joshua trees are a state candidate for listing under CESA and will require a § 2081 FGC Incidental Take Permit (ITP) with compensatory mitigation for impacts, in addition to the surveys that are recommended in the discussion of MM BIO-6. The exceptions and permitting process under the California Desert Native Plants Act and the separate exceptions under the Native Plant Protection Act will not apply to western Joshua tree in any manner. For projects where take is incidental to carrying out an otherwise lawful activity, an ITP may be obtained from CDFW. The Project may also obtain take authorization through § 1927 of the Western Joshua Tree Conservation Act (WJTCA).</p> <p>Per Section 1927.4 of the WJTCA, CDFW may authorize, by permit, the taking of a western Joshua tree if all of the following conditions are met: (1) The permittee submits to CDFW for its approval a census of all western Joshua trees on the Project site, including photographs, that categorize the trees according to the following size classes: a. Less than one meter in height. b. One meter or greater but less than five meters in height. c. Five meters or greater in height. (2) The permittee avoids and minimizes impacts to, and the taking of, the western Joshua tree to the maximum extent practicable. Minimization may include trimming, encroachment on root systems, relocation, or other actions that result in detrimental but nonlethal impacts to western Joshua tree. (3) The permittee mitigates all impacts to, and taking of, the western Joshua tree through the payment of in lieu mitigation fees. For the current fees, please visit: Western Joshua Tree Conservation Act Incidental Take Permit. Each western Joshua tree stem or trunk arising from the ground shall be considered an individual tree requiring mitigation, regardless of proximity to any other western Joshua tree stem of trunk. Mitigation is required of all trees, regardless of whether they are dead or alive. (4) CDFW may require the</p>	<p>Prior to initiation of all ground disturbing activities</p>	<p>Project proponent</p>
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<p>permittee to relocate one or more of the western Joshua trees.</p>		
<p>MM BIO-2</p> <p>Although BUOW was not observed on site during the general wildlife survey, the BSA contains suitable habitat to potentially support BUOW in the future. A qualified biologist shall conduct a focused BUOW survey in accordance with the Staff Report on Burrowing Owl Mitigation (CDFW, 2012).</p> <p>Following the completion of the survey, the biologist shall prepare a letter report summarizing the results of the survey. The report would be submitted to the CDFW and the City prior to initiating any ground disturbance activities.</p> <p>If no BUOWs or signs of BUOW are observed during the survey and concurrence is received from Environmental Management Division of the San Bernardino County Department of Public Works (County EMD) and CDFW, project activities may begin and no further mitigation would be required.</p> <p>If BUOW or signs of BUOW are observed during the survey, the site shall be considered occupied and the Project proponent shall fully avoid impacts to burrowing owl or should obtain a CESA ITP if impacts are unavoidable.</p>	<p>Prior to initiation of all ground disturbing activities</p>	<p>Project proponent and Qualified Biologist</p>
<p>MM BIO-5</p> <p>To maintain compliance with the Migratory Bird Treaty Act (MBTA) and Fish and Game Code, and to avoid impacts or take of migratory non-game breeding birds, their nests, young, and eggs, the following measures will be implemented. The measures below will help to reduce direct and indirect impacts caused by construction on migratory non-game breeding birds to less than significant levels.</p>	<p>Prior to initiation of all ground disturbing activities</p>	<p>Project proponent and Qualified Biologist</p>

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<p>Project activities that will remove or disturb potential nest sites, such as open ground, trees, shrubs, grasses, or burrows, during the breeding season would be a potential significant impact if migratory non-game breeding birds are present. Project activities that will remove or disturb potential nest sites will be scheduled outside the breeding bird season to avoid potential direct impacts to migratory non-game breeding birds protected by the MBTA and Fish and Game Code. The breeding bird nesting season is typically from February 15 through September 15, but can vary slightly from year to year, usually depending on weather conditions. Removing all physical features that could potentially serve as nest sites will also help to prevent birds from nesting within the project site during the breeding season and during construction activities.</p> <ul style="list-style-type: none">• A qualified biologist will conduct a pre-construction breeding bird survey for breeding birds and active nests or potential nesting sites within the limits of project disturbance. The survey will be conducted within 72 hours prior to the onset of scheduled activities, such as mobilization and staging.• If no breeding birds or active nests are observed during the pre-construction survey or they are observed and the qualified biologist determines they will not be impacted, project activities may begin and no further mitigation will be required.• If a breeding bird territory or an active bird nest is located during the pre-construction survey and will potentially be impacted, the site will be mapped on engineering drawings and a no activity buffer zone will be marked (fencing, stakes, flagging, orange snow fencing, etc.) a minimum of 100 feet in all directions or 500 feet in all directions for listed bird species and all raptors. The biologist will determine the appropriate buffer size based on the type of activities planned near the nest and the type of bird that created the nest. Some bird species are more		
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<p>tolerant than others of noise and activities occurring near their nest. This no-activity buffer zone will not be disturbed until a qualified biologist has determined that the nest is inactive, the young have fledged, the young are no longer being fed by the parents, the young have left the area, or the young will no longer be impacted by project activities. Periodic monitoring by a biologist will be performed to determine when nesting is complete. Once the nesting cycle has finished, project activities may begin within the buffer zone.</p> <ul style="list-style-type: none">• If listed bird species are observed within the project site during the pre-construction survey, the biologist will immediately map the area and notify the appropriate resource agency, including CDFW, to determine suitable protection measures and/or mitigation measures and to determine if additional surveys or focused protocol surveys are necessary. Project activities may begin within the area only when concurrence is received from the appropriate resource agency, including CDFW.• Birds or their active nests will not be disturbed, captured, handled or moved.		
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