ATTACHMENT 5

RESPONSE TO COMMENTS

TENTATIVE TRACT MAP 20637
APN 3057-051-25 & -026
SWC OF OAK VALLEY ST. AND FUENTE AVE.
HESPERIA, CALIFORNIA 92345

LEAD AGENCY:

CITY OF HESPERIA
PLANNING DIVISION
9700 SEVENTH AVENUE
HESPERIA, CALIFORNIA 92345

REPORT PREPARED BY:

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APRIL 22, 2026

HESP 022

1. INTRODUCTION & PROJECT OVERVIEW

The proposed project would involve the construction of 22 single-family homes and two lettered lots including an 18-inch-deep retention basin, and a landscaped area along Fuente Street along with a new street in the center of the tract named "Canyon View Avenue" on a 4.189 gross acre project site. The lots would range in area from approximately 5,299 square feet to 7,721 square feet. The site's zoning is *Residential* (*R1-4500*).

The City of Hesperia determined, as part of the Initial Study's preparation, that a Mitigated Negative Declaration was the appropriate environmental document for the proposed project's CEQA review. Certain projects or actions may also require oversight approvals or permits from other public agencies. The Initial Study and the Notice of Intent to Adopt a Mitigated Negative Declaration was forwarded to responsible agencies, trustee agencies, and the public for review and comment. A 30-day public review period was provided to allow these entities and other interested parties to comment on the proposed project and the findings of the Initial Study. Comment letters were received from the following entities:

- State of California – Natural Resources Agency. Department of Fish and Wildlife. Inland Deserts Region. 3602 Inland Empire Boulevard C-220, Ontario, CA 91764.

- Mojave Desert Air Quality Management District. 14306 Park Avenue, Victorville, CA 92392-2310.

- State of California – Natural Resources Agency. Department of Water Resources. P.O. Box 942836, Sacramento, CA 94236-0001.

- Sean Noonan.

The information focuses additional or revised mitigation which will be incorporated into the approved ISMND by reference. This revised and new mitigation would not affect the conclusions of the ISMND and no recirculation is warranted.

2. COMMENTS AND RESPONSE TO COMMENTS

2.1 COMMENTS & RESPONSES – CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

Comment #1 Burrowing Owl (*Athene cunicularia*) and Bio Mitigation No. 1

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 result in permanent loss, degradation, and impacts to burrowing owl habitat.

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: Although no evidence of burrowing owls was detected within the Project site, the Project site is within potential burrowing owl habitat and suitable habitat is present on site as stated in

the General Biological Resources Assessment. CDFW is concerned that Mitigation Measure BIO-1, 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. Burrowing owls have been known to use highly degraded and marginal habitats where existing burrows are available.

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 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 appreciates that the IS/MND provided mitigation measure MM BIO-1. CDFW offers the following revisions to MM BIO-1 (edits are in strikethrough and **bold)**:

Biological Resources Mitigation Measure No. 1 (MM BIO-1)

Pre-construction surveys for burrowing owls, desert tortoise, and nesting birds ~~protected under the Migratory Bird Treaty Act and Section 3503 of the California Fish and Wildlife Code may need to~~ **shall** be conducted prior to the commencement of future ground disturbance. Appropriate survey methods and time frames shall be established, to ensure that chances of detecting the target species are maximized. **For western burrowing owl the CDFW Staff Report on Burrowing Owl Mitigation (CDFG, 2012 or most recent version) shall be used**. In the event that listed **or candidate** species, such as the desert tortoise **or western burrowing owl**, are encountered, authorization **for impacts** from the USFWS and CDFW must be obtained. **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.** If nesting birds are detected, avoidance measures**, such as an appropriate buffer determined by a qualified biologist** shall be implemented to ensure that nests are not disturbed until after **the qualified biologist confirms that the** young have fledged. Pre-construction surveys shall encompass all areas within the potential footprint of disturbance for the project, as well as a reasonable buffer around these areas.

Response #1

The comment is noted for the record. Biological Resources Mitigation Measure No,1 has been revised as follows: (added text is noted using **bold** text while deleted text is noted using ~~strikeout.~~

> *Biological Resources Mitigation Measure No. 1.* Pre-construction surveys for burrowing owls, desert tortoise, and nesting birds ~~protected under the Migratory Bird Treaty Act and Section 3503 of the California Fish and Wildlife Code may need to~~ **shall** be conducted prior to the commencement of future

ground disturbance. Appropriate survey methods and time frames shall be established, to ensure that chances of detecting the target species are maximized. **For western burrowing owl the CDFW Staff Report on Burrowing Owl Mitigation (CDFG, 2012 or most recent version) shall be used**. In the event that listed **or candidate** species, such as the desert tortoise **or western burrowing owl**, are encountered, authorization **for impacts** from the USFWS and CDFW must be obtained. **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.** If nesting birds are detected, avoidance measures**, such as an appropriate buffer determined by a qualified biologist** shall be implemented to ensure that nests are not disturbed until after **the qualified biologist confirms that the** young have fledged. Pre-construction surveys shall encompass all areas within the potential footprint of disturbance for the project, as well as a reasonable buffer around these areas.

Comment #2 Croctch's Bumble Bee (*Bombus crotchii*)

Issue: The Project has the potential to impact Crotch's bumble bee; a candidate species protected under CESA.

Specific impact: According to CDFW's Crotch's Bumble Bee Range Dataset (CDFW 2026), the Project area is within the current range for Crotch's bumble bee. However, the IS/MND does not consider potential impacts to Crotch's bumble bee or provide avoidance, minimization or mitigation measures to ensure that the project impacts are less than significant.

Why impact would occur: Crotch's bumble bee occurs primarily in California, including the Mediterranean region, Pacific Coast, Western Desert, Great Valley and adjacent to foothills through most of southwestern California (Williams et. al 2014). The plant families most commonly associated with Crotch's bumble bee observations or collections from California include *Fabaceae*, *Apocynaceae*, *Asteraceae*, *Lamiaceae*, and *Boraginaceae* however Crotch's bumble bee are generalist foragers and have been reported visiting a wide variety of flowering plants.

CDFW would like to note that the general biological survey was conducted in January which is outside the blooming period for most flowering plants. Absent appropriate surveys and avoidance, minimization, and mitigation measures, the Project may result in mortality and/or injury of undetected Crotch's bumble bees that may be present during Project activities. The Project's ground and/or vegetation disturbance activities could result in significant impacts to Crotch's bumble bee, including loss of foraging resources, changes in foraging behavior, burrow collapse, nest abandonment, reduced nest success, reduced health and vigor of eggs, young, and/or queens, and direct mortality.

Evidence impact may be significant: Crotch's bumble bee is a candidate species protected under CESA, and, as such, is granted full protection under CESA. The California Fish and Game Commission accepted a petition to list the Crotch's bumble bee as endangered under CESA, determining the listing "may be warranted" and advancing the species to the candidacy stage of the CESA listing process. Take of any endangered, threatened, candidate species that results from the Project is prohibited, except as authorized

by State law (Fish & G. Code, §§ 86, 2062, 2067, 2068, 2080, 2085; Cal. Code Regs., tit. 14, § 786.9). CDFW considers impacts to species that are candidates for CESA listing to be significant, under CEQA. Crotch's bumble bee meets the CEQA definition of rare, threatened, or endangered (CEQA Guidelines, § 15380). Therefore, take of Crotch's bumble bee could require a mandatory finding of significance by PWD (CEQA Guidelines, § 15065).

Recommended Potentially Feasible Mitigation Measure to reduce impacts to less than significant: CDFW offers the following Mitigation Measure:

Biological Resources Mitigation Measure No. 4 (MM BIO-4)

Prior to vegetation removal and/or grading, a Designated Biologist shall conduct a habitat assessment to determine whether Crotch's bumble bee habitat is present or absent in the Project site and adjoining area. The habitat assessment shall be performed according to the 2023 CDFW Survey Considerations for CESA Candidate Bumble Bees.pdf

If habitat for Crotch's bumble bee is present, a Designated Biologist shall conduct focused surveys prior to vegetation removal and/or grading for the presence/absence of Crotch's bumble bee. Survey methodology shall follow the 2023 CDFW Survey Considerations for Candidate Bumble Bee. Surveys shall be conducted during the flying season when the species is most likely to be detected above ground, between March 1 to September 1, by an approved Designated Biologist familiar with Crotch's bumble bee behavior and life history. Surveys shall be conducted within the Project site and areas adjacent to the Project site where suitable habitat exists. Survey results including negative findings shall be submitted to CDFW at least 30 days prior to Project-related vegetation removal and/or ground-disturbing activities. If the species is identified on site, Project Proponent shall fully avoid the species absent take authorization. If the Project may result in take of Crotch's bumble bee through either nest destruction or destruction of potential nests hidden in bunch grasses or other nesting habitat, or if complete avoidance of Crotch's bumble bee cannot be achieved, Project activities shall be postponed until appropriate authorization (i.e., a finalized CESA ITP under Fish and Game Code section 2081) is obtained.

Response #2

The comment is noted for the record. Biological Resources Mitigation Measure No, 4 has been revised as follows: (added text is noted using **bold** text while deleted text is noted using ~~strikeout.~~

> *Biological Resources Mitigation Measure No. 4.* **Prior to vegetation removal and/or grading, a Designated Biologist shall conduct a habitat assessment to determine whether Crotch's bumble bee habitat is present or absent in the Project site and adjoining area. The habitat assessment shall be performed according to the 2023 CDFW Survey Considerations for CESA Candidate Bumble Bees.pdf. If habitat for Crotch's bumble bee is present, a Designated Biologist shall conduct focused surveys prior to vegetation removal and/or grading for the presence/absence of Crotch's bumble bee. Survey methodology shall follow the 2023 CDFW Survey Considerations for Candidate Bumble Bee. Surveys shall be conducted during the flying season when the species is most likely to be detected**

above ground, between March 1 to September 1, by an approved Designated Biologist familiar with Crotch's bumble bee behavior and life history. Surveys shall be conducted within the Project site and areas adjacent to the Project site where suitable habitat exists. Survey results including negative findings shall be submitted to CDFW at least 30 days prior to Project-related vegetation removal and/or ground-disturbing activities. If the species is identified on site, Project Proponent shall fully avoid the species absent take authorization. If the Project may result in take of Crotch's bumble bee through either nest destruction or destruction of potential nests hidden in bunch grasses or other nesting habitat, or if complete avoidance of Crotch's bumble bee cannot be achieved, Project activities shall be postponed until appropriate authorization (i.e., a finalized CESA ITP under Fish and Game Code section 2081) is obtained.

Comment #3 Additional Comments and Recommendations

Western Joshua Tree and Bio Mitigation No.3: CDFW appreciates that the IS/MND includes Bio Mitigation No. 3, which states the requirement of an Incidental Take Permit for take of western Joshua tree, a candidate species under CESA. Please note that mitigation fees are subject to change annually, please visit Western Joshua Tree Conservation Act Incidental Take Permit page to view the current fee schedule.

Response #3

The comment is noted for the record.

Comment #4 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 CNNDB 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.

Response #4

The comment is noted for the record.

Comment #5 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.)

Response #5

The comment is noted for the record. The Lead Agency will ensure that all appropriate filing fees are paid as part of the NOD's filing.

Comment #6 Conclusion

CDFW appreciates the opportunity to comment on the MND to assist the City of Hesperia 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.

Response #6

The comment is noted for the record.

2.2 COMMENTS & RESPONSES – MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT

Comment #1

The Mojave Desert Air Quality Management District (District) as reviewed the Project Notice for Tentative Tract Map 20637. The project proposes the construction of 22 single family homes on a 4.18 gross acre site. The project proposes the construction of 22 single family homes on a 4.18 gross acre site. The proposed project site is located on the southwestern corner of Oak Valley Street and Fuente Avenue in the northwestern portion of the City of Hesperia, California.

Response #1

The comment is noted for the record. No response is required.

Comment #2

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.

Response #2

The above requirements are mitigation measures that have been incorporated herein to further reduce the potential air quality impacts to levels that are less than significant.

AIR Mitigation No. 1. The Applicant shall prepare and submit to the MDAQMD, prior to commencing earth-moving activity, a dust control plan that describes all applicable dust control measures that will be implemented at the project.

AIR Mitigation No. 2. The Applicant shall ensure that signage, compliant with Rule 403 Attachment, is erected at each project site entrance not later than the commencement of construction.

AIR Mitigation No. 3. The Applicant shall ensure the use of a water truck to maintain moist disturbed surfaces and actively spread water during visible dusting episodes to minimize visible fugitive dust emissions. For projects with exposed sand or fines deposits (and for projects that expose such soils through earthmoving), chemical stabilization or covering with a stabilizing layer of gravel will be required to eliminate visible dust/sand from sand/fines deposits.

AIR Mitigation No. 4. All perimeter fencing shall be wind fencing or the equivalent, to a minimum of four feet of height or the top of all perimeter fencing. The owner/operator shall maintain the wind fencing as needed to keep it intact and remove windblown dropout. This wind fencing requirement may be superseded by local ordinance, rule or project-specific biological mitigation prohibiting wind fencing.

AIR Mitigation No. 5. All maintenance and access vehicular roads and parking areas shall be stabilized with chemical, gravel, or asphaltic pavement sufficient to eliminate visible fugitive dust from vehicular travel and wind erosion. Take actions to prevent project-related track out onto paved surfaces and clean any project-related track out within 24 hours. All other earthen surfaces within the project area shall be stabilized by natural or irrigated vegetation, compaction, chemical or other means sufficient to prohibit visible fugitive dust from wind erosion.

2.3 COMMENTS & RESPONSES – CALIFORNIA DEPARTMENT OF WATER RESOURCES

Comment #1

This section begins with the CEQA Guidelines' Appendix G Environmental Checklist Form for Hydrology and Water Quality. The Guidelines' Hydrology and Water Quality Environmental Issue Area Examined C asks: would the project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which:

i. Would result in substantial erosion or siltation on-or off-site;

ii. Would substantially increase the rate or amount of surface runoff in a manner in which would result in flooding on- or off-site;

iii. Would create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or

iv. Would impede or redirect flood flows?

This section restates the environmental issues areas examined C in narrative form.

The proposed project would substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would result in substantial erosion or siltation on- or offsite; substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite; create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or, impede or redirect flood flows.

ANALYSIS OF ENVIRONMENTAL IMPACTS

Thie analysis for the question raised in section C begins with C.

C. Would the project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces? ● Less than Significant Impact. The analysis explains: The project site is currently vacant though disturbed and the site's natural drainage patterns have been altered as a result of the previous construction within the adjacent properties and development. No streams or rivers run through the project site. The proposed project would implement BMPs in order to manage stormwater onsite. As previously mentioned, the applicant would be required to adhere to Section 8.30 Surface and Groundwater Protection of the Municipal Code. As a result, the potential impacts would be less than significant. Unfortunately, the analysis does not provide adequate information to conclude the potential impact as less than significant. DWR requests that the following issues be addressed.

The analysis explains that the site's natural drainage patterns have been altered as a result of the previous construction within the adjacent properties and development. Considering Hesperia's natural drainage patterns are sheet flows from east to west, it is reasonable to state that the site's natural drainage patterns have been altered for the reasons described. However, the impact analysis is based on the existing drainage patterns of the site or area, and not natural drainage patterns. Not only have the surrounding developments altered the natural drainage patterns of the area, the California Aqueduct (Aqueduct) has as well. Considering it is unknown how the existing Proposed Project site drainage patterns of the area may flow through the Aqueduct, a hydraulic analysis of the Proposed Project's existing drainage patterns in the area and a model the projected drainage pattern after the Proposed Project is complete. Such a hydraulic analysis will provide data that either supports the current less than significant impacts conclusion or will support a different conclusion. Without technical data, there is not sufficient evidence to support a less than significant impact for impact C. The section C analysis concludes by referring to the requirement that the applicant must adherence to Chapter 8.30 Surface and Groundwater Protection of the City of Hesperia Municipal Code. That chapter is known as the "Surface and Groundwater Protection: NPDES Permit Implementation Ordinance," NPDES stands for National Pollutant Discharge Elimination System, and applies to pollutants from a point source, such as municipal waste discharge or agricultural was discharged

from a ditch. The NPDES program does not regulate stormwater runoff. Consequently, compliance with Chapter 8.30 is not a mitigation measure for this impact**.**

Response #1

There are three key agencies that regulate activities within inland streams, wetlands, and riparian areas in California. The Corps Regulatory Branch regulates discharge of dredge or fill materials into "waters of the United States" pursuant to Section 404 of the Clean Water Act (CWA) and Section 10 of the Rivers and Harbors Act. Of the State agencies, the CDFW regulates alterations to streambed and bank under Fish and Wildlife Code Sections 1600 et seq., and the Regional Board regulates discharges into surface waters pursuant to Section 401 of the CWA and the California Porter-Cologne Water Quality Control Act. The project site does not support any discernible drainage courses, inundated areas, wetland features, or hydric soils that would be considered jurisdictional by the Corps, Regional Board, or CDFW. A query of the NWI database determined that no potential blueline streams, riverine, or other aquatic resources occur within or adjacent to the project site. Therefore, project activities will not result in impacts to Corps, Regional Board, or CDFW jurisdictional areas and regulatory approvals will not be required. No riparian vegetation (e.g., cottonwoods, willows, etc.) exist on the site nor do any channels or depressions that may indicate jurisdictional areas. *As a result, no impacts would occur.*

The issue was related to the presence of wetland areas. No wetland areas or riparian habitats (e.g., wetlands, vernal pools, critical habitats for sensitive species, etc.) were observed during the field investigations conducted by RCA Associates, Inc. *As a result, no impacts would occur.*

Comment #2

i. Would result in substantial erosion or siltation on-or off-site The hydrology and water quality section does not describe whether the Proposed Project diverts any drainage flows to this concrete lined ditch or the DWR Overchutes located at MIle Post 396.1, 396.4 or 396.8. In addition, there is a concrete lined drainage ditch located along west side of Fuente Ave at the north end where residential runoff drains into DWR MP396.1 Overchute through concrete lined channel. The hydrology and water quality section does not describe whether the Proposed Project diverts any drainage flows to this concrete lined ditch or the DWR Overchutes located at MIle Post 396.1, 396.4 or 396.8. All the Overchutes located along Aqueduct convey drainage flows from west to east side of the Aqueduct. Currently there is erosion on the outlet side of these Overchutes from the concentrated drainage flows from existing drainage basins listed above. This is mainly due to absence of concrete lined channel at the Outlet Side because concrete lined channels were only constructed up to the inlet structure as part of the adjacent development projects. The impact analysis for off-site erosion and siltation impacts needs to explain whether any potential overflow from proposed retention basin located at Lot A may flow to any of the drainage basins or DWR Overchutes listed above.

If the proposed development will divert drainage flows towards a nearby DWR Overchutes which currently receive concentrated flows from a development adjacent to the Proposed Project, additional Proposed Project flows are likely to increase the existing erosion within DWR right of way on the outlet side. Concrete lined channels on the downstream end may be needed to mitigate the Proposed Project erosion impacts. See attachment for DWR Hydrologic & Hydraulic Data which shows the structural capacities (cfs) of all the DWR Overchutes listed above. Hydrology and Drainage Analysis for proposed development is also needed to assess the flows (cfs) and flow velocities through DWR Overchutes to determine if energy dissipation

structures or any improvements are needed on the inlet side within DWR right of way to prevent erosion, scour or damage to DWR Overchute Structures.

See attachment for DWR Hydrologic & Hydraulic Data which shows the structural capacities (cfs) of all the DWR Overchutes listed above. Hydrology and Drainage Analysis for proposed development is also needed to assess the flows (cfs) and flow velocities through DWR Overchutes to determine if energy dissipation structures or any improvements are needed on the inlet side within DWR right of way to prevent erosion.

Response #2

All runoff generated onsite must retained within the project site boundaries. The proposed project would implement BMPs including a retention basin, seepage pit, and catch basins. The proposed retention basin would be located on Lot A and would include six seepage pits. The proposed catch basin on the south side of Oak Valley Street would connect to the existing catch basin and storm drain on the north side of Oak Valley Street. The lots would be designed such that stormwater would percolate through the unpaved surfaces. Stormwater would be designed to percolate in the unpaved surfaces and caught within the inlets and diverted to the retention basin.

Comment #3

Page 51 "The proposed project would implement BMPs including a retention basin, seepage pit, and catch basins. The proposed retention basin would be located on Lot A and would include six seepage pits. The proposed catch basin on the south side of Oak Valley Street would connect to the existing catch basin and storm drain on the north side of Oak Valley Street. The lots would be designed such that stormwater would percolate through the unpaved surfaces. Stormwater would be designed to percolate in the unpaved surfaces and caught within the inlets and diverted to the retention basin".

1. In the event the proposed Retention Basin overflows, where is the overflow routed and what are impacts to nearby DWR cross drainage structures (Overchutes) listed in comment no. 1.

2. Clarify the statement "The proposed catch basin on the south side of Oak Valley Street would connect to the existing catch basin and storm drain on the north side of Oak Valley Street". It is not clear what is meant by this statement. Does the exiting catch basin or storm drain on north side of Oak Valley Street divert or contribute flows to any of DWR Overchutes? Clarify or provide an exhibit illustrating what this statement means especially if there is any impact to DWR cross drainage structures as a result of this connection.

2. The applicant shall provide hydrology/drainage study or report for this proposed development showing the pre and post developments impacts to DWR right of way.

1. The "Hydrology & Water Quality" factor is not checked on Page 4 of Initial Study Mitigated Negative Declaration suggesting Hydrology Study may not be planned for this project. However, applicant needs to provide a study confirming that there will be no adverse impacts to DWR right of way from off-site flows (surface runoff currently draining to the project site) or the on-site flows (overflow from proposed Retention Basin collecting all on-site flows).

2. Page 49 of Initial Study Mitigated Negative Declaration Section 3.10 Hydrology & Water Quality checks all impact related to drainage as Less Than Significant Impact however no hydrology study or analysis is provided to confirm this.

3. Page 49 and 50 of Initial Study Mitigated Negative Declaration states "According to Appendix G of the CEQA Guidelines, a project may be deemed to have a significant adverse impact on hydrology and water quality if it results in any of the following:... The proposed project would substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would result in substantial erosion or siltation on- or offsite; substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite; create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or, impede or redirect flood flows". Provide hydrology/drainage study analyzing pre and post development flows to confirm this CEQA Guideline and to check if the project has any significant adverse impact CA Aqueduct right of way. The analysis needs to assess the impact to all nearby DWR Cross Drainage Structures listed in comments no. 1.

4. The Study shall also analyze the impacts (if any) to DWR right of way from the altered runoff drainage in this area. The concerns are uncontrolled runoff directed towards DWR right of way causing ponding, erosion and scour. Any drainage runoff directed towards DWR right of way shall be analyzed to verify if any drainage improvements are required within DWR right of way or up to DWR Cross Drainage Structures to properly direct drainage through the existing Overchutes to east side of CA Aqueduct.

Response #3

The project Applicant will be required to adhere to Section 8.30 Surface and Groundwater Protection of the Municipal Code which regulates erosion and sediment control. This Section of the City of Hesperia Municipal Code is responsible for implementing the National Pollution Discharge Elimination System (NPDES) and MS4 stormwater runoff requirements. In addition, the project's operation will not interfere with any groundwater management or recharge plan because there are no active groundwater management recharge activities on-site or in the vicinity. A preliminary Hydrology Report and Water Quality Management Plan (WQMP) have been prepared for the project, and final versions must be submitted and approved prior to the issuance of any permits.

Comment #4

3. The County/Project Applicant shall ensure that no runoff from the proposed development enters DWR Right of Way and that any modifications to the natural discharge flows through DWR Overchutes do not result in backing-up of stormwater flows onto the DWR right of way.

Please note that per CA Code of Regulations § 605(f) the activities that require Encroachment Permit from DWR which obstruct any natural watercourse in a manner that does any of the following:

1. Prevents, impedes, or restricts the natural flow of waters onto any portion of the Department's right-of-way into and through the watercourse or State Water Project cross drainage structures, unless the

Department determines that the change to the natural watercourse will not result in damage to any portion of the State Water Project or the Department's right-of-way.

2. Causes waters to be impounded within the Department's right-of-way that damages the State Water Project or the Department's right-of-way, except where the water naturally drains onto the Department's right-of-way.

3. Damages Department's right-of-way, or impedes or makes hazardous the operation, maintenance, and rehabilitation of the State Water Project right-of-way or facilities.

4. Stores or distributes water in a manner that causes the water to flow onto, obstructs or damages any portion of the State Water Project or the Department's right-of-way.

Response #4

The proposed project's location will be restricted to the proposed project site and will not alter the course of any stream or river that would lead to on- or off-site siltation or erosion. The site is presently vacant though disturbed and there are no stream channels or natural drainages that occupy the property. The proposed project would implement BMPs including a retention basin, seepage pit, and catch basins. The proposed retention basin would be located on Lot A and would include six seepage pits. The proposed catch basin on the south side of Oak Valley Street would connect to the existing catch basin and storm drain on the north side of Oak Valley Street. The lots would be designed such that stormwater would percolate through the unpaved surfaces. Stormwater would be designed to percolate in the unpaved surfaces and caught within the inlets and diverted to the retention basin. The comment is noted for the record.

2.4 COMMENTS & RESPONSES – SEAN NOONAN

Comment #1

The Project's IS/MND states: "Screening Criteria 2 – Low VMT Area Screening: The City's guidelines include a screening threshold for projects located in a low VMT generating area. Low VMT generating area is defined as traffic analysis zones (TAZs) with a total daily VMT/Service Population (employment plus population) that is less than the current City of Hesperia VMT/Service Population (noted to be 26.4 in the guidelines). The project site was evaluated using the SBCTA VMT Screening Tool (SBCTA VMT Screening Tool (arcgis.com)). According to the results of the online tool, the Countywide VMT/Service Population of the project TAZ is 23.6 which is lower than the City average. Therefore, the project would meet this screening criteria and can be screened from further VMT analysis. Because the project would meet Screening Criteria 2 – Low VMT Area Screening, the project's impact on VMT would be considered less than significant and an analysis of VMT would not be required. As a result, the impacts will be less than significant." The Project's IS/MND concludes that this project would have less than significant impacts related to VMT given that the project is proposed in a Low VMT Area of the City.

Response #1

The comment is noted for the record. The comment is in agreement with the ISMND.

Comment #2

The City's TIA guidelines allow developers to use VMT screening criteria that were struck down in 2025 - particularly, the practice of exempting projects just because they are listed in the 2018 OPR Technical Advisory, which itself was not supported by any actual data or rationale. Just because a project is in a Low VMT Area or just because a project is "locally-serving" does not mean it does not have VMT impacts. The City has to actually analyze VMT to know if there are impacts.

Response #2

The City's VMT Guidelines state that a project needs to satisfy only one of the criteria below to be exempt from further VMT analysis.

1. The project is located within a Transit Priority Area (TPA)
2. The project is located in a low VMT generating area.
3. Project Type Screening (the project generates fewer than 110 daily vehicle trips or is considered a local-serving land use).

The applicability of each criterion to the project is discussed below.

- *Screening Criteria 1 – Transit Priority Area Screening:* According to the City's guidelines, projects located in a TPA may be presumed to have a less than significant impact. A TPA is defined as a half-mile around an existing major transit stop or an existing stop along a high-quality transit corridor. Per Public Resources Code Section 21064.3, a major transit stop refers to a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods. Per Public Resources Code Section 21155, a high-quality transit corridor is defined as a corridor with fixed route bus service intervals no longer than 15 minutes during peak commute hours. The proposed project is not located within a half-mile of an existing major transit stop or along a high-quality transit corridor. Therefore, the proposed project *would not meet* this screening criterion.
- *Screening Criteria 2 – Low VMT Area Screening*: The City's guidelines include a screening threshold for projects located in a low VMT generating area. Low VMT generating area is defined as traffic analysis zones (TAZs) with a total daily VMT/Service Population (employment plus population) that is less than the current City of Hesperia VMT/Service Population (noted to be 26.4 in the guidelines). The project site was evaluated using the SBCTA VMT Screening Tool (SBCTA VMT Screening Tool (arcgis.com)). According to the results of the online tool, the Countywide VMT/Service Population of the project TAZ is 23.6 which is lower than the City average. Therefore, the project *would meet* this screening criteria and can be screened from further VMT analysis.
- *Screening Criteria 3 – Project Type*: According to the City's guidelines, projects which generate fewer than 110 daily vehicle trips, propose local serving retail (retail projects less than 50,000 square feet), or other local serving uses would have a less than significant impact on VMT. As shown in Table 3-5, the project would generate more than 110 daily trips. Therefore, the proposed project does not meet this screening criterion.

Because the project would meet Screening Criteria 2 – Low VMT Area Screening, the project's impact on VMT would be considered less than significant and an analysis of VMT would not be required.

Comment #3

The City's IS/MND and supporting technical studies do not provide any justification as to why a project in a Low VMT Area of the City would have less than significant impacts related to VMT. There is no information provided whatsoever that analyzes this project in particular beyond the screening step. This leads to the topic of VMT not being adequately analyzed and VMT mitigation measures not being prescribed that may actually be warranted for this project. We don't know if there are VMT impacts until you actually study it! The City has an obligation under CEQA to analyze and mitigate a project's impacts. I believe that the information I have provided to the City herein constitutes a fair argument that the project's environmental effects have not been fully evaluated as required by CEQA. Further supporting analysis follows...

My comment references the published opinion filed March 27, 2025 by the Fourth District Court of Appeal (Div. 1) that reversed an earlier trial court's judgment denying a writ petition. In the published decision, the Fourth District Court of Appeal held that two screening thresholds of significance for VMT impacts adopted by the County of San Diego as part of its 2022 Transportation Study Guide were invalid because they were unsupported by any substantial evidence. *Cleveland National Forest Foundation, et al. v. County of San Diego* (2025) 109 Cal.App.5th 1257.

It is my opinion that the City is improperly depending upon the very same screening thresholds that were struck down in this case within the Project's IS/MND. As a result of this deficiency in the VMT analysis conducted for this project, the IS/MND is incomplete. As such, I request that the City please update the VMT assessment for this project to actually include an analysis of the project's VMT effects and apply VMT mitigation if needed.

Also, once this information is prepared, I request that the IS/MND be updated and recirculated for public review in accordance with the requirements contained in State CEQA Guidelines Section 15162, which requires recirculation of an Initial Study when new information of substantial importance is raised that was not included in the public review document.

Response #3

The City's Traffic Impact Analysis Guidelines provides VMT screening thresholds to identify projects that would be considered to have a less-than significant impact on VMT and therefore could be screened out from further analysis. If a project meets one of the following criteria, then the VMT impact of the project would be considered less-than significant and no further analysis of VMT would be required:

1. The project is located within a Transit Priority Area (TPA).
2. The project is located in a low VMT generating area.
3. Project Type Screening (the project generates fewer than 110 daily vehicle trips or is considered a local-serving land use).

Because the project would meet Screening Criteria 2 – Low VMT Area Screening, the project's impact on VMT would be considered less than significant and an analysis of VMT would not be required; therefore, the recirculation of the ISMND is not necessary.

3. REVISIONS MADE TO THE ISMND IN RESPONSE TO THE COMMENTS

This section focuses additional information included herein along with the additional mitigation which will be incorporated into the approved ISMND by reference. This revised and new mitigation would not affect the conclusions of the ISMND and no recirculation is warranted.

The comment is noted for the record. Biological Resources Mitigation Measure No,1 has been revised as follows: (added text is noted using **bold** text while deleted text is noted using ~~strikeout.~~

> *Biological Resources Mitigation Measure No. 1.* Pre-construction surveys for burrowing owls, desert tortoise, and nesting birds **shall** be conducted prior to the commencement of future ground disturbance. Appropriate survey methods and time frames shall be established, to ensure that chances of detecting the target species are maximized. **For western burrowing owl the CDFW Staff Report on Burrowing Owl Mitigation (CDFG, 2012 or most recent version) shall be used**. In the event that listed **or candidate** species, such as the desert tortoise **or western burrowing owl**, are encountered, authorization **for impacts** from the USFWS and CDFW must be obtained. **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.** If nesting birds are detected, avoidance measures**, such as an appropriate buffer determined by a qualified biologist** shall be implemented to ensure that nests are not disturbed until after **the qualified biologist confirms that the** young have fledged. Pre-construction surveys shall encompass all areas within the potential footprint of disturbance for the project, as well as a reasonable buffer around these areas.

Biological Resources Mitigation Measure No, 4 has been revised as follows: (added text is noted using **bold** text while deleted text is noted using ~~strikeout.~~

> *Biological Resources Mitigation Measure No. 4.* **Prior to vegetation removal and/or grading, a Designated Biologist shall conduct a habitat assessment to determine whether Crotch's bumble bee habitat is present or absent in the Project site and adjoining area. The habitat assessment shall be performed according to the 2023 CDFW Survey Considerations for CESA Candidate Bumble Bees.pdf. If habitat for Crotch's bumble bee is present, a Designated Biologist shall conduct focused surveys prior to vegetation removal and/or grading for the presence/absence of Crotch's bumble bee. Survey methodology shall follow the 2023 CDFW Survey Considerations for Candidate Bumble Bee. Surveys shall be conducted during the flying season when the species is most likely to be detected above ground, between March 1 to September 1, by an approved Designated Biologist familiar with Crotch's bumble bee behavior and life history. Surveys shall be conducted within the Project site and areas adjacent to the Project site where suitable habitat exists. Survey results including negative findings shall be submitted to CDFW at least 30 days prior to Project-related vegetation removal and/or ground-disturbing activities. If the species is identified on site, Project Proponent shall fully avoid the species absent take authorization. If the Project may result in take of Crotch's bumble bee through either**

nest destruction or destruction of potential nests hidden in bunch grasses or other nesting habitat, or if complete avoidance of Crotch's bumble bee cannot be achieved, Project activities shall be postponed until appropriate authorization (i.e., a finalized CESA ITP under Fish and Game Code section 2081) is obtained.