



STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

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July 24, 2026

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Subject: Electric Vehicle Charging Station and Logistics Facility Project (Project)
Draft Environmental Impact Report (DEIR)
State Clearing House# 2024050651

Dear Joe Braginton:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a DEIR from San Bernardino County for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹ CDFW previously submitted comments in response to the Notice of Preparation (NOP) of the DEIR for the Project on June 4, 2024 (see Attachment A).

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

CDFW ROLE

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

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

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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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: EV Partners LLC

Objective: The Project proposes to construct an electric vehicle (EV) charging station for light duty/passenger vehicle and medium to heavy duty trucks as well as a commercial building and a logistics facility on 99.85 acres of undeveloped land. The EV charging station and commercial building will be located on 20.72 acres to the south and the logistics facility will be located on 79.10 acres to the north. The Project proposes to construct a total of 53 EV direct current (DC) fast chargers, with approximately 45 EV DC fast chargers for medium and heavy-duty trucks (e.g., 350 kilowatt, or kW, and 125 kW) located in the truck parking area and 8 EV DC fast chargers for light duty vehicles (e.g., 250 kW) located proximate to the commercial building.

The Project proposes to construct approximately 65,000 square feet of solar panels on top of the parking area canopies and associated on-site battery storage. The logistics facility will consist of three 447,144 square foot concrete tilt-up warehouse buildings with low-reflective glass and approximately 1,071 parking spaces. Access to the logistics facility will be provided via six driveways along Lenwood Road. The Project proposes to construct a 15,000 square-foot commercial building that will consist of a convenience store with a food service drive through. The Project proposes constructing approximately 65 parking spaces located on west and south sides of the building. The Project will construct a two-lane truck wash and maintenance facility with up to four bays and a two-lane truck scale. The truck wash and maintenance facility will be located at the eastern portion of the 20.72-acre EV charging station area. The Project will construct an on-site storage drainage system composed of catch basins, underground storm drainpipes, underground detention chambers/basins, and a detention basin. The storage drainage system will collect and detain on-site stormwater runoff before discharging flows off site via proposed parkway drains that will discharge flows into the street gutter. The Project will extend the underground electrical and telecommunications utilities and will construct new water and sewer connections. The Project will construct off-site improvements consisting of the widening of Lenwood Road for the construction of shoulders, sidewalks, curbs, and gutters. Additionally, the Project will grade approximately 0.06 acres on the property directly to the east of the Project site to accommodate potential extension of “A” Street in the future.

Location: The Project is located on Lenwood Road between California State Route 58 and Interstate 15 on approximately 99.85 acre of undeveloped land on Assessor’s Parcel Numbers 0497-142-03; 0497-142-04; 0497-142-14; and 0497-142-15 within unincorporated San Bernardino County at latitude 34.885750 and longitude - 117.115528.

Timeframe: The Project is anticipated to commence in Spring 2027 and will consist of an approximate 12–18-month construction schedule.

COMMENTS AND RECOMMENDATIONS

Despite CDFW requesting a thorough discussion of cumulative impacts in response to the NOP, the DEIR did not provide a thorough discussion of the direct, indirect, and cumulative impacts that are expected to adversely affect biological resources as a result of the Project. Additionally, the DEIR stated that because similar mitigation measures were proposed for a large railway project occurring immediately adjacent to the Project site, cumulative impacts to biological

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resources would be less than significant with mitigation. However, CDFW is highly concerned that as written, the DEIR will not reduce cumulative impacts to biological resources to less than significant, including Mojave fringe-toed lizard, desert tortoise, Crotch's bumble bee, Mohave ground squirrel, Swainson's hawk, American badger, and LeConte's trasher. CDFW is particularly concerned with cumulative impacts to Mojave fringe-toed lizard, as impacts to the species from this Project along with adjoining projects may result in local extirpation of this isolated genetic subpopulation within the Mojave Desert. Without a thorough discussion on cumulative impacts it is difficult to understand how each mitigation measure would reduce cumulative impacts to less than significant for each of the special status species considering past, present, and future development effects on each of the species. When considered together, CDFW is concerned that the Project and the adjacent large railway project will result in significant cumulative impacts to biological resources.

Therefore, CDFW offers the comments and recommendations below and in the Mitigation and Monitoring Reporting Program (see Attachment B) to assist San Bernardino County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on biological resources.

COMMENT #1: Western Burrowing Owl (*Athene Cunicularia*)

Issue: Western burrowing owl is a candidate species protected under CESA. The Project is located immediately adjacent to a railway project, for which a CESA Incidental Take Permit (ITP) has been obtained for western burrowing owl. The Project is likely to result in take of western burrowing owl and under CESA, take of the species requires appropriate authorization (e.g., a CESA ITP). 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" (take). In fact, the DEIR acknowledges that the Project site contains suitable habitat for western burrowing owl and that there is a high potential for western burrowing owl to occur within the Project site. Despite this, the DEIR did not conduct breeding season surveys nor non-breeding season surveys. Burrowing owl surveys provide information needed to determine the potential effects of proposed projects and activities on western burrowing owls and to avoid take. The DEIR states, "Focused surveys for burrowing owl were not conducted; however, small mammal and desert kit fox burrows are present on site and could be suitable for burrowing owl nesting or wintering".

In the comments for the NOP, CDFW recommended that a habitat assessment, surveys, and an impact assessment according to the *Staff Report on Burrowing Owl Mitigation* (Staff Report) (Department of Fish and Game, March 2012) be conducted and results be included in the DEIR. From the time CDFW made this recommendation until now, focused breeding and non-breeding season surveys for western burrowing owl should have been conducted. Due to the lack of focused surveys, the DEIR has not established an environmental baseline for western burrowing owl on the Project site and as such the DEIR cannot ascertain that impacts to western burrowing owl will be less than significant with the mitigation measure (MM) proposed (i.e., BIO-3: Pre-construction Survey for Burrowing Owl and Avoidance), because the status of western burrowing owl on the Project site is currently unknown.

Specific impact: Staging construction equipment, vehicles, and foot traffic may result in the collapse of occupied burrows and result in direct mortality and/or injury to western burrowing owls. Project construction and related activities may result in collision with or crushing by vehicles or heavy equipment; entrapment within open trenches and pipes; entrapment or entanglement within materials and equipment staged and moved; crushing or burying individuals or eggs in burrows; destruction of burrows and refugia; and increased predation.

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Why impact would occur: The DEIR lacks sufficient information to determine whether the Project site is occupied by western burrowing owl and therefore whether a significant impact to western burrowing owl may occur. The DEIR states that according to the California Natural Diversity Database (CNDDDB), the nearest mapped CNDDDB record is approximately one mile southeast of the Project site, which suggests that western burrowing owl is utilizing the surrounding habitat and may occur within the Project site.

CDFW appreciates the inclusion of MM-BIO-3 for western burrowing owl to require take avoidance surveys. However, MM-BIO-3 only proposes avoidance of burrows measuring >11 cm in diameter and >150 cm in depth during the breeding season when occupied. MM-BIO-3 does not propose monitoring or surveying of the burrows during the breeding and non-breeding season prior to construction to ensure vacant burrows. This is concerning because western burrowing owls are dependent on burrows at all times of the year for survival and/or reproduction.

Further, MM-BIO-3 does not identify the level of disturbance that the Project will consider when using the Staff Report to determine the appropriate size of the buffer. CDFW considers the level of disturbance for the Project as "High" due to extensive habitat disturbance and length of construction regardless of whether owls are breeding or non-breeding on-site. Further, MM-BIO-3 proposes implementing a Burrowing Owl Management Plan to identify measures and relocations methods if western burrowing owls are detected. CDFW would like to note that relocation of western burrowing owl should occur through a CESA ITP only.

Absent proper detection, CDFW is concerned that the Project will not implement appropriate mitigation measures to ensure full avoidance of impacts to western burrowing owl, which may result in unauthorized take of western burrowing owls, their nests, or eggs, and destruction of nesting, foraging, and over-wintering habitat, impacting burrowing owl populations. Indirect impacts to burrowing owl may also occur from noise, vibration, lighting, dust, grading, earthmoving, and equipment use.

Evidence impact would be significant: On October 10, 2024, the Fish and Game Commission determined that western burrowing owl warrants protection as a candidate species under CESA (Fish & G. Code, § 2050 et seq.). During the candidacy period, western burrowing owl is afforded the same protection as a threatened or 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 western 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 & G. Code, § 3503.5, etc.) and Federal laws (i.e., Migratory Bird Treaty Act). If Project activities could result in take of burrowing owl, appropriate CESA authorization (i.e., ITP under Fish & G. Code, § 2081) should be obtained prior to commencement of Project activities.

Recommended potentially feasible mitigation measure to reduce impact to less than significant: CDFW offers the following revisions to MM-BIO-3 (edits are in ~~strike through~~ and **bold**) for inclusion in the Final EIR to reduce impacts to western burrowing owl to less than significant:

Mitigation Measure: (MM-BIO-3) Pre-Construction Surveys for Burrowing Owl and Avoidance (REVISED)

Due to the presence of suitable nesting and overwintering habitat on the Project site, the Project Proponent shall have a qualified biologist perform breeding season

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and non-breeding season surveys consistent with the Staff Report on Burrowing Owl Mitigation, Appendix D (CDFW, 2012) prior to initiation of Project activities. If there is a lapse of 30 days or more from when focused surveys for western burrowing owl occurred, prior to the commencement of Project activities, ~~One pre-construction burrowing owl take avoidance survey shall be completed by a qualified biologist no less than 14 days before initiation of site preparation or grading activities. A second take avoidance survey shall be completed within 24 hours prior to the start of site preparation or grading activities. If ground disturbing activities are delayed or suspended for more than 30 days after the pre-construction surveys, the project site shall be resurveyed. Surveys for burrowing owl shall be conducted in accordance with protocols established in the California Department of Fish and Wildlife (CDFW) 2012 Staff Report on Burrowing Owl Mitigation. The surveys shall be conducted of the project site and adjoining habitat areas within 500-feet of the construction area. If burrowing owl are not detected during focused pre-construction surveys, and if no burrows or perch sites have active sign (molted feathers, cast pellets, prey remains, eggshell fragments, decoration, or excrement), then construction related activities may begin, no further action shall be required, and no further mitigation under this measure is necessary. If western burrowing owl is identified at any time during pre-construction surveys and if impacts to occupied western burrowing owl habitat, burrow(s) or western burrowing owl individuals, nests, or eggs cannot be fully avoided, CESA authorization (i.e., Incidental Take Permit under California Fish and Game Code section 2081(b)) shall be obtained from CDFW prior to commencement of any Project activities, including vegetation- or ground disturbing activities~~ **If burrowing owls are detected occupying the site, a Burrowing Owl Management Plan shall be prepared in consultation with CDFW. The Project Proponent shall fully avoid impacts** ~~Unless otherwise approved by CDFW, disturbance to all western burrowing owl individuals and their occupied suitable-sized burrows~~ **during all Project activities** ~~(>11 cm in diameter and >150 cm in depth) shall be avoided during the breeding season (February 1 through August 31) unless found to be unoccupied. Buffers shall be established around occupied burrows by a qualified biologist in accordance with guidance provided in CDFW's 2012 Staff Report on Burrowing Owl Mitigation for Projects with a "High" level of disturbance and based on the level of disturbance and time of year. Buffers may be adjusted by a qualified biologist based on the level of disturbance, site-specific conditions (e.g., visual screens), and after consultation with CDFW. Fencing or flagging shall be installed to create a non-disturbance buffer area where no work activities may be conducted. The buffer shall remain in place in accordance with the Burrowing Owl Management Plan and until it is determined by the qualified biologist that the burrows are no longer occupied or the young from the occupied burrows are foraging independently and capable of independent survival. If impacts to burrowing owl cannot be feasibly fully avoided or minimized through non-disturbance buffers during construction, the applicant shall consult with CDFW on obtaining whether take authorization under the California Endangered Species Act (CESA) through an Incidental Take Permit (ITP) process may be warranted. If take authorization is necessary, the ITP shall include suitable mitigation measures to reduce potential impacts (e.g., maintenance of buffers during the breeding season and passive relocation), and adequate compensatory mitigation through conservation or mitigation banking. Unavoidable impacts to occupied suitable habitat shall be compensated as determined by CDFW in the CESA ITP at a minimum of 1:1 ratio (through on- or off-site preservation with permanent protection, perpetual management, and long-term funding, or through purchase of equivalent credits through a mitigation bank, if available) in addition to implementing all other measures and conditions of the ITP.~~

COMMENT #2: Mohave Ground Squirrel (*Xerospermophilus mohavensis*)

Issue: The Project has the potential to result in permanent and temporary loss and degradation of Mohave ground squirrel habitat. The Project may result in the take of Mohave ground squirrel, a CESA listed threatened species.

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Specific impact: Staging of construction equipment, vehicles, and foot traffic may result in the collapse of occupied burrows and result in direct mortality and/or injury to Mohave ground squirrel (MGS). Grading, ground disturbance, and vegetation clearing may result in the permanent loss of up to 99.85 acres of MGS habitat.

Why impact would occur: CDFW appreciates that camera-trapping and live-trapping was conducted for MGS, during which MGS was captured. For this reason, the DEIR presumes that MGS may be present within the Project site but speculates that due to the presence of round-tailed ground squirrels (*Xerospermophilus tereticaudus*), captured MGS may be hybrids. The DEIR acknowledges that MGS hybrids are protected under CESA and that they require take authorization for impacts through a CESA ITP. Trapping surveys occurred in 2023 and CDFW considers wildlife surveys valid for one year only. As CDFW stated in the comments for the NOP, “Please note MGS surveys are valid for one year and should be conducted within a year of the start of ground-disturbing activities”. CDFW appreciates the inclusion of MM-BIO-5, which CDFW has revised below to require additional pre-construction survey within one year of Project initiation to confirm the status of MGS on-site.

Evidence impact would be significant: Consistent with CEQA Guidelines, Section 15380, the status of MGS as a threatened species under CESA (Fish & G. Code, § 2050 et seq.) qualifies it as an endangered, rare, or threatened species under CEQA. Mohave ground squirrels are endemic to the western Mohave Desert in California (Best, 1995)². This region has had a large amount of growth in recent decades from urbanization and the development of military bases, renewable energy facilities, and agriculture (Leitner, 2008)³. Thus, MGS have experienced a significant loss of habitat as well as fragmentation and degradation of remaining habitat.

Recommended potentially feasible mitigation measure to reduce impact to less than significant: CDFW offers the following revisions to MM-BIO-5 (edits are in ~~strike through~~ and **bold**) for inclusion in the Final EIR to reduce impacts to Mohave ground squirrel to less than significant:

Mitigation Measure: (MM-BIO-5) Mohave Ground Squirrel Avoidance and Minimization (REVISED)

To address potentially significant impacts to Mohave ground squirrel, the project applicant shall conduct pre-construction surveys to evaluate presence of the species **within one year of Project initiation. Pre-construction surveys shall include camera-trapping in conjunction with live-trapping consistent with the Mohave Ground Squirrel Survey Guidelines (CDFW, 2023)**⁴. If pre-construction surveys or genetic testing (if such testing is available) are negative for the Mohave ground squirrel or Mohave ground squirrel hybrids, no further mitigation shall be required. If the pre-construction surveys confirm presence on the site, or alternatively, if the applicant forgoes pre-construction surveys and presumes presence, the applicant shall consult with the California Department of Fish and Wildlife (CDFW) and obtain an Incidental Take Permit (ITP) under Section 2081 of California Fish and Game Code. The ITP shall provide, at a minimum, suitable take avoidance and minimization measures to reduce potential impacts, and adequate compensatory mitigation through conservation or mitigation banking. Unavoidable impacts to

² Best, T.L., (1995). *Spermophilus mohavensis*. *The American Society of Mammalogists*, Mammalian Species No. 509:1-7.

³ Leitner, P., (2008) Current Status of the Mohave Ground Squirrel. *Transactions of the western Section of the Wildlife Society*. 44:11-29.

⁴ California Department of Fish and Wildlife (CDFW). 2023, Mohave Ground Squirrel Survey Guidelines.

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occupied suitable habitat shall be compensated **as determined by CDFW in the CESA ITP** ~~at a minimum of 1:1 ratio~~ (through on- or off-site preservation with permanent protection, **perpetual management**, and long-term funding, or through purchase of equivalent credits through a mitigation bank if available) in addition to implementing all other measures and conditions of the ITP. For example, take minimization measures to be implemented **within the CESA ITP** shall include, at a minimum, a combination of the following: (1) preconstruction surveys of the project site and ~~50-foot~~ **appropriate** buffer, (2) preparation of a Mohave Ground Squirrel Relocation Plan with specific methods and procedures for burrow excavation and ground squirrel relocation, and (3) reporting to the County and CDFW.

COMMENT #3: Desert Kit Fox (*Vulpes macrotis arsipus*) and American Badger (*Taxidea taxus*)

Issue: The Project could impact protected fur-bearing mammals, such as desert kit fox and American badger. Desert kit fox is protected under California Code of Regulations (CCR) Title 14 section 460 and Fish and Game Code section 4000. American badger is classified as a CDFW Species of Special Concern and is also protected as a fur-bearing mammal under Fish and Game Code section 4000.

Specific impact: Staging of construction equipment, vehicles, and foot and equipment traffic may result in the collapse of occupied burrows and in direct mortality and/or injury to desert kit fox and/or American badger. Project construction and related activities may result in injury or mortality of desert kit fox and/or American badger through vehicle strikes or crushing.

Why impact would occur: The DEIR did not discuss how the proposed Project will impact American badger and no mitigation measures for American badger were proposed. Therefore, potential impacts to American badger are unknown and may be significant. According to CNDDDB, the Project site is located within the distribution range of American badger and contains highly suitable habitat for American badger. CDFW appreciates that the MND included MM-BIO-6 to protect desert kit fox. However, MM-BIO-6 is missing a pre-construction survey and instead begins as follows, "If desert kit fox is detected, a Desert Kit Fox Relocation and Mitigation Plan shall be implemented.". Since desert kit fox and American badger have similar life histories, these two species should be surveyed simultaneously. Additionally, MM-BIO-6 does not propose monitoring to determine the status of an active den and whether a den is vacant. MM-BIO-6 proposes relocation of desert kit fox and/or American badger, but Fish and Game Code section 4000 defines kit fox and badger as fur-bearing mammals and the California Code of Regulations Title 14 section 460 prohibits the take of fur-bearing mammals at any time. Thus, active relocation of these two species is not possible.

Evidence impact would be significant: Desert kit foxes are uncommon to rare, permanent residents of arid regions of southern California (Grinnell et al. 1937, Wilson and Ruff 1999). They live in annual grasslands or grassy open stages of vegetation dominated by scattered brush, shrubs, and scrub. Desert kit foxes play important roles in their respective ecosystems as "architects of subterranean burrows", which in turn provide cover for many other species (Thacker and Flinders 1999). American badgers are highly specialized fossorial mustelids that help control small mammal populations. They are somewhat tolerant of human activities, however, development, predator control using indiscriminate trapping, and persistent poisons have caused extensive losses.

Recommended potentially feasible mitigation measure to reduce impact to less than significant: CDFW offers the following revisions to MM-BIO-6 (edits are in ~~strike through~~ and **bold**) for inclusion in the Final EIR to reduce impacts to American badger and desert kit fox to less than significant:

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Mitigation Measure: (MM-BIO-6) Pre-Construction Survey for Desert Kit Fox and American Badger Avoidance (REVISED)

Within 14-21 days prior to the beginning of surface disturbing activities, a qualified biologist shall conduct a survey to determine if active desert kit fox or American badger dens or sign of activity (e.g., tracks, scat, prey remains) are present within the Project site and within a 50-foot buffer of the Project site. The 50-foot buffer shall be revised in the field to ensure that surveys do not result in trespass onto property not owned and operated by the Project Proponent. If desert kit fox **and/or American badger** is detected, **the Project Proponent shall immediately (within 24 hours) notify CDFW and** a Desert Kit Fox Relocation and Mitigation Plan shall be implemented. The Desert Kit Fox Relocation and Mitigation Plan shall include, at a minimum, the following avoidance, minimization, and mitigation measures. If an active non-natal desert kit fox **or American badger** den is detected, a 200-foot no disturbance buffer shall be established around the active den, unless otherwise authorized by the California Department of Fish and Wildlife (CDFW). **The active den shall be monitored by the qualified biologist until the den is determined to be inactive. In order to confirm that the den is inactive, the qualified biologist shall monitor the den for 3 consecutive nights using infrared camera stations at the entrance(s). If no tracks or sign are observed at the den or no photos of desert kit fox or American badger are captured after 3 nights, then the den shall be excavated by hand and backfilled with handheld equipment or mechanized equipment.** ~~Where required buffering will not be feasible, passive relocation, as outlined in the Desert Kit Fox Relocation and Mitigation Plan, shall be allowed in consultation with San Bernardino County, CDFW, and U.S. Fish and Wildlife Service (USFWS).~~

If an active natal desert kit fox **or American badger** den is detected, ~~an initial 200~~ **500** foot no disturbance buffer shall be established around the natal den, and this buffer shall be maintained until the den can be verified to not host pups **through monitoring by the qualified biologist as described above.** Construction activities shall not be permitted in this area until the den has been vacated **and determined to be inactive by the qualified biologist.** Once the den is **determined to be** vacated ~~and if threatened by construction, it will~~ **can** be collapsed if deemed necessary by a qualified biologist.

A report to evaluate the success of **monitoring** ~~the relocation~~ efforts and any subsequent re-occupation, if applicable, shall be provided (including a comprehensive summary, tables, maps, and other necessary materials) at the end of the construction period to CDFW, the USFWS and the County. Data shall be readily available to the CDFW upon request. If an injured, sick, or dead desert kit fox **or American badger** is detected on any area associated with the project, the designated CDFW personnel at both the Ontario office and the Wildlife Investigation Lab shall be notified **immediately (within 24 hours) upon observation** ~~as described within the Desert Kit Fox Relocation and Mitigation Plan.~~

COMMENT #4: Mojave Fringe-toed Lizard (*Uma scoparia*)

Issue: The Project will impact rare dune habitat, which may include the Mojave-Sonoran Desert dunes which are classified as S3 according to the California Sensitive Natural Communities. Natural Communities with ranks of S1-S3 are considered Sensitive Natural Communities to be addressed in the environmental review processes of CEQA and its equivalents. For alliances with State ranks of S1-S3, all associations within them are also considered Sensitive, which includes Mojave fringe-toed lizard, a Species of Special Concern, that depends on dunes in the Mojave Desert.

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Specific impact: The Project will permanently remove up to 99.1 aces of unique and sensitive sand dune habitat in the Mojave Desert and in doing so, will impact the ability of the remaining sand dune system to function naturally. CDFW is well aware that Mojave fringe-toed lizard is present immediately adjacent to the Project site at a future railway project location, for which mitigation in the form of permanent conservation for the loss to Mojave fringe-toed lizard habitat has been proposed for. CDFW is concerned that this Project, in combination with other projects in the vicinity, will be detrimental to the existence of Mojave fringe-toed lizard in this area, which is a subpopulation of Mojave fringe-toed lizard endemic to this reach of the Mojave River and is genetically distinct from other populations of the species.

Why impact would occur: The DEIR states that the Project site contains suitable dune and foraging habitat for Mojave fringe-toed lizard and that Mojave fringe-toed lizard has a high potential to occur. Additionally, the DEIR states that the Project will result in the loss of 99.1 acres of suitable habitat occupied by Mojave fringe-toed lizard. CDFW appreciates that the DEIR included MM-BIO-7, but MM-BIO-7 does not propose land acquisition to mitigate for the loss of Mojave fringe-toed lizard habitat, and absent compensatory mitigation, the Project is unlikely to reduce impacts to Mojave fringe-toed lizard to less than significant. CDFW appreciates that MM-BIO-7 proposes to implement a pre-construction clearance survey for Mojave fringe-toed lizard; however, MM-BIO-7 does not detail the survey methodology to be implemented to ensure proper detection and avoidance of Mojave fringe-toed lizard during the active season (generally March through October) and inactive season (November to February). Furthermore, the DEIR acknowledges that Mojave fringe-toed lizard generally has low mobility and is more susceptible to injury and mortality during construction activities. Despite this, MM-BIO-7 does not propose methods for how the Project will minimize impacts to Mojave fringe-toed lizard considering low vagility. Lastly, the Biological Resources Assessment states that *“potential construction-related indirect impacts to Mohave fringe-toed lizard would be potentially significant absent mitigation”*.

Evidence impact would be significant: Mojave fringe-toed lizard has experienced population declines due to habitat fragmentation, habitat loss, and habitat degradation. Mojave fringe-toed lizard is a habitat specialist that is restricted to fine sand environments found in dune environments that have a patchy and limited distribution on the landscape (Hollingsworth et al. 1999)⁵. The Mojave fringe-toed lizard's narrow habitat requirements make it extremely vulnerable to habitat destruction (USFWS, 2011)⁶. The species is highly sensitive to changes in sand movement and vegetation cover. Additionally, the population of Mojave fringe-toed lizard within the Mojave River is a separate clade, providing evidence of the uniqueness of the species at this location.

Recommended potentially feasible mitigation measure to reduce impact to less than significant: CDFW offers the following revisions to MM-BIO-7 (edits are in ~~strike through~~ and **bold**) for inclusion in the Final EIR to reduce impacts to Mojave fringe-toed lizard to less than significant:

Mitigation Measure: (MM-BIO-7) Pre-Construction Mojave Fringe-toed Lizard Clearence Surveys (REVISED)

Prior to initiation of Project activities, to mitigate for habitat loss and direct impacts to Mojave fringe-toed lizards, the Project Proponent shall acquire compensatory land that contains suitable habitat at no less than 3:1 ratio to offset permanent

⁵ Hollingsworth, Bradford D. and Kent R. Beaman.1999. Mojave Fringe-toed Lizard.
⁶ United States Fish and Wildlife Service (USFWS). 2011. Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To List the Mojave Fringe-Toed Lizard as Endangered or Threatened. Federal Register, Vol. 76, No. 187 (September 27, 2011), pp. 59636–59641.

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impacts to Mojave fringe-toed lizard. The compensatory habitat shall be protected and managed in perpetuity. Land selected for compensatory mitigation for Mojave fringe-toed lizard shall consist of: deposits of aeolian or fine windblown sands associated with dunes, washes, hillsides, margins of dry lakes, and/or sandy hummocks within the Mojave Desert; occupied with Mojave fringe-toed lizard or with potential for connectivity to lands occupied by Mojave fringe-toed lizard; within the Mojave River Watershed; near land currently under or planned for protection; and not characterized as highly disturbed.

Ground disturbing Project activities shall be conducted during the active season for Mojave fringe-toed lizard (generally March through October) to better detect and avoid Mojave fringe-toed lizard within the Project site. If ground disturbing Project activities cannot commence during the active season, the Project Proponent shall not commence activities and shall contact CDFW to implement appropriate surveys, avoidance, and minimization measures when Mojave fringe-toed lizard is dormant underground, and may include avoiding driving, digging, or operating heavy machinery in fine, windblown "blowsand" and avoidance of rodent burrows and shrubs within or near suitable habitat during the dormant season. Pre-construction clearance surveys for Mojave fringe-toed lizard shall be conducted by a qualified biologist within 24 48 hours of the initiation of ground disturbance or vegetation clearing within the Project site and adjacent to construction areas. The pre-construction clearance survey shall be conducted by a qualified biologist during the active season (generally March through October) during suitable weather conditions (e.g., early morning, late afternoon) when Mojave fringe-toed lizard is most active and shall not be conducted during rainy weather. The qualified biologist shall survey the Project site using evenly spaced transects and shall inspect under shaded canopies of shrubs and shall lightly tap around the base of vegetation and shrubs to allow for Mojave fringe-toed lizard to flush. If found, the Project Proponent shall immediately contact CDFW upon detection and Mojave fringe-toed lizards shall be relocated to suitable habitat nearby where they are safe from construction activities. Surveys and relocation of these species may only be conducted by a qualified biologist. During March through October, a qualified biologist shall be present during all ground disturbing Project activities within the Project site and shall inspect the Project site throughout the day while Project activities are occurring to confirm the Project site remains clear of the species.

If the Project occurs during the active season of Mojave fringe-toed lizard, the following shall apply throughout the duration of ground disturbing Project activities occurring on the Project site:

- Suitable burrows, ~~or~~ rock piles, and shaded understories of shrubs shall be checked for occupancy. Occupied burrows shall be flagged and avoided (employing a 50-foot buffer) during construction. If the burrow cannot be avoided, it shall be excavated and the occupant relocated to an unoccupied burrow or under shaded understories of shrubs located outside the Project construction area and of approximately the same size as the one from which it was removed.
- During construction, if a Mojave fringe-toed lizard is found on the project site, construction activities adjacent to the individual's location and within 500 feet shall be halted and the animal shall be allowed to move away from the Project construction site. If the individual is not moving, a qualified biologist shall relocate it to nearby suitable habitat outside the Project construction area. The qualified biologist shall place the individual ~~it shall be placed~~ in the shade of a nearby suitable shrub.

COMMENT #5: Desert Tortoise (*Gopherus agassizii*)

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Issue: The Project has the potential to result in permanent and temporary loss and degradation of desert tortoise habitat. The Project may result in the take of desert tortoise, a CESA listed endangered species.

Specific impact: Potential impacts to desert tortoise from the Project include take of desert tortoise, their burrows, or eggs, or destruction of burrows, or foraging habitat, thus impacting desert tortoise populations. Impacts can result from grading, vegetation removal, burrow blockage, soil compaction, and crushing of burrows. Project disturbance (e.g., noise and vibration) has the potential to stress desert tortoises at occupied burrows as well.

Why impact would occur: Desert tortoise is known to occur immediately adjacent to the Project site at a future railway project for which a CESA ITP for desert tortoise has been obtained and the DEIR states that the Project site contains suitable habitat for desert tortoise. As such, CDFW is concerned that the DEIR does not propose any mitigation measures for desert tortoise. The reason for a lack of measures for desert tortoise is due to negative survey results for desert tortoise. However, DEIR relies on the 2023 and 2026 surveys that were both conducted in January when desert tortoise is least active. Consistent with the 2018 USFWS Survey Protocols⁷, surveys are strongly recommended to occur when desert tortoise is most active (generally April through May and September through October) to ensure proper detection. Although the survey conducted in 2023 encompassed the entire Project site, the survey is now three years old and CDFW typically considers the results of desert tortoise surveys to be valid for one year only. Additionally, while recent, the 2026 survey was only conducted within 2.6 acres where off-site impacts will occur and therefore, the entire Project site was not surveyed.

Evidence impact would be significant: Desert tortoise was recently uplisted from a threatened to endangered species under CESA, signifying the continued need to conserve the species and the importance to avoid impacts to the species and its habitat. Desert tortoise populations have declined significantly in recent decades as a result of human activities in desert tortoise habitat including land development, off-road vehicle use, overgrazing, agricultural development, and military activities (USFWS 2011)⁸. In addition, predation from ravens and the spread of invasive plant species also pose a threat to desert tortoises. The desert tortoise population in the western Mojave Desert has declined by 90% since the 1980s. Furthermore, desert tortoises can take up to 20 years to reach sexual maturity, which limits their ability to recover from even small losses in population numbers (USFWS 2011).

Recommended potentially feasible mitigation measure to reduce impact to less than significant: CDFW recommends that MM-BIO-9 below be adopted in the Final EIR to reduce impacts to desert tortoise to less than significant:

Mitigation Measure: (MM-BIO-9) Pre-Construction Desert Tortoise Surveys (NEW)

A qualified biologist shall conduct a protocol level presence or absence pre-construction survey within the Project site and 50-foot buffer zone surrounding the Project site. The 50-foot buffer shall be revised in the field to ensure that surveys do not result in trespass onto property not owned and operated by the Project Proponent. The preconstruction survey shall be conducted no more than 3 days prior to the commencement of Project activities during the desert tortoise active season (generally April to May and September to October) in accordance with the

⁷ United States Fish and Wildlife Service (USFWS). 2018. Preparing for any action that may occur within the range of the Mojave desert tortoise (*Gopherus agassizii*).

⁸ United States Fish and Wildlife Service (USFWS). 2011. Revised Recovery Plan for Mojave population of the desert tortoise (*Gopherus agassizii*). U.S. Fish and Wildlife Service, Pacific Southwest Region, Sacramento, CA, USA.

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U.S. Fish and Wildlife Service 2019 desert tortoise survey methodology⁹. The survey shall utilize perpendicular survey routes and ensure 100% visual coverage for desert tortoise and their sign (e.g., scat, tracks, burrows). If active burrows, sign, or desert tortoise are detected at any time during Project activities, the Project Proponent shall contact CDFW immediately (within 24 hours) and fully avoid impacts to desert tortoise or shall obtain a CESA ITP if impacts cannot be fully avoided.

COMMENT #6: LeConte's Thrasher (*Toxostoma lecontei*)

Issue: The Project has the potential to result in permanent and temporary loss and degradation of LeConte's thrasher habitat. The Project may result in take of LeConte's thrasher, a CESA listed candidate species. LeConte's thrasher is protected under CESA and take of the species requires appropriate authorization (e.g., a CESA ITP). The DEIR acknowledges that the Project site contains suitable habitat for LeConte's thrasher and that there is a moderate potential for LeConte's thrasher to occur within the Project site. However, the DEIR did not conduct breeding season surveys to confirm if LeConte's thrasher nests on-site; therefore, the DEIR failed to establish an environmental baseline for LeConte's thrasher on the Project Site. Thus, the DEIR does not appropriately evaluate potential impacts to the species.

Specific impact: Potential impacts from the Project include take of LeConte's thrasher, their nests, or eggs, or destruction of nests, or foraging habitat, thus impacting LeConte's thrasher populations. Impacts can result from grading, vegetation removal and crushing of occupied nests. Project disturbance (e.g., noise and vibration) has the potential to stress LeConte's thrasher at occupied nests as well.

Why impact would occur: CDFW is concerned that the Project may result in take of LeConte's thrasher and their nests if the Project occurs during the breeding season for LeConte's thrasher (generally January 15th and April 30th). The DEIR states that implementation of the Pre-Construction Nesting Bird Surveys (MM-BIO-4) would minimize potential direct impacts to LeConte's thrasher to less than significant. As of April 29, 2026, LeConte's thrasher is CESA candidate species and therefore receives full protection as threatened and endangered species under CESA. Species specific protocols are needed to properly detect the species. For this reason, the general pre-construction survey for nesting birds in MM-BIO-4 is not appropriate to detect LeConte's thrasher.

Evidence impact would be significant: The Project may substantially reduce and adversely modify habitat as well as reduce and potentially impair the viability of populations of LeConte's thrasher. The Project may also reduce the number and range of the species. LeConte's thrasher meets the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380). Therefore, take of LeConte's thrasher could require a mandatory finding of significance by the County of San Bernardino (CEQA Guidelines, § 15065).

Recommended potentially feasible mitigation measure to reduce impact to less than significant: CDFW recommends MM-BIO-10 below for inclusion in the Final EIR to reduce impacts to LeConte's thrasher to less than significant:

Mitigation Measure: (MM-BIO-10) Pre-Construction Nesting/Breeding Surveys for LeConte's Thrasher (NEW)

⁹ U.S. Fish and Wildlife Service (USFWS). 2019. Preparing for Any Action that May Occur Within the Range of the Mojave Desert Tortoise (*Gopherus agassizii*).

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If Project activities will occur between January 15th and April 30th, a biologist with appropriate CESA authorization shall conduct pre-activity surveys for LeConte's thrasher in accordance with the *Desert Thrasher Working Group (DTWG) Thrasher Clearance Protocol (DTWG, 2024)*¹⁰(see [DTWG Clearance Survey Protocol](#)). The biologist shall conduct the surveys 30 minutes before sunrise and up to 4 hours after sunrise during appropriate weather conditions (not be conducted in rainy or windy conditions (> 12 mph sustained)). The biologist shall perform three surveys spaced 20-35 days apart between January 15th and April 30th.

If surveys detect LeConte's thrasher, Project Proponent shall fully avoid impacts to LeConte's thrasher, including establishing no disturbance buffers and or/allowing the species to move out of harm's way of their own volition, or shall obtain a CESA Incidental Take Permit if impacts cannot be fully avoided.

COMMENT #7: Swainson's Hawk (*Buteo swainsoni*)

Issue: The DEIR did not analyze Project impacts to Swainson's hawk nor did the DEIR provide a baseline for the species within the Project site. The Project has the potential to result in permanent and temporary loss and degradation of Swainson's hawk habitat. The Project may result in the take of Swainson's hawk, a CESA listed threatened species protected under CESA. Take of the species requires appropriate authorization (e.g., CESA ITP).

Specific impact: The Project may result in the loss of foraging habitat for Swainson's hawk and the DEIR did not propose mitigation measures to reduce impacts to below significant for Swainson's hawk. If Swainson's hawk is not confirmed to be absent prior to construction; for example, through protocol level surveys, Swainson's hawk may be present, and the Project may result in take of Swainson's hawk. Take may occur from activities such as grading and/or vegetation removal.

Why impact would occur: The Project site is located approximately 1.70 miles southeast of highly suitable habitat for Swainson's hawk consisting of agricultural fields. Swainson's hawk are known to travel up to 18 miles to forage (Estep, 1989)¹¹ and therefore may forage within the Project site. Furthermore, over 23 sightings of potential Swainson's hawk observations have occurred within 2 miles of the Project site. CDFW strongly recommends that the Project Proponent implements pre-construction surveys for Swainson's hawk. CDFW strongly recommends the Project Proponent obtains a CESA ITP for Swainson's hawk if impacts to Swainson's hawk cannot be fully avoided.

Evidence impact would be significant: Consistent with CEQA Guidelines, section 15380, the status of Swainson's hawk as a threatened species under CESA qualifies it as an endangered, rare, or threatened species under CEQA. The estimated historical population of Swainson's hawk was nearly 17,000 pairs; however, in the late 20th century, the population declined to an estimated 375 pairs (CDFW, 2016)¹². The decline was primarily due to habitat loss from development (CDFW, 2016). The most recent survey (conducted in 2009) estimated the population at 941 breeding pairs. The species is currently threatened by the loss of nesting and foraging habitat (e.g., agricultural shifts to crops that provide less suitable habitat), urban development, environmental contaminants (e.g., pesticides), and climate change (CDFW, 2016). CDFW considers Swainson's hawk nest to be active if it has been used at least once within the past five years. CDFW also considers impacts to suitable nesting or foraging habitat, or to individual birds, within a five-mile radius of

¹⁰ Desert Thrasher Working Group (DTWG). 2024. Thrasher Clearance Protocol (April 2024 Edition).
¹¹ Estep, James A. 1989. Biology, Movements, and Habitat Relationships of the Swainson's Hawk in the Central Valley of California, 1986-1987. California Department of Fish and Game, Wildlife Management Division. Sacramento, CA.
¹² California Department of Fish and Wildlife (CDFW). 2016. Status review: Swainson's hawk (*Buteo swainsoni*) in California. Report to the California Fish and Game Commission, Sacramento, CA, USA.

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an active nest to be potentially significant under CEQA. Based on this information, the proposed Project could result in significant impacts to Swainson's hawk by:

- 1. Reducing the number of individuals or restricting the range of the species
- 2. Contributing to the abandonment of active nests
- 3. Resulting in the loss of critical foraging habitat within an established territory
- 4. Resulting in "take" as defined under CESA

Recommended potentially feasible mitigation measure to reduce impact to less than significant: CDFW recommends MM-BIO-11 below for inclusion in the Final EIR to reduce impacts to Swainson's hawk to less than significant:

Mitigation Measure: (MM-BIO-11) Pre-Construction Surveys for Swainson's Hawk (NEW)

- a. **Seasonal Work Restriction. Absent take authorization covering the Project Area, and if Project activities will be initiated during or extend into the breeding season for Swainson's hawk (February 15 through September 15), Project Proponent shall determine whether suitable nesting habitat features for Swainson's hawk are present at or within a half-mile of the Project site. If suitable nesting habitat features are present, and Project activities will occur during the species breeding season, Project Proponent shall perform Project activities via one of the following options:**
- b. **Pre-Construction Surveys/Sweeps. A qualified biologist shall conduct nesting surveys prior to the start of Project activities. If nesting is observed, Permittee shall establish a minimum half-mile no disturbance buffer around active nests until the breeding season has ended or until the qualified biologist has determined, that all young have fledged and are no longer reliant upon the nest or parental care for survival.**
- c. **Avoidance Buffers. If Swainson's hawk is detected the Project Proponent shall implement a minimum half-mile no disturbance buffer. If full avoidance, cannot be implemented, Project Proponent shall acquire CESA take authorization from CDFW prior to commencing Project activities.**
- d. **If Swainson's Hawk is observed within the Project site during Project activities, and full avoidance isn't possible, Permittee shall pause Project activities in the vicinity of the occurrence and contact CDFW immediately within 24 hours) to discuss additional avoidance measures or acquire CESA take authorization from CDFW prior to continuing Project activities.**
- e. **Permittee may assume presence of Swainson's hawk and acquire a CESA ITP prior to initiating Project activities.**

COMMENT #8: Crotch's bumble bee (*Bombus crotchii*)

Issue: Crotch's bumble bee is a CESA listed candidate species and is protected under CESA. As such, take of the species requires appropriate authorization (e.g., a CESA ITP). The Project has the potential to result in permanent and temporary loss and degradation of Crotch's bumble bee nesting and/or foraging habitat. The Project may also result in take of Crotch's bumble bee. For all these reasons, CDFW is concerned that the DEIR did not analyze Project impacts to Crotch's bumble bee through focused protocol level surveys and instead a desktop analysis was performed. In the absence of baseline data and mitigation measures, impacts to Crotch's bumble bee may be significant.

Specific impact: The Project may result in temporal or permanent loss of suitable nesting and foraging habitat for Crotch's bumble bee. Project ground-disturbing

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activities may cause death or injury of adults, eggs, and larva; burrow collapse; nest abandonment; and reduced nest success, if the species is present and not identified appropriately. Crotch's bumble bee is a ground-nesting pollinator, historically found in open grasslands, coastal scrub, and desert habitats across Southern California. The presence of native vegetation and suitable soil conditions within the Project site suggests potential for breeding, foraging, and nesting habitat to occur for the species. If the species is present, without proper avoidance, minimization, and mitigation, Project activities could result in direct and indirect take of the species, which would constitute a significant impact in the absence of a CESA ITP. CESA ITPs ensure impacts to CESA protected species are fully mitigated.

Why impact would occur: If Crotch's bumble bee is not confirmed to be absent prior to construction; for example, through habitat assessments and focused protocol level surveys, Crotch's bumble bee may be present, and the Project may result in take of Crotch's bumble bee. Take may occur from activities such as grading, vegetation removal, and soil compaction, particularly in areas with native flowering plants and undisturbed soils. The DEIR states that the Project site lacks floral resources for Crotch's bumble bee; however, Crotch's bumble bees are considered generalist foragers (Williams et al., 2014)¹³ and have been observed to forage on a diverse range of floral species; for example, species of the Asteraceae and Boraginaceae families that were identified on the Project site. CDFW strongly recommends that the Project Proponent conducts a habitat assessment and focused surveys consistent with the *Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species* (CDFW, 2023)¹⁴. Surveys should be incorporated and used to inform avoidance, minimization, and mitigation measures in the Final EIR.

Evidence impact would be significant: As a CESA Candidate Species, Crotch's bumble bee is afforded legal protection under California Fish and Game Code section 2080, which prohibits the unauthorized take of candidate species. Further, Crotch's bumble bee has a State ranking of S1/S2, which means Crotch's bumble bee is considered critically imperiled and extremely rare (often 5 or fewer populations). Additionally, Crotch's bumble bee is listed as an invertebrate of conservation priority under the California Terrestrial and Vernal Pool Invertebrates of Conservation Priority.

Recommended potentially feasible mitigation measure to reduce impact to less than significant: CDFW recommends MM-BIO-12 below for inclusion in the Final EIR to reduce impacts to Crotch's bumble bee to less than significant:

Mitigation Measure: (MM-BIO-12) Pre-Construction Surveys for Crotch's bumble bee (NEW)

A habitat assessment and in accordance with the 2023 CDFW Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species (CDFW & Xerces Society, 2023) shall be conducted prior to commencement of Project activities to identify suitable habitat for Crotch's bumble bee. Within suitable habitat for Crotch's bumble, surveys should be conducted during the appropriate season when adult bees are active and floral resources are available in accordance with the 2023 CDFW Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species (CDFW & Xerces Society, 2023). If Crotch's bumble bee is detected during surveys or construction activities and complete avoidance is not feasible, Project Proponents shall obtain

¹³ Williams P.H., Thorp, R.W., Richardson L.L., and Colla S.R. 2014. Bumble Bees of North America: An Identification Guide. Princeton University Press.

¹⁴ California Department of Fish and Wildlife (CDFW). 2023. Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species.

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a CESA ITP from CDFW prior to commencing any vegetation or ground disturbing activities. Any unauthorized Take of Crotch’s bumble bee would constitute a violation of Fish and Game Code §2080.

ADDITIONAL COMMENTS

COMMENT #9: Nesting Birds

MM BIO-4 proposes to conduct a pre-construction survey for nesting birds; however, MM-BIO-4 limits pre-construction surveys to the typical nesting bird season (i.e., February 1 through August 31). 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)¹⁵. 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. It is the Project Proponent's responsibility to avoid take of all nesting birds. 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.

The Project is likely to permanently remove foraging and/or nesting habitat for avian species, such as but not limited to loggerhead shrike (*Lanius ludovicianus*) (Species of Special Concern), Cooper's hawk (*Astur cooperii*) (Watch List Species), and northern harrier (*Circus hudsonius*) (Species of Special Concern). Therefore, CDFW offers the following revisions to MM-BIO-4 (edits are in ~~strike through~~ and **bold**) for inclusion in the Final EIR to reduce impacts to nesting birds to less than significant:

Mitigation Measure: (MM-BIO-4) Pre-Construction Nesting Bird Surveys and Avoidance (REVISED)

Ground disturbing Project ~~Construction~~ activities shall avoid the migratory bird nesting season (typically February 1 through August 31) to reduce any potential significant impact to birds that may be nesting in the survey area to the maximum extent feasible. **Prior to initiation of ground disturbing Project** ~~If construction activities must occur during the migratory bird nesting season,~~ an avian nesting survey of the project site and within 500 feet of the project site shall be conducted to determine the presence/absence of protected migratory birds and active nests. The avian nesting survey shall be performed by a qualified wildlife biologist within 72 hours prior to the start of **ground disturbance** ~~construction~~ in accordance with the Migratory Bird Treaty Act and California Fish and Game Code Sections 3503, 3503.5, and 3513. Surveys shall encompass all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures. If an active bird nest is found, the nest shall be flagged and mapped on the construction plans **but shall**

¹⁵ 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.

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not be marked in such a manner that it attracts predators, along with an appropriate buffer established around the nest, which shall be determined by the biologist based on the species' sensitivity to disturbance (typically 300 feet for passerines and 500 feet for raptors and special-status species). The nest area shall be demarcated in the field with flagging and stakes or construction fencing **but shall not be marked in such a manner that it attracts predators. The qualified biologist shall be present onsite daily to monitor all existing nests, the efficacy of established buffers, and to document any new nesting occurrences** ~~On-site construction monitoring shall be conducted when construction occurs in close proximity to an active nest buffer.~~ **If a nest is suspected to have been abandoned or failed, the qualified biologist shall monitor the nest for a minimum of 1 hour (4 hours for raptors), uninterrupted, during favorable field conditions. If no activity is observed during that time, the qualified biologist may approach the nest to assess the status. The qualified biologist shall use their best professional judgement regarding the monitoring period and whether approaching the nest is appropriate.** No project activities shall encroach into established buffers **until the nest has been determined to be inactive by the** ~~without the consent of a~~ **qualified** monitoring biologist. The nest area and buffer shall be avoided and remain in place until it is determined by a qualified biologist that the nestlings have fledged and the nest is vacated and no longer active.

COMMENT #10: Fish and Game Code section 1602 Resources

The DEIR states that there are no potential waters or wetland waters of the U.S. or state within the Project site and that the National Hydrography Dataset and national Wetland Inventory did not identify potential aquatic resources. However, the Preliminary Drainage Study included in the DEIR shows potential flows throughout the Project site. CDFW would like to note that Fish and Game Code section 1602 resources are not only limited to the National Hydrography Dataset and wetlands, but also includes all perennial, intermittent, and ephemeral rivers, streams, and lakes. Additionally, the DEIR did not propose mitigation measures to notify CDFW and potentially obtain a Lake or Streambed Alteration Agreement for the Project. CDFW is concerned that significant impacts to Fish and Game Code section 1602 resources may occur without mitigation as would occur through a Lake or Streambed Alteration Agreement. CDFW recommends MM-BIO-13 below for inclusion in the Final EIR to reduce potential impacts to Fish and Game Code Section 1602 resources to less than significant:

Mitigation Measure: (MM-BIO-13) Fish and Game Code section 1602 Resources (NEW)

Prior to construction, the Project Proponent shall notify pursuant to Fish and Game Code Section 1602 et seq., and shall obtain written correspondence from the CDFW stating that notification under section 1602 of the Fish and Game Code is not required for the Project or if CDFW determines that the Project may substantially affect fish and wildlife resources, shall obtain a Streambed Alternation Agreement (Agreement). The Agreement shall include measures to avoid, minimize, and mitigate impacts to Fish and Game Code Section 1602 et seq., resources.

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

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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 DEIR to assist San Bernardino County in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Emily Leon, Environmental Scientist at (760) 644-5976 or Emily.Leon@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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ATTACHMENTS

Attachment A: Notice of Preparation
Attachment B: Mitigation Monitoring and Reporting Program

REFERENCES

Best, T.L., (1995). *Spermophilus mohavensis*. *The American Society of Mammalogists*, Mammalian Species No. 509:1-7.

California Department of Fish and Wildlife (CDFW). 2026. California Natural Diversity Database (CNDDDB) Unprocessed Data Layer [ds1002]. BIOS – the Biogeographic Information and Observation System. Accessed July 21, 2026.

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Page 19

California Department of Fish and Wildlife (CDFW). 2016. Status review: Swainson's hawk (*Buteo swainsoni*) in California. Report to the California Fish and Game Commission, Sacramento, CA, USA.

California Department of Fish and Wildlife (CDFW). 2023, Mohave Ground Squirrel Survey Guidelines.

California Department of Fish and Wildlife (CDFW). 2012. Staff Report on Burrowing Owl Mitigation.

California Department of Fish and Wildlife (CDFW). 2023. Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species.

Desert Thrasher Working Group (DTWG). 2024. Thrasher Clearance Protocol (April 2024 Edition).

Estep, James A. 1989. Biology, Movements, and Habitat Relationships of the Swainson's Hawk in the Central Valley of California, 1986-1987. California Department of Fish and Game, Wildlife Management Division. Sacramento, CA.

Grinnell, J., J. S. Dixon, and J. M. Linsdale. 1937. Fur-bearing mammals of California. 2 Vols. Univ. California Press, Berkeley. 777pp.

Hollingsworth, Bradford D. and Kent R. Beaman. 1999. Mojave Fringe-toed Lizard.

Leitner, P., (2008) Current Status of the Mohave Ground Squirrel. Transactions of the western Section of the Wildlife Society. 44:11-29.

Thacker, R. K. and J. T. Flinders. 1999. Kit or swift fox: *Vulpes velox*. Pages 148-150 in Wilson, D. E. and S. Ruff, editors. The Smithsonian book of North American mammals. Smithsonian Institution Press, Washington and London. 750pp.

United States Fish and Wildlife Service (USFWS). 2011. Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To List the Mojave Fringe-Toed Lizard as Endangered or Threatened. Federal Register, Vol. 76, No. 187 (September 27, 2011), pp. 59636–59641.

United States Fish and Wildlife Service (USFWS). 2018. Preparing for any action that may occur within the range of the Mojave desert tortoise (*Gopherus agassizii*).

United States Fish and Wildlife Service (USFWS). 2011. Revised Recovery Plan for Mojave population of the desert tortoise (*Gopherus agassizii*). U.S. Fish and Wildlife Service, Pacific Southwest Region, Sacramento, CA, USA.

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.

Williams P.H., Thorp, R.W., Richardson L.L., and Colla S.R. 2014. Bumble Bees of North America: *An Identification Guide*. Princeton University Press.

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Attachment A
Mitigation Monitoring and Reporting Program

Measure Number	Biological (BIO) Mitigation Measure (MM)	Implementation Schedule	Responsible Party
MM-BIO-3	Pre-Construction Surveys for Burrowing Owl and Avoidance Due to the presence of suitable nesting and overwintering habitat on the Project site, the Project Proponent shall have a qualified biologist perform breeding season and non-breeding season surveys consistent with the <i>Staff Report on Burrowing Owl Mitigation</i>, Appendix D (CDFW, 2012) prior to initiation of Project activities. If there is a lapse of 30 days or more from when focused surveys for western burrowing owl occurred, prior to the commencement of Project activities, one pre-construction burrowing owl take avoidance survey shall be completed by a qualified biologist no less than 14 days before initiation of site preparation or grading activities. A second take avoidance survey shall be completed within 24 hours prior to the start of site preparation or grading activities. If ground disturbing activities are delayed or suspended for more than 30 days after the pre-construction surveys, the project site shall be resurveyed. Surveys for burrowing owl shall be conducted in accordance with protocols established in the California Department of Fish and Wildlife (CDFW) 2012 Staff Report on Burrowing Owl Mitigation. The surveys shall be conducted of the project site and adjoining habitat areas within 500-feet of the construction area. If burrowing owl are not detected during focused pre-construction surveys, and if no burrows or perch sites have active sign (molted feathers, cast pellets, prey remains, eggshell fragments, decoration, or excrement), then construction	Prior to the initiation of Project activities	Project Proponent and Qualified Biologist

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	related activities may begin, no further action shall be required, and no further mitigation under this measure is necessary. If western burrowing owl is identified at any time during pre-construction surveys and if impacts to occupied western burrowing owl habitat, burrow(s) or western burrowing owl individuals, nests, or eggs cannot be fully avoided, CESA authorization (i.e., Incidental Take Permit under California Fish and Game Code section 2081(b)) shall be obtained from CDFW prior to commencement of any Project activities, including vegetation- or ground disturbing activities.-The Project Proponent shall fully avoid impacts to all western burrowing owl individuals and their occupied burrows during all Project activities. Buffers shall be established around occupied burrows by a qualified biologist in accordance with guidance provided in CDFW's 2012 Staff Report on Burrowing Owl Mitigation for Projects with a "High" level of disturbance. Buffers may be adjusted by a qualified biologist based on the level of disturbance, site-specific conditions (e.g., visual screens), and after consultation with CDFW. Fencing or flagging shall be installed to create a non-disturbance buffer area where no work activities may be conducted. The buffer shall remain in place until it is determined by the qualified biologist that the burrows are no longer occupied or the young from the occupied burrows are foraging independently and capable of independent survival. If impacts to burrowing owl cannot be fully avoided, the applicant shall consult with CDFW on obtaining take authorization under the California Endangered Species Act (CESA) through an Incidental Take Permit (ITP). If take		
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	authorization is necessary, the ITP shall include suitable mitigation measures to reduce potential impacts (e.g., maintenance of buffers during the breeding season and passive relocation), and adequate compensatory mitigation through conservation or mitigation banking. Unavoidable impacts to occupied suitable habitat shall be compensated as determined by CDFW in the CESA ITP (through on- or off-site preservation with permanent protection, perpetual management, and long-term funding, or through purchase of equivalent credits through a mitigation bank, if available) in addition to implementing all other measures and conditions of the ITP.		
MM-BIO-5	Mohave Ground Squirrel Avoidance and Minimization To address potentially significant impacts to Mohave ground squirrel, the project applicant shall conduct pre-construction surveys to evaluate presence of the species within one year of Project initiation. Pre-construction surveys shall include camera-trapping in conjunction with live-trapping consistent with the <i>Mohave Ground Squirrel Survey Guidelines</i> (CDFW, 2023). If pre-construction surveys or genetic testing (if such testing is available) are negative for the Mohave ground squirrel or Mohave ground squirrel hybrids, no further mitigation shall be required. If the pre-construction surveys confirm presence on the site, or alternatively, if the applicant forgoes pre-construction surveys and presumes presence, the applicant shall consult with the California Department of Fish and Wildlife (CDFW) and obtain an Incidental Take Permit (ITP) under Section 2081 of California	Prior to the initiation of Project activities	Project Proponent and Qualified Biologist

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	Fish and Game Code. The ITP shall provide, at a minimum, suitable take avoidance and minimization measures to reduce potential impacts, and adequate compensatory mitigation through conservation or mitigation banking. Unavoidable impacts to occupied suitable habitat shall be compensated as determined by CDFW in the CESA ITP (through on- or off-site preservation with permanent protection, perpetual management, and long-term funding, or through purchase of equivalent credits through a mitigation bank if available) in addition to implementing all other measures and conditions of the ITP. For example, take minimization measures to be implemented within the CESA ITP shall include, at a minimum, a combination of the following: (1) preconstruction surveys of the project site and appropriate buffer, (2) preparation of a Mohave Ground Squirrel Relocation Plan with specific methods and procedures for burrow excavation and ground squirrel relocation, and (3) reporting to the County and CDFW.		
MM-BIO-6	Pre-Construction Survey for Desert Kit Fox and American Badger Avoidance Within 14-21 days prior to the beginning of surface disturbing activities, a qualified biologist shall conduct a survey to determine if active desert kit fox or American badger dens or sign of activity (e.g., tracks, scat, prey remains) are present within the Project site and within a 50-foot buffer of the Project site. The 50-foot buffer shall be revised in the field to ensure that surveys do not result in trespass onto property not owned and operated by the Project Proponent. If desert kit fox and/or American badger is detected, the Project	Within 14-21 days prior to the initiation of Project activities	Project Proponent and Qualified Biologist

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	Proponent shall immediately (within 24 hours) notify CDFW and a Desert Kit Fox Mitigation Plan shall be implemented. The Desert Kit Fox Mitigation Plan shall include, at a minimum, the following avoidance, minimization, and mitigation measures. If an active non-natal desert kit fox or American badger den is detected, a 200-foot no disturbance buffer shall be established around the active den, unless otherwise authorized by the California Department of Fish and Wildlife (CDFW). The active den shall be monitored by the qualified biologist until the den is determined to be inactive. In order to confirm that the den is inactive, the qualified biologist shall monitor the den for 3 consecutive nights using infrared camera stations at the entrance(s). If no tracks or sign are observed at the den or no photos of desert kit fox or American badger are captured after 3 nights, then the den shall be excavated by hand and backfilled with handheld equipment or mechanized equipment. If an active natal desert kit fox or American badger den is detected, a 500 foot no disturbance buffer shall be established around the natal den, and this buffer shall be maintained until the den can be verified to not host pups through monitoring by the qualified biologist as described above. Construction activities shall not be permitted in this area until the den has been vacated and determined to be inactive by the qualified biologist. Once the den is determined to be vacated, it will be collapsed. A report to evaluate the success of monitoring efforts and any subsequent re-occupation, if applicable, shall be provided (including a		
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	comprehensive summary, tables, maps, and other necessary materials) at the end of the construction period to CDFW, the USFWS and the County. Data shall be readily available to the CDFW upon request. If an injured, sick, or dead desert kit fox or American badger is detected on any area associated with the project, the designated CDFW personnel at both the Ontario office and the Wildlife Investigation Lab shall be notified immediately (within 24 hours) upon observation.		
MM-BIO-7	Pre-Construction Mojave Fringe-toed Lizard Clearance Surveys Prior to initiation of Project activities, to mitigate for habitat loss and direct impacts to Mojave fringe-toed lizards, the Project Proponent shall acquire compensatory land that contains suitable habitat at no less than 3:1 ratio to offset permanent impacts to Mojave fringe-toed lizard. The compensatory habitat shall be protected and managed in perpetuity. Land selected for compensatory mitigation for Mojave fringe-toed lizard shall consist of: deposits of aeolian or fine windblown sands associated with dunes, washes, hillsides, margins of dry lakes, and/or sandy hummocks within the Mojave Desert; occupied with Mojave fringe-toed lizard or with potential for connectivity to lands occupied by Mojave fringe-toed lizard; within the Mojave River Watershed; near land currently under or planned for protection; and not characterized as highly disturbed. Ground disturbing Project activities shall be conducted during the active season for Mojave fringe-toed lizard (generally March through	Within 24 hours of the initiation of ground disturbance or vegetation clearing within the Project site	Project Proponent and Qualified Biologist

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	October) to better detect and avoid Mojave fringe-toed lizard within the Project site. If ground disturbing Project activities cannot commence during the active season, the Project Proponent shall not commence activities and shall contact CDFW to implement appropriate surveys, avoidance, and minimization measures when Mojave fringe-toed lizard is dormant underground, and may include avoiding driving, digging, or operating heavy machinery in fine, windblown "blowsand" and avoidance of rodent burrows and shrubs within or near suitable habitat during the dormant season. Pre-construction clearance surveys for Mojave fringe-toed lizard shall be conducted by a qualified biologist within 24 hours of the initiation of ground disturbance or vegetation clearing within the Project site adjacent areas. The pre-construction clearance survey shall be conducted by a qualified biologist during the active season (generally March through October) during suitable weather conditions (e.g., early morning, late afternoon) when Mojave fringe-toed lizard is most active and shall not be conducted during rainy weather. The qualified biologist shall survey the Project site using evenly spaced transects and shall inspect under shaded canopies of shrubs and shall lightly tap around the base of vegetation and shrubs to allow for Mojave fringe-toed lizard to flush. If found, the Project Proponent shall immediately contact CDFW upon detection and Mojave fringe-toed lizards shall be relocated to suitable habitat nearby where they are safe from construction activities. Surveys and relocation of these species may only be conducted by a qualified biologist. During		
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	March through October, a qualified biologist shall be present during all ground disturbing Project activities within the Project site and shall inspect the Project site throughout the day while Project activities are occurring to confirm the Project site remains clear of the species. If the Project occurs during the active season of Mojave fringe-toed lizard, the following shall apply throughout the duration of ground disturbing Project activities occurring on the Project site: • Suitable burrows, rock piles, and shaded understories of shrubs shall be checked for occupancy. Occupied burrows shall be flagged and avoided (employing a 50-foot buffer) during construction. If the burrow cannot be avoided, it shall be excavated and the occupant relocated to an unoccupied burrow or under shaded understories of shrubs located outside the Project area and of approximately the same size as the one from which it was removed. • During construction, if a Mojave fringe-toed lizard is found on the project site, construction activities adjacent to the individual's location and within 500 feet shall be halted and the animal shall be allowed to move away from the Project site. If the individual is not moving, a qualified biologist shall relocate it to nearby suitable habitat outside the Project area. The qualified biologist shall place the individual in		
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	the shade of a nearby suitable shrub.		
MM-BIO-9	Pre-Construction Desert Tortoise Surveys A qualified biologist shall conduct a protocol level presence or absence pre-construction survey within the Project site and 50-foot buffer zone surrounding the Project site. The 50-foot buffer shall be revised in the field to ensure that surveys do not result in trespass onto property not owned and operated by the Project Proponent. The preconstruction survey shall be conducted no more than 3 days prior to the commencement of Project activities during the desert tortoise active season (generally April to May and September to October) in accordance with the U.S. Fish and Wildlife Service 2019 desert tortoise survey methodology. The survey shall utilize perpendicular survey routes and ensure 100% visual coverage for desert tortoise and their sign (e.g., scat, tracks, burrows). If active burrows, sign, or desert tortoise are detected at any time during Project activities, the Project Proponent shall contact CDFW immediately (within 24 hours) and fully avoid impacts to desert tortoise or shall obtain a CESA ITP if impacts cannot be fully avoided.	No more than 3 days prior to the commencement of Project activities	Project Proponent and Qualified Biologist
MM-BIO-10	Pre-Construction Nesting/Breeding Surveys for LeConte's Thrasher (NEW) If Project activities will occur between January 15th and April 30th, a biologist with appropriate CESA authorization shall conduct pre-activity surveys for LeConte's thrasher in accordance with the <i>Desert Thrasher Working Group (DTWG) Thrasher Clearance Protocol (DTWG, 2024)</i> (see	Prior to the initiation of Project activities	Project Proponent and Qualified Biologist

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	DTWG Clearance Survey Protocol). The biologist shall conduct the surveys 30 minutes before sunrise and up to 4 hours after sunrise during appropriate weather conditions (not be conducted in rainy or windy conditions (> 12 mph sustained)). The biologist shall perform three surveys spaced 20-35 days apart between January 15th and April 30th. If surveys detect LeConte's thrasher, Project Proponent shall fully avoid impacts to LeConte's thrasher, including establishing no disturbance buffers and or/allowing the species to move out of harm's way of their own volition, or shall obtain a CESA Incidental Take Permit if impacts cannot be fully avoided.		
MM-BIO-11	Pre-Construction Surveys for Swainson's Hawk • (a) Seasonal Work Restriction. Absent take authorization covering the Project Area, and if Project activities will be initiated during or extend into the breeding season for Swainson's hawk (February 15 through September 15), Project Proponent shall determine whether suitable nesting habitat features for Swainson's hawk are present at or within a half-mile of the Project site. If suitable nesting habitat features are present, and Project activities will occur during the species breeding season, Project Proponent shall perform Project activities via one of the following options: • (b) Pre-Construction Surveys/Sweeps. A qualified biologist shall conduct nesting surveys	Prior to the initiation of Project activities	Project Proponent and Qualified Biologist

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	prior to the start of Project activities. If nesting is observed, Permittee shall establish a minimum half-mile no disturbance buffer around active nests until the breeding season has ended or until the qualified biologist has determined, that all young have fledged and are no longer reliant upon the nest or parental care for survival. • (c) Avoidance Buffers. If Swainson's hawk is detected the Project Proponent shall implement a minimum half-mile no disturbance buffer. If full avoidance, cannot be implemented, Project Proponent shall acquire CESA take authorization from CDFW prior to commencing Project activities. • (d) If Swainson's Hawk is observed within the Project site during Project activities, and full avoidance isn't possible, Permittee shall pause Project activities in the vicinity of the occurrence and contact CDFW immediately within 24 hours) to discuss additional avoidance measures or acquire CESA take authorization from CDFW prior to continuing Project activities. • (e) Permittee may assume presence of Swainson's hawk and acquire a CESA ITP prior to initiating Project activities.		
MM-BIO-12	Pre-Construction Surveys for Crotch's bumble bee A habitat assessment and in accordance with the 2023 CDFW Survey Considerations for California Endangered Species	Prior to the initiation of Project activities	Project Proponent and Qualified Biologist

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	Act (CESA) Candidate Bumble Bee Species (CDFW & Xerces Society, 2023) shall be conducted prior to commencement of Project activities to identify suitable habitat for Crotch's bumble bee. Within suitable habitat for Crotch's bumble, surveys should be conducted during the appropriate season when adult bees are active and floral resources are available in accordance with the 2023 CDFW Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species (CDFW & Xerces Society, 2023). If Crotch's bumble bee is detected during surveys or construction activities and complete avoidance is not feasible, Project Proponents shall obtain a CESA ITP from CDFW prior to commencing any vegetation or ground disturbing activities. Any unauthorized Take of Crotch's bumble bee would constitute a violation of Fish and Game Code §2080.		
MM-BIO-4	Pre-Construction Nesting Bird Surveys and Avoidance Ground disturbing Project activities shall avoid the migratory bird nesting season (typically February 1 through August 31) to reduce any potential significant impact to birds that may be nesting in the survey area to the maximum extent feasible. Prior to initiation of ground disturbing Project, an avian nesting survey of the project site and within 500 feet of the project site shall be conducted to determine the presence/absence of protected migratory birds and active nests. The avian nesting survey shall be performed by a qualified wildlife biologist within 72 hours prior to the start of ground disturbance in accordance with the Migratory Bird Treaty Act and California Fish and Game Code Sections	Within 72 hours prior to the initiation of Project activities	Project Proponent and Qualified Biologist

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	3503, 3503.5, and 3513. Surveys shall encompass all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures. If an active bird nest is found, the nest shall be flagged and mapped on the construction plans but shall not be marked in such a manner that it attracts predators, along with an appropriate buffer established around the nest, which shall be determined by the biologist based on the species' sensitivity to disturbance (typically 300 feet for passerines and 500 feet for raptors and special-status species). The nest area shall be demarcated in the field with flagging and stakes or construction fencing but shall not be marked in such a manner that it attracts predators. The qualified biologist shall be present onsite daily to monitor all existing nests, the efficacy of established buffers, and to document any new nesting occurrences. If a nest is suspected to have been abandoned or failed, the qualified biologist shall monitor the nest for a minimum of 1 hour (4 hours for raptors), uninterrupted, during favorable field conditions. If no activity is observed during that time, the qualified biologist may approach the nest to assess the status. The qualified biologist shall use their best professional judgement regarding the monitoring period and whether approaching the nest is appropriate. No project activities shall encroach into established buffers until the nest has been determined to be inactive by the qualified monitoring biologist. The nest area and buffer shall be avoided and remain in place until it is determined by a qualified biologist that the nestlings have fledged and the nest is vacated and no longer active.		
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MM-BIO-13	Fish and Game Code section 1602 Resources Prior to construction, the Project Proponent shall notify pursuant to Fish and Game Code Section 1602 et seq., and shall obtain written correspondence from the CDFW stating that notification under section 1602 of the Fish and Game Code is not required for the Project or if CDFW determines that the Project may substantially affect fish and wildlife resources, shall obtain a Streambed Alternation Agreement (Agreement). The Agreement shall include measures to avoid, minimize, and mitigate impacts to Fish and Game Code Section 1602 et seq., resources.	Prior to the initiation of Project activities	Project Proponent
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