



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

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



September 11, 2025
Sent via email

Delanie Garlick
Contract Senior Planner
385 North Arrowhead Avenue, 1st Floor
San Bernardino, California 92415
Delanie.Garlick@weareharris.com

Maverick's Oasis Road: Proj-2024-00030 (Project)
Mitigated Negative Declaration (MND)
SCH# 2025080681

Dear Delanie Garlick:

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

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

CDFW ROLE

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

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

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

PROJECT DESCRIPTION SUMMARY

Proponent: Core States Group

Objective: The Project proposes to construct a new gas station and a 5,637 square feet (sq. ft.) convenience store on an 8.78-acre parcel. Access to the Project would be provided via a proposed fifty-foot (50') wide driveway off Oasis Road and a forty-foot (40') wide driveway and fifty-foot (50') wide driveway off Buckthorne Road. Additional site improvements include forty-two (42) parking stalls, two (2) accessible parking stalls, and approximately 22,206 sq. ft. for landscaping

Location: The Project is located in the unincorporated community of Piñon Hills in San Bernardino County, west of the intersection of Oasis Road and State Route 138 on Accessor's Parcel Number 3067-051-29. The Project site's latitude and longitude are 34.439684°N, -117.643932°W.

Timeframe: Not specified

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document.

COMMENT # 1: Western Joshua tree (*Yucca brevifolia*)

Western Joshua tree (WJT) is a candidate threatened species under CESA. Under CESA, species classified as a candidate species are afforded the same protection as CESA-listed species. Take of any CESA-listed species is prohibited except as authorized by state law (Fish and Game Code, §§ 2080 & 2085). California Fish and Game Code Section 86 defines "take" as "hunt, pursue, catch, capture, or kill, or

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attempt to hunt, pursue, catch, capture, or kill". Additionally, WJT is protected under the Western Joshua Tree Conservation Act (WJTCA). The WJTCA was enacted in July 2023 and prohibits the import, export, take, possession, purchase, or sale of any WJT or parts thereof in California unless authorized by CDFW (Fish & G. Code §1927.2).

CDFW appreciates that the County included a Biological Resources Mitigation Measure (i.e., BIO-1) to prevent impacts to WJT, including obtaining an Incidental Take Permit (ITP). However, CDFW recommends the following revisions to BIO-1 (edits are in ~~strike through~~ and **bold**) for adoption in the final MND in consideration of all permitting options available to obtain take of WJT.

BIO-1: Incidental Take Permit for Western Joshua tree (CDFW) (Revised):

The Applicant shall **obtain** ~~submit to~~ **from** the California Department of Fish and Wildlife (CDFW) an Incidental Take Permit (ITP) ~~application and supporting documentation for~~ the **take** ~~removal~~ of Western Joshua trees on the Project site, pursuant to the Western Joshua Tree Conservation Act (**WJTCA**) (**Fish & G. Code, §§ 1927-1927.1** **pursuant to CESA (Fish & G. Code § 2081)** **prior to the relocation, encroachment, removal, or take (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") of WJT.**

If a CESA ITP is obtained, ~~t~~The Applicant will be ~~required to consult with CDFW to determine the measures~~ required to offset **take** ~~the removal of~~ WJT such as **through** the purchase of credits from an **CDFW**-approved conservation or mitigation bank, **or** land acquisition, **including** ~~or~~ entry into a conservation easement **and management in perpetuity.**

Per Section 1927.4 of the WJTCA, CDFW may authorize, by permit, the taking of a WJT if all of the following conditions are met: (1) The Project Proponent submits to CDFW for its approval a census of all western Joshua trees on the Project site, including photographs, that categorize the trees according to the following size classes: a. Less than one meter in height, b. One meter or greater but less than five meters in height, and c. Five meters or greater in height. (2) The Applicant will be required to consult with CDFW to determine the measures required to minimize impacts to, and the taking of, the western Joshua tree to the maximum extent practicable. Minimization may include trimming, encroachment on root systems, relocation, or other actions that result in detrimental but nonlethal impacts to western Joshua tree. (3) The Project Proponent mitigates all impacts and taking of, the western Joshua tree through the payment of in lieu mitigation fees. Each western Joshua tree stem or trunk arising from the ground shall be considered an individual tree requiring mitigation, regardless of proximity to any other western Joshua tree stem of trunk. Mitigation is required of all trees,

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regardless of whether they are dead or alive. (4) CDFW may require the Project Proponent to relocate one or more of the western Joshua trees.

COMMENT # 2: Burrowing Owl (*Athene cunicularia*)

Burrowing owl is a candidate species protected under CESA and the Project has the potential to result in permanent and temporary loss and degradation of burrowing owl habitat. The Project may result in take of burrowing owl during construction and the life of the Project.

While a field assessment was conducted during the early portion of burrowing owl breeding season, according to the 2012 Staff Report on Burrowing Owl Mitigation (CDFG 2012 or most recent version), three or more survey visits during daylight hours are recommended and each visit should occur at least three weeks apart during the peak of the breeding season, commonly accepted in California as between 15 April and 15 July.

If the Project, including Project construction or any Project related activity during the life of this Project, may result in take of a CESA-listed species, CDFW recommends that the Project proponent seek appropriate authorization (i.e., ITP) prior to Project implementation. As such, CDFW proposes the following measure, BIO-4, for adoption in the final MND to avoid and mitigate impacts to burrowing owl.

BIO-4: Burrowing Owl (CDFW) (NEW)

Prior to the initiation of construction activities (i.e., grubbing, clearing, staging, digging), focused burrowing owl surveys shall be conducted by a qualified biologist according to the CDFW Staff Report on Burrowing Owl Mitigation (CDFG, 2012 or most recent version) on the Project site and within a 500 ft radius from the Project site. In addition, to confirm findings from previous surveys, take avoidance surveys shall be conducted no less than 14 days prior to the start of Project-related activities. Burrowing owls may re-colonize a site after only a few days, thus time lapses between Project activities shall require subsequent take avoidance surveys including but not limited to a final survey conducted within 24 hours prior to ground disturbance, in accordance with the Staff Report on Burrowing Owl Mitigation (CDFG 2012 or most recent version). If any of the surveys confirm the presence of burrowing owls, impacts to burrowing owl shall be fully avoided. If impacts to burrowing owl are unavoidable, the Project Proponent should apply for a CESA ITP.

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

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communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

ENVIRONMENTAL DOCUMENT FILING FEES

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

CONCLUSION

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

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

Sincerely,

DocuSigned by:

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Alisa Ellsworth
Environmental Program Manager

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ATTACHMENTS

Attachment A: Mitigation Monitoring and Reporting Plan

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REFERENCES

California Department of Fish and Game (CDFG). 2012. Staff report on burrowing owl mitigation. State of California, Natural Resources Agency. Available for download at: [Microsoft Word - BUOW Staff Report final_030712 REV 1.doc \(ca.gov\)](#)

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Attachment A

Mitigation Monitoring and Reporting Plan

Biological Resources (BIO)		
Mitigation Measure	Implementation Schedule	Responsible Party
<p>BIO-1: Incidental Take Permit for Western Joshua tree (CDFW):</p> <p>The Applicant shall obtain from the California Department of Fish and Wildlife (CDFW) an Incidental Take Permit (ITP) for the take of Western Joshua trees on the Project site, pursuant to the Western Joshua Tree Conservation Act (WJTCA) (Fish & G. Code, §§ 1927-1927.1 or pursuant to CESA (Fish & G. Code § 2081) prior to the relocation, encroachment, removal, or take (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") of WJT.</p> <p>If a CESA ITP is obtained, the Applicant will be required to offset take of WJT such as through the purchase of credits from CDFW-approved conservation or mitigation bank or land acquisition, including entry into a conservation easement and management in perpetuity.</p> <p>Per Section 1927.4 of the WJTCA, CDFW may authorize, by permit, the taking of a WJT if all of the following conditions are met: (1) The Project Proponent submits to CDFW for its approval a census of all western Joshua trees on the Project site, including photographs, that categorize the trees according to the following size classes: a. Less than one meter in height, b. One meter or greater but less than five meters in height, and c. Five meters or greater in height. (2) The Applicant will be required to consult with CDFW to determine</p>	<p>Prior to initiation of all ground disturbing activities</p>	<p>Project proponent</p>

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<p>the measures required to minimize impacts to, and the taking of, the western Joshua tree to the maximum extent practicable. Minimization may include trimming, encroachment on root systems, relocation, or other actions that result in detrimental but nonlethal impacts to western Joshua tree. (3) The Project Proponent mitigates all impacts and taking of, the western Joshua tree through the payment of in lieu mitigation fees. Each western Joshua tree stem or trunk arising from the ground shall be considered an individual tree requiring mitigation, regardless of proximity to any other western Joshua tree stem of trunk. Mitigation is required of all trees, regardless of whether they are dead or alive. (4) CDFW may require the Project Proponent to relocate one or more of the western Joshua trees.</p>		
<p>BIO-4: Burrowing Owl (CDFW)</p> <p>Prior to the initiation of construction activities (i.e., grubbing, clearing, staging, digging), focused burrowing owl surveys shall be conducted by a qualified biologist according to the CDFW Staff Report on Burrowing Owl Mitigation (CDFG, 2012 or most recent version) on the Project site and within a 500 ft radius from the Project site. In addition, to confirm findings from previous surveys, take avoidance surveys shall be conducted no less than 14 days prior to the start of Project-related activities. Burrowing owls may re-colonize a site after only a few days, thus time lapses between Project activities shall require subsequent take avoidance surveys including but not limited to a final survey conducted within 24 hours prior to ground disturbance, in accordance with the Staff Report on Burrowing Owl Mitigation (CDFG 2012 or most recent version). If any of the surveys confirm the presence of burrowing owls, impacts to burrowing owl shall be fully avoided. If impacts to burrowing owl are unavoidable, the Project Proponent should apply for a CESA ITP.</p>	<p>Prior to initiation of all ground disturbing activities</p>	<p>Project proponent and Qualified Biologist</p>