



STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

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Inland Deserts Region
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August 31, 2026

Edgar Gonzalez
Senior Planner
City of Hesperia
9700 Seventh Avenue
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AMARGOSA ROAD AND PALMETTO WAY INDUSTRIAL WAREHOUSE BUILDING (PROJECT)
DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR)
SCH# 2025090664

Dear Edgar Gonzalez:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a DEIR from City of Hesperia 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.

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.

REGULATORY REQUIREMENTS

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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California Endangered Species Act (CESA) and Native Plant Protection Act (NPPA)

Please be advised that “take” of plants or animals listed under CESA or the NPPA during construction or over the life of the Project without authorization from CDFW would be a violation of Fish and Game Code section 2080. Under CESA, take is defined as “to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill.” If the Project has the potential to impact CESA or NPPA listed species, early consultation with CDFW is highly encouraged, as modification to the Project may be required to minimize and fully mitigate impacts of the Project. Issuance of an incidental take permit is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program.

CDFW's issuance of an incidental take permit is considered a discretionary action as defined in Title 14 of the California Code of Regulations, section 15357, under CEQA. Therefore, before CDFW can issue the permit the applicant must have completed the necessary steps under CEQA. Compliance with CEQA is further described in Title 14 of the California Code of Regulations, section 783.3.

CEQA requires a Mandatory Finding of Significance if a Project is likely to substantially impact threatened or endangered species. (Pub. Resources Code, § 21083; CEQA Guidelines §§ 15380, 15064, & 15065.) Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports a Statement of Overriding Consideration. The CEQA Lead Agency's Statement of Overriding Considerations does not eliminate the Project proponent's obligation to comply with Fish and Game Code, § 2080 et seq.

PROJECT DESCRIPTION SUMMARY

Proponent: Rachamim 5, LLC

Objective: The objective of the Project is to construct an industrial warehouse and distribution facility totaling approximately 499,714 square feet on 30.52 acres of undeveloped land. The Project proposes to construct on-site loading docks, tractor-trailer parking, passenger vehicle parking, storm water detention, sidewalks and landscaping. Primary Project activities include grading, vegetation removal, and construction.

Location: The Project is located within the City of Hesperia, San Bernardino County, State of California at Assessor's Parcel Numbers 0405-072-52, 0405-072-53 and 0405-072-55. The Project is located south of Avenal Street, North of Palmetto Way, and west of Amargosa Road.

Timeframe: Project construction is anticipated to begin in October 2026 and continue through September 2027.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist City of Hesperia 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 Burrowing Owl (*Athene cunicularia*)

The Project proposes relocation of western burrowing owl through mitigation measure BIO-3. Western burrowing owl is a candidate species protected under CESA, and relocation of western burrowing owl should occur through a CESA ITP.

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CDFW offers the following revisions to 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: (BIO-3) Burrowing Owl Avoidance and Relocation (**REVISED**)

If Western burrowing owls are detected during the focused or pre-construction surveys, the applicant shall immediately notify CDFW and **fully avoid impacts to western burrowing owl or obtain a CESA incidental take permit** ~~implement avoidance or relocation measures consistent with the CDFW Staff Report on Burrowing Owl Mitigation (2012).~~ Occupied burrows shall **be fully avoided** ~~not be disturbed~~ **absent an incidental take permit** ~~during the nesting season (February 1 through August 31) unless a qualified biologist verifies that owls have not begun nesting or juveniles are capable of independent survival.~~ Passive relocation using one-way doors and removal of inactive burrows shall only occur under the supervision of a qualified biologist and in coordination with CDFW **through a CESA ITP**. All exclusion and relocation efforts shall be documented and submitted to the City and CDFW prior to the start of construction **according to the CESA ITP**.

COMMENT 2: Nesting Birds

BIO-4 proposes to conduct a pre-construction survey for nesting birds; however, BIO-4 limits pre-construction surveys to the typical nesting bird season (i.e., March 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. 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)². 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.

CDFW offers the following revisions to 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: (BIO-4) Nesting Bird and Bat Protection (**REVISED**)

~~If construction or vegetation removal is scheduled during the avian breeding season (March 1 through August 31),~~ **Regardless of the time of year,** a qualified biologist shall conduct pre construction surveys for nesting birds and roosting bats no more than 72 hours prior to disturbance. If active nests or roosts are identified, species appropriate no-disturbance buffers shall be established and maintained until a qualified biologist determines that young have fledged or the roost is no longer active. All measures shall comply with the Migratory Bird Treaty Act and California Fish and Game Code Sections 3503, 3503.5, and 3513.

COMMENT 4: LeConte's Thrasher (*Toxostoma lecontei*)

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, CDFW strongly recommends the Project Proponent to conduct focused surveys for LeConte's thrasher. CDFW recommends MM-BIO-6 below for inclusion in the Final EIR to reduce impacts to LeConte's thrasher to less than significant.

² 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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Mitigation Measure: (BIO-6) 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 *Desert Thrasher Working Group (DTWG) Thrasher Clearance Protocol (DTWG, 2024)*³ (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.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be filled out and submitted online at the following link:

<https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link:

<https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

ENVIRONMENTAL DOCUMENT FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of 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 City of Hesperia 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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Alisa Ellsworth
Environmental Program Manager

ec: Office of Land Use and Climate Innovation, State Clearinghouse, Sacramento
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³ Desert Thrasher Working Group (DTWG). 2024. Thrasher Clearance Protocol (April 2024 Edition).

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ATTACHMENTS

ATTACHMENT A. Mitigation Monitoring and Reporting Program

REFERENCES

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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Attachment A
Mitigation Monitoring and Reporting Program

Measure Number	Biological (BIO) Mitigation Measure (MM)	Implementation Schedule	Responsible Party
BIO-3: Burrowing Owl Avoidance and Relocation	If Western burrowing owls are detected during the focused or pre-construction surveys, the applicant shall immediately notify CDFW and fully avoid impacts to western burrowing owl or obtain a CESA incidental take permit. Occupied burrows shall be fully avoided absent an incidental take permit. Passive relocation using one-way doors and removal of inactive burrows shall only occur under the supervision of a qualified biologist and in coordination with CDFW through a CESA ITP. All exclusion and relocation efforts shall be documented and submitted to the City and CDFW prior to the start of construction according to the CESA ITP.	Entire Project	Project Proponent
BIO-4: Nesting Bird & Bat Protection	Regardless of the time of year, a qualified biologist shall conduct pre construction surveys for nesting birds and roosting bats no more than 72 hours prior to disturbance. If active nests or roosts are identified, species appropriate no-disturbance buffers shall be established and maintained until a qualified biologist determines that young have fledged or the roost is no longer active. All measures shall comply with the Migratory Bird Treaty Act and California Fish and Game Code Sections 3503, 3503.5, and 3513.	No more than 72 hours prior to disturbance	Qualified Biologist
BIO-6: LeConte's Thrasher	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	If Project activities will occur between January 15 th and April 30 th	Project Proponent and Qualified Biologist

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	thrasher in accordance with the <i>Desert Thrasher Working Group (DTWG) Thrasher Clearance Protocol (DTWG, 2024)</i> (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.		
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