



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
MEGHAN HERTEL, Director



February 18, 2026

Sent via email

Rick Hirsch
Consulting Planner
Town of Apple Valley
14955 Dale Evans Parkway
Apple Valley, CA, 92307
rhirsch@intewestgrp.com

SUBJECT: APPLE VALLEY 84 PROJECT (PROJECT)
DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR)
SCH# 2025100104

Dear Mr. Hirsch:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a DEIR from the Town of Apple Valley for the Project pursuant to 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: Town of Apple Valley

Objective: The objective of the Project is to develop a 1,381,412-square-foot industrial warehouse facility and office space on 92.73 acres of undeveloped land in the Town of Apple Valley. The site will include 528 parking stalls, 898 trailer stalls, and 231 dock doors. Primary Project activities include demolition, site preparation, grading, paving, installation of utilities, road construction, implementation of sewer and stormwater management systems, and landscaping.

Location: The Project is located in the Town of Apple Valley, San Bernardino County, a half mile east of Interstate 15 and four miles north of State Route 18 at longitude 34.59815° N and latitude -117.246919° W. The Project is bounded by Johnson Road to the north, Stoddard Wells Road to the south, and vacant land to the east and west. The Project occurs on 12 parcels totaling 92.73 acres (Assessor's Parcel Numbers: 0472-211-01 through -21 and 0472-301-01) (Project Site).

Timeframe: The total Project construction duration is estimated at 23 months.

COMMENTS AND RECOMMENDATIONS

CDFW appreciates that the Town of Apple Valley conducted protocol level surveys for special status plants, Mohave ground squirrel, western burrowing owl, desert tortoise, and Crotch's bumble bee. CDFW is highly concerned about the proposed development of 92.73 acres of undeveloped desert habitat and the potential for significant direct and indirect impacts. CDFW offers the following comments and recommendations to assist the Town of Apple Valley 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 have been included to improve the final EIR.

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COMMENT 1: Western Burrowing Owl (*Athene cunicularia*)

Section 4.3, Page 4.3-1, 3, 10, 12, 14, and 16

CDFW appreciates that breeding and non-breeding season western burrowing owl surveys were conducted according to the protocol in CDFW's 2012 *Staff Report on Burrowing Owl Mitigation* (CDFW, 2012), and that the data was provided in the DEIR. While burrowing owl was not detected, CDFW appreciates the inclusion of mitigation measure (MM) MM 4.3-1 (Western Burrowing Owl Pre-construction Surveys) to verify absence of western burrowing owl prior to construction. However, CDFW is concerned that MM 4.3-1 does not consider obtaining a CESA ITP to prevent unauthorized take of a candidate species under CESA. 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). Thus, CDFW recommends that the following changes to MM 4.3-1 be adopted in the final EIR (additions are in **bold** and edits in ~~strikethrough~~):

MM 4.3-1: A 30-day pre-construction survey for Burrowing Owl in compliance with CDFW's Staff Report on Burrowing Owl Mitigation, dated March 7, 2012 **or most recent version**, shall be conducted prior to initial ground-disturbing activities (including vegetation clearing, clearing and grubbing, tree removal, site watering, equipment staging, grading, etc.) to safeguard that no owls have colonized the Project site.

If Burrowing Owls have colonized the Project site prior to the initiation of ground-disturbing activities, the Project Applicant shall immediately inform the Town of Apple Valley to determine if "take" would occur and coordinate with CDFW **if impacts to burrowing owl cannot be fully avoided to obtain an incidental take permit** ~~determine minimization and avoidance measures, as needed.~~

If ground-disturbing activities occur, but the Project site is left undisturbed for more than 30 days, another pre-construction survey shall be conducted no less than fourteen (14) days prior to resuming ground-disturbing activities to safeguard that Burrowing Owl has not colonized the Project since it was last disturbed. If Burrowing Owls are found, the same coordination with CDFW in conjunction with the Town of Apple Valley described above shall be required.

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

Section 4.3, Page 4.3-1, 4, 10, 14, and 16

CDFW acknowledges that focused surveys for Mohave ground squirrel were conducted in accordance with CDFW's *Mohave Ground Squirrel Survey Guidelines*

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(CDFG, 2010; CDFW, 2023) and that the data was provided in the DEIR. While Mohave ground squirrel was not detected, due to the presence of suitable habitat on the Project Site, CDFW recommends additional surveys to verify that Mohave ground squirrel remains absent from the Project Site prior to construction within suitable habitat. For this reason, CDFW recommends that the new MM 4.3-8 (see below) be adopted in the final EIR.

MM 4.3-8: Prior to commencement of ground disturbing Project activities, a visual survey shall be conducted by a qualified biologist during the period of March 15 through April 15 within the Project Site to determine presence of Mohave ground squirrel. The survey shall be conducted on the Project Site according to the *Mohave Ground Squirrel Survey Guidelines* (CDFW, October 2023 Revision 4 or most recent version) during daylight hours by the qualified biologist who can visually identify Mohave ground squirrel and white-tailed antelope squirrel and detect vocalization calls. If the survey or monitoring confirms presence, the Project Proponent shall contact CDFW immediately (within 24 hours) and fully avoid all impacts to Mohave ground squirrel or obtain an incidental take permit.

COMMENT 3: Desert Tortoise (*Gopherus agassizii*)

Section 4.3, Pages 4.3-1, 12, and 16

CDFW appreciates that protocol-level focus surveys were conducted for desert tortoise, during which no suitable burrows or desert tortoise were observed. However, the California Natural Diversity Database (CNDDDB) indicates that the Project Site is within the predicted range and within suitable habitat for desert tortoise. Desert tortoise is listed as endangered under CESA. CDFW recommends that a pre-construction survey be conducted prior to ground-disturbing activities to confirm continued absence of desert tortoise. Thus, CDFW recommends the adoption of the new MM 4.3-9 (see below) in the final EIR.

MM 4.3-9: A qualified biologist shall conduct a protocol-level presence or absence survey within the Project Site, and 50-foot buffer zone no more than 48 hours prior to Project activities commencing in accordance with the U.S. Fish and Wildlife Service 2019 desert tortoise survey methodology (USFWS, 2019). 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 survey shall utilize survey routes that provide 100-percent visual coverage for desert tortoise and their sign. If desert tortoise may be impacted by the Project, the Project Proponent shall fully avoid impacts to desert tortoise or should obtain a CESA ITP if impacts are unavoidable.

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COMMENT 4: Crotch's Bumble Bee (*Bombus crotchii*)

Section 4.3, Pages 4.3-1, 12, and 16

CDFW appreciates that a habitat assessment and focused surveys for Crotch's bumble bee were conducted and while Crotch's bumble bee was not detected, CDFW is concerned that the DEIR does not include avoidance and minimization to ensure Crotch's bumble bee remains absent from the Project Site before construction commences. The Project Site contains several flowering species utilized by Crotch's bumble bee for foraging, including buckwheat, mustard, and phacelia among others. CNDDDB data places the Project Site within predicted habitat and range for Crotch's bumble bee as well. Crotch's bumble bee is a candidate species under CESA. Thus, CDFW recommends the adoption of the new MM 4.3-9 (see below) in the final EIR.

MM 4.3-10: If Project activities are due to occur anytime during the Colony Active Period (generally April through August) for Crotch's bumble bee, immediately prior to ground-disturbing activities and vegetation removal, a Designated Biologist shall conduct a survey of the entire Project Site and a 50-foot buffer where floral resources are present to confirm Crotch's bumble is not foraging on the Project site. If Crotch's bumble bee is present, it shall be allowed to move out of harm's way of its own volition and CDFW shall be notified immediately (within 24 hours). All impacts to Crotch's bumble bee shall be fully avoided or if impacts are unavoidable a CESA ITP should be obtained.

COMMENT 5: Nesting Birds and Swainson's Hawk (*Buteo swainsoni*)

Section 4.3, Pages 4.3-12, 16, and 18

CDFW appreciates the inclusion of MM 4.3-7 for nesting birds. However, Swainson's hawk has been observed within two miles of the Project Site and CDFW recommends increasing the no-disturbance buffer for active raptor nests to 500 feet in MM 4.3-7. If Swainson's hawk is detected nesting within or adjacent to the Project Site and impacts cannot be fully avoided for this CESA-listed threatened species, the Project Proponent must immediately consult with CDFW and obtain a CESA ITP prior to continuing ground-disturbing activities.

CDFW recommends that the following changes to MM 4.3-7 be adopted in the final EIR (additions are in **bold** and edits in ~~strikethrough~~):

MM 4.3-7: In order to comply with Section 10 of the Migratory Bird Treaty Act and relevant sections of the California Fish and Game Code, any necessary vegetation

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clearing shall take place outside of the typical avian nesting season for protected species (February 1 through August 31).

~~If work must occur during the nesting season for protected avian species, a~~ A qualified biologist shall conduct a pre-construction nesting bird survey of the work area and 500-foot buffer not more than 3 days prior to the onset of ground disturbance. If any active nests are found, the biologist shall establish an appropriate no-work buffer around the nest (typically 50–100 ft for songbird nests and 100–5300 ft for raptors, adjusted based on species and observed behavior). Construction within the buffer will be deferred until the nest is no longer active (fledged or failed), as confirmed by the biologist. **If Swainson's hawk is detected nesting within or adjacent to the Project Site and the Project Proponent cannot fully avoid impact to this CESA-listed threatened species, the Project Proponent should obtain a CESA ITP prior to continuing ground-disturbing activities.**

COMMENT 6: American Badger (*Taxidea taxus*) and Desert Kit Fox (*Vulpes macrotis*)

Section 4.3, Pages 4.3-1, 12, and 16

CDFW appreciates that the Project Proponent conducted diurnal focused surveys for desert kit fox, and while none were found, CDFW is concerned that the DEIR does not include specific avoidance or minimization measures for desert kit fox, a fur bearing mammal protected under the California Code of Regulations (CCR) Title 14 section 460 and Fish and Game code section 4000. CDFW is also concerned that the DEIR did not conduct focused surveys for the presence of the American badger, a species of special concern, and does not include specific avoidance or minimization measures for this special-status species. The DEIR recognizes that suitable habitat for both species exists with the Project footprint and there is the potential for these species to utilize the Project area for denning or foraging. Therefore, CDFW strongly recommends that the new MM 4.3-11 (see below) be adopted in the final EIR.

MM 4.3-11: 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 active natal dens (a den with pups, cubs, or kits) are detected, a minimum of 500-foot no disturbance buffer (reduction of the no-disturbance buffer may occur upon consultation with CDFW) shall be

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maintained until the den is confirmed by the qualified biologist as no longer active through on going monitoring as follows:

Excavation and backfill of *inactive* and unoccupied dens within the Project site, shall only occur with dens in which the entirety of the den can clearly be seen (e.g., the den isn't deep and doesn't curve). In cases where the entirety of the den cannot be clearly seen, the CDFW-approved Designated Biologist(s) or Biological Monitor(s) 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.

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 draft Environmental Impact Report to assist the Town of Apple Valley in identifying and mitigating Project impacts on biological resources.

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Questions regarding this letter or further coordination should be directed to Scott Jakubowski, Senior Environmental Scientist (Specialist) at (909) 354-0919 or scott.jakubowski@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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For Alisa Ellsworth
Environmental Program Manager

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ATTACHMENTS

Attachment A: Mitigation Monitoring Reporting Plan

REFERENCES

California Department of Fish and Wildlife. (2023). *California Department of Fish and Wildlife Mohave Ground Squirrel Survey Guidelines* (October 2023 Revision). California Department of Fish and Wildlife. Accessed January 29, 2026, from <https://wildlife.ca.gov/Conservation/Survey-Protocols>.

California Department of Fish and Wildlife. (2012). *Staff report on burrowing owl mitigation*. Accessed January 28, 2026, from <https://www.wildlife.ca.gov/conservation/survey-protocols>.

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U.S. Fish and Wildlife Service. (2019). *Preparing for any action that may occur within the range of the Mojave desert tortoise (Gopherus agassazii)*. Accessed January 30, 2026, from https://www.fws.gov/nevada/desert_tortoise/documents/DT_Preparation_Guide.pdf.

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**Attachment A
 Mitigation Monitoring and Reporting Plan**

Measure Number	Biological Mitigation Measure (MM)	Implementation Schedule	Responsible Party
MM 4.3-1	<p>A 30-day pre-construction survey for Burrowing Owl in compliance with CDFW’s Staff Report on Burrowing Owl Mitigation, dated March 7, 2012 or most recent version, shall be conducted prior to initial ground-disturbing activities (including vegetation clearing, clearing and grubbing, tree removal, site watering, equipment staging, grading, etc.) to safeguard that no owls have colonized the Project site.</p> <p>If Burrowing Owls have colonized the Project site prior to the initiation of ground-disturbing activities, the Project Applicant shall immediately inform the Town of Apple Valley to determine if “take” would occur and coordinate with CDFW if impacts to burrowing owl cannot be fully avoided to obtain an incidental take permit.</p> <p>If ground-disturbing activities occur, but the Project site is left undisturbed for more than 30 days, another pre-construction survey shall be conducted no less than fourteen (14) days prior to resuming ground-disturbing activities to safeguard that Burrowing Owl has not colonized the Project since it was last disturbed. If Burrowing Owls are found, the same coordination with CDFW in conjunction with the Town of Apple</p>	Prior to initial ground-disturbing activities	Project Proponent and Qualified Biologist

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	Valley described above shall be required.		
MM 4.3-8	<p>Prior to commencement of ground disturbing Project activities, a visual survey shall be conducted by a qualified biologist during the period of March 15 through April 15 within the Project Site to determine presence of Mohave ground squirrel. The survey shall be conducted on the Project Site according to the <i>Mohave Ground Squirrel Survey Guidelines</i> (CDFW, October 2023 Revision 4 or most recent version) during daylight hours by the qualified biologist who can visually identify Mohave ground squirrel and white-tailed antelope squirrel and detect vocalization calls. If the survey or monitoring confirms presence, the Project Proponent shall contact CDFW immediately (within 24 hours) and fully avoid all impacts to Mohave ground squirrel or obtain an incidental take permit.</p>	Prior to commencement of ground disturbing Project activities	Project Proponent and Qualified Biologist
MM 4.3-9	<p>A qualified biologist shall conduct a protocol-level presence or absence survey within the Project Site, and 50-foot buffer zone no more than 48 hours prior to Project activities commencing in accordance with the U.S. Fish and Wildlife Service 2019 desert tortoise survey methodology (USFWS, 2019). 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 survey shall utilize survey routes that provide 100-percent visual coverage for desert tortoise and their</p>	No more than 48 hours prior to Project activities commencing	Project Proponent and Qualified Biologist

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	<p>sign. If desert tortoise may be impacted by the Project, the Project Proponent shall fully avoid impacts to desert tortoise or should obtain a CESA ITP if impacts are unavoidable.</p>		
MM 4.3-10	<p>If Project activities are due to occur anytime during the Colony Active Period (generally April through August) for Crotch's bumble bee, immediately prior to ground-disturbing activities and vegetation removal, a Designated Biologist shall conduct a survey of the entire Project Site and a 50-foot buffer where floral resources are present to confirm Crotch's bumble is not foraging on the Project site. If Crotch's bumble bee is present, it shall be allowed to move out of harm's way of its own volition and CDFW shall be notified immediately (within 24 hours). All impacts to Crotch's bumble bee shall be fully avoided or if impacts are unavoidable a CESA ITP should be obtained.</p>	<p>Anytime during the Colony Active Period (generally April through August) for Crotch's bumble bee</p>	<p>Project Proponent and Qualified Biologist</p>
MM 4.3-7	<p>In order to comply with Section 10 of the Migratory Bird Treaty Act and relevant sections of the California Fish and Game Code, any necessary vegetation clearing shall take place outside of the typical avian nesting season for protected species (February 1 through August 31).</p> <p>A qualified biologist shall conduct a pre-construction nesting bird survey of the work area and 500-foot buffer not more than 3 days prior to the onset of ground disturbance. If any active nests are found, the biologist shall establish an appropriate no-</p>	<p>Pre-construction nesting bird survey of the work area and 500-foot buffer not more than 3 days prior to the onset of ground disturbance</p>	<p>Project Proponent and Qualified Biologist</p>

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	<p>work buffer around the nest (typically 50–100 ft for songbird nests and 100–500 ft for raptors, adjusted based on species and observed behavior). Construction within the buffer will be deferred until the nest is no longer active (fledged or failed), as confirmed by the biologist. If Swainson’s hawk is detected nesting within or adjacent to the Project Site and the Project Proponent cannot fully avoid impact to this CESA-listed threatened species, the Project Proponent should obtain a CESA ITP prior to continuing ground-disturbing activities.</p>		
<p>MM 4.3-11</p>	<p>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 active natal dens (a den with pups, cubs, or kits) are detected, a minimum of 500-foot no disturbance buffer (reduction of the no-disturbance buffer may occur upon consultation with CDFW) shall be maintained until the den is confirmed by the qualified biologist as no longer active through on going monitoring as follows:</p> <p>Excavation and backfill of <i>inactive</i> and unoccupied dens within the</p>	<p>Within 14-21 days prior to the beginning of surface disturbing activities</p>	<p>Project Proponent and Qualified Biologist</p>

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	<p>Project site, shall only occur with dens in which the entirety of the den can clearly be seen (e.g., the den isn't deep and doesn't curve). In cases where the entirety of the den cannot be clearly seen, the CDFW-approved Designated Biologist(s) or Biological Monitor(s) 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.</p>		
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