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STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

GAVIN NEWSOM, Governor
MEGHAN HERTEL, Director

Inland Deserts Region
3602 Inland Empire Blvd., Suite C-220
Ontario, CA 91764
wildlife.ca.gov

To:
Office of Land Use and Climate Innovation
CEQA Submit

From:
Department of Fish and Wildlife
Inland Deserts Region
3602 Inland Empire Blvd., Suite C-220
Ontario, CA 91764
Contact: Austin Gutierrez, Environmental Scientist
Email: Austin.Gutierrez@Wildlife.ca.gov
Phone: (909) 544-2525

Lead Agency
City of Hesperia
9700 Seventh Avenue
Hesperia, CA 92345
Contact: Leilani Henry, Associate Planner
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Phone: (760) 947-1231

NOTICE OF DETERMINATION

Subject: Filing of Notice of Determination pursuant to Section 21108 of the Public Resources Code

State Clearinghouse Number: 2026010656

Project Title: Hesperia Phelan Project (Western Joshua Tree Conservation Act (WJTCA) Incidental Take Permit No. 1927-ITP-2025-039-06 (ITP))

Project Location (San Bernardino County): The Project is located on the northwest corner of United States (U.S.) Highway 395 and Phelan Road at 12050 Phelan Road within the City of Hesperia.

Project Description: The California Department of Fish and Wildlife (CDFW) has issued an ITP (No. 1927-ITP-2025-039-06), pursuant to Section 1927.3 of the Fish and Game Code to Au Energy, LLC.

The Project is comprised of the construction and operation of a 5,915-square-foot convenience store, five fuel islands (10 pumps total) beneath a 4,080-square-foot canopy,

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and a 1,968-square-foot automated car wash tunnel on an approximately 115,870-square-foot (2.66-acre) site.

The Project will result in incidental take of 35 western Joshua tree (*Yucca brevifolia*) which is protected under the WJTCA and the California Endangered Species Act. The WJTCA ITP referenced above as issued by CDFW authorizes incidental take of western Joshua tree that may occur as a result of Project implementation.

This is to advise that CDFW, acting as a Responsible Agency, approved the project described above on October 7, 2026 and has made the following determinations regarding the above-described project:

1. The project **will not** have a significant effect on the environment. This determination is limited to effects within CDFW's permitting jurisdiction as a Responsible Agency.
2. A mitigated negative declaration was prepared by the lead agency for the original project.
3. Additional mitigation measures **were** made a condition of CDFW's approval of the project.
4. A Mitigation Reporting or Monitoring Plan **was** adopted by CDFW for this project.
5. A Statement of Overriding Considerations **was not** adopted by CDFW for this project.
6. Findings **were not** made by CDFW pursuant to Public Resources Code § 21081(a). CDFW did, however, adopt findings to document its compliance with CEQA.
7. Compliance with the environmental filing fee requirement at Fish and Game Code § 711.4: **A copy of a receipt showing prior payment was submitted to CDFW.**

The mitigated negative declaration prepared by the lead agency for the Project is available to the general public at the office location listed above for the lead agency. CDFW's administrative record of proceedings related to the incidental take permit is available to the public for review at CDFW's regional office.

Signature: DocuSigned by: Heidi Calvert CAEE4779B63E4A3... *Date:* 10/7/2026

Heidi Calvert, Regional Manager