



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

GAVIN NEWSOM, Governor
VALERIE TERMINI, Acting Director



February 12, 2026
 Sent via email

Joe Pont
 Director of Facilities, Transportation & Maintenance
 Victor Elementary School District
 12219 2nd Avenue,
 Victorville, CA 92345

SUBJECT: CHALLENGER SCHOOL OF SPORTS AND FITNESS TRACK AND FIELD
 PROJECT (PROJECT)
 MITIGATED NEGATIVE DECLARATION (MND)
 SCH# 2026010640

Dear Joe Pont:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from Victor Elementary School District 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.

PROJECT DESCRIPTION SUMMARY

Proponent: Victor Elementary School District

Objective: The objective of the Project is to construct and maintain a track and field facility for the Challenger School of Sports and Fitness. Primary Project activities include construction of a multiuse track and field, including replacement and installation of a turf field, construction of a 1,500-square-foot (ft) concession stand, construction of a 400-square-ft restroom building, construction of a 2,000 seat home and away bleachers,

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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placement of a 25-ft scoreboard, installation of five 80-ft light poles, and a 237 stall parking lot.

Location: The Project is located in the City of Victorville, County of San Bernardino, State of California. The Project is in the southwest corner of Hopland Street and Cahuenga Road on Assessor's Parcel Numbers 0395-244-17 and 0395-244-14. The track and field facility is south of the existing school and is centered at latitude 34.540404 and longitude -117.341058.

Timeframe: The Project is anticipated to commence construction in 2026 or 2027 and take 12 months to complete.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist Victor Elementary School District 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: Special Status Plants

Section # 5.4 Biological Resources, Page #34-35

Issue: The Project may result in significant impacts to special status plant species and/or communities.

Specific impact: The MND does not propose a mitigation measure for surveying and avoiding impacts to special status plant species. The Biological Resource Assessment (BRA) did not conduct a focused plant survey in Spring during the early, mid, or late blooming period for plants with potential to occur on the Project site, instead a general biological survey was conducted in October. The Project will result in grading and vegetation removal, which has the potential to result in direct mortality of special status plant species, such as Booth's evening-primrose (*Eremothera boothii ssp. Boothii*) and western Joshua tree (*Yucca brevifolia*).

Why impact would occur: Based on a literature review, the MND recognizes that 23 special status plant species may occur within the quadrangle of the Project but indicates that only western Joshua tree has the potential or occurs onsite. However, the field survey was conducted on October 10, 2024, outside of the blooming period for most plants and special status plants evident usually in the Spring may have been missed. Furthermore, the California Natural Diversity Database (CNDDDB) indicates Booth's evening-primrose (*Eremothera boothii ssp. Boothii*) is present within 3 miles of the Project and has a California Rare Plant Ranks 2B.3 – Rare or Endangered in California.

Evidence impact would be significant: Take of any CESA-listed plant species that results from the Project is prohibited, except as authorized by State law (Fish & Game Code, §§ 2080, 2085; California Code of Regulations, tit. 14, § 786.9). Plants constituting California Rare Plant Ranks 1A, 1B, 2A, and 2B generally meet the criteria of a CESA-listed species and should be considered as endangered, rare or threatened species for the purposes of CEQA analysis. CDFW considers State listed communities to be imperiled habitats having both local and regional significance. Plant communities, alliances, and associations with a statewide ranking of S1, S2, and S3 should be considered sensitive and declining at the local and regional level.

Recommended Potentially Feasible Mitigation Measure(s) to reduce impacts to less than significant: To avoid impacts to sensitive plant species, CDFW recommends the adoption of BIO-5 below in the final MND:

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BIO-5 (New)

Prior to Project implementation, and during the appropriate season, a qualified biologist shall conduct botanical field surveys within the Project area following protocols set forth in the California Department of Fish and Wildlife’s (CDFW) 2018 Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018). The surveys shall be conducted by a qualified botanist(s) experienced in conducting floristic botanical field surveys, knowledgeable of plant taxonomy and plant community ecology and classification, familiar with the plants of the area, including special status and locally significant plants, and familiar with the appropriate state and federal statutes related to plants and plant collecting. The botanical field surveys shall be conducted at the appropriate time of year when plants will both be evident and identifiable (usually, during flowering or fruiting) and in a manner, which maximizes the likelihood of locating special-status plants and sensitive natural communities that may be present. Botanical field surveys shall be conducted floristic in nature, meaning that every plant taxon that occurs in the Project area is identified to the taxonomic level necessary to determine rarity and listing status.

If special-status plant species are observed during the botanical field surveys, the Project shall reduce impacts to non-CESA candidate or listed species through the establishment of buffers, to the extent feasible. Buffer distances will be determined by the qualified biologist. Impacts to CESA candidate or listed species shall be fully avoided or a CESA Incidental Take Permit should be obtained.

COMMENT #2: Nesting Birds

Section # 5.4 Biological Resources, Page #34

Issue: The Project may have significant impacts on nesting birds, including birds considered to be Species of Special Concern (SSC), such as loggerhead shrike (*Lanius ludovicianus*) and California Endangered Species Act (CESA) candidate species, such as western burrowing owl (*Athene cunicularia hypugaea*).

Specific impact: Project implementation could result in the loss of nesting and/or foraging habitat for passerine and raptor species through the removal of vegetation and may cause disruptions to foraging and nesting due to noise and light.

Why impact would occur: The MND mentions the presence of loggerhead shrike onsite and the potential for the Project site to be used by other nesting birds due to the presence of suitable vegetation.

Evidence impact would be significant: The Project Proponent is responsible for complying with Fish and Game Code sections 3503, 3503.5, and 3513. Fish and Game Code section 3503 makes it unlawful to take, possess, or needlessly destroy the nest or eggs or any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. 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) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by the Fish and Game Code or any regulation adopted pursuant thereto. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by 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.).

CEQA provides protection not only for CESA-listed species, but for any species, including, but not limited to SSC, which can be shown to meet the criteria for State listing. Loggerhead shrike is an SSC that meets the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380).

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Recommended Potentially Feasible Mitigation Measure(s) to reduce impacts to less than significant: CDFW recommends the following edits to BIO-4 for incorporation in the final MND (edits are in ~~strike through~~ and **bold**):

BIO-4 (Edited)

Within 30 days prior to ground-disturbing activities associated with project construction ~~that would occur during the nesting/breeding season of native bird species potentially nesting on the site (typically February through August in the project region, or as determined by a qualified biologist),~~ the applicant shall have weekly surveys conducted by a qualified biologist to determine if active nests of bird species protected by the Migratory Bird Treaty Act and/or the California Fish and Game Code are present on the project site. ~~The surveys shall continue on a weekly basis, with the last survey being conducted no more than seven days prior to initiation of disturbance work.~~ **Surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified biologist will make every effort to avoid potential nest predation as a result of the survey efforts.** If ground disturbing activities are delayed, then additional pre-disturbance surveys shall be conducted such that no more than seven days will have elapsed between the survey and ground-disturbing activities.

If active nests are found, clearing and construction within 300 feet of the nest (500 feet for raptors) shall be postponed or halted, at the discretion of the qualified biologist in consultation with the California Department of Fish and Wildlife (CDFW), until the nest is vacated and juveniles have fledged, as determined by the qualified biologist, and there is no evidence of a second attempt at nesting.

ADDITIONAL COMMENTS

COMMENT #3: Western Burrowing Owl (*Athene cunicularia hypugaea*)

CDFW appreciates that surveys following the 2012 CDFW Staff Report on Burrowing Owl Mitigation (CDFW 2012) were conducted for western burrowing owl, during which an adult pair on March 19, 2025, April 23, 2025, May 14, 2025, June 24, 2025, and 2 juveniles on June 24, 2025 were found. CDFW has contacted the Project Proponent regarding the breeding pair and juveniles that were documented onsite. CDFW recommends that the Project Proponent and the lead agency contact CDFW to discuss potential impacts to western burrowing owl and the Burrowing Owl Mitigation and Monitoring Plan (see BIO-2 below). CDFW recommends the following edits to BIO 1 to BIO 3 (edits are in ~~strike through~~ and **bold**) for incorporation in the final MND:

BIO-1 (Edited)

A qualified biologist will conduct a preconstruction survey for burrowing owl 14 days prior to initiation of ground-disturbing activities and a final survey conducted within 24 hours prior to ground disturbance. If the species is present, **the qualified biologist and/or Project Proponent shall contact CDFW and the Project shall fully avoid impacts to burrowing owl. If impacts to burrowing owl cannot be fully avoided, the Project Proponent is recommended to obtain a California Endangered Species Act incidental take permit pursuant to Fish and Game Code section 2081** ~~measures in the Burrowing Owl Mitigation and Monitoring Plan (MMP) will be implemented. Additional preconstruction surveys may be necessary within three days prior to construction to verify the species has not recolonized.~~

BIO-2 (Edited)

A Burrowing Owl MMP will be prepared for the burrowing owl. This plan will outline the actions required before the start of construction activities, including preconstruction surveys, timing of activities, avoidance buffer zones, monitoring requirements, relocation, and any other mitigation measures based on coordination and guidance from the CDFW.

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The Burrowing Owl MMP must be approved by the CDFW before any relocation or construction activities commence and will incorporate any conditions required in the incidental take permit.

Additional measures that may be required by the CDFW and would be incorporated into the Burrowing Owl MMP include, but are not limited to:

- Avoidance of construction during the nesting period (February 1–August 31).
- No impacts on active burrows ~~during the non-breeding season~~ and no direct destruction of **active** burrows would occur until it is confirmed that the burrowing owls are no longer utilizing the burrow.
- Development and execution of a Worker Environmental Awareness training.
- Monitoring by a qualified biologist.

BIO-3 (Edited)

The District will replace burrowing owl habitat at ratio of **no less than 1:1** through payment into a **CDFW-approved conservation/mitigation bank or land acquisition and permanent protection and management thereof, as determined by a CESA Incidental Take Permit** ~~the Fremont Yermo Conservation Bank (pending CDFW approval) or other approved mitigation bank.~~

COMMENT #4: Western Joshua Tree (*Yucca brevifolia*)

CDFW appreciates the BRA and MND recognizes the presence of western Joshua tree onsite. However, the MND does not propose obtaining an Incidental Take Permit. CDFW would like to recommend the Project Proponent to review the information found on CDFW's website: [Western Joshua Tree Conservation Act Incidental Take Permit](#) and if Project activities cannot occur 50 feet away from western Joshua trees, CDFW recommends an application for an Incidental Take Permit for western Joshua tree be submitted to CDFW. As such, CDFW recommends the inclusion of BIO-6 below in the final MND:

BIO-6 (New)

Prior to start of construction activities, a WJT census of the property shall be conducted as per CDFW's WJT Census Instructions (<https://wildlife.ca.gov/Conservation/Environmental-Review/WJT/Permitting/Census-Instructions>). If WJT individuals are identified in the census and the trees are to be relocated, encroached upon, removed, or otherwise taken, the Project Proponent shall obtain an incidental take permit (ITP) from the California Department of Fish and Wildlife (CDFW) under Section 2081b of the California Endangered Species Act (CESA), or any other appropriate take authorization under CESA or under the WJT Conservation Act (Fish & G. Code, §§ 1927-1927.12), 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, a Candidate for Threatened CESA-listed species. Take of any CESA-listed species is prohibited except as authorized by state law (Fish and Game Code, §§ 2080 & 2085 and §§ 1927-1927.12).

Mitigation for CESA will occur at a minimum 1:1 or per the stem count per the WJTCA census in lieu fee. 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 permittee 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 permittee avoids and minimizes 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 permittee mitigates all impacts to, and taking of, the western Joshua tree through the payment of in lieu mitigation fees. For the current fees, please visit:

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<https://wildlife.ca.gov/Conservation/Environmental-Review/WJT/Permitting/WJTCA-ITP>. 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 or trunk. Mitigation is required of all trees, regardless of whether they are dead or alive. (4) CDFW may require the permittee to relocate one or more of the western Joshua trees.

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 MND to assist Victor Elementary School District in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Steven Recinos, Environmental Scientist at (909) 731-5954 or Steven.Recinos@wildlife.ca.gov.

Sincerely,

DocuSigned by:


84FBB8273E4C480...
Alisa Ellsworth
Environmental Program Manager

ec: Office of Planning and Research, State Clearinghouse, Sacramento
State.clearinghouse@lci.ca.gov

Joe Pont
Victor Elementary School District
Jpont@vesd.net

Melissa Whittemore
Michael Baker International
Melissa.whittemore@mbakerintl.com

Attachments

Attachment A: Mitigation Monitoring Reporting Plan

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References

California Department of Fish and Wildlife (CDFW). 2012. Staff Report on Burrowing Owl Mitigation. <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline=true>

California Department of Fish and Wildlife. 2018. Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities.

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Attachment A

Mitigation Monitoring and Reporting Plan

Biological Resources (BIO)		
Mitigation Measure	Implementation Schedule	Responsible Party
<p>BIO-1</p> <p>A qualified biologist will conduct a preconstruction survey for burrowing owl 14 days prior to initiation of ground-disturbing activities and a final survey conducted within 24 hours prior to ground disturbance. If the species is present, the qualified biologist and/or Project Proponent shall contact CDFW and the Project shall fully avoid impacts to burrowing owl. If impacts to burrowing owl cannot be fully avoided, the Project Proponent is recommended to obtain a California Endangered Species Act incidental take permit pursuant to Fish and Game Code section 2081.</p>	<p>Prior to the start / initiation of ground-disturbing activities</p>	<p>Project Proponent / Qualified Biologist</p>
<p>BIO-2</p> <p>A Burrowing Owl MMP will be prepared for the burrowing owl. This plan will outline the actions required before the start of construction activities, including preconstruction surveys, timing of activities, avoidance buffer zones, monitoring requirements, relocation, and any other mitigation measures based on coordination and guidance from the CDFW. The Burrowing Owl MMP must be approved by the CDFW before any relocation or construction activities commence and will incorporate any conditions required in the incidental take permit.</p> <p>Additional measures that may be required by the CDFW and would be incorporated into the Burrowing Owl MMP include, but are not limited to:</p> <ul style="list-style-type: none"> • Avoidance of construction during the nesting period (February 1–August 31). • No impacts on active burrows and no direct destruction of active burrows would occur until it is confirmed that the burrowing owls are no longer utilizing the burrow. • Development and execution of a Worker Environmental Awareness training. • Monitoring by a qualified biologist. 		
<p>BIO-3</p> <p>The District will replace burrowing owl habitat at ratio of no less than 1:1 through payment into a CDFW-approved conservation/mitigation bank or land acquisition and permanent protection and management thereof, as determined by a CESA Incidental Take Permit.</p>	<p>Prior to the start / initiation of ground-disturbing activities</p>	<p>Project Proponent</p>

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<p>BIO-4</p> <p>Within days prior to ground-disturbing activities associated with project construction the applicant shall have surveys conducted by a qualified biologist to determine if active nests of bird species protected by the Migratory Bird Treaty Act and/or the California Fish and Game Code are present on the project site. Surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified biologist will make every effort to avoid potential nest predation as a result of the survey efforts. If ground disturbing activities are delayed, then additional pre-disturbance surveys shall be conducted such that no more than seven days will have elapsed between the survey and ground-disturbing activities.</p> <p>If active nests are found, clearing and construction within 300 feet of the nest (500 feet for raptors) shall be postponed or halted, at the discretion of the qualified biologist in consultation with the California Department of Fish and Wildlife (CDFW), until the nest is vacated and juveniles have fledged, as determined by the qualified biologist, and there is no evidence of a second attempt at nesting.</p>	<p>Prior to the start / initiation of ground-disturbing activities</p>	<p>Project Proponent / Qualified Biologist</p>
<p>BIO-5</p> <p>Prior to Project implementation, and during the appropriate season, a qualified biologist shall conduct botanical field surveys within the Project area following protocols set forth in the California Department of Fish and Wildlife’s (CDFW) 2018 Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018). The surveys shall be conducted by a qualified botanist(s) experienced in conducting floristic botanical field surveys, knowledgeable of plant taxonomy and plant community ecology and classification, familiar with the plants of the area, including special status and locally significant plants, and familiar with the appropriate state and federal statutes related to plants and plant collecting. The botanical field surveys shall be conducted at the appropriate time of year when plants will both be evident and identifiable (usually, during flowering or fruiting) and in a manner, which maximizes the likelihood of locating special-status plants and sensitive natural communities that may be present. Botanical field surveys shall be conducted floristic in nature, meaning that every plant taxon that occurs in the Project area is identified to the taxonomic level necessary to determine rarity and listing status.</p> <p>If special-status plant species are observed during the botanical field surveys, the Project shall reduce</p>	<p>Prior to the start of Project implementation</p>	<p>Project Proponent / Qualified Biologist</p>

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<p>impacts to non-CESA candidate or listed species through the establishment of buffers, to the extent feasible. Buffer distances will be determined by the qualified biologist. Impacts to CESA candidate of listed species shall be fully avoided or a CESA Incidental Take Permit should be obtained.</p>		
<p>BIO-6</p> <p>Prior to start of construction activities, a WJT census of the property shall be conducted as per CDFW's WJT Census Instructions (https://wildlife.ca.gov/Conservation/Environmental-Review/WJT/Permitting/Census-Instructions). If WJT individuals are identified in the census and the trees are to be relocated, encroached upon, removed, or otherwise taken, the Project Proponent shall obtain an incidental take permit (ITP) from the California Department of Fish and Wildlife (CDFW) under Section 2081b of the California Endangered Species Act (CESA), or any other appropriate take authorization under CESA or under the WJT Conservation Act (Fish & G. Code, §§ 1927-1927.12), 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, a Candidate for Threatened CESA-listed species. Take of any CESA-listed species is prohibited except as authorized by state law (Fish and Game Code, §§ 2080 & 2085 and §§ 1927-1927.12). Mitigation for CESA will occur at a minimum 1:1 or per the stem count per the WJTCA census in lieu fee. 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 permittee 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 permittee avoids and minimizes 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 permittee mitigates all impacts to, and taking of, the western Joshua tree through the payment of in lieu mitigation fees. For the current fees, please visit: https://wildlife.ca.gov/Conservation/Environmental-Review/WJT/Permitting/WJTCA-ITP. 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 permittee</p>	<p>Prior to the start of construction activities</p>	<p>Project Proponent / Qualified Biologist</p>

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to relocate one or more of the western Joshua trees.		
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