



State of California – Natural Resources Agency  
 DEPARTMENT OF FISH AND WILDLIFE  
 Inland Deserts Region  
 3602 Inland Empire Blvd. C-220  
 Ontario, CA, 91764  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

**GAVIN NEWSOM, Governor**  
**MEGHAN HERTEL, Director**



March 3, 2026  
 Sent via email

Edgar Gonzalez  
 Senior Planner  
 City of Hesperia  
 9700 Seventh Avenue  
 Hesperia, CA 92345  
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Tentative Tract Map 20637 (PROJECT)  
 MITIGATED NEGATIVE DECLARATION (MND)  
 SCH# 2026020360

Dear Edgar Gonzalez:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from the City of Victorville for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

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.), related authorization as provided by the Fish and Game Code will be required.

## PROJECT DESCRIPTION SUMMARY

**Proponent:** Ken Tang. Hesperia Canyon, LLC.

**Objective:** The Project will construct 22 single family homes on the 4.189-acre undeveloped project site. The lots would range from approximately 5,299 square feet to 7,721 square feet. The Project will also include a retention basin, landscaping and the construction of a new street in the center of the tract.

<sup>1</sup> 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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**Location:** The Project site is located on the southwestern corner of Oak Valley Street and Fuente Avenue in the City of Hesperia, San Bernardino County, State of California. The corresponding Assessor Parcel Numbers are 3057-051-25-0000 and 3057-051-26-0000 at latitude 34.41673 N and longitude -117.36477 W. Residential properties border the site to the north, east and west with undeveloped land to the south.

**Timeframe:** Construction will commence in July 2026, and last for approximately 12 months.

## COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City 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. Based on the Project's avoidance of significant impacts on biological resources with implementation of mitigation measures, including those CDFW recommends in Attachment A, CDFW concludes that a Mitigated Negative Declaration is appropriate for the Project.

### COMMENT #1 Burrowing Owl (*Athene cunicularia*) and Bio Mitigation No. 1

#### IS/MND page 32, Biological Resources Assessment pages 5-9

**Issue:** Western burrowing owl is a candidate listed species under CESA, as such is granted the full protection of a threatened species under CESA. The Project has the potential to result in permanent loss, degradation, and impacts to burrowing owl habitat.

**Specific impact:** Project related activities may result in direct or indirect take of burrowing owl by reducing/eliminating suitable habitat for the species, restricting species movement, or causing injury or mortality.

**Why impact would occur:** Although no evidence of burrowing owls was detected within the Project site, the Project site is within potential burrowing owl habitat and suitable habitat is present on site as stated in the General Biological Resources Assessment. CDFW is concerned that Mitigation Measure BIO-1, as currently written, is not sufficient to prevent impacts to burrowing owls. Project activities include vegetation removal, grading, and construction, and the Project may result in take of burrowing owl during Project activities. Burrowing owls have been known to use highly degraded and marginal habitats where existing burrows are available.

**Evidence impact would be significant:** Habitat loss is a threat to burrowing owls (CDFG, 2012). As a candidate species, western burrowing owl is granted full protection of a threatened or endangered species under CESA. Take is defined in Fish and Game Code section 86 as "hunt, pursue, catch, capture or kill, or attempt to hunt, pursue, catch, capture or kill." CESA allows CDFW to authorize project proponents to take state-listed threatened, endangered, or candidate species if certain conditions are met. Take must be incidental to an otherwise lawful activity. The issuance of an incidental take permit (ITP) cannot jeopardize the continued existence of the species, and the impacts must be minimized and fully mitigated.

**Recommended Potentially Feasible Mitigation Measure to reduce impacts to less than significant:** CDFW appreciates that the IS/MND provided mitigation measure MM BIO-1. CDFW offers the following revisions to MM BIO-1 (edits are in strikethrough and **bold**):

#### **Biological Resources Mitigation Measure No. 1 (MM BIO-1)**

Pre-construction surveys for burrowing owls, desert tortoise, and nesting birds ~~protected under the Migratory Bird Treaty Act and Section 3503 of the California Fish and Wildlife Code may need to~~ **shall** be conducted prior to the commencement of ~~future~~ ground disturbance. Appropriate survey methods and time frames shall be established, to ensure that chances of detecting the target species are maximized. **For western burrowing owl the CDFW Staff Report on Burrowing Owl Mitigation (CDFG, 2012 or most recent version) shall be used.** In the event that listed **or candidate** species, such as the desert tortoise **or western burrowing owl**, are encountered, authorization **for impacts** from the USFWS and CDFW must be

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obtained. **If burrowing owls or suitable burrowing owl burrows with sign (e.g., whitewash, pellets, feathers, prey remains) are identified on the Project site during the pre-construction clearance surveys or during construction, Project activities shall be immediately halted. The Project Proponent shall consult with CDFW on the next steps, including obtaining an Incidental Take Permit (ITP) for burrowing owl prior to the start of Project activities.** If nesting birds are detected, avoidance measures, **such as an appropriate buffer determined by a qualified biologist** shall be implemented to ensure that nests are not disturbed until after **the qualified biologist confirms that the young have fledged.** Pre-construction surveys shall encompass all areas within the potential footprint of disturbance for the project, as well as a reasonable buffer around these areas.

#### **COMMENT #2 Crotch's Bumble Bee (*Bombus crotchii*)**

**Issue:** The Project has the potential to impact Crotch's bumble bee; a candidate species protected under CESA.

**Specific impact:** According to CDFW's Crotch's Bumble Bee Range Dataset (CDFW 2026), the Project area is within the current range for Crotch's bumble bee. However, the IS/MND does not consider potential impacts to Crotch's bumble bee or provide avoidance, minimization or mitigation measures to ensure that the project impacts are less than significant.

**Why impact would occur:** Crotch's bumble bee occurs primarily in California, including the Mediterranean region, Pacific Coast, Western Desert, Great Valley and adjacent to foothills through most of southwestern California (Williams et. al 2014). The plant families most commonly associated with Crotch's bumble bee observations or collections from California include *Fabaceae*, *Apocynaceae*, *Asteraceae*, *Lamiaceae*, and *Boraginaceae* however Crotch's bumble bee are generalist foragers and have been reported visiting a wide variety of flowering plants.

CDFW would like to note that the general biological survey was conducted in January which is outside the blooming period for most flowering plants. Absent appropriate surveys and avoidance, minimization, and mitigation measures, the Project may result in mortality and/or injury of undetected Crotch's bumble bees that may be present during Project activities. The Project's ground and/or vegetation disturbance activities could result in significant impacts to Crotch's bumble bee, including loss of foraging resources, changes in foraging behavior, burrow collapse, nest abandonment, reduced nest success, reduced health and vigor of eggs, young, and/or queens, and direct mortality.

**Evidence impact may be significant:** Crotch's bumble bee is a candidate species protected under CESA, and, as such, is granted full protection under CESA. The California Fish and Game Commission accepted a petition to list the Crotch's bumble bee as endangered under CESA, determining the listing "may be warranted" and advancing the species to the candidacy stage of the CESA listing process. Take of any endangered, threatened, candidate species that results from the Project is prohibited, except as authorized by State law (Fish & G. Code, §§ 86, 2062, 2067, 2068, 2080, 2085; Cal. Code Regs., tit. 14, § 786.9). CDFW considers impacts to species that are candidates for CESA listing to be significant, under CEQA. Crotch's bumble bee meets the CEQA definition of rare, threatened, or endangered (CEQA Guidelines, § 15380). Therefore, take of Crotch's bumble bee could require a mandatory finding of significance by PWD (CEQA Guidelines, § 15065).

**Recommended Potentially Feasible Mitigation Measure to reduce impacts to less than significant:** CDFW offers the following Mitigation Measure:

#### ***Biological Resources Mitigation Measure No. 4 (MM BIO-4)***

**Prior to vegetation removal and/or grading, a Designated Biologist shall conduct a habitat assessment to determine whether Crotch's bumble bee habitat is present or absent in the Project site and adjoining area. The habitat assessment shall be performed according to the 2023 CDFW [Survey Considerations for CESA Candidate Bumble Bees.pdf](#)**

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If habitat for Crotch's bumble bee is present, a Designated Biologist shall conduct focused surveys prior to vegetation removal and/or grading for the presence/absence of Crotch's bumble bee. Survey methodology shall follow the 2023 CDFW Survey Considerations for Candidate Bumble Bee. Surveys shall be conducted during the flying season when the species is most likely to be detected above ground, between March 1 to September 1, by an approved Designated Biologist familiar with Crotch's bumble bee behavior and life history. Surveys shall be conducted within the Project site and areas adjacent to the Project site where suitable habitat exists. Survey results including negative findings shall be submitted to CDFW at least 30 days prior to Project-related vegetation removal and/or ground-disturbing activities. If the species is identified on site, Project Proponent shall fully avoid the species absent take authorization. If the Project may result in take of Crotch's bumble bee through either nest destruction or destruction of potential nests hidden in bunch grasses or other nesting habitat, or if complete avoidance of Crotch's bumble bee cannot be achieved, Project activities shall be postponed until appropriate authorization (i.e., a finalized CESA ITP under Fish and Game Code section 2081) is obtained.

### **ADDITIONAL COMMENTS AND RECOMMENDATIONS**

**Western Joshua Tree and Bio Mitigation No.3:** CDFW appreciates that the IS/MND includes Bio Mitigation No. 3, which states the requirement of an Incidental Take Permit for take of western Joshua tree, a candidate species under CESA. Please note that mitigation fees are subject to change annually, please visit [Western Joshua Tree Conservation Act Incidental Take Permit](#) page to view the current fee schedule.

### **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 the City of Hesperia in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Lydia Rodriguez, Senior Environmental Scientist via email [lydia.rodriquez@wildlife.ca.gov](mailto:lydia.rodriquez@wildlife.ca.gov).

Sincerely,

DocuSigned by:  


84FBB8273E4C480...  
Alisa Ellsworth,  
Environmental Program Manager

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ec: Office of Planning and Research, State Clearinghouse, Sacramento  
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## **ATTACHMENTS**

Attachment A: MMRP for CDFW-Proposed Mitigation Measures

## **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](#)

California Department of Fish and Wildlife. 2023. Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species. Available from: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150&inline>

[CDFW] California Department of Fish and Wildlife. 2026. Crotch's Bumble Bee Range Dataset 3095. Available at CDFW's Biogeographic Information and Observation System: [Biogeographic Information and Observation System \(BIOS\)](#)

Williams, Paul H et al. *Bumble Bees of North America : An Identification Guide*. Course Book. Princeton: Princeton University Press, 2014. Web.

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**Attachment A**

**Draft Mitigation and Reporting Program and Draft Recommendations**

**Draft Mitigation Monitoring and Reporting Program (MMRP)**

CDFW provides the following language to be incorporated into the MMRP for the Project.

<b>Biological Resources (BIO)</b>		
<b>Mitigation Measure (MM) Description</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>
<p><b>MM BIO-1:</b>                      Pre-construction surveys for burrowing owls, desert tortoise, and nesting birds shall be conducted prior to the commencement of ground disturbance. Appropriate survey methods and time frames shall be established, to ensure that chances of detecting the target species are maximized. For western burrowing owl the CDFW Staff Report on Burrowing Owl Mitigation<sup>4</sup> (CDFG, 2012 or most recent version) shall be used. In the event that listed or candidate species, such as the desert tortoise or western burrowing owl, are encountered, authorization for impacts from the USFWS and CDFW must be obtained. If burrowing owls or suitable burrowing owl burrows with sign (e.g., whitewash, pellets, feathers, prey remains) are identified on the Project site during the pre-construction clearance surveys or during construction, Project activities shall be immediately halted. The Project Proponent shall consult with CDFW on the next steps, including obtaining an Incidental Take Permit (ITP) for burrowing owl prior to the start of Project activities. If nesting birds are detected, avoidance measures, such as an appropriate buffer determined by a qualified biologist shall be implemented to ensure that nests are not disturbed until after the qualified biologist confirms that the young have fledged. Pre-construction surveys shall encompass all areas within the potential footprint of disturbance for the project, as well as a reasonable buffer around these areas.</p>	<p>Prior to commencing ground or vegetation disturbing activities</p>	<p>Project Proponent</p>
<p><b>MM BIO-4:</b>                      Prior to vegetation removal and/or grading, a Designated Biologist shall conduct a habitat assessment to determine whether Crotch’s bumble bee habitat is present or absent in the Project site and adjoining area. The habitat assessment shall be performed according to the 2023 CDFW <a href="#">Survey Considerations for CESA Candidate Bumble Bees.pdf</a></p> <p>If habitat for Crotch’s bumble bee is present, a Designated Biologist shall conduct focused surveys prior to vegetation removal and/or grading for the presence/absence of Crotch’s bumble bee. Survey methodology shall follow the 2023 CDFW Survey Considerations for Candidate Bumble Bee. Surveys shall be conducted during the flying season when the species is most likely to be detected above ground, between March 1 to September 1, by an approved Designated Biologist familiar with Crotch’s bumble bee behavior and life history. Surveys shall be conducted within the Project site and areas adjacent to the Project site where suitable habitat exists. Survey results including negative</p>	<p>Prior to commencing ground or vegetation disturbing activities</p>	<p>Project Proponent</p>

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<p>findings shall be submitted to CDFW at least 30 days prior to Project-related vegetation removal and/or ground-disturbing activities. If the species is identified on site, Project Proponent shall fully avoid the species absent take authorization. If the Project may result in take of Crotch's bumble bee through either nest destruction or destruction of potential nests hidden in bunch grasses or other nesting habitat, or if complete avoidance of Crotch's bumble bee cannot be achieved, Project activities shall be postponed until appropriate authorization (i.e., a finalized CESA ITP under Fish and Game Code section 2081) is obtained.</p>		
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