



STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

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March 24, 2026

Justin Richard
Assistant Project Manager
City of Hesperia
9700 Seventh Ave.,
Hesperia, CA 92345

WALNUT BASIN PROJECT (Project)
MITIGATED NEGATIVE DECLARATION (MND)
SCH# 2026020935

Dear Justin Richard:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from the City of Hesperia 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.

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

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.

Proponent: City of Hesperia

Objective: The objective of the Project is to construct a sediment and debris basin and associated facilities. The Project proposes to construct a sediment and debris basin on the north side of Walnut Street, in the City of Hesperia. The Project includes a trapezoidal sloped inlet abutting Walnut Street, a 50-foot (ft) wide rectangular flume, a 6-inch (in) Portland Concrete Cement (PCC) spillway, and a 23-in grouted rip-rap section north of the spillway. The Project will construct a 24-ft-deep sediment and debris basin designed to hold 23,000 cubic yards (cy), a 5-ft earthen berm within the basin, and a 3-ft concrete spillway exiting the basin to direct flows into the City of Hesperia's storm drain system. Additional features include a modified circular pipe headwall, a driveway north of Walnut Street, access roads created around the basin's perimeter, a maintenance road constructed within the basin, and a 6-ft-high chain-link fence around the perimeter with an 18-ft-wide gate on the south side of the Project. The Project will demolish and remove the existing PCC pavement, asphalt-concrete berm, headwall, and gated fence for salvage and re-use. The salvaged PCC pavement will be used as rip-rap, and portions of the salvaged fence will be used to construct the new fence. The Project requires approximately 50,500 cy of cut and fill, 500 cy will be re-used on site, and 50,000 cy will be hauled off-site. The Project will result in approximately 1.2 acres of new impervious surface. Primary Project activities include clearing, grubbing, grading, compacting, and construction.

Location: The Project is located in the City of Hesperia, San Bernardino County, State of California. The Project is located north of Walnut Street and south of Main Street on Assessor's Parcel Numbers 0408-182-14, 0408-182-10, and 0408-182-02. The Project is centered at latitude 34.4254740969 and longitude -117.3286305440.

Timeframe: The Project is anticipated to begin October 2026 and end February 2027 with an anticipated work period of 5 months.

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: Lake and Streambed Alteration Agreement

California Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following: substantially divert or obstruct the natural flow of any river, stream or lake; substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or deposit debris, waste or other materials that could pass into any river, stream or lake. Note that "any river, stream or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow.

CDFW appreciates that the MND assessed Fish and Game Code section 1602 resources within the Biological Study Area (BSA), including two drainages on the Project site (Drainage A and B). Additionally, CDFW appreciates that several mitigation measures (BIO-2 to BIO-8) were included to protect Drainage A and Drainage B from deleterious materials related to construction activities. While the MND states that the Project would comply with Fish and Game Code section 1602 and implies that a Lake or Streambed Alteration Agreement will be obtained, no mitigation measures were adopted for this purpose. Thus, CDFW would like to recommend the inclusion of BIO-14 below in the final MND.

BIO-14 (New)

Prior to construction and issuance of any grading permit, the Project Proponent shall obtain written correspondence from the California Department of Fish and Wildlife (CDFW) stating that notification under section 1602 of the California Fish and Game Code is not required for the Project, or the Project Proponent should obtain a CDFW-executed Lake and Streambed Alteration Agreement, authorizing impacts to California Fish and Game Code section 1602 resources associated with the Project.

COMMENT #2: Nesting Bird

CDFW appreciates the inclusion of mitigation measures for nesting birds, including BIO-4 to BIO-6. However, CDFW is concerned that BIO-5 only considers protecting nesting birds during the nesting season (typically, February 1 to September 30). Please note that the timing of the nesting season varies greatly depending on several factors, such as bird species, weather conditions in any given year, and long-term climate changes (e.g., drought, warming, etc.). CDFW staff have observed that climate change conditions may result in the nesting bird season occurring earlier and later in the year than historical nesting season dates. CDFW therefore recommends the completion of nesting bird surveys regardless of the time of year to ensure compliance with all applicable laws (e.g., F&G. Code, §§ 3503 & 3503.5) pertaining to nesting birds. CDFW recommends the adoption of the following edits to BIO-5 and BIO-6 below in the final MND.

BIO-5 (Edited)

Regardless of the time of year, ~~If vegetation must be conducted during the nesting season,~~ nesting bird surveys ~~shall~~ **will** be completed by a qualified biologist no more than three days prior to **vegetation removal or ground-disturbance activities** ~~clearing activities to determine if nesting birds are within the affected vegetation.~~ Surveys ~~will~~ **will** be conducted within 300 feet of the construction area for songbirds and within 500 feet of the construction area for raptors, ~~as feasible.~~ **The qualified biologist may adjust the survey buffer based on their best professional judgement and experience and will make every effort to avoid potential nest predation as a result of survey and monitoring efforts.** Nesting bird surveys ~~will~~ **will** be repeated if vegetation removal or initial ground disturbing activities are suspended for five days or more.

BIO-6 (Edited)

If nesting birds are found within 500 feet of the construction area, appropriate buffers consisting of orange flagging/fencing or similar (typically 300 feet for birds and 500 feet for raptors) ~~will~~ **will** be installed and maintained until nesting activity has ended, as determined in coordination with the project biologist and regulatory agencies, as appropriate. **Construction activities may not occur inside the established buffers until a qualified biologist determines the young have fledged or the nest is no longer active. Active nests and adequacy of the established buffer distance shall be monitored daily by the qualified biologist until the qualified biologist has determined the young have fledged or the Project has been completed. The qualified biologist has the authority to stop work if birds exhibit signs of disturbance.**

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

On October 10, 2024, the California Fish and Game Commission determined that western burrowing owl warrants protection as a candidate species under the California Endangered Species Act (Fish & G. Code, § 2050 et seq.). During the candidacy period, western burrowing owl is afforded the same protection as

threatened and endangered species under CESA. If Project activities could result in take, appropriate CESA authorization (i.e., Incidental Take Permit under California Fish and Game Code section 2081) should be obtained prior to commencement of Project activities.

CDFW appreciates that an assessment was conducted for western burrowing owl on the Project site and BSA. The MND also acknowledges that the Project site and BSA are in the distribution range of western burrowing owl and contains adequate habitat for the species, including suitable burrows. CDFW appreciates surveys for western burrowing owl were conducted on May 14 and June 19, 2024, during which no western burrowing owls were detected. However, according to the Staff Report on Burrowing Owl Mitigation (CDFW 2012) four surveys should occur: 1) at least one site visit between 15 February and 15 April, and 2) a minimum of three survey visits, at least three weeks apart, between 15 April and 15 July, with at least one visit after 15 June. Please note, CDFW generally considers biological field assessments for wildlife to be valid for a one-year period.

CDFW appreciates the inclusion of BIO-2 and BIO-3 in the MND and provides the following edits to assist the Project Proponent in reducing impacts to western burrowing owl to less than significant.

BIO-2 (Edited)

Breeding season and non-breeding season surveys shall be conducted in accordance to the CDFW Staff Report on Burrowing Owl Mitigation, if performing both breeding and non-breeding season surveys is infeasible, Project Proponent shall coordinate with CDFW regarding survey timing. A pre-construction take avoidance survey for the **western** burrowing owl ~~will~~**would** be conducted by a qualified biologist. The survey efforts ~~will~~**would** include a ~~single~~ site visit conducted no more than 14 days prior to ground or vegetation disturbing activities, **and another site visit within 24 hours prior to ground or vegetation activities**, and ~~will~~**would** include a thorough examination of all suitable habitat within the project area and vicinity for the burrowing owl or its sign. The survey ~~will~~**would** be conducted using methodologies consistent with the CDFW's March 7, 2012, Staff Report on Burrowing Owl Mitigation or the most current CDFW survey guidance publication at the time of the survey initiation.

BIO-3 (Edited)

If occupied burrows or signs of occupied burrowing owl habitat (including debris piles) are observed within 500 feet of the project area, **an appropriate buffer ensuring full avoidance of impacts to western burrowing owl determined by the qualified biologist will**~~would~~ be installed and maintained. The buffer size may be modified, under direction of a qualified biologist, and CDFW if appropriate, if it's determined that construction activities ~~will~~**would** not likely have adverse effect on the owls. Work within the buffer area ~~will~~**would** only be resumed once a qualified biologist confirms that the burrow is no longer occupied or the CDFW provides authorization to proceed. **If impacts to occupied western burrowing owl habitat, burrow(s) or western burrowing owl individuals, nests, or eggs cannot be fully avoided, CESA authorization (i.e., Incidental Take Permit under California Fish and Game Code section 2081(b)) should be obtained from CDFW prior to commencement of any Project activities, including vegetation- or ground-disturbing activities.**

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

CDFW appreciates the MND recognizes the presence of western Joshua tree (WJT) within the BSA. While, CDFW notes that five WJT were seen within the BSA and the closest WJT to the Project site is 130 feet east of Project limits, CDFW would like to recommend that additional surveys for WJT be conducted on the Project site and 50-foot buffer, as the passage in time from initial surveys may result in new WJT

sprouting on the Project site or within the BSA. CDFW recommends the Project Proponent review the information found on CDFW's website ([Western Joshua Tree Conservation Act Incidental Take Permit and Census Instructions](#)) and if Project activities cannot fully avoid impacts to WJT, CDFW recommends an application for an Incidental Take Permit for WJT be submitted to CDFW. As such, CDFW recommends the inclusion of BIO-15 below in the final MND:

BIO-15 (New)

Prior to the start of construction activities, a WJT census of the Project site and within a 50-foot buffer of the Project site shall be conducted as per CDFW's WJT Census Instructions ([Census Instructions](#)). If WJT individuals are identified in the census and the trees are to be relocated, encroached upon, trimmed, 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, trimming, 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").

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 Steven Recinos, Environmental Scientist at (909) 731-5954 or Steven.Recinos@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Cindy Castaneda
58B2E2CAD6624CD...

For Alisa Ellsworth
Environmental Program Manager

Justin Richard, Assistant Project Manager
City of Hesperia
March 24, 2026
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cc: Office of Planning and Research, State Clearinghouse, Sacramento

ec: Office of Planning and Research, State Clearinghouse, Sacramento
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Justin Richard, Assistant Project Manager
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jrichard@hesperiaca.gov

ATTACHMENTS

Attachment A: Mitigation Monitoring and Reporting Plan

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>

Attachment A

Mitigation Monitoring and Reporting Plan

Biological Resources (BIO)		
Mitigation Measure (MM)	Implementation Schedule	Responsible Party
<p>BIO-2</p> <p>Breeding season and non-breeding season surveys shall be conducted in accordance with the CDFW Staff Report on Burrowing Owl Mitigation, if performing both breeding and non-breeding season surveys is infeasible, Project Proponent shall coordinate with CDFW regarding survey timing. A pre-construction take avoidance survey for the western burrowing owl will be conducted by a qualified biologist. The survey efforts will include a site visit conducted no more than 14 days prior to ground or vegetation disturbing activities, and another site visit within 24 hours prior to ground or vegetation activities, and will include a thorough examination of all suitable habitat within the project area and vicinity for the burrowing owl or its sign. The survey will be conducted using methodologies consistent with the CDFW's March 7, 2012, Staff Report on Burrowing Owl Mitigation or the most current CDFW survey guidance publication at the time of the survey initiation.</p>	<p>Prior to initiation of all ground disturbing activities</p>	<p>Project Proponent and Qualified Biologist</p>
<p>BIO-3</p> <p>If occupied burrows or signs of occupied burrowing owl habitat (including debris piles) are observed within 500 feet of the project area, an appropriate buffer ensuring full avoidance of impacts to western burrowing owl determined by the qualified biologist will be installed and maintained. The buffer size may be modified, under direction of a qualified biologist, and CDFW if appropriate, if it's determined that construction activities would not likely have adverse effect on the owls. Work within the buffer area will only be resumed once a qualified biologist confirms that the burrow is no longer occupied or the CDFW provides authorization to proceed. If impacts to occupied western burrowing owl habitat, burrow(s) or western burrowing owl individuals, nests, or eggs cannot be fully avoided, CESA authorization (i.e., Incidental Take Permit under California Fish and Game Code section 2081 (b)) should be obtained from CDFW prior to commencement of Project</p>	<p>Prior to initiation of all ground disturbing activities and during Project implementation</p>	<p>Project Proponent and Qualified Biologist</p>

<p>activities, including vegetation- or ground-disturbing activities.</p>		
<p>BIO-5</p> <p>Regardless of the time of year, nesting bird surveys shall be completed by a qualified biologist no more than three days prior to vegetation removal or ground-disturbance activities. Surveys will be conducted within 300 feet of the construction area for songbirds and within 500 feet of the construction area for raptors, as feasible. The qualified biologist may adjust the survey buffer based on their professional judgement and experience and will make every effort to avoid potential nest predation as a result of survey and monitoring efforts. Nesting bird surveys will be repeated if removal activities are suspended for five days or more.</p>	<p>Prior to initiation of all ground disturbing activities</p>	<p>Project Proponent and Qualified Biologist</p>
<p>BIO-6</p> <p>If nesting birds are found within 500 feet of the construction area, appropriate buffers consisting of orange flagging/fencing or similar (typically 300 feet for birds and 500 feet for raptors) will be installed and maintained until nesting activity has ended, as determined in coordination with the project biologist and regulatory agencies, as appropriate. Construction activities may not occur inside the established buffers until a qualified biologist determines the young have fledged or the nest is no longer active. Active nests and adequacy of the established buffer distance shall be monitored daily by the qualified biologist until the qualified biologist has determined the young have fledged or the Project has been completed. The qualified biologist has the authority to stop work if birds exhibit signs of disturbance.</p>	<p>Prior to initiation of all ground disturbing activities and during Project implementation</p>	<p>Project Proponent and Qualified Biologist</p>
<p>BIO-14</p> <p>Prior to construction and issuance of any grading permit, the Project Proponent shall obtain written correspondence from the California Department of Fish and Wildlife (CDFW) stating that notification under section 1602 of the California Fish and Game Code is not required for the Project, or the Project Proponent should obtain a CDFW-executed Lake and Streambed Alteration Agreement, authorizing impacts to California Fish and Game Code section 1602 resources associated with the Project.</p>	<p>Prior to initiation of all ground disturbing activities</p>	<p>Project Proponent</p>

<p>BIO-15</p> <p>Prior to the start of construction activities, a WJT census of the Project site and within a 50-foot buffer of the Project site shall be conducted as per CDFW's WJT Census Instructions (Census Instructions). If WJT individuals are identified in the census and the trees are to be relocated, encroached upon, trimmed, 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, trimming, 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").</p>	<p>Prior to initiation of all ground disturbing activities</p>	<p>Project Proponent and Qualified Biologist</p>
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