



STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

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July 22, 2026
Sent via email

Shannon Casey
Contract Planner III
County of San Bernardino
385 North Arrowhead Avenue, First Floor
San Bernardino, CA 92415

Subject: Joshua Tree Estates (Project)
Mitigated Negative Declaration (MND)
State Clearing House# 2026061283

Dear Shannon Casey:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from the County of San Bernardino (County) 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

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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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: Home Paradise Reality Group, Inc.

Objective: The objective of the Project is to subdivide an 80-acre parcel (Assessor’s Parcel Number [APN] 0605-051-01) into 32 single-family home lots ranging between 2.0 to 2.6 acres each. Each single-family home lot will include up to 10,000 square feet and provide a 2-car garage. The Project is anticipated to occur in three phases and includes grading, building, and street improvements. Phase 1 includes construction of 12 homes, Phase 2 includes construction of 10 homes, and Phase 3 includes construction of 10 homes. Street improvements will include: the widening of East Broadway and La Ferney Avenue, paving of Sunever Road, the extension of Sapphire Road, and creation of three 32-foot wide streets. Primary Project activities include demolition, grading, grubbing, single-family home construction, paving, utility connections, and vegetation removal.

Location: The Project occurs on APN 0605-051-01 in the unincorporated community of Joshua Tree, San Bernardino County, California. The Project is 1.5 miles north of State Route 62 and is bound by Broadway Street to the north, Sapphire Street to the south, La Ferney Avenue to the west, and Sunever Road to the east.

Timeframe: Project activities are expected to commence in January 2027 and continue until March 2029.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the County 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 # General Biological Assessment 3.2, 3.5 and 3.5.1, Page # 192, 193, and 217-227

Issue: The Project may result in significant impacts to special status plant species, including Little San Bernardino Mountains linanthus (*Linanthus maculatus* ssp. *maculatus*), which is present within 3 miles of the Project and has a California Rare Plant Ranks 1B.2 (Rare, Threatened, or Endangered in California and elsewhere) and State rank of 2 (Imperiled; at high risk of extirpation in the jurisdiction due to restricted range, few populations or occurrences, steep declines, severe threats, or other factors).

Specific impact: The MND neither discusses special status plants nor proposes mitigation measures for surveying and avoiding impacts to special status plants. The General Biological Assessment (GBA) states that a general survey was conducted for the Project on July 16, 2025, which occurred outside of the blooming period for the majority of special status plant species with the potential to occur onsite.

Why impact would occur: Based on a literature review, the MND recognizes that 19 special status plant species may occur within the quadrangle of the Project but indicates that only western Joshua tree occurs onsite. However, because the field survey was conducted on July 16, 2025, outside of the

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blooming period for most rare, sensitive, and threatened/endangered plants, species such as Little San Bernardino Mountains linanthus, may be present.

Evidence impact would be significant: 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. 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 Mitigation Measure to reduce impacts to less than significant: To avoid impacts to sensitive plant species, CDFW recommends the adoption of BIO-6 below in the final MND:

BIO-6 (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 species through the establishment of buffers, to the extent feasible. Buffer distances will be determined by the qualified biologist. Impacts to CESA species shall be fully avoided or a CESA Incidental Take Permit shall be obtained.

ADDITIONAL COMMENTS

COMMENT #2: Western Burrowing Owl (*Athene cunicularia hypugaea*)

CDFW appreciates that the MND considered potential impacts to western burrowing owl and included mitigation measure BIO-2 to avoid and minimize impacts to western burrowing owl. At the time the MND was prepared, western burrowing owl was a CDFW species of special concern. However, on October 10, 2024, the Fish and Game Commission determined that western burrowing owl warrants protection as a candidate species under CESA (Fish & G. Code, § 2050 et seq.). During the candidacy period, western burrowing owl is afforded the same protection as a threatened or endangered species under CESA.

The Project, as described, may result in injury, direct mortality, indirect mortality, disruption of breeding behavior, and/or may reduce reproductive capacity of the species. CDFW considers the direct and indirect take of western burrowing owl, and the loss of the species’ habitat as a significant impact, unless mitigated to a level of less than significant and in compliance with State (i.e., Fish & G. Code, § 3503.5, etc.) and Federal laws (i.e., Migratory Bird Treaty Act). If Project activities

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could result in take of western burrowing owl, appropriate CESA authorization (i.e., ITP under Fish & G. Code, § 2081) should be obtained prior to commencement of Project activities. 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".

CDFW recommends the following edits to BIO-2 are adopted into the final MND (additions in **bold** and edits in ~~strike through~~) to reduce impacts to western burrowing owl to less than significant:

BIO-2 (Revised)

BIO-2: Burrowing Owl. Prior to initiation of ground disturbing activity on the Project site, ~~two~~ Pre-Construction Focused Burrowing Owl surveys following the guidelines in Appendix D of the 2012 Department of Fish and Game Staff Report on Burrowing Owl Mitigation **for breeding and non-breeding season surveys**, ~~would~~ **shall** be performed on site by a qualified biologist.

If there is a lapse of 30 days or more from when focused surveys occurred, a ~~An~~ initial avoidance survey shall be conducted no less than 14 days prior to commencing ground-disturbance activities and a final survey carried out within 24 hours prior to ground disturbance.

Should the species be identified on the site, the qualified biologist shall ~~consult with CDFW on the development and implementation of~~ a comprehensive burrowing owl mitigation plan **to ensure full avoidance of western burrowing owl. 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)) shall be obtained from CDFW prior to commencement of any Project activities, including vegetation- or ground disturbing activities.**

COMMENT #4: Bendire's Trasher (*Toxostoma bendirei*) and LeConte's Thrasher (*Toxostoma lecontei*)

CDFW appreciates that the MND considered potential impacts to Bendire's thrasher and LeConte's thrasher. At the time the MND was prepared, Bendire's thrasher and LeConte's thrasher were not protected under CESA. However, on October 10, 2024, the Fish and Game Commission determined that Bendire's thrasher and LeConte's thrasher warrant protection as a candidate species under CESA (Fish & G. Code, § 2050 et seq.). During the candidacy period, Bendire's thrasher and LeConte's thrasher are afforded the same protection as a threatened or endangered species under CESA.

Species specific protocols are needed to properly detect these two thrashers. For this reason, the general pre-construction survey for nesting birds in BIO-3 is not appropriate to detect LeConte's thrasher and Bendire's thrasher. Thus, CDFW recommends BIO-7 be incorporated into the final MND to reduce impacts to these two species to less than significant:

BIO-7 (New)

If Project activities will commence between January 15th and April 30th, a biologist with appropriate CESA authorization shall conduct pre-activity surveys for LeConte's thrasher in accordance with the *Desert Thrasher Working Group (DTWG) Thrasher Clearance Protocol (DTWG, 2024)*² ([see DTWG Clearance Survey Protocol](#)). The biologist shall conduct the surveys 30 minutes before sunrise and up to 4 hours after sunrise during appropriate weather conditions (not be conducted in rainy or

² Desert Thrasher Working Group. 2024. Thrasher Clearance Protocol (April 2024 Edition).

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windy conditions (> 12 mph sustained)). The biologist shall perform three surveys spaced 20-35 days apart between January 15th and April 30th.

If surveys detect LeConte’s thrasher, Project Proponent shall fully avoid impacts to LeConte’s thrasher, including establishing no disturbance buffers and or/allowing the species to move out of harm’s way of their own volition, or shall obtain a CESA Incidental Take Permit if impacts cannot be fully avoided.

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 County 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

ATTACHMENTS:

Attachment A: Mitigation Monitoring and Reporting Program

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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. 2018. Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities. Available for download at: [Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities](#)

Desert Thrasher Working Group. 2026. *Survey Protocol and Habitat Evaluation for LeConte’s and Bendire’s Thrashers*. 2018, Accessed June 30, 2026. Available for download at: [DTWG Clearance Survey Protocol](#)

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Attachment A
Mitigation Monitoring and Reporting Program

Measure Number	Biological (BIO) Mitigation Measure (MM)	Implementation Schedule	Responsible Party
BIO-6	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 species through the establishment of buffers, to the extent feasible. Buffer distances will be determined by the qualified biologist. Impacts to CESA species shall be fully avoided or a CESA Incidental Take Permit shall be obtained.	Prior to ground disturbance and/or Project activities	Project Proponent & Qualified Biologist

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BIO-2	Prior to initiation of ground disturbing activity on the Project site, Pre-Construction Focused Burrowing Owl surveys following the guidelines in Appendix D of the 2012 Department of Fish and Game Staff Report on Burrowing Owl Mitigation for breeding and non-breeding season surveys, shall be performed on site by a qualified biologist. If there is a lapse of 30 days or more from when focused surveys occurred, an initial avoidance survey shall be conducted no less than 14 days prior to commencing ground-disturbance activities and a final survey carried out within 24 hours prior to ground disturbance. Should the species be identified on the site, the qualified biologist shall develop and implement a comprehensive burrowing owl mitigation plan to ensure full avoidance of western burrowing owl. 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)) shall be obtained from CDFW prior to commencement of any Project activities, including vegetation- or ground disturbing activities.	Prior to ground disturbance and/or Project activities	Project Proponent & Qualified Biologist
BIO-7	If Project activities will commence between January 15th and April 30th, a biologist with appropriate CESA authorization shall conduct pre-activity surveys for LeConte's thrasher in accordance with the <i>Desert Thrasher Working Group (DTWG) Thrasher Clearance Protocol (DTWG, 2024)</i> (see DTWG Clearance Survey Protocol). The biologist shall conduct the surveys 30 minutes before sunrise and up to 4 hours after sunrise during appropriate weather conditions (not be conducted in rainy or windy conditions (> 12 mph sustained)). The biologist shall perform three surveys spaced 20-35 days apart between January 15th and April 30th.	Prior to ground disturbance and/or Project activities	Project Proponent & Qualified Biologist

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	If surveys detect LeConte's thrasher, Project Proponent shall fully avoid impacts to LeConte's thrasher, including establishing no disturbance buffers and or/allowing the species to move out of harm's way of their own volition, or shall obtain a CESA Incidental Take Permit if impacts cannot be fully avoided.		
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