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CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
WESTERN JOSHUA TREE CONSERVATION ACT
INCIDENTAL TAKE PERMIT
NO. 1927-ITP-2025-023-06

County of San Bernardino
Victorville Sanitary Landfill Phase 2

CEQA FINDINGS

INTRODUCTION:

The California Department of Fish and Wildlife (CDFW) has prepared these findings to document its compliance with the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 *et seq*.). CDFW is a responsible agency under CEQA with respect to the Victorville Sanitary Landfill Phase 2 (Project) because of its permitting authority under the Western Joshua Tree Conservation Act (WJTCA)(Fish and G. Code § 1927 et seq.) and the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.). (See generally Pub. Resources Code, §§ 21002.1, subd. (d), 21069; CEQA Guidelines, § 15381.)[1] CDFW makes these findings under CEQA as part of its discretionary decision to authorize County of San Bernardino (Permittee) to incidentally take western Joshua tree (*Yucca brevifolia*, WJT) during implementation of the Project. (See generally Fish & G. Code, § 1927.3.) The WJT is protected by the WJTCA and CESA.

CDFW is a responsible agency under CEQA with respect to the Project because of prior environmental review and approval of the Project by the lead agency, County of San Bernardino. (See generally Pub. Resources Code, § 21067; CEQA Guidelines, § 15367.) County of San Bernardino analyzed the environmental impacts associated with implementation of the Project in an Environmental Impact Report titled Final Program Environmental Impact Report for Revisions to Solid Waste Facilities Permit 36-AA-0045 for the Expansion of the Victorville Sanitary Landfill (EIR) (SCH No. 2002091132) and approved the Project on June 15, 2004. In so doing, County of San Bernardino imposed mitigation measures for impacts to the WJT as conditions of Project approval and concluded that Project-related impacts to the WJT could be substantially lessened with implementation of mitigation and avoidance measures, such that the impacts would be less than significant.

As approved by County of San Bernardino, the Project involves development of 107 acres of undisturbed land for the Phase 2 of the Victorville Sanitary Landfill for stockpiling of solid waste. The Project site supports 152 individuals of the WJT. Development of the Project site will result in the take of 153 individuals of WJT as defined by Fish and Game

[1] The “CEQA Guidelines” are found in Title 14 of the California Code of Regulations, commencing with Section 15000.

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Code (Fish & G. Code, § 86). Take of WJT falls within CDFW's permitting jurisdiction under the WJTCA and CESA. (*Id.*, §§ 1927.3, 2080, 2081, subd. (b).)

As a responsible agency, CDFW's CEQA obligations are more limited than those of the lead agency, in that CDFW is responsible for considering only the effects of those activities involved in the Project which it is required by law to carry out or approve. Thus, while CDFW must consider the environmental effects of the Project as set forth in the County of San Bernardino's EIR, CDFW has responsibility to mitigate or avoid only the direct or indirect environmental effects of those parts of the Project which it decides to carry out, finance, or approve. (Pub. Resources Code, § 21002.1, subd. (d); CEQA Guidelines, §§ 15041, subd. (b), 15096, subds. (f)-(g).) Accordingly, because CDFW's exercise of discretion is limited to issuance of a WJTCA Incidental Take Permit (ITP) for the Project, CDFW is responsible for considering only the environmental effects that fall within its permitting authority under the WJTCA and CESA. (See generally *San Diego Navy Broadway Complex Coalition v. City of San Diego* (2010) 185 Cal.App.4th 924, 935-941.) Indeed, with respect to all other effects associated with implementation of the Project, CDFW is bound by the legal presumption that the EIR fully complies with CEQA. (Pub. Resources Code, § 21167.3; *City of Redding v. Shasta County Local Agency Formation Commission* (1989) 209 Cal.App.3d 1169, 1178-1181; see also CEQA Guidelines, § 15096, subd. (e); Pub. Resources Code, § 21167.2; *Laurel Heights Improvement Association v. Regents of the University of California* (1993) 6 Cal.4th 1112, 1130.)

CDFW's more limited obligations as a responsible agency affect the scope of, but not the obligation to adopt, findings required by CEQA. Findings are required under CEQA by each public agency that approves a project for which an environmental impact report has been certified which identifies one or more significant effects on the environment. (Pub. Resources Code, § 21081, subd. (a); CEQA Guidelines, § 15091, subd. (a); see also Pub. Resources Code, § 21068 (significant effect on the environment defined); CEQA Guidelines, § 15382.) Because the EIR certified by County of San Bernardino for the Project identifies potentially significant impacts on WJT, CDFW adopts the findings set forth below to fulfill its obligations as a responsible agency under CEQA. (CEQA Guidelines, § 15096, subd. (h); *Resource Defense Fund. V. Local Agency Formation Comm. of Santa Cruz County* (1987) 191 Cal.App.3d 886, 896-898.)

FINDINGS:

CDFW has considered the EIR certified by County of San Bernardino as the lead agency for the Project.

CDFW finds that the mitigation measures imposed as conditions of Project approval by County of San Bernardino, along with the mitigation measures and Conditions of Approval set forth in CDFW's WJTCA ITP for the Project, will ensure that all Project-related impacts on WJT are mitigated to below a level of significance under CEQA.

CDFW finds that issuance of the WJTCA ITP will not result in any previously undisclosed potentially significant effects on the environment or a substantial increase in the severity of any potentially significant environmental effects previously disclosed by the lead agency. Furthermore, to the extent the potential for such effects exists, CDFW finds

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adherence to and implementation of the conditions of Project approval adopted by the lead agency, as well as adherence to and implementation of the Conditions of Approval imposed by CDFW through the issuance of the ITP, will avoid or reduce such potential effects to below a level of significance.

The following measures and others set forth in CDFW's WJTCA ITP for the Project will avoid to the extent feasible and mitigate to below a level of significance all Project-related impacts on WJT:

A. Permittee has satisfied the mitigation obligations under the WJTCA ITP by paying the appropriate fees pursuant to the fee schedule set forth in Fish and Game Code section 1927.3 subdivision (d), as adjusted annually, for deposit into the Western Joshua Tree Conservation Fund. Permittee submitted payment in the amount of $29,460.75 and it was received by CDFW on October 3, 2025.

B. Permittee shall provide CDFW with a Project Completion Report (PCR) no later than 1 month after the Project has been completed. The PCR shall include, at a minimum: (1) photos that illustrate the state of the Project Site upon completion of the Project; (2) approximate start and end date(s) when Covered Activities occurred; and (3) an accounting of the WJT individuals identified in the census that have been removed, relocated, injured (e.g., trimmed), and/or encroached since this Permit's issuance.

C. Permittee or the Designated Representative shall immediately notify CDFW if Permittee is not in compliance with any Condition of Approval of this Permit, including but not limited to any actual or anticipated failure to implement any measure in this Permit within the time periods indicated therein. The Designated Representative shall follow up within 24 hours with a written notice to CDFW describing, in detail, any actual or anticipated non-compliance with this Permit and suggested measures to remedy the situation.

D. Permittee shall conduct a Recurring Assessment of the Project Site to determine whether any new WJT individuals have emerged. Recurring Assessments shall begin six months after the completion of ground-disturbing activities, and be repeated annually for two consecutive years following the initial assessment, then every five years thereafter until expiration of this ITP. If a new WJT is found, Permittee shall prepare and submit a Notification of New Stem or Trunk and submit it to CDFW before conducting Project Activities that will impact it (see Notification of New Stem or Trunk Condition of Approval. Permittee shall submit the results of the Recurring Assessment as part of the Annual Status Report (see Annual Status Report Condition of Approval) to CDFW no later than January 31 of each assessment year.

E. WJT Relocation. Permittee shall relocate 8 WJT individuals from the Project Site, as identified in the Relocation Map attached to this Permit as Attachment 4. Permittee shall implement and adhere to the methods, measures, and conditions identified in the CDFW-approved WJT Relocation Plan (Attachment 5) and to the Western Joshua Tree Relocation Guidelines and Protocols (version in effect at the

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time relocation takes place). In the event of any conflict or inconsistency between the terms of the WJT Relocation Plan and the WJT Relocation Guidelines, this Permit and the associated WJT Relocation Plan shall control. Any proposed changes to the WJT Relocation Plan after issuance of this Permit shall be submitted in writing for CDFW's review and approval, and may require amendment to this Permit. Any proposed changes to the WJT Relocation Plan shall not be implemented until approved in writing by CDFW. This Permit authorizes Permittee to undertake all activities necessary to remove the WJT individuals to be relocated, transport them off the Project Site, and transplant them at the receiver site consistent with the WJT Relocation Plan and the WJT Relocation Guidelines.

The Project is approved.

DATE: 1/22/2026

By: DocuSigned by: Heidi Calvert CAEE4779B63E4A3...

Heidi Calvert, Regional Manager
INLAND DESERTS REGION
CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE