



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
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www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Governor's Office of Planning & Research

Jun 17 2022

June 17, 2022

STATE CLEARINGHOUSE

Ricky Caperton, AICP/Deputy City Planner
City of Clovis, Planning Division
1033 Fifth Street
Clovis, California 93611
rcaperton@cityofclovis.com

Subject: 2014 Clovis General Plan Circulation Element Update Project (Project)
Notice of Preparation (NOP)
SCH No.: 2012061069

Dear Mr. Caperton:

The California Department of Fish and Wildlife (CDFW) received a NOP from the City of Clovis for the above-referenced 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, CDFW appreciates 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 Fish and Game Code. While the comment period may have ended, CDFW would appreciate if you will still consider our comments.

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.

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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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.

Nesting Birds: CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

PROJECT DESCRIPTION SUMMARY

Proponent: City of Clovis

Objective: The City of Clovis is preparing a focused update to its existing General Plan. The proposed Project concentrates on policy changes to the Circulation Element only, and does not change any other Element of the General Plan. The proposed Project also includes adoption of the Transportation Impact Analysis Guidelines, which are supportive of the Circulation Element. The focused General Plan Update does not affect land uses or development patterns, and does not result in any physical development. The key components of the focused General Plan Update include revisions to the goals and policies in the Circulation Element.

Location: The City of Clovis (City) is in the central portion of Fresno County, approximately 6.5-miles northeast of the City of Fresno downtown area. The City is surrounded by portions of unincorporated Fresno County to the north, east, and south and by the City of Fresno to the west and southwest.

At the local level, the Plan Area is generally bounded by Copper Avenue on the north, Willow Avenue on the west, Academy Avenue on the east, and Shields Avenue on the south. State Route 168 (SR-168) bisects the City from the southwest to the northeast.

Timeframe: None given.

COMMENTS AND RECOMMENDATIONS

The NOP indicates that the Environmental Impact Report (EIR) for the Project will consider potential environmental effects of the proposed Project to determine the level of significance of the environmental effect, and will analyze these potential effects to the detail necessary

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to make a determination on the level of significance. The EIR will also identify and evaluate alternatives to the proposed project.

When an EIR is prepared, the specifics of mitigation measures may be deferred, provided the lead agency commits to mitigation and establishes performance standards for implementation. Special-status plant and animal species have been documented in the Project area per the California Natural Diversity Database (CNDDDB), these include, but are not limited to, the State and Federally threatened California tiger salamander (*Ambystoma californiense*), the State endangered and Federally threatened San Joaquin adobe sunburst (*Pseudobahia peirsonii*), the State threatened Swainson's hawk (*Buteo swainsoni*), the State threatened tricolored blackbird (*Agelaius tricolor*), the State and Federally endangered Hartweg's golden sunburst (*Pseudobahia bahiifolia*) and California jewelflower (*Caulanthus californicus*), the State endangered and Federally threatened San Joaquin Valley Orcutt grass (*Orcuttia inaequalis*), the State endangered and Federally threatened succulent owl's clover (*Castilleja campestris var. succulenta*), the Federally threatened vernal pool fairy shrimp (*Branchinecta lynchi*), and the State species of special concern burrowing owl (*Athene cunicularia*), western pond turtle (*Actinemys marmorata*), American badger (*Taxidea taxus*) and western spadefoot toad (*Spea hammondi*). While this list may not include all special-status species present in or near the Project area, it does provide a robust source of information as to which species could potentially be impacted by vegetation and/or ground disturbance. CDFW recommends the EIR prepared for the Project analyze potential impacts to these species and provide measurable mitigation measures that, as needed, will reduce impacts to less than significant levels. More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>).

CDFW also recommends consulting with the United States Fish and Wildlife Service (USFWS) on potential impacts to Federally listed species including, but not limited to, California tiger salamander, Hartweg's golden sunburst, succulent owl's clover, California jewelflower, and vernal pool invertebrates. Take under the Federal Endangered Species Act (FESA) is more broadly defined than CESA; take under FESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS in order to comply with FESA is advised well in advance of any ground disturbing activities.

In addition to potential species impacts, it is likely that some Project activities that will be subject to CDFW's regulatory authority pursuant Fish and Game Code section 1600 et seq. If a Lake or Streambed Alteration Agreement (LSAA) is needed, CDFW is required to comply with CEQA in the issuance or the renewal of a LSAA. Therefore, for efficiency in environmental compliance, we recommend that any potential lake or stream disturbance that may result from Project activities be described, and mitigation for the disturbance be developed as part of the EIR. This will reduce the need for the Department to require extensive additional environmental review for a LSAA in the future. If inadequate, or no environmental review, has occurred, for the Project activities that are subject to notification

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under Fish and Game Code section 1602, CDFW will not be able to issue the Final LSAA until CEQA analysis for the project is complete. This may lead to considerable Project delays. Waterways present within the City of Clovis General Plan Update boundary include, but may not be limited to, Dog Creek, the Friant/Kern Canal, Dry Creek, and Enterprise Canal.

CDFW is available to meet with you ahead of DEIR preparation to discuss potential impacts and possible mitigation measures for some or all of the resources that may be analyzed in the EIR. If you have any questions, please contact Kelley Nelson, Environmental Scientist, at the address provided on this letterhead, by telephone at (559) 580-3194, or by electronic mail at Kelley.Nelson@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Valerie Cook
Acting Regional Manager

cc: Regional Water Quality Control Board
Central Valley Region
1685 "E" Street
Fresno, California 93706-2020

United States Army Corps of Engineers
San Joaquin Valley Office
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ec: California Department of Fish and Wildlife:
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LITERATURE CITED

California Department of Fish and Wildlife. 2022. Biogeographic Information and Observation System (BIOS). <https://www.wildlife.ca.gov/Data/BIOS>.