



December 17, 2021

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## STATE CLEARINGHOUSE

Dawn E. Marple, Contract City Planner  
City of Fowler Planning and Community Development Department  
128 South 5<sup>th</sup> Street  
Fowler, California 93625

**Subject: City of Fowler General Plan Update Project (Project)  
Notice of Preparation (NOP)  
SCH No. : 2021110053**

Dear Ms. Marple:

The California Department of Fish and Wildlife (CDFW) received a Notice of Preparation (NOP) from the City of Fowler for the above-referenced Project pursuant to 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, 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 passed, CDFW would appreciate if the City of Fowler 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 resource

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

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<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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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 may be required.

## **PROJECT DESCRIPTION SUMMARY**

**Proponent:** City of Fowler

**Objective:** The Project includes the General Plan Update for the City of Fowler. The General Plan Update presents a framework of goals and policies that respond to issues of relevance to the community, strive to meet its imagined future, and maintain a high quality of life for its residents in the face of ever-changing environmental, economic, and social circumstances.

**Location:** The Project would encompass the entire City of Fowler and its planning area. Fowler is a part of Fresno County and is positioned 11 miles southeast of downtown Fresno. The Project area is located west of the Sierra Nevada Mountains, and Fresno County lies within the San Joaquin Valley. Fowler is part of the San Joaquin Valley Air Basin. There are several cities that are near Fowler in addition to Fresno. This includes Selma 5 miles to the southeast, Kingsburg 10 miles to the southeast, Reedley 13 miles to the southeast, Parlier 8 miles to the southeast, Sanger 8 miles to the northeast, and Kerman 22 miles to the northwest. Highway 99 bisects the City into eastern and western portions. The City shares a sphere of influence with the City of Selma to the southeast.

## **COMMENTS AND RECOMMENDATIONS**

CDFW offers the following comments and recommendations to assist the City of Fowler 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 CEQA document prepared for this Project.

There are several special-status species that have been documented in the Project vicinity and may be present at individual Project sites in the Project area. These resources may need to be evaluated and addressed prior to any approvals that would allow ground-disturbing activities or land use changes.

CDFW is concerned regarding potential impacts to special-status species including, but not limited to, the State and federally threatened California tiger salamander (*Ambystoma californiense*); the State threatened Swainson's hawk (*Buteo swainsoni*); the State threatened and federally endangered San Joaquin kit fox (*Vulpes macrotis mutica*); the State species of special concern burrowing owl (*Athene cunicularia*), pallid bat (*Antrozous*

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*pallidus*), western mastiff bat (*Eumops perotis californicus*), coast horned lizard (*Phrynosoma blainvillii*), California glossy snake (*Arizona elegans occidentalis*); and the State rare California Satintail (*Imperata brevifolia*), as well as other special status plants.

In order to adequately assess any potential impact to biological resources, focused biological surveys should be conducted by a qualified wildlife biologist/botanist during the appropriate survey period(s) in order to determine whether any special-status species may be present at specific Project sites. Properly conducted biological surveys, and the information assembled from them, are essential to identify any mitigation, minimization, and avoidance measures and/or the need for additional or protocol-level surveys, especially in the areas not in irrigated agriculture, and to identify any Project-related impacts under CESA and other species of concern.

## **I. Environmental Setting and Related Impact**

**Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or the United States Fish and Wildlife Service (USFWS)?**

### **COMMENT 1: California Tiger Salamander (CTS)**

**Issue:** The Project area is within the Range of CTS (Trenham and Searcy, California Tiger Salamander Biology and Conservation Workshop presentation). Review of aerial imagery indicates that the Project area is bordered by and contains some patches of annual grassland. CTS may use these areas as upland refugia if small mammals and/or burrows are present, or they may disperse across them while moving to or from potential breeding sites.

**Specific Impacts:** The potential for ground- and vegetation-disturbing activities associated with the approval of the forthcoming EIR document could potentially result in; collapse of small mammal burrows, inadvertent entrapment, loss of upland refugia, water quality impacts to potential breeding sites, reduced reproductive success, reduction in health and vigor of eggs and/or young, increased habitat fragmentation and edge effects, and direct mortality of individuals.

**Evidence impact would be significant:** Up to 75% of historic CTS habitat has been lost to urban and agricultural development (Searcy et al. 2013). Loss, degradation, and fragmentation of habitat are the primary threats to CTS in both the Central and San Joaquin valleys. Contaminants and vehicle strikes are also sources of mortality for the species (CDFW 2015, USFWS 2017a). The Project area is within the range of CTS and has suitable habitat (i.e., upland habitat). CTS have been determined to be physiologically capable of dispersing up to approximately 1.5 miles from seasonally flooded wetlands (Searcy and Shaffer 2011) and have been documented to occur near the Project area (CDFW 2021).

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**Recommended Mitigation Measure 1: Focused CTS Protocol-level Surveys**

CDFW recommends that a qualified biologist conduct a habitat assessment at individual Project sites to determine if suitable habitat is present. If suitable habitat is present, CDFW recommends that a qualified biologist conduct protocol-level surveys in accordance with the USFWS “Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander” (USFWS 2003) at the appropriate time of year to determine the existence and extent of CTS breeding and refugia habitat. Please note that the recommended survey protocol starts with a site assessment to determine if suitable habitat occurs with a Project site. If suitable habitat exists, the protocol-level surveys for CTS require more than one survey season and are dependent upon sufficient rainfall to complete. As a result, consultation with CDFW and the USFWS is recommended well in advance of beginning the surveys and prior to any planned vegetation- or ground-disturbing activities. CDFW advises that the protocol-level survey include a 100-foot buffer around the Project area in all areas of wetland and upland habitat that could support CTS. Please be advised that protocol-level survey results are viable for two years after the results are reviewed by CDFW.

**Recommended Mitigation Measure 2: CTS Avoidance**

If suitable habitat features exist at an individual Project site and CTS protocol-level surveys as described in Mitigation Measure 1 are not conducted, CDFW advises that a minimum 50-foot no-disturbance buffer be delineated around all small mammal burrows in suitable upland refugia habitat within and/or adjacent to an individual Project site. Further, CDFW recommends potential or known breeding habitat within and/or adjacent to the Project site be delineated with a minimum 250-foot no-disturbance buffer. Both upland burrow and wetland breeding no-disturbance buffers are intended to minimize impacts to CTS habitat and avoid take of individuals. Alternatively, the applicant can assume presence of CTS within the Project site and obtain from CDFW a State Incidental Take Permit (ITP) in accordance with Fish and Game Code section 2081 subdivision (b) as described in Recommended Mitigation Measure 3.

**Recommended Mitigation Measure 3: CTS Take Authorization**

If through surveys, or other observations, it is determined that CTS are occupying or have the potential to occupy an individual Project site, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided, acquisition of take authorization would be warranted prior to initiating ground-disturbing activities to comply with CESA. Take authorization would occur through issuance of an ITP by CDFW, pursuant to Fish and Game Code section 2081 subdivision (b). As stated above, in the absence of protocol surveys, the applicant can assume presence of CTS within the Project site and obtain an ITP from CDFW.

**COMMENT 2: Swainson’s Hawk (SWHA)**

**Issue:** SWHA have been documented in the Project area (CNDDDB 2021). SWHA have the potential to nest in areas with large, mature trees which are present both in the City

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of Fowler and in the surrounding area per Google aerials and Google streetview (2021). SWHA foraging habitat exists within the Project area in the form of dryland pastures, grassy ruderal lots, alfalfa, and some irrigated crops due to a higher accessibility and relative abundance of prey.

**Specific impacts:** Without appropriate avoidance and minimization measures for SWHA, potential significant impacts that may result from Project activities include: nest abandonment, loss of nest trees, loss of foraging habitat that would reduce nesting success (loss or reduced health or vigor of eggs or young), and direct mortality. Any take of SWHA without appropriate incidental take authorization would be a violation of Fish and Game Code.

**Evidence impact is potentially significant:** SWHA exhibit high nest-site fidelity year after year and lack of suitable nesting habitat in the San Joaquin Valley limits their local distribution and abundance (CDFW 2016). Approval of the upcoming EIR may lead to subsequent ground-disturbing activities that involve noise, groundwork, and movement of workers that could affect nests and has the potential to result in nest abandonment and loss of foraging habitat, significantly impacting local nesting SWHA.

#### **Recommended Mitigation Measure 4: SWHA Surveys**

CDFW recommends that a qualified wildlife biologist determine if SWHA foraging habitat occurs on an individual Project site and/or if suitable nesting habitat is present within 0.5-mile of the site. If suitable SWHA nesting habitat is present within 0.5-mile of an individual Project-site, CDFW recommends consultation with CDFW to determine if SWHA nest surveys are warranted. Absent consultation, CDFW recommends that a qualified wildlife biologist conduct surveys for nesting SWHA following the survey methods developed by the Swainson's Hawk Technical Advisory Committee (SWHA TAC 2000) prior to future project implementation at specific Project sites. The SWHA TAC recommends a 0.5-mile survey distance from the limits of disturbance. The survey protocol includes early season surveys to assist the project proponent in implementing necessary avoidance and minimization measures, and in identifying active nest sites prior to initiating ground-disturbing activities. If suitable nesting habitat is within 0.5-mile of an individual Project site, SHWA nest surveys were warranted, and ground-disturbing activities will take place during the normal bird breeding season (March 1 through September 15), CDFW recommends that additional pre-activity surveys for active nests be conducted by a qualified biologist no more than 10 days prior to the start of Project implementation to ensure that SHWA have not begun nesting immediately before Project activities begin.

#### **Recommended Mitigation Measure 5: No-disturbance Buffer**

CDFW recommends a minimum no-disturbance buffer of 0.5-mile be delineated around active nests until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival. If a 0.5-mile no disturbance buffer from an active nest is not

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feasible, consultation with CDFW is warranted to discuss how to implement the Project and avoid take.

**Recommended Mitigation Measure 6: SWHA Take Authorization**

If take cannot be avoided, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA.

**Recommended Mitigation Measure 7: Loss of SWHA Foraging Habitat**

If SWHA foraging habitat occurs on an individual Project site, CDFW recommends compensation for the loss of SWHA foraging habitat as described in CDFW's "Staff Report Regarding Mitigation for Impacts to Swainson's Hawks" (CDFG 1994) to reduce impacts to foraging habitat to less than significant. The Staff Report recommends that mitigation for habitat loss occur within a minimum distance of 10 miles from known nest sites. CDFW has the following recommendations based on the Staff Report:

- For projects within 1 mile of an active nest tree, a minimum of 1 acre of habitat management (HM) land for each acre of development is advised.
- For projects within 5 miles of an active nest but greater than 1 mile, a minimum of  $\frac{3}{4}$  acre of HM land for each acre of development is advised.
- For projects within 10 miles of an active nest tree but greater than 5 miles from an active nest tree, a minimum of  $\frac{1}{2}$  acre of HM land for each acre of development is advised.

**Recommended Mitigation Measure 8: SWHA Nest Trees**

CDFW recommends that the removal of known raptor nest trees, even outside of the nesting season, be replaced with an appropriate native tree species planting at a ratio of 3:1 at or near the Project area or in another area that will be protected in perpetuity to reduce impacts resulting from the loss of nesting habitat.

**COMMENT 3: San Joaquin Kit Fox (SJKF)**

**Issue:** SJKF have been documented to occur within the vicinity of the Project area (CDFW 2021). Review of aerial imagery indicates that the Project area is bordered by and contains some patches of annual grassland. SJKF den in right-of-ways, vacant lots, etc., and populations can fluctuate over time. Presence/absence in any one year is not necessarily a reliable indicator of SJKF potential to occur on a site. SJKF may be attracted to project sites due to the type and level of ground-disturbing activities and the loose, friable soils resulting from intensive ground disturbance. As a result, there is potential for SJKF to colonize the Project sites or to occupy adjacent grassland.

**Specific impact:** Without appropriate avoidance and minimization measures for SJKF, potential significant impacts include den collapse, inadvertent entrapment, reduced reproductive success, reduction in health and vigor of young, and direct mortality of individuals.

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**Evidence impact is potentially significant:** Habitat loss resulting from agricultural, urban, and industrial development is the primary threat to SJKF (Cypher et al. 2013). The Project area is mainly intensively managed for agriculture; therefore, subsequent ground-disturbing activities on any potential SJKF habitat have the potential to significantly impact local SJKF populations.

**Recommended Mitigation Measure 9: SJKF Habitat Assessment**

CDFW recommends that a qualified biologist conduct a habitat assessment in advance of Project implementation, to determine if an individual Project site or its immediate vicinity contains suitable habitat for SJKF.

**Recommended Mitigation Measure 10: SJKF Surveys**

If any suitable habitat features occur on or adjacent to an individual Project site, consultation with CDFW is recommended to determine if SJKF surveys are warranted. If SJKF surveys are warranted, CDFW recommends assessing presence/absence of SJKF by conducting surveys following the USFWS "Standardized recommendations for protection of the San Joaquin kit fox prior to or during ground disturbance" (2011). When surveys are warranted, CDFW advises conducting these surveys in all areas of potentially suitable habitat no less than 14 days and no more than 30 days prior to beginning of ground disturbing activities.

**Recommended Mitigation Measure 11: SJKF Take Authorization**

SJKF detection warrants consultation with CDFW to discuss how to avoid take, or if avoidance is not feasible, to acquire an ITP prior to ground-disturbing activities, pursuant to Fish and Game Code section 2081 subdivision (b).

**COMMENT 4: Burrowing Owl (BUOW)**

**Issue:** BUOW are known to occur within and adjacent to the Project area. BUOW typically inhabit open grassland containing small mammal burrows, but are also known to occupy canal banks, ROWs, vacant lots, etc. containing small mammal burrows, a requisite habitat feature used by BUOW for nesting and cover. BUOW may also attempt to use "man-made burrows" such as the pipes or culverts. Patches of annual or ruderal grassland within and adjacent to the City of Fowler as well as the surrounding agricultural fields may support suitable habitat for BUOW. In addition, the Fowler area contains numerous canals including but not limited to: Kirby Canal, Kirby Ditch, Norris Canal, and Wristen Canal. The ditches throughout the Project area could also provide BUOW with suitable burrow habitat present along the banks.

**Specific impact:** Potentially significant direct impacts associated with subsequent activities include burrow collapse, inadvertent entrapment, nest abandonment, reduced reproductive success, reduction in health and vigor of eggs and/or young, and direct mortality of individuals.

**Evidence impact is potentially significant:** BUOW rely on burrow habitat year-round for their survival and reproduction. Habitat loss and degradation are considered the

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greatest threats to BUOW in California's Central Valley (Gervais et al. 2008). The Project site is bordered by some areas that could potentially provide nesting habitat, the remainder of the area is otherwise intensively managed for agriculture. Therefore, subsequent ground-disturbing activities associated with the Project have the potential to significantly impact local BUOW populations. In addition, and as described in CDFW's "Staff Report on Burrowing Owl Mitigation" (CDFG 2012), excluding and/or evicting BUOW from their burrows is considered a potentially significant impact under CEQA.

#### **Recommended Mitigation Measure 12: BUOW Surveys**

CDFW recommends assessing presence/absence of BUOW at each Project site and its immediate vicinity by having a qualified biologist conduct surveys following the California Burrowing Owl Consortium's "Burrowing Owl Survey Protocol and Mitigation Guidelines" (CBOC 1993) and CDFW's Staff Report on Burrowing Owl Mitigation" (CDFG 2012). Please note that these protocols start with a habitat evaluation to determine if suitable habitat is present. If suitable habitat is present, CBOC and CDFW's Staff Report suggest three or more surveillance surveys conducted during daylight with each visit occurring at least three weeks apart during the peak breeding season (April 15 to July 15), when BUOW are most detectable. These surveys are to determine if there are more BUOW in addition to the December 2017 observation surveyed for the Project.

#### **Recommended Mitigation Measure 13: BUOW Avoidance**

CDFW recommends no-disturbance buffers, as outlined in the "Staff Report on Burrowing Owl Mitigation" (CDFG 2012), be implemented prior to and during any ground-disturbing activities. Specifically, CDFW's Staff Report recommends that impacts to occupied burrows be avoided in accordance with the following table unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.

Location	Time of Year	Level of Disturbance		
		Low	Med	High
Nesting sites	April 1-Aug 15	200 m*	500 m	500 m
Nesting sites	Aug 16-Oct 15	200 m	200 m	500 m
Nesting sites	Oct 16-Mar 31	50 m	100 m	500 m

\* meters (m)

#### **Recommended Mitigation Measure 14: BUOW Passive Relocation and Mitigation**

If BUOW are found within these recommended buffers and avoidance is not possible, it is important to note that according to the Staff Report (CDFG 2012), exclusion is not a take avoidance, minimization, or mitigation method and is considered a potentially significant impact under CEQA. However, if necessary, CDFW recommends that burrow exclusion be conducted by qualified biologists and only during the non-breeding season, before breeding behavior is exhibited and after the burrow is confirmed empty

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through non-invasive methods, such as surveillance. CDFW recommends replacement of occupied burrows with artificial burrows at a ratio of 1 burrow collapsed to 1 artificial burrow constructed (1:1) as mitigation for the potentially significant impact of evicting BUOW. BUOW may attempt to colonize or re-colonize an area that will be impacted; thus, CDFW recommends ongoing surveillance, at a rate that is sufficient to detect BUOW if they return.

#### **COMMENT 5: Special-Status Bat Species**

**Issue:** Pallid bats and western mastiff bats have been documented to occur in the vicinity of the Project area (CDFW 2021). In addition, habitat features that have the potential to support species, including open areas, semi-arid conditions, suitable food sources, and water nearby, are present within/adjacent to the Project area.

**Specific impact:** Without appropriate avoidance and minimization measures for special-status bat species, potential significant impacts resulting from ground- and vegetation-disturbing activities associated with Project construction include habitat loss, inadvertent entrapment, roost abandonment, reduced reproductive success, reduction in health and vigor of young, and direct mortality of individuals.

**Evidence impact is potentially significant:** Pallid bat and other bats are known to roost under bridges (Lewis 1994 and Gruver 2006). Project activities on or around bridges have the potential to affect habitat upon which special-status bat species depend on for successful breeding, and the potential to impact individuals and local populations.

#### **Recommended Mitigation Measure 15: Habitat Assessment**

CDFW recommends that a qualified biologist conduct a habitat assessment well in advance of Project implementation to determine if an individual Project site or its immediate vicinity contains suitable habitat for special-status bat species.

#### **Recommended Mitigation Measure 16: Focused Surveys**

If suitable habitat is present, CDFW recommends assessing presence/absence of special-status bats by conducting protocol-level surveys during the appropriate seasonal period of bat activity.

#### **Recommended Mitigation Measure 17: Consultation**

Detection of special-status bat species warrants consultation with CDFW prior to any activity that may disturb bats. CDFW recommends submitting a Bat Eviction Plan to CDFW for written approval prior to project implementation, and that the Eviction Plan include details for excluding bats from the roost site, and a monitoring plan to ensure that all bats have exited the roost prior to the start of activity and will be unable to re-enter the roost until activity is completed. CDFW also recommends that Project or bat eviction activities be timed to avoid lactation and young-rearing.

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#### **COMMENT 6: Coast Horned Lizard (CHL)**

**Issue:** Coast horned lizards have been known to occur in the vicinity of the Project area (CDFW 2021). Coast horned lizards occur in a wide variety of habitat types but require loose, fine soils for burrowing, open areas for thermoregulation, and shrub cover for refugia (Thomson et al. 2016). Review of aerial imagery and soil characteristics indicates that portions of the Project area could provide these requisite habitat features (CDFW 2021, UC Davis 2021).

**Specific impact:** Without appropriate avoidance and minimization measures for coast horned lizards, potentially significant impacts associated with ground disturbance include burrow abandonment, which may result in reduced health or vigor of eggs and/or young, and direct mortality.

**Evidence impact is potentially significant:** Habitat loss and fragmentation resulting from development is the primary threat to coast horned lizard (Thomson et al. 2016). The Project area is within the range of coast horned lizard and portions of it are comprised of and bordered by suitable habitat as mentioned previously. As a result, ground-disturbing activities associated with development of the Project area have the potential to significantly impact local populations of this species.

#### **Recommended Mitigation Measure 18: Habitat Assessment**

CDFW recommends that a qualified biologist conduct a habitat assessment in advance of project implementation, to determine if the Project area or its immediate vicinity contain suitable habitat for coast horned lizard.

#### **Recommended Mitigation Measure 19: Focused Surveys**

If suitable habitat is present, CDFW recommends that a qualified biologist conduct focused surveys for coast horned lizard and their requisite habitat features to evaluate potential impacts resulting from ground- and vegetation-disturbance.

#### **Recommended Mitigation Measure 20: Avoidance**

Avoidance whenever possible is encouraged via delineation and observance of a 50-foot no-disturbance buffer around burrows.

#### **COMMENT 7: Special Status Plant species**

**Issue:** Plants listed pursuant to federal Endangered Species Act, CESA, and the Native Plant Protection Act, as well as other special-status plants such California Rare Plant Rank (CRPR) plant species have been documented in and around the Project area (CDFW 2021).

**Specific impact:** Without appropriate avoidance and minimization measures potential impacts to special-status plant species include inability to reproduce and direct mortality.

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Unauthorized take of species listed as threatened, endangered, or rare pursuant to CESA or the Native Plant Protection Act is a violation of Fish and Game Code.

**Evidence impact would be significant:** Special-status plant species plant species above are threatened with habitat loss and habitat fragmentation resulting from development, vehicle and foot traffic, and introduction of non-native plant species (CNPS 2021), all of which may be unintended impacts of the Project. Therefore, impacts of the Project have the potential to significantly impact populations of the species mentioned above.

**Recommended Mitigation Measure 21: Special-Status Plant Habitat Assessment**  
CDFW recommends that a qualified botanist conduct a habitat assessment of individual Project sites well in advance of Project implementation, to determine if the Project area or its vicinity contains suitable habitat for special-status plant species.

**Recommended Mitigation Measure 22: Focused Surveys**

If suitable habitat is present, CDFW recommends that individual Project sites be surveyed for special-status plants by a qualified botanist following the “Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities” (CDFW 2018). This protocol, which is intended to maximize detectability, includes identification of reference populations to facilitate the likelihood of field investigations occurring during the appropriate floristic period. In the absence of protocol-level surveys being performed, additional surveys may be necessary.

**Recommended Mitigation Measure 23: Special-Status Plant Avoidance**

CDFW recommends special-status plant species be avoided whenever possible by delineation and observing a no-disturbance buffer of at least 50 feet from the outer edge of the plant population(s) or specific habitat type(s) required by special-status plant species. If buffers cannot be maintained, then consultation with CDFW is warranted to determine appropriate minimization and mitigation measures for impacts to special-status plant species.

**Recommended Mitigation Measure 24: Special-Status Plant Take Authorization**

If a State-listed plant species is identified during botanical surveys, consultation with CDFW is warranted to determine if the Project can avoid take. However, if take cannot be avoided, take authorization would need to occur through acquisition of an ITP from CDFW to comply with CESA and/or Fish and Game Code section 1900 and California Code of Regulations, title 14, section 786.9, subdivision (b).

## II. Editorial Comments and/or Suggestions

**Lake and Streambed Alteration:** The Project contains features that may result in Project activities at individual Project sites being subject to CDFW’s regulatory authority pursuant Fish and Game Code section 1600 et seq. Fish and Game Code section 1602 requires an

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entity to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake; or (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral or intermittent, such as the unnamed stream within the Project site, as well as those that are perennial in nature.

For additional information on notification requirements, please contact our staff in the Lake and Streambed Alteration Program at (559) 243-4593. It is important to note, CDFW is required to comply with CEQA, as a Responsible Agency, when issuing a Lake or Streambed Alteration Agreement (LSAA). If inadequate, or no environmental review, has occurred, for the Project activities that are subject to notification 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.

**Federally Listed Species:** CDFW recommends consulting with the USFWS on potential impacts to federally listed species including, but not limited to, CTS and SJKF. Take under 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.

## **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 found at the following link:

<https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov.

The types of information reported to CNDDDB can be found at the following link:

<https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

## **FILING FEES**

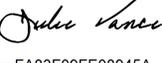
If it is determined that the Project has the potential to impact biological resources, an assessment of filing fees will be necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is 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).

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CDFW appreciates the opportunity to comment on the Project to assist the City of Fresno in identifying and mitigating the Project's impacts on biological resources.

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>). If you have any questions, please contact Kelley Nelson, Environmental Scientist, at the address provided on this letterhead, by telephone at (559) 580-3194, extension 291, or by electronic mail at [Kelley.Nelson@wildlife.ca.gov](mailto:Kelley.Nelson@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
FA83F09FE08945A  
Julie A. Vance  
Regional Manager

Attachment

cc: United States Fish and Wildlife Service  
2800 Cottage Way, Suite W-2605  
Sacramento, California 95825

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## LITERATURE CITED

- California Burrowing Owl Consortium. 1993. Burrowing owl survey protocol and mitigation guidelines. April 1993.
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**Attachment 1**

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE  
RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM  
(MMRP)**

**PROJECT: Notice of Preparation (NOP) of Environmental Impact  
Report (EIR) 2021-0492– City of Fowler General Plan  
Update Project**

**SCH No.: 2021110053**

<b>RECOMMENDED MITIGATION MEASURE</b>	<b>STATUS/DATE/INITIALS</b>
<b><i>Before Disturbing Soil or Vegetation</i></b>	
Mitigation Measure 1: Focused CTS Protocol-level Surveys	
Mitigation Measure 2: CTS Avoidance	
Mitigation Measure 4: SWHA Surveys	
Mitigation Measure 5: SWHA No-Disturbance Buffer	
Mitigation Measure 7: Loss of SWHA Foraging Habitat	
Mitigation Measure 9: SJKF Habitat Assessment	
Mitigation Measure 10: SJKF Surveys	
Mitigation Measure 12: BUOW Surveys	
Mitigation Measure 14: BUOW Passive Relocation and Mitigation	
Mitigation Measure 15: Special-Status Bat Species	
Mitigation Measure 16: Focused Special-Status Bat Species Surveys	
Mitigation Measure 17: Consultation for Special-Status Bat Species	
Mitigation Measure 18: Coast Horned Lizard Habitat Assessment	
Mitigation Measure 19: Coast Horned Lizard Focused Surveys	
Mitigation Measure 21: Special-Status Plant Habitat Assessment	
Mitigation Measure 22: Special-Status Plant Focused Surveys	
<b><i>During Construction</i></b>	
Mitigation Measure 3: CTS Take Authorization	
Mitigation Measure 6: SWHA Take Authorization	
Mitigation Measure 8: SWHA Nest Trees	
Mitigation Measure 11: SJKF Take Authorization	
Mitigation Measure 13: BUOW Avoidance	
Mitigation Measure 20: Coast Horned Lizard Avoidance	

Mitigation Measure 23: Special-Status Plant Avoidance	
Mitigation Measure 24: Special-Status Plant Take Authorization	