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DEPARTMENT OF FISH AND WILDLIFE
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GAVIN NEWSOM, Governor
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Governor's Office of Planning & Research

October 18, 2022

Oct 20 2022

STATE CLEARINGHOUSE

Kassandra Gale
City of Bakersfield
1715 Chester Avenue
Bakersfield, California 93311

Subject: Veteran's Affairs Community-Based Outpatient Medical Clinic; Site Plan Review No. 21-0399 Notice of Preparation

Dear Kassandra Gale:

The California Department of Fish and Wildlife (CDFW) received a notice of preparation from the City of Bakersfield, as Lead Agency, 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, 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

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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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 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 Fish and Game Code will be required.

PROJECT DESCRIPTION SUMMARY

Proponent: SASD Development Group, LLC

Objective: The Project involves the proposed development of a ±39,648 square foot (s.f.) medical outpatient facility to serve as a Department of Veterans Affairs (VA) Community-Based Outpatient Medical Clinic, with associated parking and other site improvements on ±9.0 gross acres located east of Knudsen Street, west of Landco Drive, north of Hageman Road and south of Olive Drive. APNs: 365-020-30, and -28.

Timeframe: Unspecified

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City of Bakersfield 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.

The Project area is within the geographic range of several special-status animal species including the State threatened and federally endangered San Joaquin kit fox (*Vulpes macrotis mutica*), the State threatened Swainson's hawk (*Buteo swainsoni*), the State candidate endangered Crotch bumblebee (*Bombus crotchii*), and the State species of special concern American badger (*Taxidea taxus*) and burrowing owl (*Athene cunicularia*).

CDFW recommends that if the Project proponent is planning to have the Project covered under the Metropolitan Bakersfield Urban Development Incidental Take Permit (No. 2081-2013-058-04), that the Project proponent takes into consideration that the

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Incidental Take Permit (ITP) component will expire for new projects on December 31, 2022 and that coverage for existing projects will expire in June, 2023. Note that even if construction began prior to the first expiration date, construction would need to be fully completed by June 2023, otherwise take coverage will be lost. For this reason, CDFW recommends that if an ITP is necessary, to pursue one through CDFW independently.

San Joaquin Kit Fox (SJKF)

CNDDDB records show that SJKF have been documented near the project area. Aerial records show that the area is comprised of non-native annual grassland habitat, and patches of ruderal habitat, habitat types suitable to support SJKF. In addition to grasslands, SJKF den in a variety of areas such as rights-of-way, vacant lots, agricultural and fallow or ruderal habitat, dry stream channels, and canal levees, and populations can fluctuate over time. SJKF are also capable of occupying urban environments (Cypher and Frost 1999). SJKF may be attracted to the Project area 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 occupy the Project site and surrounding area.

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). Specifically, 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 and/or vegetation disturbing activities.

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).

Swainson's Hawk (SWHA)

CNDDDB records indicate that SWHA have been documented to occur near the project site (CDFW 2022). The habitat types present at and surrounding the Project site all provide suitable foraging habitat for SWHA, increasing the likelihood of SWHA occurrence within the vicinity. In addition, any trees in the Project vicinity have the potential to provide suitable nesting habitat and any power poles may be utilized for perching. SWHA exhibit high nest-site fidelity year after year and lack of suitable nesting habitat limits their local distribution and abundance (CDFW 2016). If potential nest sites occur in the Project vicinity, approval of the Project may lead to subsequent ground-disturbing activities that involve noise, groundwork, construction of structures, and movement of workers that could affect nests and has the potential to result in nest abandonment and/or loss of foraging habitat, significantly impacting local nesting

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SWHA. In addition, conversion of undeveloped land can directly influence distribution and abundance of SWHA, due to the reduction in foraging habitat.

To evaluate potential Project-related impacts, CDFW recommends that a qualified biologist conduct a habitat assessment in advance of Project implementation, to determine if the Project site, or the immediate vicinity, contain suitable habitat for SWHA. If suitable foraging or nesting habitat is present, CDFW recommends that a qualified biologist conduct surveys for nesting SWHA following the entire survey methodology developed by the SWHA Technical Advisory Committee (SWHA TAC 2000) prior to Project implementation (during CEQA analysis). 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 ground-disturbing Project activities are to 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. CDFW recommends a minimum no-disturbance buffer of ½ 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.

Crotch Bumble Bee (CBB)

CNDDDB records indicate that CBB have been documented to occur within the city of Bakersfield and the proposed Project location is within CBB range (CDFW 2022). Suitable CBB habitat includes areas of grasslands and upland scrub that contain requisite habitat elements, such as small mammal burrows. CBB primarily nest in late February through late October underground in abandoned small mammal burrows but may also nest under perennial bunch grasses or thatched annual grasses, under brush piles, in old bird nests, and in dead trees or hollow logs (Williams et al. 2014; Hatfield et al. 2015). Overwintering sites utilized by CBB mated queens include soft, disturbed soil (Goulson 2010), or under leaf litter or other debris (Williams et al. 2014). Therefore, potential ground disturbance and vegetation removal associated with Project implementation may significantly impact local CBB populations.

CBB was once common throughout most of central and southern California; however, it now appears to be absent from most of it, especially in the central portion of its historic range within California's Central Valley (Hatfield et al. 2014). Analyses by the Xerces Society et al. (2018) suggest there have been sharp declines in relative abundance by 98% and persistence by 80% over the last ten years.

CDFW recommends that a qualified biologist conduct focused surveys for CBB, and their requisite habitat features prior to Project implementation to evaluate impacts

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resulting from potential ground- and vegetation-disturbing activities that may result from the approval of the IS/MND.

If surveys cannot be completed, CDFW recommends that all small mammal burrows and thatched/bunch grasses be avoided by a minimum of 50 feet to avoid take and potentially significant impacts. If ground-disturbing activities will occur during the overwintering period (October through February), consultation with CDFW is warranted to discuss how to implement Project activities and avoid take. Any detection of CBB prior to or during Project implementation warrants consultation with CDFW to discuss how to avoid take.

If CBB is identified during surveys, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided, take authorization prior to any ground-disturbing activities may be warranted. Take authorization would occur through issuance of an ITP by CDFW, pursuant to Fish and Game Code section 2081 subdivision (b).

State Species of Special Concern

American badger and Burrowing owl have the potential to occur in the Project area. These species have been documented to occur in the vicinity of the Project site, which supports requisite habitat elements (CDFW 2022).

CDFW recommends that a qualified biologist conduct a habitat assessment as part of the biological surveys and technical studies completed in support of the CEQA document, to determine if project areas or their immediate vicinity contain potential habitat for the species mentioned above. If potential habitat is present, CDFW recommends that a qualified biologist conduct focused surveys for the applicable species and their requisite habitat features to evaluate potential impacts resulting from ground and vegetation disturbance.

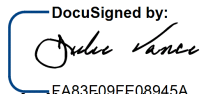
Avoidance whenever possible is encouraged via delineation and observance of a 50-foot no-disturbance buffer around dens of mammals like the American badger as well as the entrances of burrows that can provide refuge for special-status small mammals and burrowing owl.

Federally Listed Species: CDFW recommends consulting with USFWS regarding potential impacts to federally listed species including but not limited to the San Joaquin kit fox. 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 Project activities.

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CDFW appreciates the opportunity to comment to assist the City of Bakersfield in identifying and mitigating Project impacts on biological resources. If you have any questions, please contact Jaime Marquez, Environmental Scientist, at the address provided on this letterhead, by telephone at (559) 580-3200, or by electronic mail at Jaime.Marquez@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Julie A. Vance
Regional Manager

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REFERENCES

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western bumble bee (*Bombus occidentalis occidentalis*) as Endangered under the California Endangered Species Act. October 2018.