



DEPARTMENT OF FISH AND WILDLIFE  
Central Region  
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[www.wildlife.ca.gov](http://www.wildlife.ca.gov)



June 30, 2023

Louis Ramirez  
City of Bakersfield  
1715 Chester Avenue  
Bakersfield, California 93308

**Subject: Veteran Affairs Medical Clinic (Project)  
Draft Environmental Impact Report (DEIR)  
SCH No. 2022080337**

Dear Louis Ramirez:

The California Department of Fish and Wildlife (CDFW) received a DEIR from the City of Bakersfield 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 ended, CDFW would appreciate if you would 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.

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

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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.

Louis Ramirez  
City of Bakersfield  
June 30, 2023  
Page 2

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 may 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:** SASD Development Group, LLC

**Objective:** The Project entails a proposed Site Plan for the development of a 39,648 square foot medical outpatient facility. Other features include a covered drop-off, bicycle racks, a covered ambulatory pick-up area, an outdoor physical therapy area, an outdoor dining area, and an elevated loading dock. Landscaping is proposed along the perimeter of the site, around the building, and throughout the parking areas. In addition, a healing garden is proposed on the east side of the building, which would include a garden path and benches.

## **COMMENTS AND RECOMMENDATIONS**

CDFW offers the following comments and recommendations 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 prepared for this Project.

There are special-status species that have been observed in the Project area and may be present at the Project Site. 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 threatened and federally endangered San Joaquin kit fox (*Vulpes macrotis mutica*) and the State threatened Swainson's hawk (*Buteo swainsoni*). In order to adequately assess any potential impact to biological resources, focused biological surveys should be conducted by a qualified biologist during the appropriate survey period(s) in order to determine whether any special-status species may be present within the Project area. Properly conducted biological surveys, and the

Louis Ramirez  
City of Bakersfield  
June 30, 2023  
Page 3

information assembled from them, are essential to identify any mitigation, minimization, and avoidance measures and/or the need for additional or protocol-level surveys, 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: San Joaquin Kit Fox (SJKF)**

BIO MM-4 states that pre-construction surveys for San Joaquin kit fox (SJKF) will be conducted by a “professional” biologist. According to the “Standardized Recommendations for Protection of the Endangered San Joaquin kit fox Prior to or During Ground Disturbance” all surveys and monitoring need to be performed by a qualified biologist (USFWS 2011). CDFW recommends changing the measure to prevent inadvertent take of the species.

BIO MM-5 states that “If California or Federal listed threatened or endangered species are found occupying burrows, dens, or nests on the Project site or any such species could be injured or killed due to Project related activities, the CDFW and/or USFWS (as appropriate) shall be contacted for further guidance.” If an Incidental Take Permit (ITP) has not been acquired and SJKF are detected on the project site, all Project related activities must be stopped and CDFW must be notified in order to acquire an ITP pursuant to Fish and Game Code section 2081 subdivision (b) to prevent inadvertent take of species and prior to work at the Project Site resuming.

According to CNDDDB there are multiple recorded instances of San Joaquin kit fox less than one mile from the Project site (CDFW 2023); there is a robust and well studied urban population of SJKF within the City of Bakersfield. Any ground-disturbing or Project related activities have the potential to impact SJKF. Loose friable soils created as a result of Project related activities could potentially attract SJKF after any pre-construction surveys have been completed. CDFW strongly recommends pursuing an ITP pursuant to Fish and Game Code section 2081 subdivision (b) to prevent inadvertent take of species in advance of any Project construction.

### **COMMENT 2: Swainson’s Hawk (SWHA)**

The DEIR does not specifically address Swainson's hawk (SWHA) in any of its measures. The City of Bakersfield is within the habitat range of SWHA and any trees within 0.5 mile of the Project site could be potential nest sites (CDFW 2023). BIO-MM-5 generally addresses nests of any threatened or endangered species, but these measures do not propose surveys that are adequate for detection of SWHA.

Louis Ramirez  
City of Bakersfield  
June 30, 2023  
Page 4

CDFW recommends referencing our NOP comment letter sent October 18, 2022 regarding survey protocols for SWHA. If SWHA are detected during these surveys CDFW recommends pursuing an ITP prior to ground-disturbing activities, pursuant to Fish and Game Code section 2081 subdivision (b).

## II. Editorial Comments and/or Suggestions

### 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 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](mailto: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 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).

CDFW appreciates the opportunity to comment on the Project to assist the City of Bakersfield 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 Jaime Marquez, Environmental Scientist, at the address provided on this letterhead, or by electronic mail at [Jaime.Marquez@wildlife.ca.gov](mailto:Jaime.Marquez@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
FA83F09FE08945A...

Julie A. Vance  
Regional Manager

ec: See Page Five

Louis Ramirez  
City of Bakersfield  
June 30, 2023  
Page 5

ec: State Clearinghouse  
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California Department of Fish and Wildlife

Louis Ramirez  
City of Bakersfield  
June 30, 2023  
Page 6

## REFERENCES

California Department of Fish and Wildlife. 2023. Biogeographic Information and Observation System (BIOS). <https://www.wildlife.ca.gov/Data/BIOS>. Accessed June 13, 2023.

United States Fish and Wildlife Service. 2011. Standard Recommendations for the Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance. United States Fish and Wildlife Service. January 2011.