



DEPARTMENT OF FISH AND WILDLIFE
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



May 11, 2023

Victor Hernandez
Kings Community Development Agency
1400 W. Lacey Blvd., Building #6
Hanford California, 93230

Subject: Tentative Tract No. 936 (Project)
Draft Environmental Impact Report (DEIR)
SCH No. 2022080449

Dear Victor Hernandez:

The California Department of Fish and Wildlife (CDFW) received a DEIR from the Kings Community Development Agency 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 it 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.

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

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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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 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: Aspire Homes CA, Inc

Objective: The Project proposes to divide two existing parcels totaling approximately twenty (20) acres into one hundred and nine (109) single-family development lots in the County of Kings, within the community of Armona. The Project site's existing and proposed zoning is R-1-6, Single-Family Residential. The project will be divided into two phases and will enter into a density bonus agreement, which will include at least ten (10) below-market-rate houses. The 109 single family homes will have an average lot size of 5,094 square feet. Additionally, an approximately 1.7-acre outlet will be created to be used as a stormwater basin and park, as well as a designated reminder around an existing home on approximately one acre. The Project would result in onsite and offsite infrastructure improvements including new and relocated utilities, new residential streets, and the continuation and improvement of Crocus Way. The Project would require no demolition as the site is currently on agricultural land, and the existing home on site will remain.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist the Kings Community Development Agency 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 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.

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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*); the State threatened Swainson's hawk (*Buteo swainsoni*), and State candidate endangered Crotch bumblebee (*Bombus crotchii*). 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 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)

CDFW agrees with the results of the habitat assessment in section 2.2 of Appendix F. While suitable habitat might not be present CNDDDB records indicate that SJKF has been known to occur in the area. Ground disturbing activities and loose friable soil created by Project activity might attract any nearby SJKF and result in inadvertent take. CDFW recommends a qualified biologist conduct on-site worker awareness training and inspect all construction materials for kit fox before use. Any pits or trenches created shall be sloped or covered to prevent inadvertent take.

COMMENT 2: Swainson's Hawk (SWHA)

Section 2.2 of Appendix F indicates that a habitat assessment was performed to evaluate the Project site for SWHA concluding that species likelihood was low. While the assessment did include a 0.5-mile road survey CDFW is concerned that this will not be sufficient in detecting SWHA and adequately determining presence/absence of the species. CDFW recommends 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). CDFW recommends that results of protocol-level surveys for SWHA be included in the Final EIR (FEIR) for the project.

CDFW also recommends that if any activity will take place during the SWHA nesting season (March 1 through September 15), and active SWHA nests are present, a minimum 0.5 mile no-disturbance buffer be delineated and maintained around each nest, regardless of when it was detected by surveys or incidentally, until the breeding

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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, to prevent nest abandonment and other take of SWHA as a result of Project activities.

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

COMMENT 3: Crotch Bumblebee (CBB)

The DEIR does not mention any evaluation completed for CBB. The California Natural Diversity Database (CNDDDB) records indicate that CBB have the potential to occur in the project vicinity (CDFW 2023). 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. CDFW recommends the Project proponent assess these habitat areas near the Project area for potentially suitable CBB habitat and include the survey methodology and findings in the FEIR for the Project. If suitable CBB habitat exists in areas of planned Project-related ground disturbance, equipment staging, or materials laydown, potential CBB nesting sites in these areas would have to be avoided with a 50-foot no disturbance buffer to reduce to less-than-significant the Project-related impacts to the species.

CBB 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).

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:

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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>.

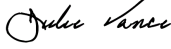
FILING FEES

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 Kings Community Development Agency 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.

Sincerely,

DocuSigned by:

FA83F09FE08945A...
Julie A. Vance
Regional Manager

ec: State Clearinghouse, Governor's Office of Planning and Research
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REFERENCES

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- Swainson's Hawk Technical Advisory Committee (SWHA TAC). 2000. Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in the Central Valley of California. Swainson's Hawk Technical Advisory Committee. May 31, 2000.
- Williams, P. H., R. W. Thorp, L. L. Richardson, and S. R. Colla. 2014. *The Bumble Bees of North America: An Identification guide*. Princeton University Press, Princeton, New Jersey, USA. 208 pp.