



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
1234 East Shaw Avenue
Fresno, California 93710
(559) 243-4005
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Governor's Office of Planning & Research

July 20, 2023

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STATE CLEARINGHOUSE

Denver Stairs, Assistant Superintendent, Facilities Services
Clovis Unified School District
1450 Herndon Avenue
Clovis, California 93611
(559) 327-9260
denverstairs@cusd.com

**Subject: New District Facilities Project-Clovis Unified School District Project
(Project)
Mitigated Negative Declaration (MND)
State Clearing House (SCH) Number: 2022110544**

Dear Denver Stairs:

The California Department of Fish and Wildlife (CDFW) received a Mitigated Negative Declaration (MND) from the Clovis Unified School District (CUSD) 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.

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

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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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 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).

In this role, CDFW is responsible for providing, as available, biological expertise during public agency environmental review efforts (e.g., CEQA), focusing specifically on Project activities that have the potential to adversely affect fish and wildlife resources. CDFW provides recommendations to identify potential impacts and possible measures to avoid or reduce those impacts.

PROJECT DESCRIPTION SUMMARY

Proponent: Clovis Unified School District

Objective: This will be a phased Project. Phase 1 of the Project proposes to construct and operate a new Special Education Administration building, an Online School building and associated improvements on 16.61 acres. The Special Education facility will include a reception/lobby area, administration offices, operations, and school services, meeting, and conference rooms, and break rooms; and will house the Clovis Infant Toddler Intervention (CITI) Kids program. This building will total about 24,167 square feet. The Online School facility will include administration offices, reception/lobby, classrooms, flex rooms, teacher offices, a computer lab, and Science, Technology, Engineering and Math (STEM) labs, and will total about 27,399 square feet. A future phase would consist of the construction and operation of District administrative offices in several buildings totaling about 90,000 square feet.

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Location: The Project would be located southeast of the intersection of North Fowler and East Herndon Avenues in the City of Clovis, Fresno County, within Assessor's Parcel Numbers (APNs): 491-050-74ST, 550-020-45T, and 550-020-47T. Per Project information, the proposed Project site is highly urbanized and includes noise, traffic, ornamental trees, and shrubs along the eastern and southern boundaries within adjacent residences. The site is bordered by commercial shopping, residential development, and busy streets. The Project site is not within the boundaries of a habitat conservation plan, a natural community conservation plan, or other approved local, regional, or State habitat conservation plan. Per CNDDDB aerial imagery, the proposed Project site contains ruderal vegetation, small mammal burrows, and has been graded previously.

Timeframe: Construction of Phase 1 will begin in Fall 2023 and is anticipated to be completed and operational by Fall 2024. The timing for the future phase construction is uncertain at this time.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist CUSD 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 document.

There are special-status resources that may utilize the Project site and/or surrounding area, and these resources need to be evaluated and addressed prior to any approvals that would allow ground-disturbing activities. CDFW is concerned regarding potential impacts to special-status species including, but not limited to, the State candidate-listed endangered (SCE) Crotch bumblebee (*Bombus crotchii*).

Crotch Bumble Bee (*Bombus crotchii*)

The Crotch bumble bee (CBB) was not addressed in the CEQA document and has the potential to occur within the Project site per aerial imagery showing disturbed grassland habitat within Project limits (CDFW 2023a). CBB was once common throughout most of central and southern California. However, it now appears to be absent from most of their range, 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.

Nesting resources quantified can include bare ground, rodent burrows, and other potential nesting sites that may support bumble bee colonies (Williams et al. 2014).

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Additional suitable CBB habitat includes areas of grasslands and upland scrub. 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, ground disturbance and vegetation removal associated with project activities have the potential to significantly impact local CBB populations.

CDFW recommends that a habitat assessment be conducted for suitable CBB habitat prior to construction. If suitable habitat for CBB is present, CDFW recommends surveys be conducted following the survey methods outlined in the Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species (CDFW 2023b). Survey efforts should include multiple on-site surveys and should be developed to detect foraging bumble bees and potential nesting sites (nesting surveys). Survey timing should be determined on a project-by-project basis based on seasonality and when activity or foraging will most likely occur each year.

Survey efforts and results should be submitted to CDFW prior to initiation of ground disturbance. 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 take cannot be avoided, take authorization through the acquisition of an Incidental Take Permit (ITP), pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA.

Project proponents may choose to assume presence and rely on habitat as an indicator of presence in lieu of, or in addition to, surveys. CBB move nests sites each year; therefore, surveys should be conducted each year that project activities will occur. Even if surveys from a particular project site failed to detect CBB one year, project proponents should perform a full round of surveys each year that project activities will occur or assume presence (CDFW 2023b).

EDITORIAL COMMENTS AND/OR SUGGESTIONS

Nesting birds: CDFW encourages that Project implementation occur during the bird non-nesting season; however, if ground-disturbing or vegetation-disturbing activities must occur during the breeding season (February 1 through September 15), the Project applicant is responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Codes as referenced above.

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To evaluate Project-related impacts on nesting birds, CDFW recommends that a qualified biologist conduct pre-activity surveys for active nests no more than 10 days prior to the start of ground disturbance to maximize the probability that nests that could potentially be impacted are detected. CDFW also recommends that surveys cover a sufficient area around the work site to identify nests and determine their status. A sufficient area means any area potentially affected by a project. In addition to direct impacts (i.e., nest destruction), noise, vibration, odors, and movement of workers or equipment could also affect nests. Prior to initiation of construction activities, CDFW recommends a qualified biologist conduct a survey to establish a behavioral baseline of all identified nests. Once construction begins, CDFW recommends a qualified biologist continuously monitor nests to detect behavioral changes resulting from the project. If behavioral changes occur, CDFW recommends the work causing that change cease and CDFW be consulted for additional avoidance and minimization measures.

If continuous monitoring of identified nests by a qualified biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place 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. Variance from these no-disturbance buffers is possible when there is compelling biological or ecological reason to do so, such as when the construction area would be concealed from a nest site by topography. CDFW recommends that a qualified biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

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

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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 CUSD 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, or by electronic mail at Kelley.Nelson@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Gerald Hatler for Julie A. Vance
Regional Manager

ec: Krista Tomlinson – Environmental Program Manager
Larry Bonner – Senior Environmental Scientist
California Department of Fish and Wildlife

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Attachment 1

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

**PROJECT: New District Facilities-Clovis Unified School District
SCH No.: 2022110544**

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
<i>Before Disturbing Soil or Vegetation</i>	
Mitigation Measure 1: CBB Habitat Assessment	
Mitigation Measure 2: CBB Surveys	
<i>During Construction</i>	
Mitigation Measure 3: CBB Avoidance	