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February 23, 2024

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Governor's Office of Planning & Research

Feb 23 2024

STATE CLEARINGHOUSE

**Subject: Tract Map (TM) 6343 Project (Project)
Draft Environmental Impact Report (DEIR)
State Clearinghouse No.: 2022120483**

Dear Lily Cha-Haydostian:

The California Department of Fish and Wildlife (CDFW) received a DEIR from the City of Clovis 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 sustainable populations of those species (*Id.*, § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological

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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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 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: City of Clovis

Objective: The Proposed Tract Map 6343 (Project) would consist of the annexation of 246 acres from Fresno County to the City of Clovis, and the development of 590 residential lots within the 71.54-acre Project site constructed in 3 phases. The proposed lots would be developed into single-family residences over time. Sixty-six outlot spaces would be developed into private roads, private parking, pedestrian walkways, landscaping, public utilities, and public park uses.

No development is proposed within the remaining 174.46-acre annexation area surrounding the project site. Associated entitlements include Annexation to the City of Clovis and a Planned Development Permit, General Plan Amendment, Prezone, and Tract Map approval to allow for 590 single-family residences. To facilitate the future development of the subject property, the proposed Project will also require dedications and/or acquisitions for public street rights-of-way and utility easements, as well as the construction of public facilities and infrastructure.

In addition, development of the Project site would include infrastructure improvements for water services along the East Behymer Avenue frontage and Baron Avenue frontage, as well as stormwater management infrastructure improvements along the

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Perrin Avenue frontage. The proposed Project would also construct a two-lane, approximately 49-foot-wide and 2,650-foot-long extension of Baron Avenue south of East Behymer Avenue.

Location: The Tract Map 6343 Project site is located directly north of the City of Clovis limit line at the southwest corner of the East Behymer Avenue and North Sunnyside Avenue intersection. The Project site is bounded by East Behymer Avenue to the north, by the Enterprise Canal to the west and south, and by rural residential, a Fresno Metropolitan Flood Control District (FMFCD) ponding basin, and Tract Map 6200 to the east. The Project site is in the northwest quadrant of Section 20, Township 12 South, Range 21 East, Mount Diablo Base and Meridian (MDBM).

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist the City of Clovis 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 may be present at the Project site that were not appropriately evaluated in the DEIR for this Project. CDFW recommends that these resources be evaluated and addressed prior to any approvals that would allow ground-disturbing activities or land use changes. Specifically, CDFW is concerned regarding potential impacts to special-status species including, but not limited to, the Federal and State threatened (FT/ST) California tiger salamander (*Ambystoma californiense*), and the State candidate endangered (SCE) Crotch's bumblebee (*Bombus crotchii*).

In order to adequately assess any potential impacts 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 or resources may be present within the Project area. Properly conducted biological surveys are also necessary to identify Project-related impacts to biological resources and assist with determining the need for species and resource specific minimization and compensatory mitigation measures. Additionally, adequate biological surveys are necessary to assist with determining the need for the Project to obtain an Incidental Take Permit (ITP), pursuant to Fish and Game Code section 2081 subdivision (b)

COMMENT 1: California Tiger Salamander

The DEIR does not include an appropriate evaluation for the California tiger salamander (CTS). CDFW's Notice of Preparation (NOP) comment letter for the Project, which was sent on January 17, 2023, recommended protocol-level surveys for CTS. As it appears the biological surveys conducted in support of the DEIR did

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not incorporate CDFW's survey recommendations, CDFW reiterates the recommendation to conduct the surveys outlined in CDFW's NOP comment letter, and, if necessary, including the avoidance, mitigation, and minimization measures recommended in the letter.

COMMENT 2: Crotch's Bumble Bee (CBB)

The DEIR also does not include any evaluation for Crotch's bumblebee (CBB) which was included in CDFW's January 17, 2023, NOP comment letter. Survey recommendations (updated protocol) for CBB have changed from the recommendations in the NOP letter. CDFW continues to recommend that CBB surveys be conducted according to the most recent protocol and the information found from those used to make appropriate conclusions in the DEIR (CDFW 2023).

In addition to conducting protocol surveys for CBB, CDFW recommends the DEIR include the following measures:

Recommended Mitigation Measure 1: CBB Surveys Prior to Construction

CDFW continues to recommend conducting a baseline protocol survey to adequately inform the DEIR and support conclusions drawn therein relative to CBB. In addition to performing the baseline surveys recommended by CDFW during the NOP comment period, CDFW recommends that additional surveys, following the Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species, be repeated the blooming period immediately prior to construction.

Recommended Mitigation Measure 2: CBB Avoidance Buffer

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 unauthorized 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.

Recommended Mitigation Measure 3: CBB Take Authorization

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(b).

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COMMENT 3: Nesting Birds

Mitigation Measure BIO-1: Nesting Bird Surveys and Active Nest Avoidance states that a qualified biologist shall conduct a nesting bird survey no more than 15 days prior to each phase of clearing activities. CDFW recommends that a qualified biologist conduct a nesting bird survey no more than 10 days prior to each phase of clearing activities.

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. 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

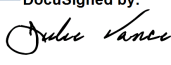
If it is determined that the Project has the potential to impact biological resources, an assessment of filing fees will be necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is 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 Clovis Planning Division in identifying and mitigating the Project's impacts on biological resources.

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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:

FA83F09FE08945A...

Julie A. Vance
Regional Manager

ec: State Clearinghouse
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REFERENCES

California Department of Fish and Wildlife. 2023. Survey considerations for California Endangered Species Act Candidate Bumble Bee Species <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150&inline>. California Department of Fish and Wildlife, Sacramento, California, USA.

Attachment 1

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

PROJECT: Tract Map 6343 Project

SCH No.: 2022120483

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
<i>Before Disturbing Soil or Vegetation</i>	
CBB	
Recommended Mitigation Measure 1: CBB surveys prior to construction	
Recommended Mitigation Measure 3: CBB take authorization	
<i>During Construction</i>	
Recommended Mitigation Measure 2: CBB avoidance buffer	