



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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GAVIN NEWSOM, Governor
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Governor's Office of Planning & Research

March 6 2023

STATE CLEARING HOUSE

March 3, 2023

Gabrielle Meyers
City of Hanford
317 North Douty Street
Hanford California, 93230

**Subject: Vesting Tentative Tract 938- Lunaria
Notice of Preparation**

Dear Gabrielle Meyers:

The California Department of Fish and Wildlife (CDFW) received a notice of preparation from the City of Hanford, as Lead Agency, for the Project pursuant 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 the 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 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.

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.

Gabrielle Meyers
City of Hanford
March 3, 2023
Page 2

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.

PROJECT DESCRIPTION SUMMARY

Proponent: D.R. Horton

Objective: The Applicant proposes the construction of 457 single-family residences, internal roads, a drainage retention basin, and a 5.82-acre park on an approximately 95-acre site (Project). Access to the proposed subdivision will be from 10 ½ Avenue. The development will build 10 ½ Avenue with a minimum 34-foot road right of way (ROW).

In order for the Project to be constructed, approval of the following actions is required:

- Tentative Tract Map 938

Construction will take approximately 24 months, with a total buildout of the homes by Q4 2025. There will be six phases, with the following lots constructed per phase:

- Phase 1 – 106 lots
- Phase 2 – 65 lots
- Phase 3 – 78 lots
- Phase 4 – 67 lots
- Phase 5 – 67 lots
- Phase 6 – 69 lots

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City of Hanford 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*

Gabrielle Meyers
City of Hanford
March 3, 2023
Page 3

macrotis mutica), the State candidate endangered Crotch bumblebee (*Bombus crotchii*), the State threatened Swainson's hawk (*Buteo swainsoni*), and the State species of special concern burrowing owl (*Athene cunicularia*) and American badger (*Taxidea taxus*).

San Joaquin Kit Fox (SJKF)

The California Natural Diversity Database (CNDDDB) records show that SJKF have been documented near the project area and are known to occur near Hanford. Aerial records show that the area is comprised of agricultural and ruderal habitat. 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 focused den surveys as part of the biological technical studies conducted in support of the CEQA document. CDFW also recommends a qualified biologist conduct on-site worker awareness training and inspect all construction materials for SJKF before use. Any pits or trenches created shall be sloped or covered to prevent inadvertent take.

SJKF 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).

Crotch Bumblebee (CBB)

CNDDDB records indicate that the Project site is within the habitat range of CBB. 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.

Gabrielle Meyers
City of Hanford
March 3, 2023
Page 4

If suitable CBB habitat exists in areas of planned Project-related ground disturbance, equipment staging, or materials laydown, CDFW recommends a qualified biologist conduct a habitat assessment and surveys as part of the biological technical studies conducted in support of the CEQA document to determine if the Project area or its immediate vicinity contain habitat suitable to support CBB. If surveys cannot be completed, CDFW recommends avoiding disturbing potential CBB habitat.

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).

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 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 as part of the biological technical studies conducted in support of the CEQA document, 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. 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. If an active SWHA nest is detected during surveys, consultation with CDFW is warranted to discuss how to

Gabrielle Meyers
City of Hanford
March 3, 2023
Page 5

implement the Project and avoid take. If take cannot be avoided, take authorization through the issuance of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA.

State Species of Special Concern

Burrowing owl and American badger 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 2023).

CDFW recommends that a qualified biologist conduct a habitat assessment as part of the biological technical studies conducted 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 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.

CDFW recommends assessing presence/absence of BUOW by having a qualified biologist conduct surveys as part of the biological technical studies conducted in support of the CEQA document following the California Burrowing Owl Consortium's Burrowing Owl Survey Protocol and Mitigation Guidelines (CBOC 1993) and CDFW's Staff Report on Burrowing Owl Mitigation (Staff Report) (CDFG 2012). Specifically, if suitable habitat is present at an individual Project site, CBOC and CDFW's Staff Report suggest three or more surveillance surveys conducted during daylight with each visit occurring at least three weeks apart during the peak breeding season (April 15 to July 15), when BUOW are most detectable.

If BUOW are detected, CDFW recommends no-disturbance buffers, as outlined in the Staff Report (CDFG 2012), be implemented prior to and during any ground-disturbing activities. Specifically, CDFW's Staff Report recommends that impacts to occupied burrows be avoided in accordance with the following table unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.

Gabrielle Meyers
 City of Hanford
 March 3, 2023
 Page 6

Location	Time of Year	Level of Disturbance		
		Low	Med	High
Nesting sites	April 1-Aug 15	200 m*	500 m	500 m
Nesting sites	Aug 16-Oct 15	200 m	200 m	500 m
Nesting sites	Oct 16-Mar 31	50 m	100 m	500 m

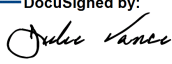
* meters (m)

If BUOW are found within these recommended buffers and avoidance is not possible, it is important to note that according to the Staff Report (CDFG 2012), eviction is not a take avoidance, minimization, or mitigation method and is considered a potentially significant impact under CEQA. However, if necessary, CDFW recommends that burrow exclusion be conducted by qualified biologists and only during the non-breeding season, before breeding behavior is exhibited and after the burrow is confirmed unoccupied through non-invasive methods, such as surveillance. CDFW recommends replacement of occupied burrows with artificial burrows at a ratio of 1 burrow collapsed to 1 artificial burrow constructed (1:1) as mitigation for the potentially significant impact of evicting BUOW. BUOW may attempt to colonize or re-colonize an area that will be impacted; thus, CDFW recommends ongoing surveillance, at a rate that is sufficient to detect BUOW if they return.

Federally Listed Species: CDFW recommends consulting with USFWS regarding potential impacts to federally listed species including but not limited to SJKF. 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.

CDFW appreciates the opportunity to comment to assist the City of Hanford 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:

 FA83F09FE08945A...
 Julie A. Vance
 Regional Manager

Gabrielle Meyers
City of Hanford
March 3, 2023
Page 7

REFERENCES

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