



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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GAVIN NEWSOM, Governor
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April 03, 2024

Mark Tolentino
Kern County Planning and Natural Resources Department
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Subject: Westside Industrial (Project)
Draft Environmental Impact Report (DEIR)
SCH No. 2023100467

Dear Mark Tolentino:

The California Department of Fish and Wildlife (CDFW) received a DEIR from the Kern County Planning and Natural Resources Department (Kern County) 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 expertise during public agency environmental review efforts, focusing specifically on

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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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.

PROJECT DESCRIPTION SUMMARY

Proponent: Seefried Industrial Properties

Objective: The Westside Industrial Project is a proposal by Seefried Industrial Properties for the construction and operation of a warehouse and distribution facility. The proposed Project would include the construction of an approximately 653,442-squarefoot single-story warehouse and related site improvements, including but not limited to, perimeter security fencing and nighttime directional lighting at the on-site warehouse and distribution facility, new pavement, curb and gutter, and sidewalk on frontage roads with associated signing and markings, office, break and ancillary space.

Project Location: The proposed Project is located on an approximately 93.74-acre portion of an approximately 630-acre parcel, and is bounded by Wible Road (west), Houghton Road (north), and agricultural land (south and east). The Project site is approximately 1.3 miles south of the City of Bakersfield, in unincorporated Kern County.

Timeframe: July 2024 – September 2025

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist Kern County 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.

In order to adequately assess any potential impact to biological resources, focused biological surveys should be conducted by a qualified wildlife biologist during the appropriate survey period(s) in order to determine whether any special-status species

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may be present within the Project area. Properly conducted protocol-level biological surveys, and the information assembled from them, are essential to identify any necessary avoidance measures to fully avoid any potential impacts to these species or the need for CESA take permits along with associated minimization and compensatory mitigation measures, and to identify any Project-related impacts under CEQA.

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: Swainson's Hawk

The section labeled "Swainson's Hawk" on page 4.4-33 of the DEIR describes the potential for Swainson's hawk (SWHA) to occur on the Project site and lists mitigation measures intended to reduce impacts to less than significant. Within Page 4.4-33, the DEIR specifically states that, "To reduce potentially significant impacts to Swainson's hawk, **Mitigation Measures MM 4.4-3, 4.4-4, 4.4- 10, and 4.4-11** shall be implemented, which includes avoidance and minimization construction monitoring and pre-construction clearance surveys, and protocol-level Swainson's hawk surveys to be implemented in accordance with the CDFW Guidelines". While CDFW agrees with conducting protocol surveys according to established CDFW protocols, it does not appear that the DEIR specifies that SWHA protocol-level surveys would be consistent with the survey methods developed by the Swainson's Hawk Technical Advisory Committee (SWHA TAC 2000). As such, CDFW recommends that either a new measure be included that specifies SWHA surveys would follow the recommended Swainson's hawk technical advisory committee protocol (SWHA TAC 2000) or an existing measure be amended to incorporate these recommendations.

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>.

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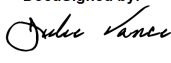
FILING FEES

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 Kern County Planning and Natural Resources Department 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:

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Julie A. Vance
Regional Manager

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REFERENCES

Swainson's hawk technical advisory committee. 2000. Recommended timing and methodology for Swainson's hawk nesting surveys in the central valley of California. Swainson's hawk technical advisory committee.