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

December 4, 2023

McKencie Perez, MPA, Senior Planner
City of Clovis, Planning Division
1033 Fifth Street
Clovis, California 93612
(559) 324-2310
mckenciep@cityofclovis.com

Subject: **Vista Ranch Project (Project)**
Notice or Preparation (NOP)
State Clearinghouse No. 2023100508

Dear McKencie Perez:

The California Department of Fish and Wildlife (CDFW) received a Notice of Preparation (NOP) for an Environmental Impact Report (EIR) from the City of Clovis (City) Planning Division for the Vista Ranch Project (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 the Fish and Game Code. While the comment period may have ended, CDFW respectfully requests that the City 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

[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.

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 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 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).

Unlisted Species: Species of plants and animals need not be officially listed as Endangered, Rare, or Threatened (E, R, or T) on any State or Federal list to be considered E, R, or T under CEQA. If a species can be shown to meet the criteria for E, R, or T, as specified in the CEQA Guidelines section 15380, CDFW recommends it be fully considered in the environmental analysis for the Project.

PROJECT DESCRIPTION SUMMARY

Proponent: City of Clovis

Objective: The Vista Ranch Project site is approximately 952 acres, includes 139 Assessor parcels, and a City Sphere of Influence (SOI) expansion for the entire 952-acre area. Within the Project site there is the Vista Ranch Master Plan area that is approximately 507 acres that would be annexed into the City of Clovis. The Master Plan contemplates the construction of up to 3,286 residential units, approximately 48 acres of commercial/mixed uses, and approximately 57 acres of parks, trails and open space.

The Vista Ranch Master Plan is divided into two areas (MPArea 1 and MPArea 2) based on entitlement requests and the level of design available. MPArea 1 is 368 acres proposed for full entitlements to develop immediately. Entitlements within MPArea 1

include an annexation, general plan amendments, pre-zoning, master plan community overlay district and vesting tentative map. The remaining 139 acres in the Vista Ranch Master Plan (MPArea 2) does not include full entitlements and would require further environmental review to enable future development once more detailed design work is performed. This area has been planned for a mix of urban uses. Future development of this area is at the discretion of the property owners and subject to project level analysis.

There are also 445 acres of land outside of the Vista Ranch Master Plan, but within the Project site. This area is referred to as a Non-Development Area and is part of the SOI expansion but does not propose any other entitlements that would enable development.

Location: The Project site is located directly northeast of the City limit line. The Project site is bounded on the north by East Behymer Avenue, on the east by Big Dry Creek Reservoir, on the south by East Shepherd and East Perrin Avenues, and on the west by North Fowler and North Sunnyside Avenues. The Project site is located within portions of Sections 21, 22, and 23 of Township 12 South, Range 21 East, Mount Diablo Base and Meridian (MDBM). In addition, APNs 557-031-30, 32S, 34, 36, 38, 40, 43S, & 45 are located along the north side of Shepherd Avenue and are owned by the City of Clovis for future roadway rights-of-way.

Timeframe: Undetermined.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations below to assist the City 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 have also been included to improve the Draft EIR.

Aerial imagery of the Project boundary and its surroundings shows that the area contains annual grassland, and Dry Creek, which runs east-west and is an ephemeral waterway per Google aerial imagery, with additional smaller ephemeral channels in the area. Project limits also contain fallow fields, single-family residences, rural residences, and agricultural land. There are orchards to the west of Project limits as well (CDFW 2023). The Project location and surrounding areas appear to have a high likelihood for suitable habitat for several special status species. Based on a review of the Project description, a review of California Natural Diversity Database (CNDDB) records, and the surrounding habitat, several special status species could potentially be impacted by Project activities.

The Project site is within the geographic range of several special status animal species including but not limited to the federally threatened (FT) and State threatened (ST)

California tiger salamander (*Ambystoma californiense* pop. 1), the ST Swainson's hawk (*Buteo swainsoni*) and tricolored blackbird (*Agelaius tricolor*); the State candidate for listing as endangered (SCE) Crotch's bumble bee (*Bombus crotchii*); the State species of special concern (SSC) and federally proposed threatened (FPT) western pond turtle (*Actinemys marmorata*); and the SSC American badger (*Taxidea taxus*), burrowing owl (*Athene cunicularia*), and western spadefoot (*Spea hammondii*).

To evaluate Project-related impacts to listed species, SSC species, and unlisted biological species, CDFW recommends that a general habitat assessment be conducted as part of the biological technical studies conducted in support of the Draft EIR. CDFW recommends that this general habitat assessment be followed with specific protocol surveys for listed species including California tiger salamander and Swainson's hawk.

California Tiger Salamander

There was no mention of the California tiger salamander (CTS) in the NOP document. This species is protected under the California Endangered Species Act (CESA) and has been observed within the Project site, and in the adjacent area as recent as 2023 (CDFW 2023). CDFW has jurisdiction over this species under CESA. CTS have been determined to be physiologically capable of dispersing up to approximately 1.5 miles from seasonally flooded wetlands (Searcy and Shaffer 2011). Aerial photographs show that suitable upland refugia and potential aquatic habitat exists within the Project area and in the Project vicinity. There is a strong likelihood that CTS would be impacted by the proposed Project given documented presence as recently as 2023, and because a large amount of ground disturbance is anticipated from activities such as discing, ripping, and/or grading. As such, CDFW recommends the following:

CDFW recommends an Incidental Take Permit (ITP) be obtained for CTS by each project proponent engaging in project development since the species has been observed on-site, and that the Project proponents engage in early consultation with CDFW regarding acquiring adequate mitigation for this species. Take authorization would occur through the issuance of an ITP, pursuant to Fish and Game Code section 2081(b). In the absence of protocol surveys, the applicant can assume presence of CTS within the Project area and immediately focus on obtaining an ITP. For information regarding ITPs, please see the following link: https://www.wildlife.ca.gov/Conservation/CESA. Included in the ITP would be measures required to avoid and/or minimize direct take of CTS in the Project area, as well as measures to fully mitigate the impact of the take.

Swainson's Hawk

There was no mention of Swainson's hawk (SWHA) in the NOP document information. The Project is within the known geographic range of Swainson's hawk, (CDFW 2023).

SWHA are known to breed within the Central Valley of California and prefer to nest and forage in alfalfa, fallow fields, field crops, and grassland habitats with a sufficient source of small mammals (CDFG 1994). Additionally, SWHA exhibit high nest-site fidelity year after year in the San Joaquin Valley (CDFW 2016). Based on aerial imagery and the information provided in the NOP, the Project location and adjacent areas contain suitable habitat for SWHA foraging. In addition, there are trees and structures located within the vicinity of the Project site that may provide suitable nesting habitat.

CDFW recommends that a qualified wildlife biologist conduct surveys for nesting SWHA following the entire survey methodology developed by the SWHA Technical Advisory Committee (SWHA TAC 2000) as part of the biological technical studies conducted in support of the Draft EIR.

In addition to conducting SWHA surveys, CDFW recommends the Project mitigate for loss of SWHA foraging habitat as described in Recommended Mitigation Measure 7 below. CDFW also recommends the Draft EIR include the following measures:

Recommended Mitigation Measure 1: SWHA Surveys Prior to Construction

Depending on the time between the initial survey efforts conducted in support of the Draft EIR and project construction, CDFW recommends that additional surveys, following the survey methodology developed by the SWHA Technical Advisory Committee (SWHA TAC 2000), be repeated the survey season immediately prior to construction. 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.

Recommended Mitigation Measure 2: SWHA Avoidance Buffer

If Project-specific activities will take place during the SWHA nesting season (i.e., March 1 through September 15), and active SWHA nests are present, CDFW recommends a minimum ½-mile no-disturbance buffer be delineated and maintained around each nest, regardless of whether it was detected by surveys or observed incidentally. These buffers would 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, to prevent nest abandonment and other take of SWHA as a result of Project activities.

Recommended Mitigation Measure 3: SWHA Take Authorization

CDFW also recommends that in the event an active SWHA nest is detected, and a ½-mile no-disturbance buffer is not feasible, consultation with CDFW is warranted to discuss how to implement the project and avoid take. If take cannot be avoided, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA.

Recommended Mitigation Measure 4: SWHA Foraging Habitat Mitigation

CDFW recommends compensation for the loss of SWHA foraging habitat as described in CDFW's "Staff Report Regarding Mitigation for Impacts to Swainson's Hawks" (California Department of Fish and Game 1994) to reduce impacts to foraging habitat to less than significant. The Staff Report recommends that mitigation for habitat loss occur within a minimum distance of 10 miles from known nest sites. CDFW has the following recommendations based on the Staff Report:

- For projects within 1 mile of an active nest tree, a minimum of 1 acre of habitat management (HM) land for each acre of development is advised.
- For projects within 5 miles of an active nest but greater than 1 mile, a minimum of ¾ acre of HM land for each acre of development is advised.
- For projects within 10 miles of an active nest tree but greater than 5 miles from an active nest tree, a minimum of ½ acre of HM land for each acre of development is advised.

Tricolored Blackbird

No Project information for tricolored blackbirds (TRBL) was included in the NOP. The Project site is within the known geographic range of tricolored blackbird and a historical occurrence has been recorded approximately 2.8 miles southwest of the Project site (CDFW 2023). Based on aerial imagery and the information provided in the NOP, the grassland habitats within the Project site could provide potential foraging habitat.

CDFW recommends that a qualified biologist conduct a habitat assessment as part of the biological technical studies conducted in support of the Draft EIR. If potentially suitable habitat is identified, consultation with CDFW is recommended for guidance on focused survey methods and mitigation measures such avoidance, take authorization, and mitigation.

Recommended Mitigation Measure 5: TRBL Surveys

CDFW recommends that Project activities be timed to avoid the normal bird breeding season (February 1 through September 15). However, if Project activities must take place during that time, CDFW recommends that a qualified wildlife biologist conduct surveys for nesting TRBL no more than 10 days prior to the start of construction to evaluate presence/absence of TRBL nesting colonies in proximity to Project activities and to evaluate potential Project-related impacts.

Recommended Mitigation Measure 6: TRBL Avoidance

If an active TRBL nesting colony is found during preconstruction surveys, CDFW recommends implementation of a minimum 300-foot no-disturbance buffer in accordance with CDFW's "Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agriculture Fields in 2015" (CDFW 2015). CDFW advises that this buffer remain in place until the breeding season has ended or until a qualified biologist has determined that nesting has ceased, the birds have fledged, and are no longer reliant upon the colony or parental care for survival. It is important to note that TRBL colonies can expand over time and for this reason, the colony should be reassessed to determine the extent of the breeding colony within 10 days for Project initiation.

Recommended Mitigation Measure 7: TRBL Take Authorization

In the event that a TRBL nesting colony is detected during surveys, consultation with CDFW is warranted to discuss how to implement the Project and avoid take, or if avoidance is not feasible, to acquire an ITP, pursuant to Fish and Game Code § 2081(b), prior to any ground-disturbing activities.

Crotch's Bumble Bee

The Crotch's bumble bee (CBB) was not discussed in the NOP document. CBB are known to inhabit areas of grasslands and scrub that contain requisite habitat elements for nesting, such as small mammal burrows and bunch/thatched grasses. 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. As noted in the NOP, the Project site contains a mix of native and non-native grasses. As such, CBB could potentially use the habitats within the Project site for foraging or nesting.

CDFW recommends a qualified biologist conduct a habitat assessment to determine if the Project area and the immediate surrounding vicinity contain habitat suitable to

support CBB. Potential nesting sites, which include all small mammal burrows, perennial bunch grasses, thatched annual grasses, brush piles, old bird nests, dead trees, and hollow logs would need to be documented as part of the assessment. If potentially suitable habitat is identified, CDFW recommends that a qualified biologist conduct focused surveys for CBB, and their requisite habitat features following the methodology outlined in the Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species (CDFW 2023a).

If CBB is detected, then CDFW recommends that all small mammal burrows and thatched/bunch grasses be avoided by a minimum of 50 feet to avoid 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.

If take cannot be avoided, CDFW recommends acquiring an ITP pursuant to Fish and Game Code Section 2081(b), prior to initiating ground-disturbing activities.

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

Recommended Mitigation Measure 8: CBB Surveys Prior to Construction

Depending on the time between the initial survey efforts conducted in support of the Draft EIR and project construction, CDFW recommends that additional surveys, following the Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species (CDFW 2023a), be repeated the blooming period immediately prior to construction.

Recommended Mitigation Measure 9: 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).

American Badger

There was no information included in the NOP regarding the American badger (AMBA). The Project site is within the known geographic range of the AMBA (CDFW 2023). AMBA occupy sparsely vegetated land cover with dry, friable soils to excavate dens,

which they use for cover, and that support fossorial rodent prey populations (i.e., ground squirrels, pocket gophers, etc.) (Zeiner et. al 1990). Based on aerial imagery and the information provided in the NOP, the Project site contains suitable habitat for AMBA denning and foraging.

As AMBA have the potential to den and/or forage within the Project site, CDFW recommends that a qualified biologist assess the presence/absence of AMBA by conducting a focused field survey in all areas of potentially suitable habitat as part of the biological studies conducted in support of the Draft EIR. If surveys indicate the presence or potential presence of AMBA, consultation with the CDFW is recommended for guidance on mitigation measures such as avoidance, minimization, and mitigation.

Recommended Mitigation Measure 10: AMBA Surveys

If suitable habitat is present, CDFW recommends that a qualified biologist conduct focused surveys for American badger and their requisite habitat features (dens) to evaluate potential impacts resulting from ground- and vegetation-disturbance.

Recommended Mitigation Measure 11: AMBA Avoidance
Avoidance whenever possible is encouraged via delineation and observation of a 50-foot no-disturbance buffer around dens until it is determined through non-invasive means that individuals occupying the den have dispersed.

Burrowing Owl

The NOP did not contain information pertaining to burrowing owl (BUOW). The Project site is within the known geographic range of BUOW and there was a sighting approximately 3-miles northwest of the Project site (CNDDB 2023). The Friant-Kern Canal, which is approximately 1.85-miles northeast of Project limits, may also provide potential habitat for this species. BUOW inhabit open grasslands containing small mammal burrows, a requisite habitat feature used by BUOW for nesting and cover. Based on aerial imagery, much of the Project site contains suitable habitat for BUOW nesting and foraging.

As BUOW have the potential to nest and/or forage within the Project site, CDFW recommends assessing presence/absence of BUOW by having a qualified biologist conduct surveys following the California Burrowing Owl Consortium's (CBOC) "Burrowing Owl Survey Protocol and Mitigation Guidelines" (California Burrowing Owl Consortium 1993) and CDFW's "Staff Report on Burrowing Owl Mitigation" (California Department of Fish and Wildlife 2012) as part of the biological studies conducted in support of the Draft EIR.

In addition to conducting BUOW surveys, CDFW recommends the Draft EIR include the following measures:

Recommended Mitigation Measure 12: BUOW Surveys Prior to Construction

Depending on the time between the initial survey efforts conducted in support of the Draft EIR and project construction, CDFW recommends that additional surveys, following the "Burrowing Owl Survey Protocol and Mitigation Guidelines" (California Burrowing Owl Consortium 1993) and CDFW's "Staff Report on Burrowing Owl Mitigation" (CDFW 2012) be repeated the survey season immediately prior to construction.

Recommended Mitigation Measure 13: BUOW Avoidance Buffer

Should a BUOW be detected, CDFW recommends that no-disturbance buffers, as outlined in the "Staff Report on Burrowing Owl Mitigation" (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.

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)

Recommended Mitigation Measure 14: BUOW Passive Relocation and Mitigation

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), excluding birds from burrows is not a take avoidance, minimization, or mitigation method and is instead considered a potentially significant impact under CEQA. However, if it is necessary for Project implementation, CDFW recommends that burrow exclusion be conducted by qualified biologists and only during the non-breeding season, by a qualified biologist, before breeding behavior is exhibited and after the burrow is confirmed empty through non-invasive methods, such as surveillance. CDFW recommends replacement of occupied burrows with artificial

burrows at a ratio of one (1) burrow collapsed to one (1) artificial burrow constructed (1:1) to mitigate for evicting BUOW and the loss of burrows. 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.

Western Pond Turtle

The western pond turtle (WPT) was not included in the information within the NOP document. A WPT was previously observed approximately 0.65-mile south of the Project site (CDFW 2023). Per aerial photography, there are additional ponds in the vicinity of the proposed Project site including a feature named Gates Lake which is approximately 0.81-mile northwest. WPT are known to nest in the spring or early summer within 100 meters (approximately 0.06-mile) of a water body, although nest sites as far away as 500 meter (approximately 0.31-mile) have also been reported (Thomson et al. 2016). Noise, vegetation removal, movement of workers, and ground disturbance as a result of Project activities have the potential to significantly impact WPT populations. Without appropriate avoidance and minimization measures for WPT, potentially significant impacts associated with Project activities could include nest reduction, inadvertent entrapment, reduced reproductive success, reduction in health or vigor of eggs and/or young, and direct mortality.

As WPT have the potential to be present within the Project site, CDFW recommends that a qualified biologist conduct focused surveys for WPT as part of the biological technical studies conducted in support of the CEQA document, perform an analysis of the Project's direct, indirect, and cumulative impacts to WPT in this area, and that the DEIR include the following avoidance and minimization measures for this species: CDFW recommends that a qualified biologist conduct focused surveys for nests during the egg-laying season (March through August) and that any nests discovered remain undisturbed until the eggs have hatched.

In addition to the focused WPT surveys, CDFW recommends the Draft EIR include the following measures:

Recommended Mitigation Measure 15: Pre-construction WPT Surveys

CDFW recommends that a qualified biologist conduct focused surveys for WPT 10 days prior to Project implementation. In addition, CDFW recommends that focused surveys for nests occur during the egg-laying season (March through August) and that any nests discovered remain undisturbed until the eggs have hatched.

Recommended Mitigation Measure 16: WPT Relocation

CDFW recommends that if any WPT are discovered at the site immediately prior to or during Project activities, they be allowed to move out of the area on their own.

Western Spadefoot

There was no mention of the western spadefoot (WESP) in the NOP information. WESP inhabit grassland habitats, breed in seasonal wetlands, and seek refuge in upland habitat where they occupy burrows outside of the breeding season. Review of aerial imagery indicates that the Project contains these requisite habitat elements. Habitat loss and fragmentation resulting from agricultural and urban development is the primary threat to WESP (Thomson et al. 2016). The Project area is within the range of WESP, contains suitable upland habitat (i.e., grasslands interspersed with burrows) and breeding habitat (i.e., vernal pools and swales). As a result, ground disturbing activities associated with development of the Project site have the potential to significantly impact local populations of this species.

Without appropriate avoidance and minimization measures for WESP, potentially significant impacts associated with ground disturbance from construction activities have a high likelihood of the collapse of small mammal burrows, inadvertent entrapment, loss of upland refugia, water quality impacts to breeding sites, reduced reproductive success, reduction in health and vigor of eggs and/or young, and direct mortality of individuals.

Habitat loss and fragmentation resulting from agricultural and urban development is the primary threat to WESP (Thomson et al., 2016). The Project site and greater Project area is within the range of WESP, contains suitable upland habitat (i.e., grasslands interspersed with burrows) and adjacent breeding habitat (i.e., vernal pools/ponds). As a result, ground- disturbing activities associated with the proposed Project have the potential to significantly impact local populations of this species.

CDFW recommends that a qualified biologist conduct focused surveys for WESP as part of the biological technical studies conducted in support of the CEQA document. In addition, CDFW recommends the following measures be included in the DEIR for the Project:

Recommended Mitigation Measure 17: Pre-construction WESP Surveys

CDFW recommends that a qualified biologist conduct focused surveys for WESP and their requisite habitat features to evaluate potential impacts resulting from ground- and vegetation-disturbance and that compensatory mitigation for WESP be included as part

of the larger compensatory mitigation that will likely be required for biological resources impacted by the proposed Project.

Recommended Mitigation Measure 18: WESP Avoidance

Avoidance whenever possible is encouraged via delineation and observance of a 50-foot no-disturbance buffer around burrows. If WESP are observed on the Project site, CDFW recommends that Project activities in their immediate vicinity cease and individuals be allowed to leave the Project site on their own accord. Alternatively, a qualified biologist with appropriate take authorization can move them out of harm's way and to a suitable location.

Special Status Plant Species

The Project site is within the known geographic range of several special status plant species including the California Rare Plant Rank (CRPR) 1B.1 San Joaquin Valley Orcutt grass (*Orcuttia inaequalis*), 1B.1 Greene's tuctoria (*Tuctoria greenei*), 1B.1 San Joaquin adobe sunburst (*Pseudobahia perisonii*), 1B.2 succulent owl's clover (*Castilleja campestris* var. *succulenta*), and 2B.2 dwarf downingia (*Downingia pusilla*). These species have been historically documented within the Project vicinity (CDFW 2023).

CDFW recommends that the Project site(s) be surveyed for special status plants by a qualified botanist following the "Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities" (CDFW 2018) as part of the biological technical studies conducted in support of the Draft EIR. This protocol, which is intended to maximize detectability, includes the identification of reference populations to facilitate the likelihood of field investigations occurring during the appropriate floristic period. CDFW recommends that floristic plant surveys be conducted across two seasons in order to maximize detectability and to offset climatic variations from year to year that could influence results. If surveys indicate the presence or potential presence of special status plants, consultation with CDFW is recommended for guidance on mitigation measures such as avoidance, minimization, and mitigation.

Nesting Birds

The Project site may contain suitable habitat for an abundance of nesting migratory and non-migratory bird species and likely provides suitable foraging habitat. To evaluate Project-related impacts on nesting birds and foraging special status bird species, CDFW recommends that a general habitat assessment for nesting and foraging birds be conducted as part of the biological technical studies conducted in support of the Draft EIR.

Editorial Comments and/or Suggestions

Federally Listed Species: CDFW recommends consulting with the United States Fish and Wildlife Service (USFWS) regarding potential impacts to federally listed species including but not limited to the FT vernal pool fairy shrimp (*Branchinecta lynchi*). This species has been observed approximately 2-miles northeast at the Friant-Kern Canal in addition to the WPT, currently a federal proposed threatened (FPT) species.

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.

Lake and Streambed Alteration: Based on aerial imagery, the Project site contains Dry Creek, which runs east to west through the Project site. Dry Creek Reservoir is to the north/northeast of the proposed Project site and functions as a flood control facility. There are additional ponded areas within the Project site as well. Since features including multiple streams and drainages appear to be present onsite and within the adjacent areas, Project activities will be subject to CDFW's regulatory authority pursuant to Fish and Game Code section 1600 et seq. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake (including the removal of riparian vegetation): (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral, intermittent, or episodic, as well as those that are perennial. CDFW is required to comply with CEQA in the issuance of a Lake or Streambed Alteration Agreement; therefore, if the Draft EIR approved for the Project does not adequately describe the Project and its impacts to lakes or streams, a subsequent CEQA analysis may be necessary for LSA Agreement issuance. For information on notification requirements, please refer to CDFW's website (https://wildlife.ca.gov/Conservation/LSA) or contact CDFW staff in the Central Region Lake and Streambed Alteration Program at (559) 243-4593 or R4LSA@wildlife.ca.gov.

Artificial Lighting: This Project will cover a large area once completed. Installation of outdoor artificial night lighting can disrupt the circadian rhythms of many wildlife species. Many species use photoperiod cues for communication, determining when to begin foraging, thermoregulation behavior, and migration (Longcore and Rich 2004, Miller 2006, Nightingale et al. 2006, Perry et al. 2008, Stone et al. 2009). Phototaxis, a phenomenon which results in attraction and movement towards light, can disorient, entrap, and temporarily blind wildlife species that experience it (Longcore and Rich

2004). Project activities could result in disruption of wildlife behavior, inadvertent injury, or mortality.

CDFW recommends that the Draft EIR for the Project include an analysis of the impacts of artificial lighting on biological resources and incorporate enforceable mitigation measures to decrease the impacts of artificial outdoor lighting on wildlife species. Potentially feasible mitigation measures include motion sensitive lighting; mounting light fixtures as low as possible to minimize light trespass; use of light fittings that direct and confine the spread of light downward; and use of long-wavelength light sources. In addition, CDFW recommends that lighting is not installed in ecologically sensitive areas (e.g., streams, wetlands, and habitat used by special status species, such as nesting/roosting sites and riparian corridors) and the use of the white/blue wavelengths of the light spectrum be avoided.

Wildlife Movement and Connectivity: The Project site and greater Project area appears to support significant biological resources and contains habitat connections and supports movement across the broader landscape, sustaining both transitory and permanent wildlife populations. CDFW recommends that on-site features that contribute to habitat connectivity should be evaluated and maintained. Aspects of the Project that could create physical barriers to wildlife movement, including direct or indirect Project-related activities, should be identified, and addressed in the Draft EIR.

Project Alternatives Analysis: CDFW recommends that the information and results obtained from the biological technical surveys, studies, and analysis conducted in support of the Project's Draft EIR be used to develop and modify the Project's alternatives to avoid and minimize impacts to biological resources to the maximum extent possible. When efforts to avoid and minimize have been exhausted, CDFW advises that remaining impacts to sensitive biological resources be mitigated to reduce impacts to a less than significant level, if feasible.

Cumulative Impacts: CDFW recommends that a cumulative impact analysis be conducted for all biological resources that will either be significantly or potentially significantly impacted by implementation of the Project, including those whose impacts are determined to be less than significant with mitigation incorporated or for those resources that are rare or in poor or declining health and will be impacted by the Project, even if those impacts are relatively small (i.e., less than significant). Cumulative impacts are recommended to be analyzed using an acceptable methodology to evaluate the impacts of past, present, and reasonably foreseeable future projects on resources and be focused specifically on the resource, not the Project. An appropriate resource study area should also be identified and mapped for each resource being analyzed and utilized for this analysis. CDFW recommends closely evaluating the need for a cumulative impacts analysis for the following species as part of the Draft EIR: CTS, SWHA, TRBL, CBB, AMBA, BUOW, WPT, WESP, San Joaquin Valley Orcutt grass,

Greene's tuctoria, San Joaquin adobe sunburst, succulent owl's clover, and dwarf downingia.

CDFW staff is available for consultation in support of cumulative impacts analyses as a trustee and responsible agency under CEQA.

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 CNDDB. The CNDDB field survey form can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Submitting-Data. The completed form can be mailed electronically to CNDDB at the following email address: CNDDB@wildlife.ca.gov. The types of information reported to CNDDB can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Plants-and-Animals.

FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is 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 approval to be operative, vested, and final (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

CONCLUSION

CDFW appreciates the opportunity to comment on the NOP to assist the City of Clovis in identifying and mitigating Project impacts on biological resources.

If you have any questions, please contact Kelley Nelson, Environmental Scientist, at the address provided on this letterhead, by telephone at (559) 580-3194 or by electronic mail at Kelley.Nelson@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Julie Vance
FA83F09FE08945A...

Julie A. Vance
Regional Manager

ec: State Clearinghouse
Office of Planning and Research
State.clearinghouse@opr.ca.gov

REFERENCES

California Burrowing Owl Consortium. 1993. Burrowing owl survey protocol and mitigation guidelines. Pages 171-177 *in* J. Lincer and K. Steenhof, editors. The burrowing owl, its biology and management. Raptor Research Report Number 9.

California Department of Fish and Game, 2012. Staff report on burrowing owl mitigation. California Department of Fish and Game, Sacramento, California, USA.

California Department of Fish and Game. 1994. Staff report regarding mitigation for impacts to Swainson's hawks (*Buteo Swainsoni*) in the Central Valley of California. California Department of Fish and Game, Sacramento, California, USA.

California Department of Fish and Wildlife [CDFW]. 2023. Biogeographic Information and Observation System. California Natural Diversity Database. <https://www.wildlife.ca.gov/Data/BIOS>. Accessed 01 Nov 2023.

California Department of Fish and Wildlife. 2023a. Survey considerations for California Endangered Species Act candidate bumble bee species. <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150&inline>. Accessed 6 June 2023.

California Department of Fish and Wildlife. 2018. Protocols for surveying and evaluating impacts to special status native plant populations and sensitive natural communities. California Department of Fish and Wildlife, Sacramento, California, USA.

California Department of Fish and Wildlife. 2016. Five-year status review: Swainson's hawk (*Buteo swainsoni*). California Department of Fish and Wildlife, Sacramento, California, USA.

California Department of Fish and Wildlife. 2015. Staff guidance regarding avoidance of impacts to tricolored blackbird breeding colonies on agricultural fields in 2015. California Department of Fish and Wildlife, Sacramento, California, USA.

Hatfield, R., S. Colla, S. Jepsen, L. Richardson, R. Thorp, and S. Foltz Jordan. 2014. Draft IUCN assessments for North American Bombus spp. for the North American IUCN bumble bee specialist group. The Xerces Society for Invertebrate Conservation, Portland, Oregon, USA.

Longcore, T., and C. Rich. 2004. Ecological light pollution - Review. Frontiers in Ecology and the Environment 2:191–198.

Miller, M. 2006. Apparent effects of light pollution on singing behavior of American robins. The Condor 108:130–139.

Nightingale, B., T. Longcore, and C. Simenstad. 2006. Artificial night lighting and fishes. Pages 257–276 *in* C. Rich and T. Longcore, editors. Ecological consequences of artificial light at night. Island Press, Washington, D.C., USA.

Perry, G., B. Buchanan, R. Fisher, M. Salmon, and S. Wise. 2008. Effects of night lighting on urban reptiles and amphibians. Chapter 16 in: Urban Herpetology: Ecology, Conservation and Management of Amphibians and Reptiles in Urban and Suburban Environments. J. C. Mitchell, R. E. Jung Brown and B. Bartholomew (ed.). Herpetological Conservation 3:211-228

Searcy, C.A. and H.B. Shaffer. 2011. Determining the migration distance of a vagile vernal pool specialist: How much land is required for conservation of California tiger salamanders? California State University, Chico, California, USA.

Stone, E., G. Jones, and S. Harris. 2009. Street lighting disturbs commuting bats. Current Biology 19:1123–1127.

Swainson's Hawk Technical Advisory Committee. 2000. Recommended timing and methodology for Swainson's hawk nesting surveys in California's Central Valley. Swainson's Hawk Technical Advisory Committee.

Thomson, R. C., A. N. Wright, and H. Bradley Shaffer. 2016. California amphibian and reptile species of special concern. California Department of Fish and Wildlife and University of California Press.

Xerces Society., 2018. A petition to the state of California fish and game commission to list the Crotch bumble bee (Bombus crotchii), Franklin's bumble bee (Bombus franklini), Suckley cuckoo bumble bee (Bombus suckleyi), and western bumble bee (Bombus occidentalis occidentalis) as Endangered under the California Endangered Species Act. Portland, Oregon, USA..

Zeiner, D., W. Laudenslayer, Jr., K., Mayer, and M. White. 1990. California's wildlife volume I-III. California Department of Fish and Game, editor. Sacramento, CA, USA

Attachment 1

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

PROJECT: Vista Ranch Project

SCH No.: 2023100508

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
Before Disturbing Soil or Vegetation	
SWHA	
Recommended Mitigation Measure 1: SWHA surveys prior to construction	
Recommended Mitigation Measure 3: SWHA take authorization	
Recommended Mitigation Measure 4: SWHA foraging habitat mitigation	
TRBL	
Recommended Mitigation Measure 5: TRBL surveys	
CBB	
Recommended Mitigation Measure 8: CBB surveys prior to construction	
Recommended Mitigation Measure 9: CBB take authorization	
AMBA	
Recommended Mitigation Measure 10: AMBA surveys	
BUOW	
Recommended Mitigation Measure 12: BUOW surveys prior to construction	
Recommended Mitigation Measure 14: BUOW passive relocation and mitigation	
WPT	
Recommended Mitigation Measure 15: WPT surveys	
WESP	
Recommended Mitigation Measure 17: Pre-construction WESP surveys	
During Construction	
SWHA	
Recommended Mitigation Measure 2: SWHA avoidance buffer	
TRBL	
Recommended Mitigation Measure 6: TRBL avoidance	
Recommended Mitigation Measure 7: TRBL take authorization	

AMBA	
Recommended Mitigation Measure 11: AMBA avoidance	
BUOW	
Recommended Mitigation Measure 13: BUOW avoidance buffer	
WPT	
Recommended Mitigation Measure 16: WPT relocation	
WESP	
Recommended Mitigation Measure 18: WESP avoidance	