



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
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**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



September 3, 2024

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**Subject: Vista Ranch Project (Project)  
Draft Environmental Impact Report (DEIR)  
State Clearinghouse No. 2023100508**

Dear McKencie Perez:

The California Department of Fish and Wildlife (CDFW) received a DEIR from the City of Clovis for the Project listed above pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.

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 projects and related activities that have the potential to adversely affect fish and wildlife resources.

McKencie Perez, Senior Planner  
City of Clovis, Planning Division  
September 3, 2024  
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, projects tiered from the Plan may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of a project tiered from the Plan 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).

## **PROJECT DESCRIPTION SUMMARY**

**Proponent:** City of Clovis

**Objective:** The proposed Project, a Master Development Plan, is a mixed-use development anticipated to provide up to 3,286 residential units, including single- and multi-family units. In addition, the Project includes a mixed-use commercial center designed to provide localized retail and service uses, employment to the Project vicinity, a mini storage site, an elementary school, and community recreation centers. The proposed Project would also include modifications to land use, focus area, Shepherd Ave access, circulation elements, and parks and open space to accommodate the proposed Project. Additional Project elements include new public roadways with pedestrian/bicycle and vehicular access, landscaping and lighting, water, storm drainage, wastewater facilities and other infrastructure. Finally, the Project includes a City of Clovis Sphere of Influence (SOI) expansion for the entire 952-acre Project site.

The Project site contains the Vista Ranch Master Plan (MP) area that is approximately 507 acres that would be annexed into the City of Clovis. The Vista Ranch MP 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 by Wilson Premier Homes. 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 MPArea 2 is controlled by several property owners within the MP, does not include full entitlements and would require further environmental review to enable future development once more detailed design work is performed. There are two parcels within the MPArea 2 with active Williamson Act contracts. There is also 445 acres of land outside of the Vista Ranch MP, but within

McKencie Perez, Senior Planner  
City of Clovis, Planning Division  
September 3, 2024  
Page 3

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 is located directly north of the City of Clovis (City) limit line, in unincorporated Fresno County. The Project site consists of approximately 952 acres located within the City's Planning Area and is bounded on the north by East Behymer Avenue, on the east by the 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).

Offsite infrastructure may include connections and improvements to existing infrastructure in adjacent roadways.

## **COMMENTS AND RECOMMENDATIONS**

CDFW offers the following comments and recommendations to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct, indirect, and cumulative impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document for this Project.

Detailed information is lacking in the DEIR regarding the occurrence of biological resources in MPArea 2 (139-ac) or the Non-Development Area (445-ac). For MPArea 2 and the Non-Development Area, detailed information on biological conditions in MPArea 1 was augmented by aerial photography and field reconnaissance. The DEIR notes that no detailed biological studies have been conducted in these areas. The DEIR also notes that MPArea 2 development is at the discretion of the property owners and subject to project-level analyses while the Non-Development Area is anticipated to have a programmatic-level analysis within the document. While CDFW understands that projects tiered from this DEIR within MPArea 2 and the Non-Development Area would have subsequent CEQA analyses, CDFW recommends that Projects within MPArea 2 and the Non-Development Area incorporate the measures identified for MPArea1 in the DEIR with CDFW's recommendations incorporated from this comment letter. In addition to this more general recommendation, CDFW provides the following species-specific recommendations below.

The DEIR acknowledges that the Project area is within the geographic range of numerous special-status animal and plant species and proposes specific mitigation measures to reduce impacts to less than significant. CDFW has concerns about the ability of some the proposed mitigation measures to reduce impacts to less than significant and avoid unauthorized take for several special-status animal species, including the State threatened Swainson's hawk (*Buteo swainsoni*), the State and

McKencie Perez, Senior Planner  
City of Clovis, Planning Division  
September 3, 2024  
Page 4

federally threatened California tiger salamander (*Ambystoma californiense*), the State candidate endangered Crotch's bumble bee (*Bombus crotchii*), the State species of special concern American badger (*Taxidea taxus*) and burrowing owl (*Athene cunicularia*), and the State species of special concern and federally proposed threatened northwestern pond turtle (*Actinemys marmorata*), and western spadefoot (*Spea hammondi*).

Additionally, the Project area is within the geographic range of several special-status plant species including, but not limited to, the California Rare Plant Rank (CRPR) 4.2 Ewan's larkspur (*Delphinium hansenii ssp. ewanianum*), the CRPR 1B.1 forked hare-leaf (*Lagophylla dichotoma*), and the CRPR 1B.2 spiny-sealed button-celery (*Eryngium spinosepalum*).

### **Swainson's Hawk (SWHA)**

Mitigation Measure 3.4-9 states that prior to construction of each of the MP Area 1 phases, a qualified biologist/ecologist with experience in Fresno County will conduct comprehensive preconstruction surveys for special-status wildlife, including SWHA. The surveys will follow the Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (SWHA Technical Advisory Committee (TAC) 2000). Mitigation Measure 3.4-10 further mitigates for impacts to SWHA by requiring that a ½-mile no-disturbance buffer be implemented around active SWHA nests. CDFW concurs with Mitigation Measures 3.4-9 and 3.4-10 and 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 Incidental Take Permit (ITP), pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA.

### **California Tiger Salamander (CTS)**

The DEIR notes that the Project site contains suitable habitat for CTS and the species has been documented as breeding on the site and is expected to use upland habitats for dispersal and aestivation. Mitigation Measure 3.4-3 is provided to mitigate for potential impacts to the species. CDFW concurs with Mitigation Measure 3.4-3, in particular the portion of the measure that states that a State ITP will be obtained. CDFW recommends the measures for CTS be included within the Final Environmental Impact Report (FEIR) for this Project.

### **Crotch's Bumble Bee (CBB)**

The DEIR notes that the Project site contains suitable habitat for CBB and the species has been documented foraging on the Project site and has the potential to nest within the Project vicinity. Mitigation Measure 3.4-5 is provided to mitigate for potential impacts

McKencie Perez, Senior Planner  
City of Clovis, Planning Division  
September 3, 2024  
Page 5

to the species. CDFW concurs with Mitigation Measure 3.4-5, in particular the portion of the measure that states that a State ITP will be obtained. CDFW recommends the measures for CBB be included within the Final EIR for this Project.

### **American Badger (AMBA)**

The DEIR notes that there is the potential for AMBA to occur within the Project site, but no mitigation measures are provided to mitigate for potential impacts to the species. As such, CDFW recommends the following:

#### **Recommended Mitigation Measure 1: American Badger Surveys**

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

#### **Recommended Mitigation Measure 2: American Badger 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 (BUOW)**

The DEIR notes that Project site contains suitable foraging habitat and nest burrows for BUOW per Project information and Mitigation Measure 3.4-9 is provided to mitigate for potential impacts to the species. CDFW concurs within Mitigation Measure 3.4-9 and recommends that if a BUOW is detected, no-disturbance buffers be implemented, as outlined in the “Staff Report on Burrowing Owl Mitigation” (CDFG 2012). If BUOW are found within these recommended buffers and avoidance is not possible, consultation with the CDFW is recommended for guidance on the development of mitigation measures such as take avoidance, minimization, and mitigation.

### **Northwestern Pond Turtle (NWPT)**

The DEIR notes that the Project site contains suitable habitat for NWPT and Mitigation Measure 3.4-8 is provided to mitigate for potential impacts to the species. CDFW concurs with Mitigation Measure 3.4-8 and recommends in the event NWPT does not become federally listed and a Federal Endangered Species Act (FESA) permit is not obtained, that any NWPT nests that are discovered remain undisturbed with a no-disturbance buffer maintained around the nest until the eggs have hatched and neonates are no longer in the nest or Project areas. If NWPT individuals are discovered at the site during surveys or Project activities, CDFW recommends that they be allowed to move out of the area of their own volition without disturbance.

McKencie Perez, Senior Planner  
City of Clovis, Planning Division  
September 3, 2024  
Page 6

### **Western Spadefoot (WESP)**

The DEIR notes that the Project site contains suitable habitat for WESP and Mitigation Measure 3.4-7 is provided to mitigate for potential impacts to the species. CDFW concurs with Mitigation Measure 3.4-7 and recommends in the event WESP does not become federally listed and a FESA permit is not obtained, WESP individuals be avoided 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.

### **Special-Status Plants**

The DEIR notes that the Project site contains suitable habitat for special-status plants and Mitigation Measure 3.4-1 is provided to mitigate for potential impacts to special-status plants species. CDFW concurs with Mitigation Measure 3.4-1 and recommends that if special-status plants are found during surveys, that they be avoided whenever possible by delineation and observation of a 50-foot no-disturbance buffer, delineated from the outer edge of the plant population(s) or specific habitat type(s) required by special-status plant species. If buffers cannot be maintained, then consultation with CDFW is warranted during preparation of the Plant Salvage and Mitigation Plan to determine appropriate minimization and mitigation measures for impacts to special-status plant species.

### **Editorial Comments and/or Suggestions**

**Wildlife Movement and Connectivity:** The Project site and greater Project vicinity appears to support significant biological resources and contains habitat connections and supports movement across the broader landscape, sustaining both transitory and permanent wildlife populations. Based on the information provided in the DEIR, it does not appear that a robust analysis on the potential Project-related impacts to wildlife connectivity were analyzed and addressed. As such, CDFW recommends that on-site features that contribute to habitat connectivity be evaluated with a robust analysis and maintained. Aspects of the Project that could create physical barriers to wildlife movement, including direct or indirect Project-related activities, should also be identified, and addressed in this DEIR.

**California Natural Diversity Database:** Please note that the California Natural Diversity Database (CNDDDB) is populated by voluntary submissions of species detections. As a result, species may be present in locations not depicted in the CNDDDB but where there is suitable habitat and features capable of supporting species. A lack of an occurrence record, or lack of recent occurrence records, in the CNDDDB does not mean that a species is not present. In order to adequately assess any potential Plan-

McKencie Perez, Senior Planner  
City of Clovis, Planning Division  
September 3, 2024  
Page 7

related impacts to biological resources, surveys conducted by a qualified biologist during the appropriate survey period(s) and using the appropriate protocol survey methodology are warranted in order to determine whether or not any special-status species are present.

**Lake and Streambed Alteration:** The DEIR notes that streams subject to CDFW's regulatory authority pursuant to Fish and Game Code section 1600 et seq. are present within the Project site and Mitigation Measure 3.4-16 is provided which requires the Project proponent to notify pursuant to Fish and Game Code section 1602. 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 or intermittent as well as those that are perennial and may include those that are highly modified such as canals and retention basins.

CDFW is required to comply with CEQA in the issuance of a Lake or Streambed Alteration Agreement (LSAA); therefore, if the CEQA document does not adequately describe the Project and its impacts to lakes or streams, a subsequent CEQA analysis may be necessary for LSAA 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.

**Nesting birds:** CDFW encourages that ground-disturbing activities occur during the bird non-nesting season; however, if ground-disturbing or vegetation-disturbing activities must occur during the nesting season (February 1st through September 15th), a 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 Code sections as referenced above.

To evaluate project-related impacts on nesting birds, CDFW recommends that a qualified biologist conduct a pre-construction survey for active nests no more than 10 days prior to the start of ground or vegetation disturbance to maximize the probability that nests that could potentially be impacted are detected. CDFW also recommends that surveys cover a sufficient area around a project site to identify nests and determine their status. A sufficient area means any area potentially affected, either directly or indirectly, by a project. In addition to direct impacts (i.e., nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. CDFW recommends that a qualified biologist establish a behavioral baseline of all identified nests. Once Project activities begin, CDFW recommends having a qualified biologist continuously monitor

McKencie Perez, Senior Planner  
City of Clovis, Planning Division  
September 3, 2024  
Page 8

nests to detect behavioral changes resulting from the project. If behavioral changes occur, CDFW recommends halting the work causing that change and consulting with CDFW 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 the birds have fledged and are no longer reliant upon the nest or on-site parental care for survival. Variance from these no-disturbance buffers is possible when there is a compelling biological or ecological reason to do so, such as when the project site would be concealed from a nest site by topography. CDFW recommends that a qualified wildlife 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, Section 21003, subd. (e).) Accordingly, please report any special-status species and natural communities detected during surveys to 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](mailto: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**

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 Plan approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

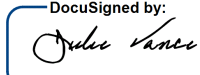


McKencie Perez, Senior Planner  
City of Clovis, Planning Division  
September 3, 2024  
Page 9

## CONCLUSION

CDFW appreciates the opportunity to comment on the DEIR to assist the City in identifying and mitigating Project impacts on biological resources. Questions regarding this letter or further coordination should be directed to Kelley Nelson, Environmental Scientist, at (559) 580-3194 or [Kelley.Nelson@wildlife.ca.gov](mailto:Kelley.Nelson@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
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Julie A. Vance  
Regional Manager

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McKencie Perez, Senior Planner  
City of Clovis, Planning Division  
September 3, 2024  
Page 10

## **REFERENCES**

Swainson's hawk technical advisory committee (SWHA TAC). 2000. Recommended timing and methodology for Swainson's hawk nesting surveys in the central valley of California. Swainson's Hawk Technical Advisory Committee.

**Attachment 1**

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

**PROJECT: Vista Ranch Project**

**SCH No.: 2023100508**

<b>RECOMMENDED MITIGATION MEASURE</b>	<b>STATUS/DATE/INITIALS</b>
<i>Before Disturbing Soil or Vegetation</i>	
<b>AMBA</b>	
Recommended Mitigation Measure 1: American badgers surveys	
<i>During Construction</i>	
<b>AMBA</b>	
Recommended Mitigation Measure 2: American badgers surveys	