



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



April 23, 2025

Mark Tolentino, Planner III
Kern County Planning and Natural Resources Department
2700 M Street, Suite 100
Bakersfield, California 93301
(661) 862-5041
TolentinoM@kerncounty.com

Subject: IPG Industrial Project (Project)
Draft Environmental Impact Report (DEIR)
State Clearinghouse No.: 2023110442

Dear Mark Tolentino:

The California Department of Fish and Wildlife (CDFW) received a DEIR from Kern County, as Lead Agency, for the above-referenced 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

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.

Mark Tolentino, Planner III
County of Kern
April 23, 2025
Page 2

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, reasonably foreseeable future projects may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of reasonably foreseeable future projects 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).

Unlisted Species: Species of plants and animals need not be officially listed as Endangered, Rare, or Threatened on any State or federal list pursuant to CESA and/or the federal Endangered Species Act (ESA) to be considered Endangered, Rare, or Threatened under CEQA. If a species can be shown to meet the criteria specified in the CEQA Guidelines (Cal. Code Regs., tit. 14, Chapter 3, § 15380), it should be fully considered in the environmental analysis for the Project.

PROJECT DESCRIPTION SUMMARY

Proponent: IPG Kern County 52 Holdings, LLC

Objective: The Project will construct two single-story logistics facilities totaling approximately 923,128 square feet (including 15,000 square feet for dedicated office space) and associated improvements on approximately 49.05 acres of privately owned land.

Location: The Project site is approximately 1.7 miles north of the City of Bakersfield, in unincorporated Kern County. The Project site is located within the Kern County, Metropolitan Bakersfield General Plan (unincorporated Planning Area). The City of Shafter lies approximately 3.1 miles west of the Project site, and the unincorporated community of Oildale is directly bordering the east side of the Project site. The Project is located approximately 0.6 miles east of Meadows Field Airport and is within the Sphere of Influence of the airport.

Mark Tolentino, Planner III
County of Kern
April 23, 2025
Page 3

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.

Aerial imagery of the Project site show the Project site contains regularly disked and fallowed agricultural lands and is comprised of annual grassland and ruderal species. The Project site is bordered by fallowed and regularly disked annual grassland to the north, and developed areas to the south, west and east perimeter of the Project. CDFW previously commented on the Notice of Preparation (NOP) for the Project in a letter dated December 22, 2023.

The DEIR acknowledges that the Project site is within the geographic range of several special-status species and includes a Biological Resources Assessment (BRA) documenting plant and wildlife species surveys prepared as part of Project planning. The DEIR also includes specific mitigation measures to reduce biological resource impacts to less than significant including, retaining a Lead Biologist to oversee compliance with protection measures for all listed species and other special-status species that may be affected by the construction and operation of the Project; development and implementation of a Worker Environmental Awareness Training Program; and implementation of various general avoidance and protective measures such as daily pre-construction visual surveys. CDFW concurs with these mitigation measures and concurs with the measures provided to mitigate for potential impacts to nesting birds and Crotch's bumble bee (*Bombus crotchii*), however, CDFW has concerns about the ability of some of the proposed measures to reduce impacts to less than significant and avoid unauthorized take for the State threatened and federally endangered San Joaquin kit fox (*Vulpes macrotis mutica*); the State threatened Swainson's hawk (*Buteo swainsoni*); and the State candidate western burrowing owl (*Athene cunicularia hypugaea*).

Comment 1: San Joaquin Kit Fox

The neighboring City of Bakersfield is home to a significant urban population of San Joaquin kit fox (SJKF) with multiple recorded occurrences in the California Natural Diversity Database (CNDDDB) (CDFW 2025). In addition to native habitats, SJKF can den in rights-of-way, vacant lots, under buildings, and other urban habitats and populations can fluctuate over time. San Joaquin kit fox may be attracted to both construction materials (pipes, etc.) and construction footprints due to the type and level of activity (excavation, etc.) and the loose, friable soils that are created as a result of intensive ground disturbance. SJKF will readily use shipping containers, portable buildings, and stacks of materials (e.g., I-beams, wooden boards) with spaces within or

Mark Tolentino, Planner III
County of Kern
April 23, 2025
Page 4

underneath them for denning, in addition to pipes and culverts (Cypher et al. 2023). To deter SJKF from creating dens under construction materials, CDFW recommends elevating materials one foot or more off the ground using k-rails or similar structures.

CDFW notes that SJKF pedestrian survey transects were conducted as part of a site BRA. The DEIR mentions that there is a moderate to high potential for SJKF to occur on the Project site due to the existence of suitable habitat for foraging and denning. Several California ground squirrel (*Otospermophilus beecheyi*) burrows and complexes were also observed during the site survey. The DEIR provides several mitigation measures to maximize avoidance and protective measures to SJKF and other animals, such as preventing inadvertent entrapment during construction by covering excavated steep-walled holes or trenches, thoroughly inspecting all construction pipes, culverts, or similar structures with a four inch or greater diameter prior to being moved or capped, and containing trash and food items in closed containers.

As SJKF have a high potential to den and/or forage within the Project site and have been documented within the Project vicinity, CDFW strongly recommends that the Project proponent pursue SJKF take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b) to comply with CESA.

Mitigation measure 4.4-10 notes the intent to conduct pre-construction surveys. In the absence of an ITP, CDFW recommends conducting the surveys following the USFWS' "Standardized Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance" (USFWS 2011). These measures should be implemented no less than 14 days and no more than 30 days prior to the beginning of ground and/or vegetation disturbing activities.

Additionally, CDFW recommends adding the following be included as mitigation measures within the DEIR:

Recommended Mitigation Measure 1: SJKF Avoidance Buffer

CDFW recommends implementing no-disturbance buffers, as described in the USFWS' "Standardized Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance" (USFWS 2011) around potentially suitable or known SJKF den sites.

Recommended Mitigation Measure 2: SJKF Take Authorization

If the no-disturbance buffers outlined in the USFWS Protocol for SJKF is not feasible, CDFW recommends that consultation with CDFW occur 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.

Mark Tolentino, Planner III
County of Kern
April 23, 2025
Page 5

Comment 2: Swainson's Hawk

Swainson's Hawk (SWHA) have been documented to occur near the Project site (CDFW 2025). Additionally, SWHA are known to travel up to 18 miles to forage and are also attracted to ground disturbing activities such as disking because these activities make prey vulnerable by reducing cover (Estep 1989). The habitat types present at and surrounding the Project site all provide suitable foraging habitat for SWHA and any power poles or trees in the Project vicinity may be utilized for perching and/or nesting. SWHA exhibit high nest-site fidelity year after year and lack of suitable nesting habitat limits their local distribution and abundance (CDFW 2016). In addition, conversion of undeveloped land can directly influence distribution and abundance of SWHA, due to the reduction in foraging habitat.

In addition to the mitigation measures written as 4.4-6, 4.4-7 and 4.4-8 related to nesting bird/raptors, CDFW recommends the following be included as mitigation measures within the DEIR:

Recommended Mitigation Measure 3: SWHA Avoidance Buffer

If Project-specific ground disturbance 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 4: 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 5: SWHA Foraging Habitat Mitigation

Finally, 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" (CDFG 1994) to reduce impacts to foraging habitat to less than significant. The Staff Report recommends that mitigation for habitat loss

Mark Tolentino, Planner III
County of Kern
April 23, 2025
Page 6

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 $\frac{3}{4}$ 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 $\frac{1}{2}$ acre of HM land for each acre of development is advised

Comment 3: Western Burrowing Owl

The California Fish and Game Commission named western burrowing owl (BUOW) as a candidate for potential listing as a protected species under CESA on October 10, 2024. This action advanced the species to candidacy under CESA and as such BUOW now receives the same legal protection afforded to an endangered or threatened species (Fish & G. Code, §§ 2074.2 & 2085). It is illegal to import, export, take (hunt, pursue, catch, capture, or kill, or attempt engage in any of these activities), possess, purchase, or sell BUOW or any part or product thereof (Fish & G. Code, §§§ 86, 2080, 2085).

The Project site is within the known geographic range of BUOW and there are multiple historic and recent occurrences located within ten miles of the Project site (CDFW 2025). BUOW inhabit open grasslands and desert scrublands containing small mammal burrows, a requisite habitat feature used by BUOW for nesting and cover. The biological survey performed for this Project states that the Project site provides suitable foraging and nesting habitat for BUOWs. Although no BUOWs were observed during the survey, several suitable BUOW burrows or burrow complexes were observed and the potential for BUOW to use the ground squirrel burrows on site as temporary shelter, nesting, or over-wintering prior to Project implementation exists.

Mitigation measure 4.4-9 states the methodology that will be utilized to minimize Project impacts to BUOW including conducting pre-construction surveys by a qualified biologist to locate active breeding or wintering BUOW burrows. As BUOW are now a candidate species, CDFW recommends replacing the portion of Mitigation Measure 4.4-9 related to avoidance buffers and passive relocation with the following:

Recommended Mitigation Measure 6: BUOW Avoidance Buffer

Should a BUOW or known BUOW den (active or inactive) be detected, either during pre-construction surveys or construction activities, CDFW recommends that no-disturbance buffers, as outlined in the 2012 Staff Report on Burrowing Owl Mitigation (CDFG 2012), be implemented prior to and during any ground-

Mark Tolentino, Planner III
County of Kern
April 23, 2025
Page 7

disturbing activities. CDFW also recommends that these buffers be implemented for both wintering and breeding BUOW.

Recommended Mitigation Measure 7: BUOW Take Authorization

If a BUOW or known BUOW den (active or inactive) is detected, and the no-disturbance buffers outlined in the 2012 Staff Report on Burrowing Mitigation are 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.

Editorial Comments and/or Suggestions

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.

Nesting birds: CDFW encourages that Project 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), the 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.

CDFW further 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 the Project site to identify nests and determine their status. A sufficient area means any area potentially affected, either directly or indirectly, by the 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 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.

Mark Tolentino, Planner III
County of Kern
April 23, 2025
Page 8

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 biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

CNDDDB:

Please note that the CNDDDB is populated by records through 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 in the CNDDDB does not mean a species is not present. In order to adequately assess any potential Project 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 at or near the Project site.

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 the CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to the CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

FILING FEES

The Project, as proposed, could have an impact on biological resources, and an 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).

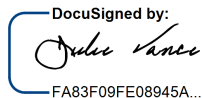
Mark Tolentino, Planner III
County of Kern
April 23, 2025
Page 9

CONCLUSION

CDFW appreciates the opportunity to comment on the DEIR to assist the Kern County in identifying and mitigating Project impacts on biological resources. A Mitigation Monitoring and Reporting Program (Attachment 1) is included below to assist Kern County with incorporating the recommended mitigation measures provided above.

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 regarding this letter or further coordination, please contact Marile Colindres, Environmental Scientist, at the address provided on this letterhead, by telephone at (559) 974-3452, or by electronic mail at marile.colindres@wildlife.ca.gov.

Sincerely,

DocuSigned by:

FA83F09FE08945A...

Julie A. Vance
Regional Manager

ATTACHMENT

ec: State Clearinghouse
Governor's Office of Planning and Research
State.Clearinghouse@opr.ca.gov

Mark Tolentino, Planner III
County of Kern
April 23, 2025
Page 10

REFERENCES

- 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. Sacramento, California, USA.
- California Department of Fish and Game. 2012. Staff report on burrowing owl mitigation. California Department of Fish and Wildlife, Sacramento, California, USA.
- California Department of Fish and Wildlife. 2016. Five year status review for Swainson's hawk (*Buteo swainsoni*). California Department of Fish and Wildlife, Sacramento, California, USA.
- California Department of Fish and Wildlife. 2025. Biogeographic information and observation system (BIOS). <https://www.wildlife.ca.gov/Data/BIOS>. Accessed 11 April 2025.
- Cypher B., E. Noel, E. Kelly, T. Westall, N. Deatherage, and A. Gabaldon. 2023. Response of San Joaquin kit foxes to road construction sites. California State University-Stanislaus – Endangered Species Recovery Program, Turlock, California, USA.
- Estep, J. 1989. Biology, movements, and habitat relationships of the Swainson's hawk in the Central Valley of California 1986-1987. State of California, The Resources Agency, Department of Fish and Game, Wildlife Management Division.
- 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.
- U. S. Fish and Wildlife Service. 2011. Standard recommendations for the protection of the San Joaquin kit fox prior to or during ground disturbance. U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, Sacramento, California.

Attachment 1

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

**PROJECT: IPG Industrial Project (Project)
Draft Environmental Impact Report (DEIR)**

SCH No.: 2023110442

| RECOMMENDED MITIGATION MEASURE | STATUS/DATE/INITIALS |
|--|-----------------------------|
| <i>Before Disturbing Soil or Vegetation</i> | |
| San Joaquin Kit Fox (SJKF) | |
| Recommended Mitigation Measure 2: SJKF Take Authorization | |
| Swainson’s Hawk (SWHA) | |
| Recommended Mitigation Measure 4: SWHA Take Authorization | |
| Recommended Mitigation Measure 5: SWHA Foraging Habitat Mitigation | |
| Western Burrowing Owl (BUOW) | |
| Recommended Mitigation Measure 7: BUOW Take Authorization | |
| <i>During Construction</i> | |
| San Joaquin Kit Fox (SJKF) | |
| Recommended Mitigation Measure 1: SJKF Avoidance Buffer | |
| Swainson’s Hawk (SWHA) | |
| Recommended Mitigation Measure 3: SWHA Avoidance Buffer | |
| Western Burrowing Owl (BUOW) | |
| Recommended Mitigation Measure 6: BUOW Avoidance Buffer | |

