



DEPARTMENT OF FISH AND WILDLIFE

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April 29, 2024

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Governor's Office of Planning & Research

Apr 30 2024

STATE CLEARINGHOUSE

**Subject: Kern River Eastridge Carbon Capture and Storage Project (Project)
Notice of Preparation (NOP)
State Clearinghouse No. 2024040081**

Dear Keith Alvidrez:

The California Department of Fish and Wildlife (CDFW) received a NOP from Kern County for the above -referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under Fish and Game Code.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (*Id.*, § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

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

CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code will be required.

Fully Protected Species: CDFW has jurisdiction over species of birds, mammals, amphibians, reptiles, and fish pursuant to Fish and Game Code sections 3511, 4700, 5050, and 5515. Take of any fully protected species is prohibited and CDFW cannot authorize their incidental take except as specifically provided for in Fish and Game Code; none of those specific exceptions are applicable to this project.

Bird Protection: 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).

Other Special Status 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 (California Code of Regs tit. 14, Chapter 3, § 15380), CDFW recommends it be fully considered in the environmental analysis for the Project.

PROJECT DESCRIPTION SUMMARY

Proponent: Chevron New Energies

Project Description/Objective: Chevron New Energies is proposing the construction and operation of a carbon capture and storage (CCS) facility. In the NOP, Kern County indicates that the CCS facility would include a carbon capture facility constructed near an existing cogeneration plant and a pipeline which will transport the processed CO₂ to six new injection wells. The Project will also involve the construction of monitoring wells and the possible abandonment of existing oil wells.

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Kern County will prepare an Environmental Impact Report (EIR) for the Project. The NOP lacks detailed information regarding the actual footprint of the Project (Project Site) within the oil field, and does not address CO₂ transport methods or pipelines, ground disturbance, staging, laydown, or other specific Project-related activities which could impact biological resources and result in significant environmental impacts within the Project Site. CDFW expects these details will be provided in the EIR. CDFW also expects additional detail will be provided in the EIR addressing:

- the need for nightwork during construction or operations/maintenance of the facilities and related potential biological resource impacts;
- construction methods and locations of pipeline (aboveground vs underground, structural support of aboveground sections) and related potential biological resource impacts;
- operations and maintenance activities which would be required following initial construction of the Project and related potential biological resource impacts;
- the phase of the CO₂ transported through the pipeline (gaseous or liquid) which will inform the related impact analysis;
- potential catastrophic events (and emergency responses to those events) or other CO₂ leakage events which could occur along the pipeline, at the capture facility, and at the injection facilities during operation and/or maintenance. Specifically, potential impacts to vegetation and wildlife from "catastrophic failure" during injection and transport (pipelines) should be evaluated, as well as the potential for more chronic impacts to vegetation and wildlife associated with slow CO₂ leakage less likely to be immediately detected, especially from pipelines; and
- Project design to keep Project elements well out of the Kern River flood zone even in the event of levee failure, as well as other measures to insure that high flows of the Kern River and other streams in the vicinity of the Project do not have the potential to threaten Project infrastructure similar to the threats that occurred to oil infrastructure in in the Project Area in May 2023.

Location: Chevron New Energies proposes the construction and operation of the CCS facility over portions of, and within the administrative boundaries of, the existing 16,600-acre Kern River Oil Field, the southernmost portion of which exists within the City of Bakersfield in Kern County.

Timeframe: n/a

COMMENTS AND RECOMMENDATIONS

Special-Status Species: Special-status species are known to exist in the vicinity of the Project Site and there is the potential for the Project to impact State and federally listed species. Records from the California Natural Diversity Database (CNDDDB) show that

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the following special-status species, including State and federally listed species (CDFW 2024) could be impacted by construction and operation of the Project: the State threatened and federally endangered San Joaquin kit fox (*Vulpes macrotis mutica*); the State and federally endangered and State fully protected blunt-nosed leopard lizard (*Gambelia sila*); the State and federally endangered Tipton kangaroo rat (*Dipodomys nitratooides nitratooides*) and California jewelflower (*Caulanthus californicus*); the State candidate for listing Crotch's bumble bee (*Bombus crotchii*); the State threatened San Joaquin antelope squirrel (*Ammospermophilus nelsoni*); the State and federally endangered Bakersfield cactus (*Opuntia basilaris* var. *treleasei*); the federally endangered San Joaquin woollythreads (*Monolopia congdonii*); the State species of special concern American badger (*Taxidea taxus*), Tulare grasshopper mouse (*Onychomys torridus tularensis*); burrowing owl (*Athene cunicularia*), western pond turtle (*Emmys marmorata*), and California glossy snake (*Arizona elegans occidentalis*); the California Rare Plant Ranked 4.2 Hoover's eriastrum (*Eriastrum hooveri*); the California Rare Plant Ranked 1B.2 calico monkeyflower (*Diplacus pictus*), and the California Rare Plant Ranked 1B.1 Piute Mountains navarretia (*Navarretia setiloba*).

CDFW recommends that a habitat assessment be conducted at and in the vicinity of the Project Site for the aforementioned plant and animal species (hereafter, special status species). The assessment should be conducted by a qualified biologist knowledgeable with the species and any potentially suitable habitat identified should be surveyed by a qualified biologist for the potential presence of these species as part of the biological technical studies conducted in support of the EIR. If the surveys detect presence of special status species at and/or near the Project Site, the EIR should include measures to minimize, mitigate, and avoid impacts to those species, or require the Project proponent to obtain incidental take authorization under Section 2081 of Fish and Game Code if take avoidance of species listed pursuant to CESA is infeasible. Similarly, if the biological surveys detect the presence of special status species, the EIR should require that the Project proponent consult with CDFW prior to commencing the Project, to identify and implement appropriate measures to avoid or minimize impacts to those species. It should be noted that blunt-nosed leopard lizard is State fully protected, therefore, no "take", incidental or otherwise, can be authorized by CDFW; complete avoidance of this species is required to comply with State law.

CDFW recommends that the surveys for blunt-nosed leopard lizard, San Joaquin kit fox, Tipton kangaroo rat, and burrowing owl be conducted in accordance with the species-specific protocols which can be found here: <https://wildlife.ca.gov/Conservation/Survey-Protocols>. CDFW recommends that the special status species plant surveys be surveyed for by a qualified botanist following the "Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities" which can also be found at: <https://wildlife.ca.gov/Conservation/Survey-Protocols>. This protocol, which is intended to maximize detectability, includes identification of reference populations to facilitate the likelihood of field investigations

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occurring during the appropriate floristic period. In the absence of protocol-level surveys being performed, additional surveys may be necessary. If take could occur as a result of Project-related activities, consultation with CDFW may be warranted.

Bird Protection: CDFW recommends 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), CDFW recommends the EIR commit the Project applicant to being responsible for ensuring that implementation does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Codes as referenced above.

To evaluate Project-related impacts on nesting birds, CDFW recommends that a general habitat assessment for nesting birds be conducted as part of the biological technical studies conducted in support of the EIR. Depending on the results of that assessment, CDFW further recommends that the EIR for this Project require 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.

If continuous monitoring of identified nests by a qualified biologist is not feasible, CDFW recommends the EIR include 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 that 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 and records 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

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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.

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 CEQA document 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, remaining impacts to sensitive biological resources may need to 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). CDFW recommends cumulative impacts 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 identified and utilized for this analysis is advised. CDFW staff is available for consultation in support of cumulative impacts analyses as a trustee and responsible agency under CEQA.

Lake and Stream Alteration: While CDFW staff have not visited the Project Site, aerial maps of the oil field indicate that streams are present. Depending on the ultimate footprint of the Project within the oil field, portions of the Project may be subject to CDFW's regulatory authority pursuant to Fish and Game Code section 1600 et seq. Fish and Game Code section 1602 requires the Project proponent 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; or (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 in nature. The EIR should address the potential Project-related impacts to all streams at and near the Project Site. For additional information on notification requirements, please contact our staff in the Lake and Streambed Alteration (LSA) Program at (559) 243-4593, or R4LSA@wildlife.ca.gov.

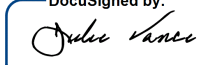
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CDFW is required to comply with CEQA in the issuance of an LSA Agreement; therefore, if the CEQA document approved for the Project does not adequately describe the Project and its impacts, a subsequent CEQA analysis may be necessary for LSA Agreement issuance. For additional information on notification requirements, please contact staff in the Central Region LSA Program at (559) 243-4593 or R4LSA@wildlife.ca.gov, or visit the Lake and Streambed Alteration Program website at <https://wildlife.ca.gov/Conservation/LSA>.

Federally Listed Species: CDFW recommends consulting with the USFWS on potential impacts to federally listed species including, but not limited to the aforementioned San Joaquin kit fox, blunt-nosed leopard lizard, California jewelflower, Tipton kangaroo rat, Bakersfield cactus, and San Joaquin woollythreads. Take under the Federal Endangered Species Act (FESA) is more broadly defined than CESA; take under FESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS in order to comply with FESA is advised well in advance of any Project activities.

CDFW is available to meet with you ahead of draft EIR preparation to discuss potential impacts and possible mitigation measures for some or all of the resources that may be analyzed in the EIR. If you have any questions, please contact Steven Hulbert, Senior Environmental Scientist, Specialist, at the address provided on this letterhead, by telephone at (559) 575-6415, or by electronic mail at Steven.Hulbert@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Julie A. Vance
Regional Manager

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REFERENCES CITED

California Department of Fish and Wildlife. 2024. Biogeographic Information and Observation System (BIOS). <https://www.wildlife.ca.gov/Data/BIOS>. Accessed April 12, 2024.