



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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December 3, 2024

Annalisa Perea, Contracted Planner
City of Chowchilla, Community and Economic Development
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**Subject: Chowchilla Industrial Specific Plan (Plan)
Notice of Preparation (NOP)
State Clearinghouse No. 2024110151**

Dear Annalisa Perea:

The California Department of Fish and Wildlife (CDFW) received an NOP from the City of Chowchilla for the Plan 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 Plan that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Plan 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

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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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, projects tiered from this Plan may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, if projects tiered from this 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.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

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 Plan.

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).

PLAN DESCRIPTION SUMMARY

Proponent: City of Chowchilla

Objective: The proposed Plan would support the growth of new light and heavy industrial facilities, establish development policies, land use regulations, design standards and guidelines, and an implementation plan to guide the orderly growth of the existing and new industrial uses in the City of Chowchilla's approximately 2,893-acre Industrial Park.

Location: The Plan area includes approximately 2,893 acres of land within the City of Chowchilla Sphere of Influence, Madera County, in the central San Joaquin Valley, where State Route (SR) 99 and SR 152 meet. The Plan area is bound by Mariposa Avenue to the north, SR 99 to the east, SR 152 to the south, and Road 16 to the west. Most of the Plan area (approximately 2,501 acres) is located within the incorporated

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City Limits of the City of Chowchilla, the remainder of the Plan area is within unincorporated Madera County.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City of Chowchilla in adequately identifying and/or mitigating the Plan'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 Draft Environmental Impact Report (DEIR) prepared for the Plan.

Aerial imagery of the Plan shows the northern section contains an industrial complex adjacent to the Chowchilla airport, with a small urban area just to the north. The southern section contains agricultural lands with industrial infrastructure in the southwest, an industrial plant in the southeast, and the Southern Pacific Railroad traversing along the eastern section. The Berenda Slough watershed medially bisects the Plan's site from east to west. The surrounding area includes the City of Chowchilla to the northwest, a small golf course community to the northeast, and agricultural communities to the south, east and west.

Special-Status Species

Based on aerial imagery and species occurrence records from the California Natural Diversity Database (CNDDDB) (CDFW 2024), the proposed Plan area has the potential to support special-status species. The NOP indicates that the DEIR for the Plan will consider potential environmental effects of the proposed Plan to determine the level of significance of the environmental effects and will analyze these potential effects to the detail necessary to make a determination on the level of significance. The DEIR will also identify and evaluate alternatives to the proposed Plan. CDFW recommends the following species should be considered as part of the DEIR that will be drafted for this Plan: the State threatened Swainson's hawk (*Buteo swainsoni*), the State and federally threatened California tiger salamander (*Ambystoma californiense*), the State species of special concern American badger (*Taxidea taxus*), and the State species of special concern and federally proposed threatened western spadefoot (*Spea hammondi*).

Nesting birds: CDFW recommends that all projects tiered from this Plan occur during the bird non-nesting season; however, if ground-disturbing or vegetation-disturbing activities must occur during the breeding season (February 15 through September 15), each future project applicant is responsible for ensuring that implementation of their project does not result in a violation of the Migratory Bird Treaty Act or relevant Fish and Game Codes as referenced above.

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To evaluate future project-related impacts on nesting birds, CDFW recommends that a qualified biologist conduct an assessment of nesting habitat during biological surveys in support of each tiered project's CEQA document, and then conduct pre-activity surveys 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 each future project site to identify nests and determine their status. A sufficient area means any area potentially affected by a project. In addition to direct impacts (i.e., nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. Prior to initiation of construction activities, CDFW recommends that a qualified biologist conduct a survey to establish a behavioral baseline of all identified nests. Once construction begins, CDFW recommends having a qualified biologist continuously monitor nests to detect behavioral changes resulting from each future 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 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 compelling biological or ecological reason to do so, such as when the construction areas 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.

Cumulative Impacts: Given that this Plan will serve primarily as a planning level analysis and that future project-level CEQA documents are expected to be tiered from it, 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 Plan. 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.

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CEQA Alternatives Analysis: CDFW recommends that the information and results obtained from the cumulative impacts analysis conducted as part of this Plan's DEIR be used to develop and modify the Plan's alternatives to avoid and minimize impacts to biological resources to the maximum extent possible. Please note that for all future projects tiered from this Plan, that 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.

California Endangered Species Act: Reasonably foreseeable future projects tiered from this Plan may be subject to CDFW's regulatory authority pursuant to CESA. In the event that species listed under CESA are 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 a State Incidental Take Permit (ITP), pursuant to Fish and Game Code section 2081 subdivision (b), prior to any ground disturbing activities. In addition, CDFW advises that mitigation measures for the CESA listed species be fully addressed in the CEQA document prepared for any future project tiered from this Plan. CDFW therefore recommends that the DEIR for this Plan include information related to these requirements and advises that projects tiered from this Plan retain a qualified biologist to determine if potential impacts to CESA listed species may require the need to obtain a 2081 ITP.

Federally Listed Species: CDFW recommends consulting with the United States Fish and Wildlife Service (USFWS) on potential impacts to Federally listed 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 to comply with FESA is advised well in advance of any ground disturbing activities.

Lake and Streambed Alteration: The Plan area includes potential streams including Berenda Slough, which traverses westward from SR 99 to Road 16. For projects tiered from this Plan, activities that substantially change the bed, bank, and channel of any river (slough), stream, or lake are subject to CDFW's regulatory authority pursuant 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 or intermittent as well as those that are perennial in nature. For additional information on notification requirements, please contact our staff in the LSA Program at R4LSA@wildlife.ca.gov.

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CDFW therefore recommends that the DEIR for this Plan include information related to these requirements of Fish and Game code and advise that projects tiered from this Plan retain a qualified biologist to determine if potential impacts to streams may require the need to notify pursuant to Fish and Game Code section 1602.

California Natural Diversity Database: Please note that the 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 project-related impacts to biological resources for projects tiered from this Plan, 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.

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 surveys to the California Natural Diversity Database. The CNDDDB field survey form can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. 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

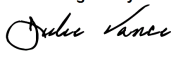
The Plan, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental document filing 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).

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CONCLUSION

CDFW appreciates the opportunity to comment on the NOP to assist the City of Chowchilla in identifying and mitigating Plan impacts on biological resources. More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>). Questions regarding this letter or further coordination should be directed to John Riedel, Environmental Scientist, at (559) 807-1453 or john.riedel@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Julie A. Vance
Regional Manager

ec: State Clearinghouse
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REFERENCES

California Department of Fish and Wildlife. 2024. Biogeographic information and observation system (BIOS). <https://www.wildlife.ca.gov/Data/BIOS>. Accessed 22 November 2024.