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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

June 26, 2025

Keith Alvidrez
Kern County Planning and Natural Resources Department
2700 "M" Street, Suite 100
Bakersfield, California 93301
(661) 862-5015
AlvidrezK@kerncounty.com
OG-SSREIRComments@kerncounty.com

Subject: Revisions to Title 19 – Kern County Zoning Ordinance (2024) focused on oil and gas local permitting (Project)
Second Supplemental Recirculated Environmental Impact Report (SSREIR)
SCH: 2013081079

Dear Keith Alvidrez:

The California Department of Fish and Wildlife (CDFW) previously commented on the SSREIR from Kern County for the above-referenced Project on May 02, 2024, and May 15, 2025, to address concerns related to the potential Project-related impacts to fish and wildlife. CDFW appreciate the continued 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

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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.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations below to assist Kern County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct, indirect, and cumulative impacts on fish and wildlife (biological) resources.

CDFW previously commented on the Project's 2013 Notice Of Preparation (NOP) for a Draft Environmental Impact Report on September 26, 2013 and the 2015 Draft Environmental Impact Report (DEIR) on September 11, 2015. Several species, including Temblor legless lizard (TLL) were listed as a State candidate under CESA after the 2015 DEIR was circulated, and as such, CDFW commented on the NOP for the SSREIR on May 02, 2024; and the Draft SSREIR on May 15, 2025. Based on CDFW's recommendations and comments, Kern County analyzed impacts to several additional State candidate species, including the State candidate Temblor legless lizard (*Anniella alexanderae*), and included mitigation measures to mitigate for potential impacts. CDFW would like to further highlight the importance of the Project site and surrounding area for TLL and recommend additional survey and avoidance measures for inclusion within the SSREIR.

TLL are known to occur exclusively within alkali desert scrub and annual grassland habitats within the San Joaquin Valley from 551 to 1,529 feet in elevation (Parham et al. 2019). The species current range is thought to be restricted to a small area along the east side of the Temblor Mountains, and includes the western edges of Kern County, Kings, and Fresno Counties (Center for Biological Diversity 2021). Based on the information provided in the 2015 DEIR and SSREIR, the majority of the TLL's current range encompasses the oil and gas fields associated with the Project. CDFW would also like to highlight that TLL's current range covers a greater portion of the Project site than what was evaluated as part of Appendix N within the 2015 DEIR and that Figure 4.4.28 in Appendix N denotes habitat for silvery legless lizard (i.e., northern California legless lizard; *Anniella pulchra*) and is not specific to TLL.

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As the Project site encompasses a large portion of TLL range, the habitats within the Project site are suitable for TLL, and activities associated with the Project would be

likely to significantly impact TLL, CDFW recommends the SSREIR incorporate the following revised mitigation measures:

Recommended Mitigation Measure 1: TLL Habitat Assessment and Survey Plan

CDFW recommends that a qualified biologist prepare a TLL habitat assessment and survey plan (Plan) for CDFW review and approval prior to implementation of any Project-related activity (including projects that result in ministerial actions) that may involve ground disturbance, vegetation maintenance, and/or construction or maintenance of facilities. This would include activities such as exploration, production, completion, stimulation, reworking, injection, and plugging and abandonment. The Plan would detail the habitat assessment and surveys methods that would be incorporated prior to the initiation of the activities outlined above.

Habitat Assessment

The Plan would require a qualified biologist to conduct a detailed habitat assessment to determine if the Project activity and the immediate surrounding vicinity contain habitat suitable to support TLL. Suitable areas, such as areas with loose or friable soils, in or near a wash, ephemeral streams and swales, and areas that include the presence of native shrubs, should be documented as part of the habitat assessment.

Surveys

The Plan would also include detailed survey methods that would be implemented prior to the initiation of Project activities within suitable habitat to detect the presence of TLL. Surveys would be designed to optimize TLL detectability, incorporating best available science on appropriate survey approaches, to reasonably ensure that Project activities would not result in the unauthorized take of the species. To optimize detectability, surveys would need to include the use of coverboards and/or raking, and would need to be conducted by a qualified biologist with a valid Memorandum of Understanding (MOU) with CDFW. Surveys should be conducted during appropriate temperatures (e.g., 10 to 30 degrees Celsius) and during the appropriate time of year (e.g., February through April). Additionally, due to the difficulty in detecting TLL, multiple surveys would need to be conducted within a season, and multiple survey seasons would increase the probability of detection.

The Plan would be submitted to CDFW for review and concurrence at least 60 days prior to implementation. This plan would be superseded if or when there is a CDFW-approved TLL protocol available for public use.

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Recommended Mitigation Measure 2: TLL Consultation

If TLL are documented or suspected to be present, either during surveys or Project activities, consultation with CDFW is warranted to discuss how to implement the Project and avoid take; or if avoidance is not feasible, to acquire an Incidental Take Permit (ITP) prior to the implementation of any Project activities identified above, pursuant Fish and Game Code section 2081 subdivision (b).

EDITORIAL COMMENTS

As written in Section 4.18 – Supplemental Analysis, of the Draft SSREIR, mitigation measures 4.4-1 to 4.4-19, provide general guidance to minimize impacts to biological resources during implementation of the Project. Additionally, the measures include specific activities for identified Protected and Sensitive species, such as blunt-nosed leopard lizard (*Gambelia sila*), nesting birds, and sensitive natural communities. CDFW recommends adding the specific mitigation measures for TLL identified above.

CDFW recognizes that oil and gas production projects proposed as part of the Project will be considered under a ministerial review designed to ensure compliance with updated development and implementation standards and conditions while also streamlining the permitting process. CDFW acknowledges the necessity for prompt review and attention to these reviews; however, CDFW is concerned that, as written, CDFW may only be notified after a ministerial permit has been issued, and the expedited review may increase the potential for impacts to biological resources. Specifically, since habitat information for TLL is outdated and inaccurate in the 2015 DEIR and research has demonstrated that detectability of the species may require surveys over multiple years, particularly during droughts when conditions at the surface are unsuitable (Rose et al. 2024), the possibility is increased of not detecting species such as TLL during surveys. These reasons further highlight the importance of having an approved Plan prior to the implementation of Project activities and providing this plan to CDFW for review and approval at least 60 days prior to implementation.

CONCLUSION

CDFW appreciates the opportunity to comment on the proposed Project. Questions regarding this letter should be directed to Marile Colindres, Environmental Scientist, at (559) 974- 3452, or marile.colindres@wildlife.ca.gov.

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Sincerely,

DocuSigned by:
Julie Vance
FA83F09FE08945A...

Julie A. Vance
Regional Manager

ATTACHMENT

ec: County of Kern
Clerk of the Board of Supervisors
clerkofboard@kerncounty.com

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

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References

Center for Biological Diversity. 2021. A Petition to the California Fish and Game Commission to list Temblor legless lizard (*Anniella alexanderae*) as Endangered or Threatened Pursuant to the California Endangered Species Act. https://www.biologicaldiversity.org/species/reptiles/pdfs/21-11-18-Temblor-Legless-Lizard-CESA-Petition.pdf. Accessed 25 June 2025.

Parham J., M. Koo, W. Simison W, A. Perkins, T. Papenfuss, E. Tennant. 2019. Conservation assessment of the California Legless Lizard (*Anniella*). California Department of Fish and Wildlife, Sacramento, California, USA.

Rose J, S. Camp, Z. Pascetto, C. Johnson, S. Lei, G. Napolitano, E. Schoenig, D. Macias, A. Jordan, B. Halstead. 2024. Digging into detectability: uncovering how temperature influences detection probability of the fossorial Temblor legless lizard. *Journal of Fish and Wildlife Management* 15(1):237–250.

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Attachment 1

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

PROJECT: Revisions to Title 19 – Kern County Zoning Ordinance (2024) focused on oil and gas local permitting (Project) Second Supplemental Recirculated Environmental Impact Report (SSREIR)

SCH No.: 2013081079

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
Before Disturbing Soil or Vegetation	
Temblor Legless Lizard (TLL)	
Recommended Mitigation Measure 1: TLL Habitat Assessment and Survey Plan	
Recommended Mitigation Measure 2: TLL Consultation	