



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



January 02, 2026

Erica Fraser, Senior Planner
City of Hollister
Community Development Department
339 Fifth Street Hollister, California 95023
(831) 636-4316
efraser.4leaf@hollister.ca.gov

**Subject: Hollister Research Campus (014-120-014; -055; -063, and -064) (Project)
Notice of Preparation (NOP)**

Dear Erica Fraser:

The California Department of Fish and Wildlife (CDFW) received a NOP from the City of Hollister 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 and Game 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).

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, activities evaluated in the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish and Game 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

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Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code may be required.

Fully Protected Species: CDFW has jurisdiction over fully protected species of birds, mammals, amphibians and reptiles, and fish, pursuant to Fish and Game Code sections 3511, 4700, 5050, and 5515. Fully protected species may not be taken or possessed at any time and no licenses or permits may be issued for their take except as follows:

- Take is for necessary scientific research,
- Efforts to recover a fully protected, endangered, or threatened species, live capture, and relocation of a bird species for the protection of livestock, or
- They are a covered species whose conservation and management is provided for in a Natural Community Conservation Plan (Fish & G. Code, §§ 3511, 4700, 5050, & 5515).

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 (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 Project.

PROJECT DESCRIPTION SUMMARY

Proponent: Hollister Research Campus LLC

Objective: The Project proposes to amend to the City of Hollister's Planning Area and Sphere of Influence boundaries, General Plan, and would prezone the property to Planned Development. The Project would facilitate the annexation of the properties into the City of Hollister and ultimate development consistent with the requested zoning.

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The Project is divided into four areas:

- **Area 1** (north of SR 156): Proposed uses include an automotive test track, automotive testing and training facilities, private commercial spaces, and staging areas.
- **Area 2** (north of SR 156 and east of San Felipe Road): Proposed uses include a hotel with event and convention space, trade schools, light industrial uses, and a Research Campus.
- **Area 3** (south of SR 156 and east of San Felipe Road): Proposed uses include truck and automotive services, restaurants, and hotels.
- **Area 4** (south of Area 3): Proposed for light industrial uses.

Location: The Project site is located at the intersection of State Route (SR) 156 and San Felipe Road in unincorporated San Benito County, north of the City of Hollister. The 238 acres includes parcels both north and south of SR 156, east of San Felipe Road. The site is bounded by Tequisquita Slough to the northeast, San Felipe Road to the west, and SR 156 to the east. Santa Ana Creek flows south to north through the property. Project Assessor's Parcel Numbers (APNs) are: 014-120-014; -015; -055; -063, and -064.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist the City of Hollister 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 Draft Environmental Impact Report (DEIR) prepared for the Project.

CDFW submitted a comment letter on November 5, 2021 (Attachment 1) in response to the Project's original Notice of Preparation (NOP). That letter provided recommendations to identify and mitigate the Project's significant or potentially significant direct and indirect impacts on biological resources. Specifically, CDFW recommended mitigation measures for the State threatened and federally endangered San Joaquin kit fox (*Vulpes macrotis mutica*); the State threatened Swainson's hawk (*Buteo swainsoni*) and tricolored blackbird (*Agelaius tricolor*); the State and federally threatened California tiger salamander (*Ambystoma californiense*); the State candidate western burrowing owl (*Athene cunicularia hypugaea*); the State species of special concern American badger (*Taxidea taxus*); the State species of special concern and federally threatened California red-legged frog (*Rana draytonii*); the State species of special concern and federally proposed threatened southwestern pond turtle (*Actinemys*

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pallida) and western spadefoot (*Spea hammondi*); and the State species of special concern and federally threatened steelhead-south-central California coast DPS (*Onchorhynchus mykiss irideus* pop. 9).

Based on a review of the Project description, a review of California Natural Diversity Database (CNDDB) records, and the surrounding habitat, the Project site is also within of the State fully protected white-tailed Kite (*Elanus leucurus*); the State candidate Crotch's bumble bee (*Bombus crotchii*); and the State special animal and federally threatened vernal pool fairy shrimp (*Branchinecta lynchi*).

Additionally, the Project site is within the range of several species of special-status plants, including, but not limited to, the California Rare Plant Rank (CRPR) 1B.1 Hoovers button-celery (*Eryngium aristulatum* var. *hooveri*) and CRPR 1B.2 San Joaquin spearscale (*Extriplex joaquinana*).

CDFW recommends incorporating the recommended mitigation measures from Attachment 1 within the DEIR, as well as incorporating the recommendations outlined below. In addition, in order to support the adequate assessment of potential impacts to biological resources in the DEIR, CDFW recommends that a qualified biologist perform relevant database reviews and other research of the Project site and surrounding area, then conduct focused habitat assessments and/or focused biological surveys during the appropriate survey period(s) in order to determine whether any special-status species may be present within the Project site.

CDFW recommends this initial work be documented within the DEIR prepared for the Project and used to inform further efforts that may be needed thereafter including the need for additional protocol surveys and/or the development of avoidance, minimization, and/or mitigation measures. This information and analysis may then be used to consider the development of modified or new Project alternatives to avoid and minimize potentially significant environmental impacts on the biological environment. This information is critical to make an informed decision during the CEQA process and to ensure Project compliance with CESA, Fish and Game Code, and other applicable State and federal laws and regulations.

White-Tailed Kite

The Project site is within the known geographic range of white-tailed kite (WTKI) (CDFW 2025). WTKI are known to nest and forage within valley foothill riparian, riverine, wetland, grassland and cropland habitats, some of which are within the vicinity of the Project site. As such, CDFW recommends the DEIR include the following:

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Recommended Mitigation Measure 1: WTKI Surveys

CDFW encourages that Project implementation occur during the bird non-nesting season; however, if ground-disturbing or vegetation-disturbing activities must occur during the breeding season (February through mid-September), CDFW recommends a qualified avian biologist conduct surveys for nesting white-tailed kites prior to beginning project-related activities within the Project area.

Recommended Mitigation Measure 2: WTKI Avoidance Buffer

CDFW recommends a minimum no-disturbance buffer of ½-mile be delineated around active nests of WTKI 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. CDFW advises Project proponents not to allow reductions in no-disturbance buffer size for WTKI or any fully protected bird species absent a compelling biological or ecological reason to do so. If a ½-mile no-disturbance buffer is not feasible, further consultation with CDFW is warranted to discuss Project implementation and avoid take.

Western Burrowing Owl

The California Fish and Game Commission (FGC) approved western burrowing owl (BUOW) as a candidate for potential listing as a protected species under CESA on October 10, 2024, and published these findings in the California Regulatory Notice Register (Notice Register) on October 25, 2024. As such, BUOW is now a candidate under CESA and receives the same legal protection afforded to an endangered or threatened species (Fish & G. Code, §§ 2074.2 & 2085).

The Project site is within the known geographic range of BUOW (CDFW 2025). BUOW inhabit open grasslands containing small mammal burrows, a requisite habitat feature used for nesting and covering, and they are known to forage in agricultural lands. It appears that suitable burrowing and foraging BUOW habitat is present within the Project site. As the Project is within the range of BUOW and suitable habitat appears to be present, CDFW recommends the DEIR include the following measures:

Recommended Mitigation Measure 3: BUOW Pre-construction Surveys

CDFW recommends that focused surveys, following the 2012 Staff Report on Burrowing Owl Mitigation (2012 Staff Report) (CDFG 2012), be conducted the survey season immediately prior to construction within a Project area. Please note that the 2012 Staff Report necessitates multiple surveys prior to the initiation of construction.

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Recommended Mitigation Measure 4: 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-disturbing activities. CDFW also recommends that these buffers be implemented for both wintering and breeding BUOW.

Recommended Mitigation Measure 5: 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.

Crotch's Bumble bee

The Project site is within the range of Crotch's bumblebee (CBB). CBB are known to inhabit areas of grasslands, scrub habitat, and ruderal vegetation that contain requisite habitat elements for nesting, such as small mammal burrows and bunch/thatched grasses, and these habitat elements may be present within the Project site. As such, CDFW recommends the DEIR include the following measures:

Recommended Mitigation Measure 6: CBB Habitat Assessment

CDFW recommends a qualified biologist conduct a habitat assessment to determine if the Project site and the immediate surrounding vicinity contain habitat suitable to support CBB. Potential nesting sites, which include all small mammal burrows, perennial bunch grasses, thatched annual grasses, brush piles, old bird nests, dead trees, and hollow logs would need to be documented as part of the assessment.

Recommended Mitigation Measure 7: CBB Surveys

If potentially suitable habitat is identified, CDFW recommends that a qualified biologist conduct focused surveys for CBB, and their requisite habitat features following the methodology outlined in the Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species (CDFW 2023), prior to the initiation of construction within each Project area.

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Recommended Mitigation Measure 8: CBB Avoidance

If CBB is detected, then CDFW recommends that all small mammal burrows and thatched/bunch grasses be avoided by a minimum of 50 feet to avoid take and potentially significant impacts. If ground-disturbing activities will occur during the overwintering period (October through February), consultation with CDFW is warranted to discuss how to implement Project activities and avoid take. Any detection of CBB prior to or during Project implementation within a Project area warrants consultation with CDFW to discuss how to avoid take.

Recommended Mitigation Measure 9: CBB Take Authorization

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.

Vernal Pool Fairy Shrimp

The Project site is within the geographic range of vernal pool fairy shrimp (VPFS). VPFS are known to breed and develop in aquatic habitats in both grassland and agricultural habitats. Portions of the Project site (e.g., Project Area 1) may have habitat aquatic habitat that are suitable for vernal pool fairy shrimp (e.g., annual grasslands with sufficient ponding).

As such CDFW recommends the DEIR include the following measures:

Recommended Mitigation Measure 10: VPFS Habitat Assessment

CDFW recommends a qualified biologist conduct a habitat assessment to determine if the Project site and the immediate surrounding vicinity contain habitat suitable to support VPFS.

Recommended Mitigation Measure 11: VPFS Surveys and Consultation with CDFW

If it is determined that suitable VPFS habitat is present within the Project site, CDFW recommends that a qualified biologist conduct protocol level surveys within areas of suitable habitat in accordance with the USFWS "Survey Guidelines for the Listed Large Branchiopods" (USFWS 2017) the survey season prior to construction. These surveys need to be conducted at the appropriate time of year to determine the existence and extent of branchiopods. If through surveys it is determined that branchiopods are occupying or have the potential to occupy the Project site, coordination with CDFW is recommended well in

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advance of any planned vegetation- or ground-disturbing activities to determine appropriate avoidance and minimization measures including adequate implementation of no-disturbance buffers.

Special-status Plants

The Project site is within suitable habitat for several special of special-status plants. As such, CDFW recommends the DEIR include the following measures:

Recommended Mitigation Measure 12: Special-Status Plant Focused Surveys

CDFW recommends that the Project site be surveyed for special-status plants by a qualified botanist following the “Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities” (CDFW 2018) immediately prior to initiation of Project activities within a Project area. This protocol, which is intended to maximize detectability, includes identification of reference populations to facilitate the likelihood of field investigations occurring during the appropriate floristic period. In the absence of protocol-level surveys being performed, additional surveys may be necessary.

Recommended Mitigation Measure 13: Special-Status Plant Avoidance

CDFW recommends special-status plant species be avoided whenever possible by delineation and observing a no-disturbance buffer of at least 50 feet 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 to determine appropriate minimization and mitigation measures for impacts to special-status plant species.

Recommended Mitigation Measure 14: Special-Status Plant Take Authorization

If a State-listed plant species are identified during botanical surveys, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided, take authorization would need to occur through issuance of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b), or Fish and Game Code section 1900 and California Code of Regulations, title 14, section 786.9, subdivision (b).

EDITORIAL NOTES AND SUGGESTIONS

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

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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). Cumulative impacts are recommended to be analyzed using an acceptable methodology to evaluate the impacts of this Project's incremental contribution to habitat loss and past, present, and reasonably foreseeable future projects on resources and be focused specifically on the resource, not the Project. An appropriate resource study area should also be identified and mapped for each resource being analyzed and utilized for this analysis. CDFW staff are available for consultation in support of cumulative impacts analyses as a trustee and responsible agency under CEQA.

Lake and Streambed Alteration: Project activities that substantially change the bed, bank, and channel of any river, 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 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 approved for the Project 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 Project implementation occur during the bird non-nesting season; however, if ground-disturbing or vegetation-disturbing activities must occur during the breeding season (February through mid-September), 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 Codes as referenced above.

To evaluate Project-related impacts on nesting birds, CDFW recommends that a qualified wildlife biologist 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 the Project sites to identify nests and determine

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their status. A sufficient area means any area potentially affected by the 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 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 wildlife 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 wildlife biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

Artificial Lighting

Installation of outdoor artificial night lighting can disrupt the circadian rhythms of many wildlife species. Many species use photoperiod cues for communication, determining when to begin foraging, thermoregulation behavior, and migration (Longcore and Rich 2004, Miller 2006, Nightingale et al. 2006, Perry et al. 2008, Stone et al. 2009). Phototaxis, a phenomenon which results in attraction and movement towards light, can disorient, entrap, and temporarily blind wildlife species that experience it (Longcore and Rich 2004). Project activities could result in disruption of wildlife behavior, inadvertent injury, or mortality.

CDFW recommends that the DEIR for the Project include an analysis of the impacts of artificial lighting on biological resources and incorporate enforceable mitigation measures to decrease the impacts of artificial outdoor lighting on wildlife species. Potentially feasible mitigation measures include motion sensitive lighting; mounting light fixtures as low as possible to minimize light trespass; use of light fittings that direct and confine the spread of light downward; and use of long-wavelength light sources. In addition, CDFW recommends that lighting not be installed in ecologically sensitive areas (e.g., streams, wetlands, and habitat used by special status species, such as nesting/roosting sites and riparian corridors) and the use of the white/blue wavelengths of the light spectrum be avoided.

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CNDDDB

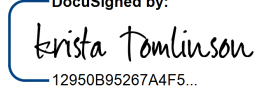
Please note that the CNDDDB is populated by and records voluntary submissions of species detections. As a result, species may be present in locations not depicted in the CNDDDB but where there is suitable habitat and features capable of supporting species. A lack of an occurrence record in the CNDDDB 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/botanist 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.

CONCLUSION

CDFW appreciates the opportunity to comment on the NOP to assist the City of Hollister in identifying and mitigating this Project's 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>). Please see the enclosed, Attachment 2, Mitigation Monitoring and Reporting Program (MMRP) table, which corresponds with recommended mitigation measures in this comment letter. Questions regarding this letter or further coordination should be directed to Evelyn Barajas-Perez, Environmental Scientist, at (805) 503-5738 or evelyn.barajas-perez@wildlife.ca.gov.

Sincerely,

DocuSigned by:

12950B95267A4F5...

For Julie A. Vance
Regional Manager

Attachments

Attachment 1 - CDFW 2021 November 2021 Letter

Attachment 2 - MMRP

ec: State Clearinghouse
Land Use and Climate Innovation
State.Clearinghouse@lci.ca.gov

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REFERENCES

- California Department of Fish and Game. 2012. Staff report on burrowing owl mitigation. California Department of Fish and Game, Sacramento, California, USA.
- California Department of Fish and Wildlife. 2018. Protocols for surveying and evaluating impacts to special status native plant populations and sensitive natural communities. California Department of Fish and Wildlife. Sacramento, California, USA.
- California Department of Fish and Wildlife. 2023. Survey considerations for California Endangered Species Act (CESA) candidate bumble bee species. California Department of Fish and Wildlife, Sacramento, California, USA.
- California Department of Fish and Wildlife. 2025. Biogeographic information and observation system. <<https://www.wildlife.ca.gov/Data/BIOS>>. Accessed December 1, 2025.
- Longcore, T. and C. Rich. 2004. Ecological light pollution - Review. *Frontiers in Ecology and the Environment*, 2:191–198.
- Miller, M. 2006. Apparent effects of light pollution on singing behavior of American robins. *The Condor*, 108:130–139.
- Nightingale, B., T. Longcore, and C. Simenstad. 2006. Artificial night lighting and fishes. Pages 257–276 in C. Rich and T. Longcore, editors. *Ecological consequences of artificial light at night*. Island Press, Washington, D.C., USA.
- Perry, G., B. Buchanan, R. Fisher, M. Salmon, and S. Wise. 2008. Effects of night lighting on urban reptiles and amphibians. Chapter 16 in: *Urban Herpetology: Ecology, Conservation and Management of Amphibians and Reptiles in Urban and Suburban Environments*. J. C. Mitchell, R. E. Jung Brown and B. Bartholomew (ed.). *Herpetological Conservation*, 3:211-228.
- Stone, E., G. Jones, and S. Harris. 2009. Street lighting disturbs commuting bats. *Current Biology*, 19:1123–1127.
- U.S. Fish & Wildlife Service. 2017. Survey guidelines for the listed large branchiopods. Pacific Southwest Region, Sacramento, California, USA. Revised November 2017.

Attachment 1



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GAVIN NEWSOM, Governor
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November 5, 2021

Eva Kelly, Associate Planner
City of Hollister
Development Services Department
375 Fifth Street
Hollister, California 95023
eva.kelly@hollister.ca.gov

Subject: Hollister Research Campus Project (Project)
Notice of Preparation (NOP)
State Clearinghouse No: 2021090434

Dear Ms. Kelly:

The California Department of Fish and Wildlife (CDFW) received a NOP for a draft Environmental Impact Report from San Benito 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. While the comment period may have ended, CDFW would appreciate if you will still consider our comments.

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,

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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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.), 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).

In this role, CDFW is responsible for providing, as available, biological expertise during public agency environmental review efforts (e.g., CEQA), focusing specifically on Project activities that have the potential to adversely affect fish and wildlife resources. CDFW provides recommendations to identify potential impacts and possible measures to avoid or reduce those impacts.

PROJECT DESCRIPTION SUMMARY

Proponent: Hollister Research Campus LLC

Objective: The project applicant, Hollister Research Campus LLC, is seeking an amendment to the City of Hollister's Planning Area and Sphere of Influence boundaries, a City General Plan Amendment to Industrial-North Gateway Overlay and Industrial designations, and pre-zoning of the property to Industrial Business Park (IBP) and Light Industrial (M1). The boundary amendments and pre-zoning are initial steps toward annexation of the properties into the City of Hollister, development of land consistent with the requested zoning, and provision of municipal services to the site. Future development of the property is planned for uses that would be consistent with this visible location along the State Highway.

Within "Area 1" (north of SR 156, although Project information lists it as south, which doesn't match up with Figure 1 in the NOP that was sent to the Department), the applicant proposes traveler-oriented uses including restaurants, gas station/convenience market, truck stop, and hotels. Light industrial uses may also be located in this area. Within "Area 2" (the majority of the property south, not north, of SR 156 per Project information in the NOP), the applicant proposes a public events center and a Research Campus.

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The Research Campus is envisioned as a facility to attract private sector auto/truck/motorcycle manufacturers, autonomous and controlled transportation technologies and research, independent concept design companies, trade schools and other associated multidisciplinary businesses focused on the automotive sector and automotive technology. Other specific uses in Area 2 could include light manufacturing/warehousing, a 2.5-mile test track, open testing area and private garage areas.

Location: The 230-acre project site is located at the intersection State Route (SR) 156 and San Felipe Road in unincorporated San Benito County, north of the City of Hollister. The 230 acres includes parcels on both sides and east of the State Highway. The site is bounded by Tequisquito Slough to the northeast, San Felipe Road to the west, and SR 156 to the east. Santa Ana Creek flows south to north through the property. The project is located at the northern gateway to the City of Hollister, close to Hollister Municipal Airport. Project parcel numbers are: 014-120-014; -055; -063, and -064.

Timeframe: N/A

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist San Benito 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 document.

There are several special-status resources that may utilize the Project site and/or surrounding area, and these resources may need to be evaluated and addressed prior to any approvals that would allow ground-disturbing activities. CDFW is concerned regarding potential impacts to special-status species including, but not limited to, the Federally endangered and State threatened San Joaquin kit fox (*Vulpes macrotis mutica*), the Federally threatened steelhead-south-central California coast DPS (*Onchorhynchus mykiss irideus* pop. 9) and California red-legged frog (*Rana draytonii*), the Federally and State threatened California tiger salamander (*Ambystoma californiense*), the State threatened tri-colored blackbird (*Agelaius tricolor*) and Swainson's hawk (*Buteo swainsoni*), the State Species of Special Concern American badger (*Taxidea taxus*), the burrowing owl (*Athene cunicularia*), western pond turtle (*Emys marmorata*), and the western spadefoot (*Spea hammondi*).

Water Pollution: Pursuant to Fish and Game Code (section 5650, it is unlawful to deposit in, permit to pass into, or place where it can pass into "Waters of the State" any substance or material deleterious to fish, plant life, or bird life, including non-native species. It is possible that without mitigation measures this Project could result in pollution of Waters of the State from storm water runoff or construction-related erosion. Potential impacts to the wildlife resources that utilize watercourses in the Project area include the following: increased sediment input from road or structure runoff; toxic

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runoff associated with Project-related activities and implementation; and/or impairment of wildlife movement along riparian corridors. The Regional Water Quality Control Board and United States Army Corps of Engineers (USACE) also have jurisdiction regarding discharge and pollution to Waters of the State.

I. Environmental Setting and Related Impact

Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or the United States Fish and Wildlife Service (USFWS).

COMMENT 1: San Joaquin Kit Fox (SJKF)

Issue: SJKF occurrences have previously been documented within the proposed Project area (CDFW 2021). The Project has the potential to temporarily disturb and permanently alter suitable habitat for SJKF and directly impact individuals if present during construction and other activities.

SJKF den in a variety of areas such as grassland, agricultural and fallow/ruderal habitat, and dry stream channels, and populations can fluctuate over time. SJKF are also capable of occupying urban environments (Cypher and Frost 1999). The Project site is situated in an area that is currently undeveloped, aside from one mobile home, and contains agricultural operations. Of the 230-acres in this Project, only approximately 31 acres is used for farming and the remainder of the site is fallow and regularly disced, or occasionally dry farmed. SJKF may be attracted to the Project areas due to the type and level of ground-disturbing activities and the loose, friable soils resulting from intensive ground disturbance. SJKF will forage in grassland, fallow and agricultural fields. As a result, there is potential for SJKF to occupy suitable habitat in the Project area and the vicinity.

Specific impact: Without appropriate avoidance and minimization measures for SJKF, potential significant impacts associated with construction include habitat loss, den collapse, inadvertent entrapment, reduced reproductive success, reduction in health and vigor of young, and direct mortality of individuals.

Evidence impact is potentially significant: Habitat loss resulting from land conversion to agricultural, urban, and industrial development is the primary threat to SJKF (Cypher et al. 2013). The Project vicinity contains suitable habitat including grassland. Therefore, subsequent ground-disturbing activities have the potential to significantly impact local SJKF populations.

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Recommended Mitigation Measure 1: SJKF Habitat Assessment

For all Project-specific components including construction and land conversion, CDFW recommends that a qualified biologist conduct a habitat assessment in advance of Project implementation, to determine if the Project area or its immediate vicinity contains suitable habitat for SJKF.

Recommended Mitigation Measure 2: SJKF Surveys

If suitable SJKF habitat is present on or adjacent to the Project site, CDFW recommends assessing presence/absence of SJKF by having qualified biologists conduct surveys of Project areas and a 500-foot buffer of Project areas to detect SJKF and their sign. CDFW also recommends following the USFWS "Standardized recommendations for protection of the San Joaquin kit fox prior to or during ground disturbance" (2011).

Recommended Mitigation Measure 3: SJKF Take Authorization

SJKF detection warrants consultation with CDFW to discuss how to avoid take or, if avoidance is not feasible, to acquire an Incidental Take Permit (ITP) prior to ground-disturbing activities, pursuant to Fish and Game Code section 2081 subdivision (b).

COMMENT 2: Steelhead South-Central California coast (Steelhead)

Issue: Steelhead have been known to occur in Tequisquito Slough (CDFW 2021). Activities such as construction, vegetation removal and/or new access roads/driveways could impact the riparian zone along the slough as Project boundaries abut Tequisquita Slough at the northeast project limits.

Specific impact: Without appropriate avoidance and minimization measures for Steelhead, potential impacts associated with Project activities could include disrupted spawning behavior, reduced reproductive success, and inability to reproduce.

Evidence impact is potentially significant: An estimated 94,000 steelhead spawned in streams of the central California coast in the early 1960s. Steelhead numbers have been in decline since the 1960's and most coastal streams have remnant runs of 500 fish or fewer (Center for Biological Diversity 2021).

Recommended Mitigation Measure 4: Steelhead Habitat Avoidance

CDFW recommends Project activities avoid work in water and floodplains whenever possible, conduct Project activities during less critical times of the year (June-February), and avoid spawning riffles or holding pools.

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Recommended Mitigation Measure 5: Tree Removal and Replacement

If Project activities will occur in the riparian environment, CDFW recommends avoidance of tree removal whenever possible. If tree removal avoidance is not feasible, CDFW recommends preparation of a revegetation plan that incorporates native tree plantings within Tequisquito Slough to replace removed trees.

Recommended Mitigation Measure 6: Steelhead Salmon Habitat Mitigation

If Project activities will occur in the floodplain, CDFW advises consultation with us to determine how to minimize and mitigate impacts to juvenile steelhead utilization.

COMMENT 3: California red-legged Frog (CRLF)

Issue: CRLF are known to occur within the Project area (CDFW 2021). CRLF requires a variety of habitats including aquatic breeding habitats and upland dispersal habitats. Breeding sites of CRLF are aquatic habitats including pools and backwaters within streams and creeks, ponds, marshes, springs, sag ponds, dune ponds, lagoons and the species will also breed in ephemeral waters (Thomson et al. 2016). Additionally, CRLF frequently breed in artificial impoundments such as stock ponds (USFWS 2002). Breeding sites are generally found in deep, still or slow-moving water (greater than 2.5 feet) and can have a wide range of edge and emergent cover amounts. CRLF can breed at sites with dense shrubby riparian or emergent vegetation, such as cattails or overhanging willows or can proliferate in ponds devoid of emergent vegetation and any apparent vegetative cover (i.e., stock ponds). CRLF habitat includes nearly any area within 1-2 miles of a breeding site that stays moist and cool through the summer; this includes non-breeding aquatic habitat in pools of slow-moving streams, perennial or ephemeral ponds, and upland sheltering habitat such as rocks, small mammal burrows, logs, densely vegetated areas, and even man-made structures (i.e. culverts, livestock troughs, spring-boxes, abandoned sheds) (USFWS 2017). Review of aerial imagery indicates that Tequisquito Slough, immediately north of project limits, and Santa Ana Creek, which runs south to north through the project site, could serve as potential habitat to CRLF.

Specific impact: Without appropriate avoidance and minimization measures for CRLF, potentially significant impacts associated with the Project's construction could include alteration to the natural flow regime of the adjacent slough, and Santa Ana Creek. Any exposure to fertilizers and pesticides including herbicides and fungicides, may pose contamination threats to the CRLF, direct mortality effects, and indirect negative effects by altering habitat availability and quality.

Evidence impact is potentially significant: Habitat loss from growth of cities and suburbs, mining, overgrazing by cattle, invasion of nonnative plants, impoundments, water diversions, stream maintenance for flood control, degraded water quality, and

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introduced predators, such as bullfrogs are the primary threats to CRLF (USFWS 2017). Review of aerial imagery indicates that Santa Ana Creek intersects the Project area from south to north, which could serve as habitat to CRLF. Therefore, project activities have the potential to significantly impact CRLF.

Recommended Mitigation Measure 7: CRLF Habitat Assessment

CDFW recommends that a qualified biologist conduct a habitat assessment in advance of project implementation, to determine if project sites or their immediate vicinity contain suitable habitat for CRLF.

Recommended Mitigation Measure 8: CRLF Surveys

If suitable habitat is present, CDFW recommends that a qualified wildlife biologist conduct surveys for CRLF within 48 hours prior to commencing work (two night surveys immediately prior to construction or as otherwise required by the USFWS) in accordance with the USFWS *Revised Guidance on Site Assessment and Field Surveys for the California Red-legged Frog* (USFWS 2005) to determine if CRLF are within or adjacent to individual project sites.

Recommended Mitigation Measure 9: CRLF Avoidance

If any CRLF are found during preconstruction surveys or at any time during construction, CDFW recommends that construction cease and that CDFW be contacted to discuss a relocation plan for CRLF.

CDFW recommends that initial ground-disturbing activities be timed to avoid the period when CRLF are most likely to be moving through upland areas (November 1 and March 31). If ground-disturbing activities must take place between November 1 and March 31, CDFW recommends that a qualified biologist monitor construction activity daily.

COMMENT 4: California Tiger Salamander (CTS)

Issue: CTS are known to occur in the vicinity of the Project area (CDFW 2021). Aerial imagery shows that the proposed Project site has upland habitat including grassland which may support small mammal burrows, a requisite upland habitat feature for CTS.

Specific Impacts: Potential ground- and vegetation-disturbing activities associated with Project activities could potentially include: collapse of small mammal burrows, inadvertent entrapment, loss of upland refugia, reduced reproductive success, reduction in health and vigor of eggs and/or young, and direct mortality of individuals. In addition, depending on the design of any activity, the Project has the potential to result in creation of barriers to dispersal.

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Evidence impact would be significant: Up to 75% of historic CTS habitat has been lost to urban and agricultural development (Searcy et al. 2013). Loss, degradation, and fragmentation of habitat are the primary threats to CTS. Contaminants and vehicle strikes are also sources of mortality for the species (CDFW 2015, USFWS 2017). The Project site is within the range of CTS and has suitable upland habitat (i.e., grasslands interspersed with burrows). CTS have been determined to be physiologically capable of dispersing up to approximately 1.5-miles from seasonally flooded wetlands/ponds (Searcy and Shaffer 2011) and have been documented to occur approximately 1.4-miles southwest of the Project site (CDFW 2021). Given the presence of suitable habitat potentially within, and adjacent to the Project site, ground-disturbing activities have the potential to significantly impact local populations of CTS.

Recommended Mitigation Measure 10: Focused CTS Protocol-level Surveys

CDFW recommends that a qualified biologist conduct protocol-level surveys in accordance with the USFWS “Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander” (USFWS 2003) at the appropriate time of year to determine the existence and extent of CTS breeding and refugia habitat. The protocol-level surveys for CTS require more than one survey season and are dependent upon sufficient rainfall to complete. As a result, consultation with CDFW and the USFWS is recommended well in advance of beginning the surveys and prior to any planned vegetation- or ground-disturbing activities. CDFW advises that the protocol-level survey include a 100-foot buffer around the Project area in all areas of wetland and upland habitat that could support CTS. Please be advised that protocol-level survey results are viable for two years after the results are reviewed by CDFW.

Recommended Mitigation Measure 11: CTS Avoidance

If CTS protocol-level surveys as described in Mitigation Measure 10 are not conducted, CDFW advises that a minimum 50-foot no-disturbance buffer be delineated around all small mammal burrows in suitable upland refugia habitat within and/or adjacent to the Project site. Further, CDFW recommends potential or known breeding habitat within and/or adjacent to the Project site be delineated with a minimum 250-foot no-disturbance buffer. Both upland burrow and wetland/pond breeding no-disturbance buffers are intended to minimize impacts to CTS habitat and avoid take of individuals. Alternatively, the applicant can assume presence of CTS within the Project site and obtain from CDFW an ITP in accordance with Fish and Game Code section 2081 subdivision (b).

Recommended Mitigation Measure 12: CTS Take Authorization

If through surveys it is determined that CTS are occupying or have the potential to occupy the Project site, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided as described in Mitigation Measure 11, take

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authorization would be warranted prior to initiating ground-disturbing activities to comply with CESA. Take authorization would occur through the acquisition of an ITP issued by CDFW, pursuant to Fish and Game Code section 2081 subdivision (b). As stated above, in the absence of protocol surveys, the applicant can assume presence of CTS within the Project site and obtain an ITP from CDFW.

Comment 5: Tri-colored Blackbird (TRBL)

Issue: TRBL occurrences have been documented near the Project site (CDFW 2021). Per CNDDDB records, there was an occurrence of TRBL observed approximately 1.9-miles northwest from the Project site, across the Tequisquito Slough. TRBL colonies require suitable nesting habitat, nearby freshwater, and nearby foraging habitat including semi-natural grasslands, agricultural croplands or alkali scrub (Beedy et al. 2017). Habitat surrounding the Project area may provide suitable foraging habitat for TRBL.

Specific impact: Without appropriate avoidance and minimization measures for TRBL, potential significant impacts associated with Project activities include nest and/or colony abandonment, reduced reproductive success, and reduced health and vigor of eggs and/or young.

Evidence impact would be significant: The Project vicinity contains elements that have the potential to support TRBL nesting colonies. TRBL aggregate and nest colonially, forming colonies of up to 100,000 nests (Beedy et al. 2017). This species has been steadily declining due to annual breeding losses due to crop-harvesting activities, insufficient insect resources, and habitat loss due to land conversion for agriculture, rangeland, and urban development (Beedy et al. 2017).

Recommended Mitigation Measure 13: TRBL Surveys

CDFW recommends that Project activities be timed to avoid the normal bird breeding season (February 1 through September 15). However, if Project activities must take place during that time, CDFW recommends that a qualified wildlife biologist conduct surveys for nesting TRBL no more than 10 days prior to the start of implementation to evaluate presence/absence of TRBL nesting colonies in proximity to Project activities and to evaluate potential Project-related impacts.

Recommended Mitigation Measure 14: TRBL Avoidance

If an active TRBL nesting colony is found during preconstruction surveys, CDFW recommends implementation of a minimum 300-foot no-disturbance buffer in accordance with CDFW's "Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agriculture Fields in 2015" (CDFW 2015). CDFW advises that this buffer remain in place until the breeding season has ended or until a qualified biologist has determined that nesting has ceased, the birds have fledged, and are no longer reliant upon the colony or parental care for survival. It is important to note

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that TRBL colonies can expand over time and for this reason, the colony should be reassessed to determine the extent of the breeding colony within 10 days for Project initiation.

Recommended Mitigation Measure 15: TRBL Take Avoidance

In the event that a TRBL nesting colony is 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 an ITP, pursuant to Fish and Game Code section 2081 subdivision (b), prior to any ground-disturbing activities.

COMMENT 6: Swainson's Hawk (SWHA)

Issue: SWHA have been documented to occur within the Project limits approximately 0.35-mile south of State Route 156 along Santa Ana Creek, and immediately adjacent to the west of Project limits (CDFW 2021). Review of aerial imagery indicates that large trees, which may support nesting SWHA, are present within Santa Ana Creek as well as Tequisquito Slough to the north, within and in the immediate vicinity of the Project area. In addition, habitat both within and surrounding the Project area may provide suitable foraging habitat for SWHA, increasing the likelihood of SWHA occurrence both within and in the immediate vicinity of the Project area.

Specific impact: Without appropriate avoidance and minimization measures for SWHA, potential significant impacts associated with Project activities include nest abandonment, loss of nest trees, loss of foraging habitat that would reduce nesting success (loss or reduced health or vigor of eggs and/or young) and direct mortality. Any take of SWHA without appropriate incidental take authorization would be a violation of Fish and Game Code.

Evidence impact would be significant: Depending on the timing of construction, activities including noise, vibration, and movement of workers or equipment that could affect nests present within the vicinity of the Project area and have the potential to result in nest abandonment and loss of foraging habitat, significantly impacting local nesting SWHA.

Recommended Mitigation Measure 16: Focused SWHA Surveys

To evaluate potential impacts, CDFW recommends that a qualified wildlife biologist conduct surveys for nesting SWHA following the survey methods developed by the Swainson's Hawk Technical Advisory Committee (SWHA TAC, 2000) prior to project implementation. The survey protocol includes early season surveys to assist the project proponent in implementing necessary avoidance and minimization measures, and in identifying active nest sites prior to initiating ground-disturbing activities.

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Recommended Mitigation Measure 17: SWHA Avoidance

If ground-disturbing Project activities are to take place during the normal bird breeding season (March 1 through September 15), CDFW recommends that additional pre-activity surveys for active nests be conducted by a qualified biologist no more than 10 days prior to the start of Project implementation. CDFW recommends a minimum no-disturbance buffer of 0.5-mile be delineated around active nests 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.

Recommended Mitigation Measure 18: SWHA Take Authorization

CDFW recommends that in the event an active SWHA nest is detected during surveys and the 0.5-mile no-disturbance buffer around the nest cannot feasibly be implemented, 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(b) is necessary to comply with CESA.

Recommended Mitigation Measure 19: Loss of SWHA Foraging Habitat

CDFW recommends compensation for the loss of SWHA foraging habitat to reduce impacts to SWHA foraging habitat to less than significant based on CDFW's "*Staff Report Regarding Mitigation for Impacts to Swainson's Hawks*" (CDFG, 1994), which recommends that mitigation for habitat loss occur within a minimum distance of 10 miles from known nest sites and the amount of habitat compensation is dependent on nest proximity. In addition to fee title acquisition or conservation easement recorded on property with suitable grassland habitat features, mitigation may occur by the purchase of conservation or suitable agricultural easements. Suitable agricultural easements would include areas limited to production of crops such as alfalfa, dry land and irrigated pasture, and cereal grain crops. Vineyards, orchards, cotton fields, and other dense vegetation do not provide adequate foraging habitat.

Recommended Mitigation Measure 20: SWHA Nest Trees

CDFW recommends that the removal of known raptor nest trees, even outside of the nesting season, be replaced with an appropriate native tree species planting at a ratio of 3:1 at or near the Project area or in another area that will be protected in perpetuity to reduce impacts resulting from the loss of nesting habitat.

COMMENT 7: American Badger (AMBA)

Issue: AMBA are known to occur in the Project vicinity (CDFW 2021). Badgers occupy sparsely vegetated land cover with dry, friable soils to excavate dens, which they use for cover, and that support fossorial rodent prey populations (i.e. ground squirrels, pocket gophers, etc.) (Zeiner et. al 1990). The Project site may support these requisite habitat features, and the Project has the potential to impact AMBA.

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Specific impact: Without appropriate avoidance and minimization measures for AMBA, potentially significant impacts associated with ground disturbance include direct mortality or natal den abandonment, which may result in reduced health or vigor of young.

Evidence impact is potentially significant: Habitat loss is a primary threat to AMBA (Gittleman et al. 2001). The Project has the expectation to construct traveler-oriented uses including restaurants, a gas station/convenience market, a truck stop and hotels along with a public events center and the new research campus. This land conversion could cause potential habitat fragmentation. As a result, ground-disturbing activities have the potential to significantly impact local populations of AMBA.

Recommended Mitigation Measure 21: AMBA 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 22: AMBA 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.

COMMENT 8: Burrowing Owl (BUOW)

Issue: BUOW have been observed in the project vicinity (CNDDDB 2021). This species inhabits open grassland or adjacent canal banks, right-of-ways, vacant lots, etc., containing small mammal burrows, a requisite habitat feature used by BUOW for nesting and cover. Review of aerial imagery indicates that most of the Project site contains, and is partially bordered by annual grassland which provides potentially suitable habitat features.

Specific impact: Potentially significant direct impacts associated with Project activities include burrow collapse, inadvertent entrapment, nest abandonment, reduced reproductive success, reduction in health and vigor of eggs and/or young, and direct mortality of individuals.

Evidence impact is potentially significant: BUOW rely on burrow habitat year-round for their survival and reproduction. Habitat loss and degradation are considered the greatest threats to BUOW in California's Central Valley (Gervais et al. 2008). The Project area is bordered by some grassland/undeveloped land in the vicinity, which is otherwise surrounded by agriculture. Therefore, Project activities have the potential to impact local BUOW populations. In addition, and as described in CDFW's "*Staff Report*

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on *Burrowing Owl Mitigation*" (CDFG 2012), excluding and/or evicting BUOW from their burrows is considered a potentially significant impact under CEQA.

Recommended Mitigation Measure 23: BUOW Habitat Assessment

CDFW recommends that a qualified biologist conduct a habitat assessment in advance of Project implementation, to determine if the Project area or its vicinity contains suitable habitat for BUOW.

Recommended Mitigation Measure 24: BUOW Surveys

If suitable habitat is present on or in the vicinity of the Project area, CDFW recommends assessing presence/absence of BUOW by having a qualified biologist conduct surveys following the California Burrowing Owl Consortium's (CBOC) "*Burrowing Owl Survey Protocol and Mitigation Guidelines*" (CBOC 1993) and CDFW's "*Staff Report on Burrowing Owl Mitigation*" (CDFG 2012). Specifically, CBOC and CDFW's Staff Report suggest three or more surveillance surveys conducted during daylight with each visit occurring at least three weeks apart during the peak breeding season (April 15 to July 15), when BUOW are most detectable. In addition, CDFW advises that surveys include a 500-foot buffer around the Project area.

Recommended Mitigation Measure 25: BUOW Avoidance

CDFW recommends that no-disturbance buffers, as outlined in the "*Staff Report on Burrowing Owl Mitigation*" (CDFG 2012), be implemented prior to and during any ground-disturbing activities. Specifically, CDFW's Staff Report recommends that impacts to occupied burrows be avoided in accordance with the following table unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.

Location	Time of Year	Level of Disturbance		
		Low	Med	High
Nesting sites	April 1-Aug 15	200 m*	500 m	500 m
Nesting sites	Aug 16-Oct 15	200 m	200 m	500 m
Nesting sites	Oct 16-Mar 31	50 m	100 m	500 m

* meters (m)

Recommended Mitigation Measure 26: BUOW Passive Relocation and Mitigation

If BUOW are found within these recommended buffers and avoidance is not possible, it is important to note that according to the Staff Report (CDFG 2012), exclusion is not a take avoidance, minimization, or mitigation method and is considered a potentially significant impact under CEQA. However, if necessary, CDFW recommends that

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burrow exclusion be conducted by qualified biologists and only during the non-breeding season, before breeding behavior is exhibited and after the burrow is confirmed empty through non-invasive methods, such as surveillance. CDFW recommends replacement of occupied burrows with artificial burrows at a ratio of 1 burrow collapsed to 1 artificial burrow constructed (1:1) as mitigation for the potentially significant impact of evicting BUOW. BUOW may attempt to colonize or re-colonize an area that will be impacted; thus, CDFW recommends ongoing surveillance, at a rate that is sufficient to detect BUOW if they return.

COMMENT 9: Western Pond Turtle (WPT)

Issue: Suitable habitat features for WPT occur in the Project area. WPT have been observed in the Tequisquito Slough north of the Project area (CNDDDB 2021). WPT are known to nest in the spring or early summer within 100 meters of a water body, although nest sites as far away as 500 meters have also been reported (Thomson et al. 2016).

Specific impact: Without appropriate avoidance and minimization measures for WPT, potentially significant impacts associated with Project activities could include nest reduction, inadvertent entrapment, reduced reproductive success, reduction in health or vigor of eggs and/or young, and direct mortality.

Evidence impact is potentially significant: The Project site is in proximity of known WPT habitat. Additionally, noise, vegetation removal, movement of workers, and ground disturbance as a result of Project activities have the potential to significantly impact WPT populations.

Recommended Mitigation Measure 27: WPT Surveys

CDFW recommends that a qualified biologist determine if suitable habitat for WPT occurs at the Project site. If suitable habitat is determined to occur at the Project site, CDFW recommends that a qualified biologist conduct focused surveys for WPT 10 days prior to Project implementation. In addition, CDFW recommends that focused surveys for nests occur during the egg-laying season (March through August) and that any nests discovered remain undisturbed until the eggs have hatched.

Recommended Mitigation Measure 28: WPT Relocation

CDFW recommends that if any WPT are discovered at the site immediately prior to or during Project activities, they be allowed to move out of the area on their own.

COMMENT 10: Western spadefoot (WESP)

Issue: WESP inhabit grassland habitats, breed in seasonal wetlands or ephemeral pools, and seek refuge in upland habitat where they occupy burrows outside of the

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breeding season (Thomson et al. 2016). Review of aerial imagery indicates that the Project vicinity contains grassland/upland habitat, which is one of the requisite habitat elements.

Specific impact: WESP are known to occur in the area (CDFW 2021). Santa Ana Creek or any ephemeral pools may provide potential breeding habitat in the Project limits and/or area. Without appropriate avoidance and minimization measures for western spadefoot, potentially significant impacts associated with ground disturbance include; collapse of small mammal burrows, inadvertent entrapment, loss of upland refugia, reduced reproductive success, reduction in health and vigor of eggs and/or young, and direct mortality of individuals.

Evidence impact is potentially significant: Habitat loss and fragmentation resulting from agricultural and urban development is the primary threat to western spadefoot (Thomson et al. 2016). The Project area is within the range of western spadefoot, contains suitable upland habitat (i.e., grasslands interspersed with burrows) and potential breeding habitat (i.e., the seasonal creek listed previously). As a result, ground-disturbing activities associated with development of the Project site have the potential to significantly impact local populations of this species.

Recommended Mitigation Measure 29: WESP Surveys

CDFW recommends that a qualified biologist conduct focused surveys for WESP and their requisite habitat features to evaluate potential impacts resulting from ground- and vegetation-disturbance.

Recommended Mitigation Measure 30: WESP Avoidance

Avoidance whenever possible is encouraged 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. Alternatively, a qualified biologist with appropriate take authorization can move them out of harm's way and to a suitable location.

Issue: The Project area contains numerous waterways, riparian and wetland areas. Development within the Project has the potential to involve temporary and permanent impacts to these features.

COMMENT 11: Wetland and Riparian Habitats

Specific impact: Project activities have the potential to result in the loss of riparian and wetland vegetation, in addition to the degradation of wetland and riparian areas through grading, fill, and related development.

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Evidence impact is potentially significant: The Project area includes stream and wetland features within an agricultural landscape that also maintains undeveloped habitats. Riparian and associated floodplain and wetland areas are valuable for their ecosystem processes such as protecting water quality by filtering pollutants and transforming nutrients; stabilizing stream banks to prevent erosion and sedimentation/siltation; and dissipating flow energy during flood conditions, thereby spreading the volume of surface water, reducing peak flows downstream, and increasing the duration of low flows by slowly releasing stored water into the channel through subsurface flow. The Fish and Game Commission policy regarding wetland resources discourages development or conversion of wetlands that results in any net loss of wetland acreage or habitat value. Construction activities within these features also has the potential to impact downstream waters as a result of Project site impacts leading to erosion, scour, and changes in stream morphology.

Recommended Mitigation Measure 31: Stream and Wetland Mapping

CDFW recommends that formal stream mapping and wetland delineation be conducted by a qualified biologist or hydrologist, as warranted, to determine the baseline location, extent, and condition of streams (including any floodplain) and wetlands within and adjacent to the Project area. Please note that while there is overlap, State and Federal definitions of wetlands differ, and complete stream mapping commonly differs from delineations used by the United States (U.S.) Army Corps of Engineers specifically to identify the extent of Waters of the U.S. Therefore, it is advised that the wetland delineation identify both State and Federal wetlands in the Project area as well as the extent of all streams including floodplains, if present, within the Project area. CDFW advises that site map(s) depicting the extent of any activities that may affect wetlands, lakes, or streams be included with any Project site evaluations, to clearly identify areas where stream/riparian and wetland habitats could be impacted from Project activities.

Recommended Mitigation Measure 32: Stream and Wetland Habitat Mitigation

CDFW recommends that the potential direct and indirect impacts to stream/riparian and wetland habitat be analyzed according to each Project activity. Based on those potential impacts, CDFW recommends that the EIR include measures to avoid, minimize, and/or mitigate those impacts. CDFW recommends that impacts to riparian habitat (i.e., biotic and abiotic features) take into account the effects to stream function and hydrology from riparian habitat loss or damage, as well as potential effects from the loss of riparian habitat to special-status species already identified herein. CDFW recommends that losses to stream and wetland habitats be offset with corresponding riparian and wetland habitat restoration incorporating native vegetation to replace the value to fish and wildlife provided by the habitats lost from Project implementation. If on-site restoration to replace habitats is not feasible, CDFW recommends offsite mitigation by restoring or enhancing in-kind riparian or

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wetland habitat and providing for the long-term management and protection of the mitigation area, to ensure its persistence.

II. Editorial Comments and/or Suggestions

Lake and Streambed Alteration: The Project is 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; 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.

For additional information on notification requirements, please contact our staff in the Lake and Streambed Alteration Program at (559) 243-4593. It is important to note, CDFW is required to comply with CEQA, as a Responsible Agency, when issuing a Lake or Streambed Alteration Agreement. If inadequate, or no environmental review, has occurred, for the Project activities that are subject to notification under Fish and Game Code 1602, CDFW will not be able to issue the Final LSAA Lake and Streambed Alteration Agreement until CEQA analysis for the project is complete. This may lead to considerable Project delays.

Nesting birds: CDFW encourages that Project implementation occur during the bird non-nesting season; however, if ground-disturbing or vegetation-disturbing activities must occur during the breeding season (February through mid-September), 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 Codes as referenced above.

To evaluate Project-related impacts on nesting birds, CDFW recommends that a qualified wildlife biologist 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 the Project sites to identify nests and determine their status. A sufficient area means any area potentially affected by the 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 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 wildlife biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of

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

Federally Listed Species: CDFW recommends consulting with the USFWS on potential impacts to federally listed species including, but not limited to, San Joaquin kit fox, California tiger salamander, steelhead, and California red-legged frog. 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 ground-disturbing activities.

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 California Natural Diversity Database (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.

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

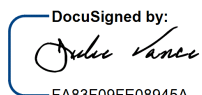
If it is determined that the Project has the potential to impact biological resources, an assessment of filing fees will be necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is 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).

CDFW appreciates the opportunity to comment on the Project to assist the City of Merced in identifying and mitigating the Project's impacts on biological resources.

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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, please contact Kelley Nelson, Environmental Scientist, at the address provided on this letterhead, or by electronic mail at Kelley.Nelson@wildlife.ca.gov.

Sincerely,

DocuSigned by:

FA83F09FE08945A...
Julie A. Vance
Regional Manager

Attachment

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Attachment 1

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

**PROJECT: Hollister Research Campus Project-NOP
State Clearinghouse No: 2021090434**

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
<i>Before Disturbing Soil or Vegetation</i>	
Mitigation Measure 1: SJKF Habitat Assessment	
Mitigation Measure 2: SJKF Surveys	
Mitigation Measure 4: Steelhead Habitat Avoidance	
Mitigation Measure 7: CRLF Habitat Assessment	
Mitigation Measure 8: CRLF Surveys	
Mitigation Measure 9: CRLF Avoidance	
Mitigation Measure 10: Focused CTS Protocol-level Surveys	
Mitigation Measure 11: CTS Avoidance	
Mitigation Measure 13: TRBL Surveys	
Mitigation Measure 14: TRBL Avoidance	
Mitigation Measure 15: TRBL Take Avoidance	
Mitigation Measure 16: Focused SWHA Surveys	
Mitigation Measure 17: SWHA Avoidance	
Mitigation Measure 21: AMBA Surveys	
Mitigation Measure 22: AMBA Avoidance	
Mitigation Measure 23: BUOW Habitat Assessment	
Mitigation Measure 24: BUOW Surveys	
Mitigation Measure 25: BUOW Avoidance	
Mitigation Measure 26: BUOW Passive Relocation and Mitigation	
Mitigation Measure 27: WPT Surveys	
Mitigation Measure 28: WPT Relocation	
Mitigation Measure 29: WESP Surveys	
Mitigation Measure 30: WESP Avoidance	
Mitigation Measure 31: Stream and Wetland Mapping	
Mitigation Measure 32: Stream and Wetland Habitat Mitigation	
<i>During Construction</i>	
Mitigation Measure 3: SJKF Take Authorization	
Mitigation Measure 5: Tree Removal and Replacement	
Mitigation Measure 6: Steelhead Salmon Habitat Mitigation	
Mitigation Measure 12: CTS Take Authorization	
Mitigation Measure 18: SWHA Take Authorization	

Mitigation Measure 19: Loss of SWHA Foraging Habitat	
Mitigation Measure 20: SWHA Nest Trees	

Attachment 2

Attachment 1

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

PROJECT: Hollister Research Campus (014-120-014; -055; -063, and -064)

SCH No.: 2021090434

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
<i>Before Disturbing Soil or Vegetation</i>	
White-Tailed Kite (WTKI)	
Recommended Mitigation Measure 1: WTKI Surveys	
Western Burrowing Owl (BUOW)	
Recommended Mitigation Measure 3: BUOW Pre-construction Surveys	
Recommended Mitigation Measure 5: BUOW Take Authorization	
Crotch's Bumble bee (CBB)	
Recommended Mitigation Measure 6: CBB Habitat Assessment	
Recommended Mitigation Measure 7: CBB Surveys	
Recommended Mitigation Measure 9: CBB Take Authorization	
Vernal Pool Fairy Shrimp	
Recommended Mitigation Measure 10: VPFS Habitat Assessment	
Recommended Mitigation Measure 11: VPFS Surveys and Consultation with CDFW	
Special-status Plants	
Recommended Mitigation Measure 12: Special-Status Plant Focused Surveys	
Recommended Mitigation Measure 14: Special-Status Plant Take Authorization	
<i>During Construction</i>	
White-Tailed Kite (WTKI)	

Recommended Mitigation Measure 2: WTKI Avoidance Buffer	
Western Burrowing Owl (BUOW)	
Recommended Mitigation Measure 4: BUOW Avoidance Buffer	
Crotch's Bumble bee (CBB)	
Recommended Mitigation Measure 8: CBB Avoidance	
Special-status Plants	
Recommended Mitigation Measure 13: Special- Status Plant Avoidance	