

APPENDIX B

PUBLIC COMMENTS ON THE NOP

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TABLE MOUNTAIN RANCHERIA

CULTURAL RESOURCES DEPARTMENT

CERTIFIED 2768 6008

November 15, 2022

Brenda D. Lavell
Tribal Chairperson

Beverly J. Hunter
Tribal Vice-Chairperson

Jenna Gosselaar
Tribal Secretary/Treasurer

Richard L. Jones
Tribal Council Member-At-Large

Michelle Heredia-Cordova
Tribal Council Member-At-Large

City of Clovis
Lily Cha-Haydostian, Senior Planner
1033 Fifth Street
Clovis, Ca. 93612

RE: TM6343 et al, General Plan Amendment and Project Subject to AB52

Dear: Lily Cha-Haydostian

*“Preserving our past,
Protecting our future”*

Table Mountain Rancheria is responding to your letter dated, November 04, 2022, regarding, proposed TM6343 et al, General Plan Amendment and Project Subject to AB52. Thank you for notifying Table Mountain Rancheria of the potential development and request for consultation. The Rancheria is very interested in this project as it lies within our cultural area of interest.

If you have already conducted a record search, please provide Table Mountain Rancheria with copies of any cultural resource report you may have.

Robert Pennell
Cultural Resources
Department
Director

At this time, please contact our office at (559) 325-0351 or rpennell@tmr.org to coordinate a discussion and meeting date regarding your project.

Office (559) 325-0351
Fax (559) 325-0394

Sincerely,

Robert Pennell
Tribal Cultural Resources Director

23736 Sky Harbour Road

P.O. Box 410

Friant, California 93626

Office (559) 316-6330

Fax (559) 822-6340

NATIVE AMERICAN HERITAGE COMMISSION

December 29, 2022

Lily Cha-Haydostian, MPA, Senior Planner
City of Clovis
1033 Fifth Street
Clovis, CA 93612

Re: 2022120483, Tract Map 6343 Project, Fresno County

Dear Ms. Cha-Haydostian:

The Native American Heritage Commission (NAHC) has received the Notice of Preparation (NOP), Draft Environmental Impact Report (DEIR) or Early Consultation for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code §21000 et seq.), specifically Public Resources Code §21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource, is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit.14, §15064.5 (b) (CEQA Guidelines §15064.5 (b))). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an Environmental Impact Report (EIR) shall be prepared. (Pub. Resources Code §21080 (d); Cal. Code Regs., tit. 14, § 5064 subd.(a)(1) (CEQA Guidelines §15064 (a)(1))). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources within the area of potential effect (APE).

CEQA was amended significantly in 2014. Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a separate category of cultural resources, "tribal cultural resources" (Pub. Resources Code §21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. (Pub. Resources Code §21084.2). Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code §21084.3 (a)). **AB 52 applies to any project for which a notice of preparation, a notice of negative declaration, or a mitigated negative declaration is filed on or after July 1, 2015.** If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). **Both SB 18 and AB 52 have tribal consultation requirements.** If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. §800 et seq.) may also apply.

The NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments.

Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.

[AB 52](#)



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[Vacant]

COMMISSIONER
[Vacant]

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Raymond C. Hitchcock
Miwok/Nisenan

NAHC HEADQUARTERS
1550 Harbor Boulevard
Suite 100
West Sacramento,
California 95691
(916) 373-3710
nahc@nahc.ca.gov
NAHC.ca.gov

- 7. Conclusion of Consultation:** Consultation with a tribe shall be considered concluded when either of the following occurs:
- a.** The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
 - b.** A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code §21080.3.2 (b)).

8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document: Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code §21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code §21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code §21082.3 (a)).

9. Required Consideration of Feasible Mitigation: If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code §21084.3 (b). (Pub. Resources Code §21082.3 (e)).

10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:

- a.** Avoidance and preservation of the resources in place, including, but not limited to:
 - i.** Planning and construction to avoid the resources and protect the cultural and natural context.
 - ii.** Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
- b.** Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
 - i.** Protecting the cultural character and integrity of the resource.
 - ii.** Protecting the traditional use of the resource.
 - iii.** Protecting the confidentiality of the resource.
- c.** Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
- d.** Protecting the resource. (Pub. Resource Code §21084.3 (b)).
- e.** Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code §815.3 (c)).
- f.** Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code §5097.991).

11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource: An Environmental Impact Report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:

- a.** The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code §21080.3.1 and §21080.3.2 and concluded pursuant to Public Resources Code §21080.3.2.
- b.** The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
- c.** The lead agency provided notice of the project to the tribe in compliance with Public Resources Code §21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code §21082.3 (d)).

3. Contact the NAHC for:
 - a. A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
 - b. A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.

4. Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.
 - a. Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, § 15064.5(f) (CEQA Guidelines § 15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
 - b. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
 - c. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code § 7050.5, Public Resources Code § 5097.98, and Cal. Code Regs., tit. 14, § 15064.5, subdivisions (d) and (e) (CEQA Guidelines § 15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

If you have any questions or need additional information, please contact me at my email address:
Cameron.Vela@nahc.ca.gov.

Sincerely,

Cameron Vela

Cameron Vela
Cultural Resources Analyst

cc: State Clearinghouse



County of Fresno

DEPARTMENT OF PUBLIC HEALTH

December 29, 2022

Lily Cha, Senior Planner
City of Clovis- Planning Division
1033 Fifth Street
Clovis, CA 93612

LU0022070
2604

Dear Ms. Cha:

Subject: Notice of Preparation DEIR
Project: DEIR Tract Map 6343
Location: City of Clovis

The Fresno County Department of Public Health, Environmental Health Division has completed a review of the Request for Comment for the proposed NOP EIR for Tract Map 6343 and offers the following comments for future consideration:

Hazards and Hazardous Materials Section

- The hazardous materials section should address potential hazards and hazardous materials during construction and grading activities, there is potential for discovering abandoned underground petroleum storage tank(s). If this occurs, the applicant(s) shall apply for and secure an Underground Storage Tank Removal Permit from the Fresno County Department of Public Health, Environmental Health System. Contact the Certified Unified Program Agency at (559) 600-3271 for more information.
- Similarly, abandoned sewage disposal systems may be discovered during construction and grading activities. All abandoned sewage disposal systems within the unincorporated County shall be properly destroyed under permit and inspection from the Department of Public Works and Planning, Building and Safety Section.

Hydrology and Water Quality

- The Hydrology and Water Quality Section should address the manner in which existing water wells, both domestic and agricultural, will be handled in areas of the proposed project. Areas served by individual domestic and agricultural wells may provide a conduit to groundwater if not properly protected or destroyed. Improper abandonment of such wells presents a significant risk of contaminating groundwater. For this reason, when development occurs, it is extremely important to ensure the safe and proper destruction of all abandoned water wells. Contact the Fresno County Department of Public Health, Water Surveillance Program at (559) 600-3357 for more information.

Noise

- Future projects have the potential to expose nearby residents to elevated noise levels through various activities and events. Consideration should be given to the noise elements of the City

Promotion, preservation and protection of the community's health

1221 Fulton Street / P. O. Box 11867, Fresno, CA 93775

(559) 600-3271 □ FAX (559) 455-4646

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Lily Cha
December 29, 2022
NOP DEIR Tract Map 6343
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Municipal Code and the Fresno County Ordinance Code including mitigation measures from noise generating sources.

If I can be of further assistance, please contact me at (559) 600-3271.

Reviewed By:

A handwritten signature in black ink that reads "Kevin Tsuda". The signature is written in a cursive, slightly slanted style.

Kevin Tsuda, R.E.H.S.
Environmental Health Specialist
Environmental Health Division

KT

Deep Sidhu- Supervisor Environmental Health Division



County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING
STEVEN E. WHITE, DIRECTOR

January 4, 2023

Lily Cha, Senior Planner
Planning Division
1033 Fifth Street
Clovis, CA 93612
(559) 324-2335
lilyc@cityofclovis.com

SUBJECT: Request for Review and Comments - City of Clovis - Notice of Preparation of Draft Environmental Impact Report for the Tract Map 6343

Dear Lily Cha:

The County of Fresno appreciates the opportunity to review and comment on the subject project being reviewed by the City of Clovis. The documents received for this review were circulated to our various Fresno County Public Works and Planning divisions. Based on the County's initial review, we offer the following comments from our various divisions:

Department Administration Comments:

The annexation boundary must include the full width of rights-of-way along Behymer and Sunnyside Avenues. Also, to avoid creation of a peninsula or other irregular annexation boundaries, no annexations north of Behymer Avenue should occur until areas west of the project site are annexed to the City of Clovis. The County may have additional comments on the proposed annexation boundary once final offsite infrastructure improvements (e.g. traffic signals, road way improvements) have been identified.

Road Maintenance and Operations Comments:

- 1) Annexation should include the full width of Behymer Ave along the proposed annexation area and should include the full span of state bridge CSBN: 42C0300 crossing Enterprise Canal.
- 2) Depending on results of the Transportation study of the EIR, RMO may have additional comments or conditions.

If you have any questions or comments, please contact Wendy Nakagawa at wnakagawa@fresnocountyca.gov.

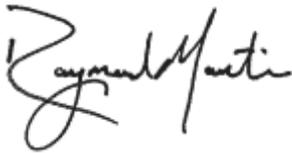
Transportation Planning Comments:

Per the provided project information this project is likely to impact county facilities and should require a TIS, please include the count in all future routings best point of contact is hluna@fresnocountyca.gov. Using ITE trip Generation Manual (11th Edition) trips are calculated to be over the county's threshold.

If you have any further questions regarding this matter, please contact Hector Luna at hluna@fresnocountyca.gov.

If you have any questions regarding the information described in this letter, please contact me at rmartin@fresnocountyca.gov or (559) 600-4305.

Sincerely,

A handwritten signature in black ink that reads "Raymond Martin". The signature is written in a cursive style with a large initial "R" and "M".

Raymond Martin, Staff Analyst

Development Services and Capital Projects Division



Yana Garcia
Secretary for
Environmental Protection



Department of Toxic Substances Control

Meredith Williams, Ph.D.
Director
8800 Cal Center Drive
Sacramento, California 95826-3200



Gavin Newsom
Governor

SENT VIA ELECTRONIC MAIL

January 11, 2023

Ms. Lily Cha-Haydostian, MPA
Senior Planner
City of Clovis
1033 Fifth Street
Clovis, CA 93612
LilyC@cityofclovis.com

NOTICE OF PREPARATION OF A DRAFT ENVIRONMENTAL IMPACT REPORT FOR TRACT MAP 6343 – DATED DECEMBER 19, 2022 (STATE CLEARINGHOUSE NUMBER: 2022120483)

Dear Ms. Cha-Haydostian:

The Department of Toxic Substances Control (DTSC) received a Notice of Preparation of an Environmental Impact Report (EIR) for Tract Map 6343 (Project). The Lead Agency is receiving this notice from DTSC because the Project includes one or more of the following: groundbreaking activities, work in close proximity to a roadway, presence of site buildings that may require demolition or modifications, importation of backfill soil, and/or work on or in close proximity to an agricultural or former agricultural site.

DTSC recommends that the following issues be evaluated in the Hazards and Hazardous Materials section of the MND:

1. A State of California environmental regulatory agency such as DTSC, a Regional Water Quality Control Board (RWQCB), or a local agency that meets the requirements of [Health and Safety Code section 101480](#) should provide regulatory concurrence that the project site is safe for construction and the proposed use.
2. The MND should acknowledge the potential for historic or future activities on or near the Project site to result in the release of hazardous wastes/substances on the Project site. In instances in which releases have occurred or may occur, further studies should be carried out to delineate the nature and extent of the

contamination, and the potential threat to public health and/or the environment should be evaluated. The MND should also identify the mechanism(s) to initiate any required investigation and/or remediation and the government agency who will be responsible for providing appropriate regulatory oversight.

3. Refiners in the United States started adding lead compounds to gasoline in the 1920s in order to boost octane levels and improve engine performance. This practice did not officially end until 1992 when lead was banned as a fuel additive in California. Tailpipe emissions from automobiles using leaded gasoline contained lead and resulted in aurally deposited lead (ADL) being deposited in and along roadways throughout the state. ADL-contaminated soils still exist along roadsides and medians and can also be found underneath some existing road surfaces due to past construction activities. Due to the potential for ADL-contaminated soil, DTSC recommends collecting soil samples for lead analysis prior to performing any intrusive activities for the Project described in the MND.
4. If buildings or other structures are to be demolished on any project sites included in the proposed project, surveys should be conducted for the presence of lead-based paints or products, mercury, asbestos containing materials, and polychlorinated biphenyl caulk. Removal, demolition and disposal of any of the above-mentioned chemicals should be conducted in compliance with California environmental regulations and policies. In addition, sampling near current and/or former buildings should be conducted in accordance with DTSC's 2006 [Interim Guidance Evaluation of School Sites with Potential Contamination from Lead Based Paint, Termiticides, and Electrical Transformers.](#)
5. If any projects initiated as part of the proposed Project require the importation of soil to backfill any excavated areas, proper sampling should be conducted to ensure that the imported soil is free of contamination. DTSC recommends the imported materials be characterized according to DTSC's 2001 [Information Advisory Clean Imported Fill Material.](#)
6. If any sites included as part of the proposed Project have been used for agricultural, weed abatement or related activities, proper investigation for organochlorinated pesticides should be discussed in the MND. DTSC recommends the current and former agricultural lands be evaluated in accordance with DTSC's 2008 [Interim Guidance for Sampling Agricultural Properties \(Third Revision\).](#)

Ms. Lily Cha-Haydostian
January 11, 2023
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DTSC appreciates the opportunity to comment on the MND. Should you choose DTSC to provide oversight for any environmental investigations, please visit DTSC's [Site Mitigation and Restoration Program](#) page to apply for lead agency oversight. Additional information regarding voluntary agreements with DTSC can be found at [DTSC's Brownfield website](#).

If you have any questions, please contact me at (916) 255-3710 or via email at Gavin.McCreary@dtsc.ca.gov.

Sincerely,

A handwritten signature in blue ink that reads "Gavin McCreary". The signature is fluid and cursive, with the first name "Gavin" being more prominent than the last name "McCreary".

Gavin McCreary, M.S.
Project Manager
Site Evaluation and Remediation Unit
Site Mitigation and Restoration Program
Department of Toxic Substances Control

cc: (via email)

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

Mr. Dave Kereazis
Office of Planning & Environmental Analysis
Department of Toxic Substances Control
Dave.Kereazis@dtsc.ca.gov

From: EB <ebsemail2000@gmail.com>
Sent: Monday, January 16, 2023 3:55 PM
To: Lily Cha <lilyc@ci.clovis.ca.us>
Subject: [External] TM 6343 EIR comment

My comments for the ER include the following:

1) On the Initial Study document, the checklist in Section 2.0 does not have Biological Resources marked as having a "Potentially Significant Impact" from the project. This seems to be in error as the threatened California Tiger Salamander has been observed within 1 mile of this project.

2) The table in Section 3.2 of the Initial Study document shows that agricultural and forestry resources would have a "less than significant" impact by this project. However, in Section 3.2.1, the document states that "the City of Clovis prepared a LESA model for the Heritage Grove growth area, which includes the project site, and it concluded that conversion of farmland in the Heritage Grove growth area would result in significant unavoidable impacts to important farmland." This previous sentence signifies to me that the table incorrectly marks the project as having a "less than significant impact". Shouldn't the table have marked the project as having a "potentially significant impact" and isn't mitigation of a 1:1 ratio needed if farmland conversion is deemed significant?

Also, is there a public agency that reviews this Initial Study document to confirm it's validity? An agency such as the California Department of Conservation, Division of Land Resource Protection?

Thank you



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 17, 2023

Lily Cha, Senior Planner
City of Clovis Planning and Development Services 1033 Fifth Street
Clovis, California 93612
(559) 324-2335
lilyc@cityofclovis.com

**Subject: Tract Map 6343 Project (Project)
Notice of Preparation (NOP)
State Clearinghouse No: 2022120483**

Dear Lily Cha:

The California Department of Fish and Wildlife (CDFW) received a NOP for a draft Environmental Impact Report (EIR) from the City of Clovis for the above-referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

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

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)).

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.

Lily Cha, Senior Planner
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CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (*Id.*, § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on 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: City of Clovis

Objective: The proposed project would consist of the annexation of 246 acres by the City of Clovis, and the development of 590 residential lots, averaging 3,329 square feet within the 71.54-acre project site. The proposed lots would be developed into single-family residences over time. Sixty-six outlot (a plot of undeveloped land) spaces that would potentially be developed into private roads, private parking, pedestrian walkways, landscaping, public utilities, and public park uses would also be included within the project site. No development is proposed within the remaining 174.46-acre annexation area surrounding the project site. The proposed project would include annexation of the 246-acre area from Fresno County jurisdiction to the City of Clovis. Any future

Lily Cha, Senior Planner
City of Clovis
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Page 3

development occurring within the annexation area would require a separate project-specific analysis.

The proposed project would be developed in three phases:

Phase 1 – Phase 1 would include the development of 136 single-family residential units with an average size of 1,514 square feet per unit. Phase 1 would be located on the southern portion of the project site and would be accessed through one ingress and egress driveway located on Perrin Avenue. Phase 1 would include the construction of 44 parking spaces, an 8,745 square-foot community pool and recreation area, a 13,930 square-foot community park, 0.51 acre of landscaped areas, and drainage and pedestrian infrastructure improvements along Perrin Avenue. The southern extension of North Baron Avenue from East Behymer Avenue and the extension of Perrin and Hammel Avenue within the project site would be constructed during Phase 1.

Phase 2 – Phase 2 would include the development of 214 single-family residential units with an average size of 2,168 square feet per unit. Phase 2 would be located on the central portion of the project site and would be accessed through one gated ingress and egress driveway located along the future southern extension of Baron Avenue, and one driveway along Hammel Avenue. Phase 2 would include the construction of an approximately 26-foot-wide drainage channel along Perrin Avenue, approximately 0.35 acre of landscaped areas, as well as storm drainage and pedestrian infrastructure improvements along Perrin Avenue and Hammel Avenue.

Phase 3 – Phase 3 of the proposed project would include the development of 240 single-family residential units with an average size of 1,514 square feet per unit. Phase 3 would be located on the northern portion of the project site and would be accessed through two gated ingress and egress driveways located along the future southern extension of Baron Avenue, and through one gated driveway located along the future northern extension of Hammel Avenue. Phase 3 would include the construction of approximately 91 parking spaces, an approximately 9,985 square-foot pool and recreation area, approximately 0.65 acre of landscaped areas, and drainage and pedestrian infrastructure improvements along Baron Avenue. In addition, development of the project site would include infrastructure improvements for water services along the East Behymer Avenue frontage and Baron Avenue frontage, as well as stormwater management infrastructure improvements along the Perrin Avenue frontage. The proposed project would also construct a two-lane, approximately 49-foot-wide and 2,650-foot long extension of Baron Avenue south of East Behymer Avenue. The dirt-lined Enterprise Canal is adjacent to the Project site on the western side.

Location: Southwest of the intersection of East Behymer Avenue and North Sunnyside Avenue. Assessor Parcel Numbers (APNs): 556-040-07S, 556-040-08S, and 556-030-14S.

Lily Cha, Senior Planner
City of Clovis
January 17, 2023
Page 4

Timeframe: None given.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist the City of Clovis in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct, indirect, and cumulative impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document for this Project.

The NOP indicates that the EIR for the Project will consider potential environmental effects of the proposed Project to determine the level of significance of the environmental effect and will analyze these potential effects to the detail necessary to make a determination on the level of significance. The EIR will also identify and evaluate alternatives to the proposed Project. When an EIR is prepared, the specifics of mitigation measures may be deferred, provided the lead agency commits to mitigation and establishes performance standards for implementation.

Special-Status Species: Based on aerial imagery, and species occurrence records from the California Natural Diversity Database (CNDDDB, 2023), the proposed Project site and/or surrounding area is known to and/or has the potential to support special-status species, 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 Federal and State threatened (FT/ST) California tiger salamander (*Ambystoma californiense*), the State threatened (ST) Swainson's hawk (*Buteo swainsoni*), the State candidate (SC) endangered species, Crotch bumble bee (*Bombus crotchii*), and the State species of special concern (SSC) burrowing owl (*Athene cunicularia*).

California Tiger Salamander (CTS)

The Project area is within the range of CTS and this species has been observed in several areas in the Project vicinity per CNDDDB records. Review of aerial imagery indicates the presence of several wetland/ponded features in the Project's vicinity that may have the potential to support breeding CTS. In addition, the Project area or its immediate surroundings may support small mammal burrows, a requisite upland habitat feature for CTS.

Up to 75% of historic CTS habitat has been lost to development (Searcy et al. 2013). Decline in CTS populations is attributed to habitat loss and fragmentation; predation from, and competition with invasive species; hybridization; small mammal control; and contaminants (USFWS 2017).

Lily Cha, Senior Planner
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CDFW advises avoidance for CTS include a minimum 50-foot no-disturbance buffer delineated around all small mammal burrows within and/or adjacent to the Project construction footprint. If burrow avoidance is not feasible, consultation with CDFW is warranted to determine if the Project can avoid take.

As part of the biological studies conducted in support of the CEQA document, CDFW requests protocol CTS surveys be performed to identify potential Project-related impacts to this species in and surrounding the Project footprint. These surveys and the associated impacts analysis should be conducted by a qualified biologist using the *Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander*, which were issued by CDFW and the USFWS in 2003. Please note that the protocol requires that surveys be conducted during at least two seasons, with sufficient precipitation, to be considered complete. If CTS are found on the Project site, “take” authorization is recommended by CDFW and would occur through the issuance of an Incidental Take Permit (ITP), pursuant to Fish and Game Code section 2081 subdivision (b). In the absence of protocol surveys, the applicant can assume presence of CTS within the Project area and immediately focus on obtaining an ITP. For information regarding ITPs, please see the following link: <https://www.wildlife.ca.gov/Conservation/CESA>. Included in the ITP would be measures required to avoid and/or minimize direct “take” of CTS on the Project site, as well as measures to fully mitigate the impact of the “take.”

Swainson’s Hawk (SWHA) (Compensation for Foraging Habitat)

SWHA have the potential to nest within and near the Project site. The proposed Project will involve activities near large trees that may serve as potential nest sites. CDFW recommends that the biological studies conducted in support of the CEQA document include both protocol surveys for nesting SWHA within the project area and a 0.5 mile buffer surrounding the project and an analysis of the impacts of foraging habitat loss on this species as a result of the Project. All identified nests should be avoided by a 0.5 mile buffer to avoid take of SWHA.

Per Google historical imagery from 2021, the proposed Project area was composed of agricultural land that the SWHA could potentially utilize for foraging habitat. Current Google aerial imagery shows that a large portion of that resource has been altered by ground disturbing activities. Due to this issue, 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 with the amount of habitat compensation dependent on nest proximity. In addition to fee title acquisition or a 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

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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.

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 issuance of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA.

Crotch Bumble Bee (CBB)

The California Fish and Game Commission (Commission) determined listing CBB “may be warranted” on June 12, 2019, advancing the species to candidacy. The Commission’s determination was challenged in court soon after, and candidacy was stayed during much of the ensuing litigation. A California court of appeal ultimately upheld the Commission’s determination, and the state Supreme Court declined to review the case. On September 30, 2022, the court of appeal issued remittitur in the litigation, which had the legal effect of reinstating candidacy for CBB.

As of September 30, 2022, CBB is again a candidate species under CESA and as such, receives the same legal protection afforded to an endangered or threatened species (Fish & G. Code, §§ 2074.2 & 2085). It is illegal to import, export, take (hunt, pursue, catch, capture, or kill, or attempt engage in any of these activities), possess, purchase, or sell CBB or any part or product thereof (Fish & G. Code, §§ 86, 2080, 2085).

CBB was once common throughout most of the central and southern California, however, it now appears to be absent from most of it, especially in the central portion of its historic range within California’s Central Valley (Hatfield et al. 2014). Analyses by the Xerces Society et al. (2018) suggest there have been sharp declines in relative abundance by 98% and persistence by 80% over the last ten years.

CBB have the potential to occur within the vicinity of the Project site. Suitable CBB habitat includes areas of grasslands and upland scrub that contain requisite habitat elements, such as small mammal burrows. CBB primarily nest in late February through late October underground in abandoned small mammal burrows but may also nest under perennial bunch grasses or thatched annual grasses, underbrush piles, in old bird nests, and in dead trees or hollow logs (Williams et al. 2014; Hatfield et al. 2015). Overwintering sites utilized by CBB mated queens include soft, disturbed soil (Goulson 2010), or under leaf litter or other debris (Williams et al. 2014). Therefore, ground disturbance and vegetation removal associated with Project implementation has the potential to significantly impact local CBB populations.

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Without appropriate avoidance and minimization measures for CBB, potentially significant impacts associated with Project ground- and vegetation-disturbing activities include loss of foraging plants, changes in foraging behavior, burrow collapse, nest abandonment, reduced nest success, reduced health and vigor of eggs, young and/or queens, in addition to direct mortality in violation of Fish and Game Code. CDFW recommends the CEQA document prepared for this Project include 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 warrants consultation with CDFW to discuss how to avoid take.

Burrowing Owl (BUOW)

BUOW may occur near the Project site (CDFW 2023). BUOW inhabit open grassland or adjacent canal banks, ROWs, vacant lots, etc. containing small mammal burrows, a requisite habitat feature used by BUOW for nesting and cover. Review of aerial imagery indicates that some of the Project site is bordered by annual grassland and potentially fallow agricultural fields and may be present within the Project site.

Potentially significant direct impacts associated with subsequent 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. 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). Therefore, subsequent ground-disturbing activities associated with the Project have the potential to significantly impact local BUOW populations. In addition, and as described in CDFW's "Staff Report on Burrowing Owl Mitigation" (CDFG 2012), excluding and/or evicting BUOW from their burrows is considered a potentially significant impact under CEQA.

CDFW recommends assessing presence/absence of BUOW by having a qualified biologist conduct surveys following the California Burrowing Owl Consortium's "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.

CDFW recommends 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

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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)

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 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.

Nesting Birds

To evaluate Project-related impacts on nesting birds, CDFW recommends that a qualified biologist conduct an assessment of nesting habitat during biological surveys in support of the project's CEQA document and include measures in the DEIR to conduct pre-construction surveys for active nests no more than 10 days prior to the start of ground or vegetation disturbance for each year that each phase of the project is in construction 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.

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If continuous monitoring of identified nests by a qualified biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or on-site parental care for survival. Variance from these no-disturbance buffers is possible when there is compelling biological or ecological reason to do so, such as when the construction areas would be concealed from a nest site by topography. CDFW recommends that a qualified biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

II. Editorial Comments and/or Suggestions

CDFW acknowledges that the mitigation measures in the Initial Study are appropriate and that we recommend they are included in the DEIR document.

CDFW requests that the DEIR fully identify potential impacts to biological resources, including the above-mentioned species. In order to adequately assess any potential impacts to biological resources, focused biological surveys should be conducted by a qualified wildlife biologist/botanist during the appropriate survey period(s) in order to determine whether any special-status species and/or suitable habitat features may be present within the Project area. Properly conducted biological surveys, and the information assembled from them, are essential to identify any mitigation, minimization, and avoidance measures and/or the need for additional or protocol-level surveys, and to identify any Project-related impacts under CESA and other species of concern.

Therefore, CDFW recommends the DEIR address potential impacts to these species and provide measurable mitigation measures that, as needed, will reduce impacts to less than significant levels. Information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>).

Federally Listed Species: CDFW also recommends consulting with the USFWS on potential impacts to Federally listed species, specifically, but not limited to, the FT California tiger salamander. Take under the Federal Endangered Species Act (FESA) is more broadly defined than CESA; take under FESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS to comply with FESA is advised well in advance of any ground disturbing activities.

Waters of the State and U.S.: 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

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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; construction-related activity runoff associated with Project-related activities and implementation; and/or impairment of wildlife movement through the area. 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.

Water Rights: CDFW recommends the DEIR include a detailed analysis of the water rights and water entitlements that pertain to the Project, including whether any applications or change petitions will be filed. As stated previously, CDFW, as Trustee Agency, is consulted by the SWRCB during the water rights process to provide terms and conditions designed to protect fish and wildlife prior to appropriation of the State’s water resources. Given the potential for impacts to sensitive species and their habitats, it is advised that required consultation with CDFW occur well in advance of the SWRCB water right application process.

Project Alternatives Analysis: CDFW recommends that the information and results obtained from the biological technical surveys, studies, and analysis conducted in support of the project’s CEQA document be used to develop and modify the project’s alternatives to avoid and minimize impacts to biological resources to the maximum extent possible. When efforts to avoid and minimize have been exhausted, remaining impacts to sensitive biological resources should be mitigated to reduce impacts to a less than significant level, if feasible.

Cumulative Impacts: CDFW recommends that a cumulative impact analysis be conducted for all biological resources that will either be significantly or potentially significantly impacted by implementation of the project, including those whose impacts are determined to be less than significant with mitigation incorporated or for those resources that are rare or in poor or declining health and will be impacted by the project, even if those impacts are relatively small (i.e. less than significant). Cumulative impacts should be analyzed using an acceptable methodology to evaluate the impacts of past, present, and reasonably foreseeable future projects on resources and should be focused specifically on the resource, not the project. An appropriate resource study area should be identified and utilized for this analysis. At a minimum, all of the described associated road extensions, water service infrastructure improvements, and stormwater management projects should be included as projects that are reasonably foreseeable. Please note that CDFW staff is available for consultation in support of cumulative impacts analyses as a trustee and responsible agency under CEQA.

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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 Clovis in identifying and mitigating the 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>). 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:

FAB3F09FE08945A...
Julie A. Vance
Regional Manager

ec: Linda Connolly (linda.connolly@wildlife.ca.gov)
California Department of Fish and Wildlife

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Patricia Cole (patricia_cole@fws.gov)
United States Fish and Wildlife Service

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LITERATURE CITED

California Department of Fish and Wildlife (CDFW). 2023. Biogeographic Information and Observation System (BIOS). <https://www.wildlife.ca.gov/Data/BIOS>. Accessed January 3, 2023.

CTS Literature Citations

Searcy, C.A., E. Gabbai-Saldate, and H.B. Shaffer. 2013. Microhabitat use and migration distance of an endangered grassland amphibian. *Biological Conservation* 158: 80-8. Shaffer, H. B., J. R. Johnson, and I. J. Wang. 2013. Conservation Genetics of California tiger salamanders. Final Report prepared for Central Valley Project Conservation Program, Bureau of Reclamation, Sacramento, California.

United States Fish and Wildlife Service (USFWS). 2003. Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander, October 2003.

USFWS. 2017. Recovery Plan for the Central California Distinct Population Segment of the California Tiger Salamander (*Ambystoma californiense*). U. S. Fish and Wildlife Service, Region 8, Sacramento, California. June 2017.

SWHA Literature Citations

California Department of Fish and Game (CDFG). 1994. CDFW's Staff Report Regarding Mitigation Impacts to Swainson's Hawks. California Department of Fish and Game.

CBB Literature Citations

Goulson, D. 2010. *Bumblebees: behaviour, ecology, and conservation*. Oxford University Press, New York. 317pp.

Hatfield, R, S. Colla, S. Jepsen, L. Richardson, R. Thorp, and S. Foltz Jordan. 2014. Draft IUCN Assessments for North American *Bombus* spp. for the North American IUCN Bumble Bee Specialist Group. The Xerces Society for Invertebrate Conservation, www.xerces.org, Portland, OR.

Hatfield, R., Jepsen, S., Thorp, R., Richardson, L. & Colla, S. 2015. *Bombus crotchii*. The IUCN Red List of Threatened Species.

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Williams, P. H., R. W. Thorp, L. L. Richardson, and S .R. Colla. 2014. Bumble bees of North America: An Identification guide. Princeton University Press, Princeton, New Jersey. 208pp.

Xerces Society for Invertebrate Conservation, Defenders of Wildlife, and Center for Food Safety. 2018. A petition to the state of California fish and game commission to list the Crotch bumble bee (*Bombus crotchii*), Franklin's bumble bee (*Bombus franklini*), Suckley cuckoo bumble bee (*Bombus suckleyi*), and western bumble bee (*Bombus occidentalis occidentalis*) as Endangered under the California Endangered Species Act. October 2018.

BUOW Literature Citations

California Burrowing Owl Consortium. 1993. Burrowing owl survey protocol and mitigation guidelines. April 1993.

CDFG. 2012. Staff Report on Burrowing Owl Mitigation. California Department of Fish and Game.

Gervais, J.A., D.D. Rosenberg, and L.A. Comrack. Burrowing Owl (*Athene cunicularia*) in Shuford, W.D. and T. Gardali, editors. 2008. California Bird Species of Special Concern.

January 30, 2023

Lily Cha
City of Clovis
Planning Division
1033 Fifth Street
Clovis, CA 93612

Project: Notice of Preparation of an Environmental Impact Report for the Tract Map 6343 Project

District CEQA Reference No: 20221677

Dear Ms. Cha:

The San Joaquin Valley Air Pollution Control District (District) has reviewed the Notice of Preparation (NOP) of an Environmental Impact Report (EIR) from the City of Clovis (City) for the Tract Map 6343 Project. Per the NOP, the project consists of the annexation of 246 acres by the City of Clovis and the development of 71.54 acres for 590 single family residential lots (Project). Per the NOP, any future development in the remaining annexed area would require a separate project-specific analysis. The Project is located on the southwest quadrant of the intersection between East Behymer Avenue and North Sunnyside Avenue within the City of Clovis' sphere of influence.

The District offers the following comments regarding the Project:

1) Project Related Emissions

At the federal level under the National Ambient Air Quality Standards (NAAQS), the District is designated as extreme nonattainment for the 8-hour ozone standards and serious nonattainment for the particulate matter less than 2.5 microns in size (PM_{2.5}) standards. At the state level under California Ambient Air Quality Standards (CAAQS), the District is designated as nonattainment for the 8-hour ozone, PM₁₀, PM_{2.5} standards.

The District's initial review of the Project concludes that emissions resulting from construction and/or operation of the Project may exceed any of the following significance thresholds as identified in the District's Guidance for Assessing and Mitigating Air Quality Impacts: <https://www.valleyair.org/transportation/GAMAQI.pdf>. The District recommends that a more detailed preliminary review of the Project be conducted for the Project's construction and operational emissions.

Samir Sheikh
Executive Director/Air Pollution Control Officer

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1a) Construction Emissions

The District recommends, to reduce impacts from construction-related diesel exhaust emissions, the Project should utilize the cleanest available off-road construction equipment, including the latest tier equipment.

1b) Operational Emissions

Operational (ongoing) air emissions from mobile sources and stationary sources should be analyzed separately. For reference, the District's significance thresholds are identified in the District's Guidance for Assessing and Mitigating Air Quality Impacts:

<https://www.valleyair.org/transportation/GAMAQI.pdf>.

Recommended Mitigation Measure: At a minimum, project related impacts on air quality should be reduced to levels of significance through incorporation of design elements such as the use of cleaner Heavy Heavy-Duty (HHD) trucks and vehicles, measures that reduce Vehicle Miles Traveled (VMTs), and measures that increase energy efficiency. More information on transportation mitigation measures can be found at:

<http://www.valleyair.org/transportation/Mitigation-Measures.pdf>.

1c) Recommended Model for Quantifying Air Emissions

Project-related criteria pollutant emissions from construction and operational sources should be identified and quantified. Emissions analysis should be performed using the California Emission Estimator Model (CalEEMod), which uses the most recent CARB-approved version of relevant emissions models and emission factors. CalEEMod is available to the public and can be downloaded from the CalEEMod website at: www.caleemod.com.

2) Health Risk Screening/Assessment

The City should evaluate the risk associated with the Project for sensitive receptors (residences, businesses, hospitals, day-care facilities, health care facilities, etc.) in the area and mitigate any potentially significant risk to help limit exposure of sensitive receptors to emissions.

To determine potential health impacts on surrounding receptors (residences, businesses, hospitals, day-care facilities, health care facilities, etc.) a Prioritization and/or a Health Risk Assessment (HRA) should be performed for the Project. These health risk determinations should quantify and characterize potential Toxic Air Contaminants (TACs) identified by the Office of Environmental Health Hazard Assessment/California Air Resources Board (OEHHA/CARB) that pose a present or potential hazard to human health.

Health risk analyses should include all potential air emissions from the project, which include emissions from construction of the project, including multi-year construction, as well as ongoing operational activities of the project. Note, two common sources of TACs can be attributed to diesel exhaust emitted from heavy-duty off-road earth moving equipment during construction, and from ongoing operation of heavy-duty on-road trucks.

Prioritization (Screening Health Risk Assessment):

A “Prioritization” is the recommended method for a conservative screening-level health risk assessment. The Prioritization should be performed using the California Air Pollution Control Officers Association’s (CAPCOA) methodology.

The District recommends that a more refined analysis, in the form of an HRA, be performed for any project resulting in a Prioritization score of 10 or greater. This is because the prioritization results are a conservative health risk representation, while the detailed HRA provides a more accurate health risk evaluation.

To assist land use agencies and project proponents with Prioritization analyses, the District has created a prioritization calculator based on the aforementioned CAPCOA guidelines, which can be found here:

http://www.valleyair.org/busind/pto/emission_factors/Criteria/Toxics/Utilities/PRIORITIZATION-CALCULATOR.xls

Health Risk Assessment:

Prior to performing an HRA, it is strongly recommended that land use agencies/ project proponents develop and submit for District review a health risk modeling protocol that outlines the sources and methodologies that will be used to perform the HRA. This step will ensure all components are addressed when performing the HRA.

A development project would be considered to have a potentially significant health risk if the HRA demonstrates that the project-related health impacts would exceed the District’s significance threshold of 20 in a million for carcinogenic risk, or 1.0 for either the Acute or Chronic Hazard Indices.

A project with a significant health risk would trigger all feasible mitigation measures. The District strongly recommends that development projects that result in a significant health risk not be approved by the land use agency.

The District is available to review HRA protocols and analyses. For HRA submittals please provide the following information electronically to the District for review:

- HRA (AERMOD) modeling files
- HARP2 files
- Summary of emissions source locations, emissions rates, and emission factor calculations and methodologies.

For assistance, please contact the District's Technical Services Department by:

- E-Mailing inquiries to: hramodeler@valleyair.org
- Calling (559) 230-5900

Recommended Measure: Development projects resulting in TAC emissions should be located an adequate distance from residential areas and other sensitive receptors in accordance to CARB's Air Quality and Land Use Handbook: A Community Health Perspective located at <https://ww3.arb.ca.gov/ch/handbook.pdf>.

3) Ambient Air Quality Analysis

An Ambient Air Quality Analysis (AAQA) uses air dispersion modeling to determine if emissions increases from a project will cause or contribute to a violation of State or National Ambient Air Quality Standards. The District recommends an AAQA be performed for the Project if emissions exceed 100 pounds per day of any pollutant.

An acceptable analysis would include emissions from both project-specific permitted and non-permitted equipment and activities. The District recommends consultation with District staff to determine the appropriate model and input data to use in the analysis.

Specific information for assessing significance, including screening tools and modeling guidance, is available online at the District's website: www.valleyair.org/ceqa.

4) Voluntary Emission Reduction Agreement

Criteria pollutant emissions may result in emissions exceeding the District's significance thresholds, potentially resulting in a significant impact on air quality. When a project is expected to have a significant impact, the District recommends the EIR also include a discussion on the feasibility of implementing a Voluntary Emission Reduction Agreement (VERA) for this Project.

A VERA is a mitigation measure by which the project proponent provides pound-for-pound mitigation of emissions increases through a process that develops, funds, and implements emission reduction projects, with the District serving a role of administrator of the emissions reduction projects and verifier of the successful mitigation effort. To implement a VERA, the project proponent and the District enter into a contractual agreement in which the project proponent agrees to mitigate project specific emissions by providing funds for the District's incentives programs. The funds are disbursed by the District in the form of grants for projects that achieve emission reductions. Thus, project-related impacts on air quality can be mitigated. Types of emission reduction projects that have been funded in the past include electrification of stationary internal combustion engines (such as agricultural irrigation pumps), replacing old heavy-duty trucks with new, cleaner, more efficient heavy-duty trucks, and replacement of old farm tractors.

In implementing a VERA, the District verifies the actual emission reductions that have been achieved as a result of completed grant contracts, monitors the emission reduction projects, and ensures the enforceability of achieved reductions. After the project is mitigated, the District certifies to the Lead Agency that the mitigation is completed, providing the Lead Agency with an enforceable mitigation measure demonstrating that project-related emissions have been mitigated. To assist the Lead Agency and project proponent in ensuring that the environmental document is compliant with CEQA, the District recommends the environmental document includes an assessment of the feasibility of implementing a VERA.

5) Vegetative Barriers and Urban Greening

The District suggests the City consider the feasibility of incorporating vegetative barriers and urban greening as a measure to further reduce air pollution exposure on sensitive receptors (e.g., residential units).

While various emission control techniques and programs exist to reduce air quality emissions from mobile and stationary sources, vegetative barriers have been shown to be an additional measure to potentially reduce a population's exposure to air pollution through the interception of airborne particles and the uptake of gaseous pollutants. Examples of vegetative barriers include, but are not limited to the following: trees, bushes, shrubs, or a mix of these. Generally, a higher and thicker vegetative barrier with full coverage will result in greater reductions in downwind pollutant concentrations. In the same manner, urban greening is also a way to help improve air quality and public health in addition to enhancing the overall beautification of a community with drought tolerant, low-maintenance greenery.

6) Clean Lawn and Garden Equipment in the Community

Since the Project consists of residential development, gas-powered residential lawn and garden equipment have the potential to result in an increase of NOx and PM2.5 emissions. Utilizing electric lawn care equipment can provide residents with immediate economic, environmental, and health benefits. The District recommends the Project proponent consider the District's Clean Green Yard Machines (CGYM) program which provides incentive funding for replacement of existing gas powered lawn and garden equipment. More information on the District CGYM program and funding can be found at: <http://www.valleyair.org/grants/cgym.htm> and <http://valleyair.org/grants/cgym-commercial.htm>.

7) On-Site Solar Deployment

It is the policy of the State of California that renewable energy resources and zero-carbon resources supply 100% of retail sales of electricity to California end-use customers by December 31, 2045. While various emission control techniques and programs exist to reduce air quality emissions from mobile and stationary sources,

the production of solar energy is contributing to improving air quality and public health. The District suggests that the City consider incorporating solar power systems as an emission reduction strategy for the Project.

8) Electric Vehicle Chargers

To support and accelerate the installation of electric vehicle charging equipment and development of required infrastructure, the District offers incentives to public agencies, businesses, and property owners of multi-unit dwellings to install electric charging infrastructure (Level 2 and 3 chargers). The purpose of the District's Charge Up! Incentive program is to promote clean air alternative-fuel technologies and the use of low or zero-emission vehicles. The District recommends that the City and project proponents install electric vehicle chargers at project sites, and at strategic locations.

Please visit www.valleyair.org/grants/chargeup.htm for more information.

9) District Rules and Regulations

The District issues permits for many types of air pollution sources, and regulates some activities that do not require permits. A project subject to District rules and regulations would reduce its impacts on air quality through compliance with the District's regulatory framework. In general, a regulation is a collection of individual rules, each of which deals with a specific topic. As an example, Regulation II (Permits) includes District Rule 2010 (Permits Required), Rule 2201 (New and Modified Stationary Source Review), Rule 2520 (Federally Mandated Operating Permits), and several other rules pertaining to District permitting requirements and processes.

The list of rules below is neither exhaustive nor exclusive. Current District rules can be found online at: www.valleyair.org/rules/1ruleslist.htm. To identify other District rules or regulations that apply to future projects, or to obtain information about District permit requirements, the project proponents are strongly encouraged to contact the District's Small Business Assistance (SBA) Office at (559) 230-5888.

9a) District Rules 2010 and 2201 - Air Quality Permitting for Stationary Sources

Stationary Source emissions include any building, structure, facility, or installation which emits or may emit any affected pollutant directly or as a fugitive emission. District Rule 2010 (Permits Required) requires operators of emission sources to obtain an Authority to Construct (ATC) and Permit to Operate (PTO) from the District. District Rule 2201 (New and Modified Stationary Source Review) requires that new and modified stationary sources of emissions mitigate their emissions using Best Available Control Technology (BACT).

This Project may be subject to District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Source Review) and may require District permits. Prior to construction, the Project proponent should submit to the District an application for an ATC. For further information or assistance, the project proponent may contact the District's SBA Office at (559) 230-5888.

9b) District Rule 9510 - Indirect Source Review (ISR)

The Project is subject to District Rule 9510 because it will receive a project-level discretionary approval from a public agency and will equal or exceed 50 residential dwelling units.

The purpose of District Rule 9510 is to reduce the growth in both NO_x and PM emissions associated with development and transportation projects from mobile and area sources; specifically, the emissions associated with the construction and subsequent operation of development projects. The ISR Rule requires developers to mitigate their NO_x and PM emissions by incorporating clean air design elements into their projects. Should the proposed development project clean air design elements be insufficient to meet the required emission reductions, developers must pay a fee that ultimately funds incentive projects to achieve off-site emissions reductions.

Per Section 5.0 of the ISR Rule, an Air Impact Assessment (AIA) application is required to be submitted no later than applying for project-level approval from a public agency. As of the date of this letter, the District has not received an AIA application for this Project. Please inform the project proponent to immediately submit an AIA application to the District to comply with District Rule 9510 so that proper mitigation and clean air design under ISR can be incorporated into the Project's design.

Information about how to comply with District Rule 9510 can be found online at: <http://www.valleyair.org/ISR/ISRHome.htm>.

The AIA application form can be found online at: <http://www.valleyair.org/ISR/ISRFormsAndApplications.htm>.

District staff is available to provide assistance, and can be reached by phone at (559) 230-5900 or by email at ISR@valleyair.org.

9c) District Rule 4002 (National Emissions Standards for Hazardous Air Pollutants)

The Project will be subject to District Rule 4002 since the Project will include demolition and removal of existing structures. To protect the public from uncontrolled emissions of asbestos, this rule requires a thorough inspection for

asbestos to be conducted before any regulated facility is demolished or renovated. Any asbestos present must be handled in accordance with established work practice standards and disposal requirements.

Information on how to comply with District Rule 4002 can be found online at: <http://www.valleyair.org/busind/comply/asbestosbuln.htm>.

9d) District Rule 4601 (Architectural Coatings)

The Project will be subject to District Rule 4601 since it is expected to utilize architectural coatings. Architectural coatings are paints, varnishes, sealers, or stains that are applied to structures, portable buildings, pavements or curbs. The purpose of this rule is to limit VOC emissions from architectural coatings. In addition, this rule specifies architectural coatings storage, cleanup and labeling requirements. Additional information on how to comply with District Rule 4601 requirements can be found online at: <http://www.valleyair.org/rules/currnrules/r4601.pdf>

9e) District Regulation VIII (Fugitive PM10 Prohibitions)

The project proponent may be required to submit a Construction Notification Form or submit and receive approval of a Dust Control Plan prior to commencing any earthmoving activities as described in Regulation VIII, specifically Rule 8021 – *Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities*.

Should the project result in at least 1-acre in size, the project proponent shall provide written notification to the District at least 48 hours prior to the project proponents intent to commence any earthmoving activities pursuant to District Rule 8021 (Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities). Also, should the project result in the disturbance of 5-acres or more, or will include moving, depositing, or relocating more than 2,500 cubic yards per day of bulk materials, the project proponent shall submit to the District a Dust Control Plan pursuant to District Rule 8021 (Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities). For additional information regarding the written notification or Dust Control Plan requirements, please contact District Compliance staff at (559) 230-5950.

The application for both the Construction Notification and Dust Control Plan can be found online at: <https://www.valleyair.org/busind/comply/PM10/forms/DCP-Form.docx>

Information about District Regulation VIII can be found online at: http://www.valleyair.org/busind/comply/pm10/compliance_pm10.htm

9f) District Rule 4901 - Wood Burning Fireplaces and Heaters

The purpose of this rule is to limit emissions of carbon monoxide and particulate matter from wood burning fireplaces, wood burning heaters, and outdoor wood burning devices. This rule establishes limitations on the installation of new wood burning fireplaces and wood burning heaters. Specifically, at elevations below 3,000 feet in areas with natural gas service, no person shall install a wood burning fireplace, low mass fireplace, masonry heater, or wood burning heater.

Information about District Rule 4901 can be found online at:
<http://valleyair.org/rule4901/>

9g) Other District Rules and Regulations

The Project may also be subject to the following District rules: Rule 4102 (Nuisance) and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations).

10) District Comment Letter

The District recommends that a copy of the District's comments be provided to the Project proponent.

If you have any questions or require further information, please contact Cherie Clark by e-mail at Cherie.Clark@valleyair.org or by phone at (559) 230-5940.

Sincerely,

Brian Clements
Director of Permit Services



For: Mark Montelongo
Program Manager

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