



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
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GAVIN NEWSOM, Governor
VALERIE TERMINI, Acting Director



January 23, 2026

Veronica Martinez, Associate Planner
City of Bakersfield
Development Services Department
1715 Chester Avenue
Bakersfield, California 93301
(661) 326-3640
vmartinez@bakersfieldcity.us

Subject: Vesting Tentative Tract Map 7427 (Project)
Mitigated Negative Declaration (MND)
State Clearinghouse No.: 2024060845

Dear Veronica Martinez:

The California Department of Fish and Wildlife (CDFW) received a recirculated MND from the City of Bakersfield, as Lead Agency, 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 the Fish and Game Code.

CDFW ROLE

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

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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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.

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 necessary for 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 under CEQA Guidelines section 15380, CDFW recommends it should be fully considered in the environmental analysis for the Project.

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PROJECT DESCRIPTION SUMMARY

Proponent: Laut Berkshire, LLC

Objective: The Project proposes to subdivide 21.54 acres and construct 77 single-family residential lots and one (1) sump lot.

Location: The Project site is located on the southwest corner of Chase Avenue and Daytona Drive in the northeast portion of the City of Bakersfield. The Project is located within Assessor's Parcel Number (APN) 533-012-02.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist the City of Bakersfield 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 CEQA document prepared for this Project. CDFW previously submitted comments on the Project draft MND to the City of Bakersfield on July 8, 2024, and discussed these comments with both the City of Bakersfield and the Project proponent prior to the recirculation of the MND.

Based on a review of the recirculated MND, the Biological Resources Evaluation (BRE) utilized to inform the recirculated MND, and aerial imagery of the Project area, the Project site is primarily comprised of annual grassland and includes a drainage basin and drainage feature with associated riparian woodland. The western and southern parcels that surround the Project site are comprised of vacant land with annual grasses and disturbed native habitat (per the Project's recent BRE).

Currently, the recirculated MND acknowledges that the Project site is within the geographic range of several special-status animal species and proposes specific mitigation measures to reduce impacts to less than significant. CDFW has concerns about the ability of some of these measures to reduce impacts to less than significant and avoid unauthorized take for special-status animal species, including but not limited to, the State and federally endangered and State fully-protected blunt-nosed leopard lizard (*Gambelia sila*; BNLL); the State threatened and federally endangered San Joaquin kit fox (*Vulpes macrotis mutica*; SJKF); the State threatened Swainson's hawk (*Buteo swainsoni*; SWHA); the State candidate western burrowing owl (*Athene cunicularia hypugaea*; BUOW) and Crotch's bumble bee (*Bombus crotchii*; CBB); and the State Species of Special Concern American Badger (*Taxidea taxus*; AMBA) and San Joaquin coachwhip (*Masticophis flagellum ruddocki*).

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Blunt-Nosed Leopard Lizard

The BRE states that suitable habitat is present on the Project site and notes that there are multiple historical observations of the species within the Project vicinity, including an observation from 2006 within approximately 0.3-mile from the Project site. The BRE also notes that protocol-level surveys did not detect BNLL in 2025. As CDFW generally considers BNLL protocol surveys to be valid for one year from the date of completion, and the recirculated MND does not contain specific BNLL mitigation measures, CDFW recommends including the following mitigation measures:

Recommended Mitigation Measure 1: BNLL Surveys

If Project construction is anticipated to begin after fall 2026 (i.e., one year after completion of the 2025 BNLL protocol surveys), CDFW recommends that a qualified biologist conduct protocol surveys in accordance with the “Approved Survey Methodology for the Blunt-nosed Leopard Lizard” (CDFW 2019) prior to the initiation of any ground-disturbance activities that may occur as part of this Project. This survey protocol, designed to optimize BNLL detectability, reasonably assures CDFW that ground disturbance will not result in take of this fully protected species.

Recommended Mitigation Measure 2: BNLL Take Avoidance

CDFW also recommends that Biological Resources Impact Mitigation Measure 7 be adjusted to require that a qualified biologist(s) be present during all ground-disturbing Project activities to monitor for BNLL, and that consultation with CDFW occur to discuss how to implement ground-disturbing activities and avoid take if any BNLL detection, known burrows, or egg clutch sites are detected during surveys or during construction of the Project.

San Joaquin Kit Fox

The recirculated MND includes several mitigation measures to mitigate for impacts to SJKF, including requiring the Project to implement the recommendations outlined in the U.S. Fish and Wildlife Service (USFWS) Standardized Recommendations for Protection of the Endangered San Joaquin Kit Fox Prior to or During Ground Disturbance (USFWS 2011) document (USFWS 2011 Protocol) if known or natal SJKF dens are found, and requiring the installation of escape ramps and capping of pipes, conduit, and similar material. CDFW concurs with these measures and recommends that the Project implement all of the recommendations outlined in the USFWS 2011 Protocol, including the recommendations for SJKF preconstruction surveys, avoidance, and consultation. If SJKF is found either during surveys or Project construction, and implementation of the no-disturbance buffers outlined in the USFWS 2011 Protocol are not feasible, consultation with CDFW is recommended discuss how to implement the Project and

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avoid take. If take cannot be avoided, take authorization through the acquisition of an Incidental Take Permit (ITP), pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA.

Swainson's Hawk

Biological Resources Impact Mitigation Measure 14 of the recirculated MND is included to mitigate for potential Project related impacts to migratory birds and briefly references appropriate buffer distances for sensitive raptors (which presumably includes SWHA). The BRE also notes that protocol-level surveys did not detect SWHA or their nests in 2025 and that the probability of SWHA occurrence is low. CDFW acknowledges the results of the 2025 surveys, however; the Project site is near suitable habitat for SWHA foraging, including the large vacant land parcels located to the south and west of the Project. Additionally, the trees in the surrounding area, such as the cemetery located approximately a mile southwest of the Project site and those located within the drainage feature and basin within the Project site, as acknowledged in the BRE, provide suitable SWHA nesting habitat.

As CDFW generally considers SWHA protocol surveys to be valid for one breeding season from the date of completion given that nest locations can change between nesting seasons, and the recirculated MND does not contain specific SWHA mitigation measures, CDFW recommends including the following mitigation measures:

Recommended Mitigation Measure 3: SWHA Surveys Prior to Construction

If construction is anticipated to begin during or after the 2026 SWHA breeding season, CDFW recommends that additional SWHA surveys, following the survey methodology developed by the SWHA Technical Advisory Committee (SWHA TAC 2000), be repeated the survey season immediately prior to any ground disturbing activities that occur as part of this Project.

Recommended Mitigation Measure 4: SWHA Avoidance Buffer

If Project-specific ground disturbance activities will take place during the SWHA nesting season (i.e., March 1 through September 15), and active SWHA nests are present, CDFW recommends a minimum ½-mile no-disturbance buffer be delineated and maintained around each nest, regardless of whether it was detected by surveys or observed incidentally. These buffers would 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 parental care for survival, to prevent nest abandonment and other take of SWHA as a result of Project activities.

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Recommended Mitigation Measure 5: SWHA Take Authorization

CDFW also recommends that in the event an active SWHA nest is detected, and a ½-mile no-disturbance buffer is 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.

Western Burrowing Owl

The recirculated MND does not include specific mitigation measures for BUOW and the BRE notes focused surveys did not detect BUOW or their nests in 2025. The BRE also notes that there is suitable habitat for BUOW nesting and foraging on the Project site and concludes that there is a moderate to high probability for species occurrence.

The California Fish and Game Commission (FGC) approved 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).

As the recirculated MND does not contain specific BUOW mitigation measures, CDFW recommends including the following mitigation measures:

Recommended Mitigation Measure 6: BUOW Preconstruction Surveys

CDFW recommends that focused take avoidance surveys, following the 2012 Staff Report on Burrowing Owl Mitigation (2012 Staff Report) (CDFG 2012), be conducted immediately prior to construction. Additionally, if construction is anticipated to begin during or after the 2026 BUOW breeding season, CDFW recommends that additional surveys, following the 2012 Staff Report (CDFG 2012), be conducted the survey season immediately prior to construction. Please note that the 2012 Staff Report necessitates multiple surveys prior to the initiation of construction.

Recommended Mitigation Measure 7: BUOW Avoidance Buffer

Should a BUOW or known BUOW den (active or inactive) be detected, either during take avoidance 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.

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Recommended Mitigation Measure 8: 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 recirculated MND does not include specific mitigation measures for CBB and the BRE notes CBB protocol surveys did not detect CBB or their nests in 2025. The BRE also notes that there is suitable habitat for nesting, foraging, and overwintering CBB on the Project site and concludes that there is a moderate probability for species occurrence. Without appropriate avoidance and minimization measures for CBB, potentially significant impacts from ground- and vegetation-disturbing Project activities include direct mortality, loss of foraging plants, changes in foraging behavior, burrow collapse, nest abandonment, reduced nest success, and reduced health and vigor of eggs, young and/or queens.

As the recirculated MND does not contain specific CBB mitigation measures, CDFW recommends including the following mitigation measures:

Recommended Mitigation Measure 9: CBB Surveys Prior to Construction

If construction is anticipated to begin during or after the 2026 CBB breeding season), CDFW recommends that a qualified biologist conduct additional 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) document, during the blooming period immediately prior to any ground disturbing activities that occur as part of this Project.

Recommended Mitigation Measure 10: 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 warrants consultation with CDFW to discuss how to avoid take.

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Recommended Mitigation Measure 11: 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 .

State Species of Special Concern

The BRE notes that San Joaquin Coachwhip were observed during 2025 surveys, and, although no burrows exhibiting AMBA sign were observed, the BRE also notes that there is a low probability of occurrence for AMBA. The recirculated MND includes mitigation measures requiring preconstruction surveys to detect these species; however, no mitigation measures are provided to avoid impacts to the species if detected. As such, CDFW recommends including the following mitigation measures in the recirculated MND:

Recommended Mitigation Measure 12: Special Status Species Avoidance

Avoidance whenever possible is encouraged via delineation and observance of a 50-foot no-disturbance buffer around these species and their associated burrows and habitat areas. Any individuals observed be allowed to leave the Project area of their own volition.

Editorial Comments and/or Suggestions

Lake and Streambed Alteration: Based on aerial imagery, a drainage feature is present on the westernmost portion of the Project site and this feature may be subject to CDFW's regulatory authority pursuant to Fish and Game Code 1600 et seq. 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

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(<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 ground-disturbing activities occur during the bird non-nesting season; however, if ground-disturbing or vegetation-disturbing activities must occur during the nesting season (February 1st through September 15th), 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 Code sections as referenced above.

CDFW further recommends that a qualified biologist conduct a pre-construction survey for active nests no more than 10 days prior to the start of ground or vegetation disturbance to maximize the probability that nests that could potentially be impacted are detected. CDFW also recommends that surveys cover a sufficient area around the Project site to identify nests and determine their status. A sufficient area means any area potentially affected, either directly or indirectly, by the Project. In addition to direct impacts (i.e., nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. CDFW recommends that a qualified biologist establish a behavioral baseline of all identified nests. Once Project activities begin, CDFW recommends having a qualified biologist continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends halting the work causing that change and consulting with CDFW for additional avoidance and minimization measures.

If continuous monitoring of identified nests by a qualified biologist is not feasible, CDFW recommends 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 the birds have fledged and are no longer reliant upon the nest or on-site parental care for survival. Variance from these no-disturbance buffers is possible when there is a compelling biological or ecological reason to do so, such as when the Project site would be concealed from a nest site by topography. CDFW recommends that a qualified biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

CNDDDB: Please note that the California Natural Diversity Database (CNDDDB) is populated by records through 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 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.

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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 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 the CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to the CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

FILING FEES

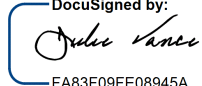
The Project, as proposed, could have an impact on biological resources, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order 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).

CONCLUSION

CDFW appreciates the opportunity to comment on the MND to assist the City of Bakersfield in identifying and mitigating Project impacts on biological resources. A Mitigation Monitoring and Reporting Program (Attachment 1) is included below to assist the City of Bakersfield with incorporating the recommended mitigation measures provided above.

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 regarding this letter or further coordination, please contact Marile Colindres, Environmental Scientist, at the address provided on this letterhead, by telephone at (559) 974-3452, or by electronic mail at marile.colindres@wildlife.ca.gov.

Sincerely,

DocuSigned by:

FA83F09FE08945A...
Julie A. Vance
Regional Manager

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ATTACHMENT 1: MMRP

ec: State Clearinghouse
Office of 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. 2019. Approved survey methodology for the blunt-nosed leopard lizard. California Department of Fish and Game, Sacramento, California, USA. October 2019 (Revised).
- California Department of Fish and Wildlife. 2023. Survey considerations for California Endangered Species Act candidate bumble bee species. California Department of Fish and Wildlife, Sacramento, California, USA.
- California Department of Fish and Wildlife. 2026. Biogeographic information and observation system (BIOS). <https://www.wildlife.ca.gov/Data/BIOS>. Accessed 12 January 2026.
- Swainson's Hawk Technical Advisory Committee. 2000. Recommended timing and methodology for Swainson's hawk nesting surveys in California's Central Valley. Swainson's Hawk Technical Advisory Committee.
- U. S. Fish and Wildlife Service. 2011. Standard recommendations for the protection of the San Joaquin kit fox prior to or during ground disturbance. U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, Sacramento, California, USA.