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State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
1234 East Shaw Avenue
Fresno, California 93710
(559) 243-4005
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director

September 29, 2025

Sophia Pagoulatos, Planning Manager
City of Fresno, Planning and Development Department
2600 Fresno Street, Room 3065, Third Floor
Fresno, California 93721
(559) 621-8062
longrangeplanning@fresno.gov

Subject: Draft Environmental Impact Report (DEIR)
Tower District Specific Plan Update (Project)
State Clearinghouse No.: 2025050309

Dear Sophia Pagoulatos:

The California Department of Fish and Wildlife (CDFW) received a DEIR from City of Fresno, as Lead Agency, for the above-referenced Project pursuant 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, reasonably foreseeable future projects may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of reasonably foreseeable future projects 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).

PROJECT DESCRIPTION SUMMARY

Proponent: City of Fresno

Objective: The purpose of the proposed Project is to update the 1991 Tower District Specific Plan to create new housing, commercial, and recreational opportunities in the City of Fresno's Tower District. The proposed Project Update maintains the guiding principles from the 1991 Specific Plan while allowing for additional infill development, multi-unit housing, enhanced parks and public facilities, and the restoration and redevelopment of existing structures

Location: The Tower District (District) is an approximately 1,869-acre area located immediately north of Downtown Fresno and the State Route (SR) 180 freeway, and one mile east of the SR-99 corridor. The Tower District Specific Plan Area is centrally located within Fresno and is generally bounded by Shields Avenue to the north, Blackstone Avenue to the east, SR-180 to the south, and Fruit Avenue and the Union Pacific Railroad tracks to the west.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist the City of Fresno to adequately identify and/or mitigate the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments

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or other suggestions may also be included to improve the CEQA document prepared for this Project.

Aerial imagery and information included in the DEIR indicate that the Project area is primarily composed of existing residential housing, as well as commercial, public institutions such as schools, and pockets of industrial uses. The highly disturbed nature of the Updated Plan area and the lack of suitable habitat limit the occurrence potential for plants and wildlife; however, the Biological Resource Evaluation (BRE) confirmed one special-status species with known or with potential to occur in the Biological Study Area (BSA), which included the Specific Plan Updated Area and a 500-foot buffer. Additionally, the BSA indicates that the Project area contains suitable habitat that could support a variety of ground-and tree-nesting bird species. Mitigation Measures BIO-1a and BIO-1b included in the DEIR may not be sufficient to minimize potential impacts to Western mastiff bat (*Eumops perotis californicus*) and nesting bird species protected under the Migratory Bird Treaty Act and California Fish and Game Code. CDFW recommends the following measures be incorporated in the Final Environmental Impact Report (FEIR) and implemented prior to initiation of construction activities associated with the Project.

Comment 1: Western Mastiff Bat

The DEIR notes that trees throughout the BSA could provide suitable roosting and foraging habitat for western mastiff bat (WMB). The WMB occurs in a wide variety of habitats including urban habitats. The WMB roosts in crevices on cliff faces, high buildings, trees, and tunnels. CDFW concurs with the activities intended to minimize potential Project impacts to WMB included in BIO-1a. However, for activities that will not require tree removal, CDFW recommends the FEIR include a 100-foot no-disturbance buffer to be placed around the identified bat roosts. If a maternity colony is identified, a 500-foot no disturbance buffer be placed around the roost until the young are no longer reliant on parental care. Additionally, the FEIR should require installation of new roost sites to be installed prior to the initiation of Project related activities to allow enough time for bats to relocate and attenuate.

Comment 2: Nesting Birds

CDFW concurs with the pre-activity nesting bird surveys described in Mitigation Measure BIO-1b. Additionally, CDFW recommends that Project construction be timed to avoid the bird breeding season; however, if ground-disturbing or vegetation-disturbing activities must occur during the breeding season (February 1 through September 15), the entity carrying out a specific project is responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Codes.

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CDFW recommends that a qualified biologist conduct a habitat assessment and analysis of impacts to nesting birds as part of the biological technical studies prior to approval of subsequent projects resulting from this DEIR. Prior to ground-disturbance activities, surveys for active nests should be conducted, regardless of the initial results, 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. As noted in the Mitigation Measure, surveys should cover a sufficient area around the Project site 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.

Further, 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.

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Editorial Comments and/or Suggestions

Lake and Streambed Alteration: The DEIR notes that Dry Creek Canal traverses the southern portion of the Project area. 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., even when heavily modified. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake (including the removal of riparian vegetation): (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral or intermittent as well as those that are perennial and may include those that are highly modified such as canals and retention basins.

CDFW is required to comply with CEQA in the issuance of a Lake or Streambed Alteration Agreement (LSAA); therefore, if the CEQA document approved for the Project does not adequately describe the Project and its impacts to lakes or streams, a subsequent CEQA analysis may be necessary for LSAA issuance. For information on notification requirements, please refer to CDFW's website (https://wildlife.ca.gov/Conservation/LSA) or contact CDFW staff in the Central Region Lake and Streambed Alteration Program at (559) 243-4593.

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 (CNDDB). The CNDDB field survey form can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Submitting-Data. The completed form can be mailed electronically to the CNDDB at the following email address: CNDDB@wildlife.ca.gov. The types of information reported to the CNDDB can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Plants-and-Animals.

FILING FEES

The Project and/or subsequent projects resulting from this DEIR, could have an impact on biological resources, and an 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).

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CONCLUSION

CDFW appreciates the opportunity to comment on the DEIR to assist the City of Fresno in identifying and mitigating Project 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 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:
Julie Vance
FA83F09FE08945A...
Julie A. Vance
Regional Manager

ec: State Clearinghouse
Governor's Office of Land Use and Climate Innovation
State.Clearinghouse@lci.ca.gov