

APPENDIX A. PERMITS

This appendix lists environmental permits, licenses, or other agreements that may need to be obtained to implement the Proposed Action. The Proposed Action would comply with all required federal, state, and local laws, regulations, and ordinances that are applicable and may be needed to construct and operate the project, whether they are explicitly listed in this appendix or elsewhere in this EA.

Agency	Permit/Requirement	Need/Basis
City of Bakersfield Planning Commission & Development Services Director	Site Plan Review (BMC Chapter 17.08)	Required for all development projects not otherwise exempt under BMC 17.08.070. Application must include site plan showing the intended use of all buildings to be constructed, elevations and floor plans, and a list of off-site improvements to be constructed in accordance with city ordinances and standards. The application must also include sufficient information to determine whether the proposed project is consistent with the general plan and zoning ordinance as implemented by adopted city regulations and all information necessary to determine if the project is subject to review pursuant to CEQA.
SJVAPCD	Authority to Construct (Rule 2010)	Required for new or relocated equipment that generates air emissions, as well as alteration (both physical modification and change of operating conditions) of existing equipment.
SJVAPCD	Permit to Operate (Rule 2010)	Required for operation of equipment with the potential to emit air pollutants, unless exempt.
SJVAPCD	Dust Control Plan (Rule 8021)	Required for 5 acres or more of disturbed surface area for non-residential development.
Central Valley RWQCB	Storm Water – Construction General Permit	Required for construction activity affecting more than one acre of land.
City of Bakersfield Development Services, Building Division & City of Bakersfield Public Works Department	Grading Permit (BMC Title 15.05.170 and 16.44)	Required prior to issuance of building permit. Applicant must submit grading plan and preliminary soils report for approval.
Kern County Public Works	Stormwater System Plan Approval (Kern County Code of Ordinances 14.26)	Required for construction of any stormwater infrastructure in unincorporated Kern County.

Agency	Permit/Requirement	Need/Basis
City of Bakersfield Development Services, Building Division	Construction Waste Management Plan (CCR Title 24)	Required for all construction projects to recycle 65% of construction and demolition debris generated.
Bakersfield City Fire Department and Kern County Environmental Health Services Department	CUPA Permit/Hazardous Materials Business Plan	Required for businesses that store, handle or use hazardous materials in reportable quantities to obtain a CUPA permit. In addition, each business is required to submit a Hazardous Materials Business Plan with the local CUPA.
City of Bakersfield Development Services, Building Division	Building Permits (BMC Title 15)	Required for compliance with adopted California Building Codes.
City of Bakersfield Public Works Department	Utility and road permits (BMC Titles 12, 14)	Required depending on project specifics: <ul style="list-style-type: none"> • Construction work in streets • Public right-of-way dedication • Utility connections • Utility easements • Encroachment permit • Transportation-related permit
Kern County Public Works	Utility and road permits (Kern County Code of Ordinances Titles 12, 14)	Required depending on project specifics: <ul style="list-style-type: none"> • Construction-related road permit • Utility connections • Utility easements • Encroachment permit

APPENDIX B. PUBLIC ENGAGEMENT

SCOPING

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The Bakersfield Californian Scoping Notice (10/22/2023, 10/24/2023)

Proof of Publication

THE BAKERSFIELD CALIFORNIAN
3700 PEGASUS DR STE 100
BAKERSFIELD, CA 93308

AWEN SOLUTIONS GROUP
4196 MERCHANT PLAZA STE 711
WOODBIDGE VA 22192

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Address 4196 MERCHANT PLAZA STE 711
WOODBIDGE VA 22192

STATE OF CALIFORNIA
COUNTY OF KERN

Solicitor I.D.: 0

I AM A CITIZEN OF THE UNITED STATES AND A RESIDENT OF THE COUNTY AFORESAID: I AM OVER THE AGE OF EIGHTEEN YEARS, AND NOT A PARTY OR INTERESTED IN THE ABOVE ENTITLED MATTER. I AM THE ASSISTANT PRINCIPAL CLERK OF THE PRINTER OF THE BAKERSFIELD CALIFORNIAN, A NEWSPAPER OF GENERAL CIRCULATION, PRINTED AND PUBLISHED DAILY IN THE CITY OF BAKERSFIELD COUNTY OF KERN,

First Text
SCOPING FOR AN ENVIRONMEN

Ad Number 260453

AND WHICH NEWSPAPER HAS BEEN ADJUDGED A NEWSPAPER OF GENERAL CIRCULATION BY THE SUPERIOR COURT OF THE COUNTY OF KERN, STATE OF CALIFORNIA, UNDER DATE OF FEBRUARY 5, 1952, CASE NUMBER 57610; THAT THE NOTICE, OF WHICH THE ANNEXED IS A PRINTED COPY, HAS BEEN PUBLISHED IN EACH REGULAR AND ENTIRE ISSUE OF SAID NEWSPAPER AND NOT IN ANY SUPPLEMENT THEREOF ON THE FOLLOWING DATES, TO WIT:

10/22/2023 10/24/2023

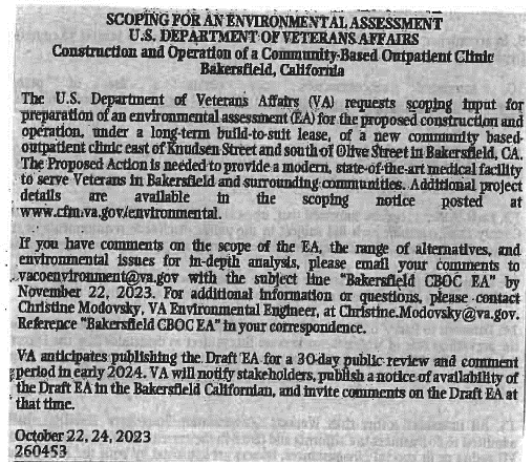
ALL IN YEAR 2023

I CERTIFY (OR DECLARE) UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Keirsta Fisher

DATED AT BAKERSFIELD CALIFORNIA

10/24/23





U.S. DEPARTMENT OF VETERANS AFFAIRS
Office of Construction & Facilities Management
Washington DC 20420

October 19, 2023

SUBJECT: Scoping for an Environmental Assessment for Proposed Bakersfield Community-Based Outpatient Clinic

Dear Valued Stakeholder:

The U.S. Department of Veterans Affairs (VA) proposes to construct and operate, under a long-term build-to-suit lease, a new community-based outpatient clinic (CBOC) in Bakersfield, California (Figure 1). The new CBOC is proposed to be constructed on an approximately 10-acre site that is currently undeveloped and will consist of an approximately 40,000-gross-square-foot building with associated parking and other site improvements (Figure 2). The purpose of this Proposed Action is to provide a modern, state-of-the-art medical facility to serve Veterans in Bakersfield and surrounding communities.

VA is preparing an environmental assessment (EA) to assess the potential environmental impacts of the Proposed Action. VA is preparing the EA in accordance with the regulations implementing the procedural provisions of the National Environmental Policy Act of 1969 (NEPA) (42 U.S. Code 4321-4370h), as implemented by the Council on Environmental Quality regulations (40 Code of Federal Regulations [CFR] 1500-1508), and VA's NEPA regulations (38 CFR Part 26).

If you have comments on the scope of the EA, the range of alternatives, and environmental issues for in-depth analysis, please email your comments to vacoenvironment@va.gov with the subject line "Bakersfield CBOC EA" by November 22, 2023. For additional information or questions, please contact Christine Modovsky, VA Environmental Engineer, at christine.modovsky@va.gov. Reference "Bakersfield CBOC EA" in your correspondence.

VA anticipates publishing the Draft EA for a 30-day public review and comment period in early 2024. VA will notify stakeholders, publish a notice of availability of the Draft EA in the *Bakersfield Californian*, and invite comments on the Draft EA at that time.

Respectfully,

//for//

Kathryn Domm

Director, Environmental Program Office

Office of Construction & Facilities Management



Figure 1. Project Location

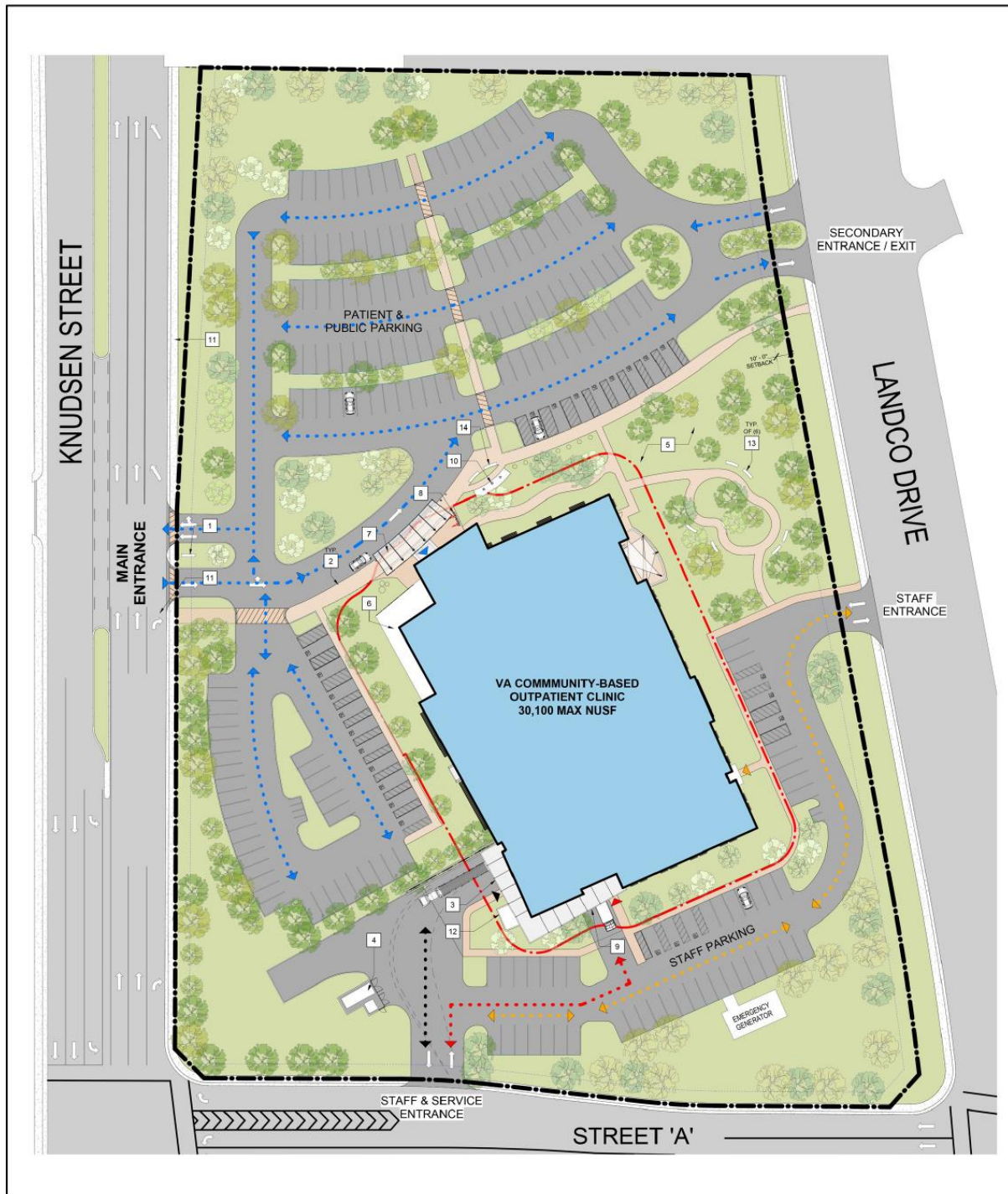


Figure 2. Proposed Development

VA Responses to Scoping Comments

Comment Date	Commenter	Comment Summary	VA Response
10/23/2023	City of Bakersfield, Public Works	Please confirm the area in question is within the blue area in the map attached. The blue area is within the City of Bakersfield limits. If it is outside of the blue area, you will want to contact Kern County Public Works.	Confirmed to be in City of Bakersfield limits via reply email and as stated in Section 1.1.
11/14/2023	San Joaquin Valley Air Pollution Control District	Based on information provided to the District, the project-specific annual criteria pollutant emissions from construction and operation are not expected to exceed significance thresholds	This is consistent with information presented in Section 3.2 Air Quality
		Recommend use the cleanest available off-road construction equipment	VA will consider this recommendation within the context of the lease specifications and VA clinic design requirements.
		Recommend use of CalEEMod as the model to quantify project-related criteria pollutant emissions	Addressed in Section 3.2 Air Quality
		To determine potential health impacts on surrounding receptors (residences, businesses, hospitals, day-care facilities, health care facilities, etc.) a Prioritization and/or Health Risk Assessment (HRA) should be performed for the project.	Consistent with 40 CFR 1500.4, the requested detailed analysis was not added, as VA determined a qualitative review is sufficient to conclude this small construction project would have no significant air quality impacts to human health. The project would comply with any relevant federal, state, and local air emissions and permitting requirements.
		The District suggests the VA 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).	Addressed in Section 3.1 Aesthetics
		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.	VA will consider this recommendation within the context of the lease specifications and VA clinic design requirements
		The District suggests that the VA consider incorporating solar power systems as an emission reduction strategy for the Project.	VA will consider this recommendation within the context of the lease specifications and VA clinic design requirements
		The District recommends that the VA and project proponents install electric vehicle chargers at project sites, and at strategic locations.	Addressed in Section 3.3 Greenhouse Gases and Climate Change

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Comment Date	Commenter	Comment Summary	VA Response
11/15/2023	U.S. Environmental Protection Agency, Region 9	Note the potential need to comply with specific District rules and regulations regarding air pollution including Rules 2010, 2201, 2520, 4601, and 9510; Regulation VIII; and Rules 4102 and 4641	The relevant requirements are addressed in Section 3.2 Air Quality
		Recommend that a copy of the District's comments be provided to the project proponent	VA. as the project proponent, acknowledges receipt of the District's comments. The letter will be also shared with the selected lessor.
		Provide a brief discussion of ambient air conditions (baseline or existing conditions), National Ambient Air Quality Standards (NAAQS) and nonattainment areas, and potential air quality impacts of the project and any alternatives.	Addressed in Section 3.2 Air Quality
		Estimate emissions during construction phase, including emissions from construction vehicles and transportation	Addressed in Section 3.2 Air Quality
		Identify probable routes for construction traffic on nearby roadways and indicate whether project truck traffic will pass near or through any communities with environmental justice concerns. We recommend the VA include a Construction Emissions Mitigation Plan for ozone precursors, fugitive dust and diesel particulate matter and include this in bid documents and specifications.	Consistent with 40 CFR 1500.4, the requested detailed analysis was not added, as VA determined a qualitative review is sufficient to conclude this small construction project would have no significant air quality impacts to any populations (and thus no disproportionate impacts to environmental justice populations), including from the concerns in this comment. The project would comply with any relevant federal, state, and local air emissions and permitting requirements.
		The proposed project site is located in an area designated nonattainment (extreme) for 8-hour ozone NAAQS (2015 standard) ... [and] designated nonattainment for particulate matter less than 2.5 microns (PM2.5). [specific suggestions were offered to reduce emissions]	The nonattainment status and mitigation measures for air quality impacts are addressed in Section 3.2 Air Quality.
		Address the applicability of Clean Air Act Section 176 and EPA's general conformity regulations at 40 CFR Parts 51 and 93	Addressed in Section 3.2 Air Quality
		Identify measures that would be adopted to demonstrate how stormwater flows from increases in impervious surfaces will be addressed to prevent flow increases above pre-development levels, consistent with Section 438 of the Energy Independence and Security Act	Stormwater management including design considerations and compliance with review requirements are addressed in Section 3.6. Hydrology and Water Quality

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Comment Date	Commenter	Comment Summary	VA Response
		Consider future extreme precipitation in the design of stormwater management infrastructure	Addressed in Section 3.6 Hydrology and Water Quality
		We recommend planning for drought by using only native drought-resistant landscaping	VA will consider these recommendations within the context of the lease specifications and VA clinic design requirements.
		Install EPA's certified WaterSense fixture and products	Addressed in 3.6 Hydrology and Water Quality; 3.14. Utilities
		We recommend integrating in as many design elements as possible into the projects to help the VA reduce excessive heat health risks	VA will consider these recommendations within the context of the lease specifications and VA clinic design requirements.
		We recommend the project description explicitly state that rooftop PV will be included in this built-to-suit project	VA will consider this recommendation within the context of the lease specifications and VA clinic design requirements.
		Recommend that VA utilize the information in the EPA tool EJScreen to assess environmental justice impacts	Addressed in 3.16 Environmental Justice
11/20/2023	Central Valley Regional Water Quality Control Board	We don't have any comments at this time, but we respectfully request that Alex Mushegan and I be placed on the list to receive notice of the DraL EA once it's published for a 30-day public review.	Added; see Draft EA Distribution List in this appendix.
11/21/2023	Two letters: Lozeau Drury LLP on behalf of Shawn Smallwood, Ph.D. and Soluri Meserve on behalf of Friends of the Bakersfield Kit Fox and Environment	The scope of the environmental assessment should include: biological resources (including special status species, habitat conservation, ecological processes and wildlife corridors)	Addressed in Section 3.7 Wildlife and Habitat
		The scope of the environmental assessment should include... conflicts with state and local environmental laws and requirements	No conflicts were identified with state and local environmental laws and requirements. The Proposed Action will comply with applicable state and local environmental laws and requirements.
		The scope of the environmental assessment should include... cultural resources (including tribal cultural resources and historic resources)	Addressed in Section 3.4 Cultural and Historic Resources
		The scope of the environmental assessment should include... traffic	Addressed in Section 3.13 Traffic and Transportation
		The scope of the environmental assessment should include... air quality	Addressed in Section 3.2 Air Quality
		The scope of the environmental assessment should include... climate change and greenhouse gas emissions...	Addressed in Section 3.3 Greenhouse Gases and Climate Change

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Comment Date	Commenter	Comment Summary	VA Response
		The scope of the environmental assessment should include... hazards and hazardous substances	Addressed in Section 3.12 Solid Waste and Hazardous Materials
		The scope of the environmental assessment should include... water quality (including stormwater runoff and retention)	Addressed in Section 3.6 Hydrology and Water Quality
		The scope of the environmental assessment should include... noise	Addressed in Section 3.8 Noise and Vibration
		The environmental assessment should also address cumulative effects.	Addressed in Section 3.17 Cumulative Impacts
		The VA should also consider alternatives to the Project, including a no action alternative.	Addressed in Section 2.2 No Action and in the “Effects of the No Action Alternative” subsections throughout Chapter 3
		Substantial questions have already been raised in the City of Bakersfield’s parallel California Environmental Quality Act process that the project may cause significant degradation of some human environmental factor, triggering the need for the VA to prepare an Environmental Impact Statement for the project.	The CEQA review for the City of Bakersfield’s project approval is summarized in Section 1.1 Introduction. The analyses in this Draft EA concluded there would be no significant impacts to the natural or human environment; thus, an environmental impact statement is not indicated at this time.
12/4/2023	California State University - Bakersfield	We visited the site on October 30th and can confirm that the location has been disked (Figure 3) (due to potential fire hazards as claimed), in the spring of 2023, and likely again after that leading to the removal of all vegetation and the destruction of many dens and burrows, which is a violation against the Endangered Species Act.	VA, nor the selected developer, are current owners of the proposed project site, and thus cannot speak to compliance of the current landowners with the Endangered Species Act.
		On our visit to the site, my students and CSUB faculty collected about 22 scat samples, many of them appeared to be fox scat or other small mammal scat other than rodents. Following a procedure published in 2014 by De Barba et al. (2014), we extracted DNA from all these scat samples that looked similar to known San Joaquin kit fox scat... Our results confirm that kit foxes are present at this location... also recommend that should you move forward with construction in kit fox habitat, an Incidental Take Permit (ITP) and purchase of replacement habitat, perhaps at a 3:1 level should be included...	The stated findings are consistent with the conclusions of a recent biological survey conducted by VA, as discussed in Section 3.7 Wildlife and Habitat. As may be determined during updated Endangered Species Act Section 7 consultation with USFWS, VA would implement agreed mitigation measures and, as may be required, would obtain an incidental take permit.
		I would also request that the Kern-Kaweah Chapter of the Sierra Club (G. Nipp and S. Montgomery), Dr. Hall, and myself be placed on the distribution list for this project to receive any noticing of EA publication, meetings, hearings, availability of documents, and to receive the environmental documents.	Added; see Draft EA Distribution List in this appendix.

Scoping Comments

Commenters:

- City of Bakersfield, Public Works
- San Joaquin Valley Air Pollution Control District
- U.S. Environmental Protection Agency, Region 9
- Central Valley Regional Water Quality Control Board
- Two letters (same substantive content):
 - Lozeau Drury LLP on behalf of Shawn Smallwood, Ph.D.
 - Soluri Meserve on behalf of Friends of the Bakersfield Kit Fox and Environment
- California State University - Bakersfield

From: VACO Environment
Sent: Monday, October 23, 2023 2:54 PM
To: Deborah Aswad
Subject: RE: Notice of Scoping and Preparation of an Environmental Assessment for VA Outpatient Clinic, Bakersfield, CA

Good afternoon –

Yes, the area in question is within the blue area in the map you attached, within the City of Bakersfield limits.



From: Deborah Aswad <daswad@bakersfieldcity.us>
Sent: Monday, October 23, 2023 2:23 PM
To: VACO Environment <VACOEnvironment@va.gov>
Subject: [EXTERNAL] RE: Notice of Scoping and Preparation of an Environmental Assessment for VA Outpatient Clinic, Bakersfield, CA

Good afternoon,

Please confirm the area in question is within the blue area in the map attached. The blue area is within City of Bakersfield limits. If it is outside of the blue area, you will want to contact Kern County Public Works at 661-862-5100.

Hope to hear back from you soon.

Thank you,



Deborah Aswad | Clerk Typist I
Public Works

City of Bakersfield
email: daswad@bakersfieldcity.us
web: www.bakersfieldcity.us
phone: 661-326-3724



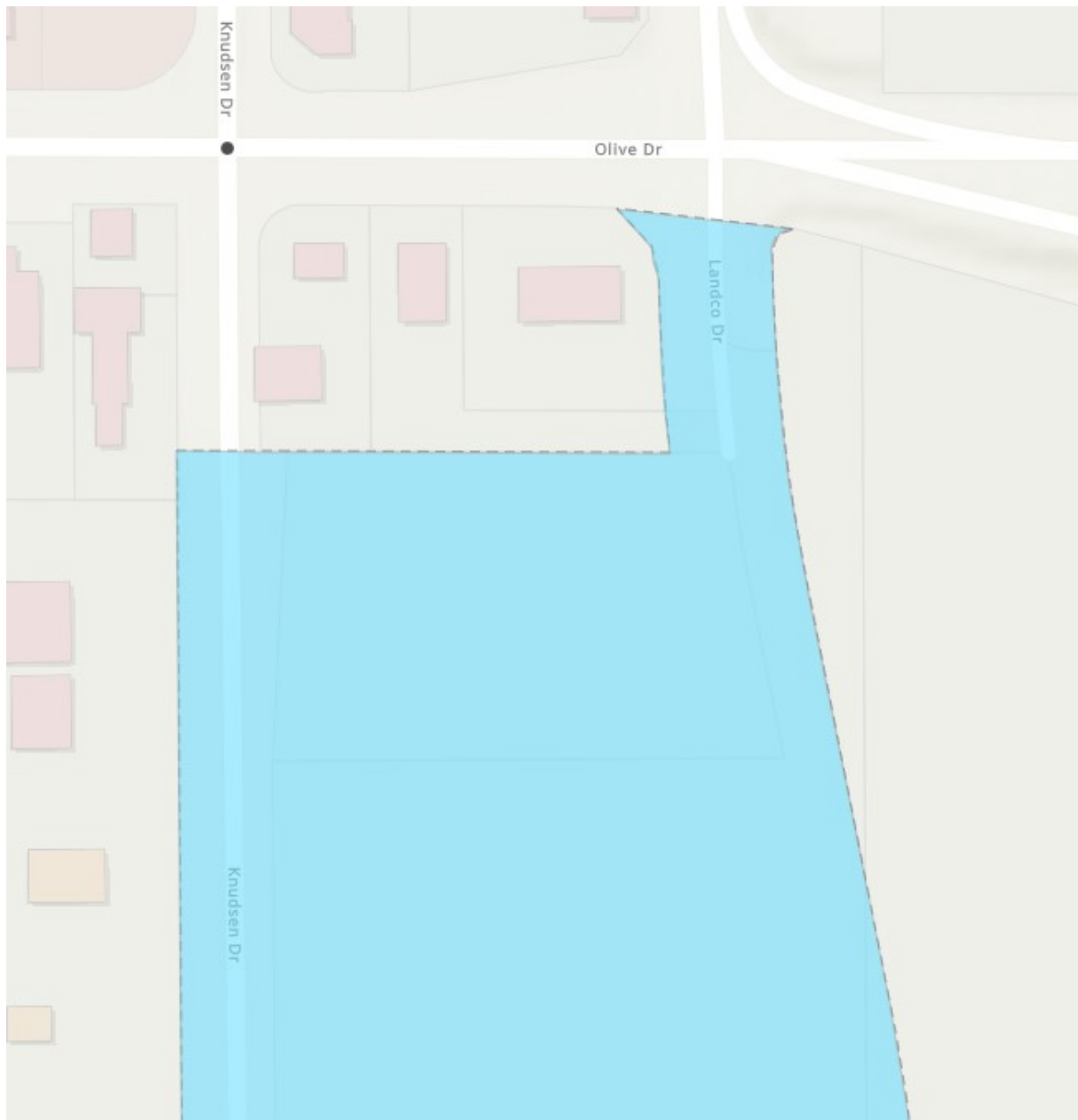
From: VACO Environment <VACOEnvironment@va.gov>
Sent: Monday, October 23, 2023 12:58 PM
Subject: Notice of Scoping and Preparation of an Environmental Assessment for VA Outpatient Clinic, Bakersfield, CA

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear Valued Stakeholder:

The U.S. Department of Veterans Affairs (VA) is proposing a project to construct and operate, under a long-term build-to-suit lease, a new community based-outpatient clinic east of Knudsen Street and south of Olive Street in Bakersfield, CA. As part of the decision-making process, VA will prepare an environmental assessment (EA) to comply with the National Environmental Policy Act. VA invites your input on the scope of the EA, the range of alternatives, and environmental issues for in-depth analysis.

Please see the attached letter for additional project details and how to submit scoping comments.



From: City_Council <City_Council@bakersfieldcity.us>
Sent: Tuesday, October 24, 2023 11:58 AM
To: VACO Environment
Subject: [EXTERNAL] RE: Notice of Scoping and Preparation of an Environmental Assessment for VA Outpatient Clinic, Bakersfield, CA

Good afternoon,

Thank you for the email. It has been received, and it will be forwarded appropriately.

Best regards,



Pilar Avalos | Secretary II
City Manager's Office

City of Bakersfield
email: pavalos@bakersfieldcity.us
web: www.bakersfieldcity.us
phone: 661-324-HELP (4357)



Have you tried our [Bakersfield Mobile App](#) for service requests? Requests submitted via the App are routed directly to staff assigned to address requests in the city, decreasing response time. You can learn more about what types of service requests can be submitted through the mobile app or our website here: www.bakersfieldcity.us/599. You can download the App for Apple and Android devices FREE here: www.bakersfieldcity.us/663.

From: VACO Environment <VACOEnvironment@va.gov>
Sent: Monday, October 23, 2023 12:58 PM
Subject: Notice of Scoping and Preparation of an Environmental Assessment for VA Outpatient Clinic, Bakersfield, CA

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear Valued Stakeholder:

The U.S. Department of Veterans Affairs (VA) is proposing a project to construct and operate, under a long-term build-to-suit lease, a new community based-outpatient clinic east of Knudsen Street and south of Olive Street in Bakersfield, CA. As part of the decision-making process, VA will prepare an environmental assessment (EA) to comply with the National Environmental Policy Act. VA invites your input on the scope of the EA, the range of alternatives, and environmental issues for in-depth analysis.

Please see the attached letter for additional project details and how to submit scoping comments.

From: Matt Crow <Matt.Crow@valleyair.org>
Sent: Tuesday, November 14, 2023 9:12 AM
To: VACO Environment
Subject: [EXTERNAL] CEQA Comments: NOP for VA Outpatient Clinic in Bakersfield, 20231014
Attachments: SJVAPCD comment letter NOP o Environmental Assessment for VA Outpatient Clininc, 20231014.pdf

Hello,

Please see the attached comment letter for this project. Please let me know if there are any questions.

Thank you,

Matt Crow

Air Quality Specialist II

San Joaquin Valley Air Pollution Control District

1990 E. Gettysburg Avenue Fresno, CA 93726

Phone: (559) 230.5931

Matt.Crow@valleyair.org



November 14, 2023

Christine Modovsky
U.S. Department of Veterans Affairs
810 Vermont Avenue NW
Washington, DC, 20420

**Project: Scoping for an Environmental Assessment for Proposed Bakersfield
Community-Based Outpatient Clinic**

District CEQA Reference No: 20231014

Dear Ms. Modovsky:

The San Joaquin Valley Air Pollution Control District (District) has reviewed the project documentation from the U.S. Department of Veterans Affairs (VA) for the Bakersfield Community-Based Outpatient Clinic project. Per the project documentation, the project consists of the construction of an approximately 40,000 square foot medical facility on a 10 acre site (Project). The Project is located on the east side of Knudsen Drive south of Olive Drive in Bakersfield, CA.

The District offers the following comments at this time 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, and PM_{2.5} standards.

Based on information provided to the District, Project specific annual criteria pollutant emissions from construction and operation are not expected to exceed any of the significance thresholds as identified in the District's Guidance for Assessing and Mitigating Air Quality Impacts (GAMAQI):

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

Samir Sheikh

Executive Director/Air Pollution Control Officer

Northern Region
4800 Enterprise Way
Modesto, CA 95356-8718
Tel: (209) 557-6400 FAX: (209) 557-6475

Central Region (Main Office)
1990 E. Gettysburg Avenue
Fresno, CA 93726-0244
Tel: (559) 230-6000 FAX: (559) 230-6061
B-15
www.valleyair.org www.healthyairliving.com

Southern Region
34946 Flyover Court
Bakersfield, CA 93308-9725
Tel: (661) 392-5500 FAX: (661) 392-5585

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.

1b) 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 VA 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. Please contact the District for assistance with performing a Prioritization analysis.

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.

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.

A development project would be considered to have a potentially significant health risk if the HRA demonstrates that the health impacts would exceed the District's established risk thresholds, which can be found here:

http://www.valleyair.org/transportation/ceqa_idx.htm.

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 to prevent the creation of a significant health risk in accordance to CARB's Air Quality and Land Use Handbook: A Community Health Perspective located at <https://ww2.arb.ca.gov/our-work/programs/resource-center/strategy-development/land-use-resources>.

3) Vegetative Barriers and Urban Greening

There are residential units located west of the Project. The District suggests the VA 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.

4) Clean Lawn and Garden Equipment in the Community

Since the Project consists of commercial development, gas-powered 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>.

5) 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 VA consider incorporating solar power systems as an emission reduction strategy for the Project.

6) Electric Infrastructure

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 VA 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.

7) 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 (661) 392-5665.

7a) 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 (661) 392-5665.

7b) 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 20,000 square feet of medical office space.

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. One AIA application should be submitted for the entire Project.

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.

7c) 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/currntrules/r4601.pdf>

7d) 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

7e) 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).

8) 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 Matt Crow by e-mail at Matt.Crow@valleyair.org or by phone at (559) 230-5931.

Sincerely,

Brian Clements
Director of Permit Services

For: Mark Montelongo
Program Manager

From: Vitulano, Karen <Vitulano.Karen@epa.gov>
Sent: Wednesday, November 15, 2023 3:21 PM
To: VACO Environment
Cc: [REDACTED]
Subject: [EXTERNAL] Bakersfield CBOC EA - EPA scoping comments
Attachments: 2023_11_15_EPA Scoping comments - Bakersfield Outpatient Clinic.pdf

Hi [REDACTED] – please see the attached EPA scoping comments for this project. Please let me know if you have any questions, wish to discuss, or if we can otherwise be of assistance. Thank you.

Sincerely -

~

Ms. Karen Vitulano
U.S. Environmental Protection Agency, Region 9
Environmental Review Branch, Tribal, Intergovernmental and Policy Division
San Francisco, California | Ancestral land of the Ohlone people
[No snail mail please – we are transitioning to a fully electronic environment](#)
PHONE 415-947-4178

“Do unto those downstream as you would have those upstream do unto you.” -- *Wendell Berry*



REGION 9

SAN FRANCISCO, CA 94105

November 15, 2023

[REDACTED]

VA Environmental Engineer

vacoenvironment@va.gov

Subject: Scoping comments for the Proposed Bakersfield Community-Based Outpatient Clinic, Bakersfield, California

Dear [REDACTED]:

The U.S. Environmental Protection Agency has reviewed the scoping notice dated October 19, 2023 regarding the U.S. Department of Veterans Affairs (VA) decision to prepare an Environmental Assessment for the subject project. Our comments are provided pursuant to the National Environmental Policy Act, Council on Environmental Quality regulations (40 CFR Parts 1500-1508) and our NEPA review authority under Section 309 of the Clean Air Act.

The VA proposes to construct and operate a new community-based outpatient clinic (CBOC) in Bakersfield, California. The new CBOC would be constructed on an approximately 10-acre site that is currently undeveloped and will consist of an approximately 40,000-gross-square-foot building with associated parking and other site improvements. We have the following recommendations for your consideration as you prepare the Draft EA.

Air Quality

The DEA should provide a brief discussion of ambient air conditions (baseline or existing conditions), National Ambient Air Quality Standards (NAAQS) and nonattainment areas, and potential air quality impacts of the project and any alternatives.

Construction Emissions

Emissions should be estimated for the construction phase, including emissions from construction vehicles and transportation. Identify probable routes for construction traffic on nearby roadways and indicate whether project truck traffic will pass near or through any communities with environmental justice concerns. We recommend the VA include a Construction Emissions Mitigation Plan for ozone precursors, fugitive dust and diesel particulate matter and include this in bid documents and specifications.

The proposed project site is located in an area designated **nonattainment (extreme) for 8-hour ozone NAAQS** (2015 standard); therefore, it is important to reduce emissions of oxides of nitrogen (NO_x) and volatile organic compounds (VOCs) as much as possible, especially during construction. In general, NO_x emissions can be minimized by requiring the use of high-efficiency equipment (i.e. require nonroad trucks and construction equipment to meet, or exceed, the U.S. EPA Tier 4 exhaust emissions standards for heavy-duty nonroad compression-ignition engines), proper maintenance of equipment, shutting off engines when not in use and prohibiting idling for more than 5 minutes or within 1,000 feet of sensitive receptors, and exploring the use of lower-emitting equipment, engines and fuels, including electric, liquified gas, hydrogen fuel cells, and/or alternative diesel formulations if feasible. Other mitigation measures could include timing construction activities to not coincide with peak-hour traffic and reducing construction-related trips of workers by encouraging ridesharing and transit use. Because of the extreme nonattainment of the ozone NAAQS, extra effort should be made to minimize construction-phase emissions and the VA should ensure best available control measures for these pollutants are implemented at all times.

The project site is located in an area designated **nonattainment for particulate matter less than 2.5 microns (PM_{2.5})**. Fine particulate emissions can be reduced by:

- Minimizing use, trips, and unnecessary idling of heavy equipment.¹
- Maintain and tune engines per manufacturer's specifications to perform at EPA certification levels, where applicable, and to perform at verified standards applicable to retrofit technologies.
- Prohibit any tampering with engines and require continuing adherence to manufacturer's recommendations.
- Employ periodic, unscheduled inspections to limit unnecessary idling and to ensure that construction equipment is properly maintained, tuned, and modified consistent with established specifications.
- Use grid-based electricity for construction activities, onsite renewable electricity generation, and/or hydrogen for construction activities rather than diesel and/or gasoline generators, to the extent possible.

General Conformity

Because the proposed project is located in nonattainment areas, the DEA should address the applicability of Clean Air Act Section 176 and EPA's general conformity regulations at 40 CFR Parts 51 and 93. Federal agencies need to ensure that their actions, including construction emissions subject to state jurisdiction, conform to an approved implementation plan. General conformity also applies to maintenance areas and Bakersfield is located in a maintenance area for PM₁₀ (redesignated on December 12, 2008). Twenty years after this date, general conformity for PM₁₀ will no longer be applicable.

Stormwater Management

The DEA should identify the measures that would be adopted to demonstrate how stormwater flows from increases in impervious surfaces will be addressed to prevent flow increases above pre-development levels, consistent with Section 438 of the Energy Independence and Security Act which specifies that the sponsor of any development or redevelopment project involving a Federal facility with a footprint that exceeds 5,000 square feet shall use site planning, design, construction, and

¹ <https://ww2.arb.ca.gov/capp-resource-center/heavy-duty-diesel-vehicle-idling-information>.

maintenance strategies for the property to maintain or restore, to the maximum extent technically feasible, the predevelopment hydrology of the property with regard to the temperature, rate, volume (considering increase precipitation intensity under climate change), and duration of flow. Federal agencies can comply with Section 438 by using a variety of stormwater management practices often referred to as “green infrastructure” or “low impact development” practices, including, for example, reducing impervious surfaces, using vegetative practices, porous pavements, cisterns and green roofs. If bioretention is utilized to comply with EISA Section 438, the VA may want to consult EPA’s new [Bioretention Design Handbook](#)² which includes information about the latest approaches and lessons learned for bioretention design, construction, inspection, and operation and maintenance.

Climate Change

Planning for Precipitation Extremes

The VA should consider future extreme precipitation in the design of stormwater management infrastructure. The stormwater system should be sized to accommodate the more intense precipitation patterns predicted and occurring under climate change. Recent research “suggests that a new regime of wet and dry extremes is emerging in California and that the projected bolstering of extreme precipitation is likely to be caused by streams of moisture in the sky known as atmospheric rivers (ARs). California already has the most volatile water resources in the country... [T]he state’s precipitation, as it becomes less frequent but preferentially stronger, will vacillate even more wildly between extremes of drought and flooding as a consequence of climate change.”³

In addition to upsizing stormwater infrastructure, plan for drought by using only native drought-resistant landscaping, and installing EPA’s certified [WaterSense](#) fixture and products. See this [fact sheet](#)⁴ for commercial and institutional buildings for more water conservation suggestions.

Planning for Extreme Heat

Heat is a serious climate change effect that can be fatal. According to the FEMA National Risk Index, Kern County has a relatively moderate risk for extreme heat, with annual days with maximum temperature over 90 degrees predicted between 107 and 113 by midcentury, and annual days with temperature over 100 degrees between 42 and 48 days per year.

We strongly recommend the clinic facilities be designed to minimize excessive heat by integrating heat mitigation strategies into site plans. Use cool surfaces and pavements that store less heat than traditional pavements. Heat islands, areas dominated by hard surfaces and lacking trees and green space, can be more than 20 degrees hotter than nearby areas with trees and grass. Use of vegetation cools surrounding areas through evapotranspiration.

Provide a certain amount of shading through either trees or built shade structures. Orient buildings with local climate and geographic conditions in mind which can improve natural ventilation, avoid solar heat gain, decrease energy usage, and improve human thermal comfort. On building sides with high solar exposure, improvements such as shade screens, window glazing, and smaller windows on the

² Available at https://www.epa.gov/system/files/documents/2023-11/bioretentiondesignhandbook_plainnov2023.pdf

³ See <https://scripps.ucsd.edu/news/atmospheric-rivers-become-even-more-dominant-source-california-water-resources-and-flooding>

⁴ Available: <https://www.epa.gov/sites/default/files/2017-01/documents/ws-commercial-factsheet-general-ci.pdf>

east and west sides can help shade and keep the inside of buildings cooler.⁵ We recommend integrating in as many design elements as possible into the projects to help the VA reduce excessive heat health risks. See also EPA's Adaptation Resource Center⁶ for additional information on climate change resiliency and adaptation measures.

Executive Order 14057: Carbon pollution-free electricity generation

Bakersfield is a [high solar resource area](#). New buildings and parking lots offer the opportunity for the installation of photovoltaics, consistent with E.O. 14057 which requires agencies to facilitate new carbon pollution-free electricity generation and energy storage capacity by authorizing use of their real property assets, such as rooftops, parking structures, and adjoining land. We recommend the project description explicitly state that rooftop PV will be included in this built-to-suit project. Installing photovoltaics on carports over parking lots, such as those at [Marine Corps Air Station Miramar](#), are especially advantageous since they also minimize heat impacts to drivers. Maximum energy efficiency should also be integrated into project designs.

Environmental Justice

To comply with E.O. 12898, the VA may want to utilize the information in the EPA tool [EJ Screen](#). EJScreen is EPA's nationally consistent environmental justice screening and mapping tool that offers a variety of powerful data and mapping capabilities that enable users to understand details about the population of an area and its environmental conditions. The tool provides information on environmental and socioeconomic indicators. As part of the EJ analysis, as stated above, we recommend identifying probable routes for construction traffic on nearby roadways and indicating whether project truck traffic will pass near or through any communities with environmental justice concerns or near schools.

The EPA appreciates the opportunity to comment on preparation of the DEA. Once the DEA is released for public review. When the Draft EIS is released for public review, please send an electronic copy to me at vitulano.karen@epa.gov. If you have questions, please contact me at (415) 947-4178 or by email.

Sincerely,

Karen Vitulano
Environmental Scientist
Environmental Review Branch

⁵ See: https://planning-org-uploaded-media.s3.amazonaws.com/publication/download_pdf/PAS-Report-600-r1.pdf

⁶ See <https://www.epa.gov/arc-x/planning-climate-change-adaptation>

From: Scroggins, Matt@Waterboards <Matt.Scroggins@waterboards.ca.gov>
Sent: Monday, November 20, 2023 11:24 AM
To: [REDACTED]
Cc: Mushegan, Alexander@Waterboards
Subject: [EXTERNAL] Bakersfield CBOC EA

Hi [REDACTED],

Thank you for the opportunity to provide input on the subject project. We don't have any comments at this time, but we respectfully request that Alex Mushegan and I be placed on the list to receive notice of the Draft EA once it's published for a 30-day public review. Alex and I are both at the physical address listed in my signature block below. Alex's email is included by cc of this email.

Regards,
-Matt

=====

MATTHEW S. SCROGGINS, P.E.
SENIOR WATER RESOURCE CONTROL ENGINEER
NPDES WASTEWATER PERMITTING/STORMWATER/DREDGE & FILL UNIT
CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD (REGION 5) – FRESNO 1685
“E” STREET
FRESNO, CA 93706
PHONE: 559-445-6042



From: Michael Lozeau <michael@lozeaudrury.com>
Sent: Tuesday, November 21, 2023 4:45 PM
To: [REDACTED] VACO Environment
Subject: [EXTERNAL] Bakersfield CBOC EA - Scoping Comments
Attachments: 2023.11.21 Lozeau Drury - Smallwood Scoping Comment re Bakersfield CBOC EA - Final.pdf

Dear [REDACTED],

Attached please find scoping comments on the proposed Bakersfield CBOC EA submitted on behalf of Dr. Shawn Smallwood. If you could please confirm receipt would be appreciated.

Sincerely,

Michael R. Lozeau
Lozeau Drury LLP
1939 Harrison Street, Suite 150
Oakland, California 94612
(510) 836-4200
(510) 836-4205 (fax)
michael@lozeaudrury.com

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T 510.836.4200
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1939 Harrison Street, Ste. 150
Oakland, CA 94612

www.lozeaudrury.com
michael@lozeaudrury.com

November 21, 2023

Via E-mail

██████████ Environmental Engineer
U.S. Department of Veterans Affairs
Construction & Facilities Management Regional Office - West
400 Mare Island Way, Suite 100
Vallejo, CA 94590
██████████
vacoenvironment@va.gov

Re: Bakersfield CBOC EA

Dear ██████████

My office is in receipt of your letter dated October 19, 2023 stating that the Department of Veterans Affairs ("VA") is preparing an environmental assessment for a proposed outpatient clinic (the "Project") in Bakersfield, California. These scoping comments are submitted on behalf of Shawn Smallwood, Ph.D. We understand that the VA has vacated the categorical exclusion issued on or about January 5, 2021 for the Project.

We believe that the scope of the environmental assessment should include, but should not be limited to, impacts to the following: biological resources including endangered species, habitat conservation and ecological processes, conflicts with state and local environmental protection laws and requirements, cultural resources including tribal cultural resources, traffic, air quality, climate change and greenhouse gas emissions, hazards and hazardous substances, stormwater runoff and retention, and noise. The environmental assessment should address cumulative effects. The VA should comply with its obligation to properly consider alternatives to the Project, including a no action alternative.

For many of the above listed impacts of the Project, we believe substantial questions already have been raised in comments submitted during the City of Bakersfield's California Environmental Quality Act process and prior correspondence that the Project may cause significant degradation of some human environmental factor, triggering the need for the VA to prepare an EIS for the Project.

Please add my office to your list of interested persons to receive all notices on the proposed Project, including but not limited to any notice of the availability of the environmental assessment.

Sincerely,

A handwritten signature in blue ink that reads 'Michael R. Lozeau'.

Michael R. Lozeau
Lozeau Drury LLP

From: Mae Ryan Empleo <Legal@semlawyers.com>
Sent: Tuesday, November 21, 2023 1:11 PM
To: VACO Environment
Cc: Osha Meserve
Subject: [EXTERNAL] Comments re: NEPA Review of the VA Clinic in Bakersfield, California
Attachments: 23.11.21 EA Scoping Cmts.pdf

Dear [REDACTED]:

Attached please find correspondence submitted on behalf of the Friends of the Bakersfield Kit Fox and Environment regarding the NEPA review of the VA Clinic in Bakersfield, California. Should you have any questions, please do not hesitate to contact our office. Thank you for your attention to this matter.

Sincerely,

Mae Ryan Empleo
Legal Assistant
Soluri Meserve, A Law Corporation
510 8th Street, Sacramento, CA 95814

☎ tel: 916.455.7300 ▪ 📠 fax: 916.244.7300 ▪ ✉ email: legal@semlawyers.com

This email and any attachments thereto may contain private, confidential, and privileged material for the sole use of the intended recipient.



tel: 916.455.7300 • fax: 916.244.7300
510 8th Street • Sacramento, CA 95814

November 21, 2023

SENT VIA EMAIL: vacoenvironment@va.gov

██████████, Environmental Engineer
U.S. Department of Veterans Affairs
Construction & Facilities Management Regional Office - West
400 Mare Island Way, Suite 100
Vallejo, CA 94590

Re: NEPA Review of VA Clinic in Bakersfield, California

Dear ██████████:

This office represents Friends of the Bakersfield Kit Fox and Environment. I understand that the Department of Veterans Affairs (the "VA") is preparing an environmental assessment for a proposed clinic ("project") in Bakersfield, California that may have potentially significant effects on San Joaquin kit fox and other wildlife.

The scope of the environmental assessment should include: biological resources (including special status species, habitat conservation, ecological processes and wildlife corridors), conflicts with state and local environmental laws and requirements, cultural resources (including tribal cultural resources and historic resources), traffic, air quality, climate change and greenhouse gas emissions, hazards and hazardous substances, water quality (including stormwater runoff and retention), and noise. The environmental assessment should also address cumulative effects. The VA should also consider alternatives to the Project, including a no action alternative.

Substantial questions have already been raised in the City of Bakersfield's parallel California Environmental Quality Act process that the project may cause significant degradation of some human environmental factor, triggering the need for the VA to prepare an Environmental Impact Statement for the project.

Please include my office on the list of interested persons to receive notices regarding the proposed project, including but not limited to, any notice of the availability of the environmental assessment (osha@semlawyers.com; legal@semlawyers.com).

Very truly yours,

SOLURI MESERVE
A Law Corporation

By: 
Osha R. Meserve

From: Antje Lauer <alauer@csub.edu>
Sent: Monday, December 4, 2023 8:24 PM
To: VACO Environment
Cc: Lucas Hall; Gordon Nipp; Stephen Montgomery
Subject: [EXTERNAL] Bakersfield CBOC EA
Attachments: CSUB letter to Dept. of VA_04122023.pdf

Dear [REDACTED],

Please find our comments regarding the Veterans Affairs Community-based Outpatient Clinic Environmental Assessment attached to this email. We apologize for submitting our comments late, and hope that you will still consider them.

Sincerely,

Antje Lauer, PhD, Department of Biology, CSU Bakersfield

From: Antje Lauer <alauer@csub.edu>
Sent: Monday, December 4, 2023 8:43 PM
To: VACO Environment
Cc: Gordon Nipp; Stephen Montgomery; Lucas Hall
Subject: [EXTERNAL] Bakersfield CBOC EA

Good evening [REDACTED],

In addition to the letter I just submitted, I would also request that the Kern-Kaweah Chapter of the Sierra Club (G. Nipp and S. Montgomery), Dr. Hall, and myself be placed on the distribution list for this project to receive any noticing of EA publication, meetings, hearings, availability of documents, and to receive the environmental documents. We prefer email communications and electronic formatting of documents. I also recommend that should you move forward with construction in kit fox habitat, an Incidental Take Permit (ITP) and purchase of replacement habitat, perhaps at a 3:1 level should be included. Thank you,

Sincerely,
Antje Lauer

To the U.S. Department of Veterans Affairs

December 4th, 2023

Environmental Program Office

Office of Construction and Facilities Management

Regarding: Planned construction on empty lot at intersection of Knudsen Dr./Olive Dr. - Update

Dear [REDACTED], Director of the Environmental Program Office,

The City of Bakersfield has ambitious plans for major construction projects within the city limits for various projects to the benefit of the public, as it claims. One of these projects is a new Veterans Affairs Outpatient Community Clinic. Although the need of improving healthcare of veterans is urgently needed, we are concerned about the location where this project would be implemented, an area which is a confirmed habitat for the endangered San Joaquin kit fox (listed both federally and state).

In recent years, unrestricted urban sprawl and development within the City of Bakersfield has reduced and fragmented suitable habitat for many animal and plant species that are native to the Southern San Joaquin Valley, such as the San Joaquin kit fox. The natural habitat of this small canine predator is native grassland with occasional shrubs, which has been reduced by more than 90%. However, this fox species has adapted to survive in pockets of undeveloped land, in some industrialized areas, such as oilfields, school yards, and other open grassland-like areas where prey, such as small mammals, birds and insects are available. Some of these pockets of land function as important wildlife corridors, allowing subpopulations of species to connect, mate, and thus strengthen the genetic pool (Figure 1). Genetic diversity is important for fighting infectious diseases, to be better adapted to changing environmental conditions, and to sustain a population. **Bakersfield is obligated to protect endangered species based on the Endangered Species Act. However, the City of Bakersfield has failed to renew the recently expired Metropolitan Bakersfield Habitat Conservation Plan.**

The current plans to build a Veterans Outpatient Clinic on the property at the corner of Knudsen Dr. and Olive Dr. (Figure 2), as well as plans to develop Walmart warehouses south of this plot, will destroy an environment in the center of the City of Bakersfield that is a habitat for a population of San Joaquin kit foxes and other species, as mentioned above. We visited the site on October 30th and can confirm that the location has been disked (Figure 3) (due to potential fire hazards as claimed), in the spring of 2023, and likely again after that leading to the removal of all vegetation and the destruction of many dens and burrows, which is a **violation against the Endangered Species Act.**

However, we observed that since the area was disked, new dens and burrows were built, and we collected scat samples from this location and the adjacent non-disked area to the east, to investigate via molecular tools if kit

foxes are present in this area. Previous evaluations by environmental consulting groups indicated that kit foxes might be present but were lacking definite proof. The non-disked location east of Landco Drive, adjacent to the plot to be developed showed numerous old dens and burrows that have been used for generations of California ground squirrels and San Joaquin kit foxes which often share dens (Figure 4). Dens and burrows like this were destroyed during the disking process.

On our visit to the site, my students and CSUB faculty collected about 22 scat samples, many of them appeared to be fox scat or other small mammal scat other than rodents. Following a procedure published in 2014 by De Barba et al. (2014), we extracted DNA from all these scat samples that looked similar to known San Joaquin kit fox scat. We amplified a fragment of the mitochondrial gene via Polymerase Chain Reaction (PCR) and sent nine of these PCR amplicons that were of correct size (about 330-340 bp) for sequencing to the company Laragen in Culver City, CA. Once, sequences were retrieved, they were compared to nucleotide entries in the GenBank database (<https://www.ncbi.nlm.nih.gov/genbank/>) that will reveal closest matches to these unknown sequences. **Six of the nine sequences were >98% related to kit foxes, indicating that this species is present at this location** (see supporting information below).

Our results **confirm that kit foxes are present at this location**. The scientific method to accomplish this is described in detail in De Barba et al. (2014). Our results strengthen our initial findings that the site to be developed for a Veterans Affairs Outpatient Clinic is an area occupied by kit foxes. The map in Figure 5 shows all individual locations where a scat sample was collected and analyzed. These findings were submitted to the Bakersfield City Council on November 7th and an additional letter with updated results on November 29th, 2023.

We would like to share these results with the U.S. Department of Veterans Affairs. We also would like to emphasize that we are not disagreeing that building a modern Veterans Outpatient Community Clinic in Bakersfield is needed but have serious concerns about the location chosen and therefore suggest that the Department of Veterans Affairs considers alternative locations for this project.

Please accept our comments, even though the deadline (Nov. 22nd) has already passed. We hope that you find our information useful in the ‘Scoping for an Environmental Assessment for Proposed Bakersfield Community-Based Outpatient Clinic’.

Sincerely,



Antje Lauer, PhD, CSUB, Dept. of Biology

Lucas Hall, PhD, CSUB, Dept. of Biology

Supporting Information

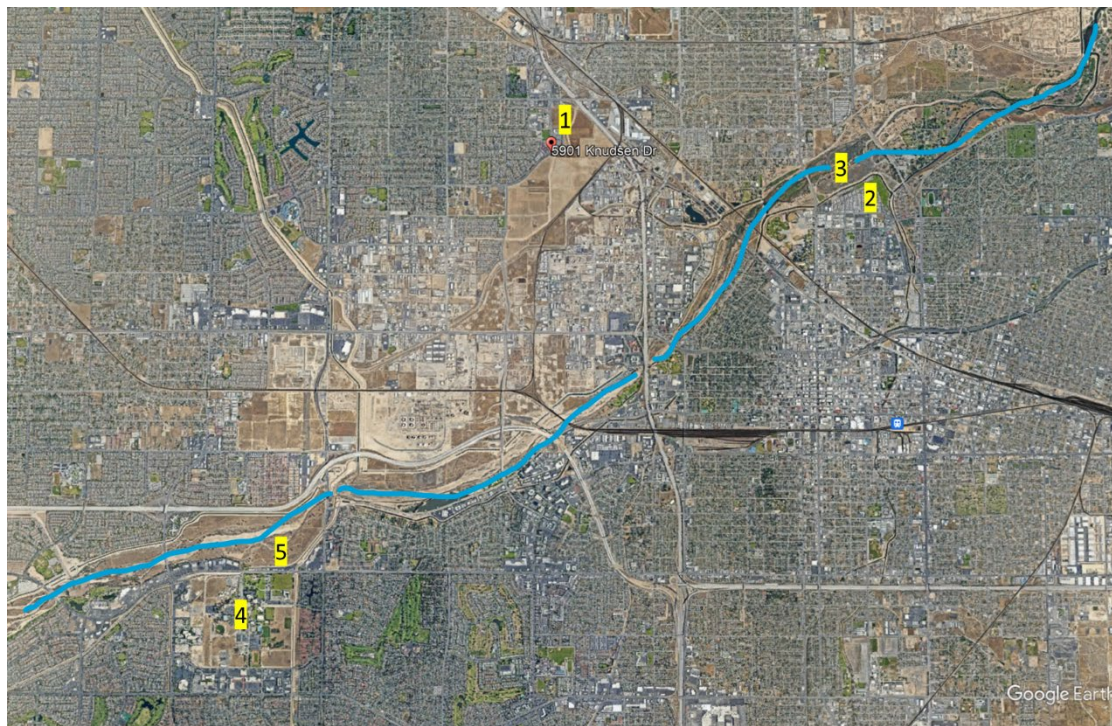


Figure 1. Aerial view of the City of Bakersfield. The Kern River is indicated in blue. Other locations of interest are numbered in yellow rectangles: 1: Lot at the corner of Knudsen/Olive Dr., 2: Bakersfield College, 3. Panorama Vista Preserve, 4: CSUB, 5: Bakersfield Environmental Studies Area (BESA). Populations of San Joaquin Kit Foxes are known at CSUB, Bakersfield College, the plot at Knudsen/Olive Dr., and several other locations not indicated in this figure. The highly fragmented landscape makes it difficult for these populations to meet.

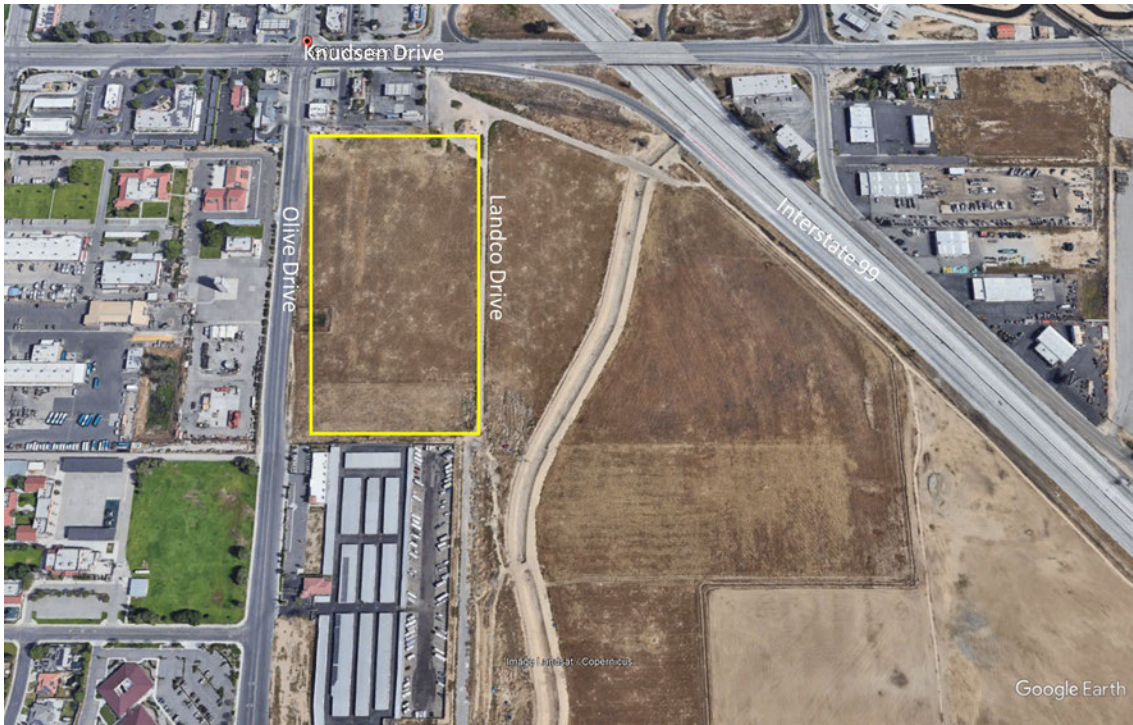


Figure 2. Location of disced property where the Veterans Affairs Outpatient Clinic is planned (yellow rectangle). Scat samples were collected east and west of Landco Drive, west of the canal.



Figure 3. A: Target location has been disced, resulting in the destruction of dens and burrows. **B.** Example of a new den that has been dug recently. **B:** A kit fox scat sample was found adjacent to this den.

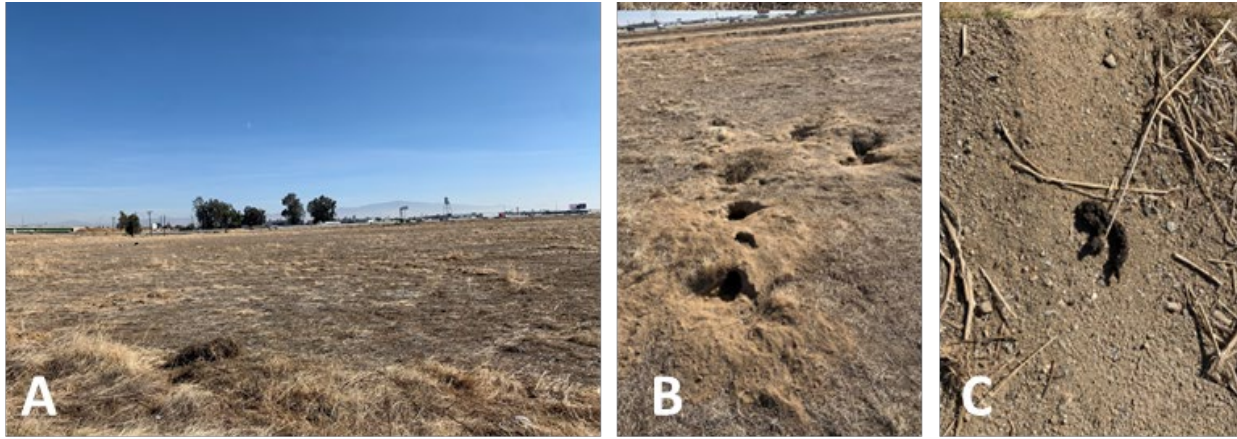


Figure 4. A: Non-disked area with dried grass east of the target area. **B:** Example of old den. **C:** Example of kit fox scat sample collected.



Figure 5. Scat samples (dots) were collected from the planned construction site (yellow rectangle) and nearby areas. Green dots indicate a scat sample that was identified as kit fox scat, red dots indicated scat from other animal (each scat sample has an individual number and student initials; VA=Veterans Affairs)

Sequencing results of PCR products

>VA-5, *Vulpes macrotis* haplotype Vmac, KJ846673, 98.88%

NNNNNNNNNNNNNTNNNNNCCCTTNNNNCTTGCCCTATGTACGTCGTGCATTACTGTTATGCCCCATGCATATAAGCATGTACATAA
ACTTACATTATTACATAAGACATACTATGTTTAATCTTGCAACAACCTCTTTCAGGAGCATGTATGACTGCACGTCACTTAGTCCAATAA
GGGATTTATCACCATGCCTCGAGAAACCATCAACCCTTGCCCGTAATGTCCCTCTTCTCGCTCCGGGGCCCATACCAACGTGGGGGTTTC
TATCATGGAACTATACCTGGCATCTGGTTCCTACTTCAGGA

>VA-6, *Vulpes macrotis* haplotype Vmac, KJ846673, 98.49%

NNNNNNNNNNNNNNNNNANNNCCCTTANNNNTTGCCCTATGTACGTCGTGCATTACTGTTATGCCCCATGCATATAAGCATGTACAT
AACTTACATTATTACATAAGACATACTATGTTTAATCTTGCAACAACCTCTTTCAGGAGCATGTATGACTGCACGTCACTTAGTCCAA
TAAGGGATTTATCACCATGCCTCGAGAAACCATCAACCCTTGCCCGTAATGTCCCTCTTCTCGCTCCGGGGCCCATACCAACGTGGGGGT
TTCTATCATGGAACTATACCTGGCATCTGNCNNACTTCANANN

>VA-7, *Vulpes macrotis* haplotype Vmac, KJ846673, 98.21%

NNNNNNNNNNNNNNNTNNNACCCCTTAAANACTTGCCCTATGTACGTCGTGCATTACTGTTATGCCCCATGCATATAAGCATGTACATA
AACTTACATTATTACATAAGACATACTATGTTTAATCTTGCAACAACCTCTTTCAGGAGCATGTATGACTGCACGTCACTTAGTCCAATA
AGGGATTTATCACCATGCCTCGAGAAACCATCAACCCTTGCCCGTAATGTCCCTCTTCTCGCTCCGGGGCCCATACCAACGTGGGGGTTT
CTATCATGGAACTATACCTGGCATCTGGTTCCTACTTCAGGA

>VA-10, *Vulpes macrotis* haplotype Vmac, KJ846673, 98.88%

NNNNNNNNNNNNNNNNNNNNNTNNNACTTGCCCTATGTACGTCGTGCATTACTGTTATGCCCCATGCATATAAGCATGTACATAAA
CTTACATTATTACATAAGACATACTATGTTTAATCTTGCAACAACCTCTTTCAGGAGCATGTATGACTGCACGTCACTTAGTCCAATAAG
GGATTTATCACCATGCCTCGAGAAACCATCAACCCTTGCCCGTAATGTCCCTCTTCTCGCTCCGGGGCCCATACCAACGTGGGGGTTTCT
ATCATGGAACTATACCTGGCATCTGGTTCCTACTTCAGGACCCACCCGCAGGTCNNACCTGGTTCGNACCATCCGCCGACNTCTCAA
GAANGAGAATAAANNGACCTGGGCCCCAANGAANAAACNNNGATGAGANNTNAAAA

>VA-13, *Vulpes macrotis* haplotype Vmac, KJ846673, 98.88%

NNNNNNNNNNNNNNNTCNCCNCTTAANNACTTGCCCTATGTACGTCGTGCATTACTGTTATGCCCCATGCATATAAGCATGTACATAA
ACTTACATTATTACATAAGACATACTATGTTTAATCTTGCAACAACCTCTTTCAGGAGCATGTATGACTGCACGTCACTTAGTCCAATAA
GGGATTTATCACCATGCCTCGAGAAACCATCAACCCTTGCCCGTAATGTCCCTCTTCTCGCTCCGGGGCCCATACCAACGTGGGGGTTTC
TATCATGGAACTATACCTGGCATCTGGTTCCTACTTCAGGA

>V-17, amplicon of correct size but too faint to sequence

>VA-18, *Vulpes macrotis* haplotype Vmac, KJ846673, 98.87%

NNNNNNNNNNNNNTNNNACCCCTTANNNNNTTGCCCTATGTACGTCGTGCATTACTGTTATGCCCCATGCATATAAGCATGTACATAA
ACTTACATTATTACATAAGACATACTATGTTTAATCTTGCAACAACCTCTTTCAGGAGCATGTATGACTGCACGTCACCTTAGTCCAATAA
GGGATTTATCACCATGCCTCGAGAAACCATCAACCCTTGCCCGTAATGTCCCTCTTCTCGCTCCGGGGCCATACCAACGTGGGGGTTTC
TATCATGGAACCTATACCTGGCATCTGGTTCCTACTTCAGG

>VA-21, amplicon of correct size but too faint to sequence

>VA-23, amplicon of correct size but too faint to sequence

Reference

De Barba, M., Adams, J. R., Goldberg, C. S., Stansbury, C. R., Arias, D., Cisneros, R., & Waits, L. P. (2014). Molecular species identification for multiple carnivores. *Conservation Genetics Resources*, 6, 821-824.

Copies to:

Gordon Nipp and Stephen Montgomery, Executive Committee Kern-Kaweah Chapter of the Sierra Club,
Bakersfield, CA

The Bakersfield Californian Notice of Availability (7/21/2024, 7/23/2024)

Proof of Publication

THE BAKERSFIELD CALIFORNIAN
3700 PEGASUS DR STE 100
BAKERSFIELD, CA 93308

Ad Number: 362491 PO #:
Edition: CALC Run Times 2
Class Code LEGAL NOTICES

Start Date 07/21/2024 Stop Date 07/23/2024

AWEN SOLUTIONS GROUP
4196 MERCHANT PLAZA STE 711
WOODBIDGE VA 22192

Billing Lines 30.00 Inches 3.0172221
Total Cost \$ 539.18 Account 331892
Billing AWEN SOLUTIONS GROUP
Address 4196 MERCHANT PLAZA STE 711
WOODBIDGE VA 22192

STATE OF CALIFORNIA
COUNTY OF KERN

Solicitor I.D.: 0

I AM A CITIZEN OF THE UNITED STATES AND A RESIDENT
OF THE COUNTY AFORESAID: I AM OVER THE AGE OF
EIGHTEEN YEARS, AND NOT A PARTY OR INTERESTED
IN THE ABOVE ENTITLED MATTER. I AM THE ASSISTANT
PRINCIPAL CLERK OF THE PRINTER OF THE
BAKERSFIELD CALIFORNIAN, A NEWSPAPER OF
GENERAL CIRCULATION, PRINTED AND PUBLISHED
DAILY IN THE CITY OF BAKERSFIELD COUNTY OF KERN,

First Text
NOTICE OF AVAILABILITY DR

Ad Number 362491

AND WHICH NEWSPAPER HAS BEEN ADJUDGED A
NEWSPAPER OF GENERAL CIRCULATION BY THE SUPERIOR
COURT OF THE COUNTY OF KERN, STATE OF CALIFORNIA,
UNDER DATE OF FEBRUARY 5, 1952, CASE NUMBER 57610;
THAT THE NOTICE, OF WHICH THE ANNEXED IS A PRINTED
COPY, HAS BEEN PUBLISHED IN EACH REGULAR AND
ENTIRE ISSUE OF SAID NEWSPAPER
AND NOT IN ANY SUPPLEMENT THEREOF ON THE
FOLLOWING DATES, TO WIT:

07/21/2024 07/23/2024

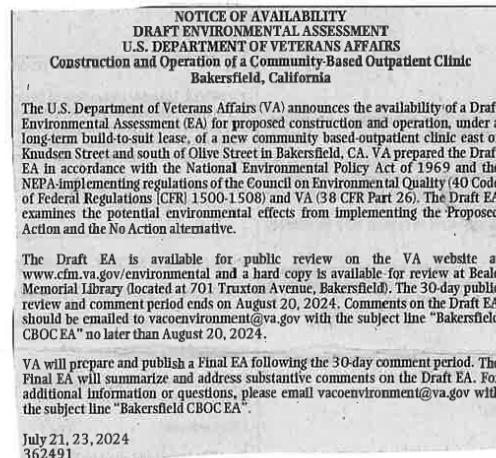
ALL IN YEAR 2024

I CERTIFY (OR DECLARE) UNDER PENALTY OF PERJURY
THAT THE FOREGOING IS TRUE AND CORRECT.

Krista Fisher

DATED AT BAKERSFIELD CALIFORNIA

7/23/24





U.S. DEPARTMENT OF VETERANS AFFAIRS
Office of Construction & Facilities Management
Washington DC 20420

July 16, 2024

Sent via email

SUBJECT: Notice of Availability of Draft Environmental Assessment for Proposed Bakersfield Community-Based Outpatient Clinic, Bakersfield, CA

Dear Valued Stakeholder:

The U.S. Department of Veterans Affairs (VA) has prepared a Draft Environmental Assessment (EA) to analyze the potential environmental impacts associated with a proposed action to construct and operate, under a long-term build-to-suit lease, a new community-based outpatient clinic (CBOC) in Bakersfield, California (see Exhibit 1, Project Location). The new CBOC is proposed to be constructed on an approximately 10-acre site that is currently undeveloped and will consist of an approximately 40,000-gross-square-foot building with associated parking and other site improvements (see Exhibit 2, Proposed Development).

VA prepared the Draft EA according to the National Environmental Policy Act of 1969 (42 U.S. Code 4321-4370) (NEPA) and the NEPA-implementing regulations of the Council on Environmental Quality (40 Code of Federal Regulations [CFR] 1500-1508) and VA (38 CFR Part 26). Exhibit 3 summarizes the NEPA process, including public engagement, for your reference in responding to this request. The Draft EA examines the potential environmental effects from implementing the Proposed Action and the No Action Alternative.

The purpose of this Proposed Action is to provide a modern, state-of-the-art medical facility to serve Veterans in Bakersfield and surrounding communities. The Proposed Action is needed to address current and future projected health care needs of Veterans in Kern County.

Concurrent with this mailing, a Notice of Availability has been published in the Bakersfield Californian to inform and solicit input from the public. The Draft EA is available on the VA website at www.cfm.va.gov/environmental. A hard copy of the Draft EA is also available for public review at Beale Memorial Library, located at 701 Truxton Avenue, Bakersfield, California.

Please submit any requests for additional information, questions, or comments on the Draft EA via email to vacoenvironment@va.gov with the subject line "Bakersfield CBOC EA" no later than Tuesday, August 20, 2024. VA will summarize and address substantive comments in the Final EA.

Respectfully,

Glenn Elliott
Director, Project Development Services Division
Office of Construction & Facilities Management

Exhibit 1. Project Location



Exhibit 2. Proposed Development

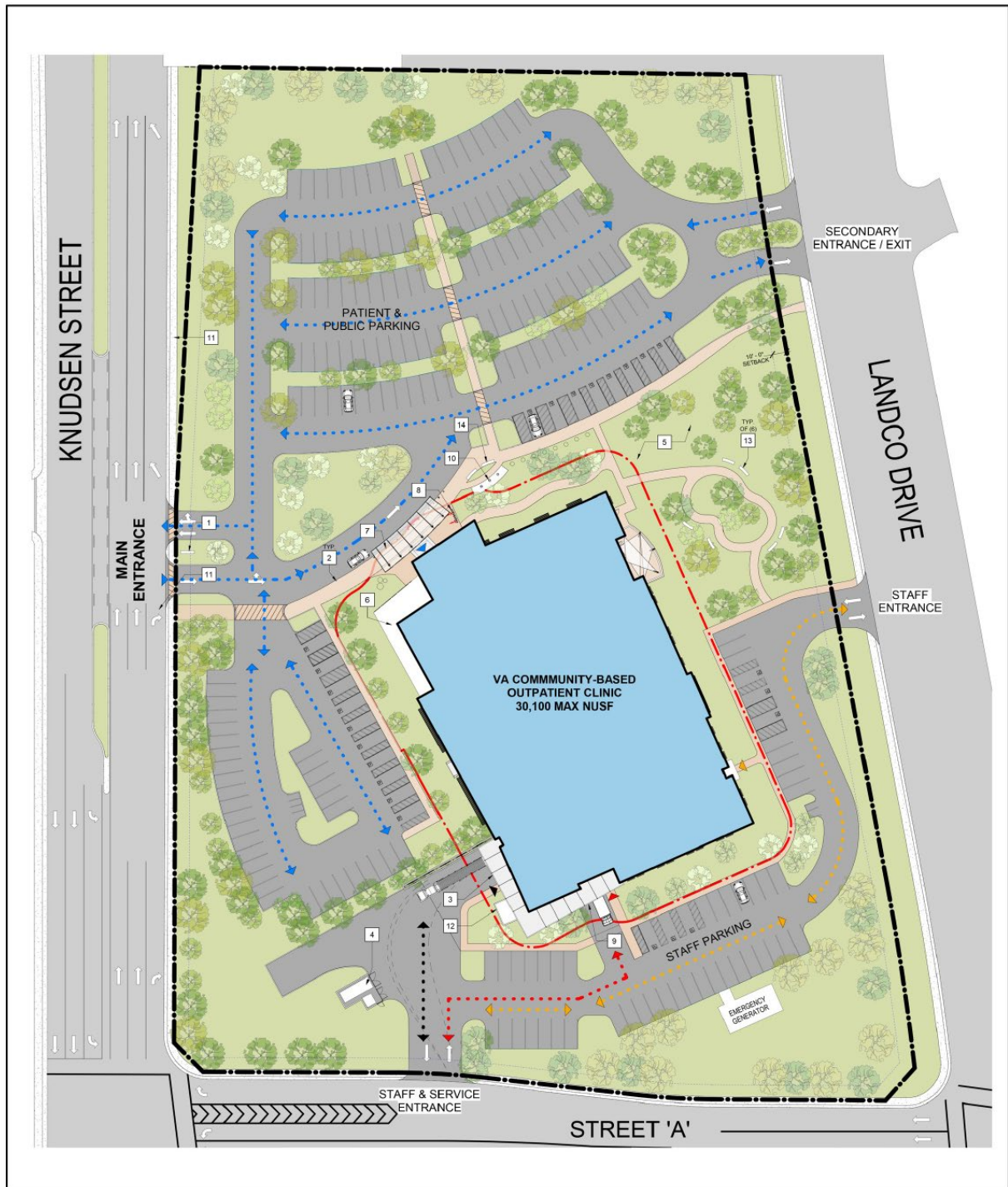


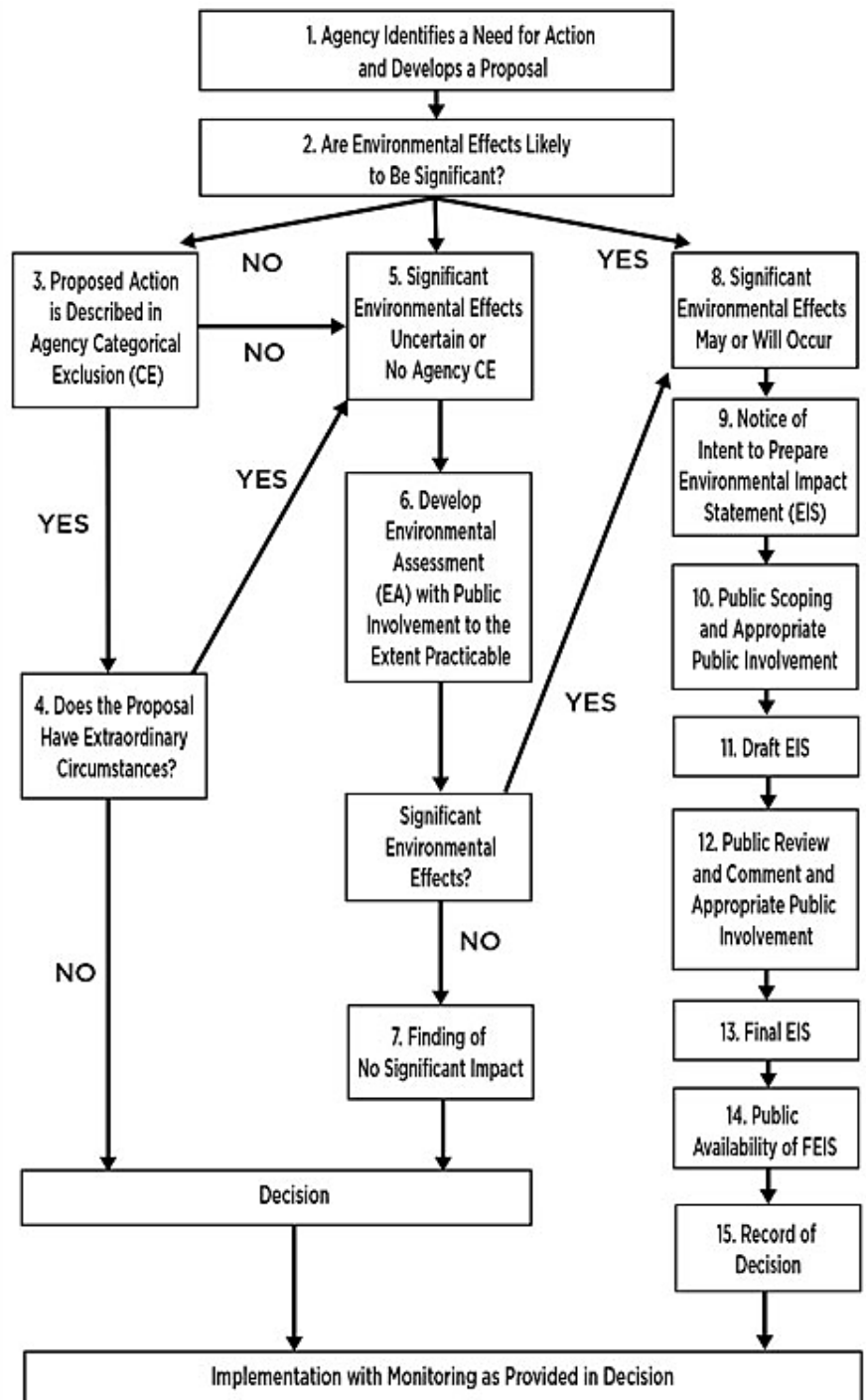
Exhibit 3. Overview of NEPA Process

This exhibit provides an overview of the National Environmental Policy Act (NEPA) process. NEPA encourages better decisions by requiring federal agencies to consider the environmental effects of their proposed actions in making their decisions. NEPA also informs the public about federal agencies' decision making and, by way of invitations such as this one, requests your input and comments on these environmental reviews.

Federal agencies prepare environmental assessments (EAs) and environmental impact statements (EISs) to provide an opportunity to the public to learn about and be involved in the environmental reviews that are part of the federal agency decision-making process.

Comments may be the most important contribution from the public because they promote informed decision making. Comments should provide sufficient detail for the agency to understand the commenter's position and why the issues raised are important to the decision. Accordingly, comments should be clear, concise, relevant to the analysis of the proposed action, and submitted during the public comment periods.

It is important to understand that commenting on a proposal is not a "vote" on whether the proposed action should take place. Nonetheless, the information you provide during the EA and EIS process can influence the decision makers and their final decisions because NEPA requires that federal decision makers be informed of the environmental consequences of their decisions.



Source: *A Citizen's Guide to NEPA – Having Your Voice Heard* (https://ceq.doe.gov/get-involved/citizens_guide_to_nepa.html). Please see full document for more information.

APPENDIX C. NHPA SECTION 106 CONSULTATION

<i>Bakersfield Californian</i> Legal Notice.....	C-2
NHPA Section 106 Letter Example	C-3
Consulting Party Distribution List	C-12
SHPO Response/Concurrence	C-14

The Bakersfield Californian Legal Notice

Proof of Publication

THE BAKERSFIELD CALIFORNIAN
3700 PEGASUS DR STE 100
BAKERSFIELD, CA 93308

Ad Number: 263519 PO #:
Edition: CALC Run Times 1
Class Code LEGAL NOTICES

Start Date 10/30/2023 Stop Date 10/30/2023

ROW 10 HPS, LLC
8215 SYCAMORE STREET
NEW ORLEANS LA 70118

Billing Lines 36.00 Inches 3.6274991
Total Cost \$ 333.84 Account 332097
Billing ROW 10 HPS, LLC
Address 8215 SYCAMORE STREET
NEW ORLEANS LA 70118

STATE OF CALIFORNIA
COUNTY OF KERN

Solicitor I.D.: 0

I AM A CITIZEN OF THE UNITED STATES AND A RESIDENT
OF THE COUNTY AFORESAID: I AM OVER THE AGE OF
EIGHTEEN YEARS, AND NOT A PARTY OR INTERESTED
IN THE ABOVE ENTITLED MATTER. I AM THE ASSISTANT
PRINCIPAL CLERK OF THE PRINTER OF THE
BAKERSFIELD CALIFORNIAN, A NEWSPAPER OF
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DAILY IN THE CITY OF BAKERSFIELD COUNTY OF KERN,

First Text
PUBLIC NOTICE: NATIONAL H

Ad Number 263519

AND WHICH NEWSPAPER HAS BEEN ADJUDGED A
NEWSPAPER OF GENERAL CIRCULATION BY THE SUPERIOR
COURT OF THE COUNTY OF KERN, STATE OF CALIFORNIA,
UNDER DATE OF FEBRUARY 5, 1952, CASE NUMBER 57610;
THAT THE NOTICE, OF WHICH THE ANNEXED IS A PRINTED
COPY, HAS BEEN PUBLISHED IN EACH REGULAR AND
ENTIRE ISSUE OF SAID NEWSPAPER
AND NOT IN ANY SUPPLEMENT THEREOF ON THE
FOLLOWING DATES, TO WIT:

**PUBLIC NOTICE: National Historic Preservation Act Public Comment
Solicitation for the Proposed Bakersfield Community-Based Outpatient Clinic**

The U.S. Department of Veterans Affairs (VA) proposes to construct and operate, under a long-term build-to-suit lease, a new community-based outpatient clinic (CBOC) southeast of the intersection of Olive Drive and Knudsen Drive (approximately 0.15 mile west of State Route 99 (SR-99) and 250 feet southeast of the intersection of Olive Drive and Knudsen Drive) and would no longer operate the existing leased VA clinic at 1801 Westwind Drive in Bakersfield, California. The new CBOC is proposed to be constructed on an approximately 10-acre site that is currently undeveloped and will consist of an approximately 40,000-gross-square-foot building with associated parking and other site improvements. The purpose of this Project is to provide a modern, state-of-the-art medical facility to serve Veterans in Bakersfield and surrounding communities.

In accordance with 36 CFR § 800.3(a), VA has determined that the Project is a federal action that meets the definition of an undertaking per 36 CFR § 800.16(g), and is the type of activity that has the potential to cause effects on historic properties, and therefore subject to review under 54 USC § 306108 of the National Historic Preservation Act (NHPA), as amended, and its implementing regulations (36 CFR Part 800 - Protection of Historic Properties), collectively "Section 106."

Through this notice, VA is providing the public with information about the undertaking and seeking public comment and input about the undertakings effects on historic properties pursuant to 36 CFR § 800.2(d). This notice does not serve as an invitation to consult under Section 106, it is solely to seek and consider the views of the public. VA is initiating its Section 106 review and inviting consulting parties to participate via a separate communication.

If you would like to comment on the proposed project at this time, please contact Angela McArdle at Angela.McArdle@va.gov and reference "Bakersfield CBOC." VA greatly appreciates your participation in this matter and asks that you provide comments on the proposed project by November 29, 2023.

October 30, 2023
263519

10/30/2023

ALL IN YEAR 2023

I CERTIFY (OR DECLARE) UNDER PENALTY OF PERJURY
THAT THE FOREGOING IS TRUE AND CORRECT.

Briesta Fisher

DATED AT BAKERSFIELD CALIFORNIA

10/30/23



DEPARTMENT OF VETERANS AFFAIRS
Greater Los Angeles Healthcare System
11301 Wilshire Boulevard
Los Angeles, CA 90073

November 21, 2023

Mariza Sullivan
Chairperson
Coastal Band of the Chumash Nation
P. O. Box 4464
Santa Barbara, CA, 93140
cbctribalchair@gmail.com

West Los Angeles
Healthcare Center
11301 Wilshire Boulevard
Los Angeles, CA 90073
(310) 478-3711

Reference: VA_2018_0629_001

**Re: Continuation of Consultation on the Bakersfield, CA Community Based
Outpatient Clinic in Bakersfield, CA**

Dear Chairperson Sullivan,

The U.S. Department of Veterans Affairs (VA) Greater Los Angeles Healthcare System (GLAHS) is continuing consultation on a project to construct and operate a new community-based outpatient clinic (CBOC), under a long-term build-to-suit lease in Bakersfield, California (Figure 1). VA originally initiated consultation in 2018. However, due to the passage of time, the elimination of one potential site initially included in the undertaking, and the reorganization of the project, with this letter VA is reinitiating that consultation. The new CBOC is proposed to be constructed on an approximately 10-acre site that is currently undeveloped and will consist of an approximately 40,000-gross-square-foot building with associated parking, landscaping, and utilities. The location of the proposed new CBOC is approximately 0.15-mile west of State Route 99 (SR-99) and 250 feet southeast of the intersection of Olive Drive and Knudsen Drive (Figure 2). The purpose of this proposed project is to provide a modern, state-of-the-art medical facility to serve Veterans in Bakersfield and surrounding communities.

VA currently leases a CBOC located at 1801 Westwind Drive, Bakersfield. Because VA currently leases another facility in the city, the project also includes the deactivation of the existing VA clinic. However, future use of the existing facility is not part of this project, as VA is not the property owner. The existing facility was built in 1992 and is located in an office park area.

Undertaking

In accordance with 36 CFR § 800.3(a), VA has determined that the undertaking is the construction and operation of a build-to-suit facility on previously undeveloped land, located at 5252 Knudsen Drive, Bakersfield, CA 93307-2907. The undertaking also would include the deactivation of an existing VA medical clinic in the city, located at 1801 Westwind Drive, which would no longer operate at that location. The existing facility is smaller in size (it totals approximately 34,560 s.f.) and offers some similar services, but it is a dated facility not capable of providing the full breadth of services that the city's

Veteran community currently needs. As evidenced by testimony from local Veterans in public hearings from previous versions of this project, many Veterans currently drive to Los Angeles to obtain the full range of services they need (2022 Draft Environmental Impact Report. P. 3-1). The new facility is designed to meet all those needs.

VA has determined that this proposed action is a federal action that meets the definition of an undertaking per 36 CFR § 800.16(y), and is the type of activity that has the potential to cause effects on historic properties, and therefore subject to review under Section 106 of the National Historic Preservation Act (NHPA), as amended, (54 USC § 306108), and its implementing regulations (36 CFR Part 800 – Protection of Historic Properties).

Area of Potential Effects (APE)

In accordance with 36 CFR § 800.4(a)(1) and § 800.16(d), the APE is the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties. Because the Undertaking includes both new construction and the closure of an existing CBOC, VA has determined that the APE includes two non-contiguous areas: the existing CBOC site, and the proposed new CBOC site. The APE for the existing clinic includes the footprint of the existing facility, including parking (Figure 3). The APE for the proposed CBOC is the existing ca. 10-acre site, plus a 250-ft buffer, as delineated in Figure 4, to address any potential effects due to the construction of above-ground features. However, ground disturbance is limited to the area within the parcel.

Previous Investigations

Existing CBOC Site

Because no ground disturbance and no new construction will result from VA deactivating its clinic at the existing location, no previous investigations were examined.

Proposed CBOC Site

VA consulted with SHPO and other consulting parties on this project in 2018, and found that no historic properties would be affected. Subsequently, in 2022, the City of Bakersfield conducted a Cultural Resources Assessment (CRA) as part of an Environmental Impact Report (EIR). This CRA included a record search at the Southern San Joaquin Valley Information Center (SSJVIC) and the Native American Heritage Commission (NAHC). The records search included a review of all recorded cultural resources and reports within a ½ -mile radius of the project; there were no previously identified sites or loci identified in the APE. The NAHC conducted a record search of the Sacred Lands File (SLF) submitted for the project; the results were negative. However, the NAHC identified ten Native American tribes who may also have knowledge of cultural resources in the project area. Finally, the CRA documented negative results of an intensive pedestrian survey conducted in March 2022. The Cultural Resources Assessment for the Veterans Affairs Bakersfield Community Based Outpatient Clinic project, City of Bakersfield, County of Kern, California is appended to this letter as Appendix C, for your review.

As part of the current study, VA has renewed requests to both the SSJVIC and the NAHC, to ensure that the most up-to-date information regarding historic or sacred sites has been identified. The SSJVIC did not identify any historic properties within the APE (see Results Letter below) and coordination with the NAHC is ongoing. VA is contacting your tribe to invite you to consult on this undertaking. All the invited parties to the consultation are included in Appendix D.

Historic Properties Including Buildings, Districts, Sites, Landscapes, and Objects

In October 2023, Katy Coyle, a Cultural Resource Management professional meeting the *Secretary of the Interior's Professional Qualification Standards* for History and Architectural History (36 CFR part 61) conducted a survey and historic research to evaluate the appropriate APE(s), and to identify properties within both the APEs that are more than fifty years of age and that retain sufficient integrity to warrant listing in the National Register of Historic Places (NRHP).

Existing CBOC Site

The existing CBOC building was constructed in 1992 (Kern County Assessor, available online.¹ It is located in an office park area and is surrounded by one- to three-story buildings developed in the late 1980s and early 1990s. The area is generally bounded by the Golden State Highway to the west (7 lanes, elevated), Truxtun Avenue to the south (5 lanes, divided), Oak Street to the east (4 lanes, divided), and 21st Street (2 lanes).

There are no listed or NRHP-eligible properties in the APE.

Proposed CBOC Site

The proposed CBOC site consists of approximately 10-acres of undeveloped land bounded roughly by Knudsen Drive on the west, a modern mattress store and self-storage facility on the south, Olive Drive on the north, and a gated dirt road identified on some maps as Hageman Road on the east. A review of aerial photography and historic USGS quadrangle maps did not show evidence of any development in the project area in the past 100 years.

Within the APE, but outside the area of proposed ground disturbance, are several modern buildings. A small area including a Chevron gas station, a Taco Bell restaurant, and a 7-Eleven convenience store are located north of the project area; these were built between 1994-2003 (Google Earth). Just west of the project area, across Knudsen Drive, is a complex with a fire department facility, a warehouse, administration building, auto shop, and training buildings, built ca. 1984. A commercial car wash facility just north of the fire department facility was built at roughly the same time. The storage facility to the south was built in 2003. Aerial photography and cartographic information for the APE outside the area of proposed ground disturbance to the east of the CBOC parcel shows no evidence of development in the past century (Google Earth; www.historicaerials.com).

There are no NRHP-listed or eligible properties in the APE.

Assessment of Effects

Therefore, in accordance with 36 CFR § 800.4(d)(1), VA finds that there will be **no historic properties affected** by the undertaking. VA requests your review and comment on the delineation of the APE, the identification of historic properties, and the assessment of adverse effects within the statutory review period established in 36 CFR Part 800. This timeframe will ensure that we can consider any concerns and can move forward with this important project serving our Veterans.

¹<https://assessorapps.kerncounty.com/PropertySearch/Parcels/PropertyDetails.aspx?srctext=33244007&srctype=apn>.

Thank you, as always, for your cooperation in this important project for our Veterans. If you have any questions regarding this VA undertaking, please contact VA's Senior Historic Preservation Specialist, Angela McArdle, at Angela.McArdle@va.gov.

Sincerely,

Alan Trinh
Acting Executive Director, Ambulatory Care Services
VA Greater Los Angeles Healthcare System

Appendix A: Photographs of the Project Areas
Appendix B: Previous Consultation Documentation
Appendix C: Cultural Resources Assessment (dated 11/23/22)
Appendix D: List of Consulting Parties

Appendices not
included in EA

Results Letter

South San Joaquin Valley Information System

California
Historical
Resources
Information
System



Fresno
Kern
Kings
Madera
Tulare

Southern San Joaquin Valley Information Center
California State University, Bakersfield
Mail Stop: 72 DOB
9001 Stockdale Highway
Bakersfield, California 93311-1022
(661) 654-2289
E-mail: ssjvic@csub.edu
Website: www.csub.edu/ssjvic

10/23/2023

Kelly Sellers Wittie
Row 10 Historic Preservation Solutions, LLC
8215 Sycamore Place
New Orleans, LA 70118

Re: VA Bakersfield
Records Search File No.: 23-438

The Southern San Joaquin Valley Information Center received your record search request for the project area referenced above, located on the Oildale USGS 7.5' quad. The following reflects the results of the records search for the project area and the 0.5 mile radius:

As indicated on the data request form, the locations of resources and reports are provided in the following format: ☐ custom GIS maps ☒ GIS data

Resources within project area:	None
Resources within 0.5 mile radius:	No radius requested
Reports within project area:	KE-05498
Reports within 0.5 mile radius:	No radius requested

Resource Database Printout (list):

☐ enclosed ☐ not requested ☒ nothing listed

Resource Database Printout (details):

☐ enclosed ☐ not requested ☒ nothing listed

Resource Digital Database Records:

☐ enclosed ☐ not requested ☒ nothing listed

Report Database Printout (list):

☒ enclosed ☐ not requested ☐ nothing listed

Report Database Printout (details):

☒ enclosed ☐ not requested ☐ nothing listed

Report Digital Database Records:

☒ enclosed ☐ not requested ☐ nothing listed

Resource Record Copies:

☐ enclosed ☐ not requested ☒ nothing listed

Report Copies:

☒ enclosed ☐ not requested ☐ nothing listed

OHP Built Environment Resources Directory:

☐ enclosed ☒ not requested ☐ nothing listed

Archaeological Determinations of Eligibility:

☐ enclosed ☒ not requested ☐ nothing listed

CA Inventory of Historic Resources (1976):

☐ enclosed ☒ not requested ☐ nothing listed

Figures



Figure 1

Veteran's Affairs Community-Based Outpatient Medical Clinic

Vicinity Map

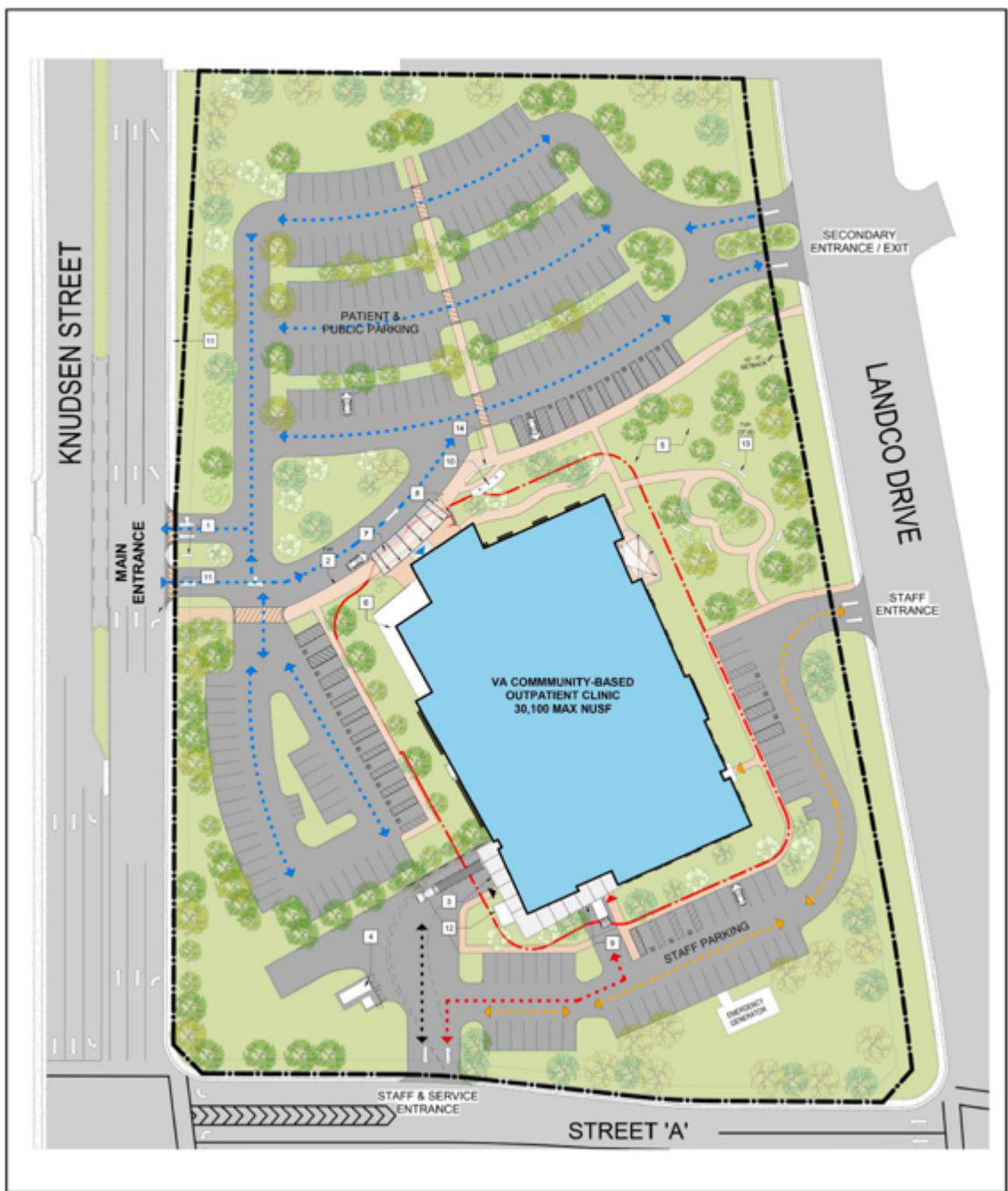


Figure 2 Proposed Development



Figure 3 Existing CBOC (1801 Westwind Drive, Bakersfield, CA) APE

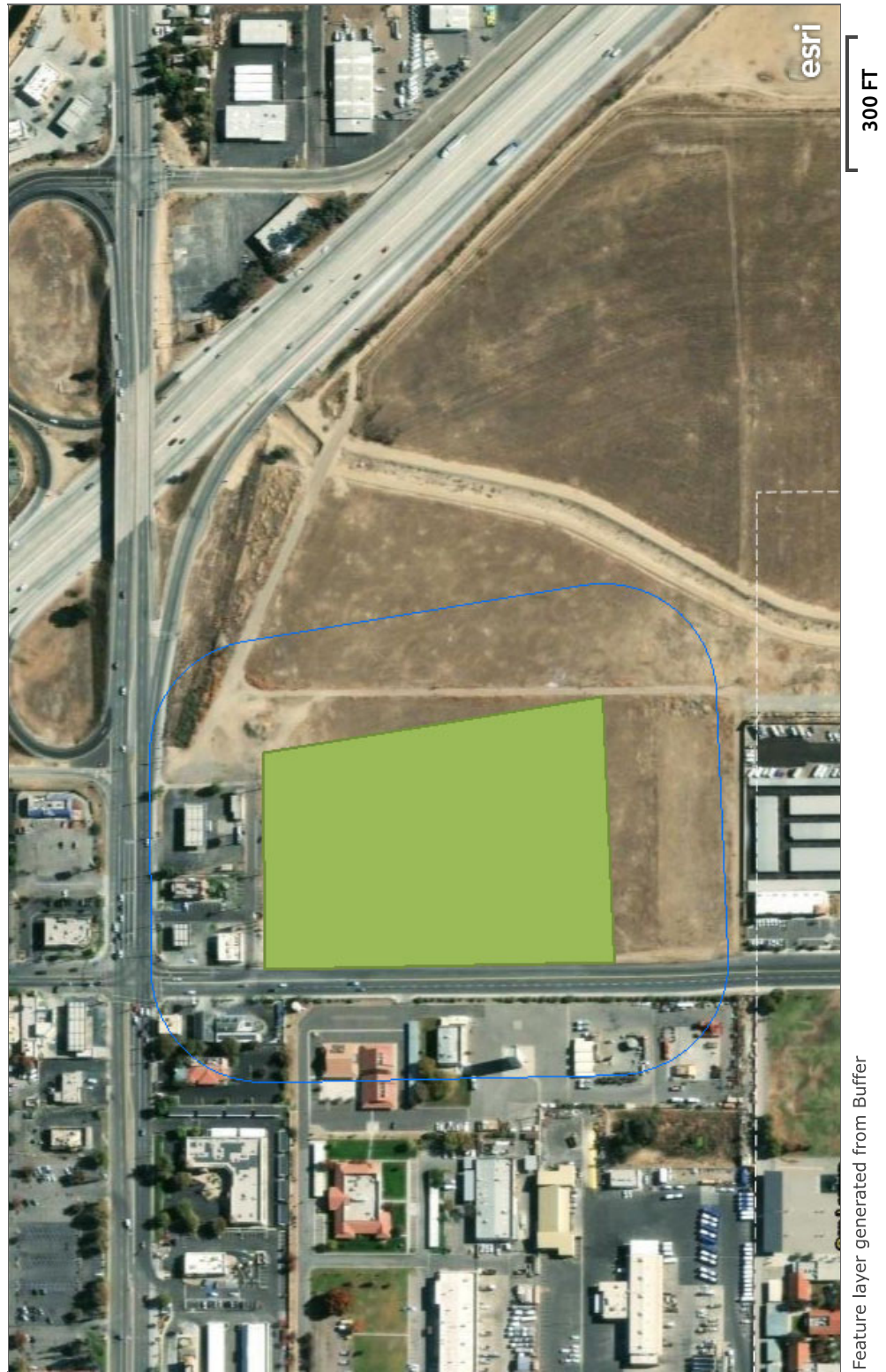


Figure 4 Proposed CBOC Site (approximately 5512 Knudsen Drive) APE

Consulting Party Distribution List

AGENCY/ORGANIZATION	CONTACT INFO	EMAIL	ADDRESS
Native American Organizations (*federally recognized tribes indicated with asterisk)			
Big Pine Paiute Tribe of the Owens Valley	Danelle Gutierrez, Tribal Historic Preservation Officer Sally Manning, Environmental Director	d.gutierrez@bigpinepaiute.org s.manning@bigpinepaiute.org	P. O. Box 700 Big Pine, CA, 93513
Coastal Band of the Chumash Nation	Mariza Sullivan, Chairperson	cbcntribalchair@gmail.com	P. O. Box 4464 Santa Barbara, CA 93140
Fort Independence Indian Community of Paiute Indians of the Fort Independence Reservation, California*	Carl Dahlberg, Chairperson Sean Scruggs, Interim THPO	carl@fortindependence.com falconkeeper22@gmail.com	131 North Highway 395, Independence CA 93526
Kern Valley Indian Community	Robert Robinson, Chairperson Brandy Kendricks	bbutterbredt@gmail.com krazykendricks@hotmail.com	P.O. Box 1010 Lake Isabella, CA 93240 30741 Foxridge Court Tehachapi, CA 93561
Kitanemuk & Yowlumne Tejon Indians	Delia Dominguez, Chairperson	2deedominguez@gmail.com	115 Radio Street Bakersfield, CA 93305
Santa Rosa Rancheria Tachi Yokut Tribe	Leo Sisco, Chairperson Shana Powers, THPO	lcisco@tachi-yokut-nsn.gov spowers@tachi-yokut-nsn.gov	P.O. Box 8 Lemoore, CA 93245
Te-Moak Tribe of Western Shoshone Indians of Nevada*	David Gonzales, Chairperson	tmkchairman@elko-nv.com tmkadmin@elko-nv.com temoakenvironmental@gmail.com	525 Sunset Street Elko, NV 89801
Tejon Indian Tribe*	Octavio Escobedo, Chairperson	oescobedo@tejonindiantribe-nsn.gov	P.O. Box 640 Arvin, CA 93203
Tubatulabals of Kern Valley	Robert Gomez, Chairperson	rgomez@tubatulabal.org	P.O. Box 833 Weldon, CA 93283
Tule River Indian Tribe of the Tule River Reservation, California*	Neil Peyron, Chairperson Kerri Vera, Environmental Department Joey Garfield, Tribal Archaeologist	neil.peyron@tulerivertribe-nsn.gov kerri.vera@tulerivertribe-nsn.gov tuleriverenv@yahoo.com joey.garfield@tulerivertribe-nsn.gov	P.O. Box 589 Porterville, CA 93258 340 North Reservation Road Porterville CA 93257

AGENCY/ORGANIZATION	CONTACT INFO	EMAIL	ADDRESS
Wuksache Indian Tribe/Eshom Valley Band	Kenneth Woodrow, Chairperson	Kwood8934@aol.com	1179 Rock Haven Court Salinas, CA 93906
State			
California Office of Historic Preservation, Department of Parks & Recreation	Julianne Polanco State Historic Preservation Officer	info.calshpo@parks.ca.gov	1725 23rd Street, Suite 100 Sacramento, CA 95816
Local			
Bakersfield Historic Preservation Commission Economic Development Department	--	hpcbakersfield@bakersfieldcity.us	1715 Chester Avenue Bakersfield, CA 93301
City of Bakersfield Development Services Department, Planning Division	Paul Johnson, Planning Director	Devpln@bakersfieldcity.us	1715 Chester Avenue, 2nd Floor Bakersfield, CA 93301
Kern County Historical Society	--	KCHS1931@gmail.com	P.O. Box 141 Bakersfield, CA 93302-0141

**DEPARTMENT OF PARKS AND RECREATION
OFFICE OF HISTORIC PRESERVATION**Armando Quintero, *Director*

Julianne Polanco, State Historic Preservation Officer

1725 23rd Street, Suite 100, Sacramento, CA 95816-7100

Telephone: (916) 445-7000

FAX: (916) 445-7053

calshpo.ohp@parks.ca.gov

www.ohp.parks.ca.gov

December 18, 2023

Reply in Reference to: VA_2018_0629_001

Alan Trinh
Chief, Office of Strategic, Facility & Master Planning
Department of Veterans Affairs
Greater Los Angeles Healthcare System
11301 Wilshire Boulevard
Los Angeles, CA 90037

VIA ELECTRONIC MAIL

Re: Section 106 Consultation for Community Based Outpatient Clinic Construction,
5252 Knudsen Drive, Bakersfield, Kern County

Dear Mr. Trinh:

The Department of Veterans Affairs (VA) is continuing consultation in compliance with Section 106 of the National Historic Preservation Act of 1966 (54 U.S.C. §306108), as amended, and its implementing regulation found at 36 CFR Part 800.

Having previously received the SHPO's concurrence with a finding of no historic properties affected, the VA modified the undertaking's definition to include the deactivation of a medical clinic at 1801 Westwind Drive, Bakersfield. The VA's letter explains that "due to the passage of time, the elimination of one potential site initially included in the undertaking, and the reorganization of the project, with this letter VA is reinitiating that consultation. The new CBOC is proposed to be constructed on an approximately 10-acre site that is currently undeveloped and will consist of an approximately 40,000-gross-square-foot building with associated parking, landscaping, and utilities."

The VA are requesting the SHPO's concurrence that a finding of no historic properties affected remains appropriate. After reviewing the information provided, the SHPO concurs with this finding of effect. Be advised that under certain circumstances, such as an unanticipated discovery or a change in project description, the VA may have future responsibilities for this undertaking under 36 CFR Part 800.

December 18, 2023

VA_2018_0629_001

Mr. Trinh

Page 2

This letter is being sent in electronic format only. Please confirm receipt of this letter and notify Ed Carroll, Historian II, at Ed.Carroll@parks.ca.gov or (916) 503-8466 if there are any questions or to request a hard copy of this letter.

Sincerely,

A handwritten signature in blue ink, appearing to be 'Julianne Polanco', with a stylized, elongated horizontal stroke extending to the right.

Julianne Polanco
State Historic Preservation Officer

APPENDIX D. ENDANGERED SPECIES ACT CONSULTATION

Section 7 consultation package submitted to USFWS (with biological study attached) D-2



U.S. DEPARTMENT OF VETERANS AFFAIRS
Office of Construction & Facilities Management
Washington DC 20420

July 11, 2024

Michael Fris, Field Supervisor (by email to Michael_Fris@fws.gov)
U.S. Fish & Wildlife Service
Sacramento Fish and Wildlife Office
2800 Cottage Way
Sacramento, California 95825

Subject: Request for Reinitiation of Formal Consultation under Section 7 of the
Endangered Species Act
Project Name: Bakersfield Outpatient Clinic
Project Code 2024-0011302

Dear Mr. Fris:

This letter requests reinitiation of formal consultation with the U.S. Fish and Wildlife Service (USFWS) under Section 7 of the Endangered Species Act for a proposed project to construct and operate a U.S. Department of Veterans Affairs (VA) outpatient clinic in Bakersfield (Kern County), California. The purpose of this reinitiation package is to review the proposed project in sufficient detail to determine to what extent the proposed action may affect any threatened, endangered, proposed, or sensitive species and designated or proposed critical habitats. This package is prepared in accordance with legal requirements set forth under regulations implementing Section 7 of the Endangered Species Act (50 CFR 402; 16 U.S.C. 1536 (c)).

Description of the Proposed Action

VA is proposing to construct and operate, under a long-term lease, an approximately 40,000-gross-square-foot (GSF) outpatient clinic with associated surface parking and other site improvements in Bakersfield, Kern County, California. The project area is located on the east side of Knudsen Drive and south of Olive Drive (Figure 1). The site corresponds to portions of Section 15 of Township 29 south, Range 27 east, Mt. Diablo Meridian and Baseline, of the Oildale, CA 7.5-minute quadrangle. For reference, the approximate center of the project is located at latitude 35.410299° and longitude -119.057907. Landscaping would be installed along the perimeter of the project site, around the building, and throughout the parking areas. Traffic improvements and road construction would be implemented along all project site's frontages (Figure 2).

Previous Consultation

In June 2020, VA initiated formal consultation with the USFWS on this project. VA had determined that the project was likely to adversely affect the federally listed endangered San Joaquin kit fox (SJKF) (*Vulpes macrotis mutica*). The developer was going to obtain third-party coverage under the Metropolitan Bakersfield Habitat Conservation Plan (MBHCP) for the project's effects to the kit fox when acquiring development permits from the City of Bakersfield. This included paying the required habitat mitigation fee and implementation of all measures included in the MBHCP to reduce impacts to the kit fox. The USFWS reviewed the proposed

project and in June 2020, responded to VA's formal consultation request as follows (Ref. No. 08ESMF00- 2020-F-2169) (Attachment 1, USFWS response letter):

The Service has reviewed the proposed project and has determined that it is consistent with the development activities covered in the MBHCP and associated intra-Service biological opinion. As such, as long as the required habitat mitigation fees needed to obtain third party coverage under the MBHCP are paid, no further action is required from the VA, and the VA may consider its obligations under section 7 of the Act with regard to the proposed project to be complete. However, if the developer does not pay the necessary fees for the project to be covered under the MBHCP, additional formal consultation under section 7 of the Act would be necessary.

However, project execution has been delayed and the MBHCP has since expired; therefore, that mitigation measure is no longer available.

Status of the Species and Critical Habitat in the Action Area

VA requested an official species list from USFWS Information, Planning and Conservation (IPaC) system on October 31, 2023, which identified 12 federally listed and proposed threatened and endangered species in the project area. No designated critical habitats were identified. VA obtained an updated list on June 27, 2024 (Attachment 2), which identified one additional federally listed species potentially present in the area. The western spadefoot (*Spea hammondi*) was evaluated in the new biological study that is described below. VA notes a species list that was obtained on May 22, 2024, also identified the lassics lupine (*Lupinus constancei*), although this species was not included in the more recent list; this species was also evaluated in the new biological study that is described below. Thus, VA has determined the study findings were not affected by subsequent updates to the IPaC species list.

A reconnaissance-level survey was conducted on December 15, 2023, by a qualified biologist to evaluate occurrences and presence of suitable habitat for these species within or near the project area. The biologist walked 100-foot spaced transects in a north-south direction within the project site and 500-foot buffer to the south and east of the project. In addition to the reconnaissance survey, a highly trained ecological scent-detection dog team (handler and dog) surveyed for SJKF scat on December 15, 2023. The detection dog chosen for this survey had been trained using industry-accepted methods (Smith et al. 2001, Wasser et al. 2004) to recognize the scent of SJKF scat, and to alert the handler to the location of the scat.

No direct observations of special status species were observed at the project site or 500-foot buffer during the reconnaissance and scent-detection dog surveys. Potential burrows suitable for SJKF were observed within the project site and 500-foot buffer. There was no evidence that the burrows were used by SJKF. The scent-detection dog team detected SJKF scat at two separate locations within the 500-foot buffer, which indicates the occurrence of SJKF within the project vicinity (Figure 3). The biological study report is provided as Attachment 3.

Effects of the Action

Based on the results of the biological study, VA has determined that the proposed project “may affect, and is likely to adversely affect” the SJKF.

To address these potential adverse effects, VA is incorporating all of the measures relevant to this federally listed species and under federal authority that were identified in the August 2023 Final Environmental Impact Report (EIR) for the project (SCH No. 2022080337) to monitor for and exclude the SJKF from the project site during construction. In addition, VA proposes to include four additional measures. These measures are listed in Attachment 4.

Through implementation of these measures, in particular the installation and maintenance of artificial dens, the action is not expected to have negative consequences on the Bakersfield SJKF population and may have positive effects by adding safe and dependable denning resources.

Suitable habitat was not found during the onsite survey for the remaining listed species identified on the IPaC Official Species List for this location; therefore, we have concluded “no effect” to those species.

Request to Reinitiate Formal Consultation

At this time, VA is requesting to reinitiate formal consultation with USFWS on project impacts to the San Joaquin kit fox.

We look forward to receiving your response. If you need additional information, please contact me at (202) 894-0988 or by email at christine.modovsky@va.gov.

Sincerely,

CHRISTINE MODOVSKY Digitally signed by CHRISTINE MODOVSKY
Date: 2024.07.11 13:55:16 -07'00'

Christine Modovsky
Environmental Engineer
VA Office of Construction & Facilities Management

cc: Justin Sloan, USFWS San Joaquin Valley Division Supervisor

Attachments:

1. USFWS June 2020 response to previous formal consultation (Ref. No. 08ESMF00-2020-F-2169)
2. IPaC list (6/27/2024)
3. Biological Study, April 2024
4. Federal species mitigation measures



Figure 1. Project Location

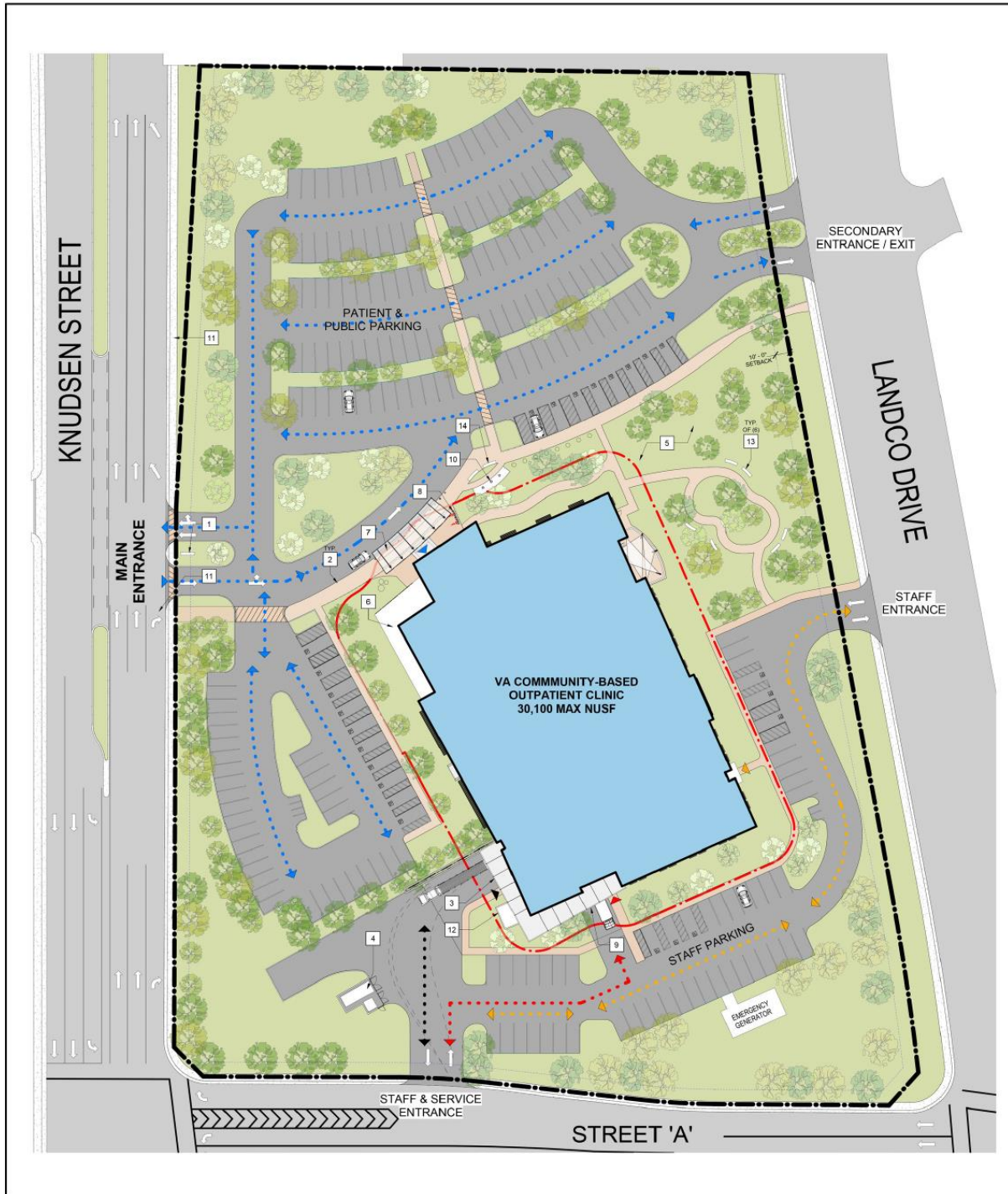


Figure 2. Proposed Development





United States Department of the Interior

FISH AND WILDLIFE SERVICE
Sacramento Fish and Wildlife Office
2800 Cottage Way, Suite W-2605
Sacramento, California 95825-1846
SFWO_mail@fws.gov



In Reply Refer to:
08ESMF00-
2020-F-2169

June 2020

Christine Modovsky
U.S. Department of Veteran Affairs
Office of Construction and Facilities Management
Facilities Planning (003C2)
810 Vermont Street NW
Washington DC 20420
christine.modovsky@va.gov

Subject: Formal Consultation on the Bakersfield Outpatient Clinic, Kern County, California

Dear Ms. Modovsky:

This letter is in response to the U.S. Department of Veterans Affairs' (VA) June 11, 2020, request for initiation of formal consultation with the U.S. Fish and Wildlife Service (Service) on the proposed Bakersfield Outpatient Clinic in Kern County, California. At issue are the proposed project's effects on the federally endangered San Joaquin kit fox (*Vulpes macrotis mutica*) (kit fox). This response is provided under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), and in accordance with the implementing regulations pertaining to interagency cooperation (50 CFR 402).

The federal action on which we are consulting is the construction and operation under a long-term lease of a VA outpatient clinic and associated parking on 6.92 acres in Bakersfield, California. Pursuant to 50 CFR 402.12(j), you submitted a biological assessment for our review and requested concurrence with the findings presented therein. These findings conclude that the proposed project may affect, and is likely to adversely affect the kit fox.

In considering your request, we based our evaluation on the following:

- 1) The June 11, 2020, letter from VA initiating consultation
- 2) The June 10, 2020, biological study conducted by ECORP Consulting, Inc
- 3) Other information available to the Service

As stated in the consultation initiation letter, the developer will obtain third party coverage under the Metro Bakersfield Habitat Conservation Plan (MBHCP) for the project's effects to the kit fox when acquiring development permits from the City of Bakersfield. This includes paying the required habitat mitigation fee and implementation of all measures included in the MBHCP to reduce impacts to the kit fox.

The Service issued an Incidental Take Permit (Permit Number PRT-786634) to the City of Bakersfield and Kern County on August 24, 1994, pursuant to section 10 of the Act. This permit authorized the incidental taking of kit fox "in the course of otherwise lawful development and conservation activities..." During issuance of the permit to the City of Bakersfield and Kern County the Service analyzed the effects of permitted activities on federally listed species, including the kit fox, within the permit area in an intra-Service biological opinion issued on August 23, 1994.

The Service has reviewed the proposed project and has determined that it is consistent with the development activities covered in the MBHCP and associated intra-Service biological opinion. As such, as long as the required habitat mitigation fees needed to obtain third party coverage under the MBHCP are paid, no further action is required from the VA, and the VA may consider its obligations under section 7 of the Act with regard to the proposed project to be complete. However, if the developer does not pay the necessary fees for the project to be covered under the MBHCP, additional formal consultation under section 7 of the Act would be necessary.

If you have any questions regarding this biological opinion, please contact Justin Sloan, Senior Fish and Wildlife Biologist, at (559) 221-1828 or the letterhead address.

Sincerely



,

Patricia Cole
Chief, San Joaquin Valley Division



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Sacramento Fish And Wildlife Office

Federal Building

2800 Cottage Way, Room W-2605

Sacramento, CA 95825-1846

Phone: (916) 414-6600 Fax: (916) 414-6713



In Reply Refer To:

06/27/2024 20:26:58 UTC

Project Code: 2024-0011302

Project Name: Bakersfield Outpatient Clinic

Subject: List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed, and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through IPaC by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)).

(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at: <https://www.fws.gov/sites/default/files/documents/endangered-species-consultation-handbook.pdf>

Migratory Birds: In addition to responsibilities to protect threatened and endangered species under the Endangered Species Act (ESA), there are additional responsibilities under the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA) to protect native birds from project-related impacts. Any activity, intentional or unintentional, resulting in take of migratory birds, including eagles, is prohibited unless otherwise permitted by the U.S. Fish and Wildlife Service (50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)). For more information regarding these Acts, see [Migratory Bird Permit | What We Do | U.S. Fish & Wildlife Service \(fws.gov\)](#).

The MBTA has no provision for allowing take of migratory birds that may be unintentionally killed or injured by otherwise lawful activities. It is the responsibility of the project proponent to comply with these Acts by identifying potential impacts to migratory birds and eagles within applicable NEPA documents (when there is a federal nexus) or a Bird/Eagle Conservation Plan (when there is no federal nexus). Proponents should implement conservation measures to avoid or minimize the production of project-related stressors or minimize the exposure of birds and their resources to the project-related stressors. For more information on avian stressors and recommended conservation measures, see <https://www.fws.gov/library/collections/threats-birds>.

In addition to MBTA and BGEPA, Executive Order 13186: *Responsibilities of Federal Agencies to Protect Migratory Birds*, obligates all Federal agencies that engage in or authorize activities that might affect migratory birds, to minimize those effects and encourage conservation measures that will improve bird populations. Executive Order 13186 provides for the protection of both migratory birds and migratory bird habitat. For information regarding the implementation of Executive Order 13186, please visit <https://www.fws.gov/partner/council-conservation-migratory-birds>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Code in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List

OFFICIAL SPECIES LIST

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Sacramento Fish And Wildlife Office

Federal Building

2800 Cottage Way, Room W-2605

Sacramento, CA 95825-1846

(916) 414-6600

PROJECT SUMMARY

Project Code: 2024-0011302
Project Name: Bakersfield Outpatient Clinic
Project Type: New Constr - Above Ground
Project Description: VA proposes to construct and operate under a long-term lease a 39,648-gross-square-foot outpatient clinic on one floor with 214 surface parking spaces. The approximately 10-acre site is extensively disturbed but undeveloped.

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@35.410084850000004,-119.05767581758906,14z>



Counties: Kern County, California

ENDANGERED SPECIES ACT SPECIES

There is a total of 13 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

-
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

MAMMALS

NAME	STATUS
Buena Vista Lake Ornate Shrew <i>Sorex ornatus relictus</i> There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/1610	Endangered
San Joaquin Kit Fox <i>Vulpes macrotis mutica</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/2873	Endangered
Tipton Kangaroo Rat <i>Dipodomys nitratoide nitratoide</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/7247	Endangered

BIRDS

NAME	STATUS
California Condor <i>Gymnogyps californianus</i> Population: Wherever found, except where listed as an experimental population There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/8193	Endangered
Southwestern Willow Flycatcher <i>Empidonax traillii extimus</i> There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/6749	Endangered
Yellow-billed Cuckoo <i>Coccyzus americanus</i> Population: Western U.S. DPS There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/3911	Threatened

REPTILES

NAME	STATUS
Blunt-nosed Leopard Lizard <i>Gambelia silus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/625	Endangered
Northwestern Pond Turtle <i>Actinemys marmorata</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/1111	Proposed Threatened

AMPHIBIANS

NAME	STATUS
Western Spadefoot <i>Spea hammondi</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/5425	Proposed Threatened

INSECTS

NAME	STATUS
Monarch Butterfly <i>Danaus plexippus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9743	Candidate

CRUSTACEANS

NAME	STATUS
Vernal Pool Fairy Shrimp <i>Branchinecta lynchi</i> There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/498	Threatened

FLOWERING PLANTS

NAME	STATUS
Bakersfield Cactus <i>Opuntia treleasei</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/7799	Endangered
San Joaquin Woolly-threads <i>Monolopia (=Lembertia) congdonii</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/3746	Endangered

CRITICAL HABITATS

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

YOU ARE STILL REQUIRED TO DETERMINE IF YOUR PROJECT(S) MAY HAVE EFFECTS ON ALL ABOVE LISTED SPECIES.

IPAC USER CONTACT INFORMATION

Agency: Department of Veterans Affairs
Name: Christine Modovsky
Address: c/o 810 Vermont Ave. NW (003C)
City: Washington
State: DC
Zip: 20420
Email: christine.modovsky@va.gov
Phone: 2028940988



H. T. HARVEY & ASSOCIATES

Ecological Consultants

50 years of field notes, exploration, and excellence

**U.S. Department of Veterans Affairs
Bakersfield Veterans Affairs
Community-Based Outpatient Clinic**

Biological Study

Project #4800-01

Prepared for:

U.S. Department of Veterans Affairs

through subcontract to:

Kevin Esposito

Concourse Federal Group

13840 Booker T. Washington Highway, Suite C3
Moneta, VA 24121

Prepared by:

H. T. Harvey & Associates

April 2024

Executive Summary

This biological study report has been prepared for the U.S. Department of Veterans Affairs (VA) proposed Bakersfield VA Community-based Outpatient Clinic project location (Project). The primary purpose of this survey is to determine the potential presence of federally or state-protected animal and plant species on the proposed Project site. For purposes of this study report, these species are identified as ‘special-status species’. This study report also describes potential construction and operational activities and analyzes the Project’s potential direct and indirect impacts on special-status species in the project area.

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Contributors

Brian Boroski, Ph.D.
Marianne Huizing, M.S.
Abra Kaiser, B.S

Acronym List

CDFW	California Department of Fish and Wildlife
CNDDDB	California Natural Diversity Database
CNPS	California Native Plant Society
FC	federal candidate
FE	federally listed as endangered
FPT	Federal proposed threatened
FT	federally proposed as threatened
IPaC	Information for Planning and Consultation
km ²	square kilometer
MBHCP	Metropolitan Bakersfield Habitat Conservation Plan
VA	U.S. Department of Veterans Affairs
USFWS	U.S. Fish and Wildlife Service

Section 1.0 Introduction

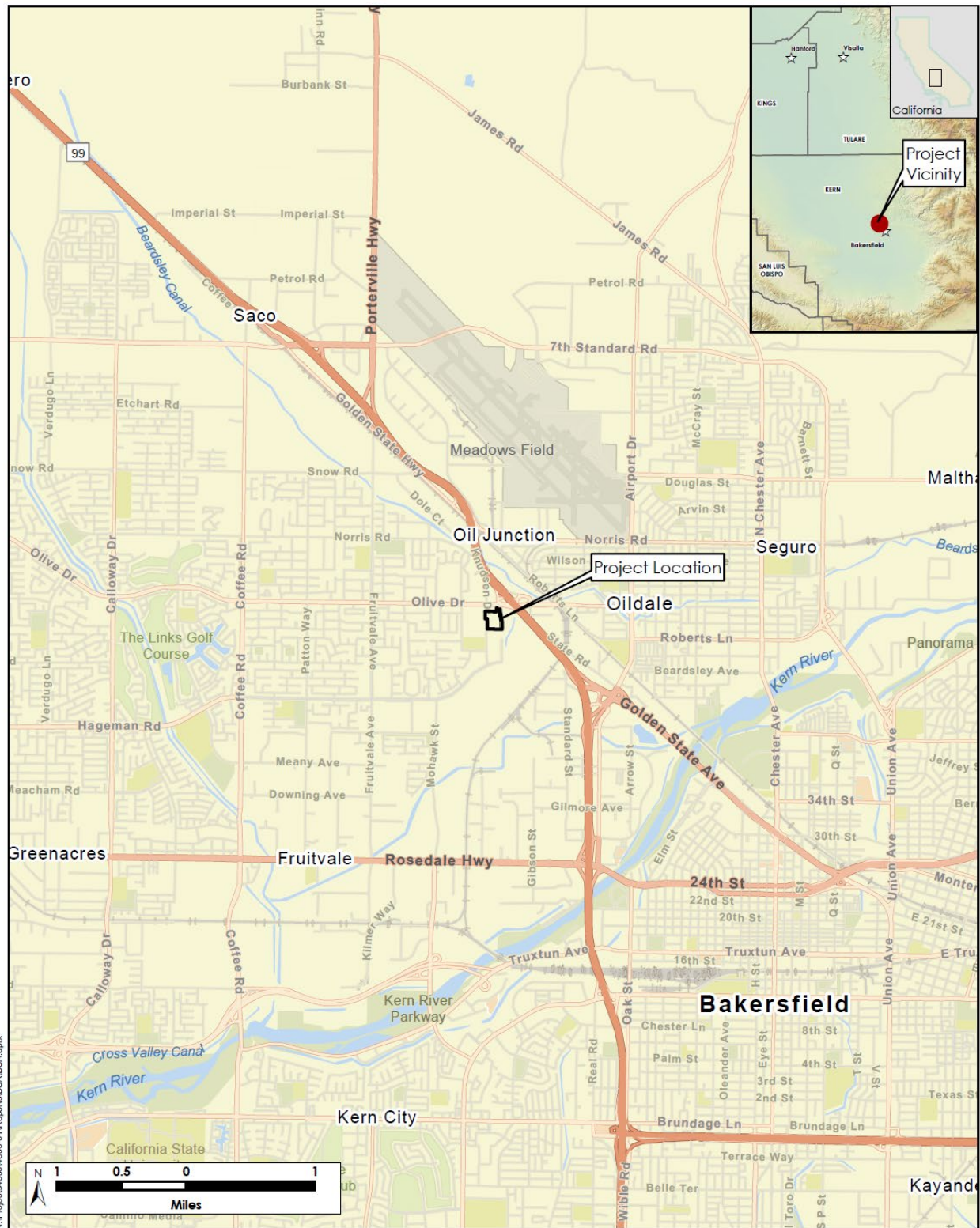
1.1 Proposed Action

The U.S. Department of Veterans Affairs (VA) proposes to construct an approximate 39,648 square foot outpatient facility on approximately 10.1 acres in the City of Bakersfield, California (Figure 1). The proposed location for the VA Community-based Outpatient Clinic (Project) is south of Olive Drive, east of Knudsen Drive, and west of State Route 99 (Figure 2). Commercial and residential areas are to the north, west, and south of the proposed Project site, and ruderal annual grassland is immediately adjacent east of the site. An unnamed canal that runs in a northeast-southwest direction occurs further east of the proposed Project site and beyond the canal is another vacant lot of ruderal annual grassland. Photos of the proposed Project site and vicinity are provided in Appendix A.

1.2 Special-Status Species and Critical Habitats Assessed

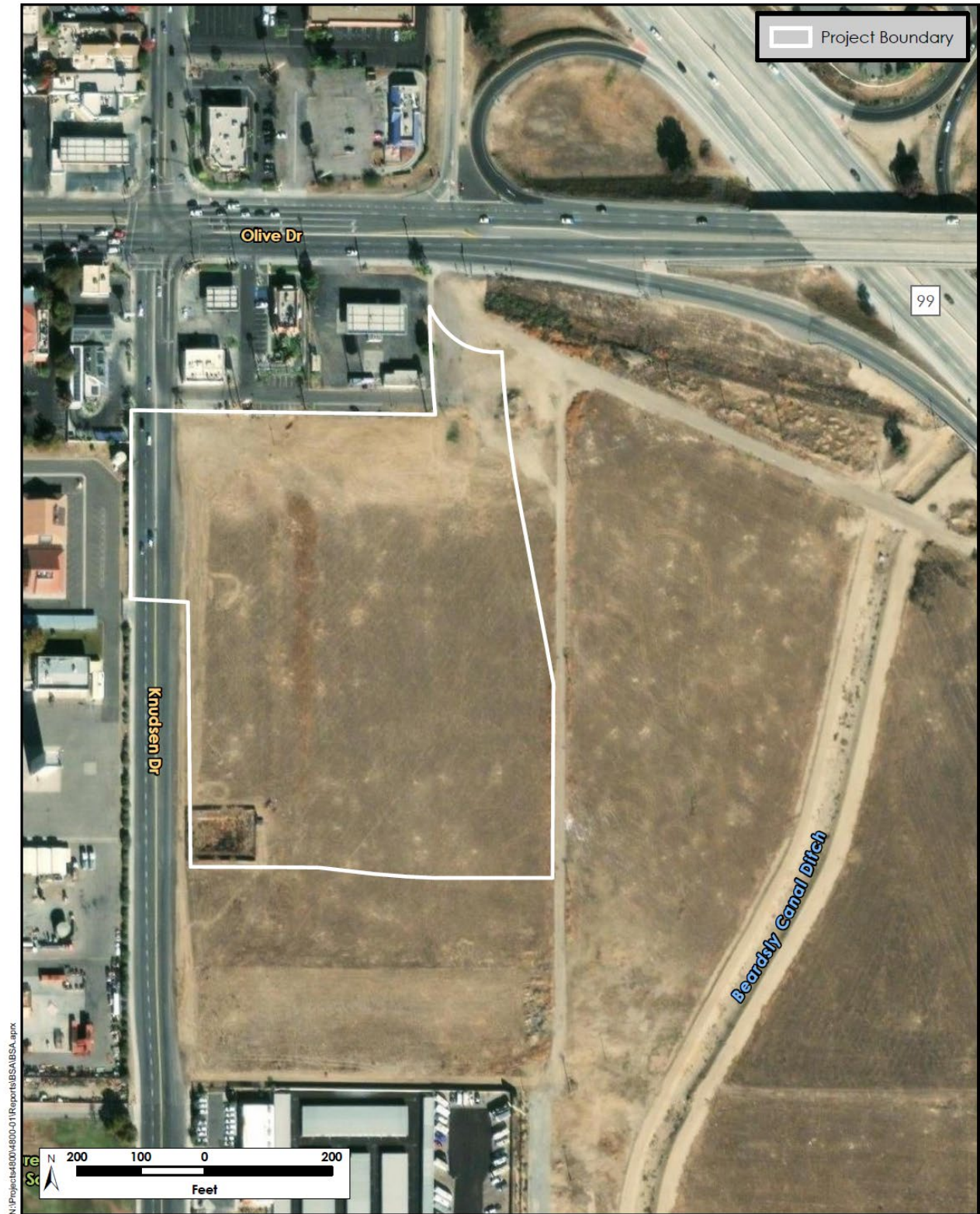
Special-status species assessed for the project were identified through the following means and include federally and state-listed species. A species list for the proposed Project area was obtained from the U. S. Fish and Wildlife Service (USFWS) (Appendix B). Federally listed plant and animal occurrences were generated from queries from the California Department of Fish and Wildlife's California Natural Diversity Database (CNDDB), and a query of California Native Plant Society (CNPS) database (Appendix A). The National Marine Fisheries Service website was queried, but no federally listed species populated for the proposed Project area, which is consistent with the upland nature of the action area. Migratory birds identified through the USFWS Information for Planning and Consultation (IPac) website are included in consideration of species to be impacted by the proposed Project. Designated critical habitat for federally listed species was also considered during this analysis.

State-listed species assessed for the project were obtained by conducting queries of the CNDDB (2024) for special-status animal and plant records within a 5-mile radius of the proposed Project site. A list of rare plants was obtained by conducting a query of the rare plant inventory from CNPS for records that occur within the Oildale quad (#3511941) (Appendix B).



H. T. HARVEY & ASSOCIATES
Ecological Consultants

Figure 1. Vicinity Map
Bakersfield Veterans Affairs Community-based Outpatient Clinic
Biological Study (4800-01)
April 2024



H. T. HARVEY & ASSOCIATES
Ecological Consultants

Figure 2. Project Site

Bakersfield Veterans Affairs Community-based Outpatient Clinic
Biological Study (4800-01)
April 2024

Special-status species identified through this process include the following:

1.2.1 Special-Status Species

Mammals

- American badger (*Taxidea taxus*), (state species of special concern, SSC)
- Buena Vista Lake ornate shrew (*Sorex ornatus relictus*), (federally listed as endangered, FE; SSC)
- San Joaquin kit fox (*Vulpes macrotis mutica*), (FE; state listed as endangered, SE)
- Tipton kangaroo rat (*Dipodomys nitratoides nitratoides*), (FE; SE)
- Western mastiff bat (*Ermops perotis californicus*), (SSC)

Birds

- Bald eagle (*Haliaeetus leucocephalus*), (Bald and Golden Eagle Protection Act, BGEPA; SE)
- Burrowing owl (*Athene cunicularia*), (SSC)
- California condor (*Gymnogyps californianus*), (FE; SE)
- Golden eagle (*Aquila chrysaetos*), (BGEPA; state fully protected, SFP)
- Southwestern willow flycatcher (*Empidonax traillii extimus*), (FE; SE)
- Swainson's hawk (*Buteo swainsoni*), (state listed as threatened, ST)
- Yellow-billed cuckoo (*Coccyzus americanus*), (federally listed as threatened, FT; SE)

Reptiles and Amphibians

- Bakersfield legless lizard (*Anniella grinnelli*), (SSC)
- Blunt-nosed leopard lizard (*Gambelia silus*), (FE; SE)
- California glossy snake (*Arizona elegans occidentalis*), (SSC)
- Northwestern pond turtle (*Actinemys marmorata*), (federally proposed as threatened, FPT)
- Western spadefoot (*Spea hammondi*), (FPT; SSC)

Invertebrates

- Crotch's bumble bee (*Bombus crotchii*), (state candidate, SC)
- Monarch butterfly (*Danaus plexippus*), (federal candidate, FC)
- Vernal pool fairy shrimp (*Branchinecta lynchi*), (FT)

Plants

- Bakersfield cactus (*Opuntia treleasei*), (FE; SE, 1B.1, S2)

- California jewelflower (*Caulanthus californicus*), (FE; SE, 1B.1, S1)
- California satintail (*Imperata brevifolia*), (2B.1, S3)
- Cottony buckwheat (*Eriogonum gossypinum*), (federally delisted, FD; 4.2, S3S4)
- Horn's milk-vetch (*Astragalus hornii* var. *hornii*), (1B.1, S1)
- Hispid salty bird's beak (*Chloropyron molle* ssp. *hispidum*), (1B.1, S1)
- Hoover's eriastrum (*Eriastrum hooveri*), (FD; 4.2, S3)
- Recurved larkspur (*Delphinium recurvatum*), (1B.2, S2)
- San Joaquin bluecurls (*Trichostema ovatum*), (4.3, S3)
- San Joaquin woollythreads (*Monolopia congdonii*), (FE; 1B.2, S2)
- Tejon poppy (*Eschscholzia lemmonii* ssp. *kernensis*), (1B.1, S2)

1.2.2 Critical Habitat

The proposed Project site does not fall within any designated critical habitat for federally and state-listed species.

1.3 Authorities and Discretion

As a federally funded project, VA must evaluate potential project impacts on the federally listed special-status species to meet the requirements pursuant to Section 7(a)(2) of the federal Endangered Species Act, as amended (16 U.S.C. § 1531 et seq.), and its implementing regulations (50 C.F.R. § 402.1 et seq.). To support review of the proposed Project under the National Environmental Policy Act, VA is evaluating potential Project impacts to both federally and state-listed special status species.

1.4 Consultation History and Resource Agency Coordination

Species lists were obtained from Sacramento USFWS office, USFWS IPaC, CNDDDB, and CNPS (Appendix A), to inform this assessment. The National Marine Fisheries Service website was queried, but no listed species populated for the action area. VA initiated formal consultation with USFWS on June 11, 2020. In response to the request, the USFWS reviewed the Project and deemed that the Project was consistent with the development activities covered in the Metropolitan Bakersfield Habitat Conservation Plan (MBHCP). However, the MBHCP expired in 2023, before Project construction was initiated and is no longer available. Thus, VA began informal discussions with the USFWS in mid-September 2023 to reinstate consultation pursuant to the Endangered Species Act and continuing with a follow-up discussion on January 18, 2024, seeking input on mitigating for loss of habitat for San Joaquin kit fox.

1.5 Study Methods

1.5.1 Prior Studies

1.5.1.1 ECORP Study

ECORP Consulting (ECORP) conducted a literature review of federally and state-listed species for the proposed Project site. Eleven federally and/or state-listed endangered and threatened species (Bakersfield cactus, San Joaquin woollythreads, vernal pool fairy shrimp, California red-legged frog, blunt-nosed leopard lizard, giant garter snake, delta smelt, southwestern willow flycatcher, western yellow-billed cuckoo, San Bernadino kangaroo rat, and San Joaquin kit fox) were identified in the USFWS IPaC system as potentially occurring in the area of the proposed Project site. On June 10, 2020, an ECORP biologist conduct a field survey of the proposed Project site by traversing on foot across the entire site. At the time of the survey, the site was described as highly disturbed and vegetation consisted of non-native grasses and weeds. None of the 11 special-status species or sign of the species were observed during the field survey. Based on the literature research and site conditions, ECORP determined the project would have “No Effect” for ten of the special-status species and determined a finding of “May Effect, Likely to Adversely Affect” for San Joaquin kit fox. Although San Joaquin kit fox was not observed and there was no evidence (i.e. scat, tracks, or prey remains) of kit fox occurring in the area, the biologist observed several occupied California ground squirrel (*Otospermophilus beecheyi*) burrow complexes that could be potential dens for kit fox. Based on the design of the proposed Project, these burrow complexes would not be avoidable.

1.5.1.2 Noel and McCormick Study

Noel and McCormick conducted a literature review for federally and state-listed species classified as endangered, threatened, rare, fully protected, and candidate species. The literature review also included state species of special concern and migratory birds. On October 26, 2021, biologist Erika Noel surveyed the proposed Project site by walking belt transects spaced at 50 to 75 feet in potential habitat for special-status species. A 100-foot buffer was walked where accessible and areas not accessible were visually scanned using binoculars. Field notes listed all observed plant and wildlife species observed. Supporting documentation regarding species findings included indirect observations (e.g., aurally) or direct observations and/or significant species *sign* (e.g., scat, tracks, feather/fur, prey remains, nests/burrows or any other indication of wildlife presence) deemed necessary to document potential occupation and habitat suitability. The literature review identified 9 special-status plant species (horn’s milk-vetch, California jewelflower, hispid salty bird’s-beak, hoover’s eriastrum, cottony buckwheat, California satintail, San Joaquin woollythreads, Bakersfield cactus, and San Joaquin bluecurls) and 11 special-status wildlife species (Crotch’s bumble bee, western spadefoot, Bakersfield legless lizard, California glossy snake, blunt-nosed leopard lizard, burrowing owl, Swainson’s hawk, Tipton kangaroo rat, western mastiff bat, American badger, and San Joaquin kit fox). At the time of the survey, the proposed Project site was almost devoid of vegetation. No special-status plants were observed during the survey, although the survey was not conducted during their blooming or phenological period. Even so, Noel and McCormick concluded that there is “no potential” for the special-status plants to occur at the proposed Project site because of the high level of historic and current disturbance of the site. Of the 11 special-status

wildlife species, they determine there was no potential for 6 of the species to occur because the proposed Project site lacked suitable habitat for the 6 species: western spadefoot, California glossy snake, blunt-nosed leopard lizard, Swainson's hawk (nesting), Tipton kangaroo rat, and western mastiff bat. They determined the potential for Bakersfield legless lizard to occur was low and it is not expected, because the site lacked suitable cover for the species and soils are dry. Burrowing owl and American badger were deemed to have a low potential to occur on the site. Although there were suitable burrows for burrowing owls, there was no sign of whitewash, and while American badgers use a variety of habitats, the site had been regularly disked making it unsuitable for badgers. They identified there was moderate potential for Crotch's bumble bee to occur on the site. The presence of burrows and annual grassland provide suitable habitat for Crotch's bumble bee, although suitable flowering resources were marginal. Occurrence of San Joaquin kit fox on the proposed Project site was determined to have moderate potential because habitat was suitable for kit fox denning and foraging. Even though San Joaquin kit fox and sign (i.e., scat, tracks) was not observed at the time of their field survey, they identified 27 ground squirrel burrows met the size criteria for potential kit fox dens.

1.5.2 Current Study

H. T. Harvey & Associates completed a concise, reconnaissance-level special-status biological resources study of the parcel. The study consisted of two components: a desk-based review of existing data sources and two field-based surveys. The desk-based assessment include a review of all readily available biological data sources for the parcel, including color aerial photography, the National Wetlands Inventory, and similar existing biological databases that catalogue known locations of sensitive natural communities (e.g., wetlands) along with sensitive species of plants, fish, and wildlife. The two field surveys occurred on December 15, 2023. H. T. Harvey & Associates biologist Colin Wilkinson conducted a reconnaissance-level pedestrian survey of the entire parcel and within 500 feet of the parcel to the north, south, and east. Concurrently, a highly trained scent detection dog team (one dog and handler) covered the proposed Project parcel and same 500-foot buffer area for San Joaquin kit fox scat. Additional information describing the survey methodologies and results can be found in Appendix B.

Section 2.0 Proposed Agency Action and Environmental Baseline

2.1 Description and Location of the Proposed Action Location

The proposed action is to construct an approximately 39,648-square foot medical outpatient facility on 10.1-acres to serve as a VA Community-based Outpatient Medical Clinic. There would be associated parking, an ambulatory pick-up area, a covered drop-off area, bicycle racks, an outdoor physical therapy area, an outdoor dining area, and an elevated loading dock. The proposed Project site would be landscaped along the boundary, around the building, and throughout the parking area. There is also a proposal for development of a healing garden with a path and benches on the east side of the building.

The proposed action is located in Kern County, California, at coordinates 35.41008 -119.05767 in Section 15, Township 29S, Range 27E in quadrangle Oildale (Figure 1). The proposed action is in an area of fragmented open space and development, and is situated south of Olive Drive, east of Knudsen Drive, and west of State Route 99.

2.2 Environmental Baseline

The proposed Project site is a parcel of approximately 10.1 acres of ruderal grassland, which had been recently tilled at the time of the field survey on December 15, 2023 and consequently limited vegetation was present. The area east of the unnamed canal was recently burned. The vacant parcel east of the Project and west of the canal was composed of ruderal grassland predominantly comprised of “wild oat and annual brome grassland – Herbaceous Semi-natural Alliance” (Sawyer et al. 2009) dominated by ripgut (*Bromus diandrus*) and red brome (*Bromus rubens*) grassland with scattered patches of upland mustard (*Brassica nigra*) and to a lesser extent Tournefort’s mustard (*Brassica tournefortii*) with patches of other species such as Russian thistle (*Salsola tragus*), London rocket (*Sisymbrium irio*) and oriental hedge mustard (*Sisymbrium orientale*), tumbleweed (*Amaranthus albus*), puncture vine (*Tribulus terrestris*), and Jimson weed (*Datura wrightii*).

Adjacent land uses include transportation corridors, residential and commercial development, and vacant parcels of ruderal grassland. Habitat conditions are highly disturbed. The level of disturbance (e.g., disked land) and surrounding land uses make the habitat highly unsuitable for all but one species on the USFWS species list (Appendix A) and contributes to their absence from the area. This exception is habitat for an urban population of San Joaquin kit fox that is known to occur, and is well studied, within the City of Bakersfield (Cypher 2010, Cypher et al. 2022).

Similarly, all but four state-listed species (Appendix A) are considered absent from the proposed Project area because the disturbed habitat conditions were unsuitable for the species and surrounding land uses prohibited species from using the area. The four exceptions for state-listed species includes American badger, burrowing owl, Swainson’s hawk, and Crotch’s bumble bee. Although there are no recorded occurrences of American

badger, burrowing owl, Swainson's hawk, and Crotch's bumble bee within the proposed Project site, the site has suitable habitat for American badger, burrowing owl, and Crotch's bumble bee; the site is also near suitable nesting habitat for Swainson's hawk and provides limited foraging habitat for Swainson's hawk.

2.3 Survey Results

Noel and McCormick (2022) determined that no special-status plant species listed in Section 1.5.1.2 were expected to occur on the proposed Project site because of historic and current disturbance. Based on habitat conditions they observed, they concluded that burrowing owl, American badger, Bakersfield legless lizard, Crotch's bumble bee, and San Joaquin kit fox have the potential to occur on the site. Noel's and McCormick's conclusion that there was potential for San Joaquin kit fox to occur on the site agreed with the previous finding by ECORP (2020), who also determined that potential habitat for kit fox existed on the site. Note ECORP only considered federally and state-listed endangered and threatened species in their study, so that they did not draw conclusions about burrowing owl, American badger, Bakersfield legless lizard, and Crotch's bumble bee. A recent letter (Lauer and Hall 2023) reported the presence of San Joaquin kit fox scat on or adjacent to the proposed Project site, consistent with findings of H. T. Harvey & Associates surveys in December 2023 (Appendix B). No active San Joaquin kit fox dens were observed on the Project site; however, the scent-detection dog detected San Joaquin kit fox scat in two separate locations within 500 feet of the Project site, nearer the Beardsley canal. In addition, 10 California ground squirrel burrows were observed on site of sufficient size (i.e., ≥ 4 inches) to be readily converted by San Joaquin kit fox into escape dens. H. T. Harvey & Associates also concluded that American badger, burrowing owl and Crotch's bumble bee could occur on the proposed Project site because there was suitable habitat for the species. Although there is no suitable nesting habitat for Swainson's hawk on the proposed Project site, there is suitable nesting habitat within 0.25 miles of the site. However, H. T. Harvey & Associates did not concur with Noel and McCormick (2022) that Bakersfield legless lizard could occur on the site because the proposed Project site was considered unsuitable for Bakersfield legless lizard as the site is regularly disked and lacked cover for the species. H. T. Harvey & Associates did conclude that rare plant species would likely not occur on the site, because of the level of past and current disturbance as Noel and McCormick (2022) had noted in their study.

Section 3.0 Effects of the Action

3.1 Potential Effects of the Proposed Project

The following species are absent from the Project site: American badger, Buena Vista Lake ornate shrew, Tipton kangaroo rat, western mastiff bat, bald eagle, California condor, southwestern willow flycatcher, Swainson's hawk (nesting), yellow-billed cuckoo, Bakersfield legless lizard, blunt-nosed leopard lizard, California glossy snake, northwestern pond turtle, western spadefoot, monarch butterfly, vernal pool fairy shrimp, Bakersfield cactus, California jewelflower, California satintail, cottony buckwheat, hispid salty bird's beak, hoover's eriastrium, horn's milk-vetch, San Joaquin bluecurls, San Joaquin woollythreads and Tejon poppy (Table 1). The Project site is either out the species range, or no suitable habitat is present on the Project because required habitat (i.e., vernal pools) does not exist or the upland conditions are too degraded and/ or isolated to support the species.

3.1.1 Crotch's Bumble Bee

Crotch's bumble bee is under state review as a candidate endangered species and has the potential to occur on the proposed Project site. No critical habitat has been designated for this species and there no recovery plan at this time.

Crotch's bumble bee has a relatively limited distribution; it primarily occurs in California, southwestern Nevada, and northern Baja California, Mexico (CDFW 2019). In California, the species historically occurred throughout most of the southern two-thirds of the state (Williams et al. 2014) and was most abundant in the Central Valley, however, current records are mostly from the southern coastal areas. The two CNDDDB records (2024) within 5 miles of the proposed Project site are from 45 or more years ago, but there are two recent records from a collaborative, crowd-sourced website of Crotch's bumble bee within the vicinity of the site (Bumble Bee Watch 2024).

The three main habitat requirements for bumble bees are flowering plants with pollen and nectar, nest sites, and overwintering sites (Hatfield et al. 2012). Crotch's bumble bee occurs primarily in areas dominated by grassland and scrub habitats, although it also occurs in other habitats provided the three main habitat requirements are present. They typically nest underground, such as in ground squirrel burrows (Williams et al. 2014), but may also nest above ground in old bird nests or empty tree cavities. The queen bees overwinter in cavities below ground or in loose soil and leaf litter, or occasionally in other refugia such as wood piles or rock walls. Queen bees emerge from their nest between the months of February through June, with a peak in March. When the queen bees emerge, they search for new nest sites with resources to build their colony. Between March and September the worker bees are active; male reproductive are present between May and September with a peak in July (Williams et al. 2014, Thorpe et al. 1983). New queen bees are produced from July to September as the colony dies off (Williams et al. 2014). Ground disturbance and vegetation removal associated

with construction of the proposed Project has the potential to impact individuals or nests of Crotch's bumble bee.

Table 1. Special-Status Species and Potential to Occur

Species	Scientific Name	Listing Status ¹	Presence of Species in Action Area (Yes/No)	Presence of Critical Habitat in Action Area (Yes/No)	Potential to Occur
Mammals					
American badger	<i>Taxidea taxus</i>	-/SSC	No	No	May occur, site is highly disturbed by human presence and has been periodically disked.
Buena Vista Lake ornate shrew	<i>Sorex ornatus relictus</i>	FE/SSC	No	No	Absent. No suitable habitat present. The soil lacks soil moisture, leaf litter and debris.
San Joaquin kit fox	<i>Vulpes macrotis mutica</i>	FE/SE	Yes	No	Present. Suitable habitat for Bakersfield kit fox population is present and scat was detected. Prey base is present, as are potential burrows.
Tipton kangaroo rat	<i>Dipodomys nitratoides nitratoides</i>	FE/SE	No	No	Absent. No suitable habitat present. Site consists of ruderal grassland and has been periodically disked.
Western mastiff bat	<i>Ermops perotis californicus</i>	-/SSC	No	No	Absent. No suitable roosting habitat present. Foraging habitat limited.
Birds					
Bald eagle	<i>Haliaeetus leucocephalus</i>	BGEPA/SE	No	No	Absent. No suitable nesting or foraging habitat.
Burrowing owl	<i>Athene cunicularia</i>	-/SSC	No	No	May occur, suitable burrows are present.
California condor	<i>Gymnogyps californianus</i>	FE/SE, SFP	No	No	Absent. No suitable habitat present and outside of the species range.
Golden eagle	<i>Aquila chrysaetos</i>	BGEPA/SFP	No	No	Absent. No suitable nesting habitat or foraging habitat present. Site is too disturbed by human presence.
Southwestern willow flycatcher	<i>Empidonax traillii extimus</i>	FE, SE	No	No	Absent. No suitable nesting or foraging habitat present.

Species	Scientific Name	Listing Status ¹	Presence of Species in Action Area (Yes/No)	Presence of Critical Habitat in Action Area (Yes/No)	Potential to Occur
Swainson's hawk	<i>Buteo swainsoni</i>	-/ST	No	No	May occur. No suitable nesting habitat on the proposed Project site, however, suitable nesting habitat is within 0.25 miles of the site. Although limited, foraging habitat is present.
Yellow-billed cuckoo	<i>Coccyzus americanus</i>	FE/SE	No	No	Absent. No suitable nesting or foraging habitat present.
Reptiles and Amphibians					
Bakersfield legless lizard	<i>Anniella grinnelli</i>	-/SSC	No	No	Absent. No suitable habitat present. The site lacks sandy soil and suitable cover (e.g., leave litter).
Blunt-nosed leopard lizard	<i>Gambelia sila</i>	FE/SE	No	No	Absent. Burrows are present, but the site has been periodically disked and too small to support a population of the species.
California glossy snake	<i>Arizona elegans occidentalis</i>	-/SSC	No	No	Absent. No suitable habitat present.
Northwestern pond turtle	<i>Actinemys marmorata</i>	FPT	No	No	Absent. No suitable habitat present.
Western spadefoot	<i>Spea hammondi</i>	FPT/SSC	No	No	Absent. No suitable habitat present.
Invertebrates					
Crotch's bumble bee	<i>Bombus crotchii</i>	-/SC	No	No	May occur. Although burrows are present, flowering plants are limited.
Monarch butterfly	<i>Danaus plexippus</i>	FC/-	No	No	Absent. No suitable habitat present. Site has been periodically disked and few flowering plants are present.
Vernal pool fairy shrimp	<i>Branchinecta lynchi</i>	FT/-	No	No	Absent. No suitable habitat present.
Plants					
Bakersfield cactus	<i>Opuntia treleasei</i>	FE/SE, 1B.1, S1	No	No	Absent. No suitable habitat present. Site has been periodically disked.

Species	Scientific Name	Listing Status ¹	Presence of Species in Action Area (Yes/No)	Presence of Critical Habitat in Action Area (Yes/No)	Potential to Occur
California jewelflower	<i>Caulanthus californicus</i>	FE/SE, 1B.1, S1	No	No	Absent. No suitable habitat. Site has been periodically disked.
California satintail	<i>Imperata brevifolia</i>	-/2B.1, S3	No	No	Absent. No suitable habitat. Site has been periodically disked.
Cottony buckwheat	<i>Eriogonum gossypinum</i>	-/4.2, S3S4	No	No	Absent. No suitable habitat. Site has been periodically disked.
Hispid salty bird's-beak	<i>Chloropyron molle</i> ssp. <i>hispidum</i>	-/4.2, S3	No	No	Absent. No suitable habitat. Site has been periodically disked.
Hoover's eriastrum	<i>Eriastrum hooveri</i>	-/4.2, S3	No	No	Absent. No suitable habitat. Site has been periodically disked.
Horn's milk-vetch	<i>Astragalus hornii</i> var. <i>hornii</i>	-/1B.1, S1	No	No	Absent. No suitable habitat. Site has been periodically disked.
Recurved larkspur	<i>Delphinium recurvatum</i>	-/1B.2, S2?	No	No	Absent. No suitable habitat. Site has been periodically disked.
San Joaquin bluecurls	<i>Trichostema ovatum</i>	-/4.2, S3	No	No	Absent. No suitable habitat. Site has been periodically disked.
San Joaquin woollythreads	<i>Monolopia congdonii</i>	FE/1B.2, S2	No	No	Absent. No suitable habitat present. Site has been periodically disked.
Tejon poppy	<i>Eschscholzia lemmonii</i> ssp. <i>kernensis</i>	-/1B.1, S2	No	No	Absent. No suitable habitat present. Site has been periodically disked.

¹ Status definitions:

FC = federal candidate
FD = federally delisted
FE = federally listed as endangered.
FT = federally listed as threatened.
FPT = federal proposed as threatened
BGEPA =Bald and Golden Eagle Protection Act
SC = state candidate

California Rare Plant Rank definitions:

1B = rare, threatened, or endangered in California and elsewhere.
.1 = seriously threatened in California
.2 = fairly endangered in California
4.2 = limited distribution

State Rank

S1 = critically imperiled
S2 = imperiled
S3 = vulnerable

SE = state listed as endangered
SFP = state fully protected species
ST = state listed as threatened
SSC = state species of special concern

3.1.2 Burrowing Owl

Burrowing owls are designated as a species of special concern by CDFW. Campaigns against burrowing mammals that provide nest sites for burrowing owls and habitat loss to development by humans (Zarn 1974) are principal factors suspected in population declines. In California, the burrowing owl has been designated as a species of special concern, owing to diminishing habitats and associated population declines (CDFG 1995). Burrowing owls are partially dependent upon fossorial mammals for nesting and roosting burrows. In California, common mammalian commensals include badgers and, in particular, California ground squirrels. The species may also use man-made structures such as culverts; cement, asphalt, or wood debris piles; or openings beneath cement or asphalt pavement (CDFG 1995). The breeding season extends from February 1 through August 31 (CBOC 1993, CDFG 1995, CDFG 2012). Burrowing owls are known to favor areas with short, sparse vegetation (Coulombe 1971, Haug and Oliphant 1990, Plumpton and Lutz 1993), which is the condition typically found in active ground squirrel colonies. Additionally, burrowing owls may select areas that have a high density of available burrows (Plumpton and Lutz 1993). Typical habitats are treeless, with minimal shrub cover and woody plant encroachment, with low vertical density of vegetation and low foliage height diversity. Ideal habitats are maintained in an early successional stage by squirrels or livestock grazing.

Burrowing owls are colonially-nesting raptors, and colony size is indicative of habitat quality. Philopatry and nest burrow reuse by burrowing owls have been well documented (Martin 1973, Gleason 1978, Plumpton and Lutz 1993). In fact, burrowing owls often return as breeding adults to the general area in which they were born, or to their actual natal burrows, and the maintenance of former nest sites may be more important to continued reproductive success than are mates from previous nest attempts (Plumpton and Lutz 1993).

Burrowing owl presence on the project site is possible. There are five CNDDDB (2024) records of the species within 5.0 miles of the project area between 1987 and 2004. The proposed Project site contains California ground squirrel burrows that burrowing owls might use for shelter or nesting. Although no burrowing owls were observed during the site surveys, the burrows on the site may be used temporarily or intermittently. Ground disturbance and destruction of the burrows associated with construction of the proposed Project has the potential to impact individual and breeding burrowing owls.

3.1.3 Swainson Hawk

Swainson's hawk is listed as threatened under the CESA. The species was listed by the State of California in 1983 due to population declines likely precipitated by significant losses of riparian habitat and conversion of open foraging habitats to developed lands (Woodbridge 1998, Bechard et al. 2020). Swainson's hawks are distributed throughout western North America during the breeding season, but in California they are primarily limited to the Central Valley and the southeastern Great Basin region (Woodbridge 1998). Swainson's hawks in California are strongly associated with riparian habitats, although they are also found in oak woodlands and other open habitats (Woodbridge 1998, Smallwood 1995, Bechard et al. 2020). Prime breeding habitat for Swainson's hawk encompasses riparian draws or clumps of trees surrounded by open grassland, agricultural areas (including alfalfa, wheat, and row crop fields), or oak savannah with a high density of rodents for foraging (England et al. 1997, Woodbridge 1998, Bechard et al. 2020). The species will also nest in areas with frequent

human use such as farm equipment lots, rural residences, wind rows, and urban areas in the Central Valley where suitable nest trees are available. The Central Valley populations breed and nest in the late spring through early summer before migrating to Central and South America for the winter (Shuford and Gardali 2008). Swainson's hawks build stick nests in willows, box elders (*Acer negundo*), oaks (*Quercus* spp.), black walnuts (*Juglans nigra*), or other trees, breeding from early March through July (Bechard et al. 2020). Swainson's hawks are neotropical migratory birds, flying south after the breeding season to spend their winter months on the Pampas of Argentina (Canavelli et al. 2003, Bechard et al. 2020). Stresses on winter populations, including pesticide poisoning, on the winter grounds have contributed to declines in North American breeding populations.

There is one CNDDB (2024) record from 1935 within a 5-mile radius of the site. There is no suitable nesting habitat for Swainson's hawk within the proposed Project site. Suitable foraging habitat, although limited is present. There is suitable nesting habitat for Swainson's hawk within 0.25 miles of the site; if Swainson's hawk nest at that location, there is a potential for the species to be negatively impacted during the construction phase as the species is susceptible to disturbance while nesting, which could result in nest abandonment. .

3.1.4 American Badger

The American badger is a CDFW species of special concern. The species is a stocky, burrowing mammal that occurs in grassland habitats throughout the western United States. Badgers can have large territories, up to 21,000 acres in size, with territory size varying by sex and by season. They are strong diggers and feed primarily on other burrowing mammals, such as ground squirrels. In central California, American badgers typically occur in annual grasslands, oak woodland savannas, semi-arid shrub/scrublands, and any habitats with stable ground squirrel populations or other fossorial rodents (i.e., ground squirrels, gophers, kangaroo rats (genus *Dipodomys*), and chipmunks [Zeiner et al. 1990]). They occur to a lesser extent in agricultural areas, where intensive cultivation inhibits den establishment and reduces prey abundance. Badgers are primarily nocturnal, although they are often active during the day. They breed during late summer, and females give birth to a litter of young the following spring.

There is a low potential for American badger to occur on the proposed Project site. The one CNDDB record of this species within 5.0 miles of the site is from 1900. No dens were not observed during field surveys, but the species occurs in a variety of habitats and can have very large home ranges; in the Central Coast of California home ranges were as large as 24.82 km² (Quinn 2008). Although American badger is unlikely to den at the site, construction has the potential to impact individual badgers foraging for prey should they occur onsite.

3.1.5 San Joaquin Kit Fox

The San Joaquin kit fox, which is federally listed as endangered and state listed as threatened, has been documented to use the site. No critical habitat has been designated for this species, but the species is addressed in the Recovery Plan for Upland Species of the San Joaquin Valley (USFWS 1998). In 2010, the USFWS issued the San Joaquin Kit Fox (*Vulpes macrotis mutica*) 5-Year Review: Summary and Evaluation (USFWS 2010). This

5-year review recommended no change to the federal status of the species. Descriptions of the species' physical characteristics can be found in the Recovery Plan for Upland Species of the San Joaquin Valley (USFWS 1998).

Currently, San Joaquin kit fox occurs in areas of suitable habitat on the floor of the San Joaquin Valley and in the surrounding foothills of the Coast Ranges, Sierra Nevada, and Tehachapi Mountains, from Kern County north to Contra Costa, Alameda, and San Joaquin counties (USFWS 1998, 2010). There are known occurrences in Alameda, Contra Costa, Fresno, Kern, Kings, Madera, Merced, Monterey, San Benito, San Joaquin, San Luis Obispo, Santa Barbara, Santa Clara, Stanislaus, and Tulare counties (CDFW 2024).

San Joaquin kit fox commonly occur in the city of Bakersfield and to a lesser extent are present in Taft and Coalinga (Cypher 2010). San Joaquin kit fox use a diversity of land cover types within the urban environment of the City of Bakersfield, including school and church campuses, maintained open space such as parks and golf courses), low to medium density residential areas, and commercial areas (Cypher 2010, Cypher et al. 2022). While all of these areas may be used for foraging, denning, and rearing offspring (Cypher 2010, Deatherage et al. 2021), in general, San Joaquin kit fox use areas with campuses and other open spaces to a greater extent. Areas with high densities of paved roads, particularly larger roads with four or more lanes appear to be avoided due to increased disturbance and mortality risk (Bjurlin et al. 2005; Cypher et al. 2022, Deatherage et al. 2021).

The San Joaquin kit fox population within the City of Bakersfield exhibits high survival and reproductive rates, and does not appear to exhibit the dramatic fluctuations observed among populations in native habitats, likely due to more consistent and abundant food resources (Cypher 2010). Cypher et al. (2022) discussed that urban habitats appear to support higher densities of San Joaquin kit fox, and based upon the conceptual carrying capacity in Bakersfield, estimated that 561 foxes could be supported within the 357-square-kilometer (km²) area. Based upon the conceptual carrying capacity, Cypher et al. (2022) estimated the density of kit foxes in Bakersfield to be 1.57 adult San Joaquin kit fox per km² and density estimates could be as high as 2.56 adult foxes per km² based upon a mean home range size of 0.78 km². A higher density of San Joaquin kit fox may imply a greater likelihood of population persistence as larger populations generally have lower risk of extinction (Frankham et al. 2017).

Based upon these density estimates, construction and operation of the proposed Project could directly affect approximately five percent of an average home range for a San Joaquin kit fox in the City of Bakersfield. Since no active dens have been observed on the site, Project effects are most likely to result in an increased risk of vehicle collision due to increase traffic associated with the Medical Clinic and direct and cumulative impacts on foraging and escape cover, although prey abundance and escape den opportunities on the Project site have been limited by land management activities. Besides development of the VA Outpatient Clinic, the Hageman Flyover project that has been approved by the city and the Hageman Industrial Park that is currently undergoing a state-level the Environmental Impact Review are non-federal development projects within the vicinity of the VA Outpatient Clinic that will contribute to cumulative effects on San Joaquin kit fox. The cumulative effect from the proposed Project and other non-federal proposed project would cumulatively impact San Joaquin kit fox in loss of habitat for foraging and denning, as well as loss of a corridor to other areas within the city that provide suitable habitat for urban kit foxes.

Furthermore, during Project construction San Joaquin kit foxes could traverse the Project site and be harmed, injured, or killed by construction vehicles, personnel, or equipment. Kit foxes occur on and in the vicinity of the Project, so even though the species is largely nocturnal, kit foxes may move through the area while construction activities are actively occurring. Human-made structures such as culverts or pipes that are stored or built onsite may be used as dens (USFWS 1998), and there is a chance that an individual kit fox hiding under stored materials may be injured or killed if the materials are moved. Therefore, even though the Project site represents a fraction of the average area (i.e., home range) used by kit foxes, they are known to occur and may be present during the construction phase of the project.

Injury and death of San Joaquin kit fox may occur as a result of the following:

- Increased vehicular traffic in the Project vicinity and at the Project site by construction vehicles, increasing the chance of vehicle strikes. Most construction activities would occur during daylight hours, but nighttime work may be required to maintain the Project schedule and to complete activities that require extended continuous work periods. Anticipated nighttime activities could include security patrols, deliveries, extended construction activities, testing and commissioning, and emergency response.
- Operation of construction equipment.
- Destruction or disturbance of escape dens, should they be established, may disturb San Joaquin kit foxes. Further effects may occur as a result of the collapse of burrows from vehicular traffic or excavation of burrows with kit fox inside.
- Entrapment within trenches or holes dug during construction and that are left accessible overnight.
- Increased use of the site by predators (e.g., domestic dogs) attracted to the project site by trash discarded by construction personnel.
- Accidental spills of fuels, lubricants, and industrial chemicals that could directly poison kit foxes or their prey, resulting in indirect poisoning.

In addition to the effects listed above, San Joaquin kit foxes also could be disturbed by vehicle traffic, ground vibrations, noise, grading, soil compaction, or worker activity, and these activities could increase the potential for predation on the San Joaquin kit foxes. However, San Joaquin kit foxes show considerable tolerance to many types of construction activities, particularly urban kit fox populations acclimated to human activity.

There would be permanent habitat loss where associated buildings, parking lots, and access roads are developed; however, there would also be increased stability in the form of installed and managed landscaping and a drainage basin. Consequently, although habitat would be modified by construction, San Joaquin kit foxes are anticipated to use the site for foraging and possibly den at the site post construction.

During the operation life of the Project, building and landscape maintenance activities have the potential to disturb and therefore limit use of the site by San Joaquin kit fox. Vehicles or equipment could strike kit foxes

when foxes are moving through or foraging on the project site. The risk would be greatest when it is dark, when their movements are most likely to occur.

Implementation of the conservation measures described below are intended to offset the potential impact to the Bakersfield San Joaquin kit fox population by avoiding take of San Joaquin kit fox, providing more permanent and protective denning opportunities, and improving knowledge transfer about the Bakersfield San Joaquin kit fox population.

3.2 Conservation Measures to be Incorporated into the Proposed Action

The VA proposes to avoid or minimize effects on Crotch’s bumble bee, burrowing owl, American badger, and San Joaquin kit fox and their habitat through the implementation of mitigation measures. Mitigation measures (MM) for Crotch’s bumble bee (Table 2, BIO MM-3 and BIO MM-5) burrowing owl (Table 2, MM BIO-1), and American badger (Table 2, BIO MM-4) were identified in the Final Environmental Impact Report (EIR); no additional measures for Crotch’s bumble bee, burrowing owl, and American badger are identified as a result of the current survey and analysis; implementation of those measures would minimize the impact of the proposed Project on Crotch’s bumble bee burrowing owl, and American badger to be less than significant.

Mitigation measure BIO MM-2 in Table 2 provides recommendation for the protection of migratory birds and Swainson’s hawk. In column 2 of Table 2, this measure is further expounded on with additional specific details for conducting the measure provided in the Final EIR. Implementation of these measures will minimize the impact to migratory nesting birds and Swainson’s hawk to less than significant.

Column 2 of Table 2, lists additional mitigation measures (AMMs) or more detailed information for measures recommended in the final EIR (Table 2, column 1).

Table 2. Mitigation Measures

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BIO MM-1: Surveys to detect burrowing owls shall be conducted by a professional biologist in consultation with CDFW no more than 30 days prior to any ground disturbance activities on the Project site and can be conducted concurrently with the preactivity surveys required per BIO MM-2, BIO MM-3 and BIO MM-4. Occupied burrows shall not be disturbed during the nesting season (February 1 through September 15) unless a professional biologist 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. If burrowing owls are observe using burrows during the surveys, owls shall be excluded from all active burrows through the use of exclusion devices placed in occupied	

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burrows in accordance with CDFW protocols, Staff Report on Burrowing Owl Mitigation, shall be implemented. In such case, exclusion devices shall not be placed until the young have fledged and are no longer dependent upon the burrow, as determined by a professional biologist. Specifically, exclusion devices, utilizing one-way doors, shall be installed in the entrance of all active burrows. The devices shall be left in the burrows for at least 48 hours to ensure that all owls have been excluded from the burrows. Each of the burrows shall then be excavated by hand and refilled to prevent reoccupation. Exclusion shall continue until the owls have been successfully excluded from the site, as determined by a professional biologist.

BIO MM-2: If vegetation clearing or initial ground disturbing construction activity occurs during the **migratory bird** nesting season (February 1 to September 15) a professional avian biologist shall conduct a nesting bird survey to identify any active nests present within the proposed work area. If active nests are found, initial ground disturbance shall be postponed or halted within a buffer area, established by the professional avian biologist, that is suitable to the particular bird species and location of the nest, until juveniles have fledged or the nest has been abandoned, as determined by the biologist. The construction avoidance area shall be clearly demarcated in the field with highly visible construction fencing or flagging, and construction personnel shall be instructed on the sensitivity of nest areas. Specific to Swainson's hawk, if the Project's vegetation clearing or initial ground-disturbance construction activity will commence during the migratory bird nesting season, the pre-construction nesting bird survey shall follow survey methodology developed by the species' SWHA Technical Advisory Committee (SWHA TAC 2000). If Swainson's hawk is nesting within one-half mile of the Project site, construction activities may not commence unless an ITP is obtained from the CDFW or 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.

BIO MM-3: Prior to vegetation clearing or initial ground-disturbing construction activities, a professional biologist shall conduct a survey to determine the presence of suitable foraging, nesting, or over-wintering habitat for the **Crotch bumblebee (CBB)** within or immediately adjacent to the work limits. If suitable habitat is present, at least 2 visual surveys shall be conducted by a

Clarification on BIO MM-2:

- Pre-construction avian surveys will include both migratory birds and locally breeding raptor species
- Surveys will be conducted no more than 14 days prior to construction activities.
- The nesting bird survey will include a 300-foot buffer (where access is granted) to survey for common raptors that may be nesting within 300 feet of the site.

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professional biologist between April 1 and May 30 to detect CBB on or within 100 feet of the work limits prior to vegetation removal/initial ground disturbance. The surveys shall target the peak flowering period of CBB preferred nectar plants and shall be conducted by a professional biologist who is familiar with CBB behavior and life history to determine presence/absence of CBB within one year of vegetation removal/initial ground disturbance. CBB individuals shall only be handled for identification if appropriate authorizations are issued. Surveys shall be conducted under suitable conditions for observation of bumble bees. Methods shall be in accordance agency protocols if issued. If no agency protocols have been issued at the time of the surveys, the following survey parameters will be applied: the professional biologist will walk slow (≤ 2 mph) meandering transects covering all portions suitable habitat; surveys will be conducted no earlier than 2 hours after sunrise and 3 hours before sunset, on mostly sunny days with temperature between 65° and 90°F; surveys will not be conducted on cloudy days ($\geq 90\%$ cloud cover) or under wet or windy conditions (≥ 8 mph). Surveyors will search for bumble bees in flight and potential nest sites.

All potential CBB nests found in small mammal burrows, under thatched grasses, brush piles or other suitable ground locations shall be further examined based on observations of entering or exiting CBB. Observations of potential CBB nest sites shall be conducted for no less than 15 minutes per location where CBB are possibly entering/exiting, or a longer period as determined by the professional biologist. If no CBB or their nests are detected, no further measures will be necessary provided that vegetation removal/initial ground disturbance occurs prior to March 1 of the year following the negative survey. If vegetation/initial ground disturbance does not occur before March 1 of the year following the negative survey, the survey shall be repeated following the above procedure. If CBB is found to be present, BIO MM-5 shall apply.

BIO MM-4: No more than 30 days prior to vegetation clearing or initial ground-disturbing construction activities, pre-construction surveys for **San Joaquin kit fox and American badger** shall be conducted by a professional biologist. The purpose of the preconstruction survey is to provide current biological information in order to implement all avoidance and minimization measures that are required based on any previous observations of special-status species and to update observations

Clarification on BIO MM-4

- Preconstruction survey will include a 250-foot buffer during the San Joaquin kit fox pupping season (February through May) or a 100-foot buffer during all other months (where access is permitted).
 - All San Joaquin kit fox dens observed during the preconstruction survey will be mapped and characterized as to type.
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shall any new site occupation by special-status species occur. If any known San Joaquin kit fox dens are detected, implementation of the most recent USFWS protocols (Standardized Recommendations for Protection of the Endangered San Joaquin Kit Fox Prior to or During Ground Disturbance (2011)) is required per BIO MM-5 unless protocols are issued by either CDFW or USFWS that supersede these protocols. If American badger is present, BIO MM-5 shall apply.

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- Den types are defined as:
 - Potential Den: a suitable subterranean den or burrow within the range of San Joaquin kit fox that has an opening of at least 4 inches and for which available evidence is insufficient to conclude whether or not it is currently being used or has been used by San Joaquin kit fox.
 - Known Den: A known den is any existing natural den structure that is in use by San Joaquin kit fox or has historically been used at any time in the past by San Joaquin kit fox.
 - Atypical Den: a manmade structure which is being occupied by San Joaquin kit fox. Atypical dens may include pipes, culverts, and diggings beneath stored materials and structures
 - Natal (or Pupping) Den: A natal den is any den that has historically been used or is currently being used by San Joaquin kit fox to whelp and/or rear pups.
 - All San Joaquin kit fox dens (i.e., potential, known, atypical, and natal) will be mapped and photo documented and described in the preconstruction survey report, which also will include the results of any camera or track medium monitoring. The qualified Biologist will prepare a survey findings report documenting compliance with this measure for submittal to VA to forward to USFWS prior to start of ground-disturbing activities.
 - If potential dens are present, the dens will be monitored for a minimum of four consecutive nights with a trail camera or tracking medium to evaluate den status and determine the presence/absence of San Joaquin kit fox. If there is a risk that cameras may be stolen or vandalized at a site, monitoring may be conducted using tracking medium only with prior concurrence from the USFWS.
 - Minimize Disturbance of Known, Atypical, and Natal Dens during construction. If a known, atypical, or natal den is present within or adjacent to the work area, the following measures will be implemented to minimize disturbance of the den(s) and disruption of San Joaquin kit fox activities:
 - Establish No-Work Exclusion Zone. A non-disturbance exclusion zone will be established around known and atypical dens and a no-work exclusion zone will be established around natal dens. Exclusion
-

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	<p>zones around known and atypical dens will be clearly marked by Environmentally Sensitive Area fencing. Exclusion zone widths may be adjusted based on the conditions of the site with the USFWS' concurrence.</p> <ul style="list-style-type: none"> ○ Avoid No-work Exclusion Zones. No construction activities will be conducted in the no-work exclusion zones without USFWS concurrence. ○ Conduct Monitoring of Construction Activities. A qualified biologist will be present in the work area to verify compliance with avoidance and minimization measures, including during ground- or vegetation-disturbing activities in or adjacent to Environmentally Sensitive Areas (e.g., occupied or potentially occupied habitat), wildlife exclusion fencing, construction exclusion fencing (exclusion fencing), and no-work zones. Monitoring will be required when trenches or holes are present and when materials stored on site provide potential dens for San Joaquin kit fox.
<p>BIO MM-5: If California or Federal listed threatened or endangered species are found occupying burrows, dens, or nests on the Project site or any such species could be injured or killed due to Project-related activities, the CDFW and/or USFWS (as appropriate) shall be contacted for further guidance. Should either agency determine that incidental take authorization is required prior to construction, the appropriate CESA/FESA authorization shall be obtained by the Project Applicant. CESA and FESA authorizations shall include measures addressing the respective state and/or federal listed species and shall include the following at a minimum:</p> <ul style="list-style-type: none"> a) Implementation of standardized biological resource protective measures included in BIO MM-4; b) Biological preconstruction surveys conducted by qualified biologists approved by each applicable agency no more than 30 days prior to conducting work on the Project site; c) If any known San Joaquin kit fox dens are detected, implementation of the most recent USFWS protocols (Standardized Recommendations for Protection of the Endangered San Joaquin Kit Fox Prior to or During Ground Disturbance (2011)) unless 	<p>Clarification on BIO MM-5:</p> <ul style="list-style-type: none"> • Implement Passive Deterrence. If construction activities cannot avoid an active known or atypical den or the no-work exclusion zone around it, the project implementation team may initiate passive, non-injurious measures that result in minor alterations in behavior after receiving concurrence from the USFWS. • Implement Den Excavation. Dens in the Project footprint may be excavated under the direct supervision of a qualified biologist the next day after no San Joaquin kit fox are detected for a minimum of four consecutive nights of den monitoring using trail cameras. If there is a risk that cameras may be stolen or vandalized at a site, monitoring may be conducted using tracking medium only with prior concurrence from the USFWS. If a San Joaquin kit fox is observed at the den during the monitoring period, the den will continue to be monitored until at least four consecutive nights have passed without San Joaquin kit fox detection at the den. If the San Joaquin kit fox does not leave the den, the Project may initiate passive harassment measures. After a den is determined to be unoccupied as confirmed through four consecutive nights of den monitoring or one night of monitoring after the initiation of passive harassment, it may be

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<p>protocols are issued by either CDFW or USFWS that supersede these protocols.</p> <p>d) Destruction of San Joaquin kit fox dens shall follow the monitoring and excavation procedures in USFWS (2011).</p> <p>e) If CBB individuals or nests are detected during any surveys conducted per BIO MM-3, and the CBB remains a state candidate species or is listed under CESA, the Project Applicant shall obtain take authorization from CDFW prior to vegetation removal/initial ground disturbance. A CBB Mortality Reduction Plan shall be submitted for CDFW approval no less than 30 days prior to initial vegetation removal or ground disturbance and the Plan shall contain the following information at a minimum:</p> <ul style="list-style-type: none"> • Active CBB nests shall be avoided by 50 feet. If CBB nests cannot be avoided, the Plan shall include seasonal restrictions for disturbance within 50 feet of any nest and procedures for determining when nest impacts will be minimized. • Vegetation removal/initial ground disturbance shall be limited to the period when impacts to individual CBB that may be underground will be minimized (e.g., after nests have become inactive). • Prior to vegetation removal/initial ground disturbance, small mammal burrows that may harbor overwintering CBB queens shall be excavated by hand. The Plan shall include timing and excavation methods. In addition, the Plan shall include procedures for handling and disposition of CBB if encountered during burrow excavations. • The Plan shall include procedures for handling and disposition of individual CBB if they are encountered in the work limits or on construction equipment during construction activities. <p>f) Biological monitoring of initial ground disturbance during each phase of grading;</p> <p>g) Provision for compliance reporting to be provided to each agency as required in respective take authorizations;</p> <p>h) Compensation for habitat disturbance acceptable to CDFW (state listed species) and/or USFWS (federal listed species) at a ratio of no less than 3:1 for permanent impacts and 1.1:1 for temporary impacts to listed species habitat. The only existing approved conservation bank for impacts to San Joaquin kit fox habitat in Kern County is the Kern Water</p>	<p>excavated under the direction and supervision of a San Joaquin kit fox qualified biologist. Dens will be fully excavated to the end of all tunnels, and then backfilled with dirt and compacted to ensure that San Joaquin kit fox cannot reenter or use the den site during construction activities.</p>

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<p>Bank Authority Conservation Bank. Lands used to mitigate for San Joaquin kit fox must be contiguous with other potentially occupied lands, provide suitable foraging and denning habitat for San Joaquin kit fox, and be located in the southern San Joaquin Valley portion of Kern County below 1,500' in elevation;</p> <p>i) Compensation land shall be funded for maintenance, protection, and management through establishment of a long-term funding mechanism such as an endowment. The endowment must be a non-wasting account that is acceptable to both CDFW and USFWS.</p>	<p>AMM-1: Establish and Maintain Environmentally Sensitive Areas, and No-Work and Wildlife Exclusion Zones. Fencing or stakes, flags, and rope will be used to establish non-disturbance exclusion zones to restrict construction equipment and personnel from environmentally sensitive areas or restrict San Joaquin kit fox from entering construction areas, where feasible based on site-specific constraints. Two types of fencing, high-visibility environmentally sensitive area fence and wildlife exclusion fence, will be used for these purposes.</p> <p>a) Delineation and Marking Environmentally Sensitive Areas, No-Work and Wildlife Exclusion Zones, and Wildlife Exclusion Fences. The location of environmentally sensitive areas, wildlife exclusion fence, and exclusionary zones will be delineated by a qualified biologist based on the results of any preconstruction surveys. Also prior to construction activities, the contractor will mark environmentally sensitive areas with posted signs, posting stakes, flags, or rope or cord, and will place high visibility fencing as necessary to minimize the disturbance of sensitive areas per avoidance and minimization measures. A qualified biologist will also direct the installation of WEF to prevent San Joaquin kit fox from entering work areas. The WEF will have one-way escape points installed by the contractor under the supervision of a qualified biologist along the boundary of the Project footprint for the length of the adjoining suitable habitat to allow animals that may be inside the work area to leave the area. A qualified biologist will also direct the installation of construction exclusionary zone fencing, as appropriate, to avoid and minimize impacts to San Joaquin kit fox. Fencing installation will be monitored by a qualified biologist or Biological Monitor</p>

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	<p>to ensure that San Joaquin kit fox are not injured or killed during installation. The environmentally sensitive area, wildlife exclusion fence, and exclusionary zone locations will be identified and depicted on an exclusion fencing exhibit. The purpose of the environmentally sensitive areas and wildlife exclusion fence will be explained at WEAP training and the locations of the environmentally sensitive areas and wildlife exclusion fence areas will be noted during worker tailgate sessions.</p> <p>b) Construction Activity Avoidance in Environmentally Sensitive Areas/No-Work Exclusion Zones. The contractor will enforce exclusion of construction personnel and equipment from all environmentally sensitive areas. These areas will be monitored by a qualified biologist during all site preparation and subsequent construction activities.</p> <p>c) Maintenance of Environmentally Sensitive Area Markings. The contractor will maintain all fencing, stakes, flags, and signage until the completion of construction. The environmentally sensitive area, wildlife exclusion fence, and exclusionary zones will be regularly inspected by a qualified biologist to ensure its integrity and that wildlife are not trapped. Environmentally sensitive area fences, wildlife exclusion fence, stakes, flags, and signage will be removed by the contractor when construction is complete, or the resource has been cleared.</p>
<p>BIO MM-6: All biological monitors working on the Project site shall be required by their contract to notify the USFWS and CDFW of the discovery of any protected species identified on the site other than nesting birds, Crotch bumblebee, San Joaquin kit fox and American badger which are addressed by BIO MM-1, BIO MM-2, BIO MM-3, BIO MM-4, and BIO MM-5. Any take of protected wildlife shall be reported immediately to USFWS and CDFW.</p>	
<p>BIO MM-7: The Project Applicant shall ensure that the Project's construction contractors adhere to the following best management practices. Construction contractors shall be required by their contracts to comply with these best practices and permit periodic inspection of the construction site by City of Bakersfield staff or its designee to confirm compliance. A note that requires compliance is required on all grading and building plans approved by the City of Bakersfield.</p> <p>a) Traffic restraints and signs shall be established to minimize temporary disturbances during</p>	<p>Clarification on BIO MM-7:</p> <ul style="list-style-type: none"> • Dogs recognized as service animals under titles II and III of the Americans with Disabilities Act are exempted from this rule. • At end of each workday, all excavated, steep-walled holes or trenches that are more than eight inches deep with sidewalls steeper than a 1:1 (45 degree) slope will be inspected for trapped animals and, at the close of each day, will be covered with plywood or similar materials or provided a minimum of one

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<p>construction beyond the construction site boundaries. All construction traffic shall be restricted to designated access roads and routes, Project site, storage areas, and staging and parking areas. Off-road traffic outside designated Project boundaries shall be prohibited. A 15 mile-per-hour (24 kilometer per-hour) speed limit shall be observed in all Project construction areas, except as otherwise posted on county roads and state and federal highways.</p> <p>b) All construction personnel involved in ground disturbing construction activities shall attend a worker orientation program. The worker orientation program shall present measures required to avoid, minimize, and mitigate impacts to biological resources and shall include, at a minimum, the following subjects: A summary of the Federal Endangered Species Act (FESA), California Endangered Species Act (CESA), and the Migratory Bird Treaty Act current construction area; life history information for the species of concern; biological resource avoidance, minimization, and mitigation requirements; consequences for failure to successfully implement requirements; and procedures to be followed if dead or injured wildlife are located during Project activities. Upon completion of the orientation, employees shall sign a form stating that they attended the program and understand all biological resource mitigation measures. Forms verifying worker attendance shall be filed at the Project Applicant's office and be accessible to the City of Bakersfield, USFWS and CDFW staff. No untrained personnel shall be allowed to work onsite with the exception of delivery trucks that are only onsite for 1 day or less and are under the supervision of a trained employee.</p> <p>c) All equipment storage and parking during construction activities shall be confined to the designated construction area or to previously disturbed offsite areas that are not habitat for listed species.</p> <p>d) All Project construction activities involving initial surface disturbance shall occur during daylight hours.</p> <p>e) Trenches shall be inspected for entrapped wildlife each morning prior to the onset of construction. Before such holes or trenches are filled, they shall be thoroughly inspected for entrapped animals. Any wildlife so discovered shall be allowed to escape voluntarily, without</p>	<p>escape ramp constructed of fill earth per 100 feet of trenching.</p> <ul style="list-style-type: none"> • Prior to construction requiring nighttime lighting, the Contractor will prepare a Lighting Plan verifying how the Contractor will shield nighttime construction lighting and direct it downward in such a manner to minimize the light that falls outside the work area. The Lighting Plan will be submitted to VA for review and approval prior to any work requiring nighttime lighting. • All nightwork will occur within the boundaries of previously disturbed, cleared and grubbed areas. <ul style="list-style-type: none"> ○ Within nightwork construction areas immediately adjacent to areas where San Joaquin kit fox or their dens are present or may be present, at least one qualified biologist, will be continuously present from one-half hour after sunset to one-half hour before sunrise. ○ iii. Prior to working at night, all construction personnel shall receive San Joaquin kit fox awareness information regarding measures to be implemented at night. Upon completion of the program, employees will sign a form stating they attended the program and understand all protection measures. ○ The Contractor will use highly reflective markers to demarcate the boundaries of nightwork areas, if necessary. ○ Construction vehicles will be driven no more than 10 mph within the Project footprint from one-half hour after sunset to one-half hour before sunrise

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<p>harassment, before construction activities resume. A professional biologist may remove wildlife from a trench, hole or other entrapment out of harm's way if the immediate welfare of the individual is in jeopardy. State or federal listed species may not be handled. Should any state or federal listed species become entrapped, CDFW and USFWS shall be contacted as appropriate.</p> <p>f) All food-related trash items such as wrappers, cans, bottles and food scraps generated by Project construction activities shall be disposed of in closed containers and removed at least once each week from the site. Deliberate feeding of wildlife shall be prohibited.</p> <p>g) To prevent harassment of special-status species, construction personnel shall not be allowed to have firearms or pets on the Project site.</p> <p>h) All equipment and work-related materials shall be contained in closed containers either in the work area or on vehicles. Loose items (e.g., rags, hose, etc.) shall be stored within closed containers or enclosed in vehicles when on the work site.</p> <p>i) All liquids shall be in closed, covered containers. Any spills of hazardous liquids shall not be left unattended until clean-up has been completed.</p> <p>j) Use of rodenticides and herbicides on the Project shall be prohibited unless approved by the USFWS and the CDFW. This is necessary to prevent primary or secondary poisoning of special-status species using adjacent habitats, and to avoid the depletion of prey upon which they depend. If rodent control must be conducted, zinc phosphide shall be used because of its proven lower risk to SJKF.</p> <p>k) Any employee who inadvertently kills or injures a listed species, or who finds any such wildlife dead, injured, or entrapped on the Project site, shall be required to report the incident immediately to a designated site representative (e.g., foreman, project manager, environmental inspector, etc.).</p> <p>l) In the case of entrapped wildlife that are listed species, escape ramps or structures shall be installed immediately, if possible, to allow the subject wildlife to escape unimpeded.</p> <p>m) In the case of injured special-status wildlife, the CDFW shall be notified immediately. During business hours Monday through Friday, the phone number is (559) 243-4017. For</p>	

Final EIR Mitigation Measures	Proposed Additional Mitigation Measures (AMM) and Clarification on EIR Measures
<p>nonbusiness hours, report to (800) 952-5400. Notification shall include the date, time, location, and circumstances of the incident. Instructions provided by the CDFW for the care of the injured animal shall be followed by the contractor onsite.</p> <p>n) In the case of dead wildlife that are listed as threatened or endangered, the USFWS and the CDFW shall be immediately (within 24 hours) notified by phone or in person, and shall document the initial notification in writing within 2 working days of the findings of any such wildlife. Notification shall include the date, time, location, and circumstances of the incident.</p> <p>o) Prior to commencement of construction, work areas not adjacent to public streets shall be clearly marked with fencing, stakes with rope or cord, or other means of delineating the work area boundaries.</p> <p>p) If any suspected federally or State protected plant or animal species is found to be present during Project-related construction activities, occupied areas shall be avoided and the construction contractor shall be required by its contract to call a CDFW-approved biologist to the site to identify the species. If the species is protected, the qualified biologist shall notify the USFWS and CDFW of any previously unreported protected species. Any take of protected wildlife shall be reported immediately to USFWS and CDFW.</p>	
	<p>AMM-2: Inspect Pipes. All construction pipes, culverts, or similar structures with a diameter of 4 inches or greater that are stored at a construction site for one or more overnight periods will be inspected for San Joaquin kit fox before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a San Joaquin kit fox is discovered inside these structures, the structure will be treated as an atypical den until San Joaquin kit fox leaves on its own accord.</p>
	<p>AMM-3: Provide Artificial San Joaquin Kit Fox Dens. Prior to construction activities, the VA will prepare designs and specifications, and identify specific locations of at least one artificial natal den and one artificial escape den to be permanently installed and maintained within landscaped or drainage features within the Project footprint. Maintenance of the artificial dens will be the responsibility of the Bakersfield VA Outpatient Clinic. The design of the artificial dens will be</p>

Final EIR Mitigation Measures	Proposed Additional Mitigation Measures (AMM) and Clarification on EIR Measures
	<p>consistent with the description of artificial den design recommended by Cypher et al. (2012) and Cypher et al. (2021). The den locations and plan will be developed in consultation with and approved by USFWS.</p>
	<p>AMM-4: Work Stoppage. During construction activities, an onsite biologist or biological monitor will have stop work authority to protect San Joaquin kit fox in the Project footprint. This work stoppage will be coordinated with VA or its designee. The project developer will suspend vegetation- or ground-disturbing activities in the work area(s) where the potential construction activity could result in injury or mortality of San Joaquin kit fox; work may continue in other areas. The suspension will continue until the individual leaves voluntarily or is moved to an approved release area using USFWS-approved handling techniques and methods, or as required by the USFWS.</p>

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Appendix A Proposed Project Site and Vicinity Photos



Photo 1. Proposed project site facing north.



Photo 2. Proposed project site facing east.



Photo 3. Adjacent ruderal grassland.



Photo 4. Adjacent ruderal grassland.



Photo 5. Adjacent ruderal grassland.



Photo 6. Adjacent ruderal grassland.



Photo 7. California ground squirrels in adjacent ruderal grassland.



Photo 8. Potential kit fox den in adjacent ruderal grassland.



Photo 9. Ruderal grassland by unnamed canal.



Photo 10. Ruderal grassland and suitable raptor nesting habitat.

Appendix B Compiled Special-Status Species Lists and Queries



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Sacramento Fish And Wildlife Office

Federal Building

2800 Cottage Way, Room W-2605

Sacramento, CA 95825-1846

Phone: (916) 414-6600 Fax: (916) 414-6713



In Reply Refer To:

November 17, 2023

Project Code: 2024-0011302

Project Name: Bakersfield Outpatient Clinic

Subject: List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)).

(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<https://www.fws.gov/sites/default/files/documents/endangered-species-consultation-handbook.pdf>

Migratory Birds: In addition to responsibilities to protect threatened and endangered species under the Endangered Species Act (ESA), there are additional responsibilities under the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA) to protect native birds from project-related impacts. Any activity, intentional or unintentional, resulting in take of migratory birds, including eagles, is prohibited unless otherwise permitted by the U.S. Fish and Wildlife Service (50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)). For more information regarding these Acts, see <https://www.fws.gov/program/migratory-bird-permit/what-we-do>.

The MBTA has no provision for allowing take of migratory birds that may be unintentionally killed or injured by otherwise lawful activities. It is the responsibility of the project proponent to comply with these Acts by identifying potential impacts to migratory birds and eagles within applicable NEPA documents (when there is a federal nexus) or a Bird/Eagle Conservation Plan (when there is no federal nexus). Proponents should implement conservation measures to avoid or minimize the production of project-related stressors or minimize the exposure of birds and their resources to the project-related stressors. For more information on avian stressors and recommended conservation measures, see <https://www.fws.gov/library/collections/threats-birds>.

In addition to MBTA and BGEPA, Executive Order 13186: *Responsibilities of Federal Agencies to Protect Migratory Birds*, obligates all Federal agencies that engage in or authorize activities that might affect migratory birds, to minimize those effects and encourage conservation measures that will improve bird populations. Executive Order 13186 provides for the protection of both migratory birds and migratory bird habitat. For information regarding the implementation of Executive Order 13186, please visit <https://www.fws.gov/partner/council-conservation-migratory-birds>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Code in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List

OFFICIAL SPECIES LIST

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Sacramento Fish And Wildlife Office

Federal Building

2800 Cottage Way, Room W-2605

Sacramento, CA 95825-1846

(916) 414-6600

PROJECT SUMMARY

Project Code: 2024-0011302
Project Name: Bakersfield Outpatient Clinic
Project Type: New Constr - Above Ground
Project Description: VA proposes to construct and operate under a long-term lease a 39,648-gross-square-foot outpatient clinic on one floor with 214 surface parking spaces. The approximately 10-acre site is extensively disturbed but undeveloped.

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@35.410084850000004,-119.05767581758906,14z>



Counties: Kern County, California

ENDANGERED SPECIES ACT SPECIES

There is a total of 12 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

-
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

MAMMALS

NAME	STATUS
Buena Vista Lake Ornate Shrew <i>Sorex ornatus relictus</i> There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/1610	Endangered
San Joaquin Kit Fox <i>Vulpes macrotis mutica</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/2873	Endangered
Tipton Kangaroo Rat <i>Dipodomys nitratoide nitratoide</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/7247	Endangered

BIRDS

NAME	STATUS
California Condor <i>Gymnogyps californianus</i> Population: U.S.A. only, except where listed as an experimental population There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/8193	Endangered
Southwestern Willow Flycatcher <i>Empidonax traillii extimus</i> There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/6749	Endangered
Yellow-billed Cuckoo <i>Coccyzus americanus</i> Population: Western U.S. DPS There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/3911	Threatened

REPTILES

NAME	STATUS
Blunt-nosed Leopard Lizard <i>Gambelia silus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/625	Endangered
Northwestern Pond Turtle <i>Actinemys marmorata</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/1111	Proposed Threatened

INSECTS

NAME	STATUS
Monarch Butterfly <i>Danaus plexippus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9743	Candidate

CRUSTACEANS

NAME	STATUS
Vernal Pool Fairy Shrimp <i>Branchinecta lynchi</i> There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/498	Threatened

FLOWERING PLANTS

NAME	STATUS
Bakersfield Cactus <i>Opuntia treleasei</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/7799	Endangered
San Joaquin Woolly-threads <i>Monolopia (=Lembertia) congdonii</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/3746	Endangered

CRITICAL HABITATS

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

YOU ARE STILL REQUIRED TO DETERMINE IF YOUR PROJECT(S) MAY HAVE EFFECTS ON ALL ABOVE LISTED SPECIES.

IPAC USER CONTACT INFORMATION

Agency: Department of Veterans Affairs
Name: Christine Modovsky
Address: c/o 810 Vermont Ave. NW (003C)
City: Washington
State: DC
Zip: 20420
Email: christine.modovsky@va.gov
Phone: 2028940988





CNPS Rare Plant Inventory

Search Results

8 matches found. Click on scientific name for details

Search Criteria: Quad is one of [3511941]

▲ SCIENTIFIC NAME	COMMON NAME	FAMILY	LIFEFORM	BLOOMING PERIOD	FED LIST	STATE LIST	GLOBAL RANK	STATE RANK	CA RARE PLANT RANK	CA ENDEMIC	DATE ADDED	PHOTO
Astragalus hornii var. <i>hornii</i>	Horn's milk-vetch	Fabaceae	annual herb	May-Oct	None	None	GUT1	S1	1B.1		2006-12-01	No Photo Available
Chloropyron molle ssp. <i>hispidum</i>	hispid salty bird's-beak	Orobanchaceae	annual herb (hemiparasitic)	Jun-Sep	None	None	G2T1	S1	1B.1	Yes	1974-01-01	No Photo Available
Eriastrum hooveri	Hoover's eriastrum	Polemoniaceae	annual herb	Mar-Jul	FD	None	G3	S3	4.2	Yes	1974-01-01	 © 2011 Chris Winchell
Eriogonum gossypinum	cottony buckwheat	Polygonaceae	annual herb	Mar-Sep	None	None	G3G4	S3S4	4.2	Yes	1974-01-01	No Photo Available
Imperata brevifolia	California satintail	Poaceae	perennial rhizomatous herb	Sep-May	None	None	G3	S3	2B.1		2006-12-26	 © 2020 Matt C. Berger
Monolopia congdonii	San Joaquin woollythreads	Asteraceae	annual herb	Feb-May	FE	None	G2	S2	1B.2	Yes	1988-01-01	No Photo Available
Opuntia basilaris var. <i>treleasei</i>	Bakersfield cactus	Cactaceae	perennial stem	Apr-May	FE	CE	G5T1	S1	1B.1	Yes	1974-01-01	No Photo Available
Trichostema ovatum	San Joaquin bluecurls	Lamiaceae	annual herb	(Apr-Jun)Jul-Oct	None	None	G3	S3	4.2	Yes	1974-01-01	No Photo Available

Showing 1 to 8 of 8 entries

Suggested Citation:

California Native Plant Society, Rare Plant Program. 2024. Rare Plant Inventory (online edition, v9.5). Website <https://www.rareplants.cnps.org> [accessed 29 January 2024].

Appendix C H.T. Harvey & Associates Memo (2023)



Memorandum

February 13, 2024

To: Christine Modovsky, U.S. Department of Veterans Affairs

From: Marianne Huizing and Brian Boroski, H. T. Harvey & Associates

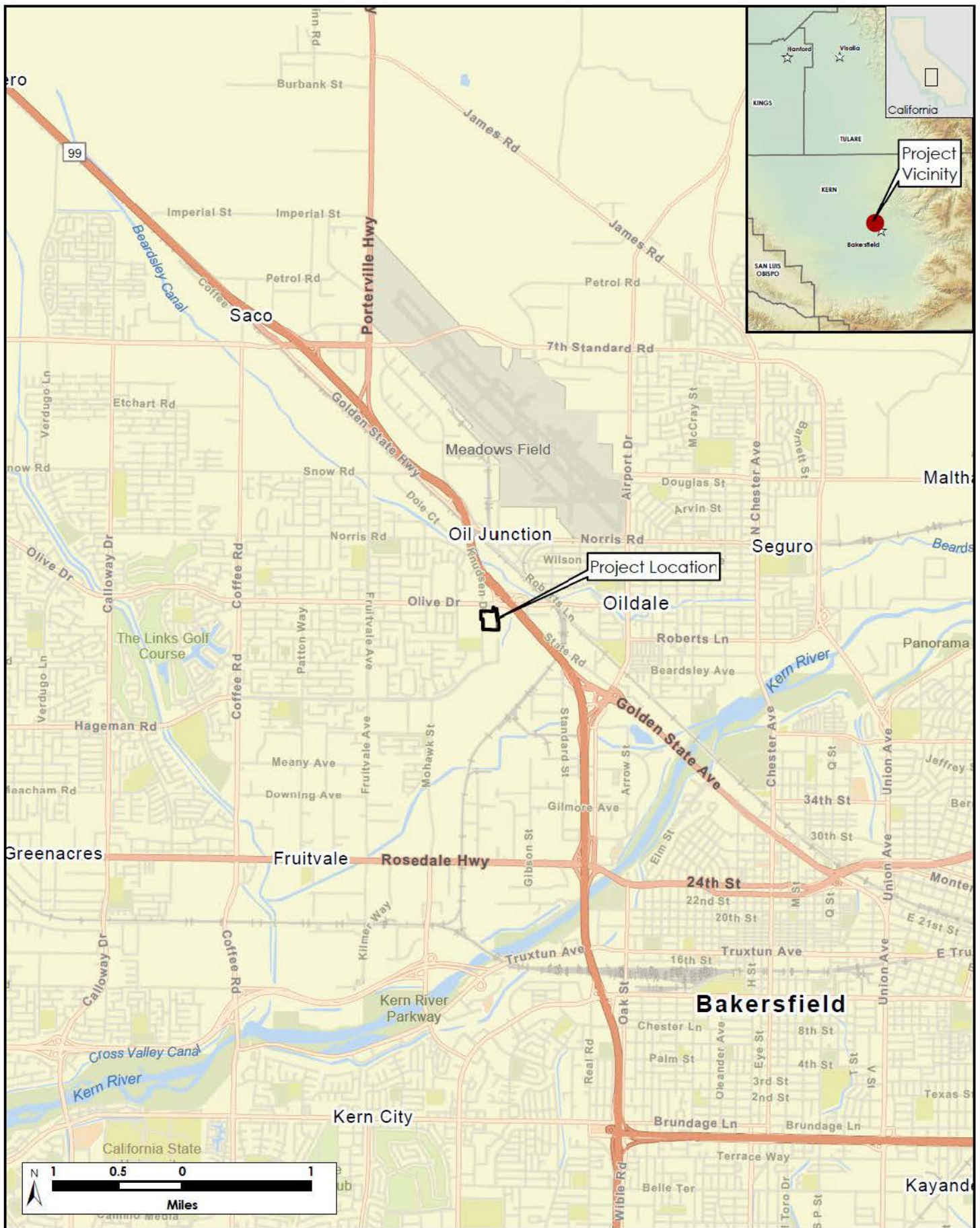
Subject: Reconnaissance and Scent-detection Dog Surveys for Bakersfield Veterans Affairs Community-based Outpatient Clinic, Kern County, California

Introduction

The U.S. Department of Veterans Affairs (VA) proposes to construct and operate an approximate 39,648 square foot (s.f.) community-based medical outpatient facility on approximately 10.1 acres in the City of Bakersfield, California. The VA Community-based Outpatient Medical Clinic (Project) would provide a diverse range of outpatient medical services that would reduce out of area trips for veterans in the Bakersfield area and surrounding communities. Associated with the clinic is parking, an ambulatory pick-up area, a covered drop-off area, bicycle racks, an outdoor physical therapy area, an outdoor dining area, and an elevated loading dock. There is also a proposal for development of a healing garden with a path and benches on the east side of the building. The Project is located south of Olive Drive, east of Knudsen Drive, and west of State Route (SR) 99 (Figure 1). Commercial and residential areas occur to the north, west, and south of the Project site; ruderal nonnative annual grassland is immediately adjacent to the east of the site. Beardsley canal runs in a northeast-southwest direction occurs further east of the vacant lot adjacent to the Project and beyond the canal is another vacant lot of ruderal nonnative annual grassland.

Methods

Prior to conducting the field surveys, we completed a review of the Project site; background information, including relevant reports provided by the client, California Native Plant Society (CNPS) database, and the California Department of Fish and Wildlife's (CDFW's) California Natural Diversity Database (CNDDDB 2023). The purpose of the surveys was to inform an assessment of the effects of implementing the proposed Project on federally listed species and determine if special-status species or their sign occur within or in the vicinity of the Project site.



H. T. HARVEY & ASSOCIATES

Ecological Consultants

Figure 1. Vicinity Map

CocBakersfield Veterans Affairs Community-based Outpatient Clinic
Reconnaissance and Scent-detection Dog Survey Results (4800-01)
February 2024

Reconnaissance-level Survey. A reconnaissance-level survey of the Project site was conducted by H. T. Harvey & Associates' ecologist Colin Wilkinson on December 15, 2023. The survey was conducted to (1) assess existing plant and animal species, and biotic habitats on the Project site, and (2) assess the Project site for its potential to support special-status species and their habitats. Prior to entering the Project site and 500-foot buffer area, the ecologist used 8x40 binoculars to scan the area for wildlife. The ecologist walked 100-foot spaced transects in a north-south direction within the Project site and 500-foot buffer to the south and east of the Project were accessible. Field data was collected using a GIS-based app called Field Maps and representative photos were taken of the Project. The ecologist collected location data of California ground squirrel (*Otospermophilus beecheyi*) burrows and complexes, and assessed the suitability of the burrows for use by San Joaquin kit fox (*Vulpes macrotis mutica*).

Scent-detection Dog Team Survey. In addition to the reconnaissance survey, a highly trained ecological scent-detection dog team (handler and dog) also surveyed for San Joaquin kit fox scat on December 15, 2023. The detection dog chosen for this survey had been trained using industry-accepted methods (Smith et al. 2001, Wasser et al. 2004) to recognize the scent of San Joaquin kit fox scat, and to alert her handler to the location of the scat. The detection dog was trained on scat from multiple kit fox individuals and from each sex, to encourage the dog to find every variety of kit fox scat encountered during the surveys. In addition, the dog is trained to ignore the scent of non-targeted sympatric canids, such as coyotes (*Canis latrans*) and red fox (*Vulpes vulpes*), so that the dog is unlikely to alert the handler to these species, thereby increasing efficiency.

The same 100-foot spaced transects were used by the scent-detection dog team. When surveying, the dog was on a long line and was allowed to range ahead of the handler, searching for the target scent. The handler carried a data recorder with a Global Positioning System (GPS) unit to record the survey effort of the Project site. The scent detection dog followed the odor to kit fox scat and alerted the handler to the location. Qualitative and quantitative data, such as the Universal Transverse Mercator coordinates, the amount of scat, a description of the specific location, and the estimated age of the scat, was collected at each scat location.

Results

At the time of the surveys, the Project footprint was recently tilled and there was limited vegetation within the footprint. The site is highly disturbed at the north end of the Project footprint where it is adjacent to a commercial area and is used by unhoused people. To the east of the Project site and west of Beardsley canal, within the 500-foot buffer, the area was ruderal grassland that was predominantly “wild oat and annual brome grassland – Herbaceous Semi-natural Alliance” (Sawyer et al. 2009) dominated by ripgut (*Bromus diandrus*) and red brome (*B. rubens*) grassland with scattered patches of upland mustard (*Brassica nigra*) and to a lesser extent Tournefort's mustard (*B. tournefortii*), tumbleweed (*Amaranthus albus*), puncture vine (*Tribulus terrestris*), and Jimson weed (*Datura wrightii*).

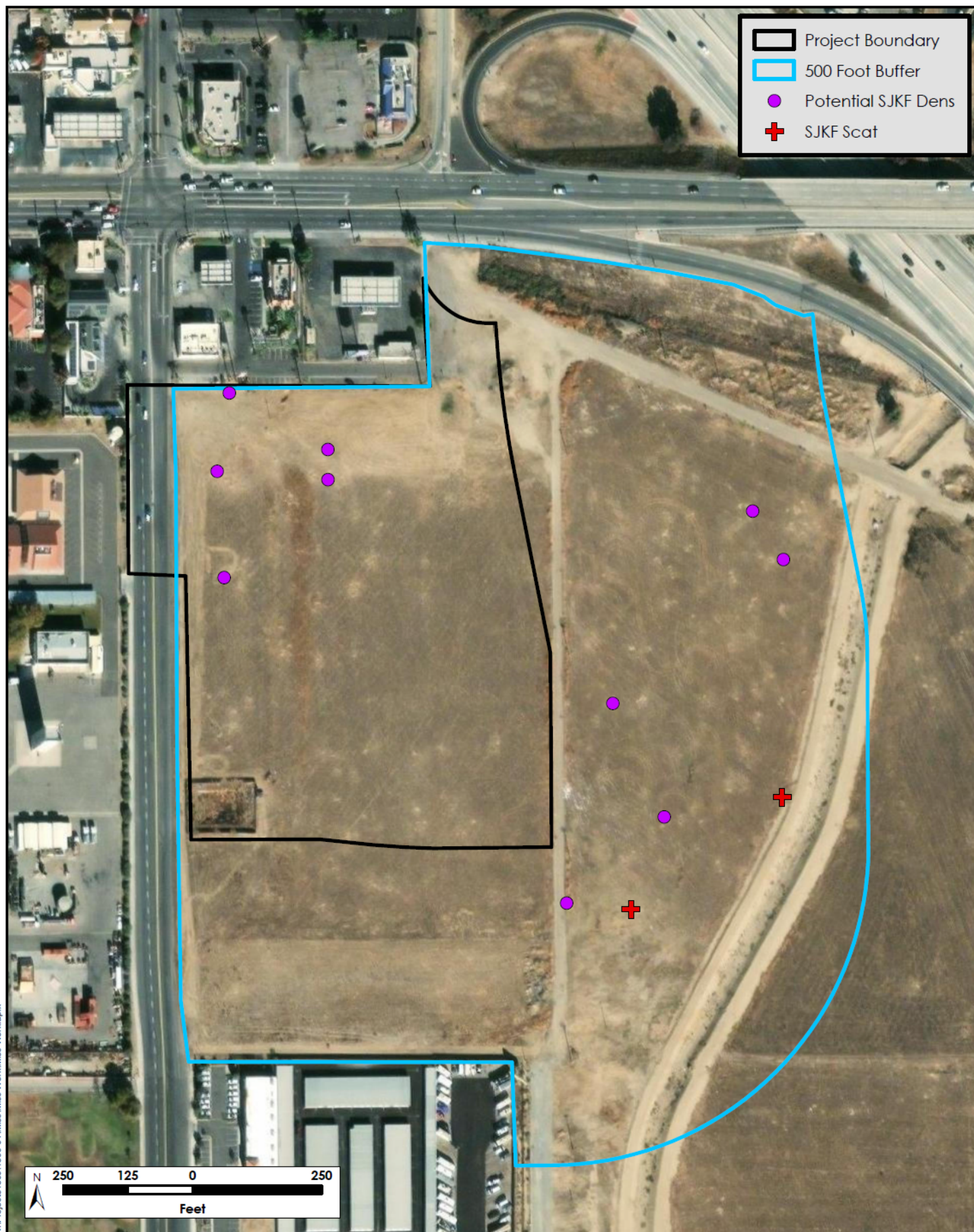
During the reconnaissance-level survey, there were 79 California ground squirrel burrows-complexes recorded on Field Maps. Of these burrows-complexes, 10 burrows were identified as potential for use as San Joaquin kit fox dens, based on size and shape of the burrow entrances (Figure 2). No San Joaquin kit foxes were observed during the survey; however, approximately 125 California ground squirrels were observed when the ecologists performed a quick scan of the area with the binoculars. Other sign of wildlife included small mammal burrows, such as those belonging of mice, Heermann's kangaroo rat (*Dipodomys heermanni*), and pocket gophers (*Thomomys*

spp.). A black-tailed jackrabbit (*Lepus californicus*), several side-blotched lizards (*Uta stansburiana*), and 14 bird species (Appendix A, Table 1) were also observed during the survey.

The scent-detection dog alerted on two San Joaquin kit fox scats in the 500-foot buffer to the east of the Project site (Figure 2). No San Joaquin kit fox scats were detected within the Project footprint. In each case, both scats consisted of two pieces and were relatively fresh, in that they were still pigmented brown. One of the scats was found on bare ground near the Beardsley canal east of the Project site and the other scat was found on top of grass between the Project site and the Beardsley canal (Figure 2).

Conclusion

No direct observations of special-status species were observed at the Project site or 500-foot buffer during the reconnaissance and scent-detection dog surveys. Potential burrows suitable for San Joaquin kit fox occur within the Project site and 500-foot buffer; however, at the time of the survey, there was no evidence that the burrows were used by San Joaquin kit fox. The scent-detection dog team detected San Joaquin kit fox scat at two separate locations within the 500-foot buffer, which indicates the occurrence of San Joaquin kit fox within the Project vicinity.



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Ecological Consultants

Figure 2. Survey Results

Bakersfield Veterans Affairs Community-based Outpatient Clinic
Reconnaissance and Scent-detection Dog Survey Results (4800-01)
February 2024

References

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Attachment 4

Endangered Species Act Section 7 Consultation: Mitigation Measures for Federal Species Protection

The measures labeled “BIO MM-n” are the measures or parts of measures identified in the CEQA EIR that are relevant to federal species protection and under federal authority, clarified and supplemented as noted below. Measures labeled “AMM-n” are additional measures not previously included in the CEQA EIR.

BIO MM-2: If vegetation clearing or initial ground disturbing construction activity occurs during the **migratory bird** nesting season (February 1 to September 15) a professional avian biologist shall conduct a nesting bird survey to identify any active nests present within the proposed work area. If active nests are found, initial ground disturbance shall be postponed or halted within a buffer area, established by the professional avian biologist, that is suitable to the particular bird species and location of the nest, until juveniles have fledged or the nest has been abandoned, as determined by the biologist. The construction avoidance area shall be clearly demarcated in the field with highly visible construction fencing or flagging, and construction personnel shall be instructed on the sensitivity of nest areas.

Clarification on BIO MM-2:

- Surveys will be conducted no more than 14 days prior to construction activities.

BIO MM-4: No more than 30 days prior to vegetation clearing or initial ground-disturbing construction activities, pre-construction surveys for **San Joaquin kit fox** shall be conducted by a professional biologist. The purpose of the preconstruction survey is to provide current biological information in order to implement all avoidance and minimization measures that are required based on any previous observations of special-status species and to update observations shall any new site occupation by special-status species occur. If any known San Joaquin kit fox dens are detected, implementation of the most recent USFWS protocols (Standardized Recommendations for Protection of the Endangered San Joaquin Kit Fox Prior to or During Ground Disturbance (2011)) is required per BIO MM-5 unless protocols are issued by either CDFW or USFWS that supersede these protocols.

Clarification on BIO MM-4

- Preconstruction survey will include a 250-foot buffer during the San Joaquin kit fox pupping season (February through May) or a 100-foot buffer during all other months (where access is permitted).
- All San Joaquin kit fox dens observed during the preconstruction survey will be mapped and characterized as to type.
- Den types are defined as:
 - Potential Den: a suitable subterranean den or burrow within the range of San Joaquin kit fox that has an opening of at least 4 inches and for which available evidence is insufficient to conclude whether it is currently being used or has been used by San Joaquin kit fox.
 - Known Den: A known den is any existing natural den structure that is in use by San Joaquin kit fox or has historically been used at any time in the past by San Joaquin kit fox.
 - Atypical Den: a manmade structure which is being occupied by San Joaquin kit fox. Atypical dens may include pipes, culverts, and diggings beneath stored materials and structures

- Natal (or Pupping) Den: A natal den is any den that has historically been used or is currently being used by San Joaquin kit fox to whelp and/or rear pups.
- All San Joaquin kit fox dens (i.e., potential, known, atypical, and natal) will be mapped and photo documented and described in the preconstruction survey report, which also will include the results of any camera or track medium monitoring. The qualified Biologist will prepare a survey findings report documenting compliance with this measure for submittal to VA to forward to USFWS prior to start of ground-disturbing activities.
- If potential dens are present, the dens will be monitored for a minimum of four consecutive nights with a trail camera or tracking medium to evaluate den status and determine the presence/absence of San Joaquin kit fox. If there is a risk that cameras may be stolen or vandalized at a site, monitoring may be conducted using tracking medium only with prior concurrence from the USFWS.
- Minimize Disturbance of Known, Atypical, and Natal Dens during construction. If a known, atypical, or natal den is present within or adjacent to the work area, the following measures will be implemented to minimize disturbance of the den(s) and disruption of San Joaquin kit fox activities:
 - Establish No-Work Exclusion Zone. A non-disturbance exclusion zone will be established around known and atypical dens and a no-work exclusion zone will be established around natal dens. Exclusion zones around known and atypical dens will be clearly marked by Environmentally Sensitive Area fencing. Exclusion zone widths may be adjusted based on the conditions of the site with the USFWS' concurrence.
 - Avoid No-work Exclusion Zones. No construction activities will be conducted in the no-work exclusion zones without USFWS concurrence.
- Conduct Monitoring of Construction Activities. A qualified biologist will be present in the work area to verify compliance with avoidance and minimization measures, including during ground- or vegetation-disturbing activities in or adjacent to Environmentally Sensitive Areas (e.g., occupied or potentially occupied habitat), wildlife exclusion fencing, construction exclusion fencing (exclusion fencing), and no-work zones. Monitoring will be required when trenches or holes are present and when materials stored on site provide potential dens for San Joaquin kit fox.

BIO MM-5: If Federal listed threatened or endangered species are found occupying burrows, dens, or nests on the Project site or any such species could be injured or killed due to Project-related activities, USFWS (as appropriate) shall be contacted for further guidance. Should [the] agency determine that incidental take authorization is required prior to construction, the appropriate FESA [Federal Endangered Species Act] authorization shall be obtained by the Project Applicant. FESA authorization shall include measures addressing the federal listed species and shall include the following at a minimum:

- a) Implementation of standardized biological resource protective measures included in BIO MM-4;
- b) Biological preconstruction surveys conducted by qualified biologists approved by [the] agency no more than 30 days prior to conducting work on the Project site;
- c) If any known San Joaquin kit fox dens are detected, implementation of the most recent USFWS protocols (Standardized Recommendations for Protection of the Endangered San Joaquin Kit Fox Prior to or During Ground Disturbance (2011)) unless protocols are issued by USFWS that supersede these protocols.
- d) Destruction of San Joaquin kit fox dens shall follow the monitoring and excavation procedures in USFWS (2011).
- f) Biological monitoring of initial ground disturbance during each phase of grading;

- g) Provision for compliance reporting to be provided to [the] agency as required in take authorizations;

Clarification on BIO MM-5:

- Implement Passive Deterrence. If construction activities cannot avoid an active known or atypical den or the no-work exclusion zone around it, the project implementation team may initiate passive, non-injurious measures that result in minor alterations in behavior after receiving concurrence from the USFWS.
- Implement Den Excavation. Dens in the Project footprint may be excavated under the direct supervision of a qualified biologist the next day after no San Joaquin kit fox are detected for a minimum of four consecutive nights of den monitoring using trail cameras. If there is a risk that cameras may be stolen or vandalized at a site, monitoring may be conducted using tracking medium only with prior concurrence from the USFWS. If a San Joaquin kit fox is observed at the den during the monitoring period, the den will continue to be monitored until at least four consecutive nights have passed without San Joaquin kit fox detection at the den. If the San Joaquin kit fox does not leave the den, the Project may initiate passive harassment measures. After a den is determined to be unoccupied as confirmed through four consecutive nights of den monitoring or one night of monitoring after the initiation of passive harassment, it may be excavated under the direction and supervision of a San Joaquin kit fox qualified biologist. Dens will be fully excavated to the end of all tunnels, and then backfilled with dirt and compacted to ensure that San Joaquin kit fox cannot reenter or use the den site during construction activities.

AMM-1: Establish and Maintain Environmentally Sensitive Areas, and No-Work and Wildlife Exclusion Zones. Fencing or stakes, flags, and rope will be used to establish non-disturbance exclusion zones to restrict construction equipment and personnel from environmentally sensitive areas or restrict San Joaquin kit fox from entering construction areas, where feasible based on site-specific constraints. Two types of fencing, high-visibility environmentally sensitive area fence and wildlife exclusion fence, will be used for these purposes.

- a) **Delineation and Marking Environmentally Sensitive Areas, No-Work and Wildlife Exclusion Zones, and Wildlife Exclusion Fences.** The location of environmentally sensitive areas, wildlife exclusion fence, and exclusionary zones will be delineated by a qualified biologist based on the results of any preconstruction surveys. Also prior to construction activities, the contractor will mark environmentally sensitive areas with posted signs, posting stakes, flags, or rope or cord, and will place high visibility fencing as necessary to minimize the disturbance of sensitive areas per avoidance and minimization measures. A qualified biologist will also direct the installation of WEF to prevent San Joaquin kit fox from entering work areas. The WEF will have one-way escape points installed by the contractor under the supervision of a qualified biologist along the boundary of the Project footprint for the length of the adjoining suitable habitat to allow animals that may be inside the work area to leave the area. A qualified biologist will also direct the installation of construction exclusionary zone fencing, as appropriate, to avoid and minimize impacts to San Joaquin kit fox. Fencing installation will be monitored by a qualified biologist or Biological Monitor to ensure that San Joaquin kit fox are not injured or killed during installation. The environmentally sensitive area, wildlife exclusion fence, and exclusionary zone locations will be identified and depicted on an exclusion fencing exhibit. The purpose of the environmentally sensitive areas and wildlife exclusion fence will be explained at WEAP training, and the locations of the environmentally sensitive areas and wildlife exclusion fence areas will be noted during worker tailgate sessions.

- b) **Construction Activity Avoidance in Environmentally Sensitive Areas/No-Work Exclusion Zones.** The contractor will enforce exclusion of construction personnel and equipment from all environmentally sensitive areas. These areas will be monitored by a qualified biologist during all site preparation and subsequent construction activities.
- c) **Maintenance of Environmentally Sensitive Area Markings.** The contractor will maintain all fencing, stakes, flags, and signage until the completion of construction. The environmentally sensitive area, wildlife exclusion fence, and exclusionary zones will be regularly inspected by a qualified biologist to ensure its integrity and that wildlife are not trapped. Environmentally sensitive area fences, wildlife exclusion fence, stakes, flags, and signage will be removed by the contractor when construction is complete, or the resource has been cleared.

BIO MM-6: All biological monitors working on the Project site shall be required by their contract to notify the USFWS of the discovery of any protected species identified on the site other than nesting birds, San Joaquin kit fox which are addressed by BIO MM-2, BIO MM-4, and BIO MM-5. Any take of protected wildlife shall be reported immediately to USFWS.

BIO MM-7: The Project Applicant shall ensure that the Project's construction contractors adhere to the following best management practices. Construction contractors shall be required by their contracts to comply with these best practices

- a) Traffic restraints and signs shall be established to minimize temporary disturbances during construction beyond the construction site boundaries. All construction traffic shall be restricted to designated access roads and routes, Project site, storage areas, and staging and parking areas. Off-road traffic outside designated Project boundaries shall be prohibited. A 15 mile-per-hour (24 kilometer per-hour) speed limit shall be observed in all Project construction areas, except as otherwise posted on county roads and state and federal highways.
- b) All construction personnel involved in ground disturbing construction activities shall attend a worker orientation program. The worker orientation program shall present measures required to avoid, minimize, and mitigate impacts to biological resources and shall include, at a minimum, the following subjects: A summary of the Federal Endangered Species Act (FESA) and the Migratory Bird Treaty Act current construction area; life history information for the species of concern; biological resource avoidance, minimization, and mitigation requirements; consequences for failure to successfully implement requirements; and procedures to be followed if dead or injured wildlife are located during Project activities. Upon completion of the orientation, employees shall sign a form stating that they attended the program and understand all biological resource mitigation measures. Forms verifying worker attendance shall be filed at the Project Applicant's office and be accessible to USFWS staff. No untrained personnel shall be allowed to work onsite with the exception of delivery trucks that are only onsite for 1 day or less and are under the supervision of a trained employee.
- c) All equipment storage and parking during construction activities shall be confined to the designated construction area or to previously disturbed offsite areas that are not habitat for listed species.
- d) All Project construction activities involving initial surface disturbance shall occur during daylight hours.
- e) Trenches shall be inspected for entrapped wildlife each morning prior to the onset of construction. Before such holes or trenches are filled, they shall be thoroughly inspected for entrapped animals. Any wildlife so discovered shall be allowed to escape voluntarily, without

harassment, before construction activities resume. A professional biologist may remove wildlife from a trench, hole or other entrapment out of harm's way if the immediate welfare of the individual is in jeopardy. State or federal listed species may not be handled. Should any federal listed species become entrapped, USFWS shall be contacted.

- f) All food-related trash items such as wrappers, cans, bottles and food scraps generated by Project construction activities shall be disposed of in closed containers and removed at least once each week from the site. Deliberate feeding of wildlife shall be prohibited.
- g) To prevent harassment of special-status species, construction personnel shall not be allowed to have firearms or pets on the Project site.
- h) All equipment and work-related materials shall be contained in closed containers either in the work area or on vehicles. Loose items (e.g., rags, hose, etc.) shall be stored within closed containers or enclosed in vehicles when on the work site.
- i) All liquids shall be in closed, covered containers. Any spills of hazardous liquids shall not be left unattended until clean-up has been completed.
- j) Use of rodenticides and herbicides on the Project shall be prohibited unless approved by the USFWS. This is necessary to prevent primary or secondary poisoning of special-status species using adjacent habitats, and to avoid the depletion of prey upon which they depend. If rodent control must be conducted, zinc phosphide shall be used because of its proven lower risk to SJKF [San Joaquin kit fox].
- k) Any employee who inadvertently kills or injures a listed species, or who finds any such wildlife dead, injured, or entrapped on the Project site, shall be required to report the incident immediately to a designated site representative (e.g., foreman, project manager, environmental inspector, etc.).
- l) In the case of entrapped wildlife that are listed species, escape ramps or structures shall be installed immediately, if possible, to allow the subject wildlife to escape unimpeded.
- n) In the case of dead wildlife that are listed as threatened or endangered, the USFWS shall be immediately (within 24 hours) notified by phone or in person, and shall document the initial notification in writing within 2 working days of the findings of any such wildlife. Notification shall include the date, time, location, and circumstances of the incident.
- o) Prior to commencement of construction, work areas not adjacent to public streets shall be clearly marked with fencing, stakes with rope or cord, or other means of delineating the work area boundaries.
- p) If any suspected federally protected plant or animal species is found to be present during Project-related construction activities, occupied areas shall be avoided and the construction contractor shall be required by its contract to call a biologist to the site to identify the species. If the species is protected, the qualified biologist shall notify the USFWS of any previously unreported protected species. Any take of protected wildlife shall be reported immediately to USFWS.

Clarification on BIO MM-7:

- Dogs recognized as service animals under titles II and III of the Americans with Disabilities Act are exempted from this rule.
- At end of each workday, all excavated, steep-walled holes or trenches that are more than eight inches deep with sidewalls steeper than a 1:1 (45 degree) slope will be inspected for trapped animals and, at the close of each day, will be covered with plywood or similar materials or provided a minimum of one escape ramp constructed of fill earth per 100 feet of trenching.

- Prior to construction requiring nighttime lighting, the Contractor will prepare a Lighting Plan verifying how the Contractor will shield nighttime construction lighting and direct it downward in such a manner to minimize the light that falls outside the work area. The Lighting Plan will be submitted to VA for review and approval prior to any work requiring nighttime lighting.
- All nightwork will occur within the boundaries of previously disturbed, cleared, and grubbed areas.
 - Within nightwork construction areas immediately adjacent to areas where San Joaquin kit fox or their dens are present or may be present, at least one qualified biologist, will be continuously present from one-half hour after sunset to one-half hour before sunrise.
 - iii. Prior to working at night, all construction personnel shall receive San Joaquin kit fox awareness information regarding measures to be implemented at night. Upon completion of the program, employees will sign a form stating they attended the program and understand all protection measures.
 - The Contractor will use highly reflective markers to demarcate the boundaries of nightwork areas, if necessary.
 - Construction vehicles will be driven no more than 10 mph within the Project footprint from one-half hour after sunset to one-half hour before sunrise

AMM-2: Inspect Pipes. All construction pipes, culverts, or similar structures with a diameter of 4 inches or greater that are stored at a construction site for one or more overnight periods will be inspected for San Joaquin kit fox before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a San Joaquin kit fox is discovered inside these structures, the structure will be treated as an atypical den until San Joaquin kit fox leaves on its own accord.

AMM-3: Provide Artificial San Joaquin Kit Fox Dens. Prior to construction activities, the VA will prepare designs and specifications, and identify specific locations of at least one artificial natal den and one artificial escape den to be permanently installed and maintained within landscaped or drainage features within the Project footprint. Maintenance of the artificial dens will be the responsibility of the Bakersfield VA Outpatient Clinic. The design of the artificial dens will be consistent with the description of artificial den design recommended by Cypher et al. (2012) and Cypher et al. (2021). The den locations and plan will be developed in consultation with and approved by USFWS.

AMM-4: Work Stoppage. During construction activities, an onsite biologist or biological monitor will have stop work authority to protect San Joaquin kit fox in the Project footprint. This work stoppage will be coordinated with VA or its designee. The project developer will suspend vegetation- or ground-disturbing activities in the work area(s) where the potential construction activity could result in injury or mortality of San Joaquin kit fox; work may continue in other areas. The suspension will continue until the individual leaves voluntarily or is moved to an approved release area using USFWS-approved handling techniques and methods, or as required by the USFWS.