

Exhibit L - 3



April 15, 2021

Zach Gomes, Vice President of Operations  
KB Home Central California  
744 P Street, Third Floor, Suite 321  
Fresno, CA 93721

**Subject: Simonian Project, Fresno, California—Biological Due Diligence**

Dear Mr. Gomes:

In support of the Simonian Project, H. T. Harvey & Associates conducted a site survey for an approximately 38.8-acre residential development identified as APN 316-160-16S, 17S, 43S, 59S and 61S located on the west side of south Armstrong Ave, between the San Joaquin Valley Railroad and East Pitt Ave, in the Fresno County, California. This survey was requested by KB Home Central California in due diligence to assess whether any species federally or state listed as threatened, endangered, or candidate or any state species of special concern (collectively referred to as special-status species) occur or are likely to occur on the project site.

A qualified H. T. Harvey & Associates ecologist performed a biological survey of the project site on March 25, 2021, to determine the potential presence of special-status plant and wildlife species. The ecologist surveyed the entire site by walking east-west transects spaced approximately 100 feet (ft.) apart. This provided full visual coverage of the project site for assessing habitat composition and species presence. In addition, the ecologist visually surveyed all areas within a quarter-mile of project site boundaries for signs of current or prior nesting (e.g., existing nests) by raptors species.

The site consists of loose, recently-disked soil, except for two residence located on the property. Approximately 11 acres in the southwest corner and along the central part of the southern border have been disked since the spring 2020 growing season and are sparsely vegetated. The remainder of the site also shows signs of recent disking, but currently is approximately 95% covered in vegetation, with the remainder consisting of bare soil. Garbage is relatively abundant, especially in the northwest corner. Overall, the site conditions are currently unsuitable for special-status plant species. Vegetation on the site is comprised mostly of grasses, but some low-growing forbs are also present. Plant height is currently low, with grasses and forbs 1-6 inches tall. The site can be characterized as annual grassland in the process of re-establishment. As a result of past ground disturbance, the project site is highly suitable for nonnative invasive plants. We understand that all vegetation in construction areas will be cleared and that the use of site-specific best management practices will minimize the dispersal of nonnative invasive plants.

The project site is relatively far from recent records of special-status species. A query of California Natural Diversity Database (CNDDB 2021<sup>1</sup>) records occurring within 5 miles (mi) of the project site revealed seven special-status species occurrences, two of which are for Swainson's hawk (*Buteo swainsoni*). The site falls within the extent of a Swainson's hawk occurrence mapped over Fresno that has not been reconfirmed since 1956. The other Swainson's hawk occurrence is based on observations from 2016 and is located 3.5 miles (mi.) southwest of the project site. In addition, there are two occurrences of burrowing owls (*Athene cunicularia*), one located 4.2 mi. to the north at Fresno Yosemite International Airport and another located 4.0 mi. to the northwest in Clovis. Also, double-crested cormorant (*Phalacrocorax auritus*) was documented at a collection of ponds 4.8 mi. to the north-northwest in 2012. The remaining records (for least Bell's vireo [*Vireo bellii pusillus*] and western yellow-billed cuckoo [*Coccyzus americanus occidentalis*]) are both over 3.5 mi. away from the site and have not been reconfirmed within the last 108 years.

The annual grassland in the Project area potentially provides habitat for common, rural and urban-adapted wildlife species, such as ground-foraging and -nesting birds, California ground squirrels (*Otospermophilus beecheyi*), pocket gophers (*Thomomys bottae*), and desert cottontail (*Sylvilagus auduboni*). Wildlife directly observed on the project site consisted of common bird species and the remains of two California ground squirrels. Several individuals of each of four common bird species (mourning dove [*Zenaida macroura*], California scrub-jay [*Aphelocoma californica*], dark-eyed junco [*Junco hyemalis*], and European starling [*Sturnus vulgaris*]) were observed perched on and flying around the line of trees on the southern border of the Project site.

Numerous small mammal burrows occur on the Project site. Several active pocket gopher burrows were found scattered across the site. The site also currently supports a large population of California ground squirrels. Their burrows were abundant at the edge and along the slopes of the detention pond and were moderately abundant throughout the rest of the site. The California ground squirrel remains were located within 1 ft. of burrows of this species and represent predation and/or scavenging, perhaps by red-tailed hawks or other raptors. No signs of mammalian predators (e.g. coyotes [*Canis latrans*]) were observed. All animal species observed directly on or near (i.e., within 0.25 mi.) the project site are listed in Appendix A.

Many of the California ground squirrel burrows are large (about 3-5 inches in diameter), with large, unvegetated aprons, and thus are potentially suitable for use by burrowing owls, which is listed as Species of Special Concern by the State of California. No burrowing owls or signs of this species (e.g. pellets, feathers, or wash) were observed. However, the survey was conducted during conditions of light to moderately heavy rain in the middle of a rain event lasting several days. Any owls present would have been underground in their burrows, and their wash would have been rinsed away. The occurrence of potentially suitable burrows suggests that burrowing owls might be present.

No direct evidence of special-status animal or plant species was observed and the site provides little or no value to sensitive plant and wildlife species with the exception of burrowing owl. The presence of burrowing owls on the

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<sup>1</sup> [CNDDB] California Natural Diversity Database. 2021. Results of electronic records search. Rarefind 5. California Department of Fish and Wildlife. <<https://map.dfg.ca.gov/rarefind/view/RareFind.aspx>>. Accessed January 2021.

property could constrain the development of the parcel or result in project delays. Burrowing owls, and their nests are protected under state laws and regulations, including the California Fish and Game Code Section 3503.5.

Based on our understanding of burrowing owl distribution in the Central Valley, burrowing owls are unlikely to occupy this site. The size of the parcel and the adjacent similar parcel west combined with the number of suitable burrows on the site, however, warrant a cautious approach. We recommend implementation of the measures included in the Staff Report on Burrowing Owl Mitigation (CDFG 2012<sup>2</sup>) including surveys of the project site.

In addition to implementation of the measures included in the Staff Report on Burrowing Owl Mitigation (CDFG 2012, if construction activities occur during the avian nesting season (generally, February 1 through August 31), preconstruction surveys for nesting birds by a qualified ornithologist should be conducted to ensure that no active nests are disturbed during construction. The survey should be conducted no more than 7 days before construction activities begin. During this survey, all potential nesting areas should be inspected in and immediately adjacent to the impact areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by these activities, the ornithologist should determine the extent of a construction-free buffer zone to be established around the nest (typically, 300 ft. for raptors and 25–100 ft. for other species) to ensure that no active nests of species protected by the California Fish and Game Code would be disturbed during project construction.

Please feel free to contact me at 559.960.0849 or [jseay@harveyecology.com](mailto:jseay@harveyecology.com) regarding these survey results.

Sincerely,



Jeff Seay  
Senior Wildlife Ecologist

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<sup>2</sup> [CDFG] California Department of Fish and Game. 2012. Staff Report on Burrowing Owl Mitigation. March 7.

## Appendix A. Animal Species Observed On or Within 0.25 Mile of the Simonian Project Site

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Common Name	Scientific Name
<b>Birds</b>	
Mourning dove	<i>Zenaida macroura</i>
Red-tailed hawk	<i>Buteo jamaicensis</i>
California scrub-jay	<i>Aphelocoma californica</i>
Unidentified swallow species	Family Hirundinidae
Dark-eyed junco	<i>Junco hyemalis</i>
European starling	<i>Sturnus vulgaris</i>
<b>Mammals</b>	
California ground squirrel	<i>Otospermophilus beecheyi</i>

Note: None of the observed species are special-status species.