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From: Oswalt, Caitlyn@Wildlife
Sent: Tuesday, August 19, 2025 9:57 AM
To: Jerry Barton
Cc: Wilson, Billie@Wildlife; Sheya, Tanya@Wildlife; Kilgour, Morgan@Wildlife; Wildlife R2 CEQA
Subject: 2025-2045 EL DORADO COUNTY REGIONAL TRANSPORTATION PLAN (RTP), DRAFT PROGRAM ENVIRONMENTAL IMPACT REPORT (DPEIR) SCH NO. 2024110413
Attachments: 1 - CDFW-Plant-and-Vegetation-Survey-Protocols-2018.pdf; 2 - Considerations for Conserving the Foothill Yellow-Legged Frog.pdf; 3 - A Review of Color Vision in White Tailed Deer.pdf; 4 - A_Landowners_Guide_to_Fences_and_Wildlife.pdf

Dear Jerry Barton:

The California Department of Fish and Wildlife (CDFW) received and reviewed the Notice of Availability of a DPEIR from El Dorado County Transportation Commission for the 2025-2045 El Dorado County Regional Transportation Plan (Project) pursuant the California Environmental Quality Act (CEQA) statute and guidelines.^[1] CDFW previously submitted comments in response to the Notice of Preparation of the DPEIR on December 12, 2024.

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish, wildlife, native plants, and their habitat. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may need to exercise its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California's Trustee Agency for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (Fish & G. Code, § 1802.) Similarly for purposes of CEQA, CDFW provides, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW may also act as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

The Project site is located along highways, local streets and roads, transit, bicycle, aviation, and goods movement within El Dorado County.

The Project consists of the regional transportation goals, objectives, and policies in the El Dorado County Transportation Commission (EDCTC) planning area. The RTP is a 20-year, comprehensive multi-modal transportation plan, including, but not limited to: highways, local streets and roads, transit, bicycle, aviation, and goods movement. The RTP is action-oriented and pragmatic, considering both the short-term (10-year) and long-term (10- to 20-years and beyond) periods. The RTP contains eight specific goals, each with supporting objectives and strategies including: integrated regional transportation planning; sustainable, adaptable, resilient; surface transportation system; public transit; aviation; active transportation; transportation systems management; and regional equity and collaboration.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist EDCTC in adequately identifying and, where appropriate, mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Based on the Project's avoidance of significant impacts on biological resources with implementation of mitigation measures, CDFW concludes that a Program Environmental Impact Report is appropriate for the Project.

CDFW is primarily concerned with the project impacts to wildlife movement, habitat fragmentation, cumulative impacts from direct vehicle mortality, as well as impacts to creeks, streams, rivers, and plants, including those species state-listed as rare, candidate, threatened, or endangered under CESA or the Native Plant Protection Act (NPPA).

COMMENT 1: Section 3.1-2, Aesthetics – Light and Glare, Page 3.1-2

Issue: While the Aesthetics section 3.1-2 of the DPEIR discusses the impacts from lighting on nearby residences, the DPEIR does not analyze adverse impacts from increased lighting on wildlife, nor does it provide any avoidance, minimization or mitigation measures to reduce the impacts to less than significant. Light pollution has the potential to significantly and adversely affect biological resources, where unlike the natural brightness created by the monthly cycle of the moon, permanent and continuously powered lighting fixtures create an unnatural light regime that produces a constant light output. Continuous light output for 365 days a year can have a cumulatively significant impact on fish and wildlife populations.

Night lighting can disrupt the circadian rhythms of many species. Many wildlife species use photoperiod cues for communication (e.g., bird song; Miller 2006), determining when to begin foraging (Stone et al. 2009), behavior thermoregulation (Beiswenger 1977), and migration (Longcore and Rich 2004). Artificial night lighting has also been found to impact juvenile salmonid overwintering success by delaying the emergence of salmonids from benthic refugia and reducing their ability to feed during the winter (Contor and Griffith 1995).

Recommendation: CDFW strongly recommends reducing artificial light outputs within the Project limits to avoid potentially significant impacts from light pollution.

CDFW recommends analyzing light source outputs as described below and recommends reducing or removing the number of light sources proposed within the project such as informational signs, bicycle/pedestrian access light sources, and overhead light poles. Reduction in the number of light output sources can be accomplished by increasing the standard spacing from light pole source to

light pole source within the Project limits and by avoiding light source installation in highly sensitive resource locations. In addition, utilizing light shielding, light output restrictions and measures discussed in detail below may reduce the potentially significant impacts created by artificial lighting sources within the project area.

CDFW recommends project proponents provide Isolux diagrams that analyze current light levels present during pre-project conditions and provide the predicted project light levels that will be created upon completion of the project within their subsequent CEQA document. The proposed analysis should include all potential light sources proposed for new installation or replacement. Upon project completion, project proponents should conduct a ground survey that compares current and predicated light levels with actual light levels achieved upon completion of the project through comparison of Isolux diagrams. If an increase from the projected levels to the actual levels is discovered additional avoidance, minimization or mitigation measures should be required.

COMMENT 2: Regulatory Setting, State, Native Plant Protection Act (Fish and Game Code Sections 1900 through 1913), Page 3.4-8

Issue: The PDEIR incorrectly interprets the protections provided by CESA and the NPPA and states, *“CFGC Sections 1900 through 1913 were developed to preserve, protect, and enhance Rare and Endangered plants in the State of California. The Native Plant Protection Act requires all State agencies to use their authority to carry out programs to conserve Endangered and Rare native plants. Provisions of the Native Plant Protection Act prohibit the taking of listed plants from the wild and require notification of the CDFW at least ten days in advance of any change in land use which would adversely impact listed plants. This allows CDFW to salvage listed plant species that would otherwise be destroyed.”*

Recommendation: CDFW recommends the DPEIR be revised to state, “CFGC Sections 1900 through 1913 were developed to preserve, protect, and enhance Rare and Endangered plants in the State of California. The Native Plant Protection Act requires all State agencies to use their authority to carry out programs to conserve Endangered and Rare native plants ***listed under that Act***. Provisions of the Native Plant Protection Act prohibit the taking of listed plants ***listed under that Act*** from the wild and require notification of the ***to*** CDFW at least ten days in advance of any change in land use which would adversely impact listed plants. This allows CDFW to salvage listed plant species that would otherwise be destroyed.”

COMMENT 3: Biological Resources, Lake and Streambed Alteration Program (California Fish and Game Code Section 1600 through 1616), Page 3.4-8

Issue: The DPEIR has identified perennial, intermittent, and ephemeral rivers, streams, and other hydrologically connected aquatic features, but did not analyze all potential temporary, permanent, direct, indirect and cumulative impacts to these features and the associated biological resources and habitats that may occur due to the nature of the DPEIR being a planning document.

Additionally, the DPEIR states, “Generally, the CDFW takes jurisdiction to the top of bank of the stream or to the outer limit of the adjacent riparian vegetation (outer drip line), whichever is greater.” This statement is not correct. The topography and individual site conditions may affect how project activities impact rivers, streams, and lakes and which activities are subject to Fish and Game Code section 1602.

Recommendation: The DPEIR should propose appropriate avoidance, minimization and mitigation measures to reduce impacts to a less-than-significant level, including but not limited to project impacts to riparian habitat, water temperature, water nutrient concentrations, and turbidity.

The DPEIR has identified project activities that will require notification to CDFW pursuant to Section 1602 of the Fish and Game Code. Notification is required for any activity that may do one or more of the following:

- Substantially divert or obstruct the natural flow of any river, stream, or lake;
- Substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or
- Deposit debris, waste, or other materials where it may pass into any river, stream or lake.

Please note that "any river, stream or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams and watercourses with a subsurface flow. It may also apply to work undertaken within the floodplain of a body of water or grading work adjacent to a waterway. Upon receipt of a complete notification, CDFW will determine if the project activities may substantially adversely affect existing fish and wildlife resources and whether a Lake and Streambed Alteration (LSA) Agreement is required.

Additionally, CDFW's issuance of a LSA Agreement is a "project" subject to CEQA (see Pub. Resources Code 21065). To facilitate issuance of an LSA Agreement, the DPEIR should fully identify the potential impacts to the lake, stream, or riparian resources, and provide adequate avoidance, minimization, mitigation, and monitoring and reporting commitments.

COMMENT 4: Biological Resources, El Dorado County General Plan, Objective 7.4.2: Identify and Protect Resources, Pg 3.4-11

Issue: The DPEIR mentions the El Dorado County General Plan contains the following goals, objectives, and policies related to biological resources that are relevant to the project:

Objective 7.4.2: IDENTIFY AND PROTECT RESOURCES - Identification and protection, where feasible, of critical fish and wildlife habitat including deer winter, summer, and fawning ranges; deer migration routes; stream and river riparian habitat; lake shore habitat; fish spawning areas; wetlands; wildlife corridors; and diverse wildlife habitat.

The CEQA document does not adequately address wildlife connectivity or wildlife vehicle collision mortality for the deer herds and other wildlife that migrate within the project area. Without the appropriate avoidance, minimization or mitigation measures, cumulatively significant impacts to deer herds and other wildlife populations will occur as a result of the project. For example, widening roads and curve realignments will increase vehicle speeds and traffic volume which will make it harder for wildlife to cross seasonal or daily.

Recommendation: CDFW recommends EDCTC and subsequent project proponents identify suitable locations and incorporate wildlife crossings into their design plans (e.g., larger culverts, open-bottom culverts, or a wildlife undercrossing structure with fencing and jump outs) where geographically feasible.

Furthermore, species occurrence data, road mortality data, linkage designs, and adjacent suitable habitat should inform the CEQA analysis regarding potential for impacts and the development of

mitigation measures to improve or enhance wildlife movement as a result of the project. In weighing the impacts of the project on wildlife movement, beyond regional wildlife “corridors,” analysis should address other common movement patterns. Food sources, water sources, migration routes, and breeding and sheltering areas that may be disconnected as a result of the project should be included in the impact analysis and considered when developing mitigation concepts. CDFW recommends incorporating survey data from sources such as the California Roadkill Observation System to establish scientific reasoning for crossing locations and improvements for wildlife crossings as appropriate. CDFW also recommends surveys are done before, during, and after construction to identify key areas where wildlife are crossing, observe how wildlife migration is affected by the project, and assess the effectiveness of any newly constructed wildlife crossings. Additional suggestions can also be found in CDFW’s *Transportation Planning Companion Plan*, associated with the State Wildlife Action Plan (CDFW, 2016).

COMMENT 5: Section 3.4-13, Biological Resources - Wildlife Movement. Page 3.4-13

Issue: Section B discusses wildlife movement on 4, 6, and 8 lane roads, However, it does not discuss wildlife movement on 2 lane roads. Road widening within wildlife movement areas and increased barriers could lead to additional vehicle conflicts. Moreover, relative to mitigation for roadway construction projects additional vegetation can attract wildlife to the side of the road with re-planted vegetation leading to animal vehicle conflicts.

Recommendation: CDFW recommends expanding project considerations for wildlife movement to include 2 lane roads. CDFW also recommends analyzing increased barriers in wildlife movement corridors. CDFW encourages the project proponent to explore wildlife connectivity options (e.g., under crossings, up-sizing culverts, and wildlife friendly fencing). Projects along wildlife movement corridors should also analyze revegetation plans for potential animal vehicle conflicts as the additional vegetation can attract wildlife to the area. CDFW recommends not providing vegetation on roundabouts, or inside fences along roads, or along roads with no fencing as part of treatment.

COMMENT 6: Biological Resources, El Dorado County Zoning Ordinance, – Rare Plants. Page 3.4-17

Issue: Within El Dorado County reside Pine Hill endemic plants and their gabbro soil-based habitat. NPPA prohibits the take or possession of state-listed rare and endangered plants, including any part or product thereof, unless authorized by CDFW or in certain limited circumstances. Please see Comment 9 for Incidental Take Permit (ITP) recommendations. Take of state-listed plants due to Project activities may only be permitted under appropriate CESA take authorization.

Additionally, the DPEIR also states that “acquisition and restoration of rare plant habitat must be equal to 1.5 times the number of acres developed. Off-site mitigation must be conducted according to guidelines established by the County and is subject to review by representatives of USFWS and CDFW. More commonly, development relies on the Zoning Ordinance’s in-lieu fee option. That option collects a per-unit fee from new development that is used to fund the local cost of the Rare Plant Mitigation Program.”

Recommendation: If special status plants have a probability to be within the project area based on habitat and soil type, CDFW recommends the PDEIR instructs future project proponents to incorporate survey protocols such as those listed in Attachment 1, *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (CDFW, 3/2018), and to conduct a minimum of two focused special-status plant surveys prior to construction during the blooming season for special-status plant species that may occur on the project site.

Surveys should be spaced a minimum of three (3) weeks apart during the blooming period. Exact survey timing should be determined by a qualified biologist with experience with the species being surveyed. If special-status plants are discovered during these surveys and take cannot be completely avoided during or after project implementation, mitigation measures shall be proposed to fully mitigate the impacts to state-listed species (Cal. Code Regs., tit. 14, § 783.2, subd.(a)(8)). Please note the use of relocation, salvage, and/or transplantation as the sole mitigation for impacts to rare, threatened, or endangered species are generally experimental in nature and largely unsuccessful. Therefore, the DPEIR should describe additional mitigation measures utilizing habitat restoration, conservation, and/or preservation, in addition to avoidance and minimization measures, if it is determined that there may be impacts to rare, threatened, or endangered species.

Furthermore, please be aware that the County's in-lieu fee program may not meet the full mitigation standard under CESA. Depending on the quality of habitat impacted, the quality of the compensatory mitigation, temporal loss, and number of species impacted, 1.5:1 replacement for permanent impacts may result in a net loss of habitat. Through the CESA process, CDFW may require greater than 1.5:1 mitigation depending on project specific factors to ensure no net loss occurs. If mitigation is proposed through use of conservation bank credits, credit purchases should be from a CDFW-approved mitigation bank with appropriate credit types available. Project proponents may also propose alternative mitigation options for CDFW review and approval as part of the CESA application process.

**COMMENT 7: Section 3.4-1, Biological Resources – Impact 3.4-1, Foothill Yellow Legged Frog.
Page 3.4-20**

Issue: The foothill yellow-legged frog (*Rana boylei*, FYLF) is known to occur throughout El Dorado County. The FYLF are separated into 5 clades within California. El Dorado County has populations part of the Northeast/Northern Sierra and East/Southern Sierra clades. The Northeast/Northern Sierra clade is currently listed as threatened under the CESA, while the East/Southern Sierra clade is listed as endangered. Projects including seasonal bridge installation, bridge and culvert replacements, road widening near waterways can take days or years to complete and have temporary and/or permanent impacts within stream reaches. Unfortunately, there is not a season of operation that completely avoids FYLF presence. If frogs are present and breeding, they may be encountered in various life-stages year-round. The DPEIR does not include the appropriate avoidance, minimization or mitigation measures to reduce impacts to FYLF to less than significant. Furthermore, take authorization issued pursuant to CESA requires project- and species-specific avoidance and minimization measures, as well as full mitigation for project related impacts.

Recommendation: CDFW recommends the DPEIR have considerations for avoiding or minimizing project-related impacts to the species. CDFW recommends FYLF surveys and habitat assessments be conducted throughout all Project Study Area's under the DPEIR and include the results within the individual project analysis. Additionally, CDFW recommends the DPEIR provide examples of survey protocols for project proponents to incorporate into their subsequent CEQA document. Examples of survey protocols can be found within Attachment 2, CDFW's *Considerations for Conserving the Foothill Yellow-Legged Frog* (2018) document and a few are referenced below:

- a. Visual Encounter Surveys (VES) conducted during the late summer are often the easiest method for determining presence; subadults and occasionally adults are often observed along river margins, and subadult and adult frogs will likely also be observed in tributary streams (Crump and Scott 1994).
- b. To increase the likelihood of detection, surveys should include at least one VES during the breeding and/or oviposition period (generally April – June), a tadpole survey four to eight

weeks after the breeding survey(s), a subadult survey in late summer/early fall (generally late August to early October), and a final VES within 3 to 5 days prior to starting work.

- i. It is important to understand that frogs are ectothermic, so ambient temperature affects the likelihood of detection. Whether the life form is larval or subadult, both stages will shelter in place under substrate and emerge and become active with warmth (i.e., detection probability increases with temperature).
- c. If a survey fails to detect FYLF within suitable habitat, a follow-up survey should be conducted two to four weeks after the initial survey.
- d. Develop measures to avoid incidental take on a site- and project-specific basis.
 - i. For example, measures may vary based on the type and extent of disturbance, duration and timing of disturbance, and influence of environmental factors. A season of operation that completely avoids foothill yellow-legged frog presence does not exist; if frogs are present and breeding, they may be encountered in various life stages year-round. However, in locations that have periodic dry conditions, especially prolonged dry conditions, FYLF are unlikely to be encountered. Under dry conditions, FYLF usually seek refuge in wetted tributaries (or any wetted feature).

COMMENT 8: Biological Resources, Mitigation Measure 3.4-3, Page 3.4-22

Issue: The El Dorado County General Plan includes scenic corridors but does not mention wildlife friendly fencing, which is a component of RTP and should be considered by the EDCTC when adding Right of Way fencing to highways or roads. Generally, no fence is preferred, but where fencing is required, fencing height should be analyzed for wildlife impacts, especially if constructing wildlife fencing is adjacent to existing structures more common in high Wildlife Vehicle Conflict areas.

Mitigation Measure 3.4-3 describes using commercial-quality woven polypropylene fencing that is orange in color and at least four feet high during project activities. Please note that deer primarily see in shades of blue and yellow-green but struggle to distinguish between red and green. Orange appears gray to deer species (Attachment 3, *A Review of Color Vision in White-Tailed Deer* by Kurt C. VerCauteren and Michael J. Pipas; (2003)).

Recommendation: CDFW recommends constructing wildlife friendly fencing within the Right of Way of highways or roads as a part of the RTP. Four-foot fencing may not be an appropriate height for all projects, fencing height should be analyzed to not trap or harm wildlife. CDFW also recommends the use of blue temporary fencing when available. Blue fencing is more visible to ungulates and more appropriate in wildlife corridors with high traffic of these species. Please refer to Attachment 4, *A Landowner's Guide to Fences and Wildlife* for examples of wildlife friendly fencing.

COMMENT 9: Incidental Take Permit for CESA listed Species

Issue: The DPEIR covers multiple future projects throughout El Dorado County including highways, local streets and roads, transit, bicycle, aviation, and goods movement projects and may impact multiple CESA listed species. The DPEIR fails to mention and incorporate special status species into their site-specific biological resources technical reports. The DPEIR doesn't analyze impacts to special status species or include sufficient measures to reduce impacts to a less than significant level of future projects.

Recommendation: CDFW recommends the DPEIR includes measures that require a qualified biologist complete individual biological assessments for all project areas covered under this DPEIR. Furthermore, CDFW recommends an ITP be obtained where the project has the potential to result in take of a species state-listed as rare, candidate, threatened, or endangered under CESA or NPPA, either through construction or over the life of the project. Plant species not listed as rare, threatened, endangered, or candidates for listing under CESA or NPPA may nevertheless meet the definition of rare or endangered provided in CEQA (Cal. Code Regs., tit. 14, § 15380, subd. (b)). Please note that mitigation measures that are adequate to reduce impacts to a less-than significant level to meet CEQA requirements may not be enough for the issuance of an ITP. To issue an ITP, CDFW must demonstrate that the impacts of the authorized take will be minimized and fully mitigated (Fish & G. Code § 2081 (b)). To facilitate the issuance of an ITP, CDFW recommends the DPEIR include species specific measures to minimize and fully mitigate the impacts to any state-listed species the project activities have the potential to take.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDB). The CNDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDB/Submitting-Data>. The completed form can be submitted online or mailed electronically to CNDDB at the following email address: CNDDB@wildlife.ca.gov.

FILING FEES

The project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

Pursuant to Public Resources Code § 21092 and § 21092.2, CDFW requests written notification of proposed actions and pending decisions regarding the proposed project. Written notifications shall be directed to: California Department of Fish and Wildlife North Central Region, 1701 Nimbus Road, Rancho Cordova, CA 95670 or emailed to R2CEQA@wildlife.ca.gov.

CDFW appreciates the opportunity to comment on the DPEIR for the 2025-2045 El Dorado County Regional Transportation Plan to assist El Dorado County Transportation Commission in identifying and mitigating Project impacts on biological resources. CDFW personnel are available for consultation regarding biological resources and strategies to minimize and/or mitigate impacts. Questions regarding this letter or further coordination should be directed to Caitlyn Oswalt, Environmental Scientist at (916) 358-4315 or caitlyn.oswalt@wldlife.ca.gov.

REFERENCES

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Thanks,

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North Central Region – Region 2

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California Department of Fish and Wildlife

^[1] CEQA is codified in the California Public Resources Code in section 21000 et seq. The “CEQA Guidelines” are found in Title 14 of the California Code of Regulations, commencing with section 15000.