



STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

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July 30, 2026

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**Subject: Merced County Association of Governments (MCAG) 2026 Regional
Transportation Plan/Sustainable Communities Strategy (RTP/SCS) Plan
(Plan)
Draft Program Environmental Impact Report (DPEIR)
SCH No.: 2025030169**

Dear Meg Prince:

The California Department of Fish and Wildlife (CDFW) received a DPEIR from the MCAG, as Lead Agency for the above referenced Plan pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Plan that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Plan that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

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

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

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agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, future projects tiered from this Plan may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of projects tiered from the Plan 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.

Nesting Birds: CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include sections 3503 (regarding unlawful take, possession, or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession, or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

Fully Protected Species: CDFW has jurisdiction over fully protected species of birds, mammals, amphibians and reptiles, and fish, pursuant to Fish and Game Code sections 3511, 4700, 5050, and 5515. Fully protected species may not be taken or possessed at any time and no licenses or permits may be issued for their take except as follows:

- Take is for necessary scientific research,
- Efforts to recover a fully protected, endangered, or threatened species, live capture, and relocation of a bird species for the protection of livestock, or
- They are a covered species whose conservation and management is provided for in a Natural Community Conservation Plan (Fish & G. Code, §§ 3511, 4700, 5050, & 5515).

Unlisted Species: Species of plants and animals need not be officially listed as Endangered, Rare, or Threatened (E, R, or T) on any State or Federal list to be considered E, R, or T under CEQA. If a species can be shown to meet the criteria for E, R, or T, as specified in the CEQA Guidelines section 15380, CDFW recommends it be fully considered in the environmental analysis for any future project.

PLAN DESCRIPTION SUMMARY

Proponent: Merced County Association of Governments (MCAG)

Objective: The Plan updates the 2022 RTP/SCS and outlines the long-term transportation and land use strategy to meet Merced County's transportation needs

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through 2049. The Plan addresses all transportation modes including the multi-modal transportation system, motor vehicles, transit (commuter and local), rail (commuter and interregional), goods movement (rail freight and trucking), bicycle and pedestrian facilities, aviation systems, and transportation systems management programs and projects.

Location: The Plan area is all of Merced County, located in the central San Joaquin valley encompassing 1,979 square miles. The County is situated near the geographic center of the State along State Route (SR) 99, approximately 130 miles south of San Francisco.

COMMENTS AND RECOMMENDATIONS

The purpose of the Programmatic Environmental Impact Report (PEIR) is to inform decision makers and the public about potential significant environmental effects associated with the implementation of the Plan and Plan alternatives. CDFW offers the comments and recommendations below to assist MCAG in adequately identifying and/or mitigating the Plan's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the DPEIR prepared for this Plan.

Special-Status Species

Tables 3-44 and 3-45 identify the special-status plant and animal species that have the potential to occur within the Plan area. These tables also include each species current State and federal listing status. There are several inaccuracies (e.g., some federal and State statuses appear to be reversed, State statues are outdated). As such, CDFW recommends these tables be updated with correct State and federal listing statuses. Based on a review of Tables 3-44 and 3-45, CDFW has the following correction recommendations:

- Western burrowing owl (*Athene cunicularia*) is currently listed as State candidate
- Cackling (=Aleutian Canada) goose (*Branta hutchinsii leucopareia*) is currently a State watch list species
- Tricolored blackbird (*Agelaius tricolor*) is currently listed as State threatened
- Crotch's bumble bee (*Bombus crotchii*) is currently listed as State candidate
- Foothill yellow-legged frog- central coast Distinct Population Segment (DPS) (*Rana boylei* pop. 4) is currently listed as State endangered and federally threatened
- Northwestern pond turtle (*Actinemys marmorata*) is currently a State species of special concern and is federally proposed threatened

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- Western spadefoot (*Spea hammondi*) is currently a species of special concern and is State and federally proposed threatened
- Chinook salmon - Central Valley spring-run Evolutionary Significant Unit (ESU) (*Oncorhynchus tshawytscha* pop. 11) is currently listed as State and federally threatened
- Steelhead - Central Valley DPS (*Oncorhynchus mykiss irideus* pop. 11) is currently a State species of special concern and federally threatened
- For the special-status plant species outlined in Table 3-44, the State and federally listing statuses appear to have been switched (i.e., the State listing status is in the federal column and vice versa). Recommend switching to reflect current State and federal status for each species.

Wildlife Corridors and Habitat Connectivity

California wildlife is losing the ability to move and migrate as habitat conversion and built infrastructure disrupts species habitat and cut off migration corridors. California Senate Bill (SB) 790 and Assembly Bill (AB) 2344 both address wildlife connectivity in California and assert authority and responsibility to CDFW and/or local and State agencies to implement wildlife connectivity actions by identifying where they are needed, coordinate and implement those actions, and establish compensatory mitigation credits for actions taken.

The Plan area and adjacent lands are important for providing habitat connectivity for many wildlife species, including the State threatened and federally endangered San Joaquin kit fox (*Vulpes macrotis mutica*); the State and federally threatened California tiger salamander (*Ambystoma californiense*); the State candidate mountain lion (*Puma concolor*); and tule elk (*Cervus canadensis nannodes*). The 2024 Caltrans Wildlife Connectivity Program Report (Caltrans 2024) identifies areas such as Pacheco Pass, Cottonwood Creek, and Sisk Flat (San Luis Reservoir) as known wildlife barrier locations within the Plan area for these species.

Implementation of the Plan could result in direct and indirect mortality, reduced reproductive success, reduced frequency of care for young resulting in reduced health or vigor of young, forcing wildlife into movement paths and areas that could increase their vulnerability to vehicle strikes and predation, and reduction in genetic exchange affecting intra-species diversity. Isolation of subpopulations limits the genetic exchange of populations and increases the risk of local extirpation. Maintaining connectivity through these linkages in the Plan's area is critical to ensure current and future wildlife populations' abilities to move and adapt to a changing climate and habitat conditions.

The DPEIR notes that the Plan area has a diversity of native habitats for special-status species, including six designated wildlife areas within its boundaries: Volta Wildlife Area, North Grasslands Wildlife Area (NGWA), Los Banos Wildlife Area, the San Luis National

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Wildlife Refuge, Cottonwood Creek Wildlife Area, and the Merced National Wildlife Refuge. Mitigation measures BR 3.5.4-1 and BR 3.5.4-2 are provided to mitigate for potential significant impacts to wildlife corridors and wildlife connectivity. BR 3.5.4-1 and BR 3.5.4-2 recommend that project implement wildlife crossing designs to minimize barrier effects and habitat fragmentation and construct infrastructure (e.g., culverts) to facilitate upstream and downstream movement of aquatic species.

CDFW recommends in-depth studies on wildlife connectivity and movement within the Plan area and surrounding areas in order to evaluate the extent of potential impacts from development on wildlife connectivity and to develop different development alternatives. Data collection methods should enable detection of species that have been found to utilize the existing movement corridors, including species mentioned above. The cumulative impacts of adjacent projects on wildlife corridors should also be considered.

The DPEIR should also thoroughly assess existing wildlife movement corridors and habitat connectivity throughout the Plan area and assess opportunities for enhancement of existing corridors or creation of new corridors where they may be lacking. The DPEIR should provide detailed maps of specific locations where wildlife connectivity could be impacted, such as culverts, roads, fencing, etc. Finally, the DPEIR should include the results of past connectivity studies within the Plan area in the assessment and where data are lacking.

In addition to the general DPEIR recommendations above, CDFW recommends mitigation measures BR 3.5.4-1 and BR 3.5.4-2 be modified to incorporate the following:

Recommended Mitigation Measure 1: Analysis and Monitoring of Wildlife Corridor

CDFW recommends that projects tiered from this Plan incorporate project-specific wildlife movement studies to evaluate the potential for the project to significantly impact wildlife connectivity and to guide the development of wildlife corridor mitigation measures to mitigate for connectivity impacts. For projects where wildlife corridor improvement is considered, pre-construction study results should be used to develop biologically feasible movement corridor improvements. Post-construction monitoring should also assess the use of wildlife movement corridors.

The protocol for the baseline survey, post-construction surveys, site selection criteria, and design criteria for the development of the wildlife connectivity structures should, at a minimum, follow the protocols outlined in the California Department of Transportation (Caltrans) Wildlife Crossings Design Manual (Caltrans 2009), CDFW's Transportation Planning Companion Plan associated with the State Wildlife Action Plan (CDFW 2016), and the Federal Highway Administration Wildlife Crossing Structure Handbook (FHWA 2011).

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CDFW recommends that monitoring data be analyzed, summarized, and results discussed in reports that may be posted to the project webpage and submitted to CDFW and other agencies or organizations that have a duty or interest in the effectiveness of wildlife movement corridors.

Recommended Mitigation Measure 2: Infrastructure and Project Component Design

CDFW recommends that on-site features that contribute to habitat connectivity should be evaluated and implemented. Aspects of the Plan that could create physical barriers to wildlife movement, including direct or indirect Plan-related activities, should be identified and addressed in the DPEIR. CDFW recommends the Plan avoid developing and encroaching onto wildlife corridors, essential connectivity blocks, critical wildlife passage areas, or potential linkage areas.

The DPEIR should establish measures for wildlife-friendly designs for covered activities, including but not limited to:

- **Wildlife-friendly fencing**, including restrictions on placement of fencing at the opening to culverts. Fencing should also be designed to deter wildlife from crossing over roads and other infrastructure and to reduce wildlife-vehicle collisions during both dry and wet seasons.
- **Culvert improvements** to support passage during wet and dry years, including but not limited to maintaining culverts to be free of sediments and vegetation; terracing to allow passage of terrestrial species where space allows; upsizing to support passage of impacted species.
- **Consideration of design features** that can support wildlife movement such as minimizing lengths (entry to exit) of dedicated wildlife crossings for certain species guilds; designs (grates, shelving, terracing, etc.) that still allow light penetration; maximizing heights of crossings or adding bridges for larger species guilds; natural cover types to encourage use; bench designs to allow use of the crossings during flooding; and smaller animal escape areas within or adjacent to the dedicated wildlife crossings.
- **Scientifically defensible wildlife corridor width** should be required. The functional width of usable linkages should be described and maintained outside of the zone of influence of edge effect. In general, a corridor should be at least two kilometers (km) wide, except at unavoidable bottlenecks such as freeway crossing structures (Beier 2018). The effective corridor width is the minimum spatial dimension needed to mitigate human influence on animal movement through the corridor (Ford et al. 2020).

CDFW recommends coordination with regional CDFW and conservation engineering staff on the design of connectivity mitigation measures including, but not limited to,

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wildlife passage undercrossings, directional fencing to prevent animals from crossing roads to reduce wildlife-vehicle strikes, removal of accumulated sediment that may block undercrossings, removal of vegetation debris, control of invasive plant species, signage to alert drivers of wildlife crossings, and education and training on wildlife crossing minimization.

Wildlife movement corridors should continue to be monitored for wildlife passage during all Plan phases (construction, operation, reclamation, and revegetation monitoring). Upon completion of Plan-related projects, any wildlife connectivity structures should be studied for an additional 12- to 24-month period, at minimum, to determine the effectiveness of utilization by wildlife of the structures.

The recommended movement studies should be used to determine locations for design modifications that support the maximum movement and connectivity for impacted species. CDFW recommends thorough monitoring of wildlife crossings both before and after construction to assess their effectiveness. This monitoring should include the use of camera traps, track beds, and other methods.

Recommended Mitigation Measure 3: Compensatory Mitigation- Local Area Movement Corridors

On- or off-site compensatory mitigation should be implemented to completely offset unavoidable impacts if infrastructure redesigns and other measures to avoid significant impacts to existing wildlife corridors within the Plan area do not fully avoid impacts to wildlife corridors. The DPEIR should include an analysis of beneficial and feasible wildlife movement corridors and/or crossings at off-site locations that could be improved or constructed to enhance wildlife connectivity.

The Plan should evaluate the development of advanced mitigation credits to support mitigation for future projects and to address connectivity impacts. As mentioned above, Fish and Game Code Section 1955 et seq. (Senate Bill 790) allows the Department of Fish and Wildlife to approve compensatory mitigation credits for actions that improve wildlife connectivity. These actions should lead to measurable improvements in aquatic or terrestrial habitat connectivity, wildlife migration, recolonization, and breeding opportunities, especially where these are hindered by infrastructure or habitat fragmentation, and may include building road overpasses or underpasses.

The Plan may be able to provide additional value for wildlife connectivity depending on its design. Additionally, the Plan could seek out the development of Mitigation Credit Agreements as part of a Regional Conservation Investment Strategy. For example, the San Joaquin Valley Regional Conservation Investment Strategy could serve as advanced mitigation and can be used to create credits from excess mitigation generated by future projects in the Plan area.

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Editorial comments and/or suggestions

Nesting Birds: CDFW encourages that future tiered project ground-disturbing activities occur during the bird non-nesting season; however, if ground-disturbing or vegetation-disturbing activities must occur during the nesting season (February 1st through September 15th), the project proponent is responsible for ensuring that implementation of the project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Code sections as referenced above.

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

CDFW recommends if continuous monitoring of identified nests by a qualified biologist is not feasible, a no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined the birds have fledged and are no longer reliant upon the nest or on-site parental care for survival. Variance from these no-disturbance buffers is possible when there is a compelling biological or ecological reason to do so, such as when the project site would be concealed from a nest site by topography. CDFW recommends that a qualified biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

Cumulative Impacts: Currently, the DPEIR has a very broad analysis of cumulative impacts to biological resources and does not adequately evaluate impacts to specific resources. Mitigation Measures BR 1-1 and BR 1-2 are provided to mitigate for significant impacts. These measures essentially note that the biological resource measures in Chapter, Section 3.5 would be implemented and that future impacts would be minimized through cooperation and consultation between resource agencies. Based on the information in the DPEIR, the conclusions reached in the cumulative impacts analysis are not supported by substantial evidence, and the analysis lacks sufficient rigor and transparency to adequately develop reasonable and feasible measures to reduce harm. This is especially concerning given the DPEIR's finding that cumulative impacts on biological resources would be significant and cumulatively considerable, even with implementation of BR 1-1 and BR 1-2. To address this, CDFW recommends

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that the DPEIR conduct a cumulative impact analysis for all specific biological resources that would either be significantly or potentially significantly impacted by implementation of the Plan, including those whose impacts are determined to be less than significant with mitigation incorporated or for those resources that are rare or in poor or declining health and would be impacted by future projects tiered from the Plan, even if those impacts are relatively small (i.e., less than significant). CDFW recommends cumulative impacts be analyzed using an acceptable methodology to evaluate the impacts of past, present, and reasonably foreseeable future projects on resources and be focused specifically on the resource, not the projects. An appropriate resource study area should be identified and mapped for each resource being analyzed and utilized for this analysis. CDFW staff is available for consultation in support of cumulative impacts analyses as a trustee and responsible agency under CEQA.

California Natural Diversity Database (CNDDDB) Positive Submission of Data:

Please note that the CNDDDB is populated by voluntary record submissions of species detections. As a result, species may be present in locations not depicted in the CNDDDB but where there is suitable habitat and features capable of supporting species. A lack of an occurrence record, or lack of recent occurrence records, in the CNDDDB does not mean that a species is not present. In order to adequately assess any potential tiered project-related impacts to biological resources, surveys conducted by a qualified biologist/botanist during the appropriate protocol survey methodology are warranted in order to determine whether or not any special-status species are present at or near the project site.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special-status species and natural communities detected during project surveys to the CNDDDB. The CNDDDB field survey form can be filled out and submitted online at the following link:

<https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link:

<https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

FILING FEES

The Plan, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document 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 environmental document filing fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

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CONCLUSION

CDFW appreciates the opportunity to comment on the DPEIR to assist MCAG in identifying and mitigating the Plan's and future tiered project's impacts on biological resources. A Mitigation and Monitoring Program (MMRP) (Attachment 1) is included to assist MCAG with incorporating the recommended mitigation measures provided above. More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>). Questions regarding this letter or further coordination should be directed to John Riedel, Environmental Scientist, at (559) 807-1453, or at john.riedel@wildlife.ca.gov.

Sincerely,

DocuSigned by:

E9964E60293D40A...

For Julie A. Vance
Regional Manager

ATTACHMENT 1- MMRP Table

ec: State Clearinghouse
Land Use and Climate Innovation
state.clearinghouse@lci.ca.gov

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References

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Ford, A., E. Sunter, C. Fauvelle, J. Bradshaw, B. Ford, J. Hutchen, N. Phillipow, and K. Teichman. 2020. Effective corridor width: linking the spatial ecology of wildlife with land use policy. *European Journal of Wildlife Research* 66:69.

Attachment 1

Attachment 1

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM
(MMRP)**

**PROJECT: Merced County Association of Governments 2026
Regional Transportation Plan/Sustainable Communities
Strategy Plan**

SCH No.: 2025030169

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
<i>Before Disturbing Soil or Vegetation</i>	
Recommended Mitigation Measure 1: Analysis and monitoring of wildlife corridor	
Recommended Mitigation Measure 2: Infrastructure and project component design	
Recommended Mitigation Measure 3: Compensatory mitigation- local area movement corridors	