



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



May 15, 2025

Elisabeth Hahn, Deputy Executive Director of Planning
Stanislaus Council of Governments
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Modesto, California 95354
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**Subject: 2026 Regional Transportation Plan & Sustainable Communities Strategy
(Plan)
Notice of Preparation (NOP)
SCH No.: 2025040852**

Dear Elisabeth Hahn:

The California Department of Fish and Wildlife (CDFW) received a NOP from the Stanislaus Council of Governments (StanCOG) for the 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

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.

Elisabeth Hahn
Deputy Executive Director of Planning
May 15, 2025
Page 2

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 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, 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 a 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.

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).

Additionally, specified types of infrastructure projects may be eligible for an Incidental Take Permit (ITP) for unavoidable impacts to fully protected species if certain conditions are met (see Fish & G. Code §2081.15). Project proponents should consult with CDFW early in the project planning process if an ITP may be pursued for a project tiered from this Plan.

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 the Plan.

Elisabeth Hahn
Deputy Executive Director of Planning
May 15, 2025
Page 3

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).

PLAN DESCRIPTION SUMMARY

Proponent: Stanislaus Council of Governments (StanCOG)

Objective: The proposed Plan updates the 2022 Regional Transportation Plan & Sustainable Communities Strategy (RTP/SCS) to determine the needs of the transportation system within Stanislaus County through the planning period and to prioritize transportation projects.

Location: The Plan area incorporates the limits of Stanislaus County, including the incorporated cities of Ceres, Hughson, Modesto, Newman, Oakdale, Patterson, Riverbank, Turlock, and Waterford, and all unincorporated areas within the county. Capital improvement projects identified in the Project area are located on State highways, county roads and local streets, as well as on airport property, transit district property, and public utility lands.

Timeframe: StanCOG is in the process of updating the Plan, which will cover the planning period through the year 2049.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist StanCOG 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 EIR prepared for the Plan.

Special-Status Species

Based on aerial imagery and species occurrence records from the California Natural Diversity Database (CNDDDB) (CDFW 2025) as well as CDFW's familiarity with biological resources in the Plan area, the proposed Plan area is known to and/or has the potential to support special-status species, and these resources need to be evaluated and addressed as part of the DEIR and prior to any approvals that would allow ground-disturbing activities. CDFW recommends that the species identified in Attachment 1 of this letter be considered as part of the DEIR that will be drafted for this Plan.

Elisabeth Hahn
Deputy Executive Director of Planning
May 15, 2025
Page 4

CDFW also recommends that the DEIR include biological resource mitigation measures that would be implemented for all future projects tiered (or streamlined) from the EIR, and that mitigation measures for focused biological resource surveys incorporate the following species-specific survey methodology as appropriate:

- **Least Bell's vireo:** Least Bell's Vireo Survey Guidelines (U.S. Department of Interior 2001)
- **Foothills yellow-legged frog – Central Coast Distinct Population Segment:** A Standardized Protocol for Surveying Aquatic Amphibians (Fellers and Freel 1995) *please note that dip-netting would constitute take as defined by Fish and Game Code § 86, so it is recommended this survey technique be avoided
- **San Joaquin kit fox:** Standardized Recommendations for Protection of the San Joaquin kit Fox Prior to or During Ground Disturbance (USFWS 2011)
- **Swainson's hawk:** Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California Central Valley (SWHA TAC 2000)
- **California tiger salamander – Central Coast Distinct Population Segment:** Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander (USFWS 2003)
- **Bald eagle:** Protocol for Evaluating Bald Eagle Habitat and Populations in California (Jackman and Jenkins 2004)
- **Golden eagle:** Interim Golden Eagle Inventory and Monitoring Protocols; and Other Recommendations (Pagel et al. 2010)
- **Western burrowing owl:** Staff Report on Burrowing Owl Mitigation (CDFG 2012)
- **Crotch's and western bumble bees:** Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species (CDFW 2023)
- **California red-legged frog:** Revised Guidance on Site Assessment and Field Surveys for the California Red-legged Frog (USFWS 2005)
- **Special-Status plants:** Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018)

Elisabeth Hahn
Deputy Executive Director of Planning
May 15, 2025
Page 5

California Endangered Species Act: Reasonably foreseeable future projects tiered from this Plan may be subject to CDFW's regulatory authority pursuant to the California Endangered Species Act (CESA). In the event that species listed under CESA are detected during surveys, consultation with CDFW is warranted to discuss how to implement the project and avoid "take," or if avoidance is not feasible, to acquire a State ITP, pursuant to Fish and Game Code section 2081 subdivision (b), prior to any ground disturbing activities. In addition, CDFW recommends that mitigation measures for the CESA listed species be fully addressed in the CEQA document prepared for any future project tiered from this Plan.

California Natural Diversity Database (CNDDDB): Please note that the CNDDDB is populated by voluntary 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. All projects tiered from this Plan should adequately assess any potential project-related impacts to biological resources by ensuring biological surveys are conducted by a qualified wildlife biologist during the appropriate survey period(s) and using the appropriate protocol survey methodology as warranted in order to determine whether or not any special-status species are present at or near the project area.

CEQA Alternatives Analysis: CDFW recommends that the information and results obtained from the cumulative impacts analysis conducted as part of this Plan's DEIR be used to develop and modify the Plan's alternatives to avoid and minimize impacts to biological resources to the maximum extent possible. Please note that when efforts to avoid and minimize impacts have been exhausted for projects tiered from this Plan, remaining impacts to sensitive biological resources may need to be mitigated to reduce impacts to a less than significant level, if feasible.

Cumulative Impact Analysis: Given that a Plan serves primarily as a planning tool and that future project-level CEQA documents are expected to be tiered from it, CDFW recommends that a cumulative impact analysis be conducted for all potential biological resources that will 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 will be impacted by any future project, even if those impacts are expected to be 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 project. An appropriate resource study area identified and utilized for this analysis is advised. CDFW staff is available for consultation in support of cumulative impacts analyses as a trustee and responsible agency under CEQA.

Elisabeth Hahn
Deputy Executive Director of Planning
May 15, 2025
Page 6

Federally Listed Species: CDFW recommends projects tiered from this Plan consult with the U.S. Fish and Wildlife Service (USFWS) on potential impacts to federally listed species. Take under the Federal Endangered Species Act (ESA) is more broadly defined than CESA; take under the ESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with USFWS is advised well in advance of any ground disturbing activities.

Lake and Streambed Alteration: Reasonably foreseeable future projects tiered from this Plan may be subject to CDFW's regulatory authority pursuant to Fish and Game Code section 1600 et seq. Fish and Game Code section 1602 requires project proponents to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake; or (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral or intermittent as well as those that are perennial in nature. For additional information on notification requirements, please contact our staff in the Lake and Stream Alteration Program at (559) 243-4593, or R4LSA@wildlife.ca.gov.

CDFW therefore recommends that the DEIR for this Plan include information related to these requirements of Fish and Game code and advise that projects tiered from this Plan retain a qualified biologist to determine if potential impacts to streams may require the need to notify pursuant to Fish and Game Code section 1602.

Nesting birds: CDFW encourages that all projects tiered from this Plan 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), each future project applicant is responsible for ensuring that implementation of their 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 each future project site to identify nests and determine their status. A sufficient area means any area potentially affected by a project. In addition to direct impacts (i.e., nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. Prior to initiation of construction activities, CDFW recommends that a qualified biologist conduct a survey to establish a behavioral baseline of all identified nests. Once construction begins, CDFW recommends having a qualified biologist continuously monitor nests to detect behavioral changes resulting from each future project. If behavioral changes

Elisabeth Hahn
Deputy Executive Director of Planning
May 15, 2025
Page 7

occur, CDFW recommends halting the work causing that change and consulting with CDFW for additional avoidance and minimization measures.

If continuous monitoring of identified nests by a qualified biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined 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 construction areas would be concealed from a nest site by topography. CDFW recommends that a qualified biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

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 the Plan or tiered 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

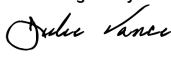
The Plan, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental 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).

Elisabeth Hahn
Deputy Executive Director of Planning
May 15, 2025
Page 8

CONCLUSION

CDFW appreciates the opportunity to comment on the NOP to assist StanCOG in identifying and mitigating the Plan's impact on biological resources. More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>). Questions regarding this letter or further coordination should be directed to John Riedel, Environmental Scientist, at (559) 807-1453 or john.riedel@wildlife.ca.gov.

Sincerely,

DocuSigned by:

FA83F09FE08945A...

Julie A. Vance
Regional Manager

ATTACHMENT

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Governor's Office of Planning and Research
State.Clearinghouse@opr.ca.gov

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Elisabeth Hahn
Deputy Executive Director of Planning
May 15, 2025
Page 9

REFERENCES

- California Department of Fish and Game. 2012. Staff report on burrowing owl mitigation. California Department of Fish and Game, Sacramento, California.
- California Department of Fish and Wildlife. 2018. Protocols for surveying and evaluating impacts to special-status native plant populations and sensitive natural communities. California Department of Fish and Wildlife, Sacramento, California.
- California Department of Fish and Wildlife. 2023. Survey considerations for California Endangered Species Act candidate bumble bee species. California Department of Fish and Wildlife, Sacramento, California.
- California Department of Fish and Wildlife. 2025. Biogeographic information and observation system (BIOS). <https://www.wildlife.ca.gov/Data/BIOS>. Accessed 02 May 2025.
- Fellers, G., and K. Freel. 1995. A standardized protocol for surveying aquatic amphibians. Technical Report. U.S. Department of the Interior, National Park Service, Western Region Biological Service, Davis, California.
- Jackman, R., and J. Jenkins. 2004. Protocol for evaluating bald eagle habitat and populations in California. Prepared for U.S. Fish and Wildlife Service, Endangered Species Division, Sacramento, California.
- Pagel, J., D. Whittington, and G. Allen. 2010. Interim golden eagle inventory and monitoring protocols; and other recommendations. Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Sacramento, California.
- Swainson's Hawk Technical Advisory Committee. 2000. Recommended timing and methodology for Swainson's hawk nesting surveys in California's Central Valley. Swainson's Hawk Technical Advisory Committee.
- U.S. Department of the Interior. 2001. Least Bell's Vireo Survey Guidelines. U.S. Fish and Wildlife Service, Carlsbad, California.
- U.S. Fish and Wildlife Service. 2003. Interim guidance on site assessment and field surveys for determining presence or a negative finding of the California tiger salamander. Sacramento, California.
- U.S. Fish and Wildlife Service. 2005. Revised guidance on site assessment and field surveys for the California red-legged frog. Sacramento, California.

Elisabeth Hahn
Deputy Executive Director of Planning
May 15, 2025
Page 10

U.S. Fish and Wildlife Service. 2011. Standard Recommendations for the Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance. Sacramento, California.

Attachment 1**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
SPECIAL-STATUS SPECIES TABLE****PROJECT: 2026 Regional Transportation Plan & Sustainable
Communities Strategy****SCH No.: 2025040852**

Common Name	Scientific Name	Status	
		State	Federal
Riparian brush rabbit	<i>Sylvilagus bachmani riparius</i>	E	E
Bald eagle	<i>Haliaeetus leucocephalus</i>	E/FP	None
Least Bell's vireo	<i>Vireo bellii pusillus</i>	E	E
Western yellow-billed cuckoo	<i>Coccyzus americanus occidentalis</i>	E	T
Foothill yellow-legged frog - south Sierra Distinct Population Segment	<i>Rana boylei pop. 5</i>	E	T
Colusa grass	<i>Neostapfia colusana</i>	E	T
Delta button-celery	<i>Eryngium racemosum</i>	E	None
Hairy Orcutt grass	<i>Orcuttia Pilosa</i>	E	E
Hartweg's golden sunburst	<i>Pseudobahia bahiifolia</i>	E	E
San Joaquin Valley Orcutt grass	<i>Orcuttia inaequalis</i>	E	T
Succulent owl's-clover	<i>Castilleja campestris var. succulenta</i>	E	T
San Joaquin kit fox	<i>Vulpes macrotis mutica</i>	T	E
Swainson's hawk	<i>Buteo swainsoni</i>	T	None
Tricolored blackbird	<i>Agelaius tricolor</i>	T	None
California tiger salamander - central California Distinct Population Segment	<i>Ambystoma californiense pop. 1</i>	T	T
Golden eagle	<i>Aquila chrysaetos</i>	FP	
Western burrowing owl	<i>Athene cunicularia hypugaea</i>	C	None
Crotch's bumble bee	<i>Bombus crotchii</i>	C	None
Western bumble bee	<i>Bombus occidentalis</i>	C	None
Greene's tuctoria	<i>Tuctoria greenei</i>	R	None
Tracy's eriastrum	<i>Eriastrum tracyi</i>	R	None
Pallid bat	<i>Antrozous pallidus</i>	SSC	None

Townsend's big-eared bat	<i>Corynorhinus townsendii</i>	SSC	None
Loggerhead shrike	<i>Lanius ludovicianus</i>	SSC	None
Mountain plover	<i>Charadrius montanus</i>	SSC	None
Song sparrow	<i>Melospiza melodia pop. 1</i>	SSC	None
Yellow-breasted chat	<i>Icteria virens</i>	SSC	None
California red-legged frog	<i>Rana draytonii</i>	SSC	T
Northwestern pond turtle	<i>Actinemys marmorata</i>	SSC	PT
Western spadefoot	<i>Spea hammondi</i>	SSC	PT
Northern California legless lizard	<i>Anniella pulchra</i>	SSC	None
Green sturgeon – Southern Distinct Population Segment	<i>Acipenser medirostris pop. 1</i>	SSC	T
Hardhead	<i>Mylopharodon conocephalus</i>	SSC	None
Sacramento splittail	<i>Pogonichthys macrolepidotus</i>	SSC	None
Steelhead – Central Valley Distinct Population Segment	<i>Oncorhynchus mykiss irideus pop. 11</i>	SSC	T
E= Endangered, T=Threatened, C= Candidate for listing as Threatened and/or Endangered, R= Rare, SSC= Species of Special Concern, FP= Fully Protected, PT=Proposed Threatened			