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State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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GAVIN NEWSOM, Governor
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June 12, 2025

Paul Herman, Deputy Director
Fresno Council of Governments
2035 Tulare Street, Suite 201
Fresno, California 93721
(559) 233-4148
pherman@fresnocog.org

Subject: 2026 Regional Transportation Plan/Sustainable Communities Strategy (Plan)
Notice of Preparation (NOP)
State Clearinghouse No.: 2025050609

Dear Paul Herman:

The California Department of Fish and Wildlife (CDFW) received a NOP to prepare a Programmatic Environmental Impact Report (PEIR) from the Fresno Council of Governments (Fresno COG), as Lead Agency, for the above-referenced Plan pursuant 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

[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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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, reasonably foreseeable future projects may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of reasonably foreseeable future projects 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.), related authorization as provided by the Fish and Game Code will be required.

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 projects tiered from this Plan.

Other Special-Status Species: Species of plants and animals need not be officially listed as Endangered, Rare, or Threatened on any State or federal list pursuant to CESA and/or the federal Endangered Species Act (ESA) to be considered Endangered, Rare, or Threatened under CEQA. If a species can be shown to meet the criteria specified in the CEQA Guidelines (Cal. Code Regs., tit. 14, Chapter 3, § 15380), it should be fully considered in the environmental analysis for the Plan.

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

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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).

Unlisted Species: Species of plants and animals need not be officially listed as Endangered, Rare, or Threatened on any State or federal list pursuant to CESA and/or the federal Endangered Species Act (ESA) to be considered Endangered, Rare, or Threatened under CEQA. If a species can be shown to meet the criteria specified in the CEQA Guidelines (Cal. Code Regs., tit. 14, Chapter 3, § 15380), it should be fully considered in the environmental analysis for the Plan.

PROJECT DESCRIPTION SUMMARY

Proponent: Fresno Council of Governments

Objective: The Plan is the preparation of the 2026 Regional Transportation Plan (RTP)/Sustainable Communities Strategy (SCS). The Plan will address all transportation modes including motor vehicle, transit, rail, goods movement, bicycle, and pedestrian facilities, aviation systems, and transportation systems management programs and projects with the horizon year of 2049. Additionally, the Plan will:

- Identify the region's transportation goals and policies,
- Include the SCS, which demonstrates how the region will meet its Green House Gas (GHG) reduction targets through integrated land use, and housing and transportation planning,
- Integrate the results reflected in the Congestion Management Program,
- Document the financial resources needed to implement the Plan,
- Highlight the 2026 RTP/SCS EIR process and results, and,
- Include the Environmental Justice Analysis.

Location: The Plan area would include the corporate limits of Fresno County, including the fifteen (15) incorporated cities of Clovis, Coalinga, Firebaugh, Fowler, Fresno, Huron, Kerman, Kingsburg, Mendota, Orange Cove, Parlier, Reedley, San Joaquin, Sanger, and Selma and all unincorporated areas under the jurisdiction of the county.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist the Fresno COG in adequately identifying and/or mitigating the Project'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 PEIR prepared for this Plan.

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Special-Status Species

Based on aerial imagery and species occurrence records from the California Natural Diversity Database (CNDDB) (CDFW 2025), CDFW's familiarity with biological resources in the Plan area, and given that the Plan encompasses the entirety of Fresno County, CDFW recommends that special-status species be considered as part of the PEIR that will be prepared for this Plan, including, but not limited to, the species identified in **Attachment 1** of this letter. These resources would need to be evaluated and addressed as part of the PEIR and prior to any approvals that would allow ground-disturbing activities. CDFW also recommends that the PEIR analyze potential impacts to these species and provide measurable mitigation measures that would reduce impacts to less than significant levels as needed for projects tiered from this Plan.

Botanical Surveys: CDFW recommends that the PEIR for this Plan include a measure requiring that projects tiered from this Plan located within natural habitats be surveyed by a qualified botanist for any possible special-status plants following the "Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Natural Communities" (https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline). CDFW recommends that the plant surveys be floristic and, if necessary, utilize a known reference site for any special-status plants in order to provide a high level of confidence in the effort and results.

If a special-status plant is found, CDFW recommends that the special-status plant species be avoided whenever possible by delineating and observing a no disturbance buffer of at least 50 feet from the outer edge of the plant population(s) or specific habitat type(s) required by special-status plant species. If buffers cannot be maintained, then consultation with CDFW is warranted to determine appropriate minimization and mitigation measures for impacts to special-status plant species. If a State or federally listed plant species is identified during botanical surveys, it is recommended that consultation with CDFW and/or the United States Fish and Wildlife Service (USFWS) be conducted to determine permitting needs.

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.

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California Natural Diversity Database (CNDDB): Please note that the CNDDB is populated by voluntary submissions of species detections. As a result, species may be present in locations not depicted in the CNDDB 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 CNDDB 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 PEIR 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.

Federally Listed Species: CDFW recommends projects tiered from this Plan consult with the 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 the 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

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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 PEIR 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 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

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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 project surveys to the 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 mailed electronically to the CNDDB at the following email address: CNDDB@wildlife.ca.gov. The types of information reported to the CNDDB can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Plants-and-Animals.

FILING FEES

If it is determined that the Plan or subsequent projects have the potential to impact biological resources, an 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

CDFW appreciates the opportunity to comment on the NOP to assist Fresno COG in identifying and mitigating project impacts 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). If you have any questions regarding this letter or further coordination, please contact Marile Colindres, Environmental Scientist, at the address provided on this letterhead, by telephone at (559) 974-3452, or by electronic mail at marile.colindres@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Julie Vance
FA83F09FE08945A...

Julie A. Vance
Regional Manager

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ATTACHMENT

ec: State Clearinghouse
Governor's Office of Planning and Research
State.clearinghouse@lci.ca.gov

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REFERENCES

California Department of Fish and Wildlife. 2025. Biogeographic information and observation system (BIOS). https://www.wildlife.ca.gov/Data/BIOS. Accessed 28 May 2025.

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Attachment 1

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
SPECIAL-STATUS SPECIES TABLE

PROJECT: 2026 Regional Transportation Plan

SCH No.: 2025050609

Common Name	Scientific Name	Status	
		State	Federal
Fresno kangaroo rat	*Dipodomys nitratoides exilis*	E	E
Giant kangaroo rat	*Dipodomys ingens*	E	E
Bald eagle	*Haliaeetus leucocephalus*	E/FP	None
Great gray owl	*Strix nebulosa*	E	None
Willow flycatcher	*Empidonas traillii*	E	None
Blunt-nosed leopard lizard	*Gambelia sila*	E/FP	E
Foothill yellow-legged frog – South Sierra Distinct Population Segment	*Rana boylii pop. 5*	E	E
California jewelflower	*Caulanthus californicus*	E	E
Hartweg's golden sunburst	*Pseudobahia bahiifolia*	E	E
San Joaquin Valley Orcutt grass	*Orcuttia inaequalis*	E	T
Succulent owl's clover	*Castilleja campestris var. succulenta*	E	T
Greene's tuctoria	*Tuctoria greenei*	R	E
Nelson's (San Joaquin) antelope squirrel	*Ammospermophilus nelsoni*	T	None
San Joaquin kit fox	*Vulpes macrotis mutica*	T	E
Fisher – southern Sierra Nevada Evolutionary Significant Unit (ESU)	*Pekania pennanti pop. 2*	T	E
Bank swallow	*Riparia riparia*	T	None
Swainson's hawk	*Buteo swainsoni*	T	None
Tricolored blackbird	*Agelaius tricolor*	T	None
Giant gartersnake	*Thamnophis gigas*	T	T
California tiger salamander – Central California Distinct Population Segment	*Ambystoma californiense*	T	T
Chinook salmon – Central Valley spring-run ESU	*Oncorhynchus tshawytscha pop. 11*	T	T
Golden eagle	*Aquila chrysaetos*	FP	None
Western burrowing owl	*Athene cunicularia hypugaea*	C	None
Temblor legless lizard	*Anniella alexanderae*	C	None

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Crotch's bumble bee	*Bombus crotchii*	C	None
American badger	*Taxidea taxus*	SSC	None
Short-nosed kangaroo rat	*Dipodomys nitratoides brevinasus*	SSC	None
Tulare grasshopper mouse	*Onychomys torridus tularensis*	SSC	None
California Spotted Owl	*Strix occidentalis occidentalis*	SSC	PE
Loggerhead shrike	*Lanius ludovicianus*	SSC	None
Yellow warbler	*Setophaga petechia*	SSC	None
Coast horned lizard	*Phrynosoma blainvillii*	SSC	None
Northwestern pond turtle	*Actinemys marmorata*	SSC	PT
San Joaquin coachwhip	*Masticophis flagellum ruddocki*	SSC	None
California red-legged frog	*Rana draytonii*	SSC	T
Western spadefoot	*Spea hammondii*	SSC	PT
Chinook salmon – Central Valley fall/late-run ESU	*Oncorhynchus tshawytscha*	SSC	None
Hardhead	*Mylopharodon conocephalus*	SSC	None
Kern brook lamprey	*Lampetra hubbsi*	SSC	None
Pacific lamprey	*Entosphenus tridentatus*	SSC	None
California horned lark	*Eremophila alpestris actia*	WL	None
Longhorn fairy shrimp	*Branchinecta longiantenna*	SA	E
Valley elderberry longhorn beetle	*Desmocerus californicus dimorphus*	SA	T
Vernal pool fairy shrimp	*Branchinecta lynchi*	SA	T
San Joaquin woollythreads	*Monolopia congdonii*	None	E
E= Endangered, T=Threatened, C= Candidate for listing as Threatened and/or Endangered, R= Rare, SSC= Species of Special Concern, FP= Fully Protected, PE= Proposed Endangered, PT=Proposed Threatened, WL=Watch List, SA=Special Animal			