

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE



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August 17, 2026

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**Subject: 2026 Regional Transportation Plan/Sustainable Communities
Strategy (Plan)
Draft Program Environmental Impact Report (DPEIR)
State Clearinghouse No.: 2025050609**

Dear Paul Herman:

The California Department of Fish and Wildlife (CDFW) received a DPEIR from the Fresno Council of Governments (FCOG) 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 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 and Game Code, §§

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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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 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 and Game 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.), related authorization as provided by the Fish and Game Code may 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 are 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 the Plan.

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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: Fresno Council of Governments

Objective: The Plan updates the FCOG Regional Transportation Plan (RTP)/Sustainable Communities Strategy (SCS), as required by State and federal guidelines. The Plan identifies the region's transportation needs and issues, sets forth an action plan of projects and programs to address the needs consistent with the adopted policies, and documents the financial resources needed to implement the plan. The Plan is also used to guide development of the Regional Transportation Improvement Program (RTIP). The RTIP is the programming document used to plan the construction of regional transportation projects and requires approval from the State Department of Transportation (Caltrans).

Location: The Plan covers the entirety of the corporate limits of Fresno County and includes 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 acknowledges that the biological resources assessment included in the DPEIR is a program-level analysis of potential environmental consequences from implementation of the proposed Plan and is not site or project-specific. The DPEIR notes that subsequent project-specific CEQA documents may be required to further analyze the projects tiered from this Plan to determine the magnitude of biological resource impacts and identify appropriate potential mitigation measures.

CDFW offers the following comments and recommendations to assist the FCOG in adequately identifying and/or mitigating the Plan's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. CDFW submitted a comment letter on June 12, 2025, in response to the Plan's Notice of Preparation (NOP).

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Western Spadefoot

The DPEIR states that western spadefoot (*Spea hammondi*; WESP) is listed as a State species of special concern and that is either present or potentially present within the Plan area. The California Fish and Game Commission (FGC) approved western spadefoot toad (WESP) as a candidate for potential listing as a protected species under CESA on August 13, 2026. FGC is currently working to publish these findings in the California Regulatory Notice Register (Notice Register). Once these findings are published in the Notice Register, WESP will be designated as a candidate under CESA and as such will receive the same legal protection afforded to an endangered or threatened species (Fish & G. Code, §§ 2074.2 & 2085). If WESP is found during biological surveys that are conducted as part of a project that is tiered from this Plan, and avoidance is not feasible, take authorization through the acquisition of an Incidental Take Permit (ITP), pursuant to Fish and Game Code section 2081, subdivision (b), would be necessary to comply with CESA.

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. Senate Bill (SB) 790 and Assembly Bill 2344 both address wildlife connectivity in California and assert authority and responsibility to CDFW and/or local and state transportation 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 DPEIR includes mitigation measure PMM BIO-4 to reduce substantial adverse effects to wildlife movement and connectivity. Mitigation measure PMM BIO-4 requires projects to incorporate site-specific wildlife connectivity studies and analyses when appropriate, include infrastructure and project design that facilitates wildlife movement, and implement conservation measures, such as the installation of wildlife direction fencing, to facilitate movement and mitigate for potential significant impacts. Mitigation measure PMM BIO-4 also requires direct coordination with CDFW during development and implementation of these measures. CDFW concurs with these measures and recommends project proponents consult with CDFW early during the project-development process to assist with the development of wildlife connectivity study and/or project design.

Nesting Birds

CDFW recommends that all projects tiered from the Plan occur during the bird non-nesting season; however, if ground-disturbing or vegetation-disturbing activities must

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occur during the nesting season (February 1st through September 15th), the project applicant 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.

To evaluate future project-related impacts on nesting birds, CDFW further recommends that a qualified biologist conduct a pre-construction survey for active nests no more than ten (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.

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 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.

Significant and Unavoidable Impacts

The DPEIR notes that implementation of the Plan would facilitate various future transportation improvement and land use development projects that could result in substantial adverse impacts to sensitive species. Section 4.4.6 discusses the project impacts and acknowledges that implementation of the Plan would result in significant and unavoidable impacts to special-status species. The DPEIR acknowledges that, due to the programmatic nature of the Plan and the scale of the FCOG region, a conclusion that all potential impacts would be mitigated to less than significant, cannot be definitely reached. Further, the Plan states that the analysis presented is a general characterization of reasonably foreseeable impacts that could

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occur with implementation of the Plan. Therefore, it is assumed that future projects tiered from the DPEIR could have the potential for significant and unavoidable impacts to biological resources, and the DPEIR recommends that individual project CEQA documents incorporate a project-level analysis to determine appropriate mitigation strategies. CDFW further recommends that future projects tiered from the DPEIR clearly state their biological resource impacts and provide a robust biological resource and cumulative impact analysis to support the conclusions drawn in the project's CEQA document.

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. The cumulative impact analysis acknowledges that impacts such as habitat loss, degradation, or fragmentation of riparian habitat and other sensitive natural communities could occur; and that construction and operation of foreseeable projects may result in increased noise, lightning, human disturbance, and the introduction of physical barriers. The analysis notes that mitigation measures PMM BIO-1 to PMM BIO-5 would reduce these impacts through measures, including, but not limited to, pre-construction surveys; biological monitoring during construction; worker environmental awareness training; delineation of aquatic features; coordination with appropriate resource agencies; adherence to applicable regulations; avoidance and minimization protocols; and species-specific mitigation planning. However, even with the implementation of PMM BIO-1 to PMM BIO-5 the DPEIR concludes that impacts from implementation of the Plan are cumulatively considerable.

CDFW has concerns that the broad analysis does not adequately evaluate impacts to specific biological resources. As such, 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 to specific biological resources. This is especially concerning given the DPEIR's finding that cumulative impacts on biological resources would be cumulatively considerable. To address this, CDFW recommends 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

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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 are available for consultation in support of cumulative impacts analyses as a trustee and responsible agency under CEQA.

California Natural Diversity Database (CNDDDB)

Please note that the CNDDDB is populated by and records voluntary submissions of species detections. As a result, species may be present in locations not depicted in the CNDDDB but where there are suitable habitat and features capable of supporting species. A lack of an occurrence record in the CNDDDB does not mean a species is not present. In order to adequately assess any potential project-related impacts to biological resources, surveys conducted by a qualified wildlife biologist/botanist during the appropriate survey period(s) and using 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 area.

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 surveys to the CNDDDB. The CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. 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 and/or subsequent projects could 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).)

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CONCLUSION

CDFW appreciates the opportunity to comment and assist the FCOG in identifying and mitigating Plan 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, by telephone at (559) 974-3452, or by electronic mail at marile.colindres@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Julie A. Vance
Regional Manager

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