

APPENDIX A

NOTICE OF PREPARATION AND COMMENTS RECEIVED



This page intentionally left blank



CARLSBAD
CLOVIS
EMERYVILLE
IRVINE
LOS ANGELES
PALM SPRINGS
RIVERSIDE
ROSEVILLE
SAN LUIS OBISPO

MEMORANDUM

DATE: June 16, 2026

To: Paul Herman, Deputy Director, Fresno Council of Governments

FROM: T.J. Warrner, Associate
Ryan Bensley, Principal

SUBJECT: Fresno Council of Governments 2026 Regional Transportation Plan/Sustainable Communities Strategy Project Scoping Comments Summary

In accordance with *State CEQA Guidelines* Section 15082, the Fresno Council of Governments (Fresno COG), as Lead Agency, submitted a Notice of Preparation (NOP) to the State Clearinghouse (SCH) on May 13, 2025 (SCH No. 2025050609) to serve as notification that a Program Environmental Impact Report (PEIR) was under preparation for the proposed project. In accordance with the *State CEQA Guidelines*, Section 15082, the NOP was circulated to responsible agencies and individuals for a period of 30 days, during which time written comments were solicited pertaining to environmental issues and topics that the Program Environmental Impact Report (PEIR) should evaluate.

The Fresno COG held a hybrid public scoping meeting (in person at the Sequoia Room of the Fresno COG offices at 2035 Tulare Street, Suite 201, Fresno, California, and online via Zoom) on May 28, 2025, to present the proposed project and solicit input from interested parties regarding environmental issues that should be addressed in this PEIR. No comments were received at the public scoping meeting.

The public scoping period lasted 30 days, beginning on May 13, 2025, and concluding on June 12, 2025. During this time, written comments were solicited on environmental issues that should be evaluated in the PEIR. Table A provides a summary of the comments received during the public scoping period. Copies of the written comments received are provided in Attachment A.

Table A: Summary of Scoping Comments Received

Letter No.	Agency/ Organization/ Individual	Date	Contents	Response
1	Native American Heritage Commission (NAHC)	May 27, 2025	Generally describes Assembly Bill (AB) 52 compliance and Native American consultation procedures.	Consistent with the requirements cited in this comment letter, the Fresno Council of Governments (COG) has provided notice of the proposed project via both certified mail and email to the Native American contacts provided by the NAHC and the tribes that had previously requested such notice, and will consult with the Native American tribes that request consultation in response to the notice. Refer to Section 4.18, Tribal Cultural Resources, of the Program Environmental Impact Report (PEIR) for more information.
2	San Joaquin Valley Air Pollution Control District (SJVAPCD)	May 29, 2025	Recommended that the PEIR include discussions of vehicle miles traveled (VMT) reduction strategies, AB 617, construction and operational emissions of future development projects facilitated by the proposed project, potential health risks on surrounding receptors, ambient air quality analysis, Voluntary Emission Reduction Agreement (VERA) implementation, vegetative barriers, truck routing, solar/electric infrastructure, and applicable SJVAPCD rules and regulations.	The PEIR addresses the topics presented in this comment letter, where applicable and feasible, in Sections 4.3, 3.6, and 4.8 (Air Quality, Energy, and Greenhouse Gas Emissions, respectively).
3	California Department of Fish and Wildlife (CDFW)	June 12, 2025	Recommended that the PEIR include discussions of special-status species, botanical survey requirements, California Endangered Species Act (CESA) compliance, United States Fish and Wildlife Service (USFWS) consultation, lake and streambed alteration impacts, nesting bird impacts, and CDFW filing fees.	The PEIR addresses the topics presented in this comment letter, where applicable and feasible, in Section 4.4, Biological Resources.
4	Center for Biological Diversity (CBD)	June 12, 2026	Request to be included on the noticing list for the proposed project.	As requested, the contacts provided in this comment have been added to the noticing list for the proposed project.

Source: Compiled by LSA (2026).

ATTACHMENT A

NOTICE OF PREPARATION



Notice of Preparation

Date: May 13, 2025

To: Reference List of Recipients

From: Paul Herman, Deputy Director
Fresno Council of Governments–Lead Agency
2035 Tulare Street, Suite 201, Fresno, CA 93721
(559) 233-4148
pherman@fresnocog.org

Subject: Notice of Preparation and Scoping Meeting for a Program Environmental Impact Report for the Fresno Council of Governments 2026 Regional Transportation Plan/Sustainable Communities Strategy

Notice is hereby given that the Fresno Council of Governments (Fresno COG) will serve as the lead agency and will prepare a Program Environmental Impact Report (PEIR) addressing potential environmental impacts associated with the 2026 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS). The PEIR will examine potential project impacts consistent with California Environmental Quality Act (CEQA) Guidelines (*State CEQA Guidelines*) Section 15082. The Fresno COG has prepared this Notice of Preparation (NOP) to provide information regarding the proposed project and areas of potential environmental effects proposed to be analyzed in the PEIR.

The project title, location, environmental review requirements, agency background and overview, project description, and probable environmental issues to be addressed in the PEIR are attached. An Initial Study is not attached and is not required pursuant to *State CEQA Guidelines* Section 15060(d).

The 30-day comment period runs from May 13, 2025 through June 12, 2025. Comments on the NOP are due no later than 5 p.m. on June 12, 2025. Please send your response to Paul Herman, Deputy Director, at the email (preferred) address or office address shown below. Please identify your (or your organization's) name, phone number, and email address as part of your comment.

By Email	By Mail
pherman@fresnocog.org	2035 Tulare Street, Suite 201 Fresno, CA 93721

The project is of regional significance; therefore, in addition to your written comments provided, your verbal comments regarding preparation of the PEIR are also accepted. A hybrid scoping meeting will be held on Wednesday, May 28, 2025 beginning at 4:00 p.m. in person at the Fresno COG Offices at 2035 Tulare Street, Suite 201, Fresno, CA 93721 in the Sequoia Room and via the Zoom platform at <https://us06web.zoom.us/j/88202269828?pwd=azYiZZUcAg1T4KhQDENPuR9Q8HZnOL1>

Fresno COG looks forward to receiving your comments regarding this important project for our region.

Project Title

Program Environmental Impact Report (PEIR) for the Fresno Council of Governments 2026 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS).

Location

Fresno COG is one of 38 regional planning agencies within California. Fresno COG works in partnership with its member agencies to plan the future transportation system, taking into consideration future growth estimates, potential development, and land use patterns outlined in each of the adopted or draft general plans prepared by these agencies. The Fresno COG planning area is approximately 6,000 square miles near the geographic center of California, approximately 220 miles north of Los Angeles, and includes the corporate limits of Fresno County, California, including the 15 incorporated cities (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 (refer to Figure 1, which shows the area to be addressed by the PEIR and the RTP/SCS).

Existing Conditions

According to the United States Census Bureau, Fresno County is the second largest county in California's San Joaquin Valley region.¹ Based on the most recent estimates from the State Department of Finance (DOF), the estimated population in January 2024 was 1,017,950,² placing Fresno County as the 10th most populous county of the 58 counties in California. The City of Fresno is the fifth largest city in the State, with a current (2024) population of 546,971. The region's population is projected to grow to 1,119,535 by 2045.³ The existing intermodal transportation network consists of a large network of Interstate and State routes, county roads, airports, and rail lines (refer to Figure 2). Key highway travel routes include Interstate 5 (southeast to northwest in the western portion of the county) and State Route 99 (southeast to northwest through Fresno) provide vital statewide transportation of people and goods. State Routes 33, 41, 168, and 180 provide additional intermodal access and provide opportunities to recreational areas in the county. Fresno County also maintains more than 3,400 miles of paved and unpaved roads.⁴ Additionally, as one of the largest farm commodity producers in the world, Fresno County has a strong "farm-to-market" travel demand affecting local roads and the State highways system. Freight movement occurs throughout the county, as farm agricultural and other commodities are brought to market and onto interregional routes. Amtrak serves Fresno and it is experiencing increasing ridership.

¹ United States Census Bureau. 2020. Fresno County, California. Website: https://data.census.gov/profile/Fresno_County_California?g=050XX00U06019 (accessed April 2025).

² State of California Department of Finance. 2024a. *Population and Housing Estimates for Cities, Counties, and the State — January 1, 2023 and 2024*. Website: <https://dof.ca.gov/forecasting/demographics/estimates-e1/> (accessed April 2025).

³ State of California Department of Finance. 2024b. *County Population Projections (2020-2070)*. Website: <https://dof.ca.gov/forecasting/demographics/projections/> (accessed April 2025).

⁴ County of Fresno. 2025. Road and Maintenance and Operations Division. <https://www.fresnocountyca.gov/Departments/Public-Works-and-Planning/divisions-of-public-works-and-planning/road-maintenance-and-operations-division> (accessed May 2025)

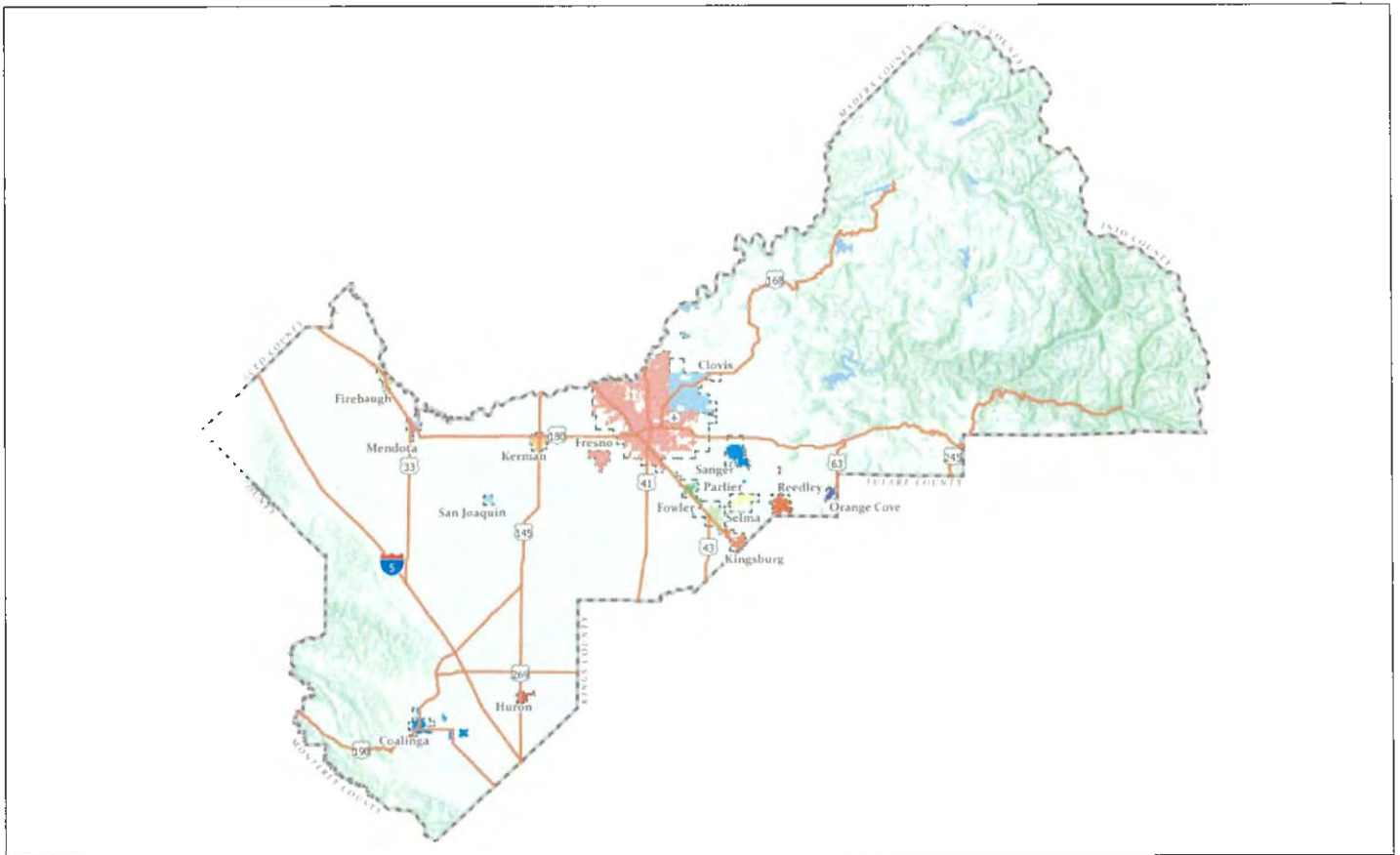


FIGURE 1

LSA

Fresno Council of Governments 2026 Regional Transportation Plan
and the Sustainable Communities Strategy Project
Regional Location and Project Vicinity

SOURCE: Fresno County General Plan 2024
1:500,000 (2024) (Project Location at 1:500,000)



FIGURE 2

LSA



SOURCE: 2022 Regional Transportation Plan: Sustainable Communities Strategy 2022

I:\20252196\G\Transportation_Network.a (5/12/2025)

LEGEND

- Airports
- Expressways
- Class 1 Trails
- Super Arterials
- Rail
- Arterials
- Freeways
- Collectors

Fresno Council of Governments 2026 Regional Transportation Plan
and the Sustainable Communities Strategy Project
Intermodal Transportation Network

Fresno-Yosemite International Airport provides a hub airport to its service areas of six counties and is one of nine public airports in the Fresno COG planning area. Fresno County has a Regional Active Transportation Plan (approved by the Fresno COG May 30, 2024), which involves expansion and connectivity of shared use paths, separated bikeways, bike lanes, bike routes, yield roadways, and bicycle parking throughout the county and its 15 cities.⁵

CEQA Requirements

The RTP/SCS PEIR will be prepared in accordance with CEQA and the *State CEQA Guidelines*. CEQA requires public agencies, such as the Fresno COG, to consider the potential environmental impacts of the proposed 2026 RTP/SCS. The objectives of CEQA are to:

- Disclose to the Fresno COG Board and the public the potential environmental impacts of the proposed RTP/SCS.
- Propose feasible alternatives or mitigation measures that avoid, eliminate, or reduce project-related environmental effects.
- Describe the analytical process that leads to Fresno COG’s decision on the project.
- Promote interagency coordination.
- Provide a mechanism for increasing public participation in the planning process.

Pursuant to *State CEQA Guidelines* Section 15168, the EIR will be prepared as a PEIR. This PEIR is intended to serve as the first tier of environmental review, providing a foundation for future, site-specific projects that may be implemented under the RTP/SCS. *CEQA Guidelines* Section 15168 describes a PEIR as an EIR that may be prepared on a series of actions that can be characterized as one large project and are related (1) by geography; (2) by local parts in the chain of contemplated actions; (3) in connection with issuance of rules, regulations, plans, or other general criteria; or (4) as individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects. The proposed PEIR to the RTP/SCS will be connected by criterion 1 for all subsequent projects and, for some subsequent projects, may meet all or portions of criteria 2, 3, and 4.

Additional environmental analysis by local jurisdictions or other agencies of individual projects contained in the 2026 RTP/SCS may be required. The tiering concept is a multi-level approach to streamlining subsequent environmental reviews. This first-tier RTP/SCS PEIR will include an analysis of general matters (i.e., broad policies, the planned regional multi-modal transportation system and related impacts, and program wide mitigation measures). Subsequent tiers prepared by local jurisdictions or other agencies (later EIRs and Negative Declarations) will include an analysis of narrower, subsequent projects by “incorporating by reference” the general discussions from the broader first-tier RTP/SCS PEIR. Second-tier environmental reviews will focus on the impacts of individual improvement projects that implement the RTP/SCS, related programs, and/or policy(ies).

Regional Planning Background and Overview

Fresno COG is a voluntary association of local governments and is one of California’s 38 regional transportation planning agencies (RTPAs). Fresno COG was created in 1967 through a Joint Powers Agreement composed of the Fresno County and the 15 incorporated cities. In addition, Fresno COG is a

⁵ Fresno Council of Governments. 2024. *Final Fresno County Regional Active Transportation Plan*. <https://www.fresnocog.org/project/active-transportation/> (accessed May 2025)

federally designated Metropolitan Planning Organization (MPO), which qualifies it for federal transportation funding as identified in Title 23 United States Code Section 134 and Title 23 Code of Federal Regulations (CFR) Part 450.300. MPOs are federally designated, whereas the State-designated RTPAs are described under California Government Code Section 29532 et seq. Fresno COG is both an MPO and an RTPA.

As part of the regional transportation planning process, Fresno COG studies potential transportation improvements, forecasts future conditions and needs, and pools the planning resources and expertise of its member agencies to facilitate development of a shared strategic vision for transportation and development in the region. These responsibilities enable Fresno COG to fulfill federal and State planning requirements and maintain the eligibility of the Fresno region for federal and State funding for transportation planning and improvements.

According to the 2024 California Regional Transportation Plan Guidelines, prepared by the California Transportation Commission (CTC), Fresno COG is required to adopt an updated RTP every 4 years. The 2026 RTP is a planning document to be developed by Fresno COG in cooperation with the Federal Highway Administration, Federal Transit Administration, California Department of Transportation (Caltrans), and other stakeholders, including transportation system users. Senate Bill (SB) 375 requires:

- That the California Air Resource Board (CARB) develop regional GHG emission reduction targets for cars and light trucks for each of the 18 MPOs in California, including Fresno COG.
- That Fresno COG prepare an SCS that specifies how the GHG emission reduction target set by CARB will be achieved. If the target cannot be met through the SCS, then an Alternative Planning Strategy (APS) shall be prepared by Fresno COG.
- That CEQA requirements streamline for specific residential and mixed-use developments that are consistent with the SCS or APS (as determined by CARB) to achieve the regional GHG emission reduction targets.

Project Description

The project, as defined pursuant to Public Resources Code Section 21065, is the preparation of the 2026 RTP/SCS. Fresno COG is in the process of preparing the RTP/SCS as required by Section 65080 et seq., of Chapter 2.5 of the California Government Code, federal guidelines pursuant to new requirements established in the federal surface transportation reauthorization “Moving Ahead for Progress in the 21st Century”, the Fixing America’s Surface Transportation Acts, and the Infrastructure Investment and Jobs Act, Transportation Conformity for the Air Quality Attainment Plan per 40 CFR Part 51 and Part 93, and requirements set forth in Assembly Bill 32, The California Global Warming Solutions Act of 2006, and SB 375, The Sustainable Communities and Climate Protection Act of 2008. Finally, the CTC has prepared guidelines (most recently adopted by the CTC on January 26, 2024) to assist in the preparation of the RTP/SCS.

The last comprehensive EIR on the RTP/SCS was completed in July 2022. The 2026 RTP/SCS will address all transportation modes, including motor vehicles, transit, rail, goods movement (rail freight and trucking), bicycle and pedestrian facilities, aviation systems, and transportation systems management programs and projects with the horizon year of 2049. In addition, the 2026 RTP/SCS will:

- Identify the region's transportation goals and policies
- Include the SCS, which demonstrates how the region will meet its GHG reduction targets through integrated land use, and housing and transportation planning. Once adopted by Fresno COG, the SCS becomes an integral part of the RTP.
- Set forth an action plan of projects and programs to address the needs consistent with the Policy Element, such as:
 - Allocating growth along transportation corridors in support of high-capacity transit systems.
 - Facilitating the development of mixed land use districts, which promote living, working, shopping, and recreation accessible by foot or bicycle, and that are served by centrally located transit routes (the Tower District in Fresno, Clovis' Old Town, and many of the County's small cities serve as examples built more than 40 years ago).
 - Maintaining and improving the regional street system, connecting local jurisdictions within Fresno County, and connecting Fresno County to adjacent counties.
 - Enhancing and maintaining the existing transit systems and the frequency of current services.
 - Developing connecting bikeway systems and facilitating and encouraging their use.
 - Improving connectivity between highways, streets and roads, transit and rail, transit and air travel, cycling and transit, etc.
 - Reservation of future "park and ride" opportunities.
 - An organized public education effort.
 - Appropriate financing, including both operations and capital investment.
- Integrate results reflected in the Congestion Management Program.
- Document the financial resources needed to implement the plan.
- Reflect the results of the Transportation Conformity Analysis.
- Highlight the 2026 RTP/SCS EIR process and results.
- Detail the RTP/SCS public outreach process.
- Include the Environmental Justice analysis process.

Specifically, the RTP/SCS will include the following recommended and required sections:

- Executive Summary: Provides a regional perspective and identifies challenges and objectives.
- Regional environmental issues.
- Policy Element: Identifies legislative, planning, financial, and institutional issues and requirements, as well as areas of regional consensus.
- Action Element: Describes programs and actions to implement the RTP, including the SCS, and assigns implementation responsibilities.
- Financial Element: Identifies current and anticipated revenue sources and financing techniques to fund planned investments described in the Action Element.
- Sustainable Communities Strategy: A forecasted development pattern integrated with the transportation network, measures and policies, resulting in reduced GHG emissions.

Preliminary 2026 RTP Project Alternatives and SCS Alternative Scenarios

The following 2026 RTP/SCS project alternatives may be addressed in the PEIR:

- No Build Alternative
- Five Additional Alternatives

CEQA Streamlining (Senate Bill 375 and Senate Bill 226)

SB 375 and SB 226 provide “exemptions” for certain types of projects from CEQA review. Projects may qualify for streamlined review if they conform to the regional SCS or the APS (if applicable). Projects qualify for streamlined CEQA review even if they conflict with local plans following adoption of the SCS.

Environmental Issues to be Addressed in the PEIR

The programs and projects to be included in the 2026 RTP/SCS will be analyzed through development of the PEIR. This will allow Fresno COG to analyze the regional or general impacts of the programs and projects. A more detailed or project-level environmental assessment (if required) of the various projects included in the RTP/SCS will be conducted by the various responsible agencies, including Caltrans, the County of Fresno, and the cities within the Fresno region before the projects are approved for construction and implementation.

Potential environmental impacts that could result from the project include project impacts to:

- Aesthetics
- Agricultural and Forestry Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Energy
- Geology and Soils
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Mineral Resources
- Noise
- Population and Housing
- Public Services
- Recreation
- Transportation
- Tribal Cultural Resources
- Utilities and Service Systems
- Wildfire
- Mandatory Findings of Significance

EIR PROCESS

Following the close of the NOP comment period, a Draft PEIR will be prepared that will consider all NOP comments. In accordance with *State CEQA Guidelines* Section 15105(a), the Draft EIR will be released for public review and comment for a required 45-day review period. Following the closure of the 45-day public review period, the Fresno COG will prepare a Final EIR, which will include responses to all substantive comments received on the Draft EIR. The Final EIR will be considered by the Transportation Technical Committee/Policy Advisory Committee and Policy Board in making the decision to certify the EIR and approve or deny the project.

Notice of Preparation – Fresno COG 2026 RTP/SCS PEIR
May 13, 2025

SCOPING MEETING INVITE

A hybrid scoping meeting will be held on Wednesday, May 28, 2025 beginning at 4:00 p.m. in person in the Sequoia Room at the Fresno COG Offices at 2035 Tulare Street, Suite 201, Fresno, CA 93721 and remotely via Zoom conferencing, which may be accessed using the instructions below:

Step 1) In an internet browser, go to <https://us06web.zoom.us/j/88202269828?pwd=azYiZZUcAg1T4KhQDENPuR9Q8HZn0L.1>

Step 2) On a phone, call 1-669-444-9171 (US) or 1-669-900-6833 (San Jose), then enter the webinar identification 88202269828#.

This is an informational meeting, and no decision will be made on the project. Both Fresno COG staff and the EIR Consultant will be present to review the plans and answer questions related to the project. We encourage your participation throughout the review process. You may submit comments by attending the meeting, emailing the Deputy Director, or mailing them to the Fresno COG address at 2035 Tulare Street, Suite 201, Fresno, CA 93721 prior to the close of the NOP comment period listed above.

Date: 5/13/25

Signature: 
Paul Herman, Deputy Director

ATTACHMENT B

NOTICE OF PREPARATION COMMENT LETTERS



CHAIRPERSON
Reginald Pagaling
Chumash

VICE-CHAIRPERSON
Buffy McQuillen
Yokayo Pomo, Yuki,
Nomlaki

SECRETARY
Sara Dutschke
Miwok

PARLIAMENTARIAN
Wayne Nelson
Luiseño

COMMISSIONER
Isaac Bojorquez
Ohlone-Costanoan

COMMISSIONER
Stanley Rodriguez
Kumeyaay

COMMISSIONER
Reid Milanovich
Cahuilla

COMMISSIONER
Bennae Calac
Pauma-Yuima Band of
Luiseño Indians

COMMISSIONER
Vacant

ACTING EXECUTIVE
SECRETARY
Steven Quinn

NAHC HEADQUARTERS
1550 Harbor Boulevard
Suite 100
West Sacramento,
California 95691
(916) 373-3710
nahc@nahc.ca.gov

STATE OF CALIFORNIA

Gavin Newsom, Governor

NATIVE AMERICAN HERITAGE COMMISSION

May 27, 2025

Paul Herman
Fresno Council of Governments
2035 Tulare Street
Suite 201
Fresno CA 93721

RECEIVED

JUN 04 2025

By: FRESNO COG

Re: 2025050609 Fresno Council of Governments 2026 Regional Transportation Plan/ Sustainable Communities Strategy (RTP/SCS) Project, Fresno County

Dear Mr. Herman:

The Native American Heritage Commission (NAHC) has received the Notice of Preparation (NOP), Draft Environmental Impact Report (DEIR) or Early Consultation for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code §21000 et seq.), specifically Public Resources Code §21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource, is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit.14, §15064.5 (b) (CEQA Guidelines §15064.5 (b)). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an Environmental Impact Report (EIR) shall be prepared. (Pub. Resources Code §21080 (d); Cal. Code Regs., tit. 14, § 5064 subd.(a)(1) (CEQA Guidelines §15064 (a)(1)). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources within the area of potential effect (APE).

CEQA was amended significantly in 2014. Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a separate category of cultural resources, "tribal cultural resources" (Pub. Resources Code §21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. (Pub. Resources Code §21084.2). Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code §21084.3 (a)). **AB 52 applies to any project for which a notice of preparation, a notice of negative declaration, or a mitigated negative declaration is filed on or after July 1, 2015.** If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). **Both SB 18 and AB 52 have tribal consultation requirements.** If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. §800 et seq.) may also apply.

The NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments.

Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.

AB 52

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

- 1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project:** Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:
 - a. A brief description of the project.
 - b. The lead agency contact information.
 - c. Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code §21080.3.1 (d)).
 - d. A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code §21073).
- 2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report:** A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code §21080.3.1, subs. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or Environmental Impact Report. (Pub. Resources Code §21080.3.1(b)).
 - a. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code §65352.4 (SB 18). (Pub. Resources Code §21080.3.1 (b)).
- 3. Mandatory Topics of Consultation If Requested by a Tribe:** The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:
 - a. Alternatives to the project.
 - b. Recommended mitigation measures.
 - c. Significant effects. (Pub. Resources Code §21080.3.2 (a)).
- 4. Discretionary Topics of Consultation:** The following topics are discretionary topics of consultation:
 - a. Type of environmental review necessary.
 - b. Significance of the tribal cultural resources.
 - c. Significance of the project's impacts on tribal cultural resources.
 - d. If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code §21080.3.2 (a)).
- 5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process:** With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code §6254 (r) and §6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code §21082.3 (c)(1)).
- 6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document:** If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:
 - a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
 - b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code §21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code §21082.3 (b)).

- 7. Conclusion of Consultation:** Consultation with a tribe shall be considered concluded when either of the following occurs:
- The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
 - A party, acting in good faith and offer reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code §21080.3.2 (b)).
- 8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document:** Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code §21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code §21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code §21082.3 (a)).
- 9. Required Consideration of Feasible Mitigation:** If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code §21084.3 (b). (Pub. Resources Code §21082.3 (e)).
- 10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:**
- Avoidance and preservation of the resources in place, including, but not limited to:
 - Planning and construction to avoid the resources and protect the cultural and natural context.
 - Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
 - Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
 - Protecting the cultural character and integrity of the resource.
 - Protecting the traditional use of the resource.
 - Protecting the confidentiality of the resource.
 - Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
 - Protecting the resource. (Pub. Resource Code §21084.3 (b)).
 - Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code §815.3 (c)).
 - Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code §5097.991).
- 11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource:** An Environmental Impact Report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:
- The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code §21080.3.1 and §21080.3.2 and concluded pursuant to Public Resources Code §21080.3.2.
 - The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
 - The lead agency provided notice of the project to the tribe in compliance with Public Resources Code §21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code §21082.3 (d)).

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf

SB 18

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code §65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at:

https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf.

Some of SB 18's provisions include:

1. Tribal Consultation: If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code §65352.3 (a)(2)).
2. No Statutory Time Limit on SB 18 Tribal Consultation. There is no statutory time limit on SB 18 tribal consultation.
3. Confidentiality: Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code §65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code §5097.9 and §5097.993 that are within the city's or county's jurisdiction. (Gov. Code §65352.3 (b)).
4. Conclusion of SB 18 Tribal Consultation: Consultation should be concluded at the point in which:
 - a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
 - b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>.

NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center (https://ohp.parks.ca.gov/?page_id=30331) for an archaeological records search. The records search will determine:
 - a. If part or all of the APE has been previously surveyed for cultural resources.
 - b. If any known cultural resources have already been recorded on or adjacent to the APE.
 - c. If the probability is low, moderate, or high that cultural resources are located in the APE.
 - d. If a survey is required to determine whether previously unrecorded cultural resources are present.
2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.

- b.** The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.
- 3.** Contact the NAHC for:
 - a.** A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
 - b.** A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.
- 4.** Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.
 - a.** Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, §15064.5(f) (CEQA Guidelines §15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
 - b.** Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
 - c.** Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code §7050.5, Public Resources Code §5097.98, and Cal. Code Regs., tit. 14, §15064.5, subdivisions (d) and (e) (CEQA Guidelines §15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

If you have any questions or need additional information, please contact me at my email address: Pricilla.Torres-Fuentes@NAHC.ca.gov.

Sincerely,

Pricilla Torres-Fuentes

Pricilla Torres-Fuentes
Cultural Resources Analyst

cc: State Clearinghouse



CHAIRPERSON
Reginald Pagaling
Chumash

VICE-CHAIRPERSON
Buffy McQuillen
Yokayo Pomo, Yuki,
Nomlaki

SECRETARY
Sara Dutschke
Miwok

PARLIAMENTARIAN
Wayne Nelson
Luiseño

COMMISSIONER
Isaac Bojorquez
Ohlone-Costanoan

COMMISSIONER
Stanley Rodriguez
Kumeyaay

COMMISSIONER
Reid Milanovich
Cahuilla

COMMISSIONER
Bennae Calac
Pauma-Yuima Band of
Luiseño Indians

COMMISSIONER
Vacant

ACTING EXECUTIVE
SECRETARY
Steven Quinn

NAHC HEADQUARTERS
1550 Harbor Boulevard
Suite 100
West Sacramento,
California 95691
(916) 373-3710
nahc@nahc.ca.gov

STATE OF CALIFORNIA

Gavin Newsom, Governor

NATIVE AMERICAN HERITAGE COMMISSION

May 27, 2025

Paul Herman
Fresno Council of Governments
2035 Tulare Street
Suite 201
Fresno CA 93721

RECEIVED

JUN 04 2025

By: FRESNO COG

Re: 2025050609 Fresno Council of Governments 2026 Regional Transportation Plan/ Sustainable Communities Strategy (RTP/SCS) Project, Fresno County

Dear Mr. Herman:

The Native American Heritage Commission (NAHC) has received the Notice of Preparation (NOP), Draft Environmental Impact Report (DEIR) or Early Consultation for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code §21000 et seq.), specifically Public Resources Code §21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource, is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit.14, §15064.5 (b) (CEQA Guidelines §15064.5 (b)). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an Environmental Impact Report (EIR) shall be prepared. (Pub. Resources Code §21080 (d); Cal. Code Regs., tit. 14, § 5064 subd.(a)(1) (CEQA Guidelines §15064 (a)(1)). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources within the area of potential effect (APE).

CEQA was amended significantly in 2014. Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a separate category of cultural resources, "tribal cultural resources" (Pub. Resources Code §21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. (Pub. Resources Code §21084.2). Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code §21084.3 (a)). **AB 52 applies to any project for which a notice of preparation, a notice of negative declaration, or a mitigated negative declaration is filed on or after July 1, 2015.** If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). **Both SB 18 and AB 52 have tribal consultation requirements.** If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. §800 et seq.) may also apply.

The NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments.

Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.

AB 52

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

- 1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project:** Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:
 - a. A brief description of the project.
 - b. The lead agency contact information.
 - c. Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code §21080.3.1 (d)).
 - d. A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code §21073).
- 2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report:** A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code §21080.3.1, subs. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or Environmental Impact Report. (Pub. Resources Code §21080.3.1(b)).
 - a. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code §65352.4 (SB 18). (Pub. Resources Code §21080.3.1 (b)).
- 3. Mandatory Topics of Consultation If Requested by a Tribe:** The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:
 - a. Alternatives to the project.
 - b. Recommended mitigation measures.
 - c. Significant effects. (Pub. Resources Code §21080.3.2 (a)).
- 4. Discretionary Topics of Consultation:** The following topics are discretionary topics of consultation:
 - a. Type of environmental review necessary.
 - b. Significance of the tribal cultural resources.
 - c. Significance of the project's impacts on tribal cultural resources.
 - d. If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code §21080.3.2 (a)).
- 5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process:** With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code §6254 (r) and §6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code §21082.3 (c)(1)).
- 6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document:** If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:
 - a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
 - b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code §21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code §21082.3 (b)).

7. Conclusion of Consultation: Consultation with a tribe shall be considered concluded when either of the following occurs:

- a.** The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
- b.** A party, acting in good faith and offer reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code §21080.3.2 (b)).

8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document: Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code §21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code §21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code §21082.3 (a)).

9. Required Consideration of Feasible Mitigation: If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code §21084.3 (b). (Pub. Resources Code §21082.3 (e)).

10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:

- a.** Avoidance and preservation of the resources in place, including, but not limited to:
 - i.** Planning and construction to avoid the resources and protect the cultural and natural context.
 - ii.** Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
- b.** Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
 - i.** Protecting the cultural character and integrity of the resource.
 - ii.** Protecting the traditional use of the resource.
 - iii.** Protecting the confidentiality of the resource.
- c.** Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
- d.** Protecting the resource. (Pub. Resource Code §21084.3 (b)).
- e.** Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code §815.3 (c)).
- f.** Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code §5097.991).

11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource: An Environmental Impact Report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:

- a.** The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code §21080.3.1 and §21080.3.2 and concluded pursuant to Public Resources Code §21080.3.2.
- b.** The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
- c.** The lead agency provided notice of the project to the tribe in compliance with Public Resources Code §21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code §21082.3 (d)).

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf

SB 18

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code §65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at:

https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf.

Some of SB 18's provisions include:

1. Tribal Consultation: If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code §65352.3 (a)(2)).
2. No Statutory Time Limit on SB 18 Tribal Consultation. There is no statutory time limit on SB 18 tribal consultation.
3. Confidentiality: Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code §65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code §5097.9 and §5097.993 that are within the city's or county's jurisdiction. (Gov. Code §65352.3 (b)).
4. Conclusion of SB 18 Tribal Consultation: Consultation should be concluded at the point in which:
 - a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
 - b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>.

NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center (https://ohp.parks.ca.gov/?page_id=30331) for an archaeological records search. The records search will determine:
 - a. If part or all of the APE has been previously surveyed for cultural resources.
 - b. If any known cultural resources have already been recorded on or adjacent to the APE.
 - c. If the probability is low, moderate, or high that cultural resources are located in the APE.
 - d. If a survey is required to determine whether previously unrecorded cultural resources are present.
2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.

- b.** The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.
- 3.** Contact the NAHC for:
 - a.** A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
 - b.** A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.
- 4.** Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.
 - a.** Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, §15064.5(f) (CEQA Guidelines §15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
 - b.** Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
 - c.** Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code §7050.5, Public Resources Code §5097.98, and Cal. Code Regs., tit. 14, §15064.5, subdivisions (d) and (e) (CEQA Guidelines §15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

If you have any questions or need additional information, please contact me at my email address: Pricilla.Torres-Fuentes@NAHC.ca.gov.

Sincerely,

Pricilla Torres-Fuentes

Pricilla Torres-Fuentes
Cultural Resources Analyst

cc: State Clearinghouse

May 29, 2025

Paul Herman
Fresno Council of Governments
2035 Tulare Street, Suite 201
Fresno, CA, 93721

**Project: Notice of Preparation of a Draft Program Environmental Impact Report
for the Fresno Council of Governments 2026 Regional Transportation
Plan/Sustainable Communities Strategy**

District CEQA Reference No: 20250624

Dear Mr. Herman:

The San Joaquin Valley Air Pollution Control District (District) has reviewed the Notice of Preparation (NOP) of a Draft Program Environmental Impact Report (DPEIR) from the Fresno Council of Governments (FCOG) for the 2026 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS) project. Per the NOP, the project consists of updating FCOG's transportation plan for the region's transportation system to ensure the plan adequately addresses future transportation needs (Project). The RTP/SCS will address all transportation modes, including motor vehicles, transit, rail, goods movement (rail freight and trucking), bicycle and pedestrian facilities, aviation systems, and transportation systems management programs. The Project is located within Fresno County including 15 incorporated cities (Clovis, Coalinga, Firebaugh, Fowler, Fresno, Huron, Kerman, Kingsburg, Mendota, Orange Cove, Parlier, Reedley, San Joaquin, Sanger, and Selma), all unincorporated communities under the jurisdiction of the county, all in California. The Project area includes one of the communities in the state selected by the California Air Resources Board (CARB) for investment of additional air quality resources and attention under Assembly Bill (AB) 617 (Garcia) in an effort to reduce air pollution exposure in impacted disadvantaged communities. See Figure 1 below.

Samir Sheikh

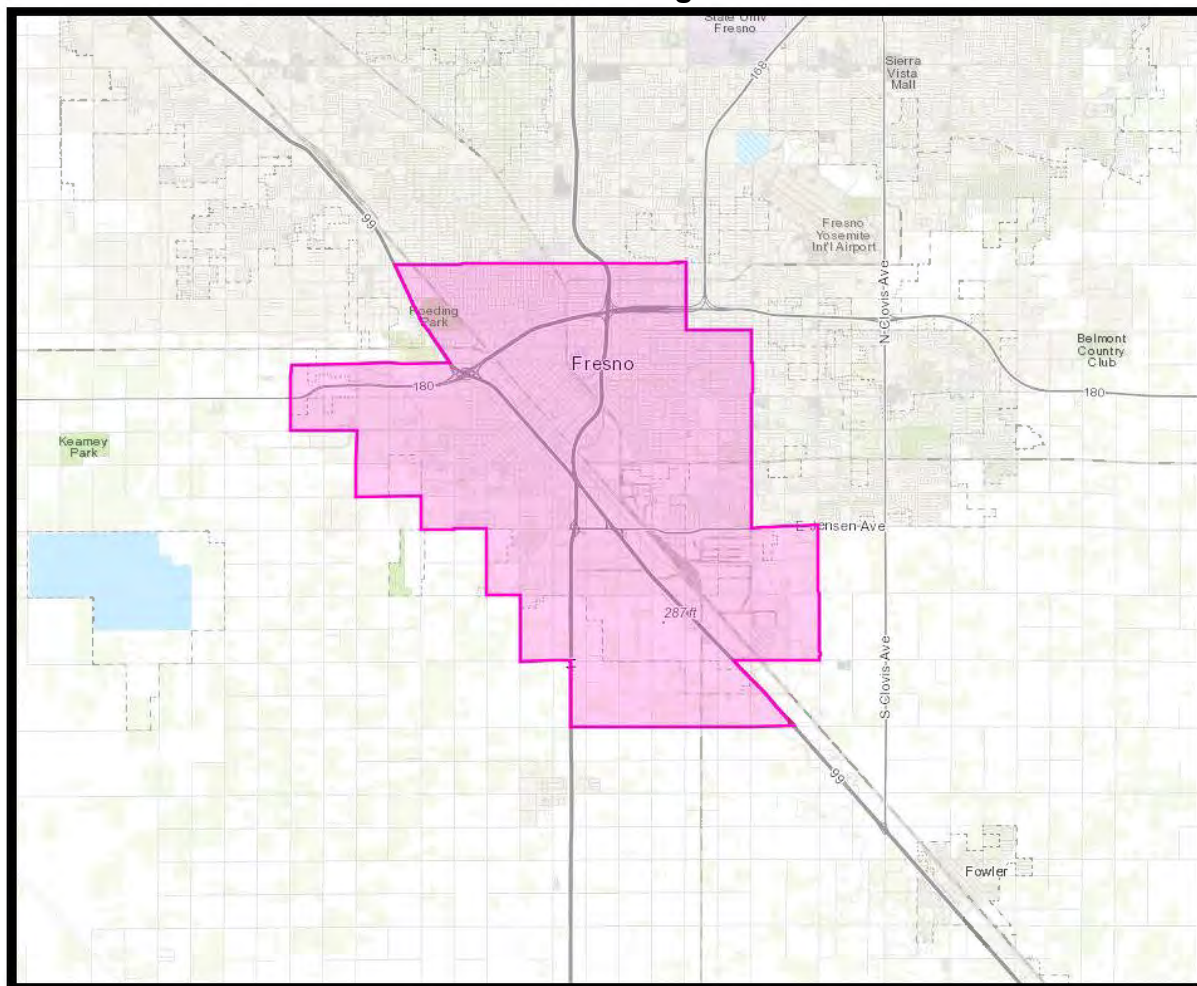
Executive Director/Air Pollution Control Officer

Northern Region
4800 Enterprise Way
Modesto, CA 95356-8718
Tel: (209) 557-6400 FAX: (209) 557-6475

Central Region (Main Office)
1990 E. Gettysburg Avenue
Fresno, CA 93726-0244
Tel: (559) 230-6000 FAX: (559) 230-6061

Southern Region
34946 Flyover Court
Bakersfield, CA 93308-9725
Tel: (661) 392-5500 FAX: (661) 392-5585

Figure 1: Boundary of the South Central Fresno Community Emissions Reduction Program



The District offers the following comments at this time regarding the Project:

1) Transportation/Land Use Planning

Nearly all development projects within the San Joaquin Valley Air Basin, from RTP/SCS to individual projects have the potential to generate air pollutants, making it more difficult to attain state and federal ambient air quality standards. Land use decisions are critical to improving air quality within the San Joaquin Valley Air Basin because land use patterns greatly influence transportation needs, and motor vehicle emissions are the largest source of air pollution in the Valley. Land use decisions and project design elements such as preventing urban sprawl, encouraging mix-use development, and project design elements that reduce vehicle miles traveled (VMT) have proven to be beneficial for air quality. The District recommends that future development projects incorporate strategies that reduce VMTs and require the

cleanest available heavy duty trucks, vehicles, and off-road equipment, including zero and near-zero technologies. VMTs can be reduced through encouragement of mix-use development, walkable communities, etc. Additional design element options can be found at:

<https://ww2.valleyair.org/media/ob0pweru/clean-air-measures.pdf>

In addition, the District recommends future development projects incorporate strategies that will advance implementation of the best practices listed in Tables 5 and 6 of California Air Resource Board's (CARB's) Freight Handbook Concept Paper, to the extent feasible. This document compiles best practices designed to address air pollution impacts as "practices" which may apply to the siting, design, construction, and operation of freight facilities to minimize health impacts on nearby communities. The concept paper is available at:

https://ww2.arb.ca.gov/sites/default/files/2020-03/2019.12.12%20-%20Concept%20Paper%20for%20the%20Freight%20Handbook_1.pdf

2) Assembly Bill 617

AB 617 requires CARB and air districts to develop and implement Community Emission Reduction Programs (CERPs) in an effort to reduce air pollution exposure in impacted disadvantaged communities, like those in which the Project is located. The South Central Fresno AB 617 community is one of the statewide communities selected by CARB for development and implementation of a CERP.

Following extensive community engagement and collaboration with the Community Steering Committee, the CERP for the South Central Fresno Community was adopted by the District's Governing Board in September 2019 and by CARB in February 2020.

During the development of the CERP, the Community Steering Committee expressed concerns regarding the proximity of emission sources to nearby sensitive receptors like schools, homes, day care centers, and hospitals, and the potential future industrial development within the community that may exacerbate the cumulative exposure burden for community residents. The Community Steering Committee also expressed the desire for more meaningful avenues of engagement surrounding the land-use decisions in the area. As these issues can most effectively be addressed through strong partnerships between community members and local land-use agencies. Furthermore, the District recommends FCOG assess the emission reductions measures and strategies included in the CERP and address them in the RTP/SCS, as appropriate, to align FCOG's work with the air pollution and exposure reduction strategies and measures outlined in the CERP.

For more information regarding the CERP approved for South Central Fresno, please visit the District's website at:

<https://community.valleyair.org/selected-communities/south-central-fresno>

3) Project Related Emissions

At the federal level under the National Ambient Air Quality Standards (NAAQS), the District is designated as extreme nonattainment for the 8-hour ozone standards and serious nonattainment for the particulate matter less than 2.5 microns in size (PM_{2.5}) standards. At the state level under California Ambient Air Quality Standards (CAAQS), the District is designated as nonattainment for the 8-hour ozone, PM₁₀, and PM_{2.5} standards.

As such, the District recommends that the DPEIR stipulate that future development projects within the RTP/SCS identify and characterize project construction and operational air emissions. The District recommends the air emissions be compared to the District significance thresholds as identified in the District's Guidance for Assessing and Mitigating Air Quality Impacts:

<https://ww2.valleyair.org/media/g4nl3p0g/gamaqi.pdf>. The District recommends that future projects be mitigated to the extent feasible, and that future projects with air emissions above the aforementioned thresholds be mitigated to below these thresholds.

The District understands that the RTP/SCS is a program-level project where future individual project-specific data may not be available at this time. As such, the DPEIR should include a discussion of policies, which when implemented, will require assessment and characterization of future development project-level emissions, and subsequently require mitigation of air quality impacts to the extent feasible at the individual project-specific level. Future development environmental reviews of potential impacts on air quality should incorporate the following items:

3a) Construction Emissions

The District recommends for future development projects, to reduce impacts from construction-related diesel exhaust emissions, the Project should utilize the cleanest available off-road construction equipment.

3b) Operational Emissions

Future development projects operational (ongoing) air emissions from mobile sources and stationary sources should be analyzed separately. For reference, the District's significance thresholds are identified in the District's Guidance for Assessing and Mitigating Air Quality Impacts:
<https://ww2.valleyair.org/media/g4nl3p0g/gamaqi.pdf>.

Recommended Mitigation Measure: At a minimum, future development project related impacts on air quality should be reduced to levels below the District's significance thresholds through incorporation of design elements such as the

use of cleaner Heavy Heavy-Duty (HHD) trucks and vehicles, measures that reduce Vehicle Miles Traveled (VMTs), and measures that increase energy efficiency. More information on transportation mitigation measures can be found at:

<https://ww2.valleyair.org/media/ob0pweru/clean-air-measures.pdf>

3c) Recommended Model for Quantifying Air Emissions

Future development projects criteria pollutant emissions from construction and operational sources should be identified and quantified. Emissions analysis should be performed using the California Emission Estimator Model (CalEEMod), which uses the most recent CARB-approved version of relevant emissions models and emission factors. CalEEMod is available to the public and can be downloaded from the CalEEMod website at: www.caleemod.com.

4) Health Risk Screening/Assessment

The FCOG should evaluate the risk associated with the future development for sensitive receptors (residences, businesses, hospitals, day-care facilities, health care facilities, etc.) in the area and mitigate any potentially significant risk to help limit exposure of sensitive receptors to emissions.

To determine potential health impacts on surrounding receptors (residences, businesses, hospitals, day-care facilities, health care facilities, etc.) a Prioritization and/or a Health Risk Assessment (HRA) should be performed for future development projects that may be approved under implementation of the RTP/SCS. These health risk determinations should quantify and characterize potential Toxic Air Contaminants (TACs) identified by the Office of Environmental Health Hazard Assessment/California Air Resources Board (OEHHA/CARB) that pose a present or potential hazard to human health.

Health risk analyses should include all potential air emissions from the project, which include emissions from construction of the project, including multi-year construction, as well as ongoing operational activities of the project. Note, two common sources of TACs can be attributed to diesel exhaust emitted from heavy-duty off-road earth moving equipment during construction, and from ongoing operation of heavy-duty on-road trucks.

Prioritization (Screening Health Risk Assessment):

A "Prioritization" is the recommended method for a conservative screening-level health risk assessment. The Prioritization should be performed using the California Air Pollution Control Officers Association's (CAPCOA) methodology. Please contact the District for assistance with performing a Prioritization analysis.

The District recommends that a more refined analysis, in the form of an HRA, be

performed for any project resulting in a Prioritization score of 10 or greater. This is because the prioritization results are a conservative health risk representation, while the detailed HRA provides a more accurate health risk evaluation.

Health Risk Assessment:

Prior to performing an HRA, it is strongly recommended that land use agencies/ project proponents develop and submit for District review a health risk modeling protocol that outlines the sources and methodologies that will be used to perform the HRA.

A development project would be considered to have a potentially significant health risk if the HRA demonstrates that the health impacts would exceed the District's established risk thresholds, which can be found here:

<https://ww2.valleyair.org/permitting/ceqa/>.

A project with a significant health risk would trigger all feasible mitigation measures. The District strongly recommends that development projects that result in a significant health risk not be approved by the land use agency.

The District is available to review HRA protocols and analyses. For HRA submittals please provide the following information electronically to the District for review:

- HRA (AERMOD) modeling files
- HARP2 files
- Summary of emissions source locations, emissions rates, and emission factor calculations and methodologies.

For assistance, please contact the District's Technical Services Department by:

- E-Mailing inquiries to: hramodeler@valleyair.org
- Calling (559) 230-5900

Recommended Measure: Future development projects resulting in TAC emissions should be located an adequate distance from residential areas and other sensitive receptors to prevent the creation of a significant health risk in accordance to CARB's Air Quality and Land Use Handbook: A Community Health Perspective located at <https://ww2.arb.ca.gov/our-work/programs/resource-center/strategy-development/land-use-resources>.

5) Ambient Air Quality Analysis

An Ambient Air Quality Analysis (AAQA) uses air dispersion modeling to determine if emissions increases from a project will cause or contribute to a violation of State or National Ambient Air Quality Standards. The District recommends an AAQA be performed for any future development projects that may be approved under implementation of the Project with emissions that exceed 100 pounds per day of any pollutant.

An AAQA uses air dispersion modeling to determine if emission increase from a project will cause or contribute to a violation of State or National Ambient Air Quality Standards. An acceptable analysis would include emissions from both project-specific permitted and non-permitted equipment and activities. The District recommends consultation with District staff to determine the appropriate model and input data to use in the analysis.

Specific information for assessing significance, including screening tools and modeling guidance, is available online at the District's website:
<https://ww2.valleyair.org/permitting/ceqa/>.

6) Voluntary Emission Reduction Agreement

Future development projects could have a significant impact on air quality. The District recommends the DPEIR include a feasibility discussion on implementing a Voluntary Emission Reduction Agreement (VERA) as a mitigation measure for future development projects that may be approved under implementation of the Project that are determined to exceed the District's CEQA significance thresholds.

A VERA is a mitigation measure by which the project proponent provides pound-for-pound mitigation of emissions increases through a process that develops, funds, and implements emission reduction projects, with the District serving a role of administrator of the emissions reduction projects and verifier of the successful mitigation effort. To implement a VERA, the project proponent and the District enter into a contractual agreement in which the project proponent agrees to mitigate project specific emissions by providing funds for the District's incentives programs. The funds are disbursed by the District in the form of grants for projects that achieve emission reductions. Thus, project-related impacts on air quality can be mitigated. Types of emission reduction projects that have been funded in the past include electrification of stationary internal combustion engines (such as agricultural irrigation pumps), replacing old heavy-duty trucks with new, cleaner, more efficient heavy-duty trucks, and replacement of agricultural equipment with the latest generation technologies.

In implementing a VERA, the District verifies the actual emission reductions that have been achieved as a result of completed grant contracts, monitors the emission reduction projects, and ensures the enforceability of achieved reductions. After the project is mitigated, the District certifies to the Lead Agency that the mitigation is completed, providing the Lead Agency with an enforceable mitigation measure demonstrating that project-related emissions have been mitigated. To assist the Lead Agency and project proponent in ensuring that the environmental document is compliant with CEQA, the District recommends the environmental document includes an assessment of the feasibility of implementing a VERA.

7) Truck Routing

Truck routing involves the assessment of which roads Heavy Heavy-Duty (HHD) trucks take to and from their destination, and the emissions impact that the HHD trucks may have on residential communities and sensitive receptors.

The District recommends HHD truck routing patterns for future development projects be evaluated, with the aim of limiting exposure of residential communities and sensitive receptors to emissions. This evaluation would consider the current truck routes, the quantity and type of each truck (e.g., Medium Heavy-Duty, HHD, etc.), the destination and origin of each trip, traffic volume correlation with the time of day or the day of the week, overall Vehicle Miles Traveled (VMT), and associated exhaust emissions. The truck routing evaluation would also identify alternative truck routes and their impacts on VMT and air quality.

8) Vegetative Barriers and Urban Greening

The District suggests future development projects consider incorporating vegetative barriers and urban greening as a measure to further reduce air pollution exposure on sensitive receptors (e.g., residences, schools, healthcare facilities).

While various emission control techniques and programs exist to reduce air quality emissions from mobile and stationary sources, vegetative barriers have been shown to be an additional measure to potentially reduce a population's exposure to air pollution through the interception of airborne particles and the uptake of gaseous pollutants. Examples of vegetative barriers include, but are not limited to the following: trees, bushes, shrubs, or a mix of these. Generally, a higher and thicker vegetative barrier with full coverage will result in greater reductions in downwind pollutant concentrations. In the same manner, urban greening is also a way to help improve air quality and public health in addition to enhancing the overall beautification of a community with drought tolerant, low-maintenance greenery.

9) On-Site Solar Deployment

It is the policy of the State of California that renewable energy resources and zero-carbon resources supply 100% of retail sales of electricity to California end-use customers by December 31, 2045. While various emission control techniques and programs exist to reduce air quality emissions from mobile and stationary sources, the production of solar energy is contributing to improving air quality and public health. The District suggests that solar power systems as an emission reduction strategy be incorporated for future development projects that may be approved under implementation of the Project.

10) Electric Infrastructure

To support and accelerate the installation of electric vehicle charging equipment and development of required infrastructure, the District offers incentives to public agencies, businesses, and property owners of multi-unit dwellings to install electric charging infrastructure (Level 2 and 3 chargers). The purpose of the District's Charge Up! Incentive program is to promote clean air alternative-fuel technologies and the use of low or zero-emission vehicles. The District recommends that the future development project proponents install electric vehicle chargers at project sites, and at strategic locations.

Please visit <https://ww2.valleyair.org/grants/charge-up> for more information.

11) Locomotives, and Railcar Movers/Switchers

To reduce air quality emission impacts, the District recommends future development freight and passenger train operators to utilize newer, and cleaner technology. Replacing older locomotives is important to reduce the public's exposure to diesel emissions, including PM2.5 in the form of diesel particulate and NOx. These pollutants negatively impact human health, especially for sensitive populations such as children and the elderly. New, clean-technology locomotives generate significantly lower emissions than older, uncontrolled diesel locomotives.

The District offers the following incentive program for locomotive fleets interested in transitioning to newer, clean technology:

- Heavy-Duty Program – <https://ww2.valleyair.org/grants/locomotive-program/> Locomotive replacements, including switcher locomotives and railcar movers can be funded as an eligible project category under the District's utilizing funding provided to support AB 617. These projects are administered according to the Carl Moyer Program guidelines.

12) District Rules and Regulations

The District issues permits for many types of air pollution sources, and regulates some activities that do not require permits. A project subject to District rules and regulations would reduce its impacts on air quality through compliance with the District's regulatory framework. In general, a regulation is a collection of individual rules, each of which deals with a specific topic. As an example, Regulation II (Permits) includes District Rule 2010 (Permits Required), Rule 2201 (New and Modified Stationary Source Review), Rule 2520 (Federally Mandated Operating Permits), and several other rules pertaining to District permitting requirements and processes.

The list of rules below is neither exhaustive nor exclusive. Current District rules can be found online at: <https://ww2.valleyair.org/rules-and-planning/current-district-rules-and-regulations>. To identify other District rules or regulations that apply to future projects, or to obtain information about District permit requirements, the project proponents are strongly encouraged to contact the District's Small Business Assistance (SBA) Office at (209) 557-6446.

12a) District Rules 2010 and 2201 - Air Quality Permitting for Stationary Sources

Stationary Source emissions include any building, structure, facility, or installation which emits or may emit any affected pollutant directly or as a fugitive emission. District Rule 2010 (Permits Required) requires operators of emission sources to obtain an Authority to Construct (ATC) and Permit to Operate (PTO) from the District. District Rule 2201 (New and Modified Stationary Source Review) requires that new and modified stationary sources of emissions mitigate their emissions using Best Available Control Technology (BACT).

Future development projects may be subject to District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Source Review) and may require District permits. Prior to construction, project proponents shall obtain an ATC permit from the District for equipment/activities subject to District permitting requirements. For further information or assistance, project proponents may contact the District's SBA Office at (209) 557-6446.

12b) District Rule 9510 - Indirect Source Review (ISR)

The purpose of District Rule 9510 is to reduce the growth in both NO_x and PM emissions associated with development and transportation projects from mobile and area sources; specifically, the emissions associated with the construction and subsequent operation of development projects. The Rule requires developers to mitigate their NO_x and PM emissions by incorporating clean air

design elements into their projects. Should the proposed development project clean air design elements be insufficient to meet the required emission reductions, developers must pay a fee that ultimately funds incentive projects to achieve off-site emissions reductions.

Accordingly, future development projects may be subject to District Rule 9510 if upon full buildout, the project would equal or exceed any of the following applicability thresholds, depending on the type of development and public agency approval mechanism:

Table 1: ISR Applicability Thresholds

Development Type	Discretionary Approval Threshold	Ministerial Approval / Allowed Use / By Right Thresholds
Residential	50 dwelling units	250 dwelling units
Commercial	2,000 square feet	10,000 square feet
Light Industrial	25,000 square feet	125,000 square feet
Heavy Industrial	100,000 square feet	500,000 square feet
Medical Office	20,000 square feet	100,000 square feet
General Office	39,000 square feet	195,000 square feet
Educational Office	9,000 square feet	45,000 square feet
Government	10,00 square feet	50,000 square feet
Recreational	20,000 square feet	100,000 square feet
Other	9,000 square feet	45,000 square feet

District Rule 9510 also applies to any transportation or transit development projects where construction exhaust emissions equal or exceed two tons of NOx or two tons of PM.

In the case the future development project(s) are subject to District Rule 9510, per Section 5.0 of the rule, an Air Impact Assessment (AIA) application is required to be submitted no later than applying for project-level approval from a public agency so that proper mitigation and clean air design under ISR can be incorporated into the public agency's analysis.

Information about how to comply with District Rule 9510 can be found online at: <https://ww2.valleyair.org/permitting/indirect-source-review-rule-overview>

The AIA application form can be found online at: <https://ww2.valleyair.org/permitting/indirect-source-review-rule-overview/forms-and-applications/>

District staff is available to provide assistance with determining if future development projects will be subject to Rule 9510, and can be reached by phone at (559) 230-5900 or by email at ISR@valleyair.org.

12c) District Rule 9410 (Employer Based Trip Reduction)

Future development projects may be subject to District Rule 9410 (Employer Based Trip Reduction) if the project would result in employment of 100 or more “eligible” employees. District Rule 9410 requires employers with 100 or more “eligible” employees at a worksite to establish an Employer Trip Reduction Implementation Plan (eTRIP) that encourages employees to reduce single-occupancy vehicle trips, thus reducing pollutant emissions associated with work commutes. Under an eTRIP plan, employers have the flexibility to select the options that work best for their worksites and their employees.

Information about District Rule 9410 can be found online at:
<https://ww2.valleyair.org/compliance/rule-9410-employer-based-trip-reduction/>.

For additional information, you can contact the District by phone at 559-230-6000 or by e-mail at etrip@valleyair.org

12d) Other District Rules and Regulations

Future development projects may also be subject to the following District rules: Rule 4102 (Nuisance) and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations).

13) District Comment Letter

The District recommends that a copy of the District’s comments be provided to the Project proponent.

If you have any questions or require further information, please contact Eric McLaughlin by e-mail at eric.mclaughlin@valleyair.org or by phone at (559) 230-5808.

Sincerely,

Mark Montelongo
Director of Policy and Government Affairs



For: Daniel Martinez
Program Manager



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
1234 East Shaw Avenue
Fresno, California 93710
(559) 243 - 4005
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



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 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

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.

Paul Herman, Deputy Director
 Fresno Council of Governments
 June 12, 2025
 Page 2

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

Paul Herman, Deputy Director
Fresno Council of Governments
June 12, 2025
Page 3

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.

Paul Herman, Deputy Director
Fresno Council of Governments
June 12, 2025
Page 4

Special-Status Species

Based on aerial imagery and species occurrence records from the California Natural Diversity Database (CNDDDB) (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.

Paul Herman, Deputy Director
Fresno Council of Governments
June 12, 2025
Page 5

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 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

Paul Herman, Deputy Director
 Fresno Council of Governments
 June 12, 2025
 Page 6

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

Paul Herman, Deputy Director
Fresno Council of Governments
June 12, 2025
Page 7

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 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 the CNDDDB at the following email address:

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

FILING FEES

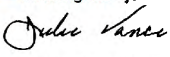
If it is determined that the Plan or subsequent projects have the potential to impact biological resources, an assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment 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:

FA83F09FE08945A...

Julie A. Vance
Regional Manager

Paul Herman, Deputy Director
Fresno Council of Governments
June 12, 2025
Page 8

ATTACHMENT

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

Paul Herman, Deputy Director
Fresno Council of Governments
June 12, 2025
Page 9

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.

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

Crotch's bumble bee	<i>Bombus crotchii</i>	C	None
American badger	<i>Taxidea taxus</i>	SSC	None
Short-nosed kangaroo rat	<i>Dipodomys nitratooides brevinasus</i>	SSC	None
Tulare grasshopper mouse	<i>Onychomys torridus tularensis</i>	SSC	None
California Spotted Owl	<i>Strix occidentalis occidentalis</i>	SSC	PE
Loggerhead shrike	<i>Lanius ludovicianus</i>	SSC	None
Yellow warbler	<i>Setophaga petechia</i>	SSC	None
Coast horned lizard	<i>Phrynosoma blainvillii</i>	SSC	None
Northwestern pond turtle	<i>Actinemys marmorata</i>	SSC	PT
San Joaquin coachwhip	<i>Masticophis flagellum ruddocki</i>	SSC	None
California red-legged frog	<i>Rana draytonii</i>	SSC	T
Western spadefoot	<i>Spea hammondi</i>	SSC	PT
Chinook salmon – Central Valley fall/late-run ESU	<i>Oncorhynchus tshawytscha</i>	SSC	None
Hardhead	<i>Mylopharodon conocephalus</i>	SSC	None
Kern brook lamprey	<i>Lampetra hubbsi</i>	SSC	None
Pacific lamprey	<i>Entosphenus tridentatus</i>	SSC	None
California horned lark	<i>Eremophila alpestris actia</i>	WL	None
Longhorn fairy shrimp	<i>Branchinecta longiantenna</i>	SA	E
Valley elderberry longhorn beetle	<i>Desmocerus californicus dimorphus</i>	SA	T
Vernal pool fairy shrimp	<i>Branchinecta lynchi</i>	SA	T
San Joaquin woollythreads	<i>Monolopia congdonii</i>	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			

FW: Request to be added on to CEQA notification list for Fresno Council of Governments 2026 Regional Transportation Plan/Sustainable Communities Strategy

Message (HTML)

FileMessageHelp

Tell me what you want to do

Undo

Archive

Move

Reply

Reply All

Forward

All Apps

Mailbox

Categorize

Follow Up

Find

Smart Lookup

Read Aloud

Immersive Reader

Translate

Zoom

FW: Request to be added on to CEQA notification list for Fresno Council of Governments 2026 Regional Transportation Plan/Sustainable Communities Strategy

PH

Paul Herman <pherman@fresnocog.org>

To: Edward Heming

Cc: Kristine Cai; Simran Jhutti

You replied to this message on 6/16/2025 8:58 AM.

Reply

Reply All

Forward

Mon 6/16/2025 8:54 AM

Hi Edward,

We've received a request for the Center of Biological Diversity to be included in any future CEQA noticing of the 2026 RTP/SCS PEIR.

Theresa Rettinghouse <trettinghouse@biologicaldiversity.org>
Elizabeth Reid-Wainscoat <ereidwainscoat@biologicaldiversity.org>

Regards,

Paul Herman
Deputy Director


Fresno Council of Governments
2035 Tulare St, Suite 201
Fresno, CA 93721
559-233-4148 Ext. 215
pherman@fresnocog.org
www.fresnocog.org

From: Theresa Rettinghouse <trettinghouse@biologicaldiversity.org>
Sent: Thursday, June 12, 2025 1:18 PM
To: Paul Herman <pherman@fresnocog.org>
Cc: Elizabeth Reid-Wainscoat <ereidwainscoat@biologicaldiversity.org>
Subject: Request to be added on to CEQA notification list for Fresno Council of Governments 2026 Regional Transportation Plan/Sustainable Communities Strategy

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good afternoon Mr. Herman,

Please add myself and my colleague Elizabeth Reid-Wainscoat (cc'd) to the notice list for **Fresno Council of Governments 2026 Regional Transportation Plan/Sustainable Communities Strategy** aka (SCH 2025050609).

Best regards,
Theresa

Theresa Rettinghouse
(she/her/hers)
Urban Wildlands Paralegal
Center for Biological Diversity
trettinghouse@biologicaldiversity.org
Ph: 510-844-7100 ext 320
2100 Franklin Street, Suite 375
Oakland, CA 94612