



STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

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July 29, 2026

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**Subject: Merced Interstate 5 Pavement Anchor Project 10-1E880 (Project)
Initial Study with Proposed Negative Declaration (Initial Study)
State Clearinghouse Number: 2026061279**

Dear Laura Cook:

The California Department of Fish and Wildlife (CDFW) received an Initial Study with proposed Mitigated Negative Declaration (MND) from the California Department of Transportation (Caltrans) for the above-referenced Project 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 Project that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under Fish and Game Code.

CDFW ROLE

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

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

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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, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code may be required.

Fully Protected Species: CDFW has jurisdiction over fully protected species of birds, mammals, amphibians, reptiles, and fish, pursuant to Fish and Game Code sections 3511, 4700, 5050, and 5515. Take of any fully protected species was previously prohibited and CDFW was not able authorize their incidental take. Senate Bill No. 147, which became effective on July 10, 2023, amended Fish and Game Code sections 3511, 4700, 5050, and 5515, and added section 2081.15, to authorize CDFW to issue a permit under CESA that authorizes the take of a fully protected species resulting from impacts attributable to the implementation of specified projects, which include maintenance, repair, or improvement projects to critical regional or local water agency infrastructure, if certain conditions are satisfied.

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

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

PROJECT DESCRIPTION SUMMARY

Proponent: Caltrans

Objective: The Project will resurface pavement, rehabilitate drainage systems and bridge structures, upgrade and install Transportation Management System elements, construct Maintenance Vehicle Pullouts, and replace guardrails and signage.

Location: The proposed Project is located at various locations along Interstate 5 in Merced County, California between post mile 0.00 to 32.48.

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Timeframe: Construction of the proposed Project is anticipated to take about 270 working days beginning in January 2032.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist Caltrans 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 document.

Based on the Project location and proposed Project activities in the Initial Study, CDFW is concerned regarding potential impacts to special-status species, including, but not limited to, the State and federally endangered and California fully-protected blunt-nosed leopard lizard (*Gambelia sila*); the State threatened and federally endangered San Joaquin kit fox (*Vulpes macrotis mutica*); the State threatened and species of special concern tricolored blackbird (*Agelaius tricolor*); the State threatened Swainson's hawk (*Buteo swainsoni*); the State and federally threatened California Tiger Salamander (*Ambystoma californiense* pop. 1); the State candidate western burrowing owl (*Athene cunicularia hypugaea*) and Crotch's bumblebee (*Bombus crotchii*); the State species of special concern American badger (*Taxidea taxus*); the State species of special concern and federally proposed threatened northwestern pond turtle (*Actinemys marmorata*) and western spadefoot (*Spea hammondi*).

CDFW advises that the special-status species be addressed with appropriate avoidance and minimization measures. If take could occur as a result of Project implementation, consultation with CDFW would also be warranted. The special-status species listed below have the greatest chance to be impacted by the Project, or the MND did not address sufficient proposed avoidance and mitigation measures:

Blunt-nosed Leopard Lizard (BNLL)

The Project area is within the known geographic range of BNLL (CDFW 2026), and the MND states Project area contains suitable BNLL habitat. The MND, and associated Natural Environment Study (NES), indicate BNLL protocol level surveys were conducted in 2024, with negative results and the NES includes the BNLL survey data forms. Although BNLL surveys results were negative, due to the location of the Project and presence of suitable BNLL habitat, CDFW recommends the MND include BNLL specific measures in the event BNLL is found during Project activities.

Recommended Mitigation Measure 1: BNLL Take Avoidance

CDFW recommends that consultation with CDFW occur to discuss how to implement ground-disturbing activities and avoid take if any BNLL detection, known burrows, or egg clutch sites are detected during Project construction activities.

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Recommended Mitigation Measure 2: BNLL Take Authorization

With the passage of Senate Bill No. 147, the incidental take of BNLL may be authorized for certain categories of projects, including maintenance, repair, or improvement to critical infrastructure. If BNLL are found in the Project area, consultation with CDFW is recommended to discuss how to implement the Project and avoid take. If take cannot be avoided, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081, subdivision (b), is necessary to comply with CESA.

San Joaquin Kit Fox (SJKF)

The Project is within the known geographic range of SJKF, there are recent occurrences within the vicinity of the Project area (CDFW 2026), and the MND has determined that there is potentially suitable SJKF habitat within the Project area. SJKF may be attracted to any construction area due to the type and level of activity (pipes, excavation, etc.) and the loose, friable soils that are created as a result of intensive ground disturbance. The SJKF measures proposed in the MND are not sufficient to prevent take of SJKF if they are present in the Project area during Project activities, and unauthorized take of SJKF could occur. As such, CDFW recommends the following measures be added to the MND for SJKF and acquire a State ITP for SJKF prior to any ground-disturbing activities, pursuant to Fish and Game Code section 2081, subdivision (b)

Recommended Mitigation Measure 3: SJKF Surveys

CDFW recommends that a qualified biologist assess presence/absence of SJKF by conducting surveys following the U.S. Fish and Wildlife Service (USFWS) "Standardized recommendations for protection of the San Joaquin kit fox prior to or during ground disturbance" (USFWS 2011) (USFWS Protocol). Specifically, CDFW recommends conducting these surveys over the entirety of the Project area no less than 14 days and no more than 30 days prior to beginning ground and/or vegetation disturbing activities. CDFW also recommends a qualified biologist conduct on-site worker awareness training and inspect all construction materials for SJKF before use.

Recommended Mitigation Measure 4: SJKF Avoidance Buffer

CDFW recommends implementing no-disturbance buffers around potentially suitable or known den sites as described in the USFWS Protocol.

Recommended Mitigation Measure 5: SJKF Take Authorization

In the event that SJKF is detected during surveys and an ITP has not been obtained, consultation with CDFW is recommended to discuss how to avoid take. If take cannot be avoided, take authorization through the acquisition of an ITP pursuant to Fish and Game Code section 2081, subdivision (b), is necessary to comply with CESA.

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Tricolored Blackbird (TRBL)

The Project area is within the known geographic range of TRBL (CDFW 2026), and the Project area may contain suitable foraging and nesting habitat for TRBL. TRBL breed within the vicinity of fresh water, primarily in marshy areas, but may nest in agricultural row crops, which are adjacent to the Project area. Important sites for nesting colonies include heavy growths of cattails, tules, thistles, willows, blackberries, mustard, nettles, and salt cedar (Grinnell and Miller 1944). Nesting can occur synchronously, with all eggs laid within one week (Orians 1961). For these reasons, depending on timing, disturbance to nesting colonies can cause abandonment, significantly impacting TRBL populations (Beedy et al. 2020). The TRBL measures proposed in the MND are not sufficient to prevent take of TRBL if they are present in the Project area during Project activities, and unauthorized take of TRBL could occur. As such, CDFW recommends the following measures be added to the MND for TRBL.

Recommended Mitigation Measure 6: TRBL Surveys

CDFW recommends that construction be timed to avoid the typical bird breeding season (February 1 through September 15). However, if construction must occur during that time, CDFW recommends that a qualified wildlife biologist conduct surveys for nesting TRBL within the Project area no more than 10 days prior to the start of implementation to evaluate presence/absence of TRBL nesting colonies in proximity to Project activities, and to evaluate potential Project-related impacts.

Recommended Mitigation Measure 7: TRBL Avoidance Buffer

If an active TRBL nesting colony is found during pre-activity surveys, CDFW recommends implementation of a minimum 300-foot no-disturbance buffer around the colony in accordance with CDFW's "Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields in 2015" (CDFW 2015). CDFW advises that this buffer remains in place until the breeding season has ended; or until a qualified biologist has determined that nesting has ceased, the birds have fledged and are no longer reliant upon the colony or parental care for survival.

Recommended Mitigation Measure 8: TRBL Take Authorization

If a 300-foot no-disturbance buffer is not feasible, consultation with CDFW is warranted to discuss how to avoid take. If take cannot be avoided, take authorization through the acquisition of an ITP pursuant to Fish and Game Code section 2081, subdivision (b), is necessary to comply with CESA.

Swainson's Hawk (SWHA)

The MND identifies that there may be nesting SWHA near the Project area. The SWHA measures proposed in the MND are not sufficient to prevent take of SHWA if they are nesting near the Project area during Project activities, and unauthorized take of SWHA

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could occur. Without appropriate avoidance and minimization measures for SWHA, potentially significant impacts associated with the Project's activities include reduced reproductive success, reduction in health and vigor of eggs and/or young, and direct mortality of individuals. Given the presence of suitable nesting habitat near the Project area and nearby occupied nests, CDFW recommends the following mitigation measures be added to the MND for SWHA.

Recommended Mitigation Measure 9: SWHA Surveys

CDFW recommends that a qualified biologist conduct surveys for nesting SWHA following the entire survey methodology developed by the SWHA Technical Advisory Committee (SWHA TAC 2000), as part of the biological studies conducted in support of the ND. CDFW also recommends that a qualified biologist conduct follow-up surveys prior to the start of Project construction activities.

Recommended Mitigation Measure 10: SWHA Avoidance Buffer

If Project-specific activities will take place during the SWHA nesting season (i.e., March 1 through September 15), and active SWHA nests are present, CDFW recommends a minimum ½-mile no-disturbance buffer be delineated and maintained around each nest, regardless of whether it was detected by surveys or observed incidentally. CDFW recommends these buffers remain in place until the breeding season has ended; or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival; and to prevent nest abandonment and other take of SWHA as a result of Project activities.

Recommended Mitigation Measure 11: SWHA Take Authorization

CDFW also recommends that in the event an active SWHA nest is detected, and a ½-mile no-disturbance buffer is not feasible, consultation with CDFW is warranted to discuss how to implement the Project and avoid take. If take cannot be avoided, take authorization through the acquisition of an ITP pursuant to Fish and Game Code section 2081, subdivision (b), is necessary to comply with CESA.

California Tiger Salamander (CTS)

The Project is within the known geographic range of CTS, there are recent occurrences within two miles of the northmost end of the Project area (CDFW 2026), and the MND has determined that there is potentially suitable upland habitat within and near the Project area. If CTS are present near the Project area, Project activities may result in potentially significant impacts, including burrow collapse, inadvertent entrapment, reduced reproductive success, and direct mortality. The MND provides a determination of effect under the Federal Endangered Species Act and states mitigation for loss of CTS upland habitat would be obtained by purchasing the appropriate credits from an approved mitigation bank. However, there was no analysis of the potential for take under CESA, an analysis of potential direct impacts to CTS, or an indication that CDFW would be consulted to determine if take may occur as a result of Project activities. The

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CTS measures proposed in the MND are not sufficient to prevent take of CTS if they are present in the Project area during Project activities, and unauthorized take of CTS could occur. As such, CDFW recommends the following measures be added to the MND for CTS.

Recommended Mitigation Measure 12: CTS Surveys

Prior to ground-disturbing activities and as part of the biological studies conducted in support of the CEQA document, CDFW recommends that a qualified biologist conduct protocol-level surveys in accordance with the USFWS "Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander" (USFWS 2003) at the appropriate time of year prior to Project construction to determine the existence and extent of CTS breeding and refugia habitat. The protocol-level surveys for CTS require more than one survey season and are dependent upon sufficient rainfall to complete. As a result, consultation with CDFW and the USFWS is recommended well in advance of beginning the surveys and prior to any planned vegetation- or ground-disturbing activities. CDFW advises that the protocol-level survey include a minimum 100-foot buffer around the Project area in all areas of wetland and upland habitat that could support CTS. Please be advised that protocol-level survey results are viable for two years after the results are reviewed by CDFW.

Recommended Mitigation Measure 13: CTS Avoidance Buffer

If CTS protocol-level surveys are not conducted, CDFW advises that a minimum 50-foot no-disturbance buffer be delineated around all small mammal burrows in suitable upland refugia habitat within and/or adjacent to the Project area. Further, CDFW recommends potential or known breeding habitat within and/or adjacent to the Project area be delineated with a minimum 250-foot no-disturbance buffer. Both upland burrow and wetland breeding no-disturbance buffers are intended to minimize impacts to CTS and CTS habitat. However, it is important to note that the 250-foot no disturbance buffer would help minimize direct impacts to the breeding habitat itself but would not avoid all likely impacts to CTS individuals; CTS utilize upland areas much farther than 250 feet from breeding pools.

Recommended Mitigation Measure 14: CTS Take Authorization

Alternatively, the applicant can assume presence of CTS within the Project area and obtain an ITP in accordance with Fish and Game Code section 2081, subdivision (b). If through surveys it is determined that CTS are occupying or have the potential to occupy the Project area, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081, subdivision (b), is necessary to comply with CESA. As stated above, in the absence of protocol surveys, the applicant can assume presence of CTS within the Project area and obtain an ITP from CDFW.

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Western Burrowing Owl (BUOW)

The Project area is within the known geographic range of BUOW, there are recent occurrences near the vicinity of the Project area (CDFW 2026), and the MND identifies that potentially suitable BUOW habitat is within and near the Project area. BUOW typically inhabit open grasslands containing small mammal burrows, a requisite habitat feature used by BUOW for nesting and cover. BUOW may also use “man-made burrows” such as pipes or culverts. Based on aerial imagery the Project area and adjacent areas contain suitable habitat for BUOW overwintering and foraging.

The California Fish and Game Commission (Commission) approved western burrowing owl as a candidate for potential listing as a protected species under CESA on October 10, 2024, and published these findings in the California Regulatory Notice Register on October 25, 2024. As such, BUOW is now a candidate under CESA and receives the same legal protection afforded to an endangered or threatened species (Fish & G. Code, §§ 2074.2 & 2085). The BUOW measures proposed in the MND are not sufficient to prevent take of BUOW if they are present in the Project area during Project activities, and unauthorized take of BUOW could occur. As such, CDFW recommends the following measures be added to the MND for BUOW.

Recommended Mitigation Measure 15: BUOW Surveys

To evaluate potential Project impacts to BUOW, CDFW recommends that a qualified biologist conduct surveys during the breeding season (February 1 to August 31) for BUOW following the 2012 Staff Report on Burrowing Owl Mitigation (2012 Staff Report; CDFG 2012) within at least 500 meters (1,640 feet) of the Project area as part of the biological studies are conducted in support of the Initial Study. CDFW recommends assessing presence/absence of BUOW on the Project area, as well as a 500-meter buffer surrounding the Project, by having a qualified biologist conduct surveys for BUOW following the 2012 Staff Report the survey season immediately prior to Project initiation.

Recommended Mitigation Measure 16: BUOW Avoidance Buffer

Should a BUOW individual or known BUOW burrow (active or inactive, including overwintering) be detected, either during pre-construction surveys or construction activities, CDFW recommends that no-disturbance buffers, as outlined in the 2012 Staff Report, be implemented prior to and during any ground-disturbing activities.

Recommended Mitigation Measure 17: BUOW Take Authorization

If a BUOW individual or known BUOW burrow is detected, and the no-disturbance buffers outlined in the 2012 Staff Report are not feasible, consultation with CDFW is warranted to discuss how to implement the Project and avoid take. If take cannot be avoided, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081, subdivision (b), is necessary to comply with CESA.

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Crotch's Bumble Bee (CBB)

The Project area is within the known geographic range of the State candidate Crotch's bumble bee (CDFW 2026), and the MND identifies that potentially suitable CBB habitat is within and near the Project area. CBB inhabits a variety of habitats, including grasslands, scrublands, openings in woodlands, and areas with bare ground such as vacant lots, dirt roads, and levees (Xerces Society et al. 2018). CBB uses requisite habitat elements for nesting, such as small mammal burrows and bunch/thatched grasses, which may be present in or near the Project area. CBB may forage on plants commonly found along roadsides in the Project area vicinity (including non-native thistles [*Centaurea* spp., *Carduus* spp., *Cirsium* spp.] California poppy [*Eschscholzia californica*], buckwheats [*Eriogonum* spp.], and sages [*Salvia* spp.]) and suitable nesting habitat may be found in the vicinity of the Project area. The CBB measures proposed in the MND are not sufficient to prevent take of CBB if they are present in the Project area during Project activities, and unauthorized take of CBB could occur. As such, CDFW recommends the following measures be added to the MND for CBB.

Recommended Mitigation Measure 18: CBB Surveys

CDFW recommends a qualified biologist conduct focused surveys for CBB and their requisite habitat features within and adjacent to the Project area following the methodology outlined in the "Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species" (CDFW 2023), during the blooming period immediately prior to Project initiation.

Recommended Mitigation Measure 19: CBB Avoidance Buffer

If CBB is detected, CDFW recommends that all small mammal burrows and thatched/bunch grasses be avoided by a minimum of 50 feet to avoid take and potentially significant impacts. If CBB are detected during surveys and ground-disturbing activities will occur during the overwintering to nesting period (year-round, except possibly September), consultation with CDFW is warranted to discuss how to implement Project activities and avoid take. Any detection of CBB prior to or during Project implementation warrants consultation with CDFW to discuss how to avoid take.

Recommended Mitigation Measure 20: CBB Take Authorization

If take cannot be avoided, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081, subdivision (b), is necessary to comply with CESA.

American Badger (AMBA)

The Project area is within the known geographic range of AMBA and suitable habitat is present (CDFW 2026) within the vicinity of the Project area. AMBA occupy sparsely vegetated land cover with dry, friable soils to excavate dens, which they use for cover,

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and that support fossorial rodent prey populations (i.e., ground squirrels, pocket gophers, etc.) (Zeiner et. al 1990). CDFW recommends the following measures be added to the MND for AMBA.

Recommended Mitigation Measure 21: AMBA Surveys

CDFW recommends that a qualified biologist conduct focused surveys for AMBA, as well as their requisite habitat features, to evaluate potential impacts resulting from ground disturbance.

Recommended Mitigation Measure 22: AMBA Avoidance Buffer

Avoidance whenever possible is encouraged via delineation and a 50-foot no disturbance buffer around burrows. CDFW also advises that any individuals observed be allowed to leave the Project site of their own volition.

Northwestern Pond Turtle (NWPT)

The Project area is within known geographic range of NWPT and there is a historical occurrence within 1.5 miles of the Project area near Los Banos Creek (CDFW 2026), and the MND identifies that potentially suitable NWPT habitat is within or near the Project area. NWPT are known to nest in the spring or early summer within 100 meters of a water body, although nest sites as far away as 500 meters have also been reported (Thomson et al. 2016). Noise, vegetation removal, movement of workers, construction, and ground disturbance as a result of Project activities have the potential to significantly impact pond turtle populations. CDFW recommends the following measures be added to the MND for NWPT.

Recommended Mitigation Measure 23: NWPT Surveys

In areas of suitable habitat, CDFW recommends that a qualified biologist conduct focused surveys for NWPT within 10 days prior to Project implementation, and that focused surveys for nests occur during the egg-laying season of March through August.

Recommended Mitigation Measure 24: NWPT Avoidance Buffer

CDFW recommends that any NWPT nests that are discovered remain undisturbed with a no-disturbance buffer maintained around the nest until the eggs have hatched and neonates are no longer in the nest or Project areas. If NWPT individuals are discovered at the area during surveys or Project activities, CDFW recommends that they be allowed to move out of the area of their own volition without disturbance.

Western Spadefoot (WESP)

The Project is within the known geographic range of WESP, there are recent occurrences within 2 miles of the northmost end of the Project area (CDFW 2026), and the MND has determined that there is potentially suitable upland habitat within and near

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the Project area and marginal aquatic habitat within the Project area vicinity. WESP occurs primarily in grassland habitats and breeds in a variety of seasonally ponded features, including roadside ditches and depressions that may vary from year to year in the presence and duration of ponded water. These habitat features may be present within or near the Project area.

On September 24, 2025, the Commission received a petition to list the northern population of WESP as threatened species and the southern population of WESP as an endangered species under CESA. If the Commission takes action and WESP becomes listed as a Candidate for listing pursuant to CESA (possible in 2026), or ultimately becomes listed as threatened or endangered pursuant to CESA, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081, subdivision (b), would be necessary to comply with CESA if full avoidance of WESP could not be achieved. Please note that implementation of the recommended WESP measures would help minimize impacts to WESP as required by CEQA but would not fully avoid impacts and thus take; additional measures would need to be implemented to avoid take of WESP. In the event that WESP becomes protected under CESA, CDFW recommends early consultation to help identify if avoidance is feasible or if not, to initiate discussions regarding the need for ITP acquisition. CDFW recommends the following measures be added to the MND for WESP.

Recommended Mitigation Measure 25: WESP Surveys

CDFW recommends that a qualified biologist conduct a habitat assessment to determine if the Project area and the immediate surrounding vicinity contain habitat suitable to support WESP. If potential habitat exists, CDFW recommends a qualified biologist conduct focused breeding season surveys for WESP, using appropriate survey methodologies, prior to any ground-disturbing activities that may occur as part of the Project.

Recommended Mitigation Measure 26: WESP Avoidance Buffer

If burrows, soil cracks, loose soil areas or other refugia are found to be used by WESP during focused surveys, avoidance whenever possible is encouraged via delineation and observance of a 50-foot no-disturbance buffer around these resources, including all potential breeding habitat, which can include agricultural sumps and irrigation ditches in addition to any areas that pool water for only a few weeks. Avoidance of potential breeding habitat should occur even when dry, since post-metamorphic WESP juveniles have a unique adaptation to the drying of their temporary breeding pools; they utilize the dried pond bottom as a refuge, burying themselves in the desiccation cracks and damp soil beneath the surface crust (Baumberger et al., 2020). If any life stage of WESP are observed on the Project site, Project activities in their immediate vicinity should cease, allowing individuals to leave the Project site on their own accord.

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Editorial Comments and/or Suggestions

CNDDDB: Please note that the CNDDDB is populated by records through 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 features capable of supporting species. A lack of an occurrence record in the CNDDDB does not mean a species is not present. To adequately assess any potential Project-related impacts to biological resources, surveys conducted by a qualified biologist during the appropriate survey period(s) using the appropriate protocol survey methodology are warranted to determine whether any special-status species are present at or near the Project area.

Federally Listed Species: CDFW recommends consulting with the USFWS regarding potential impacts to federally listed or proposed species. The Federal Endangered Species Act (ESA) is more broadly defined than CESA; take under 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 in order to comply with ESA is advised well in advance of any Project activities.

Cumulative Impacts: CDFW recommends that a cumulative impact analysis be conducted for all biological resources that will either be significantly or potentially significantly impacted by implementation of the Project, 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 the Project, even if those impacts are relatively small (i.e., less than significant). Cumulative impacts are recommended to be analyzed using an acceptable methodology to evaluate the impacts of this Project's incremental contribution to habitat loss and past, present, and reasonably foreseeable future projects on resources and be focused specifically on the resource, not the Project. The cumulative impacts analysis should specifically include all past, present, and foreseeable projects in the Project vicinity. An appropriate resource study area should also be identified and mapped for each resource being analyzed and utilized for this analysis. CDFW staff are available for consultation in support of cumulative impacts analyses as a trustee and responsible agency under CEQA.

Lake and Streambed Alteration Agreement: Project activities that will substantially change the bed, bank, and channel of streams and associated wetlands are subject to CDFW's regulatory authority pursuant Fish and Game Code section 1600 et seq. Fish and Game Code section 1602 requires an entity 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; (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. It is important to note

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that if Project activities require notification, CDFW is required to comply with CEQA in the issuance of a Lake or Streambed Alteration (LSA) Agreement; therefore, if the CEQA document approved for the Project does not adequately describe the Project and its impacts, a subsequent CEQA analysis may be necessary for LSA Agreement issuance. For additional information on notification requirements, please contact our staff in the Caltrans Liaison Unit at RRR.R4@wildlife.ca.gov and the CDFW website: <https://wildlife.ca.gov/Conservation/LSA>.

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

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

CONCLUSION

CDFW appreciates the opportunity to comment on the Initial Study to assist Caltrans in identifying and mitigating Project impacts on biological resources. Please see the enclosed Mitigation Monitoring and Reporting Program (MMRP) table (Attachment 1) which corresponds with the recommended mitigation measures in this comment letter.

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If you have any questions, please contact Grant Piepkorn, Environmental Scientist, at the address provided on this letterhead, by telephone at (559) 807-1459, or by electronic mail at Grant.Piepkorn@wildlife.ca.gov.

Sincerely,

DocuSigned by:

E9964E60293D40A...

For Julie A. Vance
Regional Manager

Attachment (MMRP)

ec: State Clearinghouse
Land Use and Climate Innovation
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Attachment 1

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

**PROJECT: Merced Interstate 5 Pavement Anchor Project (10-1E880)
Initial Study with Proposed Mitigated Negative Declaration
State Clearinghouse Number: 2026061279**

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
<i>Before Disturbing Soil or Vegetation</i>	
Blunt-nosed Leopard Lizard (BNLL)	
Recommended Mitigation Measure 2: BNLL Take Authorization	
San Joaquin kit fox (SJKF)	
Recommended Mitigation Measure 3: SJKF surveys	
Recommended Mitigation Measure 5: SJKF take authorization	
Tricolored blackbird (TRBL)	
Recommended Mitigation Measure 6: TRBL surveys	
Recommended Mitigation Measure 8: TRBL take authorization	
Swainson's hawk (SWHA)	
Recommended Mitigation Measure 9: SWHA Surveys	
Recommended Mitigation Measure 10: SWHA take authorization	
California tiger salamander (CTS)	
Recommended Mitigation Measure 12: CTS surveys	
Recommended Mitigation Measure 14: CTS take authorization	
Burrowing owl (BUOW)	
Recommended Mitigation Measure 15: BUOW pre-construction Surveys	
Recommended Mitigation Measure 17: BUOW take authorization	
Crotch's bumblebee (CBB)	
Recommended Mitigation Measure 18: CBB pre-construction surveys	
Recommended Mitigation Measure 20: CBB take authorization	

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RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
American Badger (AMBA)	
Recommended Mitigation Measure 21: AMBA pre-construction surveys	
Northwestern pond turtle (NWPT)	
Recommended Mitigation Measure 23: NWPT surveys	
Western spadefoot (WESP)	
Recommended Mitigation Measure 25: WESP surveys	
<i>During Construction</i>	
BNLL	
Recommended Mitigation Measure 1: BNLL take avoidance	
SJKF	
Recommended Mitigation Measure 4: SJKF avoidance buffer	
TRBL	
Recommended Mitigation Measure 7: TRBL avoidance buffer	
SWHA	
Recommended Mitigation Measure 10: SWHA avoidance buffer	
CTS	
Recommended Mitigation Measure 13: CTS avoidance buffer	
BUOW	
Recommended Mitigation Measure 16: BUOW avoidance buffer	
CBB	
Recommended Mitigation Measure 19: CBB avoidance buffer	
AMBA	
Recommended Mitigation Measure 22: AMBA avoidance buffer	
NWPT	
Recommended Mitigation Measure 24: NWPT avoidance buffer	
WESP	
Recommended Mitigation Measure 26: WESP avoidance buffer	