



STATE OF CALIFORNIA  
DEPARTMENT OF FISH AND WILDLIFE

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May 29, 2026

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**Subject: Madera Transit Station Specific Plan (Plan)  
Notice of Preparation (NOP)  
SCH No.: 2026041246**

Dear Annette Kephart:

The California Department of Fish and Wildlife (CDFW) received an NOP of a Draft Environmental Impact Report (DEIR) from Madera County (County) for the Plan pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

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 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

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<sup>1</sup> 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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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, the 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 the future projects as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

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

**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 the Plan.

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

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## PLAN DESCRIPTION SUMMARY

**Proponent:** Madera County

**Objective:** The Plan would guide future land use and development within approximately 3,801 acres of unincorporated land in Madera County, the City of Madera, and the City's Sphere of Influence (SOI). The Plan would accommodate development patterns oriented around multimodal transportation access to accommodate the planned Madera Station, which is proposed to provide Amtrak and California High Speed Rail (HSR) service to the region.

The Plan would also update land use and circulation planning for areas surrounding Madera Community College and would organize the remainder of the Plan area into planned neighborhoods with supporting public facilities, services, and commercial uses. After adoption, the Plan would replace the 1995 Madera State Center Community College Specific Plan (1995 Specific Plan) and would serve as the governing planning document for future development within the Plan area.

**Location:** The Plan area is located in the southwestern part of Madera County. It is along the State Route 99 (SR-99) corridor approximately five miles northwest of the San Joaquin River and the border of Fresno County, approximately 10 miles northwest of the City of Fresno, and 35 miles southeast of the City of Merced.

## COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the County in adequately identifying and/or mitigating future 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 DEIR prepared for this Plan.

The NOP states the Plan would accommodate the planned Madera Station, which is proposed to provide Amtrak and California High Speed Rail (HSR) service to the region. CDFW previously commented on the Madera High-Speed Rail Station Full-Build Project Phase 3 Project DEIR on May 28, 2025 (2025 DEIR Letter), State Clearinghouse No. 2023110616 (**Attachment 1**). CDFW recommends applicable mitigation measures be incorporated within the DEIR for this Plan and implemented for projects that are tiered from this Plan.

### Special-Status Species

Based on a review of the NOP and aerial imagery of the Plan area and surrounding habitat, the Plan area is within the geographic range of, and contains suitable habitat for, several special-status animal species, including but not limited to the species identified in **Attachment 2** of this letter. These resources need to be evaluated and addressed as part of the DEIR and prior to any approvals that would allow vegetation-

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or ground-disturbing activities. CDFW also recommends that the DEIR 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 (streamlined) from this Plan.

CDFW also recommends that biological resource mitigation measures that include focused species surveys incorporate the following species-specific survey methodology as appropriate:

- **Least Bell's Vireo:** The U.S. Fish and Wildlife Service (USFWS) Least Bell's Vireo Survey Guidelines (USFWS 2001)
- **Swainson's hawk:** Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California Central Valley (SWHA TAC 2000)
- **California tiger salamander – Central Coast Distinct Population Segment:** Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander (USFWS 2003)
- **Western burrowing owl:** Staff Report on Burrowing Owl Mitigation (CDFG 2012)
- **Crotch's bumble bee:** Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species (CDFW 2023)
- **Vernal pool fairy shrimp:** Survey Guidelines for the Listed Large Branchiopods (USFWS 2017)
- **Special-status plants:** Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018)

### **California Endangered Species Act**

Reasonably foreseeable future projects tiered from the 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 the Plan.

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### **Special-Status Plants**

CDFW recommends that the DEIR for this Plan include a measure requiring that projects tiered from this Plan located within natural habitats be surveyed by a qualified biologist for any possible special-status plants following the “Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Natural Communities” (CDFW 2018). 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. In addition, CDFW recommends that mitigation measures for CESA listed plant species, Native Plant Protection Act (NPPA) plant species, and California Native Plant Society (CNPS) California Rare Plant Rank (CRPR) plant species be fully addressed in the CEQA document prepared for any future project tiered from this Plan.

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 be conducted to determine permitting needs.

### **Lake and Streambed Alteration**

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

CDFW therefore recommends that the 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.

### **Wetland and Riparian Habitat**

The Plan area contains numerous streams including Cottonwood Creek, riparian and wetland areas, and vernal pool landscapes. Development within the Plan area has the

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potential to impact these features and has the potential to result in the loss and degradation of riparian and wetland vegetation through grading, fill, runoff and related pollution, and related development.

Riparian and associated floodplain and wetland areas are valuable for their ecosystem processes such as protecting water quality by filtering pollutants and transforming nutrients; stabilizing stream banks to prevent erosion and sedimentation/siltation; and dissipating flow energy during flood conditions, thereby spreading the volume of surface water, reducing peak flows downstream, and increasing the duration of low flows by slowly releasing stored water into the channel through subsurface flow. Within the San Joaquin Valley, modifications of streams to accommodate human uses has resulted in damming, canalizing, and channelizing of most streams, though some natural stream channels and small wetland or wetted areas remain (CDFW 2026). The Fish and Game Commission policy regarding wetland resources discourages development or conversion of wetlands that results in any net loss of wetland acreage or habitat value. Construction activities within these features also have the potential to impact downstream waters, such as Cottonwood Creek, leading to erosion, scour, and changes in flow and stream morphology.

CDFW recommends that the DEIR include formal stream mapping, including the streams associated floodplain, and wetland delineation conducted by a qualified biologist or hydrologist (as warranted), to determine the baseline location, extent, and condition of streams (including any floodplain) and wetlands within and adjacent to the Plan area. Please note that while there is overlap, State and federal definitions of wetlands differ, and complete stream mapping commonly differs from delineations used by the U.S. Army Corps of Engineers specifically to identify the extent of Waters of the U.S. Therefore, it is advised that the delineation identify both State and federal wetlands in the Plan area as well as the extent of all streams including floodplains, if present, within the Plan area. CDFW recommends that site map(s) depicting the extent of any activities that may affect wetlands, lakes, or streams be included within the Plan to assist projects tiered from this Plan to clearly identify areas where stream/riparian and wetland habitats could be impacted from future tiered project activities.

CDFW recommends that the potential direct and indirect impacts to stream/riparian and wetland habitat be analyzed within the Plan. CDFW also recommends that the DEIR include measures to avoid, minimize, and/or mitigate those impacts. CDFW recommends that impacts to riparian habitat (i.e., biotic and abiotic/nonvegetative features) take into account the effects to stream function and hydrology from riparian habitat loss or damage, as well as potential effects from the loss of riparian habitat to special-status species already identified herein. CDFW recommends that losses to stream and wetland habitats be offset with corresponding riparian and wetland habitat restoration incorporating native vegetation to replace the value to fish and wildlife provided by the habitats lost from Plan implementation. If on-site restoration to replace habitats is not feasible, CDFW recommends off-site mitigation by restoring or enhancing

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in-kind riparian or wetland habitat and providing for the long-term management and protection of the mitigation area, to ensure its persistence.

## **Water Rights**

CDFW recommends that the DEIR provide a detailed description of all water rights and water entitlements that would pertain to the Plan area, and all reasonably foreseeable future tiered projects, including any applications or change petitions that may be filed to transfer water. If a new water allocation were to occur, CDFW recommends that the DEIR also include an analysis of the impacts of diverting currently unallocated flows, including such details for the point(s) of diversion as a hydrologic study, water availability analysis, and other information that identifies and analyzes the impacts to aquatic ecosystems and fish and wildlife resources.

As Trustee Agency, CDFW is consulted by the State Water Resources Control Board (SWRCB) during the water rights process to provide terms and conditions designed to protect fish and wildlife prior to appropriation of the State's water resources. Given the potential for impacts to special-status species and their habitats, it is advised that details be disclosed during the CEQA process and that required consultation with CDFW occur well in advance of any SWRCB water right application process.

## **Sustainable Groundwater Management Act (SGMA) and Groundwater Dependent Ecosystems**

Potential Plan-related activities such as surface water diversion to groundwater storage and extraction of groundwater could result in groundwater water quality impacts, subsidence impacts, and result in changes to available groundwater supply. Many sensitive ecosystems and public trust resources such as streams, springs, riparian areas, and wetlands are dependent on groundwater and interconnected surface waters.

The Plan boundary overlaps with the boundary for the Madera Subbasin (Subbasin No. 5-022.06), which was listed as critically over-drafted and designated as a high priority Basin by the Department of Water Resources (DWR). Groundwater Sustainability Plans (GSPs) were prepared for the Madera Groundwater Subbasin and were deemed incomplete by DWR on September 22, 2022. The GSPs for the Madera Subbasin were subsequently resubmitted and approved by DWR on December 21, 2023. CDFW recommends that the DEIR detail how the Plan would impact overdraft conditions for the groundwater basin and how this would affect environmental beneficial uses and users, including groundwater dependent ecosystems and interconnected surface waters, including those resources in proximity to Cottonwood Creek and the Fresno River.

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CDFW also recommends that the DEIR include requirements to identify, evaluate, and monitor all groundwater dependent ecosystems that would be affected by future project-related activities, and develop a plan to offset losses of groundwater dependent ecosystems caused by changes in hydrology associated with the Plan. The plan should address mitigation for impacted habitat value and function, to achieve a minimum no net loss of these habitats, consistent with California Fish and Game Commission policy on Wetlands Resources.

### **Wildlife Corridors and Habitat Connectivity**

The Plan area and vicinity support significant biological resources and contain habitat connections that support movement across the broader landscape, sustaining both transitory and permanent wildlife populations. In particular, the Plan's location adjacent to Cottonwood Creek could impact wildlife connectivity for many wildlife species that utilize the creek and adjacent habitats. Direct and indirect impacts into these habitat types can adversely impact sensitive species including, but not limited to, the species identified in Attachment 1. These impacts can lead to reduction of habitat, reduced reproductive success; reduced health and vigor; nest abandonment; loss of foraging habitat that would reduce nesting success (loss or reduced health or vigor of eggs or young); and introduction of debris and/or deleterious materials into river habitats. Narrow riparian buffers are considerably less effective in minimizing the effects of adjacent development than wider buffers (Castelle et al. 1992, Brososke et al. 1998, Kiffney et al. 2003, Moore et al. 2005). As such, CDFW recommends the Plan establish, and tiered projects incorporate, sufficient conservation buffer zones within the Plan area that limits development adjacent to Cottonwood Creek and adjacent habitats. CDFW also recommends the County consult with CDFW to assist with determining appropriate buffer distances.

CDFW also recommends that projects tiered from the Plan that are located adjacent or in the vicinity of Cottonwood Creek and adjacent habitats incorporate project-specific wildlife movement studies to evaluate the potential for the project to significantly impact wildlife connectivity and to guide the development of wildlife corridor mitigation measures to offset connectivity impacts. For projects where wildlife corridor improvement is considered, pre-construction study results should be used to develop biologically feasible movement corridor improvements. Post-construction monitoring should also assess the use of wildlife movement corridors. CDFW recommends that monitoring data be analyzed, summarized, and results discussed in reports be posted for interested parties and submitted to CDFW and other agencies or organizations that have a duty or interest in the effectiveness of wildlife movement corridors.

Finally, CDFW recommends that the DEIR evaluate the potential for future impacts to wildlife connectivity from projects that are tiered from this Plan. As part of this analysis, projects that could create physical barriers to wildlife movement, including direct or indirect project-related activities, should be identified, and addressed in the DEIR.

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## **Artificial Lighting**

Installation of outdoor artificial night lighting can disrupt the circadian rhythms of many wildlife species. Many species use photoperiod cues for communication, determining when to begin foraging, thermoregulation behavior, and migration (Longcore and Rich 2004, Miller 2006, Nightingale et al. 2006, Perry et al. 2008, Stone et al. 2009). Phototaxis, a phenomenon which results in attraction and movement towards light, can disorient, entrap, and temporarily blind wildlife species that experience it (Longcore and Rich 2004). Project activities could result in disruption of wildlife behavior, inadvertent injury, or mortality.

CDFW recommends that the DEIR for this Plan require future tiered projects adjacent to Cottonwood Creek include an analysis of the impacts of artificial lighting used within sensitive biological resources and incorporate enforceable mitigation measures to decrease the impacts of artificial outdoor lighting on wildlife species. Potentially feasible mitigation measures include motion sensitive lighting; mounting light fixtures as low as possible to minimize light trespass; use of light fittings that direct and confine the spread of light downward; and use of long-wavelength light sources. In addition, CDFW recommends that lighting not be installed in ecologically sensitive areas (e.g., streams, wetlands, and habitat used by special-status species, such as nesting/roosting sites and riparian corridors) and the use of the white/blue wavelengths of the light spectrum be avoided.

## **Cumulative Impacts**

Given that this Plan would serve primarily as a planning tool and that future development projects are expected to be tiered from it, CDFW recommends that a cumulative impact analysis be conducted for all biological resources that would either be significantly or potentially significantly impacted by implementation of the Plan, including those whose impacts are determined to be less than significant with mitigation incorporated or for those resources that are rare or in poor or declining health and would be impacted by the Plan, 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 past, present, and reasonably foreseeable future projects on resources and be focused specifically on the resource, not the project. 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.

## **Plan Alternatives Analysis**

CDFW recommends that the information and results obtained from the biological technical surveys, studies, and analysis, including the cumulative impact analysis conducted in support of the Plan's DEIR be used to develop and modify the Plan's

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alternatives to avoid and minimize impacts to biological resources to the maximum extent possible. When efforts to avoid and minimize have been exhausted, CDFW advises that remaining impacts to sensitive biological resources be mitigated to reduce impacts to a less than significant level, if feasible.

### **Nesting Birds**

CDFW encourages that future projects avoid ground-disturbing activities 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), the project proponent is responsible for ensuring that implementation of the project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Code sections as referenced above.

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 project site tiered from the Plan to identify nests and determine their status. A sufficient area means any area potentially affected, either directly or indirectly, by the project. In addition to direct impacts (i.e., nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. CDFW recommends that a qualified biologist establish a behavioral baseline of all identified nests. Once project activities begin, CDFW recommends having a qualified biologist continuously monitor nests to detect behavioral changes resulting from the project. If behavioral changes occur, CDFW recommends halting the work causing that change and consulting with CDFW for additional avoidance and minimization measures.

CDFW recommends if continuous monitoring of identified nests by a qualified biologist is not feasible, a no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined the birds have fledged and are no longer reliant upon the nest or on-site parental care for survival. Variance from these no-disturbance buffers is possible when there is a compelling biological or ecological reason to do so, such as when the project site would be concealed from a nest site by topography. CDFW recommends that a qualified biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

**California Natural Diversity Database Positive Submission of Data:** Please note that the California Natural Diversity Database (CNDDDB) is populated by voluntary record 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. In order to

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adequately assess any potential Plan or future project-related impacts to biological resources, surveys conducted by a qualified biologist/botanist during the appropriate protocol survey methodology are warranted in order to determine whether or not any special-status species are present at or near the Plan site.

## 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 future project surveys to the CNDDDB. The CNDDDB field survey form can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

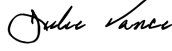
## FILING FEES

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

## CONCLUSION

CDFW appreciates the opportunity to comment on the NOP to assist the County in identifying and mitigating the Plan's and future project's 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>). Questions regarding this letter or further coordination should be directed to John Riedel, Environmental Scientist, at (559) 807-1453, or by email at [john.riedel@wildlife.ca.gov](mailto:john.riedel@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
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Julie A. Vance  
Regional Manager

Attachment 1- CDFW 2025 DEIR Letter  
Attachment 2- Special-Status Species Table

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## **References**

- Brosofske, K., J. Chen, R. Naiman, and J. Franklin. 1998. Harvesting effects on microclimatic gradients from small streams to uplands in western Washington. *Ecological Applications* 7:1188-1200.
- California Department of Fish and Game. 2012. Staff report on burrowing owl mitigation. California Department of Fish and Game, Sacramento, California, USA.
- California Department of Fish and Wildlife. 2018. Protocols for surveying and evaluating impacts to special-status native plant populations and sensitive natural communities. California Department of Fish and Wildlife. Sacramento, California, USA.
- California Department of Fish and Wildlife. 2023. Survey considerations for California Endangered Species Act candidate bumble bee species. California Department of Fish and Wildlife, Sacramento, California, USA.
- California Department of Fish and Wildlife. 2026. Biogeographic information and observation system (BIOS). <https://www.wildlife.ca.gov/Data/BIOS> Accessed 15 May 2026.
- Castelle, A., C. Conolly, M. Emers, E. Metz, S. Meyer, M. Witter, S. Mauermann, T. Erickson, and S. Cooke. 1992. Wetlands buffers use and effectiveness. Adolfson Associates, Inc., Shorelands and Coastal Zone Management Program, Washington Department of Ecology, Olympia, WA. Pub. No. 92-10.
- Kiffney, P., J. Richardson, and J. Bull. 2003. Responses of periphyton and insects to experimental manipulation of riparian buffer width along forest streams. *Journal of Applied Ecology* 40:1060-1076.
- Longcore, T., and C. Rich. 2004. Ecological light pollution - Review. *Frontiers in Ecology and the Environment*, 2:191–198.
- Miller, M. 2006. Apparent effects of light pollution on singing behavior of American robins. *The Condor*, 108:130–139.
- Moore, R., D. Spittlehouse, and A. Story. 2005. Riparian microclimate and stream temperature response to forest harvesting: a review. *Journal of the American Water Resources Association* 41:813-834.
- Nightingale, B., T. Longcore, and C. Simenstad. 2006. Artificial night lighting and fishes. Pages 257–276 *in* C. Rich and T. Longcore, editors. *Ecological consequences of artificial light at night*. Island Press, Washington, D.C., USA.

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Perry, G., B. Buchanan, R. Fisher, M. Salmon, and S. Wise. 2008. Effects of night lighting on urban reptiles and amphibians. Chapter 16 in: *Urban Herpetology: Ecology, Conservation and Management of Amphibians and Reptiles in Urban and Suburban Environments*. J. C. Mitchell, R. E. Jung Brown and B. Bartholomew (ed.). *Herpetological Conservation*, 3:211-228.

Stone, E., G. Jones, and S. Harris. 2009. Street lighting disturbs commuting bats. *Current Biology*, 19:1123–1127.

Swainson's Hawk Technical Advisory Committee. 2000. Recommended timing and methodology for Swainson's hawk nesting surveys in California's Central Valley. Swainson's Hawk Technical Advisory Committee.

U. S. Fish and Wildlife Service. 2003. Interim guidance on site assessment and field surveys for determining presence or a negative finding of the California tiger salamander. Sacramento, California, USA.

U. S. Fish and Wildlife Service. 2017. Survey guidelines for the listed large branchiopods. Pacific Southwest Region, Sacramento, California, USA. Revised November 2017.

U. S. Department of the Interior. 2001. Least Bell's Vireo Survey Guidelines. U. S. Fish and Wildlife Service. Carlsbad, California.

# Attachment 1

**Attachment 1**

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE  
SPECIAL-STATUS SPECIES TABLE**

**PROJECT: Madera Transit Station Specific Plan**

**SCH No.: 2026041246**

Common Name	Scientific Name	Status	
		State	Federal
Least Bell's vireo	<i>Vireo bellii pusillus</i>	E	E
Hairy Orcutt grass	<i>Orcuttia pilosa</i>	E	E
San Joaquin Valley Orcutt grass	<i>Orcuttia inaequalis</i>	E	T
Succulent owl's-clover	<i>Castilleja campestris var. succulenta</i>	E	T
Greene's tuctoria	<i>Tuctoria greenei</i>	R	E
Swainson's hawk	<i>Buteo swainsoni</i>	T	-
Tricolored blackbird	<i>Agelaius tricolor</i>	T	-
California tiger salamander- central California Distinct Population Segment (DPS)	<i>Ambystoma californiense</i> pop. 1	T	T
White-tailed kite	<i>Elanus leucurus</i>	FP	-
Crotch's bumble bee	<i>Bombus crotchii</i>	C	-
Western burrowing owl	<i>Athene cunicularia hypugaea</i>	C	-
Pallid bat	<i>Antrozous pallidus</i>	SSC	-
Western mastiff bat	<i>Eumops perotis californicus</i>	SSC	-
Western red bat	<i>Lasiurus frantzii</i>	SSC	-
American badger	<i>Taxidea taxus</i>	SSC	-
Loggerhead shrike	<i>Lanius ludovicianus</i>	SSC	-
Yellow-headed blackbird	<i>Xanthocephalus xanthocephalus</i>	SSC	-
Northwestern pond turtle	<i>Actinemys marmorata</i>	SSC	PT
Western spadefoot	<i>Spea hammondi</i>	SSC	PT
Vernal pool fairy shrimp	<i>Branchinecta lynchi</i>	SSA	T
Valley elderberry longhorn beetle	<i>Desmocerus californicus dimorphus</i>	-	T

E= Endangered, T= Threatened, C= Candidate for listing as Threatened and/or Endangered, R= Rare, SSC= Species of Special Concern, SSA=State Special Animal, FP= Fully Protected, PT= Proposed Threatened, (-)= None

# Attachment 2



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](http://www.wildlife.ca.gov)

**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



May 28, 2025

Dan Leavitt  
San Joaquin Joint Powers Authority  
949 East Channel Street  
Stockton, California 95202  
[info@maderastation.com](mailto:info@maderastation.com)

**Subject: Madera High-Speed Rail Station Full-Build Project Phase 3 (Project)  
Draft Environmental Impact Report (DEIR)  
SCH: 2023110616**

Dear Dan Leavitt:

The California Department of Fish and Wildlife (CDFW) received a DEIR from the San Joaquin Joint Powers Authority (SJJPA) for the Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

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 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 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

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<sup>1</sup> 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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San Joaquin Joint Powers Authority  
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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, 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.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

**Other Special Status 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.

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

## **PROJECT DESCRIPTION SUMMARY**

**Proponent:** San Joaquin Joint Powers Authority (SJJPA)

**Objective:** The proposed Project details the construction of the High-Speed Rail (HSR) Madera Station. The Project includes trackwork, platform construction, the overhead contact system construction, parking expansion, station expansion, culvert work, wildlife crossings and utility work. Additionally, the Project includes three new bridge structures: a new track bridge over Cottonwood Creek, a pedestrian bridge connecting the westside platform and eastside station, and a roadway bridge at Avenue 12. To accommodate additional HSR trains and express HSR services a second platform and second station siding track will be constructed along the west side of the station. The new layout will consist of four tracks with two through tracks in the middle and two siding tracks on either side. The Project also includes expanding the eastside platform to match the new westside platform.

**Location:** The Project site is located approximately 2 miles southeast of the City of Madera, centered near latitude 36.934722, longitude -119.985278 in the County of Madera.

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## COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist SJPPA 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 EIR prepared for the Project.

CDFW submitted a Notice of Preparation (NOP) comment letter to SJPPA for the Project on January 5, 2024, with recommendations for special-status species with the potential to be impacted by the Project. Currently, the DEIR acknowledges that the Project area is within the geographic range of several special-status animal species and proposes specific mitigation measures to reduce impacts to less than significant. CDFW has concerns about the ability of some of the proposed mitigation measures to reduce impacts to less than significant and avoid unauthorized take for several special-status animal species including the State threatened Swainson's hawk (*Buteo swainsoni*), the State candidate western burrowing owl (*Athene cunicularia hypugaea*) and Crotch's bumble bee (*Bombus crotchii*), and the State species of special concern American badger (*Taxidea taxus*), pallid bat (*Antrozous pallidus*) and western mastiff bat (*Eumops perotis californicus*).

### Swainson's Hawk

According to the DEIR Swainson's hawk (SWHA) nesting, and foraging habitats like annual grasslands will be impacted by the Project. The DEIR states, "There are eight CNDDDB occurrences documented within 10 miles of the Project study area. None of these occurrences have documented active nests within the last 5 years." However, CDFW has unpublished CNDDDB records and records from the California High Speed Rail Authority—produced under Incidental Take Permit (ITP) No. 2081-2013-025-04—of multiple active SWHA nests from the last five years within 10 miles of the Project site, with the closest SWHA nest approximately 0.09 miles away (CDFW 2025). SWHA exhibit high nest-site fidelity and will often return to the same territory year after year to nest (CDFW 2016). MM BIO-6 and MM BIO-7 are proposed to mitigate for potential impacts. However, MM BIO-7 proposes various no-disturbance buffers, none of which are sufficient to maintain full avoidance, along with a SWHA nest monitoring plan to utilize when construction activities must occur within 0.5 miles of an occupied SWHA nest tree. CDFW does not concur with these measures and instead recommends the following:

#### **Recommended Mitigation Measure 1: SWHA Surveys Prior to Construction**

Depending on the time between the initial survey efforts conducted in support of the DEIR and Project construction, CDFW recommends that additional surveys, following the survey methodology developed by the SWHA Technical Advisory Committee, be repeated the survey season immediately prior to construction.

#### **Recommended Mitigation Measure 2: 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

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maintained around each nest, regardless of whether it was detected by surveys or observed incidentally. These buffers would 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, to prevent nest abandonment and other take of SWHA as a result of Project activities.

**Recommended Mitigation Measure 3: 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.

**Recommended Mitigation Measure 4: SWHA Foraging Habitat Mitigation**

Finally, CDFW recommends compensation for the loss of SWHA foraging habitat as described in CDFW's "Staff Report Regarding Mitigation for Impacts to Swainson's Hawks" (CDFG 1994) to reduce impacts to foraging habitat to less than significant. The Staff Report recommends that mitigation for habitat loss occur within a minimum distance of 10 miles from known nest sites. CDFW has the following recommendations based on the Staff Report:

For projects within 1 mile of an active nest tree, a minimum of 1 acre of habitat management (HM) land for each acre of development is advised.

For projects within 5 miles of an active nest but greater than 1 mile, a minimum of ¾ acre of HM land for each acre of development is advised.

For projects within 10 miles of an active nest tree but greater than 5 miles from an active nest tree, a minimum of ½ acre of HM land for each acre of development is advised.

**Western Burrowing Owl**

The DEIR notes western burrowing owl (BUOW) could potentially occur at the Project site or within the vicinity of the Project during both the non-breeding and breeding seasons. MM BIO-8 is provided to mitigate for potential impacts to BUOW. However, a variety of no disturbance buffers were proposed, none of which are sufficient for full avoidance for BUOW. Additionally, MM BIO-8 includes exclusion measures that could not be implemented absent acquisition of an Incidental Take Permit (ITP) pursuant to Fish and Game Code Section 2081(b) for the Project. As such, CDFW recommends the following measures:

**Recommended Mitigation Measure 5: BUOW Pre-construction Surveys**

CDFW recommends that focused surveys, following the 2012 Staff Report on Burrowing Owl Mitigation (2012 Staff Report) (CDFG 2012), be conducted the

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survey season immediately prior to construction. Please note that this protocol necessitates multiple surveys prior to the initiation of construction.

**Recommended Mitigation Measure 6: BUOW Avoidance Buffer**

Should a BUOW or known BUOW den (active or inactive) be detected, either during pre-construction surveys or construction activities, CDFW recommends that no-disturbance buffers, as outlined in the 2012 Staff Report on Burrowing Owl Mitigation (CDFG 2012), be implemented prior to and during any ground-disturbing activities. CDFW also recommends that these buffers be implemented for both wintering and breeding BUOW.

**Recommended Mitigation Measure 7: BUOW Take Authorization**

If a BUOW or known BUOW den (active or inactive) is detected, and the no-disturbance buffers outlined in the 2012 Staff Report on Burrowing Mitigation 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, is necessary to comply with CESA.

**Crotch's bumble bee**

The DEIR states that suitable Crotch's bumble bee (CBB) habitat like annual grassland is present within the Project area. MM BIO-4 describes mitigation measures intended to minimize potential impacts to CBB. The measure utilizes habitat evaluation surveys to identify moderate to high quality foraging habitat within the Project study area. These areas of moderate to high quality habitat would then be surveyed within 1 year prior to the start of construction. The proposed survey methods describe four evenly spaced surveys during the flight season, however, if during the initial survey the qualified biologist determines that habitat is nonexistent or low quality, the remaining surveys would not be required. If surveys identify occupied CBB habitat then additional preconstruction surveys no more than 30 days prior to any initial ground disturbance are required between March and September. Additionally, MM BIO-3 states identified active nest and floral resources outside the permanent impact area that could be avoided would be given a no-work buffer. The size and configuration of the no-work buffer would be based on the judgement of the biologist; however, the buffer would be a minimum of 20 feet. CDFW does not concur that the described surveys and no-work buffer listed in MM BIO-4 are sufficient to adequately mitigate, minimize, or avoid potential impacts to CBB. CDFW recommends the following measures:

**Recommended Mitigation Measure 8: CBB Habitat Assessment**

CDFW recommends a qualified biologist conduct a habitat assessment to determine if the entire Project site and the immediate surrounding vicinity contain habitat suitable to support CBB. Potential nesting sites, which include all small mammal burrows, perennial bunch grasses, thatched annual grasses, brush piles, old bird nests, dead trees, and hollow logs would need to be documented as part of the assessment.

**Recommended Mitigation Measure 9: CBB Surveys Prior to Construction**

If potentially suitable habitat is identified, regardless of what time of year Project activities will be conducted, CDFW recommends that a qualified biologist conduct

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focused surveys for CBB and their requisite habitat features following the methodology outlined in the Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species (CDFW 2023).

**Recommended Mitigation Measure 10: CBB Avoidance**

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 ground-disturbing activities will occur during the overwintering period (October through February), 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 11: CBB Take Authorization**

If take cannot be avoided, take authorization through the acquisition of an ITP is necessary to comply with CESA.

**American Badger**

The DEIR states the Project could potentially impact American badger (AMBA) and includes MM BIO-12 to mitigate for potential impacts by implementing preconstruction surveys. BIO-12 states, "If an active den is detected in the work area, SJJPA will establish a suitable buffer distance, and the den will be avoided until the biologist determines that the den is no longer active through direct monitoring, wildlife cameras, or a camera probe." CDFW recommends a 50-foot avoidance buffer for any active AMBA dens. Additionally, CDFW does not recommend the use of a camera probe to determine if a den is active, given the infeasibility of evaluating the entirety of the burrow complex, as well as because there is potential for direct impacts to an animal when inside the burrow at the time the probe is utilized.

**Special-Status Bat Species**

The DEIR acknowledges that the Project site contains features like a box culvert, the Cottonwood Creek Bridge, and the Avenue 13 overpass that have the potential to support roosting bats. However, no measures were proposed to mitigate for potential Project related impacts to bats. CDFW has received recent reports of roosting bats from the California High Speed Rail Authority—delivered under Master Streambed Alteration Agreement 1600-2013-0060-R4—within 2.5 miles of the Project site. Project activities have the potential to affect individual bats and their roosting habitat. Since both the western mastiff bat and the pallid bat have the potential to occur within the Project site or Project vicinity, CDFW recommends the following measures to avoid, minimize, and mitigate for potential Project related impacts.

**Recommended Mitigation Measure 12: Special-Status Bat Surveys**

CDFW recommends the project proponent conduct focused surveys to establish species usage and seasonal usage. Focused survey methodology is advised to include visual surveys of bats (observation of presence of bats during foraging period), inspection for suitable habitat or bat sign (guano), and use of ultrasonic

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detectors (Anabat, Sonobat, etc.) during all dusk emergence and pre-dawn re-entry. To maximize detectability, each survey needs to be conducted within one 24-hour period.

### **Recommended Mitigation Measure 13: Bat Roost Disturbance Avoidance and Minimization**

If bats are present, CDFW recommends that a 100-foot no-disturbance buffer be placed around the roost and installing new roost sites to be in place prior to the initiation of Project related activities to allow enough time for bats to relocate. If a bat roost is identified and work is planned to occur during the breeding season, CDFW recommends that no disturbance to maternity roosts occur and that CDFW be consulted to determine measures to prevent breeding disruption or failure.

### **Editorial Comments and/or Suggestions**

**Project Lighting:** The northern portion of the Project intersects Cottonwood Creek, and other sensitive habitats like seasonal wetlands are also located within the Project area. According to the Project Description, the construction schedule has yet to be determined for this Project and it is unclear if nightwork will be needed. Additionally, the Project may install permanent outdoor artificial lighting. Installation of outdoor artificial night lighting would likely disrupt the circadian rhythms of many wildlife species. Many species use photoperiod cues for communication, determining when to begin foraging, thermoregulation behavior, and migration (Longcore and Rich 2004, Miller 2006, Nightingale et al. 2006, Perry et al. 2008, Stone et al. 2009). Phototaxis, a phenomenon which results in attraction and movement towards light, can disorient, entrap, and temporarily blind wildlife species that experience it (Longcore and Rich 2004). Project activities could result in disruption of wildlife behavior, inadvertent injury, or mortality. CDFW recommends the Project include feasible mitigation measures to decrease the impacts of artificial outdoor lighting on wildlife species. Potentially feasible mitigation measures include use of motion sensitive lighting; mounting light fixtures as low as possible to minimize light trespass; use of light fittings that direct and confine the spread of light downward; and use of long-wavelength light sources. In addition, CDFW recommends that lighting not be installed in or adjacent to ecologically sensitive areas (e.g., streams, wetlands, wildlife crossings, and habitat used by special-status species, such as nesting/roosting sites and riparian corridors), and the use of the white/blue wavelengths of the light spectrum be avoided.

**Riparian Habitat and Wetlands:** The DEIR states that Cottonwood Creek does not support a riparian natural community, which is not accurate. Cottonwood Creek is known to support nesting SWHA and other nesting birds and portions of Cottonwood Creek supports riparian vegetation. Additionally, no formal stream or wetland delineation appears to have been conducted to inform the DEIR of the extent and boundaries of potential stream, wetland, and riparian habitat boundaries. As such, CDFW recommends delineating and implementing an adequate buffer to protect wetlands, riparian vegetation, and associated wildlife, including State- and federally listed species. CDFW recommends delineating wetlands, vernal pools, and swales with

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an appropriate no-disturbance buffer. In addition, CDFW recommends delineation from surface water channels and waterways that have no riparian vegetation to avoid impacts. Further, a wetland delineation may need to be conducted and submitted to the United States Army Corps of Engineers (ACOE) for verification.

**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). 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.

**Bird Protection:** Please note that the CDFW recommended timing for preconstruction surveys and the CDFW recommended no-disturbance buffers for both active nests of non-listed bird species and active nests of non-listed raptors are different from what was proposed in MM BIO-13. CDFW does not concur that MM BIO-13 is sufficient to mitigate for potential impacts to nesting birds and recommends the following.

CDFW encourages that Project ground-disturbing activities 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), the Project applicant is responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Code sections as referenced above.

To evaluate Project-related impacts on nesting birds, CDFW recommends that a qualified biologist conduct a pre-construction survey 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 the Project site to identify nests and determine their status. A sufficient area means any area potentially affected, either directly or indirectly, by the Project. In addition to direct impacts (i.e., nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. CDFW recommends that a qualified biologist establish a behavioral baseline of all identified nests. Once Project activities begin, CDFW recommends having a qualified biologist continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends halting the work causing that change and consulting with CDFW for additional avoidance and minimization measures.

If continuous monitoring of identified nests by a qualified biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of

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non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined the birds have fledged and are no longer reliant upon the nest or on-site parental care for survival. Variance from these no-disturbance buffers is possible when there is a compelling biological or ecological reason to do so, such as when the Project site would be concealed from a nest site by topography. CDFW recommends that a qualified biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

**Lake and Streambed Alteration:** Fish and Game Code section 1600 states that, “the protection and conservation of the fish and wildlife resources of this state are of the utmost public interest.” Fish and Game Code section 1602 requires the Project proponent 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. Project activities described at Cottonwood Creek include pile driving, stabilization of exposed drainage banks, restoration to encourage vegetation re-establishment to pre-project conditions to reduce the effects of erosion, removal of any trees, shrubs, debris, or soils deposited below the ordinary high-water mark and restricting in-stream construction in the ordinary high-water mark to the low-flow period. These activities are subject to notification under Fish and Game Code section 1602. Ultimately, if a Lake or Streambed Alteration (LSA) Agreement is needed, CDFW is required to comply with CEQA in the issuance of an LSA Agreement. For additional information on notification requirements, please contact CDFW staff in the HSR Program at [RRR.R4@wildlife.ca.gov](mailto:RRR.R4@wildlife.ca.gov).

**CNDDB Positive Submission of Data:** Please note that the California Natural Diversity Database (CNDDB) is populated by voluntary submissions of species detections. As a result, species may be present in locations not depicted in the CNDDB but where there is suitable habitat and features capable of supporting species. A lack of an occurrence record, or lack of recent occurrence records, in the CNDDB does not mean that a species is not present. In order to adequately assess any potential Project-related impacts to biological resources, surveys conducted by a qualified biologist during the appropriate survey period(s) and using the appropriate protocol survey methodology are warranted in order to determine whether or not any special-status species are present at or near the Project site.

## **ENVIRONMENTAL DATA**

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special-status species and natural communities detected during Project surveys to the CNDDB. The CNDDB field survey form can be filled out and submitted online at the following link:

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

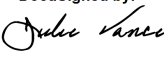
## FILING FEES

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

## CONCLUSION

CDFW appreciates the opportunity to comment on the DEIR to assist SJJPA in identifying and mitigating Project impacts on biological resources. Please see the enclosed Mitigation Monitoring and Reporting Program table which corresponds with recommended mitigation measures in this comment letter. More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>). Questions regarding this letter or further coordination should be directed to Rebecca Orta, Environmental Scientist, at (559) 341-4633 or [rebecca.orta@wildlife.ca.gov](mailto:rebecca.orta@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
FA83F09FE08945A...  
Julie A. Vance  
Regional Manager

## Attachment

ec: State Clearinghouse  
Governor's Office of Planning and Research  
[State.Clearinghouse@opr.ca.gov](mailto:State.Clearinghouse@opr.ca.gov)

San Joaquin Joint Powers Authority  
[info@maderastation.com](mailto:info@maderastation.com)

United States Fish and Wildlife Service  
Justin Sloan  
[Justin\\_Sloan@fws.gov](mailto:Justin_Sloan@fws.gov)

California Department of Fish & Wildlife  
Primavera Parker  
[primavera.parker@wildlife.ca.gov](mailto:primavera.parker@wildlife.ca.gov)

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## REFERENCES

- California Department of Fish and Game. 1994. Staff report regarding mitigation for impacts to Swainson's hawks (*Buteo Swainsoni*) in the Central Valley of California. Sacramento, California, USA.
- California Department of Fish and Game. 2012. Staff report on burrowing owl mitigation. California Department of Fish and Game, Sacramento, California, USA.
- California Department of Fish and Wildlife. 2016. Five-year status review: Swainson's hawk (*Buteo swainsoni*). Sacramento, California, USA.
- California Department of Fish and Wildlife. 2023. Survey considerations for California Endangered Species Act (CESA) candidate bumble bee species. Sacramento, California, USA.
- California Department of Fish and Wildlife. 2025. Biogeographic information and observation system (BIOS). <https://www.wildlife.ca.gov/Data/BIOS>. Accessed 21 April 2025
- Longcore, T., and C. Rich. 2004. Ecological light pollution - Review. *Frontiers in Ecology and the Environment*, 2:191–198.
- Miller, M. 2006. Apparent effects of light pollution on singing behavior of American robins. *The Condor*, 108:130–139.
- Nightingale, B., T. Longcore, and C. Simenstad. 2006. Artificial night lighting and fishes. Pages 257–276 in C. Rich and T. Longcore, editors. *Ecological consequences of artificial light at night*. Island Press, Washington, D.C., USA.
- Perry, G., B. Buchanan, R. Fisher, M. Salmon, and S. Wise. 2008. Effects of night lighting on urban reptiles and amphibians. Chapter 16 in: *Urban Herpetology: Ecology, Conservation and Management of Amphibians and Reptiles in Urban and Suburban Environments*. J. C. Mitchell, R. E. Jung Brown and B. Bartholomew (ed.). *Herpetological Conservation*, 3:211-228.
- Stone, E., G. Jones, and S. Harris. 2009. Street lighting disturbs commuting bats. *Current Biology*, 19:1123–1127.

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**Attachment 1**

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE  
 RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM**

**PROJECT: Madera High-Speed Rail Station Full-Build Project Phase 3**

**SCH No.: 2023110616**

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
<i>Before Disturbing Soil or Vegetation</i>	
Swainsons hawk	
<b>Recommended Mitigation Measure 1:</b> SWHA Surveys Prior to Construction	
<b>Recommended Mitigation Measure 3:</b> SWHA Take Authorization	
<b>Recommended Mitigation Measure 4:</b> SWHA Foraging Habitat Mitigation	
Western burrowing owl	
<b>Recommended Mitigation Measure 5:</b> BUOW Pre-construction Surveys	
<b>Recommended Mitigation Measure 7:</b> BUOW Take Authorization	
Crotch's bumble bee	
<b>Recommended Mitigation Measure 8:</b> CBB Habitat Assessment	
<b>Recommended Mitigation Measure 9:</b> CBB Surveys Prior to Construction	
<b>Recommended Mitigation Measure 11:</b> CBB Take Authorization	
Special status bats	
<b>Recommended Mitigation Measure 12:</b> Special-Status Bat Surveys	
<i>During Construction</i>	
Swainsons hawk	
<b>Recommended Mitigation Measure 2:</b> SWHA Avoidance Buffer	
Western burrowing owl	
<b>Recommended Mitigation Measure 6:</b> BUOW Avoidance Buffer	
Crotch's bumble bee	
<b>Recommended Mitigation Measure 10:</b> CBB Avoidance	
Special status bats	
<b>Recommended Mitigation Measure 13:</b> Bat Roost Disturbance, Avoidance and Minimization	