

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE



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October 16, 2026

California Department of Transportation
ATTN: Laura Cook, Senior Environmental Scientist
District 10 Environmental Division
1976 East Doctor Martin Luther King, Junior Boulevard
Stockton, CA 95205
Laura.Cook@dot.ca.gov

SUBJECT: INTERSTATE 5 AND LOUISE AVENUE INTERCHANGE IMPROVEMENT PROJECT (EA 10-0E550), MITIGATED NEGATIVE DECLARATION, SCH No. 2026091257, SAN JOAQUIN COUNTY

Dear Laura Cook:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) from California Department of Transportation (Caltrans) for the Interstate 5 (I-5) and Louise Avenue Interchange Improvement Project (EA 10-0E550) (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate 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 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 (LSA) 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.

REGULATORY REQUIREMENTS

California Endangered Species Act and Native Plant Protection Act

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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Please be advised that “take” of plants or animals listed under CESA or the Native Plant Protection Act (NPPA) during construction or over the life of the Project without authorization from CDFW would be a violation of Fish and Game Code section 2080. Under CESA, take is defined as “to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill.” If the Project has the potential to impact CESA or NPPA listed species, early consultation with CDFW is highly encouraged, as modification to the Project may be required to minimize and fully mitigate impacts of the project. Issuance of an Incidental Take Permit (ITP) is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program.

CDFW’s issuance of an ITP is considered a discretionary action as defined in Title 14 of the California Code of Regulations, section 15357, under CEQA. Therefore, before CDFW can issue the permit the applicant must have completed the necessary steps under CEQA. Compliance with CEQA is further described in Title 14 of the California Code of Regulations, section 783.3.

CEQA requires a Mandatory Finding of Significance if a Project is likely to substantially impact threatened or endangered species. (Pub. Resources Code, § 21083; CEQA Guidelines §§ 15380, 15064, & 15065.) Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports a Statement of Overriding Consideration. The CEQA Lead Agency’s Statement of Overriding Considerations does not eliminate the Project proponent’s obligation to comply with Fish and Game Code, § 2080 et seq.

PROJECT DESCRIPTION SUMMARY

Proponent: Caltrans

Objective: The objective of the Project is to replace the existing compact diamond interchange with a diverging diamond interchange to accommodate traffic associated with growth panned in the City of Lathrop’s General Plan. Primary Project activities include widening the existing I-5 on- and off-ramps, reconstructing the undercrossing underneath the existing freeway bridge, constructing ramp metering, constructing new auxiliary lanes less than 1 mile in length, providing new traffic signals, providing new sidewalks along Louise Avenue, and constructing Class II bicycle lanes along Louise Avenue.

Location: The project is located at the existing I-5 and Louise Avenue interchange in the City of Lathrop, 1.7 miles north of the I-5 and State Route 120 Interchange and 1.1 miles south of the I-5 and Lathrop Road Interchange. The project is southeast of the Sacramento-San Joaquin River Delta, San Joaquin County, California.

Timeframe: Project start and end dates not provided in MND.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below 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.

COMMENT 1: Western Burrowing Owl California Protective Designation, MND page 32 and 34

Issue: The MND inaccurately identifies western burrowing owl (*Athene cunicularia hypugaea*, burrowing owl) as a California State Species of Concern. Proper designation for burrowing owl is a CESA Candidate species.

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Supportive Evidence: Burrowing owl was officially designated as a CESA candidate species on October 10, 2025 and is afforded the same protection as a CESA-listed species (CEQA Guidelines, § 15380, subds.(b)) (California Department Fish and Game Commission 2025). Unauthorized take of this species pursuant to CESA is a violation of Fish and Game Code section 2080 et seq. Referring burrowing owl as merely a Species of Special Concern underrepresents its legal status—take without authorization is prohibited under CESA and not just protected in Fish & Game Code Sections 3503 and 3513.

Recommended Potentially Feasible Mitigation Measure(s) and/or Action: To ensure an accurate and legally defensible analysis, the CEQA document must correctly identify the burrowing owl as a CESA candidate species. All references in the document must be corrected to reflect that burrowing owl is a CESA candidate and address take regulations accordingly.

COMMENT 2: Burrowing Owl Passive Exclusion, MND pages 36-37

Issue: The IS/MND relies on passive exclusion of burrowing owl from unoccupied breeding and/or wintering burrows if identified during preconstruction surveys.

Supportive Evidence: The IS/MND allows for the eviction from burrows, which often results in increased stress on burrowing owl and could depress reproduction, increase predation, increase energetic costs, and introduce risks posed by having to find and compete for available burrows. Burrowing owl are dependent on burrows at all times of the year for survival or reproduction, therefore eviction from nesting, roosting, overwintering, and satellite burrows or other sheltering features may lead to indirect impacts or “take” which is prohibited under CESA and Fish and Game Code section 3503.5. Because the species’ population viability and survival are adversely affected by risk factors as described in the above comments.

Recommended Potentially Feasible Mitigation Measure(s) and/or Action

The IS/MND must make clear that any passive eviction or burrow exclusion *will require* a CESA ITP and should explain the process and timing required for obtaining it before the activity.

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 California Natural Diversity Database (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>.

ENVIRONMENTAL DOCUMENT 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.)

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CONCLUSION

CDFW appreciates the opportunity to comment on the MND to assist the Caltrans in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Karen Taylor, Senior Environmental Scientist (Specialist), at (707) 287-2144 or Karen.Taylor@wildlife.ca.gov; or Jason Faridi, Senior Environmental Scientist (Supervisory), at Jason.Faridi@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Erin Chappell
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Erin Chappell
Regional Manager
Bay Delta Region

ec: Office of Land Use and Climate Innovation, State Clearinghouse (SCH No. 2026091257
Craig Weightman, CDFW Bay Delta Region – Craig.Weightman@wildlife.ca.gov
Brian Hansen, USFWS - Brian_Hansen@fws.gov

REFERENCES

California Department of Fish and Commission. (2025). Notice of Candidacy, Western Burrowing Owl (*Athene cunicularia hypugaea*), California Fish and Game Commission, October 9–10, 2024" (Fish & Game Code § 2068) – [\[https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=227089&inline\]](https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=227089&inline)

California Department of Fish and Wildlife (CDFW). (2021). 2024. California Natural Diversity Database (CNDDDB) Management Framework. California Department of Fish and Wildlife. Sacramento, CA. Website <https://wildlife.ca.gov/Data/BIOS> [accessed October 2026]

CDFW. 2024. Petition Evaluation for Western Burrowing Owl (*Athene cunicularia hypugaea*). Report to the Fish and Game Commission. California Department of Fish and Wildlife, P.O. Box 944209, Sacramento, CA.

CDFW. 2012. Department of Fish and Game Staff Report on Burrowing Owl Mitigation. State of California Natural Resources Agency, Sacramento, CA.

iNaturalist. (2026). *Athene cunicularia* (Burrowing Owl) observations (Ider: kck83, 2025). Retrieved October 8, 2026, from [https://www.inaturalist.org/observations/...](https://www.inaturalist.org/observations/)

Shuford, W. David, and Thomas Gardali, eds. 2008. "California Bird Species of Special Concern: A Ranked Assessment of Species, Subspecies, and Distinct Populations of Birds of Immediate Conservation Concern in California". Studies of Western Birds no. 1. Camarillo, CA: Western Field Ornithologists; Sacramento, CA: California Department of Fish and Game.