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Governor's Office of Planning & Research

**Feb 16 2021**

## **STATE CLEARINGHOUSE**

February 12, 2021

Ms. Hailey Lang  
San Joaquin Council of Governments  
555 E. Weber Avenue  
Stockton, CA 95202  
[Lang@sjcog.org](mailto:Lang@sjcog.org)

Subject: 2022 SJCOG Regional Transportation Plan/Sustainable Communities Strategy, Notice of Preparation of a Draft Programmatic Environmental Impact Report, SCH No. 2020120482, San Joaquin County

Dear Ms. Lang:

The California Department of Fish and Wildlife (CDFW) reviewed the Notice of Preparation (NOP) of a draft Environmental Impact Report (EIR) provided for the 2022 SJCOG Regional Transportation Plan (including a Sustainability Strategy) Program (Project) located throughout San Joaquin County.

CDFW is a Trustee Agency with responsibility under the California Environmental Quality Act (CEQA) §15386 for commenting on projects that could impact fish, plant, and wildlife resources. CDFW is also considered a Responsible Agency if a project would require discretionary approval, such as a California Endangered Species Act (CESA) Permit, a Native Plant Protection Act Permit, a Lake and Streambed Alteration (LSA) Agreement and other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources. Pursuant to our jurisdiction, CDFW has the following concerns, comments, and recommendations regarding the Project.

### **PROJECT DESCRIPTION**

The Project is referred to as the 2022 San Joaquin Council of Governments (SJCOG) Regional Transportation Plan (RTP) and Sustainable Communities Strategy (SCS). The Programmatic EIR will be prepared to evaluate the update to the SJCOG RTP/SCS. SJCOG has the statutory responsibility to develop a comprehensive minimum 20-year vision of the region's transportation system. The 2022 RTP/SCS will cover the planning period through the year 2050. The 2022 RTP/SCS EIR will be prepared as a program level document that analyzes the effects of proposed actions for all modes of transportation as well as other issues and concerns such as transportation control measures and demand management, congestion management, and intelligent transportation systems.

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## LOCATION

The geographical extent of the updated RTP/SCS includes the area within the limits of San Joaquin County, California, including the incorporated cities and all unincorporated areas under the jurisdiction of the County of San Joaquin. Capital improvement projects identified in the RTP/SCS are primarily located on state highways, county roads, and locally owned streets, as well as on airport property, transit district property, and public utility lands.

## ENVIRONMENTAL SETTING

Sufficient information regarding the environmental setting is necessary to understand the project's, and its alternative's (if applicable), significant impacts on the environment (CEQA Guidelines, §§15125 and 15360).

CDFW recommends that the CEQA document prepared for the Project provide baseline habitat assessments for special-status plant, fish and wildlife species located and potentially located within the Project area and surrounding lands, including all rare, threatened, or endangered species (CEQA Guidelines, §15380). Fully protected, threatened or endangered, candidate, and other special-status species that are known to occur, or have the potential to occur in or near the Project site, include, but are not limited to:

Common Name	Scientific Name	Status
California tiger salamander	<i>Ambystoma californiense</i>	FT, ST
Foothill yellow-legged frog	<i>Rana boylei</i>	SE
California red-legged frog	<i>Rana draytonii</i>	FT, SSC
Western spadefoot	<i>Spea hammondi</i>	SSC
Golden eagle	<i>Aquila chrysaetos</i>	FP
Swainson's hawk	<i>Buteo swainsoni</i>	ST
Northern harrier	<i>Circus hudsonius</i>	SSC
White-tailed kite	<i>Elanus leucurus</i>	FP
Fulvous whistling-duck	<i>Dendrocygna bicolor</i>	SSC
Least bittern	<i>Ixobrychus exilis</i>	SSC
Mountain plover	<i>Charadrius montanus</i>	SSC
Western yellow-billed cuckoo	<i>Coccyzus americanus occidentalis</i>	FT, SE
Common loon	<i>Gavia immer</i>	SSC
Lesser sandhill crane	<i>Antigone canadensis canadensis</i>	SSC

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Greater sandhill crane	<i>Antigone canadensis tabida</i>	ST, FP
Purple martin	<i>Progne subis</i>	SSC
Bank swallow	<i>Riparia riparia</i>	ST
Tricolored blackbird	<i>Agelaius tricolor</i>	ST
Yellow-headed blackbird	<i>Xanthocephalus xanthocephalus</i>	SSC
Yellow-breasted chat	<i>Icteria virens</i>	SSC
Loggerhead shrike	<i>Lanius ludovicianus</i>	SSC
Black tern	<i>Chlidonias niger</i>	SSC
Saltmarsh common yellowthroat	<i>Geothlypis trichas sinuosa</i>	SSC
Yellow warbler	<i>Setophaga petechia</i>	SSC
Suisun song sparrow	<i>Melospiza melodia maxillaris</i>	SSC
Bryant's savannah sparrow	<i>Passerculus sandwichensis alaudinus</i>	SSC
American white pelican	<i>Pelecanus erythrorhynchos</i>	SSC
California black rail	<i>Laterallus jamaicensis coturniculus</i>	ST, FP
Short-eared owl	<i>Asio flammeus</i>	SSC
Burrowing owl	<i>Athene cunicularia</i>	SSC
Little willow flycatcher	<i>Empidonax trailii brewsteri</i>	SE
Least Bell's vireo	<i>Vireo bellii pusillus</i>	FE, SE
Vernal pool fairy shrimp	<i>Branchinecta lynchi</i>	FT
Vernal pool tadpole shrimp	<i>Lepidurus packardi</i>	FE
Green sturgeon	<i>Acipenser medirostris</i>	FT, SSC
White sturgeon	<i>Acipenser transmontanus</i>	SSC
Riffle sculpin	<i>Cottus gulosus</i>	SSC
Sacramento hitch	<i>Lavinia exilicauda exilicauda</i>	SSC
San Joaquin roach	<i>Lavinia symmetricus</i> ssp. 1	SSC
Hardhead	<i>Mylopharodon conocephalus</i>	SSC
Sacramento splittail	<i>Pogonichthus macrolepidotus</i>	SSC
Delta smelt	<i>Hypomesus transpacificus</i>	FT, SE
Longfin smelt	<i>Spirinchus thaleichthys</i>	FC, ST
Pacific lamprey	<i>Entosphenus tridentatus</i>	SSC
Western river lamprey	<i>Lampetra ayresii</i>	SSC
Kern brook lamprey	<i>Lampetra hubbsi</i>	SSC
Steelhead	<i>Oncorhynchus mykiss irideus</i>	FT

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Chinook salmon Central Valley spring-run	<i>Oncorhynchus tshawytscha</i>	FT, ST
Chinook salmon - Central Valley fall/late-fall run	<i>Oncorhynchus tshawytscha</i>	SSC
Chinook salmon- Sacramento River winter-run	<i>Oncorhynchus tshawytscha</i>	FE, SE
Crotch bumble bee	<i>Bombus crotchii</i>	CE
Western bumblebee	<i>Bombus occidentalis</i>	CE
Valley elderberry longhorn beetle	<i>Desmocerus californicus dimorphus</i>	FT
San Joaquin kit fox	<i>Vulpes macrotis mutica</i>	FE, ST
Riparian brush rabbit	<i>Sylvilagus bachmani riparius</i>	FE, SE
Western mastiff bat	<i>Eumops perotis californicus</i>	SSC
American badger	<i>Taxidea taxus</i>	SSC
Pallid bat	<i>Antrozous pallidus</i>	SSC
Townsend's big-eared bat	<i>Corynorhinus townsendii</i>	SSC
Western red bat	<i>Lasiurus blossevillii</i>	SSC
Northern California legless lizard	<i>Anniella pulchra</i>	SSC
California glossy snake	<i>Arizona elegans occidentalis</i>	SSC
San Joaquin coachwhip	<i>Masticophis flagellum ruddocki</i>	SSC
Alameda whipsnake	<i>Masticophis lateralis euryxanthus</i>	FT, ST
Western pond turtle	<i>Emys marmorata</i>	SSC
Giant garter snake	<i>Thamnophis gigas</i>	FT, ST
Coast horned lizard	<i>Phrynosoma blainvillii</i>	SSC
Sanford's arrowhead	<i>Sagittaria sanfordii</i>	1B.2
Tuolumne button-celery	<i>Eryngium pinnatis ectum</i>	1B.2
Delta button-celery	<i>Eryngium racemosum</i>	SE, 1B.1
Mason's lilaeopsis	<i>Lilaeopsis masonii</i>	SR, 1B.1
Big tarplant	<i>Blepharizonia plumosa</i>	1B.1
Hoover's calycadenia	<i>Calycadenia hooveri</i>	1B.3
Slough thistle	<i>Cirsium crassicaule</i>	1B.1
Showy golden madia	<i>Madia radiata</i>	1B.1
Suisun marsh aster	<i>Symphyotrichum lentum</i>	1B.2
Wright's trichocoronis	<i>Trichocoronis wrightii</i> var. <i>wrightii</i>	2B.1
Large-flowered fiddleneck	<i>Amsinckia grandiflora</i>	FE, SE, 1B.1

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Lemmon's jewelflower	<i>Caulanthus lemmonii</i>	1B.2
Caper-fruited tropidocarpum	<i>Tropidocarpum capparideum</i>	1B.1
Watershield	<i>Brasenia schreberi</i>	2B.3
Dwarf downingia	<i>Downingia pusilla</i>	2B.2
Legenere	<i>Legenere limosa</i>	1B.1
Heartscale	<i>Atriplex cordulata</i> var. <i>cordulata</i>	1B.1
San Joaquin spearscale	<i>Extriplex joaquinana</i>	1B.2
Bristly sedge	<i>Carex comosa</i>	2B.1
Alkali milk-vetch	<i>Astragalus tener</i> var. <i>tener</i>	1B.2
Delta tule pea	<i>Lathyrus jepsonii</i> var. <i>jepsonii</i>	1B.2
Saline clover	<i>Trifolium hydrophilum</i>	1B.2
Marsh skullcap	<i>Scutellaria galericulata</i>	2B.2
Side-flowering skullcap	<i>Scutellaria lateriflora</i>	2B.2
Woolly rose-mallow	<i>Hibiscus lasiocarpus</i> var. <i>succulenta</i>	1B.2
Succulent owl's-clover	<i>Castilleja capestris</i> var. <i>succulenta</i>	FT, SE, 1B.2
Palmate-bracted bird's-beak	<i>Chloropyron palmatum</i>	FE, SE, 1B.1
Diamond-petaled California poppy	<i>Eschscholzia rhombipetala</i>	1B.1
Boggs Lake hedge-hyssop	<i>Gratiola heterosepala</i>	SE, 1B.2
Greene's tuctoria	<i>Tuctoria greenei</i>	FE, SR, 1B.1
Shining navarretia	<i>Navarretia nigelliformis</i> ssp. <i>Radians</i>	1B.2
Hospital Canyon larkspur	<i>Delphinium californicum</i> spp. <i>interius</i>	1B.2
Recurved larkspur	<i>Delphinium recurvatum</i>	1B.2
Delta mudwort	<i>Limosella australis</i>	2B.1

FE = federally listed as endangered under ESA; FT = federally listed as threaten under ESA; FC = federal candidate; SE = state listed as endangered under CESA; ST = state listed as threatened under CESA; FP = state fully protected under Fish and Game Code; SSC = state species of special concern; SR = state listed as rare; CE= candidate for state listing as endangered; CT= candidate for state listing as threatened.

CNPS Plant Ranks: 1B = Rare, Threatened, or Endangered in California and Elsewhere; 2A = Presumed Extirpated in California, but Common Elsewhere; 2B = Rare, Threatened, or Endangered in California, But More Common Elsewhere.

CNPS Threat Ranks: 0.1 = Seriously threatened in California (over 80% of occurrences threatened/high degree and immediacy of threat); 0.2 = Moderately threatened in California (20-80% occurrences threatened/moderate degree of immediacy of threat); 0.3 = Not threatened in California (less than 20% of occurrences threatened/low degree and immediacy of threat or no current threats known).

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Habitat descriptions and species profiles should include information from multiple sources: aerial imagery, historical and recent survey data, field reconnaissance, scientific literature and reports, and findings from “positive occurrence” databases such as California Natural Diversity Database (CNDDDB). Based on the data and information from the habitat assessment, the CEQA document can then adequately assess which special-status species are likely to occur in the Project vicinity.

CDFW recommends that prior to project implementation, including pre-construction, surveys be conducted for special-status species with potential to occur, following recommended survey protocols if available. Survey and monitoring protocols and guidelines are available at: <https://wildlife.ca.gov/conservation/survey-protocols>.

Botanical surveys for special-status plant species, including those listed by the California Native Plant Society (<http://www.cnps.org/cnps/rareplants/inventory/>), must be conducted during the blooming period for all sensitive plant species potentially occurring within the Project area and require the identification of reference populations. Please refer to CDFW protocols for surveying and evaluating impacts to rare plants available at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>.

## **IMPACT ANALYSIS AND MITIGATION MEASURES**

The CEQA Guidelines (§15126.2) necessitate that the draft EIR discuss all direct and indirect impacts (temporary and permanent) that may occur with implementation of the Project. This includes evaluating and describing impacts such as:

- Potential for “take” of special-status species;
- Loss or modification of breeding, nesting, dispersal and foraging habitat, including vegetation removal, alteration of soils and hydrology, and removal of habitat structural features (e.g., snags, roosts, overhanging banks) as well as modification of artificial structures such as bridges that may provide habitat for certain species (e.g., birds and bats);
- Permanent and temporary habitat disturbances associated with ground disturbance, noise, lighting, reflection, air pollution, traffic or human presence; and
- Obstruction of movement corridors, fish passage, or access to water sources and other core habitat features.

The CEQA document also should identify reasonably foreseeable future projects in the Project vicinity, disclose any cumulative impacts associated with these projects, determine the significance of each cumulative impact, and assess the significance of the Project’s contribution to the impact (CEQA Guidelines, §15355). Although a project’s

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impacts may be insignificant individually, its contributions to a cumulative impact may be considerable; a contribution to a significant cumulative impact – e.g., reduction of available habitat for a listed species – should be considered cumulatively considerable without mitigation to minimize or avoid the impact.

Based on the comprehensive analysis of the direct, indirect, and cumulative impacts of the project, the CEQA Guidelines (§§ 15021, 15063, 15071, 15126.2, 15126.4 and 15370) direct the lead agency to consider and describe all feasible mitigation measures to avoid potentially significant impacts in the draft EIR, and/or mitigate significant impacts of the Project on the environment. This includes a discussion of take avoidance and minimization measures for special-status species, which are recommended to be developed in early consultation with the U.S. Fish and Wildlife Service, the National Marine Fisheries Service and CDFW. These measures can then be incorporated as enforceable project conditions to reduce potential impacts to biological resources to less-than-significant levels.

Fully protected species such as golden eagle, white-tailed kite, greater sandhill crane, and California black rail may not be taken or possessed at any time (Fish and Game Code § 3511). Therefore, the draft EIR is advised to include measures to ensure complete take avoidance of these fully protected species.

CDFW recommends adding the following language to the draft EIR for the protection of wildlife:

1. *Fence and Signpost Restriction. Any fencing posts or signs installed temporarily or permanently throughout the course of the project shall have the top three post holes covered or filled with screws or bolts to prevent the entrapment of wildlife, specifically the talons of birds of prey. Also, fencing should incorporate wildlife friendly design elements, such as smooth wires and having a 6-inch or greater gap above grade. Fencing shall also be designed to be wildlife friendly (e.g., smooth top wire, smooth bottom wire at 6 inches above grade, etc.).*

## **REGULATORY REQUIREMENTS**

### **California Endangered Species Act**

Please be advised that a CESA Permit must be obtained if the Project has the potential to result in “take” of plants or animals listed under CESA, either during construction or over the life of the Project. Issuance of a CESA Permit is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA Permit.

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CEQA requires a Mandatory Finding of Significance if a project is likely to substantially impact threatened or endangered species (CEQA §§ 21001(c), 21083, and CEQA Guidelines §§ 15380, 15064, 15065). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency's FOC does not eliminate the Project proponent's obligation to comply with Fish and Game Code § 2080.

### **Lake and Streambed Alteration Agreement**


CDFW will require an LSA Agreement, pursuant to Fish and Game Code §§ 1600 et. seq. for Project-related activities within any 1600-jurisdictional waters within the proposed Project area. Notification is required for any activity that will substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland resources; or deposit or dispose of material where it may pass into a river, lake or stream. Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. CDFW, as a Responsible Agency under CEQA, will consider the CEQA document for the Project. CDFW may not execute the final LSA Agreement until it has complied with CEQA (Public Resources Code § 21000 et seq.) as the responsible agency.

### **FILING FEES**

CDFW anticipates that the Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish and Game Code, § 711.4; Pub. Resources Code, § 21089). 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.

If you have any questions, please contact Ms. Andrea Boertien, Environmental Scientist, at [Andrea.Boertien@wildlife.ca.gov](mailto:Andrea.Boertien@wildlife.ca.gov) or (209) 234-3449; or Ms. Melissa Farinha, Senior Environmental Scientist (Supervisory), at [Melissa.Farinha@wildlife.ca.gov](mailto:Melissa.Farinha@wildlife.ca.gov) or (707) 944-5579.

Sincerely,

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Gregg Erickson  
Regional Manager  
Bay Delta Region

cc: State Clearinghouse  
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