



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
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www.wildlife.ca.gov

GAVIN NEWSOM, Governor
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Governor's Office of Planning & Research

Apr 09 2021

April 9, 2021

STATE CLEARINGHOUSE

Dylan Stone
Madera County Transportation Commission
2001 Howard Road Suite 201
Madera, California 93637
dylan@maderactc.org

**Subject: 2022 Regional Transportation Plan/Sustainable Communities Strategy
(RTP/SCS) (Project)
Notice of Preparation (NOP)
SCH No.: 2021030268**

Dear Mr. Stone:

The California Department of Fish and Wildlife (CDFW) received a NOP from the Madera County Transportation Commission (MCTC) for the above-referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under Fish and Game Code.

CDFW ROLE

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

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

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CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code will be required.

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).

PROJECT DESCRIPTION SUMMARY

Proponent: Madera County Transportation Commission

Objective: The Project is the preparation of the 2022 RTP/SCS. MCTC is in the process of preparing the RTP/SCS as required by Section 65080 et seq., of Chapter 2.5 of the California Government Code, federal guidelines pursuant to new requirements established in the federal surface transportation reauthorization, "Moving Ahead for Progress in the 21st Century" and the Fixing America's Surface Transportation Acts, Transportation Conformity for the Air Quality Attainment Plan per 40 CFR Part 51 and 40 CFR Part 93, and requirements set forth in Assembly Bill 32, The California Global Warming Solutions Act of 2006, and Senate Bill 375 The Sustainable Communities and Climate Protection Act of 2008. The California Transportation Commission has prepared guidelines to assist in the preparation of the RTP/SCS.

The 2022 RTP/SCS will address all transportation modes including motor vehicles, transit (commuter and local), rail (commuter and interregional), goods movement (rail freight and trucking), bicycle and pedestrian facilities, aviation systems, and transportation systems management programs and projects considering the horizon year of 2046. In addition, the 2022 RTP/SCS will:

- Identify the region's transportation goals, objectives, and policies
- Include the SCS, which demonstrates how the region will meet its GHG reduction target through integrated land use, and housing and transportation planning. Once adopted by MCTC, the SCS becomes an integral part of the RTP
- Set forth an action plan of projects and programs to address the needs consistent with the Policy Element
- Integrate results reflected in the Congestion Management Program
- Document the financial resources needed to implement the plan

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- Reflect results of the Transportation Conformity Analysis
- Highlight the 2022 RTP/SCS EIR process and results
- Detail the RTP/SCS public outreach process
- Include the Environmental Justice analysis process

Location: The Project site is located within the corporate limits of Madera County, California, including two incorporated cities (Chowchilla and Madera) and all unincorporated areas under the jurisdiction of the County of Madera.

Timeframe: The RTP/SCS is a long-range plan for all modes of transportation through to the year 2046.

COMMENTS AND RECOMMENDATIONS

The NOP indicates that the Environmental Impact Report (EIR) for the Project will describe existing environmental conditions in the Project area, and analyze potential impacts resulting from Project activities. The EIR will also identify and evaluate alternatives to the proposed project.

When an EIR is prepared, the specifics of mitigation measures may be deferred, provided the lead agency commits to mitigation and establishes performance standards for implementation. Several special-status plant and animal species that have been documented in the Project area per the California Natural Diversity Database (CNDDDB), including but not limited to, the State and federally endangered and State fully protected blunt-nosed leopard lizard (*Gambelia sila*), the State and federally threatened California tiger salamander (*Ambystoma californiense*), the State threatened Swainson's hawk (*Buteo swainsoni*), the State threatened tricolored blackbird (*Agelaius tricolor*), the State endangered great gray owl (*Strix nebulosa*), the State endangered foothill yellow-legged frog (*Rana boylei*), the State fully protected golden eagle (*Aquila chrysaetos*) and white-tailed kite (*Elanus leucurus*), the State endangered and fully protected bald eagle (*Haliaeetus leucocephalus*), the State and federally endangered Fresno kangaroo rat (*Dipodomys nitratoides exilis*), the State threatened and federally endangered San Joaquin kit fox (*Vulpes macrotis mutica*), the State threatened and federally proposed endangered Sierra Nevada red fox (*Vulpes vulpes necator*), the State threatened and federally endangered fisher (*Pekania pennanti*), the State and federally endangered Harweg's golden sunburst (*Pseudobahia bahiifolia*), the State endangered and federally endangered hairy Orcutt grass (*Orcuttia pilosa*), the State endangered and federally threatened succulent owl's clover (*Castilleja campestris var. succulenta*), and the State species of special concern burrowing owl (*Athene cunicularia*), California spotted owl (*Strix occidentalis occidentalis*), and western spadefoot toad (*Spea hammondi*). While this list may not include all special-status species present Project area, it does provide a robust source of information as to which species could potentially be impacted. CDFW recommends the EIR prepared for the Project analyze potential impacts to these species provide measurable mitigation measures that, as needed, will reduce impacts to less than significant levels.

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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>).

CDFW also recommends consulting with the USFWS on potential impacts to federally listed species including, but not limited to, California tiger salamander, Sierra Nevada red fox, fisher, Harweg's golden sunburst, succulent owl's clover, and vernal pool invertebrates. Take under the Federal Endangered Species Act (FESA) is more broadly defined than CESA; take under FESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS in order to comply with FESA is advised well in advance of any ground disturbing activities.

In addition to potential species impacts, it is likely that some Project activities that will be subject to CDFW's regulatory authority pursuant Fish and Game Code section 1600 et seq. If a Lake or Streambed Alteration Agreement (LSAA) is needed, CDFW is required to comply with CEQA in the issuance or the renewal of a LSAA. Therefore, for efficiency in environmental compliance, we recommend that any potential lake or stream disturbance that may result from Project activities be described, and mitigation for the disturbance be developed as part of the EIR. This will reduce the need for the Department to require extensive additional environmental review for a LSAA in the future. If inadequate, or no environmental review, has occurred, for the Project activities that are subject to notification under Fish and Game Code section 1602, CDFW will not be able to issue the Final LSAA until CEQA analysis for the project is complete. This may lead to considerable Project delays.

CDFW is available to meet with you ahead of DEIR preparation to discuss potential impacts and possible mitigation measures for some or all of the resources that may be analyzed in the EIR. If you have any questions, please contact Jim Vang, Environmental Scientist, at the address provided on this letterhead, by telephone at (559) 243-4014 extension 254, or by electronic mail at Jim.Vang@wildlife.ca.gov.

Sincerely,

DocuSigned by:

041A77B10D78486
Julie A. Vance
Regional Manager

Attachment

cc: Regional Water Quality Control Board
Central Valley Region
1685 "E" Street
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San Joaquin Valley Office
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LITERATURE CITED

CDFW. 2021. Biogeographic Information and Observation System (BIOS).
<https://www.wildlife.ca.gov/Data/BIOS>.