



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
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**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



**Governor's Office of Planning & Research**

June 16, 2022

**Jun 17 2022**

**STATE CLEARINGHOUSE**

Becky Napier, Deputy Director  
Kern Council of Governments  
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Bakersfield, California 93301  
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**Subject: 2022 Regional Transportation Plan and Sustainable Communities Strategy (RTP/SCS) (Project)  
Draft Program Environmental Impact Report (DPEIR)  
State Clearinghouse No. 2021050012**

Dear Ms. Napier:

The California Department of Fish and Wildlife (CDFW) received a DPEIR from the Kern Council of Governments (COG) for the above-referenced 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 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

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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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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 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:** Kern COG

**Objective:** The Project defines the region's mobility needs and issues through 2045, sets forth an action plan of projects and programs to address the needs consistent with the adopted policies, and documents the financial resources needed to implement the plan. The Project establishes a set of regional transportation goals, policies, and actions intended to guide development of the planned multimodal transportation systems in Kern County. It has been developed through a continuing, comprehensive, and cooperative planning process, and provides for effective coordination between local, regional, state, and federal agencies. Kern COG does not implement individual projects included in the RTP/SCS; individual projects are implemented by local jurisdictions and other agencies. The RTP/SCS includes the following key components:

- Transportation Planning Policies
- Planning Assumptions and Growth Trends
- Sustainable Communities Strategy
- Strategic Investments/Action Element
- Financial Constraints
- Future Transportation Planning (beyond 2046)
- Monitoring progress

**Location:** Kern COG is an association of city and county governments created to address regional transportation issues. Its member agencies include the County of Kern and the 11

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incorporated cities within Kern County including Arvin, Bakersfield, California City, Delano, Maricopa, McFarland, Ridgecrest, Shafter, Taft, Tehachapi, and Wasco.

**Timeframe:** Until 2046.

## COMMENTS AND RECOMMENDATIONS

The biological resources section of the DPEIR provided acceptable general mitigation measures, but without specific detail. For example, Mitigation Measure BIO-2 states that species-focused and protocol-level surveys will be conducted, which CDFW agrees, but does not specifically identify them. CDFW offers the following species-specific comments and recommendations to assist Kern COG 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 PEIR.

Given the county-wide implications of this RTP/SCS, CDFW is concerned that subsequent projects (hereafter, "projects") tiering from the Program EIR could impact special-status species. These projects may or may not undergo environmental review and therefore CDFW recommends that the EIR fully address potential impacts to special status species. In CDFW's previous comment letter dated June 8, 2021, during the Notice of Preparation for this Project, CDFW has concerns with potential impacts to special status species including, but not limited to, the following special status species: the State endangered and federally threatened western yellow-billed cuckoo (*Coccyzus americanus occidentalis*), the State and federally threatened California tiger salamander (*Ambystoma californiense*), the State threatened and federally endangered San Joaquin kit fox (*Vulpes macrotis mutica*), the State-candidate listed as endangered and federally endangered desert tortoise (*Gopherus agassizii*); the following State endangered species: Bakersfield smallscale (*Atriplex tularensis*), San Joaquin adobe sunburst (*Pseudobahia peirsonii*), bald eagle (*Haliaeetus leucocephalus*), foothill yellow-legged frog (*Rana boylei*), Mojave tarplant (*Deinandra mohavensis*); the following State and federally endangered species: Bakersfield cactus (*Opuntia basilaris var. treleasei*), California jewelflower (*Caulanthus californicus*), Tipton kangaroo rat (*Dipodomys nitratoides nitratoides*), blunt-nosed leopard lizard (*Gambelia sila*), giant kangaroo rat (*Dipodomys ingens*), California condor (*Gymnogyps californianus*), southwestern willow flycatcher (*Empidonax traillii extimus*), least Bell's vireo (*Vireo bellii pusillus*), and southern mountain yellow-legged frog (*Rana muscosa*); the following State threatened species: striped adobe-lily (*Fritillaria striata*), Fisher (*Pekania pennanti*), Kern Canyon slender salamander (*Batrachoseps simatus*), tricolored blackbird (*Agelaius tricolor*), Swainson's hawk (*Buteo swainsoni*), southern rubber boa (*Charina umbratica*), San Joaquin antelope squirrel (*Ammospermophilus nelsoni*), and Mohave ground squirrel (*Xerospermophilus mohavensis*); and the following State species of special concern: Le Conte's thrasher (*Toxostoma lecontei*), Tehachapi pocket mouse (*Perognathus alticola inexpectatus*), gray vireo (*Vireo vicinior*), western pond turtle (*Emys marmorata*),

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Townsend's big-eared bat (*Corynorhinus townsendii*), two-striped gartersnake (*Thamnophis hammondi*), short-nosed kangaroo rat (*Dipodomys nitratoides brevinasus*), Buena Vista Lake ornate shrew (*Sorex ornatus relictus*), coast horned lizard (*Phrynosoma blainvillii*), American badger (*Taxidea taxus*), long-eared owl (*Asio otus*), yellow-breasted chat (*Icteria virens*), pallid bat (*Antrozous pallidus*), western mastiff bat (*Eumops perotis californicus*), short-nosed kangaroo rat (*Dipodomys nitratoides brevinasus*), fulvous whistling-duck (*Dendrocygna bicolor*), San Joaquin coachwhip (*Masticophis flagellum ruddocki*), spotted bat (*Euderma maculatum*), purple martin (*Progne subis*), California glossy snake (*Arizona elegans occidentalis*), Southern Sierra legless lizard (*Anniella campi*), Bakersfield legless lizard (*Anniella grinnelli*), western spadefoot (*Spea hammondi*), and burrowing owl (*Athene cunicularia*). 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.

### **San Joaquin Kit Fox (SJKF)**

SJKF den in right-of-ways, vacant lots, etc., and populations can fluctuate over time. It is important to note that SJKF populations are known to fluctuate and a negative finding from biological surveys in any one year does not necessarily demonstrate absence of kit fox on a site. In addition, SJKF may be attracted to both construction materials (pipes, etc.) and construction footprints due to the type and level of activity (excavation, etc.) and the loose, friable soils that are created as a result of intensive ground disturbance.

CDFW recommends the Program EIR quantify and describe the potential for subsequent projects to result in direct and indirect impacts to SJKF. This information, in addition to adequate description of habitat features on individual projects sites, is essential to adequately assess project impacts. Prior to ground-disturbing activities, CDFW recommends that a qualified wildlife biologist assess individual project sites to determine if habitat suitable to support SJKF is present. If suitable habitat is present, CDFW recommends that a qualified biologist assess presence/absence of SJKF by conducting surveys following the United States Fish and Wildlife Service's (USFWS) "Standardized recommendations for protection of the San Joaquin kit fox prior to or during ground disturbance" (2011) and implementing no-disturbance buffers around den sites, as described in the USFWS document. SJKF detection warrants consultation with CDFW to discuss how to avoid take, or if avoidance is not feasible, to acquire an Incidental Take Permit (ITP) prior to ground-disturbing activities, pursuant to Fish and Game Code section 2081 subdivision (b).

### **Swainson's Hawk (SWHA)**

Projects tiering from the Program EIR have the potential to impact SWHA. Without appropriate avoidance and minimization measures for SWHA, potential significant impacts that may result from subsequent project activities include nest abandonment, and reduced nesting success (loss or reduced health or vigor of eggs or young).

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To avoid impacts to nesting SWHA, CDFW recommends that subsequent project's ground-disturbing activities be timed to avoid the normal bird breeding season (February 1 through September 15). However, if ground-disturbing activities must take place during that time, CDFW recommends that a qualified wildlife biologist determine if suitable habitat is present on or adjacent to individual project sites. If suitable habitat is present, CDFW recommends a qualified wildlife biologist conduct surveys following the survey methods developed by the Swainson's Hawk Technical Advisory Committee (SWHA TAC 2000) be conducted by a qualified wildlife biologist prior to project implementation. If active nests are detected, CDFW recommends a minimum no-disturbance buffer of 0.5-mile be delineated around them 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. If an active SWHA nest is detected during surveys and a 0.5-mile 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.

### **Tricolored Blackbird (TRBL)**

TRBL are known to nest in alfalfa, wheat, and other low agricultural crop fields. TRBL aggregate and nest colonially, forming colonies of up to 100,000 nests (Meese et al. 2014). Approximately 86% of the global population is found in the San Joaquin Valley (Kelsey 2008, Weintraub et al. 2016). Increasingly, TRBL are forming larger colonies that contain progressively larger proportions of the species' total population (Kelsey 2008). In 2008, for example, 55% of the species' global population nested in only two colonies, which were located in silage fields (Kelsey 2008). In 2017, approximately 30,000 TRBL were distributed among only 16 colonies in Merced County (Meese 2017). Nesting can occur synchronously, with all eggs laid within one week (Orians 1961). For these reasons, depending on timing, disturbance to nesting colonies can cause abandonment, significantly impacting TRBL populations (Meese et al. 2014).

Without appropriate avoidance and minimization measures for TRBL, potential significant impacts of projects tiering from the Program EIR include nest and/or colony abandonment, reduced reproductive success, and reduced health and vigor of eggs and/or young. CDFW recommends that project ground-disturbing activities be timed to avoid the normal bird breeding season (February 1 through September 15). However, if ground-disturbing activities must take place during that time, CDFW recommends that a qualified wildlife biologist determine if suitable habitat is present on or adjacent to individual project sites. If suitable habitat is present, CDFW recommends a qualified wildlife biologist conduct surveys for nesting TRBL no more than 10 days prior to the start of ground-disturbing activities. If an active TRBL nesting colony is found during pre-activity surveys, CDFW recommends implementation of a minimum 300-foot no-disturbance buffer around the colony in accordance with CDFW's "*Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields in 2015*" (CDFW 2015). CDFW advises that this buffer remain in place until the breeding season has ended or until a qualified biologist has determined that nesting has ceased, the birds have fledged, and are no longer

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reliant upon the colony or parental care for survival. It is important to note that TRBL colonies can expand over time. For this reason, CDFW recommends conducting additional pre-activity surveys within 10 days prior of project initiation to reassess the colony's areal extent. If a TRBL nesting colony is 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 an ITP, pursuant to Fish and Game Code section 2081 subdivision (b), prior to any ground-disturbing activities.

**Desert Tortoise:** The Project site is within the range of suitable habitat for desert tortoise. CDFW recommend that surveys following the protocol contained in "Preparing for any action that may occur within the range of the Mojave desert tortoise (*Gopherus agassizii*)" (USFWS 2010) be conducted during the appropriate survey period to determine the potential for desert tortoise to use the Project site and surrounding area. Survey results will need to be submitted to both CDFW and the United States Fish and Wildlife Service. If surveys indicate the presence or potential presence of desert tortoise, consultation with CDFW and the USFWS is essential to develop appropriate avoidance, minimization, and mitigation measures.

If projects propose to use exclusion fencing, CDFW recommends that all perimeter fencing be raised seven (7) to eight (8) inches above ground for the length of the fencing with the bottom fencing material knuckled back to maintain movement and habitat connectivity for desert tortoise. CDFW recommends that exclusion fencing is installed after desert tortoise and Mohave ground squirrel surveys are completed and no desert tortoise or Mohave ground squirrels are detected on-site to avoid take of these species. Fish and Game Code section 86 defines take as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill." CDFW considers animals trapped within exclusion fencing to be captured and if this occurs absent the acquisition of a State ITP, unauthorized take has occurred in violation of CESA.

### **Mohave Ground Squirrel (MGS)**

Major threats to the MGS are drought, habitat destruction, habitat fragmentation, and habitat degradation (Gustafson 1993). MGS is restricted to a small geographic range and the greatest habitat loss has occurred near desert towns such as California City (Gustafson 1993). Natural cycling is anticipated in MGS populations, therefore, the true indicators of the status of the species are the quantity, pattern of distribution, and quality of habitat (Gustafson 1993).

To evaluate potential project-related impacts to MGS, CDFW recommends a qualified permitted biologist conduct protocol surveys for MGS following the methods described in the "Mohave Ground Squirrel Survey Guidelines" (CDFG 2010) during the appropriate survey season prior to project implementation, including any vegetation- or ground-disturbing activities. Please note that guidelines indicate that a visual survey and up to three trapping sessions may need to be conducted (CDFG 2010). Results of

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the MGS surveys are advised to be submitted to the CDFW. As indicated above, MGS surveys are valid for one year and CDFW recommend surveys be conducted within a year from the start of ground-disturbing activities. If MGS are found within the project site during protocol surveys, preconstruction surveys, or construction activities, consultation with CDFW is recommended to discuss how to implement the project and avoid take; or if avoidance is not feasible, to acquire an ITP prior to any ground-disturbing activities, pursuant Fish and Game Code section 2081(b). Alternatively, the applicant can assume presence and acquire an ITP prior to initiating project activities.

**Tipton Kangaroo Rat (TKR), Giant Kangaroo Rat (GKR) and other kangaroo rats:** Both TKR and GKR may be impacted by project activities. In order to determine if TKR and GKR occupy the project site, focused protocol-level trapping surveys would need to be conducted by a qualified wildlife biologist that is permitted to do so by both CDFW and USFWS. These surveys are recommended to be conducted well in advance of ground-disturbing activities in order to determine if impacts to special status kangaroo rats could occur. In order to implement full avoidance for both these species, CDFW recommends a minimum 50-foot no-disturbance buffer be employed around all burrows that could be used by kangaroo rats. If full avoidance is not feasible and take could potentially occur as a result of construction-related activities, acquisition of an ITP (in accordance with Section 2081(b) of the Fish and Game Code) would be warranted prior to initiating ground-disturbing activities. Alternatively, the applicant has the option of assuming presence for this species and secure an ITP for TKR and GKR.

**San Joaquin Antelope Squirrel (SJAS):** Subsequent project activities may impact SJAS. In order to determine if project implementation would impact SJAS, surveys focused on SJAS would need to be conducted by a qualified wildlife biologist during the appropriate conditions for detection of the species. Conditions considered appropriate for SJAS include daytime temperatures between 68 to 86 degrees Fahrenheit and between April 1 and September 30 (CDFG 1990). These surveys are recommended to be conducted well in advance of ground-disturbing activities in order to determine if impacts to SJAS could occur during construction related activities. In order to implement full avoidance for SJAS, CDFW recommends a minimum 50-foot no-disturbance buffer be employed around all burrows that could be used by SJAS. If implementation of avoidance measures is not feasible and if take could occur as a result of construction-related activities, acquisition of an ITP would be warranted prior to initiating ground-disturbing activities. Alternatively, the applicant has the option of assuming presence for this species and securing an ITP for SJAS.

### **California Tiger Salamander (CTS)**

CTS have the potential to be impacted by project activities. Results from the California Natural Diversity Database (CNDDDB) show that CTS are known to occur in northwestern Kern County (CDFW 2022). CTS breed and develop in vernal and seasonal pools and stock ponds within grassland, woodland, and scrub habitat types. They require upland refuges (i.e. small mammal burrows) when not breeding and have been demonstrated to disperse up to 1.3 miles from aquatic habitat (Searcy and Shaffer 2011).

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Prior to ground-disturbing activities that occur within the range of CTS, CDFW recommends that a qualified wildlife biologist assess individual project sites and their vicinity (i.e. up to 1.3-mile radius buffer) to evaluate potential for CTS and presence of both upland and aquatic habitat features which could support the species. If suitable habitat is present, CDFW recommends site assessments follow the USFWS's "Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander" (2003). If surveys determine that CTS have the potential to be present, CDFW advises avoidance for CTS include a minimum 50-foot no-disturbance buffer delineated around all small mammal burrows and a 250-foot buffer around all aquatic habitat features with potential to support breeding. If these no-disturbance buffers cannot be maintained, or if presence of the species is assumed, take authorization through acquisition of an ITP by CDFW, pursuant to Fish and Game Code section 2081 subdivision (b), is recommended prior to any ground disturbing activities to comply with CESA.

**Special-Status Plant Species:** Special status plant species may be impacted by project activities. CDFW recommends that the project site be surveyed by a qualified botanist. CDFW advises following the Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities (CDFG, 2018). This protocol, which is intended to maximize detectability, includes the identification of reference populations to facilitate the likelihood of field investigations occurring during the appropriate floristic period. In the absence of protocol-level surveys being performed, additional surveys may be necessary. Further, CDFW advises that a minimum 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 be delineated around special status plant species. If buffers cannot be maintained, then consultation with CDFW is advised to determine appropriate minimization and mitigation measures for impacts to special-status plant species. If a State- or federally listed plant species are identified during botanical surveys, then consultation with CDFW and/or the USFWS is recommended to determine the need for an ITP (issued by CDFW) or a Biological Opinion (issued by the USFWS). CDFW recommends appropriate avoidance, minimization, and mitigation measures for special status plant species are fully addressed.

### **Burrowing Owl (BUOW)**

BUOW use small mammal burrows for nesting and cover. Dispersing juveniles, migrants, transients or new colonizers may occur year-round. Therefore, project activities could impact this species. CDFW recommends that a qualified biologist conduct a habitat assessment in advance of project implementation, to determine if individual project sites or their immediate vicinity contain suitable habitat for BUOW. If suitable habitat is present, CDFW recommends that a qualified biologist determine if species-specific surveys are necessary to determine if BUOW may be impacted by project activities. CDFW recommends the survey methods described in the Staff Report on Burrowing Owl Mitigation (CDFG 2012) be followed before beginning ground disturbing activities. In the event that BUOW are found, CDFW's Staff Report on Burrowing Owl Mitigation (CDFG 2012) recommends that impacts to occupied burrows be avoided in accordance with the following table unless a qualified biologist verifies through non-invasive methods that either: 1) the



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birds have not begun egg laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.

Location	Time of Year	Level of Disturbance		
		Low	Med	High
Nesting sites	April 1-Aug 15	200 m*	500 m	500 m
Nesting sites	Aug 16-Oct 15	200 m	200 m	500 m
Nesting sites	Oct 16-Mar 31	50 m	100 m	500 m

\* meters (m)

### Other Wildlife Species

While CDFW may not be able to cover all special status species identified in this comment letter, CDFW recommends the EIR evaluate potential impacts to other special status species that may be impacted from project activities. CDFW recommends this evaluation include identifying any potential habitat in the project area, the potential for these species to occur in the project area, and what, if any, mitigation measures are necessary to reduce impacts to less to significant.

Please note that if suitable habitat is present and species surveys are warranted, some protocols require specific seasons and/or an extended period of time (e.g., BNLL, CTS). Frequently recommended survey and monitoring protocols for special status species can be found at <https://wildlife.ca.gov/Conservation/Survey-Protocols>. CDFW is also available for consultation about survey methods and mitigation measures prior to completion of the draft EIR.

### Nesting birds

CDFW encourages that project implementation occur during the bird non-nesting season; however, if ground-disturbing or vegetation-disturbing activities must occur during the breeding season (February through mid-September), individual project proponents are responsible for ensuring that implementation of a project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Codes as referenced above.

To evaluate project-related impacts on nesting birds, CDFW recommends that a qualified wildlife 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 individual project sites to identify nests and determine their status. A sufficient area means any area potentially affected by a project. In addition to direct impacts (i.e. nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. Prior to initiation of project ground-disturbing activities, CDFW recommends that a qualified biologist conduct a survey to establish a behavioral baseline of all identified nests. Once ground-disturbing activities begin, CDFW recommends having a

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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 wildlife biologist is not feasible, CDFW recommends a minimum 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 that 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 compelling biological or ecological reason to do so, such as when the construction area would be concealed from a nest site by topography. CDFW recommends that a qualified wildlife biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

**Lake and Streambed Alteration:** Projects tiering from the Program EIR may involve work that has the potential to impact waterways within Kern County and may be subject to CDFW's regulatory authority pursuant Fish and Game Code section 1600 et seq. Fish and Game Code section 1600 et seq. requires an entity to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake (including the removal of riparian vegetation); 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. CDFW is required to comply with CEQA in the issuance of a Lake or Streambed Alteration Agreement. For additional information on notification requirements, please contact our staff in the LSA Program at (559) 243-4593.

### **Federally Listed Species**

CDFW recommends consulting with the USFWS on potential impacts to federally listed species. 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.

### **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 CNDDDB. The CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed

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form can be mailed electronically to CNDDDB at the following email address: [CNDDDB@wildlife.ca.gov](mailto:CNDDDB@wildlife.ca.gov). 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

If it is determined that the Project has the potential to impact biological resources, an assessment of filing fees will be necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

CDFW appreciates the opportunity to comment on the Project to assist Kern COG in identifying and mitigating the 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>). If you have any questions, please contact Jaime Marquez, Environmental Scientist, at the address provided on this letterhead, by telephone at (559) 580-3200, or by electronic mail at [Jaime.Marquez@wildlife.ca.gov](mailto:Jaime.Marquez@wildlife.ca.gov).

Sincerely,

DocuSigned by:



96D42C58E092466...

Valerie Cook  
Acting Regional Manager

Attachment 1

ec: Patricia Cole; [Patricia\\_Cole@fws.gov](mailto:Patricia_Cole@fws.gov)  
United States Fish and Wildlife Service

LSA/1600; [R4LSA@wildlife.ca.gov](mailto:R4LSA@wildlife.ca.gov)  
California Department of Fish and Wildlife

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**Attachment 1**

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

**PROJECT: 2022 Regional Transportation Plan and Sustainable  
Communities Strategy (RTP/SCS)**

**SCH No.: 2021050012**

<b>RECOMMENDED MITIGATION MEASURE</b>	<b>STATUS/DATE/INITIALS</b>
<i>Before Disturbing Soil or Vegetation</i>	
Mitigation Measure: SJKF	
SJKF habitat assessment	
SJKF take authorization	
Mitigation Measure: SWHA	
SWHA surveys	
SWHA take authorization	
Mitigation Measure: TRBL	
TRBL surveys	
TRBL take authorization	
Mitigation Measure: Desert tortoise	
Desert tortoise surveys	
Desert tortoise exclusion fencing	
Desert tortoise take authorization	
Mitigation Measure: MGS	
MGS surveys	
MGS take authorization	
Mitigation Measure: TKR and GKR	
TKR and GKR surveys	
TKR and GKR take authorization	
Mitigation Measure: SJAS	
SJAS surveys	
SJAS take authorization	
Mitigation Measure: CTS	
CTS surveys	
CTS take authorization	
Mitigation Measure: Special status plants	
Special status plant surveys	
Special status plant take authorization	
Mitigation Measure: BUOW	
BUOW surveys	

<i>Before Impacting the Bed, Bank, or Channel of any Stream or River</i>	
Mitigation Measure: Notification to CDFW's Lake and Streambed Alteration Program	
<i>During Construction</i>	
Mitigation Measure: SJKF	
SJKF avoidance buffer	
Mitigation Measure: SWHA	
SWHA avoidance buffer	
Mitigation Measure: TRBL	
TRBL avoidance buffer	
Mitigation Measure: TKR and GKR	
TKR and GKR avoidance buffer	
Mitigation Measure: SJAS	
SJAS avoidance buffer	
Mitigation Measure: CTS	
CTS avoidance buffer	
Mitigation Measure: Special status plants	
Special status plant avoidance buffer	
Mitigation Measure: BUOW	
BUOW avoidance buffer	