



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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GAVIN NEWSOM, Governor
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November 29, 2021

Governor's Office of Planning & Research

Nov 30 2021

STATE CLEARINGHOUSE

Terri King
Kings Council Association of Governments
339 West D Street, Suite B
Lemoore, California 93245

**Subject: KCAG 2022 Regional Transport Plan (Project)
Notice of Preparation (NOP)
SCH No.: 2021100331**

Dear Ms. King:

The California Department of Fish and Wildlife (CDFW) received a NOP from the Kings Council Association of Governments (KCAG) 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. While the comment period may have ended, CDFW would appreciate if you will still consider our comments.

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

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.

Terri King
Kings County Association of Governments
November 29, 2021
Page 2

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.

PROJECT DESCRIPTION SUMMARY

Proponent: Kings CAG

Objective: The proposed project is the 2022 KCAG RTP/SCS, which will be an update to the 2018 Regional Transport Plan and Sustainable Communities Strategy (RTP/SCS). KCAG, by state and federal mandate, is required to develop a comprehensive minimum 20-year plan for the region's transportation system. The 2022 RTP/SCS will cover the planning period through the year 2046. The EIR is intended to comply with CEQA. It will also require coordination with or reference to: Fixing America's Surface Transportation Act (Title 23 SFR Parts 450 and 500) (FAST Act); the Federal Clean Air Act; the California Clean Air Act; California SB 375; California SB 743; California Assembly Bill 32, and California Senate Bill 32. The EIR will consider the 2022 RTP/SCS programmed projects and preferred SCS scenario, a No Project alternative, the SCS alternative scenarios carried forward, and any alternatives to address identified significant impact. The EIR will evaluate the potential impacts of implementing the policies and programs in the RTP in accordance with CEQA and will concentrate on the long-term environmental impacts of the RTP/SCS that extend to the 2046 planning horizon. 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, including other issues and concerns such as transportation control measures and demand management and intelligent transportation systems. As a Programmatic EIR, it will be prepared at a level of detail necessary to facilitate effective tiering by lead agencies for future transportation and development projects, particularly regarding potential SB 375 streamlining

Location: The geographical extent of the updated RTP/SCS includes the area within the limits of Kings County, California, including the incorporated cities Avenal, Corcoran, Hanford, Lemoore, and all unincorporated areas under the jurisdiction of the County of Kings. KCAG as the federally designated Metropolitan Planning Organization (MPO)

Terri King
Kings County Association of Governments
November 29, 2021
Page 3

and state-designated Regional Transportation Planning Agency (RTPA) for Kings County, is required to prepare a long-range transportation planning document known as the RTP/SCS. The RTP/SCS is an action-oriented document used to achieve a coordinated and balanced regional transportation system. Within the RTP/SCS, capital improvement projects are identified and are primarily located on state highways, county roads and locally owned streets, as well as on transit district property.

Timeframe: The 2022 RTP/SCS will cover the planning period through 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 in Project area have been reported to the California Natural Diversity Database (CNDDDB), including but not limited to, the State and federally endangered and fully protected blunt-nosed leopard lizard (*Gambelia sila*); the State and federally endangered Tipton kangaroo rat (*Dipodomys nitratooides nitratooides*), giant kangaroo rat (*Dipodomys ingens*), and California jewelflower (*Caulanthus californicus*); the State threatened and federally endangered San Joaquin kit fox (*Vulpes macrotis*), the State and federally threatened California tiger salamander (*Ambystoma californiense*) and giant garter snake (*Thamnophis gigas*); the State threatened Swainson's hawk (*Buteo swainsoni*), tricolored blackbird (*Agelaius tricolor*), and San Joaquin antelope squirrel (*Ammospermophilus nelsoni*); the federally endangered San Joaquin wooly-threads (*Monolopia congdonii*), the federally endangered Western snowy plover (*Charadrius nivosus nivosus*), the federally endangered Kern mallow (*Eremalche kernensis*), and the federally endangered vernal pool fairy shrimp (*Branchinecta lynchi*), and the State species of special concern; western pond turtle (*Emys marmorata*), short-nosed kangaroo rat (*Dipodomys nitratooides brevinasus*), American badger (*Taxidea taxus*), San Joaquin coachwhip (*Masticophis flagellum ruddocki*), California legless lizard (*Anniella pulchra*), mountain plover (*Charadrius montanus*), Tulare grasshopper mouse (*Onychomys torridus tularensis*), western spadefoot (*Spea hammondi*), and burrowing owl (*Athene cunicularia*). CDFW is unable to provide substantive comments due to the limited Project information provided to us. CDFW recommends the EIR prepared for the Project analyze potential impacts to these species provide quantifiable mitigation measures that, as needed, will reduce impacts to less than significant levels. 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>).

Terri King
Kings County Association of Governments
November 29, 2021
Page 4

CDFW also recommends consulting with the USFWS on potential impacts to federally listed species including, but not limited to, California tiger salamander, San Joaquin woolly-threads, Western snowy plover, Kern mallow, 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, including site specific impacts and mitigation measures, for some or all of the resources that may be analyzed in the EIR. If you have any questions, please contact Jaime Marquez, Environmental Scientist, at the address provided on this letterhead or by electronic mail at Jaime.Marquez@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Bob Stafford
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Bob Stafford for Julie A. Vance
Regional Manager

Terri King
Kings County Association of Governments
November 29, 2021
Page 5

LITERATURE CITED

CDFW. 2021. Biogeographic Information and Observation System (BIOS).
<https://www.wildlife.ca.gov/Data/BIOS>. Accessed 11/19/2021.