



February 20, 2024

Trais Norris

California Department of Transportation

1352 West Olive Avenue

Fresno, California 93728

Subject: Arvin CAPM Project (Project)

Initial Study with Proposed Negative Declaration

State Clearinghouse No. 2024010456

Dear Trais Norris,

The California Department of Fish and Wildlife (CDFW) received an Initial Study with Proposed Negative Declaration (ND) from the California Department of Transportation (Caltrans) for the above referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.

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 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 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 may be required.

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In this role, CDFW is responsible for providing, as available, biological expertise during public agency environmental review efforts (e.g., CEQA), focusing specifically on project activities that have the potential to adversely affect fish and wildlife resources. CDFW provides recommendations to identify potential impacts and possible measures to avoid or reduce those impacts.

Bird Protection: 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).

Unlisted Species: Species of plants and animals need not be officially listed as Endangered, Rare, or Threatened (E, R, or T) on any State or Federal list to be considered E, R, or T under CEQA. If a species can be shown to meet the criteria for E, R, or T, as specified in the CEQA Guidelines, section 15380, CDFW recommends it be fully considered in the environmental analysis for the Project.

PROJECT DESCRIPTION SUMMARY

Proponent: California Department of Transportation (Caltrans)

Objective: The Project proposes to resurface State Route 223 and construct Americans with Disabilities Act curb ramps and Complete Streets elements, including enhancing visibility of existing cross walks existing crosswalks, rehabilitating crosswalks, installing new crosswalks, installing missing sidewalk segments, installing bulb-outs, and adding rapid rectangular flashing beacon systems with lighting and a pedestrian hybrid beacon system and lighting.

Location: The proposed Project site is located in the City of Arvin along State Route 223 in Kern County from 0.1 mile west of Comanche Drive to 0.1 mile east of King Street between postmiles 20.1 and 21.3.

Timeframe: Project construction is estimated to occur between January 2026 through June 2026. Project duration is anticipated to take approximately 140 working days.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations 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.

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Based on the Project location and proposed Project activities in the Initial Study, CDFW is concerned regarding potential impacts to special-status species, including but not limited to, the State threatened and federally endangered San Joaquin kit fox (*Vulpes macrotis mutica*).

I. Environmental Setting and Related Impact

San Joaquin Kit Fox (SJKF)

Due to the proximity of the Project to the City of Bakersfield, where known SJKF populations occur in urbanized environments, and other populations in the region (CDFW 2024), any ground-disturbing activity could attract SJKF with the potential to exist and move into the Project area. SJKF population sizes are known to fluctuate over time, and absence in any one year does not necessarily indicate a negative finding. Particularly in Kern County, SJKF are known to den along roadsides, in vacant lots, parks, landscaped areas, etc. in addition to natural habitats. SJKF may also be attracted to construction materials (pipes, etc.) and construction footprints in the Project site due to the creation of loose and friable soils as a result of ground disturbance.

CDFW recommends assessing presence/absence of SJKF by conducting surveys following the USFWS' "Standardized recommendations for protection of the San Joaquin kit fox prior to or during ground disturbance", and implementing no-disturbance buffers around den sites, as described in the United States Fish and Wildlife Service document (USFWS 2011). Specifically, CDFW recommends conducting these surveys over the entirety of the Project site no less than 14 days and no more than 30 days prior to beginning of ground and/or vegetation disturbing activities. CDFW also recommends a qualified biologist conduct on-site worker awareness training and inspect all construction materials for SJKF before use. Any pits or trenches created should be sloped or covered to prevent inadvertent capture or entrapment (take).

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) pursuant to Fish and Game Code section 2081 subdivision (b), prior to initiating or resuming (whichever applies) ground disturbing activities.

II. Editorial Comments and/or Suggestions

Nesting Birds

CDFW encourages that Project implementation occur outside of the bird nesting season (February 1 through September 15). However, if ground-disturbing or vegetation-disturbing activities must occur during this period, the Project applicant is responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Codes as referenced above.

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The Initial Study includes a pre-construction field survey to identify any nesting birds within the Project Impact Area. CDFW recommends that a qualified biologist conduct pre-activity surveys for active nests no more than 7 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 a minimum 250-foot buffer around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. Surveys should cover the minimum buffer distances so that the survey can adequately identify nests, determine their status, and ensure sufficient no-disturbance buffers.

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 found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email address: 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 and Game Code, §711.4; Pub. Resources Code, §21089).

CONCLUSION

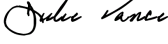
CDFW appreciates the opportunity to comment on the Project to assist Caltrans in identifying and mitigating the Project's impacts on biological resources.

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>).

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If you have any questions, please contact Grant Piepkorn, Environmental Scientist, at (559) 807-1459, or at Grant.Piepkorn@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Julie A. Vance
Regional Manager

ATTACHMENTS

References

Recommended Mitigation Monitoring and Reporting Program (MMRP)

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References:

CDFW. 2024. Biogeographic Information and Observation System, Version 6 (BIOS 6).

<https://www.wildlife.ca.gov/Data/BIOS> (accessed February 12, 2024).

U. S. Fish and Wildlife Service. 2011. Standard Recommendations for the Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance. U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, Sacramento, California.

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

PROJECT: Arvin CAPM Project

CDFW provides the following measures be incorporated into the MMRP for the Project:

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS	
<i>Before Disturbing Soil or Vegetation</i>		
Surveys for San Joaquin kit fox (SJKF)		
Potential SJKF Section 2081 ITP		
Nesting bird pre-construction survey		
<i>During Construction</i>		
SJKF no-disturbance buffer		
Nesting birds no-disturbance buffers		