

## Haggerty, Nicole@Wildlife

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**From:** Kearns, Zachary@Wildlife  
**Sent:** Friday, June 7, 2024 4:41 PM  
**To:** felicia@actc-amador.org  
**Cc:** Wilson, Billie@Wildlife; Kilgour, Morgan@Wildlife; Sheya, Tanya@Wildlife; Wildlife R2 CEQA  
**Subject:** CDFW Comments - Amador County Regional Transportation Plan 2024 Update

Dear Felicia Bridges,

The California Department of Fish and Wildlife (CDFW) received and reviewed the Initial Study/Mitigated Negative Declaration (ISMND) from Amador County Transportation Commission (ACTC) for the Amador County 2024 Regional Transportation Plan (Project) in Amador County pursuant to the California Environmental Quality Act (CEQA) statute and 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, wildlife, plants, and their habitats. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may need to exercise its own regulatory authority under the Fish and Game Code (Fish & G. Code).

The Project site is located within Amador County and contains 121 miles of State Highways, which include State Routes 16, 26, 49, 88, 104, and 124. The County contains approximately 474 miles of city, county, local streets, or other roads.

The Project consists of identifying the region's short-term and long-range (20-year) transportation needs and aims to establish policies, programs, and Projects designed to meet those needs. Additionally, Projects that are included in the Regional Transportation Plan are prioritized for funding through the Regional Transportation Improvement Program.

### COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations presented below to assist the County of Amador in adequately identifying and/or mitigating the Project's significant, or potentially significant, impacts on biological resources. The comments and recommendations are also offered to enable CDFW to adequately review and comment on the proposed Project with respect to impacts on biological resources:

1. ACTC should promote the preservation and restoration of contiguous areas of natural habitat throughout Amador County and support their integration with existing and future preserves;
2. ACTC should retain plant and wildlife habitat areas where there are known sensitive resources (e.g., sensitive habitats, special-status, threatened, endangered, candidate species, and species of concern). Particular attention should be focused on retaining habitat areas that are contiguous with other existing natural areas and/or wildlife movement corridors;
3. ACTC should preserve the ecological integrity of creek corridors, canals, and drainage ditches that support riparian resources by preserving native plants and, to the extent feasible, removing invasive nonnative plants. If not feasible, adverse impacts on riparian habitat should

be mitigated by the preservation and/or restoration of this habitat in compliance with state and federal regulations;

4. ACTC should preserve and protect wetland resources including creeks, rivers, ponds, marshes, vernal pools, and other seasonal wetlands, to the extent feasible. If not feasible, the mitigation of all adverse impacts on wetland resources should be required in compliance with state and federal regulations protecting wetland resources, and if applicable, special-status species such as: foothill yellow-legged frog (*Rana boylei*), western spadefoot (*Spea hammondi*), Burrowing Owl (*Athene cunicularia*), California tiger salamander (*Ambystoma californiense*), and Tricolored Blackbird (*Agelaius tricolor*). Additionally, ACTC should require either on- or off-site permanent preservation of an equivalent amount of wetland habitat to ensure no net loss of value and/or function;
5. ACTC should preserve and protect native grasslands and vernal pools that provide habitat for rare and endangered species. If not feasible, the mitigation of all adverse impacts on annual grasslands should comply with state and federal regulations protecting foraging habitat for those species known to utilize this habitat;
6. ACTC should preserve and protect oak woodlands, heritage oaks, and/or significant stands of oak trees in Amador County that provide habitat for common native, and special-status wildlife species;
7. ACTC should preserve, protect, and avoid impacts to natural, undisturbed habitats that provide movement corridors for sensitive wildlife species. If corridors are adversely affected, damaged habitat should be replaced with habitat of equivalent value or enhanced to enable the continued movement of species;
8. ACTC should consider the potential impact on sensitive plants and wildlife for each Project requiring discretionary approval. If site conditions are such that potential habitat for sensitive plant and/or wildlife species may be present, ACTC should require habitat assessments, prepared by a qualified biologist, for sensitive plant and wildlife species. If the habitat assessment determines that suitable habitat for sensitive plant and/or wildlife species is present, then either (1) protocol-level surveys should be conducted (where survey protocol has been established by a resource agency), or, in the absence of established survey protocol, a focused survey should be conducted consistent with industry recognized best practices; or (2) suitable habitat and presence of the species should be assumed to occur within all potential habitat locations identified on the Project site. Survey Reports should be prepared and submitted to ACTC, CDFW, and/or the United States Fish and Wildlife Service (USFWS) (depending on the species) for further consultation and development of avoidance and/ or mitigation measures consistent with state and federal law;
9. ACTC should thoroughly analyze future transportation Projects' potential direct, indirect, and cumulative impacts on biological resources. To ensure these impacts are fully analyzed, ACTC should define the threshold of significance for each impact and describe the criteria used to determine whether the impacts are significant (CEQA Guidelines, § 15064, subd. (f)). ACTC should analyze potential direct impacts from lighting, noise, human activity, and wildlife-human interactions created by development activities especially those adjacent to natural areas, exotic and/or invasive species occurrences, and drainages, as well as analyze potential indirect impacts including resources in areas adjacent to the Project footprint, such as nearby public lands, open space, adjacent natural habitats, riparian ecosystems, wildlife corridors, and any designated and/or proposed reserve or mitigation lands. Additionally, ACTC should

analyze a Project's cumulative impacts and determine if that contribution would result in a significant impact;

10. ACTC should adopt appropriate and adequate avoidance, minimization, and/or mitigation measures for all direct, indirect, and cumulative impacts that are expected to occur as a result of construction and long-term operation and maintenance of Projects. Mitigation will be roughly proportional to the level of impacts, including cumulative impacts, in accordance with the provisions of CEQA (Guidelines § § 15126.4(a)(4)(B), 15064, 15065, and 16355);
11. ACTC should support active habitat restoration and enhancement to reduce impact of climate change stressors and improve overall resilience of habitat within existing parks and open space in Amador County;
12. ACTC should support educational programs for residents and visitors about the uniqueness and value of the natural resources, plants, and wildlife in the region, and how to manage development to preserve native wildlife populations, to the extent they are consistent with habitat protection requirements; and
13. ACTC should comply with all applicable laws related to nesting birds and birds of prey. Potential habitat for nesting birds and birds of prey is present throughout the County of Amador. ACTC should analyze all potential activities that may incur a direct or indirect take to nongame nesting birds within Amador County and provide appropriate avoidance, minimization, and/or mitigation measures to avoid take. Project-specific avoidance and minimization measures may include, but not be limited to: Project phasing and timing, monitoring of Project-related noise (where applicable), sound walls, and buffers, where appropriate. ACTC should also include specific avoidance and minimization measures that will be implemented should a nest be located within a Project site. In addition to larger, protocol level survey efforts and scientific assessments, final preconstruction surveys may be required no more than fifteen (15) days prior to vegetation clearing or ground disturbance activities, as instances of nesting could be missed if surveys are conducted earlier.

14. California Endangered Species Act (CESA):

CDFW is responsible for ensuring appropriate conservation of fish and wildlife resources including threatened, endangered, and/or candidate plant and animal species, pursuant to CESA. ACTC should analyze whether future transportation Projects have the potential to result in "take" (Fish & G. Code § 86 defines "take" as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill") of CESA species, either through construction or over the life of the Project. If take is likely to occur, CDFW recommends a CESA Incidental Take Permit (ITP) be obtained for the Project.

CESA species with the potential to occur in the area include, but are not limited to: foothill yellow-legged frog (*Rana boylei*), western spadefoot (*Spea hammondi*), Burrowing Owl (*Athene cunicularia*), California tiger salamander (*Ambystoma californiense*), and Tricolored Blackbird (*Agelaius tricolor*).

ACTC should identify how the impacts will be avoided, minimized, and mitigated. Please note that mitigation measures that are adequate to reduce impacts to a less-than significant level to meet CEQA requirements may not be sufficient for the issuance of an ITP. To facilitate the issuance of an ITP, if applicable, CDFW recommends ACTC incorporate measures to minimize and fully mitigate the impacts to the CESA species the Project has potential to take.

CDFW encourages early consultation with staff to determine appropriate measures to facilitate future permitting processes and to engage with the U.S. Fish and Wildlife Service and/or National Marine Fisheries Service to coordinate specific measures if both state and federally listed species may be present within the Project vicinity.

#### 15. Lake and Streambed Alteration (LSA) Program:

ACTC should identify all perennial, intermittent, and ephemeral rivers, streams, lakes, other hydrologically connected aquatic features, and any associated biological resources/habitats present within potential Project locations (including utilities, access and staging areas). Subsequent documents and proposals should analyze all potential temporary, permanent, direct, indirect and/or cumulative impacts to the above-mentioned features and associated biological resources/habitats that may occur because of the Projects. If it is determined the Project will result in significant impacts to these resources the ACTC should propose appropriate avoidance, minimization and/or mitigation measures to reduce impacts to a less-than-significant level.

Please note that other agencies may use specific methods and definitions to determine impacts to areas subject to their authorities. These methods and definitions often do not include all needed information for CDFW to determine the extent of fish and wildlife resources affected by activities subject to Notification under Fish and Game Code section 1602. Therefore, CDFW does not recommend relying solely on methods developed specifically for delineating areas subject to other agencies' jurisdiction (such as United States Army Corps of Engineers) when mapping lakes, streams, wetlands, floodplains, riparian areas, etc. in preparation for submitting a Notification of an LSA.

The following information will be required for the processing of an LSA Notification and CDFW recommends incorporating this information into any forthcoming CEQA document(s) to avoid subsequent documentation and Project delays:

1. Mapping and quantification of lakes, streams, and associated fish and wildlife habitat (e.g., riparian habitat, freshwater wetlands, etc.) that will be temporarily and/or permanently impacted by the Project, including impacts from access and staging areas. Please include an estimate of impact to each habitat type.
2. Discussion of specific avoidance, minimization, and mitigation measures to reduce Project impacts to fish and wildlife resources to a less-than-significant level. Please refer to section 15370 of the CEQA Guidelines.

Based on review of Project materials, aerial photography, and observation of the site from public roadways, the included roadways contain habitat that supports riparian habitat. CDFW recommends the ACTC fully identify the Project's potential impacts to the stream and/or its associated vegetation and wetlands.

Section 1602 of the Fish and Game Code requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following:

1. Substantially divert or obstruct the natural flow of any river, stream or lake;
2. Substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or
3. Deposit debris, waste, or other materials where it may pass into any river, stream or lake.

Please note that "any river, stream or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a body of water.

If upon review of an entity's notification, CDFW determines that the Project activities may substantially adversely affect an existing fish or wildlife resource, a Lake and Streambed Alteration (LSA) Agreement will be issued which will include reasonable measures necessary to protect the resource. CDFW's issuance of an LSA Agreement is a "project" subject to CEQA (see Pub. Resources Code 21065). To facilitate issuance of an LSA Agreement, if one is necessary, ACTC should fully identify the potential impacts to the lake, stream, or riparian resources, and provide adequate avoidance, mitigation, and monitoring and reporting commitments. Early consultation with CDFW is recommended, since modification of the Project may avoid or reduce impacts to fish and wildlife resources. Please visit CDFW's Environmental Permit Information Management System (EPIMS) for more information regarding LSA Notifications: <https://wildlife.ca.gov/Conservation/Environmental-Review/EPIMS>.

CDFW appreciates the opportunity to comment on the ISMND for the Amador County Regional Transportation Plan 2024 Update and recommends that ACTC address CDFW's comments and concerns in the forthcoming transportation Projects. CDFW personnel are available for consultation regarding biological resources and strategies to minimize impacts.

If you have any questions regarding the comments provided in this email, or wish to schedule a meeting and/or site visit, please contact Zach Kearns, Environmental Scientist at (916) 358-1134 or [zachary.kearns@wildlife.ca.gov](mailto:zachary.kearns@wildlife.ca.gov).

Sincerely,

Zach Kearns  
Environmental Scientist  
(916) 358-1134  
1701 Nimbus Rd.  
Rancho Cordova, CA 95670



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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.