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February 7, 2025

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**Subject: Fresno County Culvert Improvement Project (EA 06-1A730) (Project)  
Initial Study with Proposed Mitigated Negative Declaration  
State Clearinghouse No. 2025010221**

Dear Judith Lopez:

The California Department of Fish and Wildlife (CDFW) received an Initial Study with Proposed Mitigated Negative Declaration (MND) 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.

*Conserving California's Wildlife Since 1870*

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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 may be required.

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:** Caltrans

**Objective:** The Project will rehabilitate 86 failing drainage systems across Fresno County. Culvert work includes culvert lining, repairing culverts, replacing culverts, placing rock slope protection, placing headwalls, and placing flared end sections.

**Location:** The proposed Project is located at various locations on Interstate 5 and State Routes (SR): 33, 41, 63, 168, 180, 198, 245, and 269 in Fresno County, California.

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**Timeframe:** Construction of the proposed Project is anticipated to last one year, beginning in the 2025/2026 fiscal year.

**I. 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. Due to the broad geographic scope of the proposed Project and limited time provided for the technical review, CDFW was not able to review each proposed culvert location. Instead, CDFW’s comments are based on the possibility that Project activities may occur at any location along the highways listed in the MND, within Fresno County. Editorial comments or other suggestions may also be included to improve the document.

**Special-Status Species:** Given the countywide nature of the Project, there is the potential for the Project to impact a variety State-listed species. These Resources may need to be evaluated and addressed in the MND and prior to Project construction. Table 1 summarizes the species that CDFW is concerned that the proposed Project may significantly impact, either because they were not identified in the MND or CDFW has additional concerns about Project impacts. Please note that Table 1 does not include federally listed or California Rare Plant Rank plants that are not otherwise State-listed, or sensitive natural communities, that could potentially occur in the Project area.

**Table 1: Special-status Species**

Common Name	Scientific Name	Status <sup>1</sup>	
		State	Federal
ANIMALS:			
bald eagle	<i>Haliaeetus leucocephalus</i>	E; FP	-
giant kangaroo rat	<i>Dipodomys ingens</i>	E	E
Tipton kangaroo rat	<i>Dipodomys nitraoides nitraoides</i>	E	E
great gray owl	<i>Strix nebulosa</i>	E	-
foothill yellow-legged frog	<i>Rana boylei</i>	E	T
southern mountain yellow-legged frog	<i>Rana muscosa</i>	E	E
southern Sierra Nevada fisher	<i>Pekania pennanti</i>	T	E
San Joaquin antelope squirrel	<i>Ammospermophilus nelsoni</i>	T	-

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Common Name	Scientific Name	Status <sup>1</sup>	
		State	Federal
San Joaquin kit fox	<i>Vulpes macrotis mutica</i>	T	E
Sierra Nevada red fox	<i>Vulpes vulpes necator</i>	T	E
Swainson's hawk	<i>Buteo swainsoni</i>	T	-
tricolored blackbird	<i>Agelaius tricolor</i>	T	-
Sierra Nevada yellow-legged frog	<i>Rana sierrae</i>	T	E
golden eagle	<i>Aquila chrysaetos</i>	FP	-
blunt-nosed leopard lizard	<i>Gambelia sila</i>	FP	E
western burrowing owl	<i>Athene cunicularia hypugaeae</i>	C	-
Temblor legless lizard	<i>Anniella alexanderae</i>	C	-
northwestern pond turtle	<i>Actinemys marmorata</i>	SSC	PT
southwestern pond turtle	<i>Actinemys pallida</i>	SSC	PT
PLANTS <sup>2</sup> :			
California jewelflower	<i>Caulanthus californicus</i>	E	E
palmate-bracted bird's-beak	<i>Chloropyron palmatum</i>	E	E
Congdon's lewisia	<i>Lewisia congdonii</i>	R	-
San Joaquin Valley Orcutt grass	<i>Orcuttia inaequalis</i>	E	E
San Joaquin adobe sunburst	<i>Pseudobahia peirsonii</i>	E	E
Greene's tuctoria	<i>Tuctoria greenei</i>	R	E
<sup>1</sup> E= Endangered; T=Threatened, C= Candidate for listing as Threatened or Endangered, R= Rare, SSC= Species of Special Concern, FP= Fully Protected, PT=Proposed Threatened. <sup>2</sup> State-listed species only; does not include all federally listed or California Rare Plant Ranks that could potentially occur in the Project Area.			

CDFW recommends that habitat assessments be conducted in and surrounding all locations for planned work and identify all the potential plant, animal, invertebrate, and fish special-status species and habitats that could be present. For species with the potential to be present, CDFW recommends a robust analysis of cumulative impacts for each of those species along with avoidance, minimization, and mitigation measures that could be implemented at each discreet Project location to reduce impacts to those species. For many species, subsequent protocol-level surveys may be necessary during biological studies conducted in support of the presence or absence of a species. Depending on the survey results, avoidance and minimization measures, permits, and

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mitigation may be required. If any of the special-status species listed in Table 1 are found during habitat assessment, consultation with CDFW would be warranted.

CDFW advises that the special-status species be addressed with appropriate avoidance and minimization measures. If take could occur as a result of Project implementation, consultation with CDFW would also be warranted. The special-status species listed below have the greatest chance to be impacted by the Project, or the MND did not address sufficient proposed avoidance and mitigation measures:

### **Bald Eagle (BAEA) and Golden Eagle (GOEA):**

**Issue:** The Project area is within the known geographic range of both BAEA and GOEA and there are several documented occurrences of nesting and foraging BAEA and GOEA in the Project vicinity (CDFW in-house data). BAEA inhabits forested areas that contain large bodies of water and perching trees while GOEA are known to inhabit open areas with large trees, utility towers, and cliffs for nesting (USFWS 2010).

**Recommended Mitigation Measures for BAEA and GOEA:** CDFW recommends that a qualified biologist conduct focused BAEA and GOEA surveys as part of the biological studies conducted in support of the MND. To avoid Project-related impacts to this species, CDFW recommends incorporating survey methods outlined in the Bald Eagle Breeding Survey Instructions (CDFW 2010) protocol; Protocol for the Interim Golden Eagle Inventory and Monitoring Protocols; and Other Recommendations guidelines (USFWS 2010). If surveys indicate the presence or potential presence of BAEA or GOEA nesting territories within ½-mile of the Project area, implementation of avoidance measures are warranted. CDFW recommends that a qualified wildlife biologist be on-site during all ground-disturbing/construction related activities and that a ½-mile no-disturbance buffer be put into effect. If the ½-mile no-disturbance buffer cannot feasibly be implemented, contacting CDFW to assist with providing and implementing additional avoidance measures is suggested.

### **Giant Kangaroo Rat (GKR) and Tipton Kangaroo Rat (TKR):**

**Issue:** The MND did not evaluate and address potential Project-related impacts to GKR and TKR, even though the Project area is partially within the geographic range of these species (CDFW 2025). Suitable TKR habitat includes areas of grassland, upland scrub and alkali sink habitats that contain requisite habitat elements, such as small mammal burrows. Suitable GKR habitat includes grassland and scrub communities with sandy-loam soils and gentle slopes

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vegetated with annual grasses and scattered shrubs. Habitat loss resulting from agricultural, urban and industrial development is the primary threat to GKR and TKR. Very little suitable habitat for these species remains along the edges of the southern San Joaquin Valley floor (CSU Stanislaus 2025a).

**Recommended Mitigation Measures for GKR and TKR:** In order to determine if GKR and TKR currently occupy the Project area, CDFW recommends that a qualified biologist conduct a habitat assessment for GKR and TKR within and near the Project area as part of the biological studies conducted in support of the MND. CDFW also recommends that focused protocol-level live trapping surveys be conducted in areas of suitable habitat and that a trapping plan for determining presence of GKR and TKR be submitted to and approved by CDFW prior to subsequent trapping efforts. The trapping plan should also follow the United States Fish and Wildlife Service (USFWS) (2013) "Survey Protocol for Determining Presence of San Joaquin Kangaroo Rats" survey protocol. CDFW recommends these surveys be conducted by a qualified biologist who holds a Memorandum of Understanding for GKR and TKR. CDFW further recommends that these surveys be conducted between April 1 and October 31, when kangaroo rats are most active, and well in advance of ground-disturbing activities in order to determine if impacts to GKR or TKR could occur. In the absence of surveys, CDFW recommends that where suitable habitat occurs within range of either species, CDFW advises maintenance of a 50-foot minimum no-disturbance buffer around all small mammal burrow entrances of suitable size for GKR or TKR use. GKR or TKR activity or detection warrants consultation with CDFW to discuss how to avoid take. If take cannot be avoided, take authorization through the acquisition of an incidental take permit (ITP) pursuant to Fish and Game Code section 2081, subdivision (b), is necessary to comply with CESA.

### **Great Gray Owl (GGO):**

**Issue:** The MND did not evaluate and address potential Project-related impacts to GGO, even though the Project area is partially within the geographic range of the species (CDFW 2025). GGO generally nest in closed canopy forested areas where they forage for pocket mice and voles which may occur within and near the Project area.

**Recommended Mitigation Measures for Great Gray Owl:** CDFW recommends that focused GGO surveys be conducted by a qualified biologist familiar with GGO to evaluate potential impacts prior to ground disturbing activities. In the event an active GGO nest is found during surveys, CDFW recommends that a ½-mile no-disturbance buffer be implemented if ground-disturbing activities are to

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occur during the owl nesting season. In the event that a GGO nest is detected during surveys, and a ½-mile no-disturbance buffer is not feasible, consultation with CDFW is recommended.

**Foothill Yellow-legged Frog (FYLF), Southern Mountain Yellow-legged Frog (MYLF), and Sierra Nevada Yellow-legged Frog (SNYF):**

**Issue:** Portions of the Project area are within the known geographic area of FYLF, MYLF, and SNYF (CDFW 2025). FYLF are primarily stream dwelling and require shallow, flowing water in streams and rivers with at least some cobble-sized substrate (Thomson et al. 2016); and MYLF occupy lakes, ponds, marshes, and streams at elevations below 3,690 meters (Bonham & Lockhart 2011). Suitable habitat for the SNYF includes upland areas adjacent to, or surrounding, breeding and non-breeding aquatic stream habitats that provide area for feeding and movement, extending approximately 25 meters from the bank or shoreline of the watercourse.

**Recommended Mitigation Measures for FYLF, MYLF, and SNYF:** CDFW recommends that a qualified biologist assess stream habitats within the Project area where FYLF, MYLF, and SNYF have potential to occur for potential FYLF, MYLF, and SNYF habitat. If present, CDFW recommends that a qualified biologist conduct focused surveys following the survey methods described in pages 16–22 of “A Standardized Protocol for Surveying Aquatic Amphibians” (Fellers and Freel 1995); however, please note that dip-netting would constitute take as defined by Fish and Game Code section 86, so it is recommended this survey technique be avoided. In addition, CDFW advises surveyors adhere to the protocols set forth in “The Declining Amphibian Task Force Fieldwork Code of Practice” (DAPTF 1998). If any life stage of the FYLF, MYLF, or SNYF (adult, metamorph, larvae, egg mass) is found, consultation with CDFW is warranted to develop avoidance measures and evaluate permitting needs. 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.

**Southern Sierra Nevada Fisher (SSNF):**

**Issue:** Portions of the Project area are within the known geographic area of SSNF. Numerous studies have documented that fishers in the western United States utilize stands with certain forest characteristics for resting and denning such as large trees and snags, coarse woody-debris, dense canopy closure and

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multiple-canopy layers, large diameter hardwoods, and steep slopes near water (Zielinski et al. 2004, Spencer et al 2015).

**Recommended Mitigation Measures for SSNF:** CDFW recommends ground-disturbing activities not occur during the SSNF natal or maternal denning period (i.e., March to September) where suitable habitat is present. CDFW recommends a qualified biologist conduct surveys for the SSNF by observing for potential natal/maternal denning structures within the Project area following the United States Forest Service's "Survey protocol for fisher denning season: methods for informing denning protection measures" (Tucker et. al. 2020). If potential denning structures are detected, consultation with CDFW is advised to develop site-specific take avoidance measures. 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.

#### **San Joaquin Antelope Squirrel (SJAS):**

**Issue:** The MND does not address potential impacts to SJAS and the Project area is partially within the known geographic range of SJAS (CDFW 2025). Suitable SJAS habitat includes areas of grassland, upland scrub and alkali sink habitats that contain requisite habitat elements, such as small mammal burrows. SJAS are known to occur in disturbed areas, including along roadsides.

**Recommended Mitigation Measures for SJAS:** In order to determine SJAS currently occupy the Project area, CDFW recommends that a qualified biologist conduct a habitat assessment for GKR and TKR within and near the Project area as part of the biological studies conducted in support of the MND. If suitable habitat is determined to be present, CDFW recommends that a qualified biologist conduct focused daytime visual surveys for SJAS in areas of suitable habitat as part of the biological studies conducted in support of the MND. CDFW recommends that consultation with CDFW occur to discuss how to implement the Project within the portions of the Project that are adjacent to habitats within the vicinity of SJAS. 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.

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

**Issue:** The Project is within the known geographic range of SJKF and the MND has determined that there is potentially suitable habitat within the Project area. SJKF may be attracted to any construction area due to the type and level of



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activity (pipes, excavation, etc.) and the loose, friable soils that are created as a result of intensive ground disturbance. The MND indicated that the Project would consult with the USFWS, but did not indicate consultation with CDFW, to discuss potential take. Some of the avoidance and minimization measures in the MND would constitute take as defined by Fish and Game Code section 86. Based on this information, CDFW recommends that the Project proponent acquire a State ITP for SJKF prior to any ground-disturbing activities, pursuant to Fish and Game Code section 2081, subdivision (b).

**Recommended Mitigation Measures for SJKF:** CDFW recommends that a qualified biologist assess 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 area 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. In the event that SJKF is detected during surveys and an ITP has not been obtained, consultation with CDFW is recommended to discuss how to 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.

#### **Sierra Nevada Red Fox (SNRF):**

**Issue:** The Project is within the known geographic range of SNRF and the MND has determined that there is potentially suitable habitat within the Project area. Results from the California Natural Diversity Database (CNDDDB) show that SNRF have been documented at elevations near the SR 180 portion of Project (CDFW 2025).

**Recommended Mitigation Measures for SNRF:** CDFW recommends that the protocol in Appendix B of Ecology of Red Fox (*Vulpes vulpes*) in the Lassen Peak Region of California, USA (Perrine 2005) be followed, and that a qualified biologist conduct surveys accordingly and prior to commencing any ground disturbing activities. If any individuals of the species or active or potential dens are found on the Project area during these surveys, consultation with CDFW would be warranted for guidance on take avoidance, minimization, and mitigation measures.

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

**Issue:** The Project area is within the known geographic range of SWHA (CDFW 2025). The MND identifies that there are potential SWHA nesting trees within and adjacent to the Project area, but did not address potential impacts to nesting SWHA. This conclusion conflicts with the findings in the NES prepared for the MND, which determined that the Project could result in impacts to nesting SWHA if present near Project activities. The measures proposed in the MND are not sufficient to prevent take of SHWA if they are nesting near the Project area during Project activities. Without appropriate avoidance and minimization measures for SWHA, potentially significant impacts associated with the Project's activities include reduced reproductive success, reduction in health and vigor of eggs and/or young, and direct mortality of individuals.

**Recommended Mitigation Measures for SWHA:** Given the presence of suitable nesting habitat within and near the Project area, CDFW recommends that following additional measures be added to the MND for SWHA. CDFW recommends that a qualified biologist conduct surveys for nesting SWHA following the entire survey methodology developed by the Swainson's Hawk Technical Advisory Committee (2000) one year prior to Project construction. If Project-specific activities will take place during the SWHA nesting season (i.e., March 1 through September 15), and active SWHA nests are present, CDFW recommends a minimum ½-mile no-disturbance buffer be delineated and maintained around each nest, regardless of whether it was detected by surveys or observed incidentally.

These buffers would 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 parental care for survival; and to prevent nest abandonment and other take of SWHA as a result of Project activities. CDFW also recommends that in the event an active SWHA nest is detected, and a ½-mile no-disturbance 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):**

**Issue:** The Project area is within the known geographic range of TRBL (CDFW 2025), and the Project area may contain suitable habitat for TRBL foraging and

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nesting. TRBL breed within the vicinity of fresh water, primarily in marshy areas, but may nest in agricultural row crops, which are adjacent to the Project area. Important sites for nesting colonies include heavy growths of cattails, tules, thistles, willows, blackberries, mustard, nettles, and salt cedar (Grinnell and Miller 1944). 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 (Beedy et al. 2020).

**Recommended Mitigation Measures for TRBL:** CDFW recommends that construction be timed to avoid the typical bird breeding season (February 1 through September 15). However, if construction must occur during that time, CDFW recommends that a qualified wildlife biologist conduct surveys for nesting TRBL within the Project area no more than 10 days prior to the start of implementation to evaluate presence/absence of TRBL nesting colonies in proximity to Project activities, and to evaluate potential Project-related impacts. 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 remains 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 reliant upon the colony or parental care for survival. If a 300-foot no-disturbance buffer is not feasible, consultation with CDFW is warranted to discuss how to 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.

**Blunt-nosed Leopard Lizard (BNLL):**

**Issue:** Project area is partially within the known geographic area of BNLL (CDFW 2025). Suitable BNLL habitat includes areas of grassland and upland scrub that contain requisite habitat elements, such as small mammal burrows. BNLL also use open space patches between suitable habitats, including disturbed sites and unpaved access roadways. Habitat loss resulting from agricultural, urban, and industrial development is the primary threat to BNLL (CSU Stanislaus 2025b). The range for BNLL now consists of scattered parcels of undeveloped land within the valley floor and the foothills of the Coast Range (USFWS 1998).

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**Recommended Mitigation Measures for BNLL:** Where suitable habitat is present, prior to initiating any vegetation- or ground-disturbance activities, CDFW recommends that a qualified biologist conduct surveys for BNLL in accordance with the “Approved Survey Methodology for the Blunt-nosed Leopard Lizard”(CDFW 2019). This survey protocol is designed to optimize BNLL detectability. CDFW advises completion of BNLL surveys no more than one year prior to initiation of ground disturbance. Please note that protocol-level surveys must be conducted on multiple dates during late spring, summer, and fall of the same calendar year, and that within these time periods, there are specific date, temperature, and time parameters. As a result, protocol-level surveys for BNLL are not synonymous with 30-day “preconstruction surveys” often recommended for other wildlife species. In addition, the BNLL protocol specifies different survey effort requirements based on whether the disturbance results from maintenance activities or if the disturbance results in habitat removal (CDFW 2019). With the passage of Senate Bill No. 147, the incidental take of BNLL may be authorized for certain categories of projects, including maintenance, repair, or improvement to critical infrastructure. If BNLL protocol surveys find that the Project area is occupied, or if Caltrans chooses to assume presence for BNLL, consultation with CDFW is recommended 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.

### **Western Burrowing Owl (BUOW):**

**Issue:** The Project area is partially within known geographic range of BUOW. The species is known to occupy a variety of grassland, agricultural, and disturbed habitats containing small mammal burrows, a requisite habitat feature used by BUOW for nesting, overwintering and cover. The California Fish and Game Commission approved BUOW as a candidate for potential listing as a protected species under CESA on October 10, 2024, and published these findings in the California Regulatory Notice Register on October 25, 2024. BUOW is now considered a candidate under CESA and as such receives the same legal protection afforded to an endangered or threatened species (Fish & G. Code, §§ 2074.2 & 2085). CDFW recommends that the MND be updated to reflect the candidacy and recommends the measures listed below be incorporated to avoid unauthorized take.

**Recommended Mitigation Measures for BUOW:** CDFW recommends that a qualified biologist assess presence/absence of BUOW by conducting surveys following the California Burrowing Owl Consortium’s (CBOC) “Burrowing Owl

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Survey Protocol and Mitigation Guidelines” (CBOC 1993) and CDFW’s “Staff Report on Burrowing Owl Mitigation” (CDFG 2012) during the survey season immediately prior to Project construction. If a BUOW is detected, CDFW recommends that a no-disturbance buffer of 500 meters be maintained around all BUOW burrows (active and inactive). If BUOW and/or BUOW burrows are observed in the Project area, consultation with CDFW is warranted to determine if the Project can 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.

### **Temblor Legless Lizard (TLL):**

**Issue:** The Project area is within the known geographic range of TLL (CDFW 2024). TLL occupy sparsely vegetated areas of desert scrub, sandy washes, and stream terraces with scattered trees. TLL can also be found under surface objects such as rocks, boards, driftwood, and logs. Potentially significant impacts associated with the Project’s activities include inadvertent entrapment, reduced reproductive success and health and vigor of individuals, and direct mortality of individuals.

**Recommended Mitigation Measures for TLL:** CDFW recommends that a qualified biologist conduct focused surveys for TLL and their requisite habitat features in support of the MND. If a TLL is found prior to or during construction, CDFW recommends implementation of a minimum 50-foot no-disturbance buffer to avoid take and potentially significant impacts. In the event that a TLL is detected, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided, take authorization prior to any ground disturbing activities would be warranted. Take authorization would occur through issuance of an ITP by CDFW, pursuant to Fish and Game Code section 2081, subdivision (b).

### **Northwestern Pond Turtle (NWPT) and Southwestern Pond Turtle (SWPT):**

**Issue:** The Project area is partially within known geographic range of NWPT and SWPT. NWPT and SWPT are known to nest in the spring or early summer within 100 meters of a water body, although nest sites as far away as 500 meters have also been reported (Thomson et al. 2016). Noise, vegetation removal, movement of workers, construction, and ground disturbance as a result of Project activities have the potential to significantly impact pond turtle populations. In areas of suitable habitat, CDFW recommends that a qualified biologist conduct focused surveys for NWPT and SWPT within 10 days prior to Project implementation, and

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that focused surveys for nests occur during the egg-laying season of March through August.

**Recommended Mitigation Measures for NWPT and SWPT:** CDFW recommends that any NWPT or SWPT nests that are discovered remain undisturbed with a no-disturbance buffer maintained around the nest until the eggs have hatched and neonates are no longer in the nest or Project areas. If NWPT or SWPT individuals are discovered at the area during surveys or Project activities, CDFW recommends that they be allowed to move out of the area of their own volition without disturbance.

### **Special-Status Plant Species and Sensitive Natural Communities:**

The Project area is within the known geographic range of several special-status plant species including the state-listed species listed on Table 1 (CDFW 2025).

CDFW recommends that the Project area(s) be surveyed for special-status plants and sensitive natural communities by a qualified botanist following the “Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities” (CDFW 2018) as part of the biological technical studies conducted in support of the MND. 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. CDFW recommends that floristic plant surveys be conducted across two seasons in order to maximize detectability and to offset climatic variations from year to year that could influence results. If surveys indicate the presence or potential presence of special-status plants or sensitive natural communities, consultation with CDFW is recommended for guidance on mitigation measures such as avoidance, minimization, and mitigation. If take cannot be avoided, take authorization through the acquisition of an ITP pursuant to Fish and Game Code section 2081, subdivision (b), may be necessary to comply with CESA.

## **II. EDITORIAL COMMENTS AND/OR SUGGESTIONS**

CDFW requests that the MND fully identify potential impacts to biological resources, including the aforementioned species. To adequately assess any potential impacts to biological resources, focused biological surveys should be conducted by qualified wildlife biologists/botanists during the appropriate survey period(s) for each species in order to determine whether any special-status species and/or suitable habitat features may be present within the Project area. Properly conducted biological surveys, and the

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information assembled from them, are essential to identify any mitigation, minimization, and avoidance measures and/or the need for additional or protocol level surveys, and to identify any Project-related impacts under CESA and other species of concern. CDFW recommends the MND address potential impacts to these species and provide measurable mitigation measures that, as needed, will reduce impacts to less than significant levels. Information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/SurveyProtocols>).

**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 1 through September 15), 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.

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 the Project area to identify nests and determine their status. A sufficient area means any area potentially affected by the 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 construction activities, CDFW recommends that a qualified biologist conduct a survey to establish a behavioral baseline of all identified nests. Once construction begins, CDFW recommends having a 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

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biologist counsel and support any variance from these buffers and notify CDFW in advance of implementing a variance.

**CNDDDB:** Please note that the CNDDDB is populated by voluntary submissions of species detections. As a result, species may be present in locations not depicted in the CNDDDB but where there is suitable habitat and features capable of supporting species. A lack of an occurrence record, or lack of recent occurrence records, in the CNDDDB does not mean that a species is not present. To adequately assess any potential Project-related impacts to biological resources, surveys conducted by a qualified biologist during the appropriate survey period(s) and using the appropriate protocol survey methodology are warranted to determine if any special-status species are present.

**Federally Listed Species:** CDFW recommends consulting with the USFWS regarding potential impacts to federally listed or proposed species. 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 Project activities.

**Cumulative Impacts:** CDFW recommends that a cumulative impact analysis be conducted for all biological resources that will either be significantly or potentially significantly impacted by implementation of the Project, including those whose impacts are determined to be less than significant with mitigation incorporated or for those resources that are rare or in poor or declining health and will be impacted by the Project, even if those impacts are relatively small (i.e., less than significant). CDFW recommends cumulative impacts be analyzed using an acceptable methodology to evaluate the impacts of past, present, and reasonably foreseeable future projects on resources and be focused specifically on the resource, not the Project. An appropriate resource study area identified and utilized for this analysis is advised. CDFW staff is available for consultation in support of cumulative impacts analyses as a trustee and responsible agency under CEQA.

## **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->



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[Data](#). The completed 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).

## 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>). If you have any questions, please contact Grant Piepkorn, Environmental Scientist, at the address provided on this letterhead, by telephone at (559) 807-1459, or by electronic mail at [Grant.Piepkorn@wildlife.ca.gov](mailto:Grant.Piepkorn@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
E9964E60293D40A...

for Julie A. Vance  
Regional Manager

Attachment

ec: State Clearinghouse  
Office of Land Use and Climate Innovation  
[state.clearinghouse@opr.ca.gov](mailto:state.clearinghouse@opr.ca.gov)

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**References:**

- Beedy, E. C., W. J. Hamilton III, R. J. Meese, D. A. Airola, and P. Pyle. 2020. Tricolored blackbird (*Agelaius tricolor*). Version 1.0 in P. G. Rodewald, editor. Birds of the world. Cornell Lab of Ornithology, Ithaca, New York, USA.
- Bonham, C. and M. Lockhart. 2011. A status review of the mountain yellow-legged frog -- report to the Fish and Game Commission. California Department of Fish and Game.
- California Burrowing Owl Consortium (CBOC). 1993. Burrowing Owl Survey Protocol and Mitigation Guidelines.  
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83842&inline>
- California Department of Fish and Game (CDFG). 2012. Staff report on burrowing owl mitigation. California Department of Fish and Game, Sacramento, California, USA. <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline>
- \_\_\_\_\_. 1994. Staff report regarding mitigation for impacts to Swainson's Hawks (*Buteo swainsoni*) in the central valley of California.
- California Department of Fish and Wildlife (CDFW). 2010. Bald eagle breeding survey instructions. California Department of Fish and Wildlife, Sacramento, California, USA.
- \_\_\_\_\_. 2015. Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields in 2015.  
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=99310>
- \_\_\_\_\_. 2018. Protocols for surveying and evaluating impacts to special status native plant populations and sensitive natural communities. California Department of Fish and Wildlife, Sacramento, California, USA.
- \_\_\_\_\_. 2019. Approved Survey Methodology for the Blunt-nosed Leopard Lizard. California Department of Fish and Wildlife, October 2019 (revised).
- \_\_\_\_\_. 2025. Biogeographic Information and Observation System, Version 6 (BIOS 6). <https://www.wildlife.ca.gov/Data/BIOS> (accessed January 21, 2025).
- Declining Amphibian Populations Task Force (DAPTF), 1998. The Declining Amphibian Task Force Fieldwork Code of Practice. Online:  
<https://www.fws.gov/sites/default/files/documents/declining-amphibian-task-force-fieldwork-code-of-practice.PDF>

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CSU Stanislaus. 2025a. Endangered Species Recovery Program, Species Profile for giant kangaroo rat. <https://esrp.csustan.edu/speciesprofiles/profile.php?sp=diin>. Accessed 21 January 2025.

\_\_\_\_\_. 2025b. Endangered Species Recovery Program, Species Profile for blunt-nosed leopard lizard. <http://esrp.csustan.edu/speciesprofiles/profile.php?sp=gasi>. Accessed 21 January 2025.

Fellers, G. M., and K. L. Freel, 1995. A Standardized Protocol for Surveying Aquatic Amphibians. Technical Report NPS / WRUC / NRTR-95-01. May 1995.

Grinnell, J. and A. H. Miller. The Birds of California. Cooper Ornithological Club, Berkeley, California. 1944, 608 pp.

Orians, G. 1961. The ecology of blackbird (*Agelaius*) social systems. Ecological Monographs 31:285-312.

Perrine, J.D. 2005. Ecology of red fox (*Vulpes vulpes*) in the Lassen Peak Region of California, USA. Dissertation, University of California, Berkeley, USA.

Spencer W., S. Sawyer, W. J. Zielinski, R. A. Sweitzer, C. Thompson, K. Purcell, D. Clifford, L. Cline, H. Safford, S. Britting, R. Powell, J. Sherlock, and J. Tucker. 2015. Southern Sierra Nevada fisher conservation assessment. Conservation Biology Institute, San Diego, California, USA.

Swainson's Hawk Technical Advisory Committee. 2000. Recommended timing and methodology for Swainson's hawk nesting surveys in California's Central Valley. Swainson's Hawk Technical Advisory Committee.

Thomson, R. C., A. N. Wright, and H. B. Shaffer. 2016. California Amphibian and Reptile Species of Special Concern. California Department of Fish and Wildlife and University of California Press: 84-92.

Tucker, J. M., R. Green, K. Purcell, and D. Green. 2020. Survey protocol for fisher denning season: methods for informing denning protection measures. U.S. Department of Agriculture Forest Service, Pacific Southwest Region, Vallejo, California, USA.

United States Fish and Wildlife Service (USFWS). 1998. Recovery Plan for Upland Species of the San Joaquin Valley, California. United States Fish and Wildlife Service, Region 1, Portland, Oregon, USA.

\_\_\_\_\_. 2010. Golden eagle inventory and monitoring protocols; and other recommendations. Division of Migratory Bird Management, Arlington, Virginia, USA.

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California Department of Transportation  
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Page 20

\_\_\_\_\_. 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.

Zielinski W. J., R. L. Truex, G. A. Schmidt, F. V. Schlexer, K. N. Schmidt, and R. H. Barrett. 2004. Resting habitat selection by fishers in California. *Journal of Wildlife Management* 68(3):475-492.

**Attachment 1**

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

**PROJECT: Fresno County Culvert Improvement Project (EA 06-1A730)  
SCH No.: 2025010221**

<b>RECOMMENDED MITIGATION MEASURE</b>	<b>STATUS/DATE/INITIALS</b>
<i>Before Disturbing Soil or Vegetation</i>	
bald eagle (BAEA) and golden eagle (GOEA) surveys	
giant kangaroo rat (GKR) and Tipton kangaroo rat (TKR) surveys	
GKR take authorization	
Great Gray Owl (GGO) surveys	
Foothill yellow-legged frog (FYLF), southern mountain yellow-legged Frog (MYLF), and Sierra Nevada Yellow-legged Frog (SNYF) surveys	
FYLF, MYLF, SNYF take authorization	
southern Sierra Nevada fisher (SSNF) surveys	
San Joaquin antelope Squirrel (SJAS) surveys	
SJAS take authorization	
San Joaquin kit fox (SJKF) surveys	
SJKF take authorization	
Sierra Nevada red fox (SNRF) surveys	
SNRF take authorization	
Swainson's hawk (SWHA) surveys	
SWHA take authorization	
Tricolored blackbird (TRBL) surveys	
TRBL take authorization	
Blunt-nosed leopard lizard (BNLL) surveys	
BNLL take authorization	
Burrowing owl (BUOW) surveys	
BUOW take authorization	
Northwestern Pond Turtle (NWPT) and Southwestern Pond Turtle (SWPT) surveys	

<b>RECOMMENDED MITIGATION MEASURE</b>	<b>STATUS/DATE/INITIALS</b>
Special status plant and sensitive natural communities surveys	
Nesting bird surveys	
<i>During Construction</i>	
BAEA and GOEA avoidance buffer	
GKR and TKR avoidance buffer	
Great Gray Owl (GGO) avoidance buffer	
SJKF avoidance buffer	
SWHA avoidance buffer	
TRBL avoidance buffer	
BUOW avoidance buffer	
NWPT and SWPT avoidance buffer	
Nesting birds avoidance buffer	