



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
1234 East Shaw Avenue
Fresno, California 93710
(559) 243-4005
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



April 8, 2025

Stefan Galvez-Abadia
Director of Environmental Services
ATTN: Central Valley PV/BESS Project EIR/EIS
California High-Speed Rail Authority
770 L Street, Suite 620, MS-2
Sacramento, CA 95814
pv-bess@hsr.ca.gov

**Subject: Solar Array and Battery Energy Storage System Project (Project)
Notice of Preparation (NOP)
SCH No.: 2025020596**

Dear Stefan Galvez-Abadia:

The California Department of Fish and Wildlife (CDFW) received a NOP from the California High-Speed Rail Authority (Authority) 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. CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW 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 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.

Stefan Galvez-Abadia
California High-Speed Rail Authority
April 8, 2025
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 may be required.

Other Special Status 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 (California Code of Regs tit. 14, Chapter 3, § 15380), CDFW recommends it be fully considered in the environmental analysis for the Project.

Bird Protection: CDFW has jurisdiction over actions with the 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: California High-Speed Rail Authority (Authority)

Objective: The Draft Environmental Impact Report/Environmental Impact Statement (DEIR/DEIS) that will be prepared for the Project will evaluate seven potential sites within Merced, Fresno, Kings, and Kern counties for four facilities that will be built next to the existing High Speed Rail (HSR) alignment. Each of the four facilities would consist of a Photovoltaic (PV) arrays and Battery Energy Storage System (BESS), which The BESS would be co-located with Traction Power Substations (TPSS) along the HSR alignment, and PV arrays would be located adjacent to the HSR alignment between 2 and 11 miles from a TPSS.

The Project would provide both a primary source of power and backup power to TPSS #7, #9, #10, and #12 along the HSR alignment between Merced and Bakersfield, California. The TPSS locations are designed to provide a connection between an investor owned or municipal electric utility and the HSR system. The four substations were environmentally evaluated and approved by the Authority as part of the Merced to Fresno EIR/EIS (2012) and the Fresno to Bakersfield EIR/EIS (2014), CDFW provided

Stefan Galvez-Abadia
California High-Speed Rail Authority
April 8, 2025
Page 3

comments in response to both Draft EIRs in letters dated October 13, 2011, and September 26, 2012, respectively. CDFW recommends the Authority refer to CDFW's previous comments when preparing this Draft EIR/EIS.

The Project goals and objectives serve to produce energy to assist the Authority in achieving its goal of operating the HSR with 100 percent renewable energy and to provide energy backup in the event of an outage, as well as reducing peak demand during normal train operations. The PV will produce the energy to power the system, while the BESS will provide energy backup in the event of an outage and reduce peak-demand during normal HSR operations.

Location: The Project sites are located along or adjacent to the existing HSR alignment within Merced, Fresno, Kings, and Kern counties within California's Central Valley. Please note that location data for the potential Project sites attributed to TPSS #7 appears to be incorrect. Please provide corrected, as well as specific location details in the DEIR/DEIS.

Timeframe: The Project is expected to be completed by 2028.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist the Authority in adequately identifying and/or mitigating for 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 CEQA document prepared for this project.

Special-Status Species: Several special-status plant and animal species that have been documented near the Project area per the California Natural Diversity Database (CNDDDB) (CDFW 2025), as well as during biological surveys and monitoring efforts associated with HST construction, which is ongoing. These species include but are not limited to, the State and federally threatened California tiger salamander (*Ambystoma californiense*), the federally and State endangered Tipton kangaroo rat (*Dipodomys nitratoides nitratoides*), the State threatened Swainson's hawk (*Buteo swainsoni*), and tricolored blackbird (*Agelaius tricolor*), the federally endangered and State threatened San Joaquin kit fox (*Vulpes macrotis mutica*), the federally proposed as threatened western spadefoot (*Spea hammondi*), the State Candidate western burrowing owl (*Athene cunicularia hypugaea*) and Crotch's bumble bee (*Bombus crotchii*), and the California Rare Plant Rank Sanford's arrowhead (*Sagittaria sanfordii*) and Earlimart orache (*Atriplex cordulatus var erecticaulis*). While this list may not include all special-status species potentially present in the Project area, it does provide a robust source of information as to which species could potentially be impacted by the Project.

Stefan Galvez-Abadia
California High-Speed Rail Authority
April 8, 2025
Page 4

CDFW recommends that a habitat assessment be conducted at and in the vicinity of the Project sites for the aforementioned plant and animal species (hereafter, special status species). The habitat assessment should be conducted by a qualified biologist knowledgeable with the species, and any potentially suitable habitat identified should be surveyed by a qualified biologist for the potential presence of these species as part of the biological technical studies conducted in support of the DEIR. If the surveys detect presence of special status species at and/or near the Project sites, the DEIR should include measures to minimize, mitigate, and avoid impacts to those species. In addition, if the biological surveys detect the presence of special status species, the Authority should consult with CDFW prior to commencing the Project, to identify and implement appropriate measures to avoid or minimize impacts to those species.

CDFW recommends that the surveys for California tiger salamander, San Joaquin kit fox, Tipton kangaroo rat, Swainson's hawk, tricolored blackbird, western burrowing owl, and Crotch's bumble bee be conducted in accordance with the species-specific protocols which can be found here: <https://wildlife.ca.gov/Conservation/Survey-Protocols>. CDFW recommends that the special status species plant surveys be surveyed for by a qualified botanist following the "Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities" which can also be found at: <https://wildlife.ca.gov/Conservation/Survey-Protocols>. This plant survey protocol, which is intended to maximize detectability, includes 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.

If take could occur as a result of Project-related activities, consultation with CDFW would be warranted.

If take of any plant or animal species listed as Endangered, Threatened, Candidate, or Rare cannot be avoided, acquisition of an Incidental Take Permit pursuant to Fish and Game Code Section 2081(b) would be required to comply with CESA.

Editorial and/or Suggestions

Federally Listed Species: CDFW also recommends consulting with the USFWS on potential impacts to federally listed species including, but not limited to, California tiger salamander, Tipton kangaroo rat, and western spadefoot. Take under the Federal Endangered Species Act (ESA) is more broadly defined than CESA; take under ESA 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 to comply with ESA is advised well in advance of any ground disturbing activities.

Cumulative Impacts: CDFW recommends that a cumulative impact analysis be conducted for all biological resources that will either be significantly or potentially

Stefan Galvez-Abadia
California High-Speed Rail Authority
April 8, 2025
Page 5

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 are available for consultation in support of cumulative impacts analyses as a trustee and responsible agency under CEQA.

Lake and Streambed Alteration: In addition to potential species impacts, it is likely that some Project activities will be subject to CDFW's regulatory authority pursuant Fish and Game Code section 1600 et seq. Fish and Game Code section 1602 requires the Project proponent 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; 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 in nature. The DEIR should address the potential Project-related impacts to all streams at and near the Project sites.

CDFW is required to comply with CEQA in the issuance of an LSA Agreement; therefore, if the CEQA document approved for the Project does not adequately describe the Project and its impacts, a subsequent CEQA analysis may be necessary for LSA Agreement issuance. For additional information on notification requirements, please contact CDFW staff at RRR.R4@willife.ca.gov, or visit the Lake and Streambed Alteration Program website at <https://wildlife.ca.gov/Conservation/LSA>.

Bird Protection: CDFW encourages that Project ground-disturbing activities occur during the bird non-nesting season; however, if ground-disturbing or vegetation-disturbing activities must occur during the nesting season (February 1st through September 15th), 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 Code sections as referenced above.

To evaluate Project-related impacts on nesting birds, CDFW recommends that a general habitat assessment for nesting birds be conducted as part of the biological technical studies conducted in support of the CEQA document. Depending on the results of that assessment, CDFW further recommends that the CEQA document for this Project include that a qualified biologist conduct a pre-construction survey 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 sites to identify nests and determine their status. A sufficient area means any area potentially

Stefan Galvez-Abadia
California High-Speed Rail Authority
April 8, 2025
Page 6

affected, either directly or indirectly, by the Project. In addition to direct impacts (i.e., nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. CDFW recommends that a qualified biologist establish a behavioral baseline of all identified nests. Once Project activities begin, 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 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 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 a compelling biological or ecological reason to do so, such as when the Project site 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.

California Natural Diversity Database (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. In order 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 in order to determine whether or not any special-status species are present.

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. The CNDDDB field survey form can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

Stefan Galvez-Abadia
California High-Speed Rail Authority
April 8, 2025
Page 7

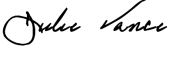
FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is 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 environmental document filing 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 NOP to assist the Authority in identifying and mitigating Project impacts on biological resources. CDFW is available to meet with the Authority ahead of DEIR preparation to discuss potential impacts and possible mitigation measures for some or all of the resources that may be analyzed in the DEIR. If you have any questions, please contact Javier Mendez, Senior Environmental Scientist, Specialist, (559) 903-5026 or by electronic mail at Javier.Mendez@wildlife.ca.gov.

Sincerely,

DocuSigned by:

FA83F09FE08945A...
Julie A. Vance
Regional Manager

ec: United States Fish and Wildlife Service
Justin Sloan; Justin_Sloan@fws.gov

Stefan Galvez-Abadia
California High-Speed Rail Authority
April 8, 2025
Page 8

REFERENCES

CDFW. 2025. Biogeographic Information and Observation System (BIOS).
<https://www.wildlife.ca.gov/Data/BIOS>. Accessed 26 and 28, March 2025