



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



February 25, 2022

Governor's Office of Planning & Research

Feb 28 2022

Sara Sanders, Transportation Planner
San Luis Obispo Council of Governments
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STATE CLEARINGHOUSE

Subject: SLOCOG 2023 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS) (Project) Notice of Preparation (NOP) SCH No.: 2018011015

Dear Ms. Sanders:

The California Department of Fish and Wildlife (CDFW) received an NOP from the San Luis Obispo Council of Governments (SLOCOG) for the above-referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under Fish and Game Code.

While the comment period may have ended, CDFW would appreciate if you will still consider our comments.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for

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.

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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 will be required.

Nesting Birds: 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).

PROJECT DESCRIPTION SUMMARY

Proponent: SLOCOG

Objective: The proposed Project is the update of SLOCOG's Regional Transportation Plan and Sustainable Communities Strategy (RTP-SCS), which was adopted in June 2019. The RTP-SCS is the long-range transportation plan for San Luis Obispo County and is being updated in accordance with California Government Code Section 65080 et seq., Part 450 of Title 23 of the Code of Federal Regulations (23 CFR 450), and the California Transportation Commission's 2017 Regional Transportation Plan Guidelines for Metropolitan Planning Organizations. This long-range plan aims to achieve a coordination, balanced, and multimodal regional transportation system that speaks to improvements and investments in all modes, which include but are not limited to pedestrian, bicycle, public transit, highway, rail, maritime and harbors, goods movement, and aviation.

Location: Throughout San Luis Obispo County.

Timeframe: To the horizon year of 2046.

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COMMENTS AND RECOMMENDATIONS

The NOP indicates that the Program Environmental Impact Report (PEIR) for the Project will describe existing environmental conditions in the Project area and analyze potential impacts resulting from Project activities. The PEIR will also identify and evaluate alternatives to the proposed project.

When a PEIR is prepared, the specifics of mitigation measures may be deferred, provided the lead agency commits to mitigation and establishes performance standards for implementation. Several special-status plant and animal species that have been documented in the Project area per the California Natural Diversity Database (CNDDDB) include, but not limited to, the State and federally threatened California tiger salamander (*Ambystoma californiense*), the State and Federally endangered Morro Bay kangaroo rat (*Dipodomys heermanni morroensis*) the giant kangaroo rat (*Dipodomys ingens*), the Tipton kangaroo rat (*Dipodomys nitratoides nitratoides*), the California condor (*Gymnogyps californianus*), and the California least tern (*Sternula antillarum browni*); the State threatened Swainson's hawk (*Buteo swainsoni*), the California black rail (*Laterallus jamaicensis coturniculus*), and San Joaquin antelope squirrel (*Ammospermophilus nelsoni*); the State endangered foothill yellow-legged frog (*Rana boylei*); the State endangered and fully protected bald eagle (*Haliaeetus leucocephalus*); the State threatened and federally endangered San Joaquin kit fox (*Vulpes macrotis mutica*); The Federally endangered and State fully protected blunt-nosed leopard lizard (*Gambelia sila*); the State endangered Hearst's manzanita (*Arctostaphylos hookeri ssp. hearstiorum*), the State and federally endangered marsh sandwort (*Arenaria paludicola*), California jewelflower (*Caulanthus californicus*), Chorro Creek bog thistle (*Cirsium fontinales var. obispoense*), and the State species of special concern burrowing owl (*Athene cunicularia*), lesser slender salamander (*Batrachoseps minor*), western pond turtle (*Actinemys marmorata*), and western spadefoot toad (*Spea hammondi*). While this list may not include all special-status species present in the Project area, it does provide a robust source of information as to which species could potentially be impacted. CDFW recommends the PEIR prepared for the Project analyze potential impacts to these species and provide measurable mitigation measures that, as needed, will reduce impacts to less than significant levels. More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>).

CDFW also recommends consulting with the USFWS on potential impacts to federally listed species including, but not limited to, California tiger salamander, Morro Bay kangaroo rat, giant kangaroo rat, Tipton kangaroo rat, blunt-nosed leopard lizard, California condor, California least tern, marsh sandwort, California jewel flower, Chorro Creek bog thistle, vernal pool invertebrates, and the San Joaquin kit fox. Take under the Federal Endangered Species Act (FESA) is more broadly defined than CESA; take under FESA also includes significant habitat modification or degradation that could

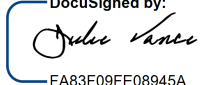
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result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS in order to comply with FESA is advised well in advance of any ground disturbing activities.

In addition to potential species impacts, it is likely that some Project activities that will be subject to CDFW's regulatory authority pursuant Fish and Game Code section 1600 et seq. If a Lake or Streambed Alteration Agreement (LSAA) is needed, CDFW is required to comply with CEQA in the issuance or the amendment of an LSAA. Therefore, for efficiency in environmental compliance, we recommend that any potential lake or stream disturbance that may result from Project activities be described, and mitigation for the disturbance be developed as part of the PEIR. This will reduce the need for the Department to require extensive additional environmental review for a LSAA in the future. If inadequate, or no environmental review, has occurred, for the Project activities that are subject to notification under Fish and Game Code section 1602, CDFW will not be able to issue the Final LSAA until CEQA analysis for the project is complete. This may lead to considerable Project delays.

CDFW is available to meet with you ahead of PEIR preparation to discuss potential impacts and possible mitigation measures for some or all of the resources that may be analyzed in the PEIR. If you have any questions, please contact Kelley Nelson, Environmental Scientist, at the address provided on this letterhead, by telephone at (559) 580-3194, or by electronic mail at Kelley.Nelson@wildlife.ca.gov.

Sincerely,

DocuSigned by:

FA83F09FE08945A...
Julie A. Vance
Regional Manager

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LITERATURE CITED

California Department of Fish and Wildlife. 2022. Biogeographic Information and Observation System (BIOS). <https://www.wildlife.ca.gov/Data/BIOS>.