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STATE CLEARINGHOUSE

February 18, 2020

Jerry Barton
El Dorado County Transportation Commission
2828 Easy Street, Suite 1
Placerville, CA 95667

Subject: 2020-2040 EL DORADO COUNTY REGIONAL TRANSPORTATION PLAN
DRAFT ENVIRONMENTAL IMPACT REPORT SCH#2020019055

Dear Mr. Barton:

The California Department of Fish and Wildlife (CDFW) received and reviewed the Notice of Preparation of a Draft Environmental Impact Report (DEIR) from the El Dorado County Transportation Commission (EDCTC) for the 2020-2040 El Dorado County Regional Transportation Plan Project (Project) in El Dorado County pursuant to the California Environmental Quality Act (CEQA) statute and guidelines.¹

CDFW appreciates the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife resources. Likewise, CDFW appreciates 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).

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.) CDFW also provides, 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 may also act as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). Some activities associated with 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 (Fish & G. Code, § 86) of any species protected under the

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.

California Endangered Species Act (CESA) (Fish & G. Code, § 2050 *et seq.*), related authorization as provided by the Fish and Game Code will be required. CDFW also administers the Native Plant Protection Act, Natural Community Conservation Program, and other provisions of the Fish and Game Code that afford protection to California's fish and wildlife resources.

PROJECT DESCRIPTION SUMMARY

The El Dorado County 2020-2040 Regional Transportation Plan (RTP) is a regional planning effort developed by the El Dorado County Transportation Commission (EDCTC) that covers all of El Dorado County, except for that portion of the County within the Tahoe Basin, which is under the jurisdiction of the Tahoe Regional Planning Agency.

The proposed Project is the adoption and implementation of the El Dorado County 2020-2040 RTP. The RTP contains three primary elements: Policy Element, Action Element, and Financial Element.

The **Policy Element** presents guidance to decision-makers of the implications, impacts, opportunities, and regional improvement strategy that will be used to implement the RTP. California law (Government Code Section 65080 (b)) states that each RTP shall include a Policy Element that:

1. Describes the transportation issues in the region;
2. Identifies/quantifies regional needs expressed within both short/long range horizons and via pragmatic objective and policy statements; and,
3. Maintains internal consistency with the Financial Element and fund estimates

The **Action Element** identifies short- and long-term actions needed to achieve the RTP's objectives and implement the RTP in accordance with the goals, objectives, and policies set forth in the Policy Element.

The institutional and legal actions needed to implement the Regional Transportation Plan and action plans are also discussed in this section, followed by a detailed assessment of all transportation modes. Priorities for regional transportation programs are established within the Action Element.

The **Financial Element** identifies the cost of implementing projects in the RTP within a financially constrained environment. All anticipated transportation funding revenues are compared with the anticipated costs of the transportation programs and actions identified in the Action Element. If shortfalls are identified, strategies are developed to potentially fund the otherwise unfunded projects. It includes regionally significant multimodal projects that currently have funding in place or that are projected to have funding in the future (Fiscally Constrained), while it also identifies other improvement projects that are needed but do not have funding (Fiscally Unconstrained). It also identifies potential funding shortfalls and sources for the unconstrained project list.

ENVIRONMENTAL SETTING

Section 15125(c) of the CEQA Guidelines states that knowledge of the regional setting of a project is critical to the assessment of environmental impacts and that special emphasis should be placed on environmental resources that are rare or unique to the region. To enable CDFW staff to adequately review and comment on the Project, the DEIR should include an overview of the flora, fauna, habitat types, and vegetation communities within the parts of El Dorado County that may be affected by activities associated with the Project.

To identify the environmental baseline, the DEIR should include a complete and current analysis of rare, endangered, threatened, candidate, special-status, and locally unique species with potential to be impacted by the Project. CEQA guidelines § 15125, subdivision (c) requires lead agencies to place special emphasis on sensitive habitats and any biological resources that are rare or unique to the area. This may include, but is not limited to, wetlands, riparian habitats, streams, rivers, and the western El Dorado County gabbro soil formation.

CNDDDB

CDFW recommends that the California Natural Diversity Database (CNDDDB), as well as previous studies performed in the area, be consulted to assess the potential presence of sensitive species and habitats. The CNDDDB may be accessed at <https://wildlife.ca.gov/Data/CNDDDB/Maps-and-Data#43018408-cnddb-in-bios>.

Please note that the CNDDDB is not exhaustive in terms of the data it houses, nor does it record the absence of a species in any given area. A lack of CNDDDB species records in an area does not guarantee that the species is not present. CDFW recommends that the CNDDDB be used as a starting point in gathering information about the *potential presence* of species within the general area of the Project site. Other sources for identification of species and habitats near or adjacent to the Project area may include, but are not limited to, state and federal resource agency lists, the California Wildlife Habitat Relationship (CWHR) System (see <https://wildlife.ca.gov/Data/CWHR>), the California Native Plant Society (CNPS) Inventory, agency contacts, environmental documents for other projects in the vicinity, academics, and professional or scientific organizations.

Wildlife Movement Corridors

To the extent possible, the DEIR should identify wildlife migration routes, movement corridors, and existing or potential barriers to wildlife movement that may be affected by Project activities. Wildlife movement corridors are habitat linkages connecting two or more significant habitat areas, through which wildlife can move. Examples of wildlife movement corridors include, but are not limited to, rivers and streams, ravines, culverts, overpasses, under-crossings, and greenbelts. The California Essential Habitat Connectivity Project (CEHCP) (<https://www.wildlife.ca.gov/conservation/planning/connectivity/CEHC>) may be

consulted for information on modeled habitat linkages that may serve as wildlife movement corridors. However, the CEHCP should not be considered the final word on movement corridors, and the DEIR should not exclude potential wildlife movement corridors that are not identified in the CEHCP.

IMPACT ASSESSMENT AND MITIGATION MEASURES

The DEIR should clearly identify and describe all foreseeable short-term, long-term, permanent, and temporary impacts to biological resources, including both direct and indirect impacts.

The DEIR 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).) The DEIR should demonstrate that the significant environmental impacts of the Project were adequately investigated and disclosed, and it must permit the significant effects of the Project to be considered in the full environmental context. CDFW also recommends that the DEIR discuss avoidance, minimization, and/or mitigation measures to address the Project's potentially significant impacts upon fish and wildlife and their habitat. For individual projects, mitigation must be roughly proportional to the level of impacts, including cumulative impacts, in accordance with the provisions of CEQA (Guidelines section 15126.4(a)(4)(B), 15064, 15065, and 16355). For mitigation measures to be effective, they must be specific, enforceable, and feasible actions that will improve environmental conditions.

The DEIR should discuss the Project's cumulative impacts to natural resources and determine if that contribution would result in a significant impact. To evaluate cumulative impacts, the DEIR may include a list of present, past, and probable future projects with similar or related impacts to fish and wildlife resources. The DEIR may also include a summary of the projections from adopted local, regional, or statewide plans and a discussion of conditions contributing to a cumulative effect. The cumulative analysis should include a discussion of the Project's cumulative contribution to impediments to wildlife movement, including, but not limited to, road widening, projected increases in traffic volume, and degradation of wildlife movement corridors.

Impacts on Wildlife Movement

Roads impact wildlife in several ways including direct mortality from vehicle strikes, habitat fragmentation, and barriers to wildlife movement (Spencer *et al.* 2010). As the volume of traffic increases and roads are widened or otherwise updated to accommodate higher use, the impacts on wildlife tend to increase (Clevenger *et al.* 2001, Jaarsma *et al.* 2006). Barriers to wildlife movement are expected to cause greater impacts as climate change impacts existing habitats and changes where animals can live (Kostyack *et al.* 2011). The individual projects identified in the El Dorado County Regional Transportation Plan may have a cumulatively significant impact on wildlife movement which may not be identified when viewing individual projects separately. CDFW recommends that the DEIR include an

analysis of the Project's cumulative contribution to impediments to wildlife movement, including, but not limited to, road widening, projected increases in traffic volume, and degradation of wildlife movement corridors.

Some examples of potential mitigation strategies for unavoidable impacts to wildlife movement include, but are not limited to, building wildlife crossing structures in areas where wildlife movement is significantly impaired by roadways and including crossing-friendly design elements (such as upsizing culverts or using strategically placed barriers to discourage crossing at particularly hazardous locations and/or guide wildlife towards safer crossing areas) in individual projects.

Useful resources for wildlife crossing design include CDFW's *"Transportation Planning Companion Plan"* associated with the State Wildlife Action Plan (CDFW 2016), the CEHCP, and Caltrans' *"Wildlife Crossings Guidance Manual"* (Caltrans 2009).

CESA Incidental Take Permits

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. CESA Incidental Take Permits (ITPs) can be obtained for Project activities with the potential to result in "take" (California Fish and Game Code section 86 defines "take" as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill") of state-listed CESA species, either through construction or over the life of the Project. CDFW encourages early consultation with staff to determine appropriate measures to offset Project impacts and to facilitate future permitting processes. CDFW also recommends coordination with the U.S. Fish and Wildlife Service to coordinate specific measures if both state and federally listed species may be present within the Project vicinity.

Lake and Streambed Alteration Agreement Program

Fish and G. Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following: substantially divert or obstruct the natural flow of any river, stream or lake; substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or deposit debris, waste or other materials that could 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.

Upon receipt of a complete notification, CDFW determines if the proposed Project activities may substantially adversely affect existing fish and wildlife resources and whether a Lake and Streambed Alteration (LSA) Agreement is required. An LSA Agreement includes measures necessary to protect existing fish and wildlife resources. CDFW may suggest

ways to modify the Project that would eliminate or reduce harmful impacts to fish and wildlife resources.

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 necessary, the DEIR 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 proposed Project may be necessary to avoid or reduce impacts to fish and wildlife resources. To obtain a Lake or Streambed Alteration notification package, please go to <https://wildlife.ca.gov/Conservation/LSA>. Please note that online notification submittal should be available starting March 31, 2020, and paper notification packages will no longer be available for downloading and printing from CDFW's website starting July 1, 2020.

Nesting Birds, Birds of Prey, and Migratory Birds

Nesting birds, birds of prey, and Migratory non-game native bird species are protected sections 3503, 3503.5, and 3513 of the Fish and Game Code. Section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. Section 3503.5 states that it is unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by the Fish and Game Code or any regulation adopted pursuant thereto. Section 3513 states that it is unlawful to take or possess any migratory nongame bird as designated in the Migratory Bird Treaty Act.

CDFW recommends that the DEIR include specific avoidance and minimization measures to ensure that impacts to nesting birds do not occur. For Project activities conducted within the nesting season (typically February 1 through August 31, CDFW recommends that pre-construction nesting surveys be required no more than three (3) days prior to vegetation clearing or ground disturbance activities, as instances of nesting could be missed if surveys are conducted sooner. If an active nest is discovered, CDFW recommends that a species-appropriate non-disturbance buffer be established around the nest and maintained until the young have left the nest and are foraging independently. The width of the buffer should be determined by a qualified ornithologist.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link:

<https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be submitted online or mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov.

FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of 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 fee is required 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

Pursuant to Public Resources Code §21092 and §21092.2, CDFW requests written notification of proposed actions and pending decisions regarding the proposed Project. Written notifications shall be directed to: California Department of Fish and Wildlife North Central Region, 1701 Nimbus Road, Rancho Cordova, CA 95670.

CDFW appreciates the opportunity to comment on the NOP to assist in identifying and mitigating Project impacts on biological resources. CDFW personnel are available for consultation regarding biological resources and strategies to minimize impacts. Questions regarding this letter or further coordination should be directed to Gabriele Quillman, Environmental Scientist at (916) 358-2955 or gabriele.quillman@wildlife.ca.gov.

Sincerely,



Jeff Drongesen
Environmental Program Manager

ec: Kelley Barker, Senior Environmental Scientist Supervisor
Gabriele Quillman, Environmental Scientist
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