

Notice of Determination

To:

Office of Planning and Research
For U.S. Mail:
P.O. Box 3044
Sacramento, CA 95812-3044

Street Address:
1400 Tenth Street
Sacramento, CA 95814

From:

California Department of Fish and Wildlife (CDFW)
South Coast Region
3883 Ruffin Rd. San Diego, CA 92123
Contact: Matt Chirdon
Phone: (805) 640-1165

Lead Agency (if different than CDFW)
California Department of Transportation
50 Higuera Street San Luis Obispo, CA 93401-5415
Contact: Allison Donatello
Phone: (805) 542-4685

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SUBJECT: Filing of Notice of Determination pursuant to Public Resources Code § 21108

State Clearinghouse Number: 2018011028

Project Title: Solomon Canyon Capital Maintenance Project (California Endangered Species Act Incidental Take Permit No. 2081-2018-064-05 (ITP))

Project Location (include county): Project is located on State Route 1 (SR-1) from postmile (PM) 36.1 to PM 49.5 near the unincorporated area of Orcutt to intersection of SR-1 and SR-166 in the City of Guadalupe, Santa Barbara County. The Project's southern limit is located approximately 2 miles west of Orcutt near Solomon Canyon Road at latitude 34.87115 and longitude -120.46795 (NAD 83).

Project Description: This proposed project involves the resurfacing of existing two lanes, shoulder improvements, upgrading guardrail, and rehabilitating existing roadside drainage inlets to meet final grade of SR-1 to maintain and prevent structural failure. Maintenance and preventing structural failure of the state highway is necessary to provide safe passage for the public and comply with Caltrans' legislative authority.

The Project will result in impacts to 11.27 acres of California tiger salamander (*Ambystoma californiense*) habitat including temporary impacts to 4.74 acres and permanent impacts to 6.53 acres. The project is expected to result in incidental take of California tiger salamander, which is designated as a threatened species under the California Endangered Species Act. The ITP referenced above as issued by CDFW authorizes incidental take of species listed under CESA that may occur as a result of Project implementation.

This is to advise that CDFW, acting as the lead agency / a responsible agency] approved the above-described project on 6-12-19 and made the following determinations regarding the above described project:

1. The project will / will not] have a significant effect on the environment (This determination is limited to effects within CDFW's permitting jurisdiction as a responsible agency).
2. An environmental impact report / A negative declaration] was prepared by the lead agency for the original project.
3. Additional mitigation measures were / were not] made a condition of CDFW's approval of the project.
4. A mitigation reporting or monitoring plan was / was not] adopted by CDFW for this project.
5. A Statement of Overriding Considerations was / was not] adopted by CDFW for this project.
6. Findings were / were not] made by CDFW pursuant to Public Resources Code § 21081(a). CDFW did, however, adopt findings to document its compliance with CEQA.
7. Compliance with the environmental filing fee requirement at Fish and Game Code § 711.4 (check one):
 - Payment is submitted with this notice.
 - A copy of a receipt showing prior payment was submitted to CDFW.

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Responsible Agency statement: The Mitigated Negative Declaration prepared by the lead agency for the Project is available to the general public at the office location listed above for the lead agency. CDFW's administrative record of proceedings related to the incidental take permit is available to the public for review at CDFW's regional office.

Signature  Date: 6-12-19
Ed Pert, Regional Manager **Governor's Office of Planning & Research**

Date Received for filing at OPR: **JUL 08 2019**
STATE CLEARINGHOUSE

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
CALIFORNIA ENDANGERED SPECIES ACT
INCIDENTAL TAKE PERMIT
NO. 2081-2018-064-05

California Department of Transportation
Solomon Canyon Capital Maintenance Project

CEQA FINDINGS

INTRODUCTION:

The California Department of Fish and Wildlife (CDFW) has prepared these findings to document its compliance with the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 *et seq.*). CDFW is a responsible agency under CEQA with respect to the Solomon Canyon Capital Maintenance Project (Project) because of its permitting authority under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 *et seq.*). (See generally Pub. Resources Code, §§ 21002.1, subd. (d), 21069; CEQA Guidelines, § 15381; see also Cal. Code Regs., tit. 14, § 783.3, subd. (a).)¹ CDFW makes these findings under CEQA as part of its discretionary decision to authorize California Department of Transportation (Permittee) to incidentally take California tiger salamander (*Ambystoma californiense*) in the Santa Barbara Distinct Population segment for this species (hereafter, collectively referred to as Covered Species) during implementation of the Project. (See generally Fish & G. Code, § 2081, subd. (b); Cal. Code Regs., tit. 14, § 783.4.) The California tiger salamander is designated as a threatened species under CESA. (Cal. Code Regs., tit. 14, § 670.5, subd. (b)(3)(G)).

CDFW is a responsible agency under CEQA with respect to the Project because of prior environmental review and approval of the Project by the lead agency, California Department of Transportation (Caltrans). (See generally Pub. Resources Code, § 21067; CEQA Guidelines, § 15367.) Caltrans analyzed the environmental impacts associated with implementation of the Project in a Mitigated Negative Declaration (MND) for Solomon Canyon Pavement Preservation Project (SCH No. 201811028), and approved the Project on May 30, 2018. In so doing, Caltrans imposed various mitigation measures for impacts to the Covered Species as conditions of Project approval and concluded that Project-related impacts to the Covered Species could be substantially lessened with implementation of mitigation and avoidance measures, such that the impacts would be less than significant.

As approved by Caltrans, the Project involves the resurfacing of existing two lanes, shoulder improvements, and guardrail improvement to SR-1 to maintain and prevent structural failure. The Project site is within the range of the Covered Species and is known to support individuals of the species during their migration period. Development of the

¹ The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with Section 15000.

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Project site will result in the permanent loss of 6.53 acres, and temporary loss of 4.74 acres of habitat for the Covered Species and take of the Covered Species as defined by Fish and Game Code is expected. (Fish & G. Code, § 86.) These impacts fall within CDFW's permitting jurisdiction under CESA. (*Id.*, §§ 2080, 2081, subd. (b).)

As a responsible agency, CDFW's CEQA obligations are more limited than those of the lead agency, in that CDFW is responsible for considering only the effects of those activities involved in the Project which it is required by law to carry out or approve. Thus, while CDFW must consider the environmental effects of the Project as set forth in Caltrans's MND, CDFW has responsibility to mitigate or avoid only the direct or indirect environmental effects of those parts of the Project which it decides to carry out, finance, or approve. (Pub. Resources Code, § 21002.1, subd. (d); CEQA Guidelines, §§ 15041, subd. (b), 15096, subds. (f)-(g).) Accordingly, because CDFW's exercise of discretion is limited to issuance of an Incidental Take Permit (ITP) for the Project, CDFW is responsible for considering only the environmental effects that fall within its permitting authority under CESA. (See generally *San Diego Navy Broadway Complex Coalition v. City of San Diego* (2010) 185 Cal.App.4th 924, 935-941.) Indeed, with respect to all other effects associated with implementation of the Project, CDFW is bound by the legal presumption that the MND fully complies with CEQA. (Pub. Resources Code, § 21167.3; *City of Redding v. Shasta County Local Agency Formation Commission* (1989) 209 Cal.App.3d 1169, 1178-1181; see also CEQA Guidelines, § 15096, subd. (e); Pub. Resources Code, § 21167.2; *Laurel Heights Improvement Association v. Regents of the University of California* (1993) 6 Cal.4th 1112, 1130.)

FINDINGS:

CDFW has considered the MND adopted by Caltrans as the lead agency for the Project.

CDFW finds that the mitigation measures imposed as conditions of Project approval by Caltrans, along with the mitigation measures and Conditions of Approval set forth in CDFW's ITP for the Project, will ensure that all Project-related impacts on the Covered Species are mitigated to below a level of significance under CEQA.

CDFW finds that issuance of the ITP will not result in any previously undisclosed potentially significant effects on the environment or a substantial increase in the severity of any potentially significant environmental effects previously disclosed by the lead agency. Furthermore, to the extent the potential for such effects exists, CDFW finds adherence to and implementation of the conditions of Project approval adopted by the lead agency, as well as adherence to and implementation of the Conditions of Approval imposed by CDFW through the issuance of the ITP, will avoid or reduce such potential effects to below a level of significance.

The following measures and others set forth in CDFW's ITP for the Project will avoid to the extent feasible and mitigate to below a level of significance all Project-related impacts on the Covered Species:

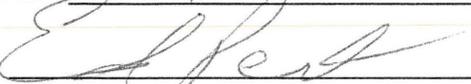
- A. A Designated Biologist who is knowledgeable and experienced in the biology and natural history of the Covered Species will monitor construction and/or surface-disturbing activities to minimize habitat disturbance and take of individual Covered Species. The Designated Biologist will have the authority to stop construction and/or surface-disturbing activities and/or order any reasonable measure to avoid take of the Covered Species.
- B. Orientation will be provided to construction staff to familiarize them with the conditions of the Permit and the measures to avoid and minimize impacts to the Covered Species.
- C. The Permittee will acquire and permanently preserve 15.43 acres of Covered Species' habitat approved by CDFW and provide for the maintenance and management of the habitat in perpetuity.
- D. Compliance monitoring will be reported monthly while under active construction and Annual Status Reports (ASR) will be sent to CDFW beginning 12 months after issuance date of this ITP, and subsequent ASRs every 12 months thereafter and continuing until CDFW accepts the Final Mitigation Report identified below.
- E. Non-compliance will be reported to CDFW within 24 hours.
- F. Covered Species found on the Project site shall be relocated by the Designated Biologist to a protected off-site location, and subject to a Relocation Plan to be approved by CDFW prior to ground-disturbing activities.
- G. Permittee will prepare and submit a final mitigation report within 60 days following completion of the Project to notify CDFW of the success and effectiveness of required mitigation measures.

CDFW finds that the Mitigation Monitoring and Reporting Program in Attachment 1 of CDFW's ITP for the Project will ensure compliance with mitigation measures by requiring the Permittee to monitor and report progress in implementing those measures for review by CDFW staff.

The Mitigation Monitoring and Reporting Program is adopted.

The Project is approved.

DATE: 6-12-19

By: 

Ed Pert, Regional Manager
 South Coast Region
 DEPARTMENT OF FISH AND WILDLIFE

Governor's Office of Planning & Research

JUL 08 2019

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