

State of California – Natural Resources Agency  
 DEPARTMENT OF FISH AND WILDLIFE  
 South Coast Region  
 3883 Ruffin Road  
 San Diego, CA 92123  
 (858) 467-4201  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

GAVIN NEWSOM, Governor  
 CHARLTON H. BONHAM, Director



January 17, 2020

Governor's Office of Planning & Research

**JAN 17 2020**

**STATE CLEARINGHOUSE**

Mr. Matt Fowler  
 California Department of Transportation  
 50 Higuera Street  
 San Luis Obispo, CA 93401  
[Jason.Wilkinson@dot.ca.gov](mailto:Jason.Wilkinson@dot.ca.gov)

**Subject: Mitigated Negative Declaration for the California Department of Transportation  
 San Jose Creek Bridge Project, City of Goleta, Santa Barbara County**

Dear Mr. Wilkinson:

The California Department of Fish and Wildlife (CDFW) has reviewed the above-referenced Mitigated Negative Declaration (MND) for the California Department of Transportation San Jose Creek Bridge Project (Project). 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, we appreciate 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's 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 & Game Code, §§ 711.7, subdivision (a) & 1802; Public Resources Code, § 21070; California Environmental Quality Act (CEQA) Guidelines, § 15386, subdivision (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 state fish and wildlife resources.

CDFW is also submitting comments as a Responsible Agency under CEQA (Public Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code, including lake and streambed alteration regulatory authority (Fish & Game 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 & Game Code, § 2050 *et seq.*), or state-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & Game Code, §1900 *et seq.*), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

## **Project Description and Summary**

**Objective:** The California Department of Transportation (Caltrans) proposes to replace the existing northbound and southbound San Jose Creek bridge structures on U.S. Route 101 at post mile (PM) 21.6 in the City of Goleta in Santa Barbara County. The existing bridge structures have been found to contain reactive aggregate in the concrete, which could compromise the overall structural integrity over time. Replacing the bridge is the best way to remove the reactive aggregate in the concrete and ensure the function and reliability of the highway. The new bridge would be designed as a single-span structure that would meet current bridge standards. It would be constructed in the same location as the existing structures on the current highway alignment.

**Location:** Along Route U.S. 101, in the City of Goleta, Santa Barbara County.

## **Comments and Recommendations**

CDFW offers the comments and recommendations below to assist Caltrans in adequately identifying, avoiding and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Additional comments or other suggestions may also be included to improve the document.

## **Project Description and Related Impact Shortcoming**

### **Comment #1: Impacts to Plant Communities**

**Issue:** Avoidance, Minimization, and Mitigation Measure Summary, detailed in Appendix F, indicates mitigation for loss and disturbance of [...] California Department of Wildlife jurisdictional areas will be mitigated at a ratio of 1:1 to ensure no net loss of wetlands or associated riparian habitat.

**Specific impact:** CDFW considers plant communities, alliances, and associations with a statewide ranking of S1, S2, S3 and S4 as sensitive and declining at the local and regional level (Sawyer et al. 2008). An S3 ranking indicates there are 21-80 occurrences of this community in existence in California, S2 has 6-20 occurrences, and S1 has less than 6 occurrences. The Project may have direct or indirect effects to these sensitive species.

**Why impact would occur:** Project implementation includes grading, vegetation clearing for construction, road maintenance, and other activities that may result in direct mortality, population declines, or local extirpation of sensitive plant species.

**Evidence impact would be significant:** Impacts to special status plant species should be considered significant under CEQA unless they are clearly mitigated below a level of significance. Inadequate avoidance, minimization, and mitigation measures for impacts to these sensitive plant species will result in the Project continuing to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or USFWS.

### **Recommended Potentially Feasible Mitigation Measure(s):**

**Mitigation Measure #1:** CDFW recommends conducting focused surveys for sensitive/rare plants on-site and disclosing the results in the Mitigated Negative Declaration. Based on the *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (CDFW, 2018)

(<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959>), a qualified biologist should “conduct surveys in the field at the time of year when species are both evident and identifiable. Usually this is during flowering or fruiting.” The final CEQA documentation should provide a thorough discussion on the presence/absence of sensitive plants on-site and identify measures to protect sensitive plant communities from project-related direct and indirect impacts.

**Mitigation Measure #2:** In 2007, the State Legislature required CDFW to develop and maintain a vegetation mapping standard for the state (Fish & Game Code, § 1940). This standard complies with the National Vegetation Classification System, which utilizes alliance and association-based classification of unique vegetation stands. CDFW utilizes vegetation descriptions found in the Manual of California Vegetation (MCV), found online at <http://vegetation.cnps.org/>. To determine the rarity ranking of vegetation communities on the Project site, the MCV alliance/association community names should be provided as CDFW only tracks rare natural communities using this classification system.

**Mitigation Measure #3:** CDFW recommends avoiding any sensitive natural communities found on the Project. If avoidance is not feasible, mitigating at a ratio of no less than 5:1 for impacts to S3 ranked communities and 7:1 for S2 communities should be implemented. This ratio is for the acreage and the individual plants that comprise each unique community. All revegetation/restoration areas that will serve as mitigation should include preparation of a restoration plan, to be approved by USFWS and CDFW prior to any ground disturbance. The restoration plan should include restoration and monitoring methods; annual success criteria; contingency actions should success criteria not be met; long-term management and maintenance goals; and, a funding mechanism to assure for in perpetuity management and reporting. Areas proposed as mitigation should have a recorded conservation easement and be dedicated to an entity which has been approved to hold/manage lands (Assembly Bill 1094; Government Code, §§ 65965-65968).

### **Comment #2: Impacts to Streams & Associated Watershed Functions**

**Issue:** Construction of the Project, as proposed, will likely impact stream associated habitats (e.g. wetland, riparian, and/or salt marsh habitat).

**Specific impacts:** The Project may result in the loss of streams and associated watershed function and biological diversity. Grading and construction activities will likely alter the topography, and thus the hydrology, of the Project site.

**Why impacts would occur:** Ground disturbing activities from grading and filling, water diversions and dewatering would physically remove or otherwise alter existing streams or their function and associated riparian habitat on the Project site. Downstream streams and associated biological resources beyond the Project development footprint may also be impacted by Project related releases of sediment and altered watershed effects resulting from Project activities.

**Evidence impacts would be significant:** The Project may substantially adversely affect the existing stream pattern of the Project site through the alteration or diversion of a stream, which absent specific mitigation, could result in substantial erosion or siltation on site or off site of the Project.

**Recommended Potentially Feasible Mitigation Measure(s):**

**Mitigation Measure #1:** The Project may result in the alteration of streams. For any such activities, the Project applicant (or "entity") must provide written notification to CDFW pursuant to section 1600 *et seq.* of the Fish and Game Code. Based on this notification and other information, CDFW determines whether a Lake and Streambed Alteration Agreement (LSA) with the applicant is required prior to conducting the proposed activities. A notification package for a LSA may be obtained by accessing CDFW's web site at [www.wildlife.ca.gov/habcon/1600](http://www.wildlife.ca.gov/habcon/1600).

CDFW's issuance of an LSA for a project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document of the Lead Agency for the Project. However, the DEIR does not meet CDFW's standard at this time. To minimize additional requirements by CDFW pursuant to section 1600 *et seq.* and/or under CEQA, the CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for issuance of the LSA.

**Mitigation Measure #2:** Any LSA permit issued for the Project by CDFW may include additional measures protective of streams on and downstream of the Project. The LSA may include further erosion and pollution control measures. To compensate for any on-site and off-site impacts to riparian resources, additional mitigation conditioned in any LSA may include the following: avoidance of resources, on-site or off-site creation, enhancement or restoration, and/or protection and management of mitigation lands in perpetuity.

**Comment #3 Impacts to Fish Passage**

CDFW is in support of the use of free-span bridges with no concrete-in-channel designs and would not support a change in design that would include instream hardening of the streambed. To confirm that aquatic passage up and downstream of the structure, please provide CDFW with an opportunity to review and comment on 65% Design Plans and the Basis of Design at your earliest convenience.

**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 in order for the underlying Project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & Game Code, § 711.4; Pub. Resources Code, § 21089).

**Conclusion**

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We appreciate the opportunity to comment on the Project to assist Caltrans in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that Caltrans has to our comments and to receive notification of any forthcoming hearing date(s) for the Project [CEQA Guidelines; § 15073(e)].

If you have any questions or comments regarding this letter, please contact Baron Barrera, Environmental Scientist, at [Baron.Barrera@wildlife.ca.gov](mailto:Baron.Barrera@wildlife.ca.gov) or (562) 431-8053.

Sincerely,



Erinn Wilson  
Environmental Program Manager I

cc: CDFW  
Steve Gibson – Los Alamitos  
Scott Morgan (State Clearinghouse)

**References:**

California Department of Fish and Wildlife [CDFW]. March 20, 2018. Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities (see <https://www.wildlife.ca.gov/Conservation/Plants>).

National Research Council. 1995. *Science and the Endangered Species Act*. Washington, DC: The National Academies Press. <https://doi.org/10.17226/4978>.

Sawyer, J.O., Keeler Wolf, T., and Evens J.M. 2008. *A manual of California Vegetation*, 2<sup>nd</sup> ed. ISBN 978 0 943460 49 9.