

State of California  
Department of Fish and Wildlife



## Memorandum

Date: September 24, 2020

To: Ms. Arnica MacCarthy  
California Department of Transportation  
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Governor's Office of Planning & Research

Sep 24 2020

STATE CLEARINGHOUSE

DocuSigned by:

*Gregg Erickson*

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From: Mr. Gregg Erickson, Regional Manager

California Department of Fish and Wildlife-Bay Delta Region, 2825 Cordelia Road, Suite 100, Fairfield, CA 94534

Subject: Pescadero Creek Bridge Rails Project, Initial Study with Proposed Negative Declaration, Notice of Preparation, SCH No. ~~2020090443~~, San Mateo County

The California Department of Fish and Wildlife (CDFW) has reviewed the Notice of Preparation (NOP) for the proposed Initial Study (IS) with Negative Declaration (ND) for Pescadero Creek Bridge Rails Project (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup> Pursuant to our jurisdiction, CDFW is submitting comments on the NOP as a means to inform the California Department of Transportation as the Lead Agency, of our concerns regarding potentially significant impacts to sensitive resources associated with the proposed Project.

### PROJECT LOCATION AND DESCRIPTION SUMMARY

The California Department of Transportation (Caltrans) proposes a bridge rail replacement Project on State Route (SR) 1, Post Mile (PM) 14, on the Pescadero Creek Bridge, west of the community of Pescadero, in San Mateo County, California. Caltrans proposes to remove and replace the existing concrete barriers on the bridge, the approach slabs, joint seals, tops of the wingwalls, and rusted railings. All barriers and railings would be replaced with the new design standard. Caltrans would maintain the 5-foot wide pedestrian sidewalk on the west side of the bridge throughout construction.

### CDFW ROLE

CDFW is a Trustee Agency with responsibility under CEQA §15386 for commenting on projects that could impact fish, plant and wildlife resources. CDFW is also considered a Responsible Agency if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA), the Native Plant Protection Act, the Lake and Streambed Alteration (LSA) Program and other provisions

<sup>1</sup> 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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of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources.

### **LAKE AND STREAMBED ALTERATION AGREEMENT**

If work is proposed that will impact the bed, bank channel or upland riparian habitat, including the trimming or removal of trees and riparian vegetation please be advised that the proposed Project may be subject to LSA Notification for impacts to drainage systems that connect to tributaries of main stem creeks and tributaries that occur within the Project Biological Study Area (BSA). CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et. seq., for or any activity that may substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland resources; or deposit or dispose of material where it may pass into a river, lake or stream. Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements.

### **CALIFORNIA ENDANGERED SPECIES ACT**

Please be advised that a CESA Incidental Take Permit (ITP) must be obtained if the Project has the potential to result in take of species of plants or animals listed under CESA, either during construction or over the life of the Project. Under CESA, take is defined as "to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill." Issuance of an ITP is subject to CEQA documentation. If the Project will impact CESA-listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA Permit.

### **ENVIRONMENTAL SETTING**

The state special-status species that have the potential to occur in or near the Project site, include, but are not limited to:

- Roosting bats
- Nesting birds

### **COMMENTS AND RECOMMENDATIONS**

CDFW would like to thank you for preparing the NOP and CDFW recommends the following updates, avoidance and minimization measures be imposed as conditions of Project approval by the lead agency, Caltrans, to ensure all Project-related impacts are mitigated to below a level of significance under CEQA:

**COMMENT 1: Nesting Birds**

CDFW encourages Project implementation outside of the bird nesting season, which extends from February through early September for many species. However, if anthropogenic structure related construction activities or ground-disturbing activities must occur during the nesting season, the lead agency is responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act or Fish and Game Code. To evaluate and avoid for potentially significant impacts to nesting bird species, CDFW recommends incorporating the following avoidance and minimization measures in place of Feature BIO-3, on page 2-11 of the IS/ND. The Pescadero Marsh complex supports hundreds of species of resident and migratory birds and noise related construction impacts may have the potential to disrupt nesting birds, therefore, the IS/ND should incorporate the following to avoid potentially significant impacts:

**Recommended Mitigation Measure 1: Nesting Bird Surveys**

A qualified biologist shall conduct pre-construction surveys for active nests no more than seven (7) days prior to the start of construction (including staging and ground disturbance). If a gap of (7) days or more occurs between the surveys and the start or re-initiation of work, the surveys shall be repeated. CDFW also recommends that surveys cover a sufficient area around the Project site to identify nests and determine their nesting status. A sufficient area means any area potentially affected by the Project. Prior to initiation of staging or ground disturbance, CDFW recommends that a qualified biologist conduct a survey to establish a behavioral baseline of all identified nests. Once Project activities begins, CDFW recommends having the qualified biologist continuously monitor nests (daily) to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends halting the work causing that change and consulting with CDFW and other natural resource agencies for additional avoidance and minimization measures.

**Recommended Mitigation Measure 2: Nesting Bird Buffers**

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 that 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 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 biologist advise and support any variance from these buffers. Species-specific buffers for rare, threatened, and endangered raptors, if discovered on-site, should be developed in consultation with the natural resource agencies.

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## **COMMENT 2: Bat Assessment and Avoidance**

The IS/ND should include an assessment and analysis section on special-status bat species known to occur within the vicinity of the Project location. According to the California National Diversity Database (CNDDDB), potentially suitable habitat exists within the Pescadero Creek Lagoon complex according to data sets for predicted habitat, for species such as; pallid bat (*Antrozous pallidus*), western red bat (*Lasiurus blossevillii*), western mastiff bat (*Eumops perotis*) and Townsend's big eared bat (*Corynorhinus townsendii*). The Pescadero Bridge is a box girder design bridge (See Page 2-1) which has a hollow center and open portholes underneath, as well as, possible cracks, crevices or voids near the approach slabs, which may allow the structure to provide suitable roosting habitat for bats. The Project proposes to replace the bridge approach slabs and as a result could have potentially significant impacts to bats if they are determined to be present within the bridge. To evaluate and avoid potentially significant impacts to bat species CDFW recommends incorporating the following mitigation measures into the IS/ND and that these measures be made conditions of approval for the Project:

### **Recommended Mitigation Measure 1: Bat Habitat Assessment**

A qualified biologist should conduct a habitat assessment within the Project limits for suitable bat roosting habitat. The habitat assessment shall include a visual inspection of features within 200 feet of the work area for potential roosting features including crevices, portholes, expansion joints and hollow areas (bats need not be present). The IS/ND should also include a section that discusses the results of the suitable habitat assessment and if any bats or signs of bats (feces or staining at entry/exit points) are discovered.

### **Recommended Mitigation Measure 2: Bat Habitat Monitoring**

If potentially suitable bat roosting habitat is determined to be present, a qualified biologist shall conduct focused surveys at the bridge, utilizing night-exit survey methods, sound analyzation equipment survey methods and/or visual inspection within open expansion joints and portholes of the bridge from March 1 to April 1 or August 31 to October 15 prior to construction activities. If the focused survey reveals the presence of roosting bats, then the appropriate exclusionary or avoidance measures will be implemented prior to construction during the period between March 1 to April 15 or August 31 to October 15. Potential avoidance methods may include temporary, exclusionary blocking, one way-doors or filling potential cavities with foam. Methods may also include visual monitoring and staging of work at different ends of the bridge to avoid work during critical periods of the bat life cycle or to allow roosting habitat to persist undisturbed throughout the course of construction. Exclusion netting shall not be used as an exclusion method. If presence/absence surveys indicate bat occupancy, then construction should be limited from March 1 through April 15 and/or August 31 through October 15.

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### **Recommended Mitigation Measure 3: Bat Project Avoidance**

If active bat roosts are observed at the Project site at any time, all Project activities should stop until the qualified biologist develops a bat avoidance plan to be implemented at the Project site. Once the plan is implemented, Project activities may recommence in coordination with the natural resource agencies. The bat avoidance plan should utilize seasonal avoidance, phased construction as well as temporary and permanent bat housing developed in coordination with the natural resource agencies.

### **CONCLUSION**

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California's 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.

Questions regarding this memorandum or further coordination should be directed to Mr. Robert Stanley, Senior Environmental Scientist (Specialist), at (707) 428-2093 or [Robert.Stanley@wildlife.ca.gov](mailto:Robert.Stanley@wildlife.ca.gov); or Mr. Wes Stokes, Senior Environmental Scientist (Supervisory), at [Wesley.Stokes@wildlife.ca.gov](mailto:Wesley.Stokes@wildlife.ca.gov).

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