

State of California  
Department of Fish and Wildlife



## Memorandum

Date: October 15, 2020

To: Ms. Lara Bertaina  
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Governor's Office of Planning & Research

Oct 15 2020

STATE CLEARINGHOUSE

DocuSigned by:

*Gregg Erickson*

From: Mr. Gregg Erickson, Regional Manager

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

Subject: Highway 1 Auxiliary Lanes and Bus-on-Shoulder Improvements Freedom Boulevard to State Park Drive and Coastal Rail Trail Segment 12 Project, Notice of Preparation, SCH No. 2020090347, Santa Cruz County

The California Department of Fish and Wildlife (CDFW) has reviewed the Notice of Preparation (NOP) for the proposed Highway 1 Auxiliary Lanes and Bus-on-Shoulder Improvements Freedom Boulevard to State Park Drive and Coastal Rail Trail Segment 12 Project (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup> CDFW is submitting comments on the NOP as a means to inform the California Department of Transportation (Caltrans) as the Lead Agency, of our concerns regarding potentially significant impacts to sensitive resources associated with the proposed Project.

### PROJECT LOCATION AND DESCRIPTION SUMMARY

Caltrans proposes to widen State Route (SR) – 1 to accommodate auxiliary lanes and bus-on-shoulder features in the northbound and southbound directions between the Freedom Boulevard interchange and the State Park Drive interchange, from post mile (PM) 10.7 to PM 8.1. The proposed Project would widen two bridges over Aptos Creek and Spreckels Drive, replace the two railroad bridges over SR-1 and include construction of a bicycle and pedestrian trail along an approximately 1.25-mile segment of the Santa Cruz Branch Line railroad right of way, from Rio Del Mar Boulevard State Park Drive.

The auxiliary lanes would connect the interchange entrance and exit ramps, thereby extending the weaving and merging distance between the ramps and improving traffic flow by allowing greater separation between vehicles entering and exiting the freeway

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<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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from mainline traffic. The proposed bus-on-shoulder improvements would support future bus operations on the shoulders of SR-1 during peak congestion periods. The proposed trail segment, Coastal Rail Trail Segment 12, is part of the proposed Monterey Bay Sanctuary Scenic Trail within the 32-mile coastal rail corridor from Watsonville to Davenport. The proposed Coastal Rail Trail improvements include the construction of a paved bicycle and pedestrian shared use trail on the inland side of the tracks, a fence separating the new trail from the rail line, and the modification or replacement of two existing railroad bridges that cross Aptos Creek and Valencia Creek, respectively, to accommodate the new trail. The Project is anticipated to require right of way acquisitions and utility relocations to accommodate the pavement widening and bridge work. Temporary construction easements are anticipated to be needed to construct retaining walls, sound-walls and the bridges.

The auxiliary lanes and bus-on-shoulder improvements Project is located along approximately 2.7 miles of SR-1 in unincorporated Santa Cruz County between the Freedom Boulevard interchange and the State Park Drive interchange, from PM 10.7 to PM 8.1. The proposed Coastal Rail Trail Segment 12 is located along 1.25 miles parallel to the Santa Cruz Branch Line railroad, between Rio Del Mar Boulevard and State Park Drive.

## **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 of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources.

## **LAKE AND STREAMBED ALTERATION AGREEMENT**

The Project has the potential to impact resources including mainstems, tributaries and floodplains associated with two major systems known to occur within the identified limits of the Project including; Aptos Creek and Valencia Creek. If work is proposed that will impact the bed, bank channel or 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. This includes 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 generally subject to notification requirements.

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## **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**

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

- Santa Cruz long-toed salamander (*Ambystoma macrodactylum croceum*), State Endangered and Fully Protected
- Steelhead – Central California Coast Distinct Population Segment (*Oncorhynchus mykiss*), Federally Endangered
- Dudley's lousewort (*Pedicularis dudleyi*), Rare Plant Rank 1B
- Roosting bats
- Nesting birds

## **COMMENTS AND RECOMMENDATIONS**

CDFW acting as a Responsible Agency, has discretionary approval under CESA through issuance of a CESA ITP and LSA Agreement, as well as other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources. 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: Full Project Description of Project Features to Select Preferred Alternative**

The CEQA Guidelines (§§15124 and 15378) require that the environmental document incorporate a full Project description, including reasonably foreseeable future phases of the Project, and require that it contain sufficient information to evaluate and review the Project's potentially significant impacts.

To fully address the Project's potentially significant impacts to fish and wildlife resources and allow CDFW adequate information to identify a preferred alternative, the draft

Environmental Impact Report (EIR) must include a comprehensive comparison analysis of the potentially significant impacts from each alternative. Page 1 of the NOP references numerous phases and reasonable alternatives but does not provide detailed information of the design concepts of each alternative. Page 4 of the NOP cites that two bridges may be extended or replaced but does not provide any further details on the design aspect of either alternative. Please include the following information within the updated environmental document, as applicable:

- A full description of the proposed bridge replacements or expansions, trail design and installations, median barrier installations, lane expansion areas, bus-on shoulder improvements, light pole installations or replacement locations, illuminated signage placements, train crossing signal locations, on-ramp improvements and auxiliary lane improvements that include post mile references as well as map figures to fully illustrate the extent of the construction areas for each project element and its associated alternatives.
- A full description of the proposed improvements noted in the previous bullet that includes quantities of material to be employed and a detailed description of how the proposed work will be completed, as well as a construction schedule for each proposed alternative.
- A full description of the proposed areas of impact for the Project elements noted in bullet one for each alternative described in acres and linear feet as well as an analysis of the vegetation type and number of trees to be trimmed or removed. A table that compares the acres of impacts to each applicable habitat type for each of the alternatives should also be included in the draft EIR.
- A full description of the proposed locations for staging areas and access routes for each alternative.
- A preliminary design plan set for each alternative for the entire project limit and for each individual design element of the proposed Project.

## **COMMENT 2: Fish and Wildlife Resources**

CDFW recommends a full list or table is included in the Biological Resources Section of the draft EIR that notes species common name, scientific name, state and federal listing status (as applicable), habitat type preference and determination on presence for all special-status species with the potential to occur within the Project. CDFW offers the list of species in the environmental setting section of this comment letter that have the potential to occur within the Project limits. However, species with potential to occur at the Project site should not be limited to the species noted above. A full and complete inventory of fish and wildlife resources should be developed using the following sources: a) wildlife databases such as the California Natural Diversity Database (CNDDDB), b) previous environmental documents from projects within the vicinity of the proposed Project, c) scientific studies or species inventories from nearby locations, d) focused

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survey results or findings associated with the current Project and e) focused survey results or findings from previous projects within the vicinity of the currently proposed Project.

### **COMMENT 3: In Water Work Windows and Seasonal Avoidance**

The draft EIR Should include appropriate seasonal avoidance windows for any proposed in-water work to avoid and minimize impacts to threatened, endangered, rare and native aquatic species. Due to the potentially high number of species known to occur within the vicinity of the Project it is recommended that the lead agency confers with the various wildlife and natural resource agencies to determine the most appropriate in water work window to avoid impacts to aquatic species. A general in water work window for most creek systems in Santa Cruz County is June 15 to October 31.

### **COMMENT 4: Nesting Birds**

CDFW encourages Project implementation outside of the bird nesting season, which extends from February through early September. However, if work activities, ground-disturbing or vegetation-disturbing activities must occur during the nesting season, the Project applicant 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 potential impacts to nesting bird species, CDFW recommends incorporating the following mitigation measures, and that these measures be made conditions of approval for the Project.

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

A qualified biologist shall conduct pre-activity surveys for active nests no more than seven (7) days prior to the start of ground or vegetation disturbance, if there is a lapse in Project activity for seven days or more those surveys shall be repeated. On-going surveys shall be conducted throughout the course of the Project at the discretion of the qualified biologist in consultation with CDFW. CDFW recommends surveys cover a sufficient area around the Project site to identify nests and determine their status. A sufficient area means any area potentially affected by the Project. Prior to initiation of ground or vegetation 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 to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends halting the work causing that change and consulting with CDFW 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

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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. The qualified biologist should consult with CDFW for any variance from these buffers.

#### **COMMENT 5: Santa Cruz Long-Toed Salamander**

The Project is located within and adjacent to suitable terrestrial and aquatic habitat for the Santa Cruz long-toed salamander (*Ambystoma macrodactylum croceum*), a species located only within Santa Cruz and Monterey counties and listed under CESA as endangered and as a fully protected species by the State of California under Fish and Game Code section 5050. As a fully protected species, CDFW is unable to issue permits for take of Santa Cruz long-toed salamander, with the exception of take necessary for scientific research and recovery efforts. The draft EIR should include a section discussing the species fully protected status and the Project should be designed to completely avoid take of the species. This would prohibit or restrict Project activities within suitable aestivation habitat, including ground disturbance in Oak Woodlands within 1.2 miles of Santa Cruz long-toed breeding ponds, ground disturbance or dewatering of breeding ponds, and conducting Project activities within areas that act as movement corridors during the rainy season. The current alignment of the coastal trail and proposed expansion of SR-1 have the potential to directly impact upland aestivation habitat, breeding complexes, and known breeding ponds.

#### **Recommended Mitigation Measure 1: Santa Cruz Long-Toed Salamander**

To evaluate potential impacts to Santa Cruz long-toed salamander, CDFW recommends that a qualified biologist conduct a habitat assessment prior to Project implementation. CDFW recommends that focused surveys of the Project area be conducted by experienced Santa Cruz long-toed salamander biologists following the "Guidance on Site Assessment and Field Surveys to Detect Presence or Report a Negative Finding of the Santa Cruz Long-toed Salamander" (U.S. Fish and Wildlife Service and CDFW 2012), which is found online at <https://www.fws.gov/ventura/endangered/species/surveys-protocol.html>. Results of the assessment should be used to inform Project design to avoid take of Santa Cruz long-toed salamander.

#### **COMMENT 6: Bat Assessment and Avoidance**

The draft EIR should include an assessment and analysis section on special-status bat species known to occur within the vicinity of the Project. According to CNDDDB, potentially suitable habitat exists within the Project limits according to data sets for predicted habitat for; pallid bat (*Antrozous pallidus*), western mastiff bat (*Eumops perotis*) and Townsend's big eared bat (*Corynorhinus townsendii*). Due to the proposed work occurring at multiple bridge structures that may provide potentially suitable roosting habitat for bats, avoidance and minimization measures should be incorporated

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into the draft EIR to evaluate and avoid potentially significant impacts to bat species. CDFW recommends incorporating the following mitigation measures into the draft EIR 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 trees and anthropogenic structures. Anthropogenic structures should be evaluated for potential roosting in crevices, portholes, expansion joints and hollow areas. The draft EIR 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 in those locations, utilizing night-exit survey methods, sound analyzation equipment survey methods and/or visual inspection 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 phased tree removal, 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 bridges or other anthropogenic structures 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.

### **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 elements developed in coordination with the natural resource agencies.

### **COMMENT 7: Fish Passage Assessment**

Senate Bill 857 (SB-857), which amended Fish and Game Code section 5901 and added section 156 to the Streets and Highways Code states in section 156.3, "For any project using state or federal transportation funds programmed after January 1, 2006,

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[Caltrans] shall insure that, if the project affects a stream crossing on a stream where anadromous fish are, or historically were, found, an assessment of potential barriers to fish passage is done prior to commencing project design. [Caltrans] shall submit the assessment to the [CDFW] and add it to the CALFISH database. If any structural barrier to passage exists, remediation of the problem shall be designed into the project by the implementing agency. New projects shall be constructed so that they do not present a barrier to fish passage. When barriers to fish passage are being addressed, plans and projects shall be developed in consultation with the [CDFW].”

CDFW recommends discussing the following locations as it pertains to SB-857. Location 1, an unnamed tributary (PM 8, Santa Cruz County, Pajaro River), Fish Passage Assessment Database ID# 734801, fish barrier status: unassessed; Location 2 (PM 9.15, Santa Cruz County, Valencia River), Fish Passage Assessment Database ID# 734802, fish barrier status: unknown; Location 3 (PM 10.05, Santa Cruz County, Valencia River), Fish Passage Assessment Database ID# 706704, fish barrier status: temporal. The fish passage section should discuss the current status of the crossing locations noted in the California Fish Passage Assessment Database, conduct first pass and or second pass fish assessments, as necessary, as well as, provide images of the upstream and downstream ends of water conveyance structures. CDFW requests a fish passage discussion section is included to address these potentially significant impacts through the following avoidance and minimization measure, which should be made a condition of approval by the lead agency:

### **Recommended Mitigation Measure 1: Fish Passage Assessment**

To evaluate potential impacts to native fish species and fisheries resources, Caltrans shall submit the assessment to the [CDFW] and add it to the CALFISH database. If any structural barrier to passage exists, remediation of the problem shall be designed into the Project by the implementing agency. New projects shall be constructed so that they do not present a barrier to fish passage. When barriers to fish passage are being addressed, plans and projects shall be developed in consultation with CDFW.

### **COMMENT 8: Light Impact Analysis and Discussion**

The draft EIR should describe the type, quantity, location and specification outputs (in kelvin-scale and/or nanometers) of all proposed new and replacement lighting installations for all proposed build alternatives. A comparison analysis amongst potential alternatives as it pertains to light pollution should be included in the draft EIR. To accomplish this, the draft EIR should provide an analysis of the current lighting regime known to be present on-site as well as an analysis of the proposed changes in the lighting regime that will occur as a result of new or replacement lighting installations through the development and comparison of Isolux diagrams. The Isolux diagrams should illustrate the area and intensity over which artificial lighting will create additional light impacts over the natural landscape. Artificial lighting has the potential to create a significant impact because unlike the natural brightness created by the monthly cycle of the moon, the permanent and continuously powered lighting fixtures create an unnatural

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light regime that produces a constant light output, 365 days a year that can have a cumulatively significant impact on fish and wildlife populations. The draft EIR should include a discussion in the Biological Resources section of the potentially significant impacts that could be created by increased permanent light installations or replacements or new installations to determine the extent of the impacts to rare, threatened, endangered, nocturnal and migratory bird species known to occur within the Project vicinity. CDFW recommends the following avoidance and minimization measures are incorporated:

### **Recommended Mitigation Measure 1: Light Impact Assessment and Avoidance**

The lead agency shall be required to submit to natural resource agencies, 30 days prior to the initiation of construction Isolux Diagrams that note current light levels present during Pre-Project conditions and the predicted Project light levels that will be created upon completion of the Project. Within 60 days of Project completion the lead agency shall conduct a ground survey that compares predicated light levels with actual light levels achieved upon completion of the Project through comparison of Isolux diagrams. If an increase from the projected levels to the actual levels is discovered, additional avoidance, minimization or mitigation measures may be required in coordination with the natural resource agencies.

### **Recommended Mitigation Measure 2: Light Output Limits**

All LEDs or bulbs installed as a result of the Project shall be rated to emit or produce light at or under 2700 kelvin that results in the output of a warm white color spectrum.

### **Recommended Mitigation Measure 3: Vehicle Light Barriers**

Solid concrete barriers at a minimum height of 3.5 feet should be installed in areas where they have the potential to reduce illumination from overhead lights and from vehicle lights into areas outside of the roadway. Barriers should only be utilized as a light pollution minimization measure if they do not create a significant barrier to wildlife movement. Additional barrier types should be employed when feasible, such as privacy slats into the spacing of cyclone fencing to create light barriers into areas outside the roadway.

### **Recommended Mitigation Measure 4: Reflective Signs and Road Striping**

Retro-reflectivity of signs and road striping should be implemented throughout the Project to increase visibility of roads to drivers and reduce the need for electrical lighting. Reflective highway markers have also been proven effective to reduce raptor collisions on highways in California's central valley if installed along highway verges and medians.

### **COMMENT 9: Threatened, Endangered, Rare and Native Plant Species**

CDFW recommends that the Project area be surveyed for special-status plants by a qualified botanist following the "Protocols for Surveying and Evaluating Impacts to

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Special-Status Native Plant Populations and Natural Communities,” which can be found online at <https://wildlife.ca.gov/Conservation/Survey-Protocols>. This protocol, which is intended to maximize detectability, includes identification of reference populations to facilitate the likelihood of field investigations occurring during the appropriate floristic period. In the absence of protocol-level surveys being performed, additional surveys may be necessary. Rare plants known to occur within the vicinity of the Project include but are not limited to Dudley's lousewort (*Pedicularis dudleyi*).

### **Recommended Mitigation Measure 1: Threatened, Endangered, Rare and Native Plants**

A Qualified Biologist shall conduct a survey during the appropriate blooming period for all special-status plants that have the potential to occur within the Project site prior to the start of construction. Surveys should be conducted following the *Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities*, prepared by CDFW, dated March 20, 2018<sup>2</sup>. If special-status plants are found, the Project will be re-designed to avoid impacts to special-status plants to the greatest extent feasible. If impacts to special-status plants cannot be avoided completely during construction, compensatory mitigation and on-site restoration will be implemented and the plan provided for CDFW review and approval. A Qualified Biologist in this context should be knowledgeable about plant taxonomy, familiar with plants of the region, and have experience conducting botanical field surveys according to vetted protocols. If take of any species listed under CESA cannot be avoided either during Project activities or over the life of the Project, a CESA ITP is warranted (pursuant to Fish and Game Code Section 2080 *et seq.*).

### **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 resources. 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 letter 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. Wesley Stokes, Senior Environmental Scientist (Supervisory) at (707) 339-6066 or [Wesley.Stokes@wildlife.ca.gov](mailto:Wesley.Stokes@wildlife.ca.gov).

cc: State Clearinghouse #2020090347

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<sup>2</sup> <https://www.wildlife.ca.gov/Conservation/Survey-Protocols#377281280-plants>