

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
CALIFORNIA ENDANGERED SPECIES ACT
INCIDENTAL TAKE PERMIT
NO. 2081-2021-080-02**

**California Department of Transportation
State Route 51 Capital City Bridge Deck Replacement 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 State Route 51 Capital City Bridge Deck Replacement 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 or Caltrans) to incidentally take Chinook salmon (*Oncorhynchus tshawytscha*) (Spring-run of the Sacramento River drainage), (hereafter, Covered Species) during implementation of the Project. (See generally Fish & G. Code, § 2081, subd. (b); Cal. Code Regs., tit. 14, § 783.4.) The spring-run Chinook salmon are designated as a threatened species under CESA. (Cal. Code Regs., tit. 14, § 670.5, subd. (b)(2)(C)).

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 the American River Bridge Deck Replacement Project Mitigated Negative Declaration (SCH No. 2020100388) and approved the Project on May 27, 2021. 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 rehabilitation the American River Bridge along SR-51 by replacing the existing concrete bridge deck, replacing steel girder post-tensioning systems in spans 1 and 2, installing sheet piling to create cofferdams as well as installing steel piles to expand bridge piers and bents, dredging streambed material in the American River for floating barge access, widening the bridge to accommodate a Class 1 bike/pedestrian path and future transportation needs, widening the bridge

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

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abutments and roadway approaches, replacing and modifying an existing reinforced concrete box culvert to accommodate the road widening, and modifying an existing sound/retaining wall. The Project site is within the range of the Covered Species and is known to support individuals of the species. Development of the Project site will result in the permanent loss of 0.456 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 the Caltrans' prior analysis, 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, subs. (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 Mitigated Negative Declaration 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 Mitigated Negative Declaration 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

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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 2.484 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 and annual reports will be sent to CDFW by January 31 of each year.
- E. Non-compliance will be reported to CDFW within 24 hours during the construction phase.
- F. The Permittee will prepare and submit a relocation plan for CDFW review and approval. Covered Species found on the Project site shall be relocated by the Designated Biologist to a safe area in accordance with the relocation plan.
- G. The Permittee will furnish, install, operate, and maintain a sound attenuation system for all piles installed in water by impact hammer to reduce noise generated into the water. The Permittee will limit sound pressure levels generated by impact pile driving and monitor sound levels.
- H. The Permittee will restore 0.098 acres of Covered Species habitat that will be temporarily disturbed during construction to pre-project or better conditions. Within six months of issuance of this ITP, the Permittee shall prepare a Vegetation Restoration Plan to facilitate revegetation of the 0.098 acres of temporary construction disturbance on-site and shall ensure that the Plan is successfully implemented by the contractor.

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- I. Permittee will prepare and submit a final mitigation report within 45 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: DocuSigned by 5/12/2022

By: Jennifer Garcia for
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Kevin Thomas, Regional Manager
North Central Region
DEPARTMENT OF FISH AND WILDLIFE