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**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



May 26, 2022

Mr. Jackson Ford  
Sonoma County  
2550 Ventura Avenue  
Santa Rosa, CA 95403  
[Jackson.Ford@sonoma-county.org](mailto:Jackson.Ford@sonoma-county.org)

Subject: Bohemian Highway Bridge over Russian River Replacement, Draft  
Environmental Impact Report, SCH No. 2021030538, Sonoma County

Dear Mr. Ford:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a draft Environmental Impact Report (EIR) for the Bohemian Highway Bridge over Russian River Replacement Project (Project) pursuant to the California Environmental Quality Act (CEQA).<sup>1</sup>

CDFW is submitting comments on the draft EIR to inform Sonoma County, as the Lead Agency, of our concerns regarding potentially significant impacts to sensitive resources associated with the proposed Project.

## CDFW ROLE

The Project would affect **CDFW's Monte Rio Fishing Access** (MRFA), owned by CDFW. CDFW has an agreement with Monte Rio Recreation & Park District for MRFA operation which is currently subject to updates and renewal. Please continue to coordinate with Bay Delta Region Wildlife and Lands Program staff to ensure CDFW concerns are addressed and Project impacts to the fishing access are adequately mitigated.

CDFW is a **Trustee Agency** with responsibility under CEQA (Pub. Resources Code, § 21000 et seq.) pursuant to CEQA Guidelines section 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 a California Endangered Species Act (CESA) Permit, a Lake and Streambed Alteration (LSA) Agreement, or other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources.

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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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## REGULATORY REQUIREMENTS

### California Endangered Species Act

Please be advised that a CESA Permit must be obtained if the Project has the potential to result in “take” of plants or animals listed under CESA, either during construction or over the life of the Project. **The Project has the potential to result in impacts to coho salmon (*Oncorhynchus kisutch*), a CESA listed as endangered species, and northern spotted owl (*Strix occidentalis caurina*), a CESA listed as threatened species, as further described below.** Issuance of a CESA Permit is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. 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.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially restrict the range or reduce the population of a threatened or endangered species. (Pub. Resources Code, §§ 21001, subd. (c) & 21083; CEQA Guidelines, §§ 15380, 15064, & 15065). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency’s FOC does not eliminate the Project proponent’s obligation to comply with Fish and Game Code section 2080.

### Lake and Streambed Alteration

CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et seq., for Project activities affecting lakes or streams and associated riparian habitat. Notification is required for 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. **The Project would impact the Russian River and Dutch Bill Creek; therefore, an LSA Notification is warranted, as further described below.** CDFW will consider the CEQA document for the Project and may issue an LSA Agreement. CDFW may not execute the final LSA Agreement (or CESA Incidental Take Permit (ITP)) until it has complied with CEQA as a Responsible Agency.

### Raptors and Other Nesting Birds

CDFW also has jurisdiction over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nests or eggs of any bird),

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3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

## **PROJECT DESCRIPTION SUMMARY**

**Proponent:** Sonoma County

**Objective:** Remove the existing bridge on the Bohemian Highway over the Russian River and construct a new bridge on an alternate alignment. The replacement bridge structure would be approximately 846 feet long and designed to meet the current seismic design standards.

**Location:** The Project is located along the Bohemian Highway where it crosses the Russian River and bounded by State Route 116 to the north, Main Street to the south, and the Russian River to the east and west. The Project is located within the census-designated place of Monte Rio, Sonoma County; at 38.466038 degrees latitude and - 123.009895 degrees longitude.

## **COMMENTS AND RECOMMENDATIONS**

CDFW offers the below comments and recommendations to assist Sonoma County in adequately identifying and/or mitigating the project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources. Based on the Project's avoidance of significant impacts on biological resources, in part through implementation of CDFW's recommendations, CDFW concludes that the proposed draft EIR is appropriate for the Project.

### **Mitigation Measures and Environmental Setting**

***Would the Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by CDFW or U.S. Fish and Wildlife Service (USFWS)?***

#### **Comment 1: Section 4.4, pages 40-41**

**Issue:** Mitigation Measure (MM) BIO-4 may not reduce impacts to riparian habitat to less-than-significant. Additionally, the Project may result in a violation of Fish and Game Code section 1600 et seq. because the draft EIR does not require Sonoma County to submit an LSA Notification to CDFW and comply with the related LSA Agreement, if issued, prior to Project construction.

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**Specific impact:** The Project would result in temporary impacts to 3.49 acres of riparian habitat along the Russian River and Dutch Bill Creek and the permanent loss of 0.04 acres of riparian habitat along these streams.

**Why impact would occur:** MM BIO-4 does not require: 1) a 3:1 mitigation to impact ratio based on the acreage and linear feet of impacts to riparian habitat, 2) adequate tree replacement ratios, and 3) Sonoma County to submit an LSA Notification to CDFW prior to initiation of Project activities.

**Evidence impact would be potentially significant:** Riparian habitat is of critical importance to protecting and conserving the biotic and abiotic integrity of an entire watershed. When riparian habitat is substantially altered, riparian functions become impaired, thereby likely substantially adversely impacting aquatic and terrestrial species. Removal of trees and other vegetation may significantly reduce suitable nesting and roosting habitat for many bird and bat species, such as pallid bat (*Antrozous pallidus*), a California Species of Special Concern, and causes the loss of important refugia for small mammals. Mature riparian trees and mid canopy vegetation would take considerable time to reestablish and grow to function. The Project may substantially adversely affect riparian habitat by temporarily impacting 3.49 acres, and permanently removing 0.04 acres, of riparian habitat, resulting in loss or degradation of this vulnerable habitat type. Therefore, Project impacts to riparian habitat would be potentially significant.

**Recommended Mitigation Measures:** To reduce impacts to less-than-significant, CDFW recommends that the draft EIR explicitly require the Project to submit an LSA Notification to CDFW and comply with the LSA Agreement if issued, prior to the initiation of Project activities. Additionally, CDFW recommends including the following language:

Habitat restoration shall occur in the same calendar year as the impact on-site or as close to the site as possible within the same stream or watershed and may consist of restoration or enhancement of riparian habitat. If mitigation is not possible within the same stream or watershed, mitigation ratios may increase at the discretion of CDFW. Temporary impacts to stream and riparian habitat shall be restored on-site.

To mitigate for the removal of trees, replacement trees shall be planted at the below minimum replacement to removal ratios:

- 1:1 for removal of non-native trees;
- 3:1 for removal of native trees (excluding oak (*Quercus* sp.) trees);
- 4:1 for removal of oak trees between 5 and 10 inches in diameter;
- 5:1 for removal of oak trees between 11 and 15 inches in diameter; and
- 10:1 for removal of oak trees greater than 15 inches in diameter

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Replacement tree plantings shall consist of 5-gallon or greater saplings and locally-collected seeds, stakes, or other suitable nursery stock as appropriate, and shall be native species to the area adapted to the lighting, soil, and hydrological conditions at the replanting site. If acorns are used for oak tree replanting, each planting will include a minimum of three acorns planted at an approximately two-inch depth to minimize predation risk. Large acorns shall be selected for plantings. Replacement oaks shall come from nursery stock grown from locally-sourced acorns, or from acorns gathered locally, preferably from the same watershed in which they are planted.

The Permittee shall monitor and maintain, as necessary, all plants for five years to ensure successful revegetation. Planted trees and other vegetation shall each have a minimum of 85 percent survival at the end of five years. If revegetation survival and/or cover requirements do not meet established goals as determined by CDFW, Permittee is responsible for replacement planting, additional watering, weeding, invasive exotic eradication, or any other practice, to achieve these requirements. Replacement plants shall be monitored with the same survival and growth requirements for five years after planting.

CDFW also recommends revising the fifth bullet in MM-BIO 4 to read as follows (**additions in bold**):

Mitigation for permanent impacts to riparian habitat will be accomplished through one or more of the following: (1) on-site mitigation; (2) the purchase of in-lieu fees **if this option is approved by CDFW**; (3) off-site mitigation; and/or (4) purchase of **CDFW-approved in-kind** mitigation bank credits. In any case, replacement mitigation will be at a minimum ratio of 3:1 **based on area and linear distance** for permanent impacts and 1:1 **based on area and linear distance** for temporary impacts and may include exotic plant removal and riparian species revegetation, depending on the selected scenario and location.

Please be advised that CDFW may not accept in-lieu fees as an appropriate method to mitigate impacts to riparian habitat.

***Mandatory Findings of Significance: Does the Project have the potential to substantially reduce the number or restrict the range of an endangered, rare, or threatened species?***

**Comment 2: Section 4.4, pages 16, 17, 33, 34, 41**

**Issue:** MM BIO-7 may not reduce impacts to coho salmon to less-than-significant.

**Specific impact:** The project may result in impacts to coho salmon including take in the form of catch, capture, or mortality and a violation of CESA.

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**Why impact would occur:** MM BIO-7 requirements for salmonid mitigation do not: 1) provide adequate measures to mitigate impacts to coho salmon to less-than-significant, and 2) require Sonoma County to obtain a CESA ITP from CDFW prior to initiation of Project activities. According to Section 4.4, pages 16-17, the Russian River and Dutch Bill Creek are known spawning and rearing streams for coho salmon and portions of these streams within the biological study area are considered designated critical habitat for coho salmon. According to Section 4.4, pages 33-34, the Project could result in direct impacts to coho salmon during in-water work.

**Evidence impact would be significant:** Coho salmon qualifies as an endangered animal under CEQA because it is listed as endangered under CESA and the federal Endangered Species Act (ESA) (CEQA Guidelines, § 15380). California coho salmon have been in serious decline since the mid-20<sup>th</sup> century largely due to habitat loss. The risk of extinction has increased since the species was listed as endangered under the federal ESA in 2005. If coho salmon is present within the Project site during construction, the Project could result in take of the species and a substantial reduction in its population, which is considered a Mandatory Finding of Significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

**Recommended Mitigation Measures:** To reduce impacts to less-than-significant, CDFW recommends that if take of coho salmon cannot be avoided by the Project, Sonoma County shall obtain a CESA ITP prior to the initiation of Project activities, as a condition of project approval. As part of the ITP process, full mitigation for impacts to coho salmon would be required and any proposed mitigation would need to be approved by CDFW. CDFW Bay Delta Region staff is available to provide guidance on the ITP application process. The project shall also obtain authorization from the USFWS/National Marine Fisheries Service for impacts to coho salmon before starting Project activities.

**Comment 3: Section 4.4, page 44-45**

**Issue:** MM BIO-10 may not reduce impacts to northern spotted owl (NSO) to less-than-significant.

**Specific impact:** The Project could result in impacts to nesting NSO including mortality of young and a violation of CESA.

**Why impact would occur:** The Project is within and near potential nesting habitat for NSO. The closest NSO occurrences documented in the California Natural Diversity Database (CNDDDB) are less than 0.8 miles southwest and east of the Project, and there are additional documented NSO occurrences within the Project vicinity. Although typically associated with old-growth or mature forests, NSO can utilize a wide variety of habitat types, including oak woodlands. They exhibit flexibility in their use of different

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forested areas for nesting, roosting, and feeding requirements. Typical habitat characteristics include a multi-storied structure and high canopy cover. The Project may cause adverse impacts to NSO, such as disturbance from elevated sound levels or human presence near nest sites.

Evidence impact would be significant: NSO qualifies as a threatened animal under CEQA because it is listed as threatened under CESA and the federal ESA (CEQA Guidelines, § 15380). If NSO are nesting on or near the Project site during construction, the Project could result in take of the species and a substantial reduction in its population, which is considered a Mandatory Finding of Significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

Recommended Mitigation Measures: To reduce impacts less-than-significant, CDFW recommends that no Project activities within 0.25 miles of NSO nesting habitat shall occur from March 15 to August 31, unless NSO surveys have been completed by a qualified biologist following the USFWS *Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls*, dated (revised) January 9, 2012 and the survey report is accepted by CDFW in writing. If breeding northern spotted owls are detected during surveys, a 0.25-mile no-disturbance buffer zone shall be implemented around the nest. NSO surveys shall be conducted for each year Project construction occurs. No Project activities shall occur within the buffer zone until the end of breeding season, or a qualified biologist determines that the nest is no longer active, unless otherwise approved in writing by CDFW. Alternate buffer zones may be proposed by a qualified biologist after conducting an auditory and visual disturbance analysis following the USFWS guidance, *Estimating the Effects of Auditory and Visual Disturbance to Northern Spotted Owls and Marbled Murrelets in Northwestern California*, dated October 1, 2020. Alternate buffers must be approved in writing by CDFW. Survey results shall be provided to the Spotted Owl Observations Database at <https://wildlife.ca.gov/Data/CNDDDB/Spotted-Owl-Info>). If NSO are detected, CDFW and the USFWS shall be immediately notified. If Project activities may impact NSO, the project shall apply for and obtain an ITP from CDFW, as well as authorization from the USFWS, before starting project activities.

**Please be advised that an LSA Agreement obtained for this Project would likely require the above recommended mitigation measures, as applicable.**

## **ENVIRONMENTAL DATA**

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during project surveys to CNDDDB. The CNDDDB field survey form,

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online field survey form, and contact information for CNDDDB staff can be found at the following link: <https://wildlife.ca.gov/data/CMNDDDB/submitting-data>.

## FILING FEES

CDFW anticipates that the project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish & G. Code, § 711.4; Pub. Resources Code, § 21089). 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.

## CONCLUSION

CDFW appreciates the opportunity to comment on the draft EIR to assist Sonoma County in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to James Hansen, Environmental Scientist, at [James.Hansen@wildlife.ca.gov](mailto:James.Hansen@wildlife.ca.gov) or (707) 576-2869; or Melanie Day, Senior Environmental Scientist (Supervisory), at [Melanie.Day@wildlife.ca.gov](mailto:Melanie.Day@wildlife.ca.gov) or (707) 210-4415.

Sincerely,

DocuSigned by:  
*Erin Chappell*  
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Erin Chappell  
Regional Manager  
Bay Delta Region

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