



State of California – Natural Resources Agency

DEPARTMENT OF FISH AND WILDLIFE

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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



July 20, 2021

Governor's Office of Planning & Research

July 20 2021

STATE CLEARINGHOUSE

Erik Sebastian Gomez
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Subject: Comments on the Draft Negative Declaration (DMND) for the Flood Ranch Bridge Replacement Project; SCH #2021060548; Santa Barbara County

Dear Mr. Gomez:

The California Department of Fish and Wildlife (CDFW) has reviewed the above-referenced Notice of Availability of a Draft Mitigated Negative Declaration (DMND) for the Flood Ranch Bridge Replacement project (Project). The County of Santa Barbara (County) is the lead agency preparing a DMND pursuant to the California Environmental Quality Act (CEQA; Pub. Resources Code, § 21000 et. seq.) with the purpose of informing decision-makers and the public regarding potential environmental effects related to the 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; 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

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and Game Code §1900 et seq.) authorization as provided by the applicable Fish and Game Code will be required.

Project Description and Summary

Objective: The Project involves a Land Use Permit to allow the replacement of an existing 19 foot by 26-foot bridge with a new 26-foot by 40-foot bridge. The scope of work includes removing the decking and railing from the existing bridge and protecting the existing support structure in place. The replacement bridge will be installed on two new concrete bridge abutments and span over the existing support structure. Access for the new bridge will require the construction of two approach ramps with associated retaining walls. The existing roadway will be regraded and replaced in-kind, as necessary. Two pepper trees will be removed. Grading will involve approximately 66 cu. yds. of cut and 675 cu. yds. of fill. No work will occur within the creekbank.

Location: The Project is located on Rancho Sisquoc Winery, 6600 Foxen Canyon Road, Santa Maria, in Santa Barbara County. The Project consists of the northern portion of Asphaltum Creek on a low-lying area of the subject property, approximately 0.5 miles south of the Sisquoc River.

Comments and Recommendations

CDFW offers the comments and recommendations below to assist the County in adequately identifying, avoiding and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

Project Description and Related Impact Shortcoming

Issue #1: The DMND states several species of bats have the potential to occur on-site; however, adequate surveys were not conducted prior to circulation of the DMND to determine if bats currently use the bridge for roosting. Therefore, the DMND does not adequately describe the potential for impacts to bats.

Specific Impact: Potential direct impacts include project construction on the bridge or structures that may provide roosting habitat and therefore has the potential for the direct loss of bats. Indirect impacts to bats and roosts could result from increased noise disturbances, human activity, dust, vegetation clearing, ground disturbing activities (e.g., staging, access, excavation, grading), and vibrations caused by heavy equipment. Demolition, grading, and excavating activities may impact bats potentially using man-made structures or surrounding trees as roost sites.

Why impact would occur: The Project site contains suitable habitat for several bat species that have the potential to occur on the Project site including fringed myotis (*Myotis thysanodes*), pallid bat (*Antrozous pallidus*), Townsend's big-eared bat (*Corynorhinus townsendii*), western mastiff bat (*Eumops perotis californicus*), western red bat (*Lasiurus blossevillii*), and Yuma myotis (*Myotis yumanensis*).

Bats are considered non-game mammals and are protected by state law from take and/or harassment (Fish and Game Code § 4150, CCR § 251.1). Several bat species are also

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considered Species of Special Concern (SSC), which meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines §15065). CDFW considers adverse impacts to an SSC, for the purposes of CEQA, to be significant without mitigation. Mitigation is not just exclusion from maternity roosts, wintering sites, night roosts, mating roosts and foraging sites, but providing similarly functioning habitat to what is impacted.

Impacts to bats due to the implementation of the Project are not fully disclosed in the DMND. The DMND relies on future surveys at an undisclosed time and duration to detect bat species present. No bat mitigation is proposed other than exclusion, which is not considered adequate mitigation for impacts to bat roosting habitat (roosting defined as winter hibernacula, summer, and maternity).

Evidence Impact would be significant: CEQA Guidelines §15070 and §15071 require the document to analyze if the Project may have a significant effect on the environment as well as review if the Project will 'avoid the effect or mitigate to a point where clearly no significant effects would occur'. Relying on future surveys, the preparation of future management plans, moving out of harm's way, or mitigating by obtaining permits from CDFW are considered deferred mitigation under CEQA. In order to analyze if a project may have a significant effect on the environment, the Project related impacts, including survey results for species that occur in the entire Project footprint, need to be disclosed during the public comment period. This information is necessary to allow CDFW to comment on alternatives to avoid impacts, as well as to assess the significance of the specific impact relative to the species (e.g., current range, distribution, population trends, and connectivity).

Absent the above requested information, the DMND does not analyze impacts to bats, and the DMND does not provide any alternatives discussion or any avoidance strategies to mitigate the loss of occupied bat habitat.

Recommended Potentially Feasible Mitigation Measure(s)

Mitigation Measure #1: For bat species utilizing the current bridge for any roosting activity, the new bridge should have the same, species-specific features to accommodate the return of bats to the new bridge. CDFW considers the addition of specific roosting features to support continued use of bats in bridges to be demolished, as adequate mitigation. The new bridge should be monitored for 5 years to ensure the intended bats return and utilize the mitigation. Adaptive mitigation should be a component of any mitigation plan for bats. CDFW requests approval of any bat mitigation and relocation plan.

Additionally, prior to any exclusion of bats from the current bridge, temporary roosting habitat specific to the parameters of the particular bat species present, should be installed adjacent to the Project. Exclusion should be coupled with ensuring bats have suitable temporary habitat available nearby to move to, as well as monitoring the effectiveness of the exclusion.

Mitigation Measure #2: CDFW recommends bat surveys be conducted by a qualified bat specialist to determine baseline conditions within the Project and within a 500-foot buffer and analyze the potential significant effects of the proposed Project on the species (CEQA Guidelines §15125). CDFW recommends the DMND include the use of acoustic recognition technology to maximize detection of bat species to minimize impacts to sensitive bat species.

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The DMND should document the presence of any bats roosting in or near the bridge and include species specific mitigation measures to reduce impacts to below a level of significance.

To avoid the direct loss of bats that could result from removal of trees or bridge structures, that may provide roosting habitat (winter hibernacula, summer, and maternity), the Department recommends the following steps are implemented:

- 1) Identify the species of bats present on the site by conducting appropriate surveys for winter roosting/hibernacula, summer roosting, and maternity roosting.
- 2) Determine how and when these species utilize the site and what specific habitat requirements are necessary [thermal gradients throughout the year, size of crevices, tree types, location of hibernacula/roost (e.g., height, aspect, etc.)];
- 3) Avoid the areas being utilized by bats for hibernacula/roosting; if avoidance is not feasible, a bat specialist should design alternative habitat that is specific to the species of bat being displaced and develop a relocation plan in coordination with CDFW;
- 4) The bat specialist should document all demolition monitoring activities and prepare a summary report to the Lead Agency upon completion of tree/rock disturbance and/or building demolition activities. The Department requests copies of any reports prepared related to bat surveys (e.g., monitoring, demolition);
- 5) If confirmed occupied or formerly occupied bat roosting/hibernacula and foraging habitat is destroyed, habitat of comparable size, function and quality should be created or preserved and maintained in the new bridge, or for bats in trees, at a nearby suitable undisturbed area. The bat habitat (not bat houses) mitigation shall be determined by the bat specialist in consultation with CDFW;
- 6) A monitoring plan should be prepared and submitted to CDFW and the Lead Agency. The monitoring plan should describe proposed mitigation habitat, and include performance standards for the use of replacement roosts/hibernacula by the displaced species, as well as provisions to prevent harassment, predation, and disease of relocated bats; and,
- 7) Annual reports detailing the success of roost replacement and bat relocation should be prepared and submitted to Lead Agency and the Department for five years following relocation or until performance standards are met, whichever period is longer.

Issue #2: CDFW has determined that streams subject to Fish and Game Code, section 1600 et seq. may be impacted by the proposed Project.

Specific Impact: The DMND states the Project could result in impacts to jurisdictional resources.

Why impact would occur: The Project may impact stream processes, or otherwise alter the existing drainage pattern of the Project site.

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Evidence impact would be significant: The Project may substantially adversely affect the existing water quality and geomorphologic processes through the alteration of the channel.

Mitigation Measure #1: CDFW has concluded that the Project may result in the alteration of streams. For any such activities, the Project applicant (or “entity”) must provide notification to CDFW pursuant to Fish and Game Code, section 1600 *et seq.* Based on this notification and other information, CDFW determines whether a Lake and Streambed Alteration Agreement (LSAA) with the applicant is required prior to conducting the proposed activities. Please visit CDFW’s Lake and Streambed Alteration Program webpage to for information about LSAA notification and online submittal through the Environmental Permit Information Management System (EPIMS) Permitting Portal (CDFW 2020d).

CDFW’s issuance of an LSAA 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 from the County for the Project. To minimize additional requirements by CDFW pursuant to Fish and Game Code, 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.

Any LSAA permit issued for the Project by CDFW may include additional measures protective of streambeds on and downstream of the Project site. The LSAA may include further erosion and pollution control measures. To compensate for any on-site and off-site impacts to aquatic resources, additional mitigation conditioned in any LSAA 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.

Mitigation Measure #2: A weed management plan should be developed for the Project area and implemented both during and for at least 3 years post-Project. Soil disturbance promotes establishment and growth of non-native weeds. As part of the Project, non-native weeds should be prevented from becoming established both during and after construction, to control the local spread of invasive plants. The Project area should be monitored via mapping for new introductions and expansions of non-native weeds. Annual threshold limits, eradication targets, and monitoring should be included in this plan. Monitoring for spread of invasive weeds to adjacent lands should also be included.

Filing Fees

The Project, as proposed, would have an impact on fish and/or wildlife resources, 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. (California Code of Regulations, tit. 14, § 753.5; Fish and Game Code, § 711.4; Public Resources Code, § 21089).

Conclusion

We appreciate the opportunity to comment on the project to assist the County of Santa Barbara in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW

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requests an opportunity to review and comment on any response that the County has to our comments and to receive notification of any forthcoming hearing date(s) for the project. Questions regarding this letter and further coordination on these issues should be directed to Kelly Schmoker-Stanphill, Senior Environmental Scientist (Specialist), at (626) 335-9092 or Kelly.Schmoker@wildlife.ca.gov.

Sincerely,

DocuSigned by:

Erinn Wilson-Olgin

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Erinn Wilson-Olgin
Environmental Program Manager I
South Coast Region

Attachments: Attachment A: Draft Mitigation and Monitoring Reporting Plan

ec: CDFW

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Attachment A: Draft Mitigation and Monitoring Reporting Plan

CDFW recommends the following language to be incorporated into a future environmental document for the Project. A final MMRP shall reflect results following additional plant and wildlife surveys and the Project's final on and/or off-site mitigation plans.

Biological Resources (BIO)			
Mitigation Measure (MM) or Recommendation (REC)		Timing	Responsible Party
MM-BIO-1- Impacts to Bats	<p>For bat species utilizing the current bridge for any roosting activity, the new bridge should have the same, species-specific features to accommodate the return of bats to the new bridge. CDFW considers the addition of specific roosting features to support continued use of bats in bridges to be demolished, as adequate mitigation. The new bridge should be monitored for 5 years to ensure the intended bats return and utilize the mitigation. Adaptive mitigation should be a component of any mitigation plan for bats. CDFW requests approval of any bat mitigation and relocation plan.</p> <p>Additionally, prior to any exclusion of bats from the current bridge, temporary roosting habitat specific to the parameters of the particular bat species present, should be installed adjacent to the Project. Exclusion should be coupled with ensuring bats have suitable temporary habitat available nearby to move to, as well as monitoring the effectiveness of the exclusion.</p>	Prior to finalizing the DNMD	Lead Agency/ Applicant

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<p>MM-BIO-2- Impacts to Bats</p>	<p>CDFW recommends bat surveys be conducted by a qualified bat specialist to determine baseline conditions within the Project and within a 500-foot buffer and analyze the potential significant effects of the proposed Project on the species (CEQA Guidelines §15125). CDFW recommends the DMND include the use of acoustic recognition technology to maximize detection of bat species to minimize impacts to sensitive bat species. The DMND should document the presence of any bats roosting in or near the bridge, and include species specific mitigation measures to reduce impacts to below a level of significance.</p> <p>To avoid the direct loss of bats that could result from removal of trees or bridge structures, that may provide roosting habitat (winter hibernacula, summer, and maternity), the Department recommends the following steps are implemented:</p> <ol style="list-style-type: none"> 1) Identify the species of bats present on the site by conducting appropriate surveys for winter roosting/hibernacula, summer roosting, and maternity roosting. 2) Determine how and when these species utilize the site and what specific habitat requirements are necessary [thermal gradients throughout the year, size of crevices, tree types, location of hibernacula/roost (e.g., height, aspect, etc.)]; 3) Avoid the areas being utilized by bats for hibernacula/roosting; if avoidance is not feasible, a 	<p>Prior to finalizing the DNMD</p>	<p>Lead Agency/ Applicant</p>
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	<p>bat specialist should design alternative habitat that is specific to the species of bat being displaced and develop a relocation plan in coordination with CDFW;</p> <p>4) The bat specialist should document all demolition monitoring activities, and prepare a summary report to the Lead Agency upon completion of tree/rock disturbance and/or building demolition activities. The Department requests copies of any reports prepared related to bat surveys (e.g., monitoring, demolition);</p> <p>5) If confirmed occupied or formerly occupied bat roosting/hibernacula and foraging habitat is destroyed, habitat of comparable size, function and quality should be created or preserved and maintained in the new bridge, or for bats in trees, at a nearby suitable undisturbed area. The bat habitat (not bat houses) mitigation shall be determined by the bat specialist in consultation with CDFW;</p> <p>6) A monitoring plan should be prepared and submitted to CDFW and the Lead Agency. The monitoring plan should describe proposed mitigation habitat, and include performance standards for the use of replacement roosts/hibernacula by the displaced species, as well as provisions to prevent harassment, predation, and disease of relocated bats; and,</p>		
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	<p>7) Annual reports detailing the success of roost replacement and bat relocation should be prepared and submitted to Lead Agency and the Department for five years following relocation or until performance standards are met, whichever period is longer.</p>		
<p>MM-BIO-3- Impacts to Streambed</p>	<p>CDFW has concluded that the Project may result in the alteration of streams. For any such activities, the Project applicant (or “entity”) must provide notification to CDFW pursuant to Fish and Game Code, section 1600 et seq. Based on this notification and other information, CDFW determines whether a Lake and Streambed Alteration Agreement (LSAA) with the applicant is required prior to conducting the proposed activities. Please visit CDFW’s Lake and Streambed Alteration Program webpage to for information about LSAA notification and online submittal through the Environmental Permit Information Management System (EPIMS) Permitting Portal (CDFW 2020d).</p> <p>CDFW’s issuance of an LSAA 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 from the County for the Project. To minimize additional requirements by CDFW pursuant to Fish and Game Code, 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,</p>	<p>Prior to finalizing the DNMD</p>	<p>Lead Agency/ Applicant</p>

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	<p>monitoring, and reporting commitments for issuance of the LSA.</p> <p>Any LSAA permit issued for the Project by CDFW may include additional measures protective of streambeds on and downstream of the Project site. The LSAA may include further erosion and pollution control measures. To compensate for any on-site and off-site impacts to aquatic resources, additional mitigation conditioned in any LSAA 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.</p>		
<p>MM-BIO-4- Impacts to Streambed</p>	<p>A weed management plan should be developed for the Project area and implemented both during and for at least 3 years post-Project. Soil disturbance promotes establishment and growth of non-native weeds. As part of the Project, non-native weeds should be prevented from becoming established both during and after construction, to control the local spread of invasive plants. The Project area should be monitored via mapping for new introductions and expansions of non-native weeds. Annual threshold limits, eradication targets, and monitoring should be included in this plan. Monitoring for spread of invasive weeds to adjacent lands should also be included.</p>	<p>Prior to finalizing the DNMD</p>	<p>Lead Agency/ Applicant</p>