

State of California
Department of Fish and Wildlife



Memorandum

Date: April 29, 2022

To: Nathan Roberts
California Department of Transportation
District 4; Environmental Planning
Post Office Box 24660; MS-8B
Oakland, CA 94623
Nathan.Roberts@dot.ca.gov



DocuSigned by:

Erin Chappell

From: Ms. Erin Chappell, Regional Manager
California Department of Fish and Wildlife-Bay Delta Region, 2825 Cordelia Road, Suite 100, Fairfield, CA 94534

Subject: Napa 128 Hopper Slough Bridge Replacement Project, Notice of Availability of a Draft Environmental Impact Report, SCH No. 2021080191, Napa County

The California Department of Fish and Wildlife (CDFW) has reviewed the Notice of Availability (NOA) of a draft Environmental Impact Report (EIR) for the Napa 128 Hopper Slough Bridge Replacement Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹ CDFW is submitting comments on the EIR 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.

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 the California Endangered Species Act (CESA) Permit, the Native Plant Protection Act Permit, the Lake and Streambed Alteration (LSA) Agreement and other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources. CDFW has the following concerns, comments, and recommendations regarding the Project.

PROJECT LOCATION AND DESCRIPTION

Caltrans, as the lead agency proposes replacement of the Hopper Slough Bridge (Bridge No. 21-0019) on State Route (SR) 128 at Post Mile (PM) 5.12 in Napa County, California. The Project limits include space for equipment storage, access to the slough and space for equipment to demolish and construct the new structure. Caltrans proposes two build alternatives and a no build alternative. Build Alternative 3F-6' will replace the current bridge with a 120-foot-long, three-span bridge with two 12-foot-wide travel lanes, two 6-foot-wide shoulders, and concrete barrier railings. Build Alternative

¹ 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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1F-6' will replace the current bridge with a 70-foot-long, single-span structure with two 12-foot-wide travel lanes, two 6-foot-wide shoulders, and concrete railing barriers. Both alternatives include replacing a culvert on the west side of the current bridge and restoring Bale Slough. The Project area of disturbance for both alternatives is 1.93 acres. Build Alternative 3F-6' will permanently impact 1.26 acres and temporarily impact 0.76 acres. Build Alternative 1F-6' will permanently impact 1.25 acres and temporarily impact 0.68 acres. Alternative 3F-6' will remove 100 trees and impact the following; Riparian Vegetation: 0.405 acres permanent, 0.354 acres temporary, Valley Oak Woodland: 0.142 acres permanent, 0.231 acres temporary, Essential Fish Habitat: 0.008 acres permanent, 0.184 acres temporary, 0.06 acres of shading under bridge. Alternative 1F-6' proposes to remove 101 trees and impact the following; Riparian Vegetation: 0.404 acres permanent, 0.356 acres temporary, Valley Oak Woodland: 0.135 acres permanent, 0.235 acres temporary, Essential Fish Habitat: 0.008 acres permanent, 0.184 acres temporary, 0.03 acres of shading under bridge.

LAKE AND STREAMBED ALTERATION AGREEMENT

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.

FISH AND GAME CODE 5901

Except as otherwise provided in this code, it is unlawful to construct or maintain in any stream in Districts 1, $1\frac{3}{8}$, $1\frac{1}{2}$, $1\frac{7}{8}$, 2, $2\frac{1}{4}$, $2\frac{1}{2}$, $2\frac{3}{4}$, 3, $3\frac{1}{2}$, 4, $4\frac{1}{8}$, $4\frac{1}{2}$, $4\frac{3}{4}$, 11, 12, 13, 23, and 25, any device or contrivance that prevents, impedes, or tends to prevent or impede, the passing of fish up and down stream. Fish are defined as a wild fish, mollusk, crustacean, invertebrate, amphibian, or part, spawn, or ovum of any of those animals (Fish and Game Code section 45).

COMMENTS AND RECOMMENDATIONS

CDFW acting as a Responsible Agency, has discretionary approval under CESA through issuance of a CESA Incidental Take Permit (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 resources. CDFW would like to thank you for preparing the NOA for the EIR. 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 reduced below a level of significance under CEQA:

COMMENT 1: Project Design Analysis and Coordination

Issue: The EIR does not provide a reasonable range of project alternatives to ensure the Project is the least environmentally impactful, particularly with respect to mature valley oak trees (*Quercus lobata*). The impacts presented in alternatives 3F-6' and 1F-6' are very similar and the full extent of impacts to Oak Woodlands, individual oak trees and individual riparian trees between the two alternatives is unclear. CDFW provided comments and recommendations to the Project Lead Agency in a letter dated September 9, 2021 for the Project Notice of Preparation that have not been adequately incorporated into the Project EIR (CDFW, 2021).

General Recommendation: CDFW recommends additional Project design alternatives are provided to avoid removal of mature oak trees to the greatest extent feasible.

Recommendation Mitigation Measure 1 – Design Coordination: CDFW requests early and on-going Project design coordination with CDFW Region 3 and the CDFW Conservation Engineering Branch to review and analyze proposed structures or Project elements with the potential to impact fish and wildlife resources, including large oak trees. CDFW Conservation Engineering Branch should be provided engineered drawings and design specification planning sheets during the initial design process, prior to design selection and re-initiating design consultation at 30% design at minimum and through the permitting process for review and comment as identified in the Interagency Agreement (Agreement Number 43A0398).

Recommendation Mitigation Measure 2 – Bridge Design References: CDFW requests utilizing the design principles outlined in the California Salmonid Stream Habitat Restoration Manual, Part XII (CDFW, 2009) and NOAA Fisheries Service Guidelines for Salmonid Passage at Stream Crossings (NMFS, 2001) into the bridge design.

COMMENT 2: Oak Woodlands, Heritage Oak Trees and Riparian Trees

Issue: The EIR has not sufficiently disclosed or adequately analyzed the potentially significant impacts to Oak Woodlands, individual oak trees and individual riparian trees. Specifically, the potential age and irreplaceable nature of old-growth and heritage trees proposed for removal within the Project limits have not been adequately described. Page 2-110 of the EIR notes; “within Caltrans’ ROW trees vary in size ranging from small multi-stem trees to large oaks over 50 inches in diameter at breast height (DBH).” The lead agency describes the acres of impacts to Oak Woodlands and riparian habitat but the DBH of individual trees has not been described. Page 2-125 and 2-126, Table 2.3.1-3, *Trees within the BSA with Potential to be Impacted*, provides an average DBH for each species group but does not provide the DBH for each individual tree. In addition, the proposed avoidance and minimization measures MM BIO-1: Tree Replacement, MM BIO-2: Landscape

Revegetation and MM BIO-3: Invasive Species Abatement do not adequately address the potentially significant impacts to oak woodlands, heritage oak trees and riparian trees. The proposal by the lead agency to remove a maximum of 100 to 101 trees of undisclosed DBH represents a potentially immitigable significant impact to heritage oak trees and large riparian trees. The proposed measures to replant sapling trees to offset significant impacts to heritage trees that may range from 70 to 250 years old is not appropriate or ecologically sufficient.

Evidence the impact would be significant: Oak woodlands provide important ecosystem functions including habitat for numerous species of wildlife, reductions in soil erosion rates and preservation of water quality. The rapid and extensive land conversions in oak woodlands, savannas, and riparian areas within Napa County, coupled with an apparent lack of regeneration of several species draws concern about the long-term survival of native oaks. Fragmentation of oak habitats reduces their ability to provide the full range of ecological benefits, including maintenance of species diversity, as well as soil and watershed protection. Coast live oak (*Quercus agrifolia*) and old-growth oak trees (native oak tree that is greater than 15 inches in diameter) are of particular importance due to increased biological values and increased temporal loss (Tyler et. al., 2002). These potentially immitigable impacts will also have cumulatively significant impacts on fish and wildlife resources that rely on those habitat types to sustain their populations.

The incorporation of the currently proposed avoidance and minimization measures do not adequately address the potentially significant impacts to oak woodlands, old growth oak trees and riparian trees. Even under favorable conditions, oak trees grow relatively slowly and have low crown ratios. The lead agency does not propose permanent protection or long-term management of replacement trees. Furthermore, the loss of oaks can significantly reduce the restoration potential of a stand as a great deal of time is required to replace them (Tyler et. al., 2002). Therefore, the removal of heritage trees will result in potentially immitigable significant impacts to fish and wildlife resources if additional project avoidance measures are not incorporated into the Project as conditions of approval.

Recommendation: The individual DBH of each tree proposed for removal should be disclosed to the natural resource agencies and general public. CDFW requests incorporating the following mitigation measures into the EIR as conditions of approval.

Recommended Measure 1 – On-Site Preservation of Oak and Riparian Trees

On-Site: CDFW requests the lead agency develop additional design alternatives to avoid permanent impacts and removal of large trees within the Project limits. For trees selected for avoidance and preservation on-site a tree preservation plan shall be developed that contains specific tree preservation methods. The plan shall set contractor guidelines for tree protection including; prominently marking protected areas, erecting barricades around designated trees, and tree bumpers; restricting

vehicular traffic and parking in these restricted areas; and prohibiting material storage, grading, and dumping of chemicals and other materials in restricted areas. To ensure compliance, contractors should have tree preservation bonds to cover potential noncompliance issues, damage or loss of trees.

Recommendation Measure 2 – Off-Site Conservation of Oak and Riparian

Trees: If impacts cannot avoid be avoided to heritage Oak and riparian trees (15 DBH or greater), CDFW requests the lead agency permanently preserve oak and riparian trees at an off-site location. The off-site location should consist of lands capable of being enhanced or restored, and preserved and maintained in perpetuity in order to mitigate for significant impacts. Lands should be protected through fee title acquisition or placement of a conservation easement with a conservation focused entity to ensure long-term preservation and successful implementation of the mitigation.

Recommendation Measure 3 – Individual Tree Inventory Report: CDFW requests the Final EIR include a tree inventory that includes, species name, common name, diameter at breast height, and overall health status for each individual tree within the Project limits.

COMMENT 3: Bat Assessment and Avoidance

Issue: The proposed work has the potential to result in the removal of an existing bridge that contains suitable bat roosting habitat as evidenced in Photos 1 through 6 in Chapter 1 of the EIR. Additionally, the EIR on page 2-144 indicates the bridge structure and adjacent trees may support overnight roosting of commonly occurring bat species although appropriate surveys were not conducted to support this conclusion. Modern bridge structures are pre-cast concrete blocks with smooth surfaces and the exposed cap-sills of currently exist bridge will not be available as night roost habitat for bats. The loss of the roost area may represent a potentially significant impact to bats.

Evidence the impact would be significant: Ninety three percent of the rare bats in California either use or are likely to use bridges. A total of eighteen species use bridges in one way or another (Erickson, 2002). According to the California National Diversity Database (CNDDDB), potentially suitable habitat exists within the Project for species such as; pallid bat (*Antrozous pallidus*), and western mastiff bat (*Eumops perotis*) and brazilian free-tailed bat (*Tadarida brasiliensis*) (CNDDDB, 2021). Pallid bats and many myotis species utilize bridges as day roosts, night roosts and are commonly found on bridges (Erickson, 2002). Removal of the bridge structure and replacement of the structure with a pre-cast bridge, and the removal of up to 101 trees may have the potential to degrade the quality of the environment, substantially reduce available bat habitat and reduce a local bat population to below self-sustaining levels (Erickson, 2002). The loss of day or night roosts may also be potentially significant.

Recommendation: CDFW recommends AMM-1 and AMM-2 are replaced with the following:

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, crevices, portholes, expansion joints and hollow areas (bats need not be present). The 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. The surveys should occur at least two seasons in advance of Project initiation.

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 methods and visual inspection from March 1 to April 15 or September 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 September 11 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 Project to avoid work during critical periods of the bat life cycle to allow roosting habitat to persist undisturbed throughout the course of construction. Exclusion netting or adhesive roll material shall not be used as exclusion methods. If presence/absence surveys indicate bat occupancy, then construction should be limited from March 1 through April 15 and/or September 1 through October 15.

Recommended Mitigation Measure 3 – Permanent Bat Structure Incorporation: If active bat roosts or signs of bat presence are observed at the Project site within habitat or structures including the bridge that will be impacted as a result of Project completion the lead agency should incorporate permanent bat roosting structures into the design of the new bridge in consultation with CDFW. Temporary structures shall also be installed to provide habitat from the timeframe to when the old structure is demolished and the new structure is complete.

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

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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) 339-6534 or Robert.Stanley@wildlife.ca.gov; or Mr. Wesley Stokes, Senior Environmental Scientist (Supervisory), at (707) 339-6066 or Wesley.Stokes@wildlife.ca.gov.

cc: State Clearinghouse #2021080191

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