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December 13, 2023

Mr. Rob Tidmore
County of Santa Cruz
979 17th Avenue
Santa Cruz, CA 95062
Robert.Tidmore@santacruzcountyca.gov

Subject: Coastal Rail Trail Segments 10 and 11, Draft Environmental Impact Report, SCH No. 2021110080, Santa Cruz County

Dear Mr. Tidmore:

The California Department of Fish and Wildlife (CDFW) has received and reviewed the Draft Environmental Impact Report (EIR) prepared by the County of Santa Cruz (County) for the Coastal Rail Trail Segments 10 and 11 (Project), located in Santa Cruz County, pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

CDFW submits these comments on the draft EIR to inform the County, as the CEQA Lead Agency, of potentially significant impacts to biological resources associated with the Project.

CDFW 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 & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines, § 15386, subd. (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 fish and wildlife resources.

CDFW is also submitting these comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority over the Project pursuant to the Fish and

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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Game Code. As proposed, for example, the Project may be subject to CDFW's Lake and Streambed Alteration (LSA) regulatory authority. (Fish & G. Code, § 1600 et seq.). Likewise, to the extent the Project may result in "take," as defined by state law, of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.) or Native Plant Protection Act (NPPA) (Fish & G. Code, § 1900 et seq.), related authorization as provided by the Fish and Game Code will be required.

REGULATORY REQUIREMENTS

California Endangered Species Act and Native Plant Protection Act

Please be advised that a CESA or NPPA Incidental Take Permit (ITP) must be obtained if the Project has the potential to result in "take" of plants or animals listed under CESA or NPPA, either during construction or over the life of the Project. "Take" means "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill." (Fish & G. Code, § 86). If the Project will impact CESA or NPPA listed species, early consultation with CDFW is encouraged, as significant modification to the Project and mitigation measures may be required to obtain an ITP. CDFW's issuance of an ITP is subject to CEQA and to facilitate permit issuance, any such project modifications and mitigation measures must be incorporated into the draft EIR's analysis, discussion, and mitigation monitoring and reporting program.

CEQA requires a mandatory finding of significance if a Project is likely to substantially impact threatened or endangered species. (Pub. Resources Code, §§ 21001, subd. (c) & 21083; CEQA Guidelines, §§ 15380, 15064 & 15065). In addition, pursuant to CEQA, the Lead Agency cannot approve a project unless all impacts to the environment are avoided or mitigated to less-than-significant levels, or the Lead Agency makes and supports findings of overriding consideration for impacts that remain significant despite the implementation of all feasible mitigation. Findings of consideration under CEQA, however, do not eliminate the Project proponent's obligation to comply with the Fish and Game Code.

Lake and Streambed Alteration

CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et seq., for Project activities affecting lakes, streams, rivers, or 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, drainage ditches, washes, watercourses with a subsurface flow, and floodplains is generally subject to notification requirements. In addition, infrastructure installed beneath such aquatic features, such as through hydraulic directional drilling, is also generally subject

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to notification requirements. Therefore, any impact to the mainstems, tributaries, or floodplains or associated riparian habitat caused by the proposed Project will likely require an LSA Notification. CDFW may not execute a final LSA Agreement until it has considered the final draft EIR and complied with its responsibilities as a responsible agency under CEQA.

Raptors and Other Nesting Birds

CDFW has authority over actions that may result in the disturbance or destruction of active bird nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include section 3503 (regarding unlawful take, possession, or needless destruction of the nests or eggs of any bird), section 3503.5 (regarding the take, possession, or destruction of any birds-of-prey or their nests or eggs), and section 3513 (regarding unlawful take of any migratory nongame bird). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

Fully Protected Species

Fully Protected species may not be taken or possessed at any time (Fish & G. Code, §§ 3511, 4700, 5050, & 5515).

PROJECT DESCRIPTION SUMMARY

Proponent: The County of Santa Cruz in coordination with the City of Capitola and the Santa Cruz County Regional Transportation Commission.

Objective: The Project involves construction of a new 4.5-mile multi-use bicycle and pedestrian trail which would follow the Santa Cruz County Regional Transportation Commission owned railroad corridor from the eastern side of 17th Avenue to the western side of State Park Drive. The Project would extend through unincorporated Santa Cruz County and the City of Capitola (City). The Project would provide an accessible bicycle/pedestrian path for active transportation, recreation, and environmental and cultural education along the rail corridor, consistent with the Monterey Bay Sanctuary Scenic Trail Network Master Plan. The draft EIR includes two potential alignments for the trail including the Ultimate Trail Configuration (Trail Next to Rail Line), and an Optional Interim Trail (Trail on the Rail Line) as an optional first phase, for both Segments 10 and 11. With the Ultimate Trail Configuration, the trail would be located along the inland side of the railroad tracks. The Ultimate Trail Configuration is considered the preferred alignment by the Project proponents.

Timeframe: Construction of the Ultimate Trail Configuration without the Optional Interim Trail would begin in 2026 and would continue for approximately 48 months. Construction of the optional Interim Trail would occur in 3 parts. Part 1, implementation of the Optional Interim Trail would occur between 2023 through 2027 and include

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environmental review, design, right-of-way process, and trail construction. Part 2, demolition of the trail and rebuilding of the rail line would occur between 2056-2060. Part 3, construction of the Ultimate Trail Configuration would occur between 2060-2064.

ENVIRONMENTAL SETTING AND LOCATION

The Project extends 4.7 miles along the Regional Transportation Commission-owned Santa Cruz Branch Rail Line corridor in central Santa Cruz County, within the California Coastal Zone. The Ultimate Trail Configuration does not include development of an approximately 0.5-mile section of the rail corridor, which encompasses the Capitola Trestle Bridge. Instead, trail users would be directed off the rail corridor at Opal Street and Cliff Drive and onto existing on-street bicycle lanes and pedestrian sidewalks through Capitola Village. Therefore, the Ultimate Trail Configuration alignment is 4.2 miles long, and the Optional Interim Trail alignment is 4.7 miles long. The Project extends through developed portions of the County and City, including residential, commercial, industrial, and recreational land uses, as well as New Brighton State Beach open space. There are several aquatic features within the Project alignment including Rodeo Gulch, Soquel Creek, Escalona Gulch, Tannery Gulch, New Brighton Creek, Borregas Creek and its tributaries, Stream 633, and Flatiron Creek. There are many different habitat types within the Project footprint including coast live oak woodland and forest, mixed riparian forest, mixed evergreen forest, non-native forest, and coastal scrub and coastal terrace prairie.

COMMENTS AND RECOMMENDATIONS

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

COMMENT 1: Monarch Overwintering Habitat Loss

Issue: The draft EIR states that both the Ultimate Trail Configuration and the Optional Interim Trail would have a significant and unavoidable impact on monarch butterfly autumnal and/or winter roost sites. The Ultimate Trail Configuration would permanently impact 2.05 acres of known and potential monarch roost habitat and remove 318 trees within known and potential roost sites. The Optional Interim Trail parts 1-3 would permanently impact 3.84 acres of habitat and remove 358 trees. The Project may also indirectly impact monarchs due to loss of buffer trees and nectar resources that can provide important wind shelter and food supplies. Direct and indirect Project impacts to monarch roost sites would substantially adversely affect monarch butterfly (*Danaus plexippus*) population recovery and further extirpation at these sites. Monarch butterflies require suitable overwintering habitat which includes wind protection and access to

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nectar resources. The loss of suitable overwintering habitat for monarchs would contribute to extirpation of western monarch populations.

Occurrences: Potential habitat is present along Rodeo Gulch, south of Xerces site #2982. Known roost trees and buffer trees located on CDFW property at Escalona Gulch (Xerces site #2985) would be impacted by the Project. Autumnal roost trees and wind buffer trees north of Xerces Site #3986 would be impacted by the Project. Buffer trees along Borregas Creek (Xerces Site #2987) would be impacted by the Project.

Evidence the impact would be significant: The western population of the monarch butterfly has declined by 95 percent of their historic level (Crone et al. 2019). In addition, the population dropped to a critical low level of less than one percent of its historic size in 2018 (Pelton et al. 2019), though it has since rebounded. The decrease in western monarch butterfly population size may be due to the loss of overwintering habitat and loss of its host plant (milkweed) (Pelton et al. 2019). Land conversion and pesticide use are also thought to be primary drivers of decline in the western population of the species (Crone et al. 2019). Protection of overwintering habitat is critical to the recovery of the species. The Xerces Society and partners including CDFW and U.S. Fish and Wildlife Service (USFWS) highlight central coast areas where monarchs overwinter as the highest priority zone for actions targeting western monarch recovery (Xerces Society, 2023).

Recommendation: CDFW recommends that the Project avoid impacts to known and potential monarch roost habitat including buffer trees and nectar resources. The maintenance of trees and shrubs within 500 feet of these sites provides a buffer to preserve the microclimate conditions of the overwintering habitat. Alternatives to tree removal such as tree limbing and alternative trail alignment through known and potential monarch roost sites should be considered prior to tree removal to minimize potential impacts. Where tree removal cannot be avoided, CDFW recommends that a Monarch Roost Site Mitigation Plan is developed and included as part of the final environmental document.

Recommended Mitigation Measure 1: Avoidance and Protection of Monarch Butterfly Overwintering Sites. The Project shall avoid the removal of trees or shrubs within 500 feet of overwintering groves as recommended by the USFWS Section 7(a)(1) Western Monarch Butterfly Conservation Recommendations (USFWS, 2023).

Recommended Mitigation Measure 2: Qualified Biological Habitat Assessment and Wind Modeling. Trees selected for removal shall be evaluated by a qualified biologist for their potential impact to monarch roost habitat. Appropriate wind models shall be used to evaluate the potential loss of habitat suitability from changes to microclimate conditions necessary for monarch use. Known roost trees with active or historical documentation of monarch clustering shall be prioritized for avoidance. Buffer

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trees that would significantly alter the habitat suitability for autumnal and winter roosting if removed shall be prioritized for avoidance.

Recommended Mitigation Measure 3: Mitigation Plan Approval. The Project proponent shall submit a Monarch Roost Site Mitigation Plan for review and approval by relevant regulatory agencies including USFWS and CDFW. The plan shall be included as part of the Project environmental document. Appropriate mitigation may include the following:

1. Enhance roosting trees within overwintering sites by planting native insecticide-free trees (e.g., Monterey pine (*Pinus radiata*), Monterey cypress (*Cupressus macrocarpa*), coast redwood (*Sequoia sempervirens*), coast live oak (*Quercus agrifolia*), Douglas-fir (*Pseudotsuga menziesii*), Torrey pine (*Pinus torreyana*), western sycamore (*Platanus acemose*), Bishop pine (*Pinus radiata*) and others, as appropriate for location). Enhance buffer habitat within 500 feet of roost sites by planting native trees as appropriate for location;
2. Conduct management activities such as tree trimming, selective thinning of small diameter trees, removal of downed wood, mowing, and grazing in monarch overwintering habitat to reduce fuel loads and minimize the risk of catastrophic wildfire;
3. Conduct management and construction activities between March 1–September 30, outside of the estimated timeframe when monarchs are likely present;
4. Enhance native or non-invasive, insecticide-free nectar resources by planting fall/winter blooming forbs or shrubs within overwintering groves;
5. Avoid use of pesticides within overwintering groves and in a 500-foot buffer around them within the Project footprint, particularly when monarchs are present; and
6. Conduct grove monitoring or partner with organizations in the area monitoring for butterflies during the Western Monarch Counts each fall (end of November) and winter (beginning of January). Report when monarchs arrive and depart the groves each year (<https://www.westernmonarchcount.org/>).

CDFW recommends continued coordination to develop appropriate site-specific avoidance and mitigation measures for each potentially impacted roost site within the Project area.

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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 the CNDDDB. The CNDDDB online field survey form and other methods for submitting data can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Plantsand-Animals>.


FILING FEES

CDFW anticipates that the Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish and Game 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

Thank you for the opportunity to comment on the Project's draft EIR. If you have any questions regarding this letter or for further coordination with CDFW, please contact Ms. Serena Stumpf, Environmental Scientist, at (707) 337-1364 or Serena.Stumpf@wildlife.ca.gov; or Mr. Wesley Stokes, Senior Environmental Scientist (Supervisory), at Wesley.Stokes@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Erin Chappell
Regional Manager
Bay Delta Region

ec: Office of Planning and Research, State Clearinghouse (SCH No.2021110080)

REFERENCES

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Xerces Society. 2023. Xerces Society for Invertebrate Conservation [Internet]. Western Monarch Call to Action. Available from: <https://www.xerces.org/western-monarch-call-to-action>. Accessed November 30, 2023