

Cashdollar, Shaundra@Wildlife

From: Boyd, Ian@Wildlife
Sent: Monday, March 28, 2022 4:13 PM
To: Guidi, Scott@DOT
Cc: Thomas, Kevin@Wildlife; Barker, Kelley@Wildlife; Wilson, Billie@Wildlife; Wildlife R2 CEQA
Subject: Caltrans 10-1G020 Carson Transportation Management Systems_CDFW Comments on ND (SCH. 2022020581)

Governor's Office of Planning & Research

Mar 29 2022

Dear Mr. Guidi:

STATE CLEARINGHOUSE

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an ND from the California Department of Transportation (Caltrans) for the Carson Transportation Management Systems Project (Project) (10-1G020) pursuant to the California Environmental Quality Act (CEQA) statute and guidelines.^[1]

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish, wildlife, native plants, and their habitat. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may need to exercise its own regulatory authority under the Fish and Game Code.

^[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.

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 comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. 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 & G. Code, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code. CDFW also administers the Native Plant Protection Act, Natural Community Conservation Act, and other provisions of the Fish and Game Code that afford protection to California's fish and wildlife resources.

PROJECT DESCRIPTION SUMMARY

The Project consists of installing traffic management systems and roadside safety improvements in and around the Kirkwood and Carson Pass area at 13 various locations in Amador, El Dorado, and Alpine Counties on State Routes (SR) 88, 89, and 4. The scope of work would include changeable message signs (CMS), streetlights, video detection systems, closed-circuit television systems, road weather information systems, highway advisory radios, extinguishable message signs, maintenance vehicle pullouts, and Midwest guardrail systems. Two permanent easements are expected to be

acquired through the U.S. Forest Service for locations 2 and 6. Location 2 would acquire 0.063 acre for lighting, and Location 6 would acquire 0.158 acre for buried conduit. Construction would involve night work, work off the pavement, excavating, grading, trenching, and vegetation and tree removal.

COMMENTS AND RECOMMENDATIONS

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

Comment 1: *Chapter 2.1 CEQA Environmental Checklist (pg. 12) and other multiple locations in the ND* – This section states, “Best Management Practices and measures included in the Standard Plans and Specifications or as Standard Special Provisions, are considered to be an integral part of the project and have been considered prior to any significance determinations....” Additionally, multiple environmental checklist categories include avoidance, minimization, and/or mitigation measures in them, even though the checklist determinations conclude impacts will be less than significant, without mention of mitigation incorporated. CDFW considers all of these measures to be mitigation under CEQA, even when the ND analyzes the effects of the project with these measures in place. CDFW also recommends this document be identified as a “Mitigated Negative Declaration” considering the incorporation of measures that serve to avoid, minimize, and reduce/eliminate the effects of the Project to a point where no significant effect on the environment would occur. Subsequently, the Initial Study/Negative Declaration checklist should be updated to reflect which environmental factors would have impacts determined to be less than significant with mitigation incorporated.

Comment 2: *Section 4(f) De Minimis Determination and the Hope Valley Wildlife Area* - Project Location 9 (PM 13.34), at the intersection of SR 88 and SR 89, is located within the Hope Valley Wildlife Area (HVWA), a publicly owned wildlife area managed by CDFW. The HVWA is managed for many uses and provides a wide variety of benefits for wildlife and the public, which include wildlife habitat, recreation, and educational uses. It is considered to be one of the most scenic valleys in the Sierra Nevada and provides high quality deer summer range and fawning habitat (WCB, 2000). Additionally, Project Location 9 is located within an area of moderate to high usage as a mule deer migration corridor (California Natural Diversity Database, layer ds2888). Section 4(f) of the Department of Transportation Act of 1966 as amended (Title 49, United States Code § 303) applies to transportation projects receiving funding or requiring approval from the U.S. Department of Transportation and when 1) the project involves a resource that is protected by the provisions of Section 4(f), and 2) there is a “use” of that resource. The HVWA qualifies as a resource under Section 4(f) as a publicly owned recreational and wildlife area and was established for critical deer habitat. If Section 4(f) is triggered, the lead agency should evaluate impacts to the HVWA for each Project alternative and should address aesthetics, noise, vibration, vegetation, wildlife, air quality, and water quality effects. For recreation and wildlife areas, a de minimis impact is one that will not adversely affect the qualities or activities that give the property protection under Section 4(f). CDFW recommends that if Caltrans determines that there are no feasible and prudent avoidance alternatives to use the HVWA, and there is more than one viable alternative to the Project, that Caltrans should identify the alternative with the least overall harm in light of the statute's preservation purpose.

Based on the number of project locations and the variability of activities at each location, CDFW believes Project Location 9 should be removed from the project as a whole or relocated to another feasible location away from the HVWA. The installation of CMSs, extinguishable message signs, and a maintenance vehicle pullout could significantly impact the aesthetic and wildlife habitat quality of the area and cause direct or indirect impacts to sensitive biological resources. Project Location 8 (PM 8.39) is located approximately 7.5 miles to the northwest at the intersection of SR 50 and SR 89 and may be a more suitable alternative for the project components listed above proposed at Location 9, due to the development around the town of Meyers, CA and lack of sensitive biological areas.

Furthermore, CDFW recommends the overall number of CMSs be reduced to minimize the overall aesthetic value of the rural area. A total of seven CMSs are proposed in the Project over approximately 70 linear miles of highway. The density of CMSs totals approximately 1 CMS per 10 linear miles. Overall, the necessity for the quantity and type of this signage in a rural area may be excessive when most drivers have personal cellular phones and navigation systems in their

vehicles updating them on live/current road conditions. Additionally, many signs display messaging that doesn't depict a traffic update, but only a message of safe driving that could be depicted on existing road signs without the need for additional disturbance. If the overall number of CMSs is not reduced or eliminated from the Project, CDFW recommend Caltrans consider the following comment for the signs that are installed.

Comment 3: *Project Mitigation Opportunities to Reduce Wildlife-Vehicle Collisions (WVC)* – WVCs have significant impacts on drivers (personal loss of life or injury and costs from vehicle damage) and wildlife (injury or death of individual animals and reduced habitat connectivity) (FHWA, 2008). Using CMSs to display wildlife crossing warnings, especially during peak wildlife movement (e.g., deer migration seasons) may significantly help in reducing WVCs over the life of the sign by encouraging drivers to reduce speeds and be more aware of road hazards. Therefore, CDFW recommends utilizing CMSs, proposed in this Project, to warn drivers of the potential for wildlife crossing the roads and to reduce speeds. If this mitigation strategy is applied, CDFW also recommends Caltrans conduct research into the efficacy of this method in reducing WVCs. CDFW is available to consult with Caltrans on the display timing and messaging that would be most appropriate to minimize WVCs.

CDFW also recommends Caltrans to repair any wildlife fencing that was damaged during the Caldor Fire and/or consult with CDFW on placing new wildlife fencing in areas that could reduce the likelihood of wildlife-vehicle collisions and direct wildlife to suitable and safe wildlife passage locations (bridges, culverts, etc.). Clevenger and Kociolek state that “effective wildlife fencing and crossing structures can significantly reduce many harmful impacts of roads on wildlife populations.” Fencing may be used to exclude animals from portions of roadways where their crossing is not desired and to direct animals toward a desired crossing location; however, fencing that excludes animals from crossing roadways may also cause wildlife to be trapped in the right-of-way (Meese, Shilling, and Quinn, 2009). Thus, CDFW recommends that one-way gates, swing gates, or escape ramps (jump-outs) be incorporated into the fencing design for larger mammals that have the potential to be trapped on the roadway. Additionally, if fencing is installed to direct wildlife, CDFW recommends monitoring the fencing structure and undercrossings with motion-detecting wildlife cameras to measure their effectiveness and ensure the structures meet biological and safety goals.

Comment 4: *Chapter 2.1.4 Biological Resources, Environmental Consequences, Common Wildlife and Terrestrial Habitat Connectivity* (pg. 17) – The ND states the Project would not impact sensitive biological habitats, although several project locations are next to forests, meadows, pastures, and riparian areas known to be potential habitat for sensitive migratory bird species. The project description also includes vegetation and tree removal as an activity, but it is not clear on where and to what extent the activity will take occur.

CDFW recommends, in addition to nesting bird avoidance measures BIO 7, 8, and 9, Caltrans perform a bat habitat assessment (or disclose the results, if already performed) in the Project area to help evaluate potentially significant impacts to the species. 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 considered species of special concern, which meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines §15065). The habitat assessment should include vegetation proposed for removal (crevices, hollows, exfoliated bark, and foliage). If the assessment determines there to be suitable habitat, CDFW recommends Caltrans consult with a qualified bat biologist to develop a bat avoidance plan. If avoidance is not possible, other minimization measures may be warranted that include passive exclusion, vegetation removal outside of maternity or hibernation roosting seasons (between March 1 and April 15 and September 1 and October 15, respectively), and phased tree removal methods. CDFW recommends the assessment be performed well in advance of the project so that avoidance or exclusion could be appropriately timed in coordination with scheduled construction, if necessary.

Comment 5: *Chapter 2.1.4 Biological Resources, Environmental Consequences, State or Federally Protected Wetlands* (pg. 17) – The ND states permanent and temporary impacts to potential waters of the State of California would be avoided by restricting ground disturbing activities to the edge of the road shoulder at specific project locations that may have wetlands, lakes, rivers, or streams near them. Section 1602 of the Fish and Game Code requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following:

- substantially divert or obstruct the natural flow of any river, stream, or lake.

- substantially change or use any material from the bed, channel or bank of any river, stream, or lake.
- or deposit debris, waste or other materials that could pass into any river, stream, or lake.

Please note that "any river, stream, or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams and watercourses with a subsurface flow.

CDFW considers disturbed soils, soil stockpiles, and construction/equipment material as debris that could potentially be deleterious to fish and wildlife resources when allowed to pass into a river, stream, or lake. When determining if Notification under the Lake and Streambed Alteration (LSA) Program is required, Caltrans should consider the potential for debris and/or waste to enter a river, stream, or lake. CDFW is available for consultation and review of the project locations to help Caltrans determine if Notification is required.

If CDFW determines that the Project activities may substantially adversely affect an existing fish or wildlife resource, a LSA Agreement will be issued which will include reasonable measures necessary to protect the resource. Early consultation with CDFW is recommended, since modification of the Project may avoid or reduce impacts to fish and wildlife resources.

Comment 6: *Chapter 2.1.4 Biological Resources, Avoidance, Minimization, and/or Mitigation Measures, BIO 6 Weed-Free Erosion Control and Revegetation Treatments (pg. 20)* – In addition to this measure requiring weed-free seed mixes to reduce the introduction or spread of weeds, CDFW recommends the measure require only a native seed mix of known genetic origin whose original stock seed was collected from within the Sierra Nevada and grown in California unless otherwise approved by the Caltrans in coordination with CDFW. Genetically appropriate plants, adapted to local conditions, usually result in higher survival rates (CDFW, 2010). Revegetation should be completed in the fall before the start of the rainy season. CDFW recommends that seed origin requirements are incorporated into the Project's construction plans and specifications for both the project site itself as well as any habitat restoration, enhancement, or mitigation.

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 field survey form can be found at the following link:

<https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be submitted online or mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov.

FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, 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. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

Pursuant to Public Resources Code §21092 and §21092.2, CDFW requests written notification of proposed actions and pending decisions regarding the proposed project. Written notifications shall be directed to: California Department of Fish and Wildlife North Central Region, 1701 Nimbus Road, Rancho Cordova, CA 95670 or emailed to r2CEQA@wildlife.ca.gov.

CDFW appreciates the opportunity to comment on the ND to assist in identifying and mitigating Project impacts on biological resources. CDFW personnel are available for consultation regarding biological resources and strategies to minimize and/or mitigate impacts. CDFW encourages early coordination and is available to meet in person at the proposed project locations if Caltrans is interested. Questions regarding this letter or further coordination should be directed to Ian Boyd, Senior Environmental Scientist (Specialist), at (916) 932-3035 or ian.boyd@wildlife.ca.gov.

Thank you,

Ian Boyd
Senior Environmental Scientist (Specialist)
North Central Region (Region 2)
1701 Nimbus Rd., Suite A
Rancho Cordova, CA 95670
P: (916) 932-3035
ian.boyd@wildlife.ca.gov



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