



From: Boyd, Ian@Wildlife
Sent: Monday, March 28, 2022 3:53 PM
To: Guidi, Scott@DOT
Cc: Thomas, Kevin@Wildlife; Barker, Kelley@Wildlife; Wilson, Billie@Wildlife; Wildlife R2 CEQA
Subject: Caltrans 10-0J720 State Route 4 Pavement Anchor Project_CDFW Comments on MND (SCH. 2022020586)

Dear Mr. Guidi:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) from the California Department of Transportation (Caltrans) for the State Route 4 Anchor Project (Project) (10-0J720) 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 a multi-objective anchor project and rehabilitation of existing asphalt concrete pavement on State Route 4 in Alpine County from post miles 0.0 to 31.7 and State Route 89 at post mile 10.84. The rehabilitation includes overlaying, digging out and cold-planing the roadway surface, upgrading asphalt concrete dikes and curbs, and constructing shoulder backing. The work would also modify or install the following features to current standards: 66 culverts, seven bridge-approaching metal beam guardrails, 274 roadside signs, two overhead sign structures, and two

maintenance vehicle pullouts. Project activities would include work off the paved road, trenching, grading, drainage work, work in a channel, tree removal, vegetation removal, and night work. During construction, one-way traffic control would be used as much as possible; full closures may be needed where the roadway is narrow. The Project is anticipated to take two construction seasons and a total of 200 working days. Permanent easements and temporary construction easements would be required.

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 1.5 Standard Measures and Best Management Practices Included in all Alternatives (pg. 6-7)* – This section lists multiple standard measures and best management practices (BMPs) and states they would be implemented where applicable, but does not provide any detail on how they would be implemented and for what part of the Project. CDFW recommends the Caltrans fully disclose and clearly discuss all avoidance, minimization, and mitigation measures in the MND that will be implemented to bring impacts to a less than significant level.

Comment 2: *Chapter 2.1.4 Biological Resources, Avoidance, Minimization, and/or Mitigation Measures, BIO 7 Compensatory Mitigation: Wetlands and Other Waters of the United States (pg. 25)* – Mitigation measure Bio-7 states mitigation for permanent impacts to jurisdictional waters of the U.S. may be fulfilled by purchasing mitigation credits from an approved mitigation bank or through the U.S. Army Corps of Engineers and the National Fish and Wildlife Foundation's Sacramento District In-Lieu Fee Program. The MND also includes intermittent and ephemeral streams as other waters of the U.S, which are also waters of the state and may require compensatory mitigation for permanent impacts. Additionally, CDFW does not accept in-lieu fees as mitigation for impacts to river, stream, or lake habitat subject to notification under Fish and Game Code 1602. CDFW recommends the Caltrans propose to purchase credits at a CDFW-approved mitigation bank with service areas that include the Project location to mitigate for permanent and temporary impacts to river, stream, or lake habitat. If a CDFW-approved mitigation bank does not have appropriate credits with a service area that includes the Project location, CDFW may also accept other forms of compensatory mitigation, such as stream and wetland creation, restoration or enhancement, and creation or improvement of wildlife crossings in conjunction with the Project. CDFW recognizes the value of wildlife crossing structures being incorporated into design plans to mitigate for the disturbance (permanent and temporary stream and riparian impacts, impediment to migration, etc.) or offset the impacts of the Project. CDFW may consider reducing mitigation required for this activity based upon how the crossings protect and/or improve wildlife connectivity.

Comment 3: *Chapter 2.1.4 Biological Resources, Avoidance, Minimization, and/or Mitigation Measures, Multiple Measures Indicating Preconstruction Surveys and Biological Monitor Qualifications* – Multiple measures state qualifications for proposed biological monitors conducting preconstruction surveys will be provided to CDFW at least 2 weeks prior to conducting Project activities at the Project site. CDFW recommends Caltrans provide qualifications for review and approval at least 30 business days in advance of vegetation and ground disturbing activities to allow enough time for CDFW review and to avoid Project delays.

Comment 4: *Chapter 2.1.4 Biological Resources, Avoidance, Minimization, and/or Mitigation Measures, BIO 9 Preconstruction Surveys: Special-Status Plants (pg. 26)* – Mitigation measure Bio-9 states preconstruction surveys (for special-status plants) will be conducted by the approved biologist no more than 24 hours prior to any ground disturbance, using CDFW approved survey protocols. CDFW recommends assessments and surveys for rare plants and sensitive natural communities follow CDFW's 2018 [Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities](#). Surveying for special-status plant species 24 hours prior to ground disturbance may result in false-negative detections where annual vegetation may not have fully matured or has already senesced depending on the time of year ground disturbance will begin in any given area. CDFW recommends Caltrans identify vegetation and habitat types potentially occurring in the Project area based on biological and physical properties and develop a list of species and sensitive natural communities. Field surveys should be scheduled at the times of year when plants will be both evident and identifiable (flowering or fruiting) and spaced throughout the growing season in

multiple visits to capture the floral diversity at a level necessary to determine if special-status plants are present. CDFW acknowledges that this section states a Natural Environmental Study was developed in July 2021, but the document was not included with the MND and CDFW has not reviewed the document at the time these comments were written and submitted for public comment.

Comment 5: *Chapter 2.1.4 Biological Resources, Avoidance, Minimization, and/or Mitigation Measures, BIO 12 Weed-Free Erosion Control and Revegetation Treatments (pg. 27)* – In addition to this measure requiring weed-free seed mixes to reduce the introduction or spread of weeds, CDFW recommends the measure require only native seed mixes 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.

Comment 6: *Chapter 2.1.4 Biological Resources, Avoidance, Minimization, and/or Mitigation Measures, BIO 17 Preconstruction Surveys and Construction Site Biological Monitoring: Sierra Nevada Yellow-Legged Frog and Yosemite Toad (pg. 28-29)* – The MND indicates the Project is not expected to require a California Endangered Species Act (CESA) consultation or an Incidental Take Permit (ITP) for Sierra Nevada yellow-legged frog (*Rana sierrae*). If it is determined that the Project may have the potential to result in "take", as defined in the Fish & G. Code, section 86, of a State-listed species, Caltrans shall disclose that an ITP or a consistency determination (Fish & G. Code, §§ 2080.1 & 2081) may be required prior to starting construction activities. The MND must include all avoidance and minimization to reduce the impacts to a less than significant level. If impacts to listed species are expected to occur even with the implementation of these measures, mitigation measures shall be proposed to fully mitigate the impacts to State-listed species (Cal. Code Regs., tit. 14, § 783.2, subd. (a)(8)). Otherwise, take of SNYLF must be completely avoided and measures should be identified to ensure such action. If Caltrans encounters any SNYLF during Project activities, work shall be suspended, and CDFW notified. Work may not re-initiate until Caltrans has consulted with CDFW and can demonstrate compliance with CESA.

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 MND 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 location if the 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,

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