



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Inland Deserts Region  
3602 Inland Empire Boulevard, Suite C-220  
Ontario, CA 91764  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

GAVIN NEWSOM, Governor  
CHARLTON H. BONHAM, Director



May 31, 2022  
Sent via email

Gabrielle Duff  
Senior Environmental Planner  
California Department of Transportation District 8  
464 W. 4<sup>th</sup> Street, MS 829  
San Bernardino, California 92401-1400  
[Gabrielle.duff@dot.ca.gov](mailto:Gabrielle.duff@dot.ca.gov)

Dear Ms. Duff:

CULVERT REHABILITATION STATE ROUTE (SR) 18 FROM PM 34.0/44.3(PROJECT)  
MITIGATED NEGATIVE DECLARATION (MND)  
SCH# 2022040454

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from California Department of Transportation District 8 for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

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 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

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<sup>1</sup> 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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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.

## **PROJECT DESCRIPTION SUMMARY**

Proponent: California Department of Transportation District 8 (Caltrans)

Objective: The purpose of the proposed project is to restore the drainage facilities to a state of good repair so they are in a condition that requires minimal maintenance, extends the service of the facility, and protects the roadway from failure. Additionally, the proposed project will improve traffic operations and safety of the traveling public with the implementation of Changeable Message Sign (CMS) Primary Project activities include repairing or replacing deteriorating culverts and the installation of a CMS.

Location: The project is located along SR-18 between postmiles 34.0 and 44.3 and between the communities of Arrowbear Lake and Big Bear Lake in San Bernardino County

## **COMMENTS AND RECOMMENDATIONS**

CDFW offers the comments and recommendations below to assist California Department of Transportation District 8 in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document. Based on the Project's avoidance of significant impacts on biological resources with implementation of mitigation measures, CDFW concludes that a Mitigated Negative Declaration is appropriate for the Project.

### **California Spotted Owl (*Strix occidentalis*)**

CDFW is concerned the Special-Status Avian Species listed in the IS does not include the California spotted owl (CSPO). According to the California Natural Diversity Database there are five known CSPO territories near SR-18 within the Project area. CSPO is a California Species of Special Concern with a population that has been documented to be in a state of decline (Gutiérrez et al, 2017). Recent high intensity wildfires in the San Bernardino Mountains (including the Butler (2007), Butler II (2007), Slide (2007), Apple (2020), and El Dorado (2020) fires) have reduced the amount of CSPO habitat in the San Bernardino Mountains. BIO-17 (Bio-Avian-1) Pre-Construction

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Nesting Bird Survey should include specific language to include specific surveys to detect nesting CSPO. Surveys should determine the nesting status of the following territories SB015 (Bear Creek), SB075 (North Folk Bear Creek), SB061 (Snow Valley), SB062 (Little Green Valley), and SB155 (Green Valley Lake Road) to determine if the breeding status of the territories and if nests are present within .5 mile of a work location. Additionally, CDFW recommends if CSPO nests are detected within .5 mile of a work location, a limited operating period should be maintained during CSPO breeding season (February 15 through July 31). Additionally, to avoid and reduce impacts to CSPO, project activities should occur only during daytime hours.

CDFW appreciates the inclusion of Mitigation Measure (MM) BIO-17 (Bio-Avian-1), which provides mitigation for nesting birds. To further assist Caltrans in adequately mitigating the Project's potentially significant impacts to biological resources, CDFW offers revisions to MM BIO-17 as per below, and in Attachment 1 "Mitigation Monitoring and Reporting Program", pursuant to the CEQA Guidelines, section 15097(f). CDFW requests that Caltrans revise MM BIO-17 prior to finalizing the MND as follows (edits are in underline):

**BIO-17 (Bio-Avian-1) Pre-Construction Nesting Bird Survey:** Vegetation clearing should be done outside of the nesting bird season. If project activities cannot avoid the nesting season, generally regarded as February 1 – September 30, then preconstruction nesting bird surveys must be conducted up to the limit of the 500-foot BSA no later than 3 days prior to construction by a qualified Caltrans supplied biologist to locate and avoid nesting birds. If an active avian nest is located, a no-construction buffer (100 feet for non-passerine, 300 feet for passerine, and 500 feet for raptors) may be established and monitored by the Contractor Supplied biologist.

Prior to any construction activities, known California Spotted Owl Activity Centers (AC) within 0.5 mile from the project area (utilizing CDFW's Spotted Owl Database (<https://wildlife.ca.gov/Data/CNDDB/Spotted-Owl-Info>)). Any AC determined to be within ½ mile from a construction location shall be evaluated for breeding status using the 2012 Revision of the 2011 NSO Survey Protocol (USDI Fish and Wildlife Service, 2012). If CSPO individuals are detected during the preconstruction owl surveys construction activities shall be avoided during the breeding season, February 1 to July 31. Additionally, all construction activities within ½ mile of any known ACs shall occur only during daylight hours.

### **Special Status Plants**

CDFW is concerned that the MND does not address all potential special status plants potentially impacted during the project activities. CDFW recommends prior to the final design of the CMS and associated infrastructure (foundations, electrical cabinets, etc.)

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Caltrans shall determine if the proposed location supports populations of any Special-Status plant species. The siting of the CMS should incorporate the results of the survey to avoid impacts to any Special-status plant species.

CDFW appreciates the inclusion of MM BIO-13 (Bio-Plant-1) Rare Plant Surveys, Flagging, and Fencing, which provides mitigation for rare plants. To further assist Caltrans in adequately mitigating the Project's potentially significant impacts to biological resources, CDFW offers revisions to MM BIO-13 as per below, and in Attachment 1 "Mitigation Monitoring and Reporting Program", pursuant to the CEQA Guidelines, section 15097(f). CDFW requests that Caltrans revise MM BIO-13 prior to finalizing the MND as follows (edits are in underline):

**BIO-13 (Bio-Plant-1) Rare Plant Surveys, Flagging, and Fencing:** Prior to final design of the CMS Sign, a CDFW approved botanist for ash gray paintbrush (*Castilleja cinerea*), grey leaved violet (*Viola pinetorum* subsp. *grisea*), Parish's yampah (*Perideridia parishii* subsp. *parishii*), San Bernardino ragwort (*Packera bernardina*), lemon lily (*Lilium parryi*), little purple monkey flower (*Erythranthe purpurea*), San Bernardino Mountains monkeyflower (*Erythranthe exigua*), vanishing wild buckwheat (*Eriogonum evanidum*), male fern (*Dryopteris filix-mas*), San Bernardino Mountains owl's-clover (*Castilleja lasiorhyncha*), pygmy pussypaws (*Calyptridium pygmaeum*), and rocky sandwort (*Arenaria lanuginosa* var. *saxosa*) shall conduct a special status plant survey, according to CDFW, Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CNRA 2018), to inform the siting of the CMS sign and any associated infrastructure. Final design placement of the CMS infrastructure shall be at least 20 feet away from any special status population discovered during the predesign survey.

Within 3 days prior to construction, a preconstruction survey must be conducted by a Caltrans approved biologist for ash-gray paintbrush, gray leaved violet, Parish's yampah, San Bernardino ragwort, lemon lily, little purple monkey flower, San Bernardino Mountains monkeyflower, vanishing wild buckwheat, male fern, San Bernardino Mountains owl's-clover, pygmy pussypaws, and rocky sandwort within the PIA. Special-status plant species must be flagged for visual identification to construction personnel for work avoidance. Special-status plant species detected that feature multiple plants in a single location must be fenced within Environmentally Sensitive (ESA) temporary fencing.

## 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

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communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNNDDB field survey form can be filled out and submitted online 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://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

## ENVIRONMENTAL DOCUMENT FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document 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 environmental document filing 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

CDFW requests that Caltrans include in the final MND the suggested mitigation measures (Attachment 1) offered by CDFW to reduce Project impacts.

CDFW appreciates the opportunity to comment on the MND to assist California Department of Transportation District 8 in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Jason Bill, Environmental Scientist Specialist at [Christopher.Bill@wildlife.ca.gov](mailto:Christopher.Bill@wildlife.ca.gov) or (909) 549-5878.

Sincerely,

DocuSigned by:  
  
84FBB8273E4C480...

Alisa Ellsworth  
Environmental Program Manager

ec: Office of Planning and Research, State Clearinghouse, Sacramento,  
[state.clearinghouse@opr.ca.gov](mailto:state.clearinghouse@opr.ca.gov)

## ATTACHMENTS

Attachment 1: MMRP for CDFW-Proposed Mitigation Measures

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## **REFERENCES**

Gutiérrez, R.J.; Manley, Patricia N.; Stine, Peter A., tech. eds. 2017. The California spotted owl: current state of knowledge. Gen. Tech. Rep. PSW-GTR-254. Albany, CA: U.S. Department of Agriculture, Forest Service, Pacific Southwest Research Station. 294 p.

USDI Fish and Wildlife Service. 2012. 2011 Protocol for surveying proposed management activities that may impact northern spotted owls – 2012 Revision. U.S. Fish and Wildlife Service, Portland, OR.

California Natural Resources Agency. 2018. Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities.

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## Attachment 1: Mitigation Monitoring and Reporting Program (MMRP)

### PURPOSE OF THE MMRP

The purpose of the MMRP is to ensure compliance with mitigation measures during project implementation. Mitigation measures must be implemented within the time periods indicated in the table below.

### TABLE OF MITIGATION MEASURES

The following items are identified for each mitigation measure: Mitigation Measure, Implementation Schedule, and Responsible Party. The Mitigation Measure column summarizes the mitigation requirements. The Implementation Schedule column shows the date or phase when each mitigation measure will be implemented. The Responsible Party column identifies the person or agency that is primarily responsible for implementing the mitigation measure.

<b>Biological (BIO) Mitigation Measure</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>
<p>BIO-17 (Bio-Avian-1) Pre-Construction Nesting Bird Survey:</p> <p>Vegetation clearing should be done outside of the nesting bird season. If project activities cannot avoid the nesting season, generally regarded as February 1 – September 30, then preconstruction nesting bird surveys must be conducted up to the limit of the 500-foot BSA no later than 3 days prior to construction by a qualified Caltrans supplied biologist to locate and avoid nesting birds. If an active avian nest is located, a no-construction buffer (100 feet for non-passerine, 300 feet for passerine, and 500 feet for raptors) may be established and monitored by the Contractor Supplied biologist.</p> <p>Prior to any construction activities, known California Spotted Owl Activity Centers (AC) within 0.5 mile from the project area (utilizing CDFWs Spotted Owl Database</p>	<p>Prior to commencing ground- or vegetation disturbing activities</p>	<p>Project Proponent</p>

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<p>(<a href="https://wildlife.ca.gov/Data/CNDDDB/Spotted-Owl-Info">https://wildlife.ca.gov/Data/CNDDDB/Spotted-Owl-Info</a>). Any AC determined to be within ½ mile from a construction location shall be evaluated for breeding status using the 2012 Revision of the 2011 NSO Survey Protocol (USDI Fish and Wildlife Service, 2012). If CSPO individuals are detected during the preconstruction owl surveys construction activities shall be avoided during the breeding season, February 1 to July 31. Additionally, all construction activities within ½ mile of any known ACs shall occur only during daylight hours.</p>		
<p>BIO-13 (Bio-Plant-1) Rare Plant Surveys, Flagging, and Fencing:</p> <p>Prior to final design of the CMS Sign, a CDFW approved botanist for ash gray paintbrush (<i>Castilleja cinerea</i>), grey leaved violet (<i>Viola pinetorum subsp. grisea</i>), Parish's yampah (<i>Perideridia parishii subsp. parishii</i>), San Bernardino ragwort (<i>Packera bernardina</i>), lemon lily (<i>Lilium parryi</i>), little purple monkey flower (<i>Erythranthe purpurea</i>), San Bernardino Mountains monkeyflower (<i>Erythranthe exigua</i>), vanishing wild buckwheat (<i>Eriogonum evanidum</i>), male fern (<i>Dryopteris filix-mas</i>), San Bernardino Mountains owl's-clover (<i>Castilleja lasiorhyncha</i>), pygmy pussypaws (<i>Calyptridium pygmaeum</i>), and rocky sandwort (<i>Arenaria lanuginosa var. saxosa</i>) shall conduct a special status plant survey to inform the siting of the CMS sign and any associated infrastructure. Final design placement of the CMS infrastructure shall be at least 20 feet away from any special status population discovered during the predesign survey.</p>	<p>Prior to commencing ground- or vegetation disturbing activities</p>	<p>Project Proponent</p>



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<p>Within 3 days prior to construction, a preconstruction survey must be conducted by a Caltrans approved biologist for ash-gray paintbrush, gray leaved violet, Parish's yampah, San Bernardino ragwort, lemon lily, little purple monkey flower, San Bernardino Mountains monkeyflower, vanishing wild buckwheat, male fern, San Bernardino Mountains owl's-clover, pygmy pussypaws, and rocky sandwort within the PIA. Special-status plant species must be flagged for visual identification to construction personnel for work avoidance. Special-status plant species detected that feature multiple plants in a single location must be fenced within Environmentally Sensitive (ESA) temporary fencing.</p>		
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