

## Dorman, April@Wildlife

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**From:** Tran, Harvey@Wildlife  
**Sent:** Monday, June 20, 2022 2:24 PM  
**To:** Azevedo, Jaycee A@DOT  
**Cc:** Wildlife R2 CEQA; Wilson, Billie@Wildlife; Garcia, Jennifer@Wildlife; Thomas, Kevin@Wildlife  
**Subject:** Caltrans 10-1F720 State Route 4 Culvert Replacement - CDFW CEQA comments PT 2022-0200-0000-R2

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Governor's Office of Planning & Research

**JUN 21 2022**

Hi Jaycee,

### STATE CLEARINGHOUSE

I hope you're doing well in Stockton.

The California Department of Fish and Wildlife (CDFW) appreciates the opportunity to comment on the proposed draft Initial Study with Proposed Mitigated Negative Declaration (MND) for the State Route 4 Culvert Replacement Project (Project). CDFW is responding to the draft MND as a Trustee Agency for fish and wildlife resources (Fish & G. Code, §§ 711.7 & 1802, and CEQA Guidelines, §§ 15386), and as a Responsible Agency regarding any discretionary actions (CEQA Guidelines Section 15381), such as the issuance of a Lake or Streambed Alteration Agreement (California Fish and Game Code Sections 1600 et seq.) and/or a California Endangered Species Act (CESA) Permit for incidental take of endangered, threatened, and/or candidate species (California Fish and Game Code Sections 2080 and 2080.1).

This Project is located along State Routes 4 (PM 26.77-31.21), 88 (PM 6.94-24.42), and 89 (PM 5.46-14.7) at various locations in Alpine County. The Project proposes to rehabilitate or replace 31 deteriorated culverts. Existing culverts would be replaced with reinforced concrete pipe culverts, and end treatments would be installed at inlets and outlets where necessary. Certain culverts would be replaced with the existing size, and others would be upsized to maintain existing water flow capacity. The Project would also upgrade or replace end treatments and headwalls as needed. To maintain and upgrade the existing facilities, work off the paved roadway, ground disturbance, work in the channel, and vegetation removal would be required. Permanent right-of-way acquisition, temporary construction easements, and work on federal lands would be required.

CDFW recommends the following items be addressed in the CEQA document:

#### **Comment 1: Temporary water diversions and Sierra Nevada yellow-legged frogs, Page 17.**

If temporary water diversion involves using water pumps, CDFW recommends the mesh size of the dewatering pumps to be no larger than 0.125" to prevent take of tadpoles. CDFW also recommends creating sites in gravel/cobble bars to draft water from or using very deep pools. If none are present, then have the operators dig a hole in the gravel/cobble bars and allow subsurface flow to fill the hole and then draft from there. The sites will need to be fenced so juvenile/adult frogs and other mobile species do not colonize them. If "take" or adverse impacts to Sierra Nevada yellow-legged frogs cannot be avoided either during Project activities or over the life of the Project, Caltrans must consult CDFW to determine if a CESA incidental take permit is needed (pursuant to Fish & Game Code, § 2080 et seq.).

#### **Comment 2: Special-Status Animals – Preconstruction Surveys: Western Bumblebee, Page 24**

The MND states that western bumblebee has potential to occur in the Project area and that no formal surveys were conducted. CDFW recommends focused survey be conducted before construction commences to verify the presence/absence of the species in the Project area and if Project activities will impact the species.

CDFW recommends including the following in the MND:

*Due to suitable habitat within the Project site, within one year prior to vegetation removal and/or grading, a qualified entomologist familiar with the species behavior and life history should conduct surveys to determine the presence/absence of western bumblebee. Surveys should be conducted during flying season when the species is most likely to be detected above ground, between March 1 to September 1 (Thorp et al. 1983). Survey results including negative findings should be submitted to CDFW prior to initiation of Project activities. If “take” or adverse impacts to Crotch’s bumble bee cannot be avoided either during Project activities or over the life of the Project, Caltrans must consult CDFW to determine if a CESA incidental take permit is needed (pursuant to Fish & Game Code, § 2080 et seq.).*

**Comment 3: Roosting Bat Avoidance – Avoid Active Roosts, Page 26**

CDFW recommends adding measures to avoid bat impacts and proportionately enhance or create habitat impacted as a result of the Project. CDFW recommends utilizing the following measures, as appropriate, to reduce potentially significant impacts to bat habitat:

Qualified Bat Biologist. Retain a biologist with expertise and experience with bats and their habitat. The minimum qualifications for the biologist should include at least 3 years of experience in conducting bat habitat assessments, night-time emergence surveys, and acoustic monitoring. The bat biologist should have adequate experience identifying local bat species (visual and acoustic identification), type of habitat, and differences in roosting behavior and types (i.e., day, night, maternity). The Qualified Bat Biologist should ensure that no Project Activities occur within 200 ft of a bat roost during the maternity (typically April 15 to August 31) or hibernation (typically October 15 to March 1) seasons.

Surveys and Monitoring. Conduct pre-Project surveys or monitoring, usually over the course of spring, summer, fall, and winter (and possibly for two or more years) to determine which bat species are using the site. Multiple survey visits are necessary because different species may use a particular roost only during certain seasons (maternity, hibernation, dispersal, migration). Furthermore, multiple visits within a season may be necessary to ensure intermittent use is observed. Due to year-to-year variation in use, multiple years of surveys may also be necessary.

Bat Avoidance Plan. The Qualified Bat Biologist should prepare a Bat Avoidance Plan for roosts identified during pre-construction surveys. The Bat Avoidance Plan should include detailed measures to avoid and minimize impacts to roosting bats in and near the construction areas. Bats should not be disturbed without an experienced biologist overseeing avoidance and minimizations measures designed to protect nesting/roosting bats. All appropriate exclusionary measures should be implemented prior to construction during the period of March 1 to April 15 or August 31 to October 15. Potential avoidance efforts may include exclusionary blocking or filling potential roosting cavities with foam or steel wool, visual monitoring, and staging Project work to avoid bats. If bats are known to use the structure, exclusion netting should not be used. CDFW does not recommend utilizing netting as an exclusion method due to the likelihood of bats being entangled on it. The exclusion device should be monitored at least weekly. CDFW further recommends that construction activities be implemented outside the critical hibernation and maternity seasons if feasible.

**Comment 4: Nesting Bird Avoidance – Avoid Active Nests, Page 27**

The Project has the potential to disturb bird species or nests protected under the Migratory Bird Treaty Act (MBTA), FGC §3503 and 3503.5. Since Project activities may occur during the nesting season (determined by region, species, and climate), construction activities could result in disturbance to nesting raptors and other migratory birds. Raptors and other migratory birds are protected under the MBTA and FGC §3503.5; therefore, potential impacts may be considered potentially significant unless adequate avoidance, minimization and/or mitigation is incorporated. If nests are identified on or adjacent to the Project site, implementation of the Project may adversely impact the success of the nest site and/or take a bird, their eggs and/or nest.

All measures to protect non-listed birds should be performance-based. While some birds may tolerate disturbance within 100 or 300 feet of construction activities, other birds may have a different disturbance threshold and “take” (FGC §86) could occur if the no-work buffers are not designed to reduce stress to that individual pair. CDFW recommends including performance-based protection measures for avoiding all nests protected under the Migratory Bird Treaty Act and FGC §3503.5. A 100 or 300-foot no-work buffer may be sufficient; however, that buffer may need to be increased based on the birds’ tolerance level to the disturbance. Below is an example of a performance-based protection measure:

*Should construction activities cause the nesting bird to vocalize, make defensive flights at intruders, get up from a brooding position, or fly off the nest, then the exclusionary buffer will be increased such that activities are far enough from the nest to stop this agitated behavior. The exclusionary buffer will remain in place until the chicks have fledged or as otherwise determined by a qualified biologist.*

**Comment 4: Compensatory Mitigation-Wetlands and Other Waters of the United States, Pages 27-28**

CDFW does not accept in-lieu fee for mitigation to areas under 1602 authority (e.g., intermittent and ephemeral streams, etc.). CDFW may ask for greater than 1:1 mitigation depending on the quality of the habitat impacted. Mitigation purchase should be done at a CDFW-approved mitigation bank or it can be done by another mechanism approved by CDFW. CDFW recommends the MND state the acceptable CDFW-approved mitigation.

Please note that when acting as a responsible agency, CEQA guidelines section 15096, subdivision (f) requires CDFW to consider the CEQA environmental document prepared by the lead agency prior to reaching a decision on the Project. Addressing CDFW's comments and disclosing potential Project impacts on CESA-listed species and any river, lake, or stream, and provide adequate avoidance, minimization, mitigation, monitoring, and reporting measures; will assist CDFW with the consideration of the MND.

Thanks.

**Harvey Tran**

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