



State of California – Natural Resources Agency
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GAVIN NEWSOM, Governor
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December 2, 2022

Chelsea Starr
California Department of Transportation
2015 E. Shields Ave., Suite 100
Fresno, California 93726

**Subject: State Route 180 Two-way Left-turn Channelization
Initial Study with Proposed Mitigated Negative Declaration
State Clearinghouse No. 2022060682**

Dear Chelsea Starr:

The California Department of Fish and Wildlife (CDFW) received an Initial Study with Proposed Mitigated Negative Declaration (MND) from the California Department of Transportation (Caltrans) for the above-referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

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, CDFW appreciates 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 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.

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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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.), related authorization as provided by the Fish and Game Code will be required.

Nesting Birds: CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include, sections 3503 (regarding unlawful take, possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

PROJECT DESCRIPTION SUMMARY

Proponent: California Department of Transportation (Caltrans)

Objective: Caltrans proposes to widen the south side of State Route 180 by 15 feet and install a two-way left-turn lane within the project limits. The project is needed to reduce the exposure of vehicles that are waiting to make left turns from State Route 180 and to provide refuge for vehicles that are turning onto State Route 180. Other work would include upgrading drainage systems through the project limits, installing one traffic monitoring station system, and oak tree and vegetation removal. Construction would occur at night.

Location: The proposed Project is located between 0.4 mile east of George Smith Road and Elwood Road in Squaw Valley in Fresno County. The proposed work will occur in the existing highway right-of-way of State Route 180 between post miles 89.6 and post mile 90.7. The project would be from post mile 89.6 to post mile 90.7. The project is in a portion of Section 3, Township 14 South, Range 25 East, Mount Diablo Base and Meridian.

Timeframe: Although a proposed construction schedule was not identified, the project is programmed in the 2023/2024 State Highway Operation and Protection Program. Construction would occur at night.

COMMENTS AND RECOMMENDATIONS

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

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Editorial comments or other suggestions may also be included to improve the document.

There are special-status species that may be present at the Project site or in the Project area. These resources may need to be evaluated and addressed prior to any approvals that would allow ground-disturbing activities or land use changes. CDFW is concerned regarding potential impacts to nesting birds and special-status species including, but not limited to, the Federally threatened and State threatened California tiger salamander (*Ambystoma californiense*), the state Candidate endangered Crotch bumblebee (*Bombus crotchii*), and the State species of special concern western spadefoot (*Spea hammondi*).

I. Environmental Setting and Related Impact

Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or the United States Fish and Wildlife Service (USFWS)?

COMMENT 1: California tiger salamander (CTS)

Issue: The project is within range of CTS, within dispersal distance from potential CTS breeding habitat, and will be impacting potential CTS upland habitat. CTS have been determined to be physiologically capable of dispersing up to approximately 1.5 miles from seasonally flooded wetlands (Searcy and Shaffer 2011). CTS breed and develop in vernal and seasonal pools and stock ponds in grassland, woodland, and scrub habitat types.

The Project site contains grassland and woodland habitats that will be permanently and temporarily impacted by the proposed Project. The Project site and its immediate surroundings supports small mammal burrows, a requisite upland habitat feature for CTS. Although there are no CNDDDB records of CTS that are presumed extant within dispersal distance of the proposed project, designated critical habitat is 3 miles to the west of the Project area. Based on aerial photography and the National Wetland Inventory, potentially suitable breeding habitat is found within 1.5 miles of the project site on private properties. Among potential breeding pools in this range, one ephemeral pool is located 50 feet to the south of the proposed work limits, another is located 0.25 miles to the south.

The MND did not include an evaluation of potential breeding habitat within dispersal distance of the project area and state Endangered Species Act consultation with CDFW has not been proposed.

Specific impacts: Without appropriate avoidance and minimization measures for CTS, potential significant impacts that may result from Project activities include direct mortality to CTS by construction activities and permanent and temporary

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impacts to upland dispersal habitat. Construction disturbances could potentially include collapse of small mammal burrows, inadvertent entrapment, loss of upland refugia, and direct mortality of individuals. Any take of CTS without appropriate incidental take authorization would be a violation of Fish and Game Code.

Evidence impact is potentially significant: Up to 75% of historic CTS habitat has been lost to urban and agricultural development (Searcy et al. 2013). Loss, degradation, and fragmentation of habitat are the primary threats to CTS. The presence of CTS is undetermined in the potentially suitable breeding ponds within dispersal range of the proposed Project. Without survey evidence, based on the quality of suitable upland habitat in the Project vicinity and lack of physical barriers from designated critical habitat for CTS, presence of CTS in the potentially suitable breeding habitat should be assumed. Therefore, CTS may utilize suitable upland habitats in the project area for refugia and dispersal.

The MND has identified that work will occur at night when CTS are more active above ground. Depending on the timing of the work relative to dispersal events or aestivation, CTS moving overland could be crushed by construction equipment or CTS could be crushed in underground burrows that may or may not be visible above ground.

Recommended addition of Avoidance, Minimization, and/or Minimization Measures for CTS:

CDFW recommends that a qualified biologist conduct protocol- level surveys in accordance with the USFWS "Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander" (USFWS 2003) at the appropriate time of year to determine the existence and extent of CTS breeding and refugia habitat. The protocol- level surveys for CTS require more than one survey season and are dependent upon sufficient rainfall to complete. As a result, consultation with CDFW and the USFWS is recommended well in advance of beginning the surveys and prior to any planned vegetation- or ground-disturbing activities. CDFW advises that the protocol- level survey include a 100-foot buffer around the Project area in all areas of wetland and upland habitat that could support CTS. Please be advised that protocol- level survey results are viable for two years after the results are reviewed by CDFW.

If CTS protocol- level surveys described above are not conducted, CDFW recommends a minimum 50-foot no-disturbance buffer be delineated around all small mammal burrows in suitable upland refugia habitat within and/or adjacent to the Project site. Further, CDFW recommends potential or known breeding habitat within and/or adjacent to the Project site be delineated with a minimum 250-foot no-disturbance buffer. Both upland burrow and wetland/pond breeding no-disturbance buffers are intended to minimize impacts to CTS habitat and avoid take of individuals. Alternatively, the applicant can assume presence of CTS within the

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Project site and obtain from CDFW an Incidental Take Permit (ITP) in accordance with Fish and Game Code section 2081 subdivision (b).

Prior to construction, CDFW recommends that Caltrans install exclusionary fencing around the work limits during construction to minimize the risk that CTS will enter the work areas. CDFW recommends that any exclusion fencing avoid small mammal burrows by a minimum of 50 feet and avoid potential or known breeding habitat by a minimum of 250 feet. Similar to the activities above, these buffers are intended to minimize impacts to CTS habitat and avoid take of individuals. Be advised that Fish and Game Code defines take as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill." If any CTS are discovered within the exclusion fence, CDFW will likely consider that take, and a violation of CESA if the Project does not have an ITP.

If through surveys or other observations it is determined that CTS are occupying or have the potential to occupy the Project site, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided, take authorization would occur through issuance of an ITP by CDFW, pursuant to Fish and Game Code section 2081 subdivision (b).

COMMENT 2: Crotch Bumblebee (CBB)

Issue: CBB have been documented to occur within areas of suitable habitat within the Project vicinity (CDFW 2022). Suitable CBB habitat includes areas of grasslands, openings in woodlands, and upland scrub that contain requisite habitat elements, such as small mammal burrows. CBB primarily nest in late February through late October underground in abandoned small mammal burrows but may also nest under perennial bunch grasses or thatched annual grasses, under brush-piles, in old bird nests, and in dead trees or hollow logs (Williams et al. 2014; Hatfield et al. 2015). Overwintering sites utilized by CBB mated queens include soft, disturbed soil (Goulson 2010), or under leaf litter or other debris (Williams et al. 2014).

CDFW does not agree with the assessment in the MND that CBB would not occur in the project area due to lack of field observations, historic CNDDDB records, and limited suitable habitat. Focused surveys were not conducted to search for bumble bees. The MND has identified that upland habitat occurs in the Project area, including areas with small mammal burrows.

Specific impact: Based on the information provided in the MND, potential ground disturbance and vegetation removal associated with Project implementation may significantly impact local CBB populations, if present. Presence could vary from year to year, so CDFW recommends that presence be assumed in suitable habitat areas. CDFW does not concur that the Project-related effects to the species are less-than-significant. CBB nest in underground burrows and in thatch and unless

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these potential nest sites are avoided, Project-related ground disturbance could result in take of the species.

Evidence impact is potentially significant: CBB was once common throughout most of the central and southern California; however, it now appears to be absent from most of it, especially in the central portion of its historic range within California's Central Valley (Hatfield et al. 2014). Analyses by the Xerces Society et al. (2018) suggest there have been sharp declines in relative abundance by 98% and persistence by 80% over the last ten years. CBB could occupy grassland, ruderal, and oak savannah areas within and adjoining portions of the Project area and Project-related ground disturbance in these areas could result in significant effects to the species.

Recommended addition of Avoidance, Minimization, and/or Minimization Measures for CBB:

CDFW recommends that a qualified biologist conduct focused surveys for CBB and their requisite habitat features to evaluate potential impacts resulting from ground- and vegetation-disturbance associated with Project ground-disturbing activities.

If surveys cannot be completed, CDFW recommends that all small mammal burrows and thatched/bunch grasses be avoided by a minimum of 50 feet to avoid take and potentially significant impacts. If ground-disturbing activities will occur during the overwintering period (October through February), consultation with CDFW is warranted to discuss how to implement Project activities and avoid take.

If CBB is observed in the Project area, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided, take authorization prior to any ground- disturbing activities may be warranted. Take authorization would occur through issuance of an ITP by CDFW, pursuant to Fish and Game Code section 2081 subdivision (b).

COMMENT 3: Western spadefoot (WESP)

Issue: WESP inhabit grassland habitats, breed in seasonal wetlands or ephemeral pools, and seek refuge in upland habitat where they occupy burrows outside of the breeding season (Thomson et al. 2016). The MND identifies grassland/upland habitat with burrows within and adjacent to the Project area, which is one of the requisite habitat elements, as well as seasonally flooded streams that could be used for breeding. CDFW does not agree with the assessment in the MND that WESP would not occur in the project area due to lack of field observations, historic CNDDDB records, and limited suitable habitat. Focused surveys were not conducted to search for WESP.

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Specific impact: WESP are known to occur in the Project vicinity (CDFW 2022). Seasonal streams and ephemeral pools in and near the Project area may provide potential breeding habitat. Without appropriate avoidance and minimization measures for western spadefoot, potentially significant impacts associated with ground disturbance include collapse of small mammal burrows, inadvertent entrapment, loss of upland refugia, reduced reproductive success, reduction in health and vigor of eggs and/or young, and direct mortality of individuals.

Evidence impact is potentially significant: Habitat loss and fragmentation resulting from agricultural and urban development is the primary threat to western spadefoot (Thomson et al. 2016). The Project area is within the range of western spadefoot, contains suitable upland habitat and potential breeding habitat. As a result, ground-disturbing activities associated with Project construction have the potential to significantly impact local populations of this species.

Recommended addition of Avoidance, Minimization, and/or Minimization Measures for WESP:

CDFW recommends that a qualified biologist conduct focused surveys for WESP and their requisite habitat features to evaluate potential impacts resulting from ground- and vegetation-disturbance. Avoidance whenever possible is encouraged via delineation and observance of a 50-foot no-disturbance buffer around burrows. If WESP are observed on the Project site, CDFW recommends that Caltrans stop work in their immediate vicinity and individuals be allowed to leave the Project site on their own accord. Alternatively, a qualified biologist with appropriate authorization can move them out of harm's way and to a suitable location.

II. Editorial Comments and/or Suggestions

Nesting birds: CDFW encourages that Project implementation occur during the bird non-nesting season; however, if ground-disturbing or vegetation-disturbing activities must occur during the breeding season (February through mid-September), the Project applicant is responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Codes as referenced above.

To evaluate Project-related impacts on nesting birds, CDFW recommends that a qualified wildlife biologist conduct pre-activity surveys for active nests no more than 10 days prior to the start of ground or vegetation disturbance to maximize the probability that nests that could potentially be impacted are detected. CDFW also recommends that surveys cover a sufficient area around the Project site to identify nests and determine their status. A sufficient area means any area potentially affected by the Project. In addition to direct impacts (i.e. nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. Prior to initiation of construction activities, CDFW recommends that a qualified biologist conduct a survey to establish a behavioral baseline of all identified nests. Once

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construction begins, CDFW recommends having a qualified biologist continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends halting the work causing that change and consulting with CDFW for additional avoidance and minimization measures.

If continuous monitoring of identified nests by a qualified wildlife biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or on-site parental care for survival. Variance from these no-disturbance buffers is possible when there is compelling biological or ecological reason to do so, such as when the construction area would be concealed from a nest site by topography. CDFW recommends that a qualified wildlife biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

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 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 mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

FILING FEES

If it is determined that the Project has the potential to impact biological resources, an assessment of filing fees will be 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).

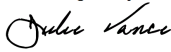
CDFW appreciates the opportunity to comment on the Project to assist Caltrans in identifying and mitigating the Project's impacts on biological resources.

More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>). If you have any questions, please contact Mindy Trask, Senior Environmental Scientist

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(Specialist), at the address provided on this letterhead, by telephone at (559) 939-02820, or by electronic mail at mary.trask@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Julie A. Vance
Regional Manager

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franklini), Suckley cuckoo bumble bee (*Bombus suckleyi*), and western bumble bee (*Bombus occidentalis occidentalis*) as Endangered under the California Endangered Species Act. October 2018.