



State of California – Natural Resources Agency  
 DEPARTMENT OF FISH AND WILDLIFE  
 South Coast Region  
 3883 Ruffin Road  
 San Diego, CA 92123  
 (858) 467-4201  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

GAVIN NEWSOM, Governor  
 CHARLTON H. BONHAM, Director



December 15, 2022

Jason Wilkinson  
 Department of Transportation, District 5  
 50 Higuera Street  
 San Luis Obispo, CA 93401  
[Jason.Wilkinson@dot.ca.gov](mailto:Jason.Wilkinson@dot.ca.gov)

**Subject: Notice of Preparation of a Draft Programmatic Environmental Impact Report for the Gaviota Creek Improvement Project, SCH #2022100348, Santa Barbara County**

Dear Mr. Wilkinson:

The California Department of Fish and Wildlife (CDFW) has reviewed the Notice of Preparation (NOP) of a Draft Programmatic Environmental Impact Report (DPEIR) from the California Department of Transportation (Caltrans; Lead Agency) for the Gaviota Creek Improvement Project (Project). 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's 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, subdivision (a) & 1802; Pub. Resources Code, § 21070; California Environmental Quality Act (CEQA) Guidelines, § 15386, subdivision (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 State 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, including 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.*), or CESA-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & G. Code, §1900 *et seq.*), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

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## Project Description and Summary

**Objective:** The Project proposes to restore fish passage at several locations along Gaviota Creek along United States Highway 101 (U.S. 101) in Santa Barbara County. The Project will address deficiencies of several existing grade control structures and culverts that present barriers to fish passage.

The Programmatic Environmental Impact Report will consist of two tiers, including Tier 1 Program-Level Analysis and Tier 2 Project-Level Analysis. The tiered approach to the environmental analysis will allow for all components of the Project to be analyzed under one document and implemented in phases as funding becomes available.

### Tier 1 – Program-Level Analysis

Tier 1 will analyze the reasonably foreseeable environmental impacts of the Project along Gaviota Creek for all Project segments between post miles 46.9 to 49.6.

- Segment A: Five grade control structures from post miles 46.9 to 47.2 will be removed and replaced with a roughened channel with jump heights not to exceed 6 inches. Additional retaining structures or modification to existing structures will be constructed to stabilize the creek bank and highway shoulders.
  - Grade Control Structure 1 post mile 46.92
  - Grade Control Structure 2 post mile 46.95
  - Grade Control Structure 3 post mile 47.12
  - Grade Control Structure 4 post mile 47.15
  - Grade Control Structure 5 post mile 47.19
- Segment B: Eight grade control structures from post miles 47.5 to 47.9 will be modified or replaced with a roughened channel with jump heights not to exceed 6 inches. Foundation work could be required at some locations to strengthen the existing retaining system.
  - Grade Control Structure 6 post mile 47.45
  - Grade Control Structure 7 post mile 47.71
  - Grade Control Structure 8 post mile 47.72
  - Grade Control Structure 9 post mile 47.74
  - Grade Control Structure 10 post mile 47.76
  - Grade Control Structure 11 post mile 47.77
  - Grade Control Structure 12 post mile 47.81
  - Grade Control Structure 13 post mile 47.92
- Segment C: This segment consists of a 11-by-10-foot reinforced concrete box culvert system at post mile 49.6. It will be removed and replaced with a 125-foot wide and 60-foot long single-span bridge. In addition, a private driveway will require realignment due to the placement of the bridge structure.
- Segment D: This segment consists of a culvert system at post mile 48.55 on Las Canovas Creek, tributary to Gaviota Creek. This 10-by-10-foot reinforced concrete box

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structure is a fish passage barrier. Further studies are required to determine remediation approach.

### Tier 2 – Project-Level Analysis

Tier 2 projects consist of Segment A and Segment C.

Construction activities would require ground disturbance, tree and vegetation removal, construction of access roads, temporary construction easements, in stream channel work, new bridge piers, and work within seasonally wet areas. Traffic control will be required, and night work is anticipated. Potholing may be required to determine if utilities need to be relocated. Geotechnical drilling will be required to gather data and assist with structure design. Staging and storage areas for equipment may be needed outside of existing pullouts and previously disturbed areas. Borrow and disposal sites are also anticipated for the Project. Work within the stream channel is required to remove the grade control structures and other structures requiring temporary creek diversions during the dry season at each location. A Natural Environmental Study will be prepared.

#### Segment A Alternatives:

- Build Alternative Option 1: Grade Control Structures 1 and 2 will be replaced with a roughened channel and rock slope protection will be replaced. Grade Control Structures 3, 4, and 5 would be replaced with a roughed channel with a retaining wall. Additionally, Grade Control Structures 1 and 2 would be initiated as Phase 1, and Grade Control Structures 3, 4, and 5 would be initiated as Phase 2.
- Build Alternative Option 2: Proposes to replace Grade Control Structures 1, 2, 4, and 5 with roughened channels and construct a retaining wall. Grade Control Structure 3 would be replaced as well, but the creek would be realigned, reducing the need for a retaining wall at this location.
- No-build Alternative: The Project would not be built.

#### Segment C Alternatives:

- Build Alternative: Remove and replace the existing culvert and replace with a new bridge.
- No-build Alternative: The Project would not be built.

**Location:** The Project is located along U.S. 101 from post mile 45.0 to post mile 50.0 in Santa Barbara County, approximately 7 miles south of Buellton and 25 miles west of Santa Barbara. Gaviota Creek crosses under U.S. 101 several times via existing culverts and drainage systems.

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## Comments and Recommendations

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

### Specific Comments

- 1) Project Design Analysis and Coordination. The Project will address fish passage barriers in Gaviota Creek. CDFW recommends the following is incorporated into the subsequent DPEIR as conditions of approval for all segments:
  - a) CDFW recommends the DPEIR contain measures to engage CDFW in early and continued coordination to assure an effective collaborative approach to project designs that will meet the Departments fish passage criteria. CDFW recommends sharing engineered drawings and design specification planning sheets during the initial design process, prior to design selection, and re-initiating design consultation at 30% design at minimum and through the permitting process for review and comment;
  - b) CDFW recommends including detailed description of hydraulic studies showing water surface profiles and channel velocities for fish passage design flows and the 50- and 100-year flows. The study would include a 2D hydraulic model of pre-project condition and proposed solutions. The study should begin 1000 feet downstream of the lower most grade control structure located at post mile 46.92 and continue to 1000 feet upstream of the culvert at post mile 49.6;
  - c) CDFW recommends including a detailed description of the geomorphic assessment of all segments to determine streambed and bank stability of current and proposed solutions;
  - d) CDFW recommends including a detailed description of sediment transport and scour analysis of all current and proposed structures; and,
  - e) CDFW recommends utilizing the design principles outlined in the California Salmonid Stream Habitat Restoration Manual, Part XII (CDFW, 2009) and NOAA Fisheries Service Guidelines for Salmonid Passage at Stream Crossings (NMFS, 2001) into the bridge design. CDFW strongly recommends incorporation of design concepts such as spans that are at minimum 1.5 times greater than the channel width to allow natural stream flow and sedimentation processes to continue for long term dynamic channel stability.
- 2) Additional barriers on Gaviota Creek. Several additional barriers are identified in the California Fish Passage Assessment Database (PAD) within the Project limits. For a comprehensive approach to watershed planning, CDFW recommends Caltrans include the following barriers while evaluating Gaviota Creek:
  - 1) Segment A – ID numbers 706655, 706656, 766336, 706657, 706658, and 706659;
  - 2) Segment B – temporal barrier ID number 706660 located downstream of Grade Control Structure 6;

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- 3) Segment D – ID number 705158 located downstream of the Las Canovas Creek Culvert on Gaviota Creek; and,
  - 4) An additional Segment – including ID numbers 707408, 736655, 706387, and 707409 located at the interchange of State Route 1 and U.S Hwy 101.
- 3) Project Description and Alternatives. CEQA Guidelines section 15126.6(a) states that an environmental document shall describe a reasonable range of potentially feasible alternatives to the Project, or to the location of the Project, which would feasibly attain most of the basic objectives of the Project but would avoid or substantially lessen any of the significant effects of the Project. In addition, Project alternatives should be thoroughly evaluated, even if an alternative would impede, to some degree, the attainment of the Project objectives or would be more costly (CEQA Guidelines, § 15126.6).
- a) Describe the purpose and need for each element of the project within the environmental document. CDFW recommends Caltrans provide details on Grade Control Structure 13 and the reason alteration of this structure is necessary. Grade Control Structure 13 is not identified in the PAD as a fish passage barrier. If it is identified as a fish passage barrier, CDFW recommends Caltrans provide assessment results for inclusion in the PAD.
  - b) CDFW recommends including a viaduct alternative in addition to Project alternatives that include retaining walls and rock slope protection. According to the 2007 Michael Love and Associates report, Gaviota Creek is geologically incising, and a large natural meander was removed in the early 1900's shortening the length of the creek by approximately 1600 feet. Straightening the creek causes increased velocities and subsequent incision. A viaduct alternative would allow the creek channel more space to restore the creek's natural geomorphic processes.
  - c) CDFW recommends that Project construction and activities, as well as the construction footprint, are designed and implemented in such a way as to fully avoid impacts to sensitive and special status plants and wildlife species, habitat, and sensitive vegetation communities.
- 4) Impacts to Streams. The Project site includes Gaviota Creek and its tributaries. As a Responsible Agency under CEQA, CDFW has authority over activities in streams and/or lakes that will divert or obstruct the natural flow, or change the bed, channel, or bank (including vegetation associated with the stream or lake) of a river or stream, or use material from a streambed. For any such activities, the Project applicant (or "entity") must provide written notification to CDFW pursuant to Fish and Game Code Section 1600 *et seq.*
- a) CDFW's issuance of a Lake and Streambed Alteration (LSA) Agreement for a project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the environmental document of the local jurisdiction (Lead Agency) for the Project. To minimize additional requirements by CDFW pursuant to section 1600 *et seq.* and/or under CEQA, the environmental document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for issuance of the LSA Agreement. Please visit CDFW's [Lake and Streambed Alteration Program](#) webpage for information about LSA Notification (CDFW

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2020).

- b) In the event the Project area may support aquatic, riparian, and wetland habitats; a preliminary delineation of the streams and their associated riparian habitats should be included in the environmental document. The delineation should be conducted pursuant to the U.S. Fish and Wildlife Service (USFWS) wetland definition adopted by CDFW (Cowardin et al. 1979). Be advised that some wetland and riparian habitats subject to CDFW's authority may extend beyond the jurisdictional limits of the U.S. Army Corps of Engineers' Section 404 permit and Regional Water Quality Control Board Section 401 Certification.
  - c) In Project areas which may support ephemeral or episodic streams, herbaceous vegetation, woody vegetation, and woodlands also serve to protect the integrity of these resources and help maintain natural sedimentation processes; therefore, CDFW recommends effective setbacks be established to maintain appropriately sized vegetated buffer areas adjoining ephemeral drainages.
  - d) Project-related changes in upstream and downstream drainage patterns, runoff, and sedimentation should be included and evaluated in the environmental document.
  - e) As part of the LSA Notification process, CDFW requests a hydrological evaluation of the 100, 50, 25, 10, 5, and 2-year frequency storm event for existing and proposed conditions. CDFW recommends the environmental document evaluate the results and address avoidance, minimization, and/or mitigation measures that may be necessary to reduce potential significant impacts.
- 5) Wildlife Corridors and Connectivity. The Projects are located along U.S. 101 which bisect the Santa Ynez Mountain Range. This region experiences wildlife-vehicle collisions and is an area of concern for wildlife connectivity. CDFW recommends Caltrans coordinate with the current connectivity study in progress for this section of U.S. 101 and incorporate the implementation recommendations where possible.
- 6) CESA-listed Species. The Project area supports CESA-listed species. CDFW recommends the DPEIR discuss the Project's potential impacts on CESA-listed species such as least Bell's vireo (*Vireo bellii pusillus*) and southwestern willow flycatcher (*Empidonax trailii extimus*). CDFW considers adverse impacts to a species protected by CESA to be significant without mitigation under CEQA. As to CESA, take of any endangered, threatened, candidate species, or CESA-listed plant species that results from the Project is prohibited, except as authorized by state law (Fish & G. Code §§ 2080, 2085; Cal. Code Regs., tit. 14, §786.9). Consequently, if the Project or any Project-related activity during the life of the Project will result in take of a species designated as endangered or threatened, or a candidate for listing under CESA, CDFW recommends that the Project proponent seek appropriate take authorization under CESA prior to implementing the Project. Appropriate authorization from CDFW may include an Incidental Take Permit (ITP) or a consistency determination in certain circumstances, among other options [Fish & Game Code, §§ 2080.1, 2081, subds. (b) and (c)]. Early consultation is encouraged, as significant modification to a Project and mitigation measures may be required in order to obtain a CESA Permit. Revisions to the Fish and Game Code, effective January 1998, may require that CDFW issue a separate CEQA document for the issuance of an ITP unless the Project

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CEQA document addresses all Project impacts to CESA-listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of an ITP. For these reasons, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for a CESA ITP.

- 7) Nesting Birds. CDFW recommends the DPEIR include measures to avoid potential impacts to nesting birds. Project activities occurring during the bird and raptor breeding and nesting season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment.
  - a) Migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (Code of Federal Regulations, Title 50, § 10.13). Sections 3503, 3503.5, and 3513 of the California Fish and Game Code prohibit take of all birds and their active nests including raptors and other migratory nongame birds (as listed under the Federal MBTA). It is unlawful to take, possess, or needlessly destroy the nest or eggs of any raptor.
  - b) CDFW recommends that measures be taken to fully avoid impacts to nesting birds and raptors. Ground-disturbing activities (e.g., mobilizing, staging, drilling, and excavating) and vegetation removal should occur outside of the avian breeding season which generally runs from February 15 through August 31 (as early as January 1 for some raptors) to avoid take of birds, raptors, or their eggs.
  - c) If impacts to nesting birds and raptors cannot be avoided, CDFW recommends the DPEIR include measures to mitigate for impacts. CDFW recommends surveys by a qualified biologist with experience conducting breeding bird and raptor surveys. Surveys are needed to detect protected native birds and raptors occurring in suitable nesting habitat that may be disturbed and any other such habitat within 300 feet of the Project disturbance area, to the extent allowable and accessible. For raptors, this radius should be expanded to 500 feet and 0.5 mile for special status species, if feasible. Project personnel, including all contractors working on site, should be instructed on the sensitivity of the area. Reductions in the nest buffer distance may be appropriate depending on the avian species involved, ambient levels of human activity, screening vegetation, or possibly other factors.
- 8) Bats. Numerous bat species are known to roost in trees and structures throughout Santa Barbara County. Bats use trees, culverts, bridges, and man-made structures for daytime and nighttime roosts. Project construction and activities, including (but not limited to) ground disturbance, vegetation removal, and any activities leading to increased noise levels may have direct and/or indirect impacts on bats and roosts. Accordingly, CDFW recommends the DPEIR provide measures to avoid potential impacts to bats.
  - a) Bats are considered non-game mammals and are afforded protection by state law from take and/or harassment (Fish & G. Code, § 4150; Cal. Code of Regs., § 251.1). In addition, some bat species are considered California Species of Special Concern (SSC). CEQA provides protection not only for CESA-listed species, but for any species including but not limited to SSC.

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- b) CDFW recommends a project-level biological resources survey provide a thorough discussion and adequate disclosure of potential impacts to bats and habitat supporting roosting bats. CDFW recommends a qualified bat specialist conduct nighttime emergence surveys at the appropriate time of year to identify maternity roosts. Acoustic recognition technology is suggested to maximize detection of bats. If necessary, to reduce impacts to less than significant, a project-level environmental document should provide bat-specific avoidance and/or mitigation measures [CEQA Guidelines, § 15126.4(a)(1)]. If bridges are proposed, Caltrans should ensure no bat habitat is lost and consider increasing bat habitat if feasible with structures such as false expansion joints.
- 2) Western Pond Turtle. The habitat in and surrounding Gaviota Creek is suitable for western pond turtle (*Emys marmorata*). Construction and dewatering activities may impact western pond turtles and their habitat. CDFW recommends surveys be conducted using the United States Geological Survey's 2006 Western Pond Turtle Visual Survey Protocol for the Southcoast Ecoregion (USGS 2006). If turtles are shown to be on or within 1,500 feet of proposed project site or if south-facing slopes of upland habitat cannot be avoided, CDFW recommends a qualified biologist develop a Western Pond Turtle Management Plan for CDFW concurrence.

### General Comments

- 1) Disclosure. An environmental document should provide an adequate, complete, and detailed disclosure about the effect which a proposed project is likely to have on the environment (Pub. Resources Code, § 20161; CEQA Guidelines, §15151). Adequate disclosure is necessary so CDFW may provide comments on the adequacy of proposed avoidance, minimization, or mitigation measures, as well as to assess the significance of the specific impact relative to the species (e.g., current range, distribution, population trends, and connectivity).
- 2) Mitigation Measures. Public agencies have a duty under CEQA to prevent significant, avoidable damage to the environment by requiring changes in projects through the use of feasible alternatives or mitigation measures [CEQA Guidelines, §§ 15002(a)(3), 15021]. Pursuant to CEQA Guidelines section 15126.4, an environmental document shall describe feasible measures which could mitigate for impacts below a significant level under CEQA.
  - a) Level of Detail. Mitigation measures must be feasible, effective, implemented, and fully enforceable/imposed by the lead agency through permit conditions, agreements, or other legally binding instruments (Pub. Resources Code, § 21081.6(b); CEQA Guidelines, §§ 15126.4, 15041). A public agency shall provide the measures that are fully enforceable through permit conditions, agreements, or other measures (Pub. Resources Code, § 21081.6). CDFW recommends that Caltrans prepare mitigation measures that are specific, detailed (i.e., responsible party, timing, specific actions, location), and clear in order for a measure to be fully enforceable and implemented successfully via a mitigation monitoring and/or reporting program (CEQA Guidelines, § 15097; Pub. Resources Code, § 21081.6). Adequate disclosure is necessary so CDFW may provide comments on the adequacy and feasibility of proposed mitigation measures.



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- b) Disclosure of Impacts. If a proposed mitigation measure would cause one or more significant effects, in addition to impacts caused by the Project as proposed, the environmental document should include a discussion of the effects of proposed mitigation measures [CEQA Guidelines, § 15126.4(a)(1)]. In that regard, the environmental document should provide an adequate, complete, and detailed disclosure about a project's proposed mitigation measure(s). Adequate disclosure is necessary so CDFW may assess the potential impacts of proposed mitigation measures.
- 3) Biological Baseline Assessment. An adequate biological resources assessment should provide a complete assessment and impact analysis of the flora and fauna within and adjacent to a project site and where a project may result in ground disturbance. The assessment and analysis should place emphasis upon identifying endangered, threatened, sensitive, regionally, and locally unique species, and sensitive habitats. Impact analysis will aid in determining any direct, indirect, and cumulative biological impacts, as well as specific mitigation or avoidance measures necessary to offset those impacts. CDFW recommends avoiding any sensitive natural communities found on or adjacent to a project. CDFW also considers impacts to Species of Special Concern a significant direct and cumulative adverse effect without implementing appropriate avoid and/or mitigation measures. A project-level environmental document should include the following information:
- a) Information on the regional setting that is critical to an assessment of environmental impacts, with special emphasis on resources that are rare or unique to the region [CEQA Guidelines, § 15125(c)]. An environmental document should include measures to fully avoid and otherwise protect Sensitive Natural Communities from project-related impacts. CDFW considers these communities as threatened habitats having both regional and local significance. Plant communities, alliances, and associations with a state-wide ranking of S1, S2, S3 and S4 should be considered sensitive and declining at the local and regional level. These ranks can be obtained by visiting [Vegetation Classification and Mapping Program - Natural Communities](#) webpage (CDFWa 2020);
- b) A thorough, recent, floristic-based assessment of special status plants and natural communities following CDFW's [Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities](#) (CDFW 2018). Adjoining habitat areas should be included where Project construction and activities could lead to direct or indirect impacts off site;
- c) Floristic, alliance- and/or association-based mapping and vegetation impact assessments conducted at a project site and within the neighboring vicinity. The [Manual of California Vegetation](#) (MCV), second edition, should also be used to inform this mapping and assessment (Sawyer et al. 2009). Adjoining habitat areas should be included in this assessment where project activities could lead to direct or indirect impacts off site. Habitat mapping at the alliance level will help establish baseline vegetation conditions;
- d) A complete, recent, assessment of the biological resources associated with each habitat type on site and within adjacent areas that could also be affected by a project. CDFW's [California Natural Diversity Database](#) (CNDDDB) in Sacramento should be contacted to obtain current information on any previously reported sensitive species and habitat (CDFWb 2020). An assessment should include a nine-quadrangle search of the CNDDDB

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to determine a list of species potentially present at a project site. A lack of records in the CNDDDB does not mean that rare, threatened, or endangered plants and wildlife do not occur in the project site. Field verification for the presence or absence of sensitive species is necessary to provide a complete biological assessment for adequate CEQA review [CEQA Guidelines, § 15003(i)];

- e) A complete, recent, assessment of rare, threatened, and endangered, and other sensitive species on site and within the area of potential effect, including California Species of Special Concern, and California Fully Protected Species (Fish & G. Code, §§ 3511, 4700, 5050, and 5515). Species to be addressed should include all those which meet the CEQA definition of endangered, rare, or threatened species (CEQA Guidelines, § 15380). Seasonal variations in use of a project site should also be addressed such as wintering, roosting, nesting, and foraging habitat. Focused species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, may be required if suitable habitat is present. See CDFW's [Survey and Monitoring Protocols and Guidelines](#) for established survey protocol for select species (CDFWc 2020). Acceptable species-specific survey procedures may be developed in consultation with CDFW and the U.S. Fish and Wildlife Service;
  - f) A recent wildlife and rare plant survey. CDFW generally considers biological field assessments for wildlife to be valid for a one-year period, and assessments for rare plants may be considered valid for a period of up to three years. Some aspects of a proposed project may warrant periodic updated surveys for certain sensitive taxa, particularly if build out could occur over a protracted time frame or in phases; and,
  - g) A biological resources survey should include identification and delineation of any rivers, streams, and lakes and their associated natural plant communities/habitats. This includes any culverts, ditches, storm channels that may transport water, sediment, pollutants, and discharge into rivers, streams, and lakes.
- 4) Data. CEQA requires that information developed in environmental impact reports 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 by completing and submitting [CNDDDB Field Survey Forms](#) (CDFW 2020d). Caltrans should ensure data collected at a project-level has been properly submitted, with all data fields applicable filled out. The data entry should also list pending development as a threat and then update this occurrence after impacts have occurred.
- 5) Biological Direct, Indirect, and Cumulative Impacts. CDFW recommends providing a thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources, with specific measures to offset such impacts. The DPEIR should address the following:
- a) A discussion regarding Project-related indirect impacts on biological resources, including resources in nearby public lands, open space, adjacent natural habitats, riparian ecosystems, and any designated and/or proposed or existing reserve lands [e.g., preserve lands associated with a Natural Community Conservation Plan (NCCP, Fish &

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- G. Code, § 2800 et. seq.)). Impacts on, and maintenance of, wildlife corridor/movement areas, including access to undisturbed habitats in adjacent areas, should be fully evaluated in the DPEIR;
- b) A discussion of both the short-term and long-term effects to species population distribution and concentration and alterations of the ecosystem supporting the species impacted [CEQA Guidelines, § 15126.2(a)];
  - c) A discussion of potential adverse impacts from lighting, noise, temporary and permanent human activity, and exotic species, and identification of any mitigation measures;
  - d) A discussion on Project-related changes on drainage patterns; the volume, velocity, and frequency of existing and post-Project surface flows; polluted runoff; soil erosion and/or sedimentation in streams and water bodies; and, post-Project fate of runoff from the Project sites. The discussion should also address the potential water extraction activities and the potential resulting impacts on the habitat (if any) supported by the groundwater. Mitigation measures proposed to alleviate such Project impacts should be included;
  - e) An analysis of impacts from proposed changes to land use designations and zoning, and existing land use designation and zoning located nearby or adjacent to natural areas that may inadvertently contribute to wildlife-human interactions. A discussion of possible conflicts and mitigation measures to reduce these conflicts should be included in the DPEIR; and,
  - f) A cumulative effects analysis, as described under CEQA Guidelines section 15130. General and specific plans, as well as past, present, and anticipated future projects, should be analyzed relative to their impacts on similar plant and wildlife species, habitat, and vegetation communities. If Caltrans determines that the Project would not have a cumulative impact, the environmental document should indicate why the cumulative impact is not significant. Caltrans conclusion should be supported by facts and analyses [CEQA Guidelines, § 15130(a)(2)].
- 6) Translocation/Salvage of Plants and Animal Species. Translocation and transplantation is the process of moving an individual from a project site and permanently moving it to a new location. CDFW generally does not support the use of translocation or transplantation as the primary mitigation strategy for unavoidable impacts to rare, threatened, or endangered plant or animal species. Studies have shown that these efforts are experimental and the outcome unreliable. CDFW has found that permanent preservation and management of habitat capable of supporting these species is often a more effective long-term strategy for conserving sensitive plants and animals and their habitats.
- 7) Compensatory Mitigation. An environmental document should include mitigation measures for adverse Project related direct or indirect impacts to sensitive plants, animals, and habitats. Mitigation measures should emphasize avoidance and reduction of project-related impacts. For unavoidable impacts, on-site habitat restoration or enhancement should be discussed in detail. If on-site mitigation is not feasible or would not be biologically viable and therefore not adequately mitigate the loss of biological functions and values, off-site mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed. Areas proposed as mitigation lands should be protected in perpetuity with a

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conservation easement, financial assurance and dedicated to a qualified entity for long-term management and monitoring. Under Government Code, section 65967, the Lead Agency must exercise due diligence in reviewing the qualifications of a governmental entity, special district, or nonprofit organization to effectively manage and steward land, water, or natural resources on mitigation lands it approves.

- 8) Long-term Management of Mitigation Lands. For proposed preservation and/or restoration, an environmental document should include measures to protect the targeted habitat values from direct and indirect negative impacts in perpetuity. The objective should be to offset the project-induced qualitative and quantitative losses of wildlife habitat values. Issues that should be addressed include (but are not limited to) restrictions on access, proposed land dedications, monitoring and management programs, control of illegal dumping, water pollution, and increased human intrusion. An appropriate non-wasting endowment should be set aside to provide for long-term management of mitigation lands.
- 1) Adequate Sites Inventory. CDFW recommends Caltrans prepare a map of the following areas if present within or adjacent to Caltrans right of way boundary. In addition, Caltrans should consider the Project's potential impacts on the following areas if present within or adjacent to the Project boundary:
  - a) Conservation easements or mitigation lands;
  - b) U.S. Fish and Wildlife Service [Threatened & Endangered Species Active Critical Habitat](#) (USFWS 2020);
  - c) Sensitive Natural Communities, [see General Comment #3 (Biological Baseline Assessment)];
  - d) Aquatic and riparian resources including (but not limited to) rivers, channels, streams, wetlands, and vernal pools, and associated natural plant communities; and,
  - e) Urban forests, particularly areas with dense and large trees [see Specific Comment #4 (Loss of Bird and Raptor Nesting Habitat)].

CDFW recommends Caltrans avoid sites that may have a direct or indirect impact on conservation easements or lands set aside as mitigation. CDFW recommends the DPEIR include measures to mitigate (avoid if feasible) for impacts on biological resources occurring within Significant Ecological Areas and critical habitat, as well as mitigate for impacts on wildlife corridors, sensitive natural communities, aquatic and riparian resources, and urban forests.

- 2) Wetland Resources. CDFW, as described in Fish and Game Code section 703(a), is guided by the Fish and Game Commission's policies. The [Wetlands Resources policy](#) of the Fish and Game Commission "...seek[s] to provide for the protection, preservation, restoration, enhancement and expansion of wetland habitat in California. Further, it is the policy of the Fish and Game Commission to strongly discourage development in or conversion of wetlands. It opposes, consistent with its legal authority, any development or conversion that would result in a reduction of wetland acreage or wetland habitat values. To that end, the Commission opposes wetland development proposals unless, at a minimum, Project

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Department of Transportation, District 5  
December 15, 2022  
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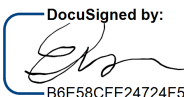
mitigation assures there will be 'no net loss' of either wetland habitat values or acreage. The Commission strongly prefers mitigation which would achieve expansion of wetland acreage and enhancement of wetland habitat values" (CFGC 2005).

- a) The Wetlands Resources policy provides a framework for maintaining wetland resources and establishes mitigation guidance. CDFW encourages avoidance of all wetland resources in and adjacent to the Project area as a primary mitigation measure and discourages the development or type conversion of wetlands to uplands. CDFW encourages activities that would avoid the reduction of wetland acreage, function, or habitat values. Once avoidance and minimization measures have been exhausted, the Project must include mitigation measures to assure a "no net loss" of either wetland habitat values, or acreage, for unavoidable impacts to wetland resources. Conversions include, but are not limited to, conversion to subsurface drains, placement of fill or building of structures within the wetland, and channelization or removal of materials from the streambed. All wetlands and watercourses, whether ephemeral, intermittent, or perennial, should be retained and provided with substantial setbacks, which preserve the riparian and aquatic values and functions for the benefit to on-site and off-site wildlife populations. CDFW recommends mitigation measures to compensate for unavoidable impacts be included in the DPEIR and these measures should compensate for the loss of function and value.
- b) The Fish and Game Commission's [Water policy](#) guides CDFW on the quantity and quality of the waters of this state that should be apportioned and maintained respectively so as to produce and sustain maximum numbers of fish and wildlife; to provide maximum protection and enhancement of fish and wildlife and their habitat; encourage and support programs to maintain or restore a high quality of the waters of this State; prevent the degradation thereof caused by pollution and contamination; and, endeavor to keep as much water as possible open and accessible to the public for the use and enjoyment of fish and wildlife (CFGC 1994). CDFW recommends avoidance of water practices and structures that use excessive amounts of water, and minimization of impacts that negatively affect water quality, to the extent feasible (Fish & G. Code, § 5650).

## Conclusion

We appreciate the opportunity to comment on the NOP for the Gaviota Creek Improvement Project to assist Caltrans in identifying and mitigating Project impacts on biological resources. If you have any questions or comments regarding this letter, please contact Erika Cleugh, Senior Environmental Scientist (Specialist), at [Erika.Cleugh@wildlife.ca.gov](mailto:Erika.Cleugh@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
B6E58CFE24724F5...

Erinn Wilson-Olgin  
Environmental Program Manager I  
South Coast Region

Jason Wilkinson  
Department of Transportation, District 5  
December 15, 2022  
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ec: CDFW

Erinn Wilson-Olgin, Seal Beach – [Erinn.Wilson-Olgin@wildlife.ca.gov](mailto:Erinn.Wilson-Olgin@wildlife.ca.gov)  
Steve Gibson, Seal Beach – [Steve.Gibson@wildlife.ca.gov](mailto:Steve.Gibson@wildlife.ca.gov)  
Cindy Hailey, San Diego – [Cindy.Hailey@wildlife.ca.gov](mailto:Cindy.Hailey@wildlife.ca.gov)  
CEQA Program Coordinator, Sacramento – [CEQACommentLetters@wildlife.ca.gov](mailto:CEQACommentLetters@wildlife.ca.gov)

OPR

State Clearinghouse, Sacramento – [State.Clearinghouse@opr.ca.gov](mailto:State.Clearinghouse@opr.ca.gov)

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