



State of California – Natural Resources Agency

DEPARTMENT OF FISH AND WILDLIFE

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**CHARLTON H. BONHAM, Director**



March 26, 2025

Summer Burlison, Senior Planner

San Mateo County

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Redwood City, CA 94063

[SBurlison@smcgov.org](mailto:SBurlison@smcgov.org)

Subject: Peter's Creek Bridges, Revised Initial Study/Mitigation Negative Declaration,  
SCH No. 2022100515, San Mateo County

Dear Summer Burlison:

The California Department of Fish and Wildlife (CDFW) received a Revised Initial Study/Mitigated Negative Declaration (IS/MND) from San Mateo County (County) for the Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines. CDFW previously submitted comments in response to the originally circulated MND.

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 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 (LSA) 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

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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.

### **California Endangered Species Act and Native Plant Protection Act**

Please be advised that a CESA Incidental Take Permit (ITP) must be obtained if the Project has the potential to result in “take” of plants or animals listed under CESA or the Native Plant Protection Act (NPPA), either during construction or over the life of the Project. Under CESA, take is defined as “to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill.” Issuance of an ITP is subject to CEQA documentation. If the Project will impact CESA or NPPA listed species, early consultation with CDFW is encouraged, as significant modification to the Project and mitigation measures may be required to obtain an ITP. Issuance of an ITP is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. Fully protected species may not be taken or possessed at any time (Fish and Game Code, §§ 3511, 4700, 5050, and 5515.)

CEQA requires a Mandatory Finding of Significance if a Project is likely to substantially impact threatened or endangered species (Pub. Resources Code, §§ 21001(c), 21083, and CEQA Guidelines §§ 15380, 15064, 15065). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency’s FOC does not eliminate the Project proponent’s obligation to comply with Fish and Game Code, § 2080 et. seq.

### **Lake and Streambed Alteration**

CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et seq., for Project activities affecting lakes or streams and associated riparian habitat. Notification is required for any activity that may substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank (including associated riparian or wetland resources); or deposit or dispose of material where it may pass into a river, lake, or stream. Work within ephemeral streams, drainage ditches, washes, watercourses with a subsurface flow, and floodplains are generally subject to notification requirements. In addition, infrastructure installed beneath such aquatic features, such as through hydraulic directional drilling, is also generally subject to notification requirements. Any impacts to the mainstems, tributaries and floodplains or associated riparian habitat would likely require an LSA Notification. CDFW, as a Responsible Agency under CEQA, will consider the MND for the Project. CDFW may not execute a final LSA Agreement until it has complied with CEQA as the Responsible Agency.

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## **Raptors and Other Nesting Birds**

CDFW has authority over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include §§ 3503 (regarding unlawful take, possession or needless destruction of the nests 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). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

## **PROJECT DESCRIPTION SUMMARY**

**Proponent:** San Mateo County

**Objective:** The Project includes the removal and reconstruction of an existing bridge (Bridge 1) and the construction of a new bridge (Bridge 2) crossing Peter's Creek. The bridges will be clear span structures that are 50 feet by 11.5 feet (Bridge 1) and 100 feet by 8.7 feet (Bridge 2).

Replacement Bridge 1 will replace an existing old railroad flat car bridge and will be fire truck rated. New Bridge 2 will be located between two high banks about 800 feet upstream of Bridge 1. Part of the roadway to the location of Bridge 2 will be temporarily expanded to provide a minimum width of 12 feet for equipment and material. Additionally, a large stump in the access road to Bridge 2 will be removed and the access way re-graded.

The Project proposes a total of 1,563 cubic yards (cy) of grading (1,048 cy cut and 515 cy fill) and the removal of 14 trees ranging from 5-inch diameter to 13.5-inch diameter in size, including redwood, tan oak, California laurel, and big leaf maple species.

The bridges will serve maintenance and recreation users. Footings/foundations for the bridges will be outward of top-of-bank and above the ordinary high-water line. However, temporary water diversions within the creek bed will be necessary for construction access and for equipment to work at the sites. Construction will occur during the dry season and is expected to take two to three months for each bridge, with the bridges to be constructed sequentially as improvement to Bridge 1 is needed for construction vehicles and equipment to access the site for Bridge 2. Additionally, some minor realignment of trail segments around these bridges is proposed.

**Location:** The Project is located along Slate Creek Road (Peter's Creek), South Skyline area, Assessor's Parcel Number 085-070-070.

**Timeframe:** TBD

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## COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the County 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.

### Project Description and Related Impact Shortcoming

**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 U.S. Fish and Wildlife Service (USFWS)?**

#### COMMENT 1: Marbled Murrelet

##### Section 4. Biological Resources, Page 10-13

**Issue:** The revised IS/MND provides a set of measures to avoid potentially adverse impacts to marbled murrelet (*Brachyramphus marmoratus*, MAMU) individuals and breeding habitat due to Project activities. Thank you for incorporating CDFW feedback to work toward creating a protective measure set for the Project. However, the avoidance measures included in the revised IS/MND lack a few key details, such as the importance of retaining screen trees (trees that provide visual, sound, and climatic protection to MAMU nesting trees), the professional qualifications required of a MAMU qualified biologist and surveyor, and key language designating protective, no-disturbance seasonal buffers around any suitable MAMU trees within the Project vicinity. The avoidance measure amendments recommended below are necessary to reduce potentially significant impacts on MAMU to less-than-significant levels.

Further, while the revised IS/MND analyzes and addresses potentially significant impacts to MAMU individuals and breeding due to Project construction activities, the revised IS/MND neglects to evaluate long-term impacts of Project development on occupied MAMU habitat. Construction of a fire truck-rated bridge and new pedestrian bridge could increase vehicle and pedestrian traffic within the Project area after Project construction activities are concluded, which could result in MAMU disturbance and corresponding risk of decreased fledgling success, increased risk of nest abandonment, or otherwise cause take of MAMU. To avoid, minimize, and mitigate all potentially significant impacts on MAMU, it is critical to first fully understand those potential impacts in both the long- and short-term. The revised IS/MND should evaluate all potentially significant impacts to MAMU across timescales to appropriately analyze the effects of the Project on MAMU occupied breeding habitat.

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**Specific impact, why impact would occur, and evidence impact would be significant:** MAMU is listed as state endangered pursuant to Fish and Game Code 2050 *et seq.*, federally threatened pursuant to Title 16, United States Code 1531 *et seq.*, and is a sensitive species as defined by Title 14, California Code of Regulations (14 CCR) § 895.1. MAMU is a small seabird, which, in California, uses coastal coniferous forests from Del Norte to Santa Cruz counties during the breeding season (March 24 to September 15). MAMU have been documented nesting in mature, old-growth forests as well as younger forest stands with late-seral elements such as large trees with moss-covered limbs greater than six inches wide or limb defects (McShane *et al.* 2004). Mature conifer stands often have a complex tree crown structure with gaps in the canopy that allow access by adult murrelets to and from nest platforms during parental incubation exchanges and chick feeding (Ralph *et al.* 1995b).

In August of 2020, the CZU Lightening Complex Fire (CZU Fire) burned 86,509 acres in the Santa Cruz Mountains including nearly 70 percent of the MAMU breeding habitat (Halbert 2022). The Project area is two miles from the CZU Fire perimeter. MAMU have high site fidelity and typically return to known stands and may look for alternative nest sites if the habitat is permanently lost. According to surveys conducted in 2020 and 2021, suitable old growth habitat exists and MAMU occupancy is confirmed at high detection levels at/within the Project area along both sides of Peter's Creek (Rinkert 2021). Given the extent of MAMU habitat loss due to the CZU Fire in 2020, protection and preservation of remaining MAMU breeding habitat in the Santa Cruz Mountains, including within the Project area, is paramount.

Increased development in recreational areas has been found to not only increase the potential for people to disrupt nesting birds, including MAMU, but also can decrease the number of available nest sites and attract nest predators (Long and Ralph 1998). Park visitor activities, including walking or driving along trails and roads underneath nest sites and picnicking in nearby open meadows, have the potential to disturb nesting MAMU.

MAMU rely on crepuscular timing of activities (flying to and from the ocean to collect food for chicks at dawn and dusk), camouflaged plumage, and elusive nest behaviors to avoid detection and prevent predation (Nelson and Hamer 1995). Humans can have an impact on nesting success during nest selection and incubation, as disturbances by passing vehicles, pedestrians, and loud noises, particularly in areas with no visual barriers between nests and the source of the disturbance, may cause adults to flush from a nest, contributing to increased exposure to predation, as well as causing delayed or aborted feedings (Long and Ralph 1998, Hamer and Nelson 1998). MAMU nestlings that receive multiple daily feedings grow faster and fledge earlier than those with lower provisioning rates. Early fledging helps minimize nest mortality (Nelson and Hamer 1995b). Missing

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even a single daily feeding may disrupt normal behavior and increase chick development risk. Nestlings have minimum daily energetic demands to sustain life and development, and mortality from starvation occurs when nestlings do not receive sufficient food (Kitaysky 1999). Even with dawn and dusk activity restrictions in place, MAMU exposed to noise or visual disturbances during the nesting season are susceptible to missed feedings during the day (Nelson 1997). Nest concealment and suitable-sized buffers between nests and areas of human activity are important to reduce predation and minimize disruption, and the presence and preservation of screen trees surrounding MAMU nest trees provide necessary visual and climatic cover.

MAMU are CESA listed as endangered species and therefore are a threatened or endangered species pursuant to CEQA Guidelines section 15380. Therefore, if MAMU adults or young are injured or killed, or their habitat is removed or its quality diminished as a result of Project development, the Project may result in a substantial reduction in the number or restriction in the range of a threatened species or endangered species, which is considered a Mandatory Finding of Significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

**Recommendation:** CDFW recommends the County analyze potentially significant long-term impacts to MAMU and their breeding habitat due to increased pedestrian and vehicle traffic within the Project area as a result of Project development, and address how those long-term impacts to MAMU will be avoided, minimized and/or mitigated.

Additionally, CDFW recommends the following mitigation measures to reduce potentially significant impacts to MAMU due to construction activities to less-than-significant levels:

**Marbled Murrelet Nesting Habitat Avoidance.** Appropriate measures shall be taken to mitigate potential adverse impacts on MAMU nesting. This shall be accomplished through implementation of the following measures:

**Restrictions on Tree Removal:**

1. Tree removal and trimming required by the Project shall occur outside of the MAMU breeding season (March 24 to September 15) to minimize disturbance to MAMU nesting.
2. Trees identified for removal under the Project shall first be assessed for suitability as MAMU nesting or screen trees by a qualified biologist. Although none of these trees proposed for removal appear to be large enough to function as nesting habitat for MAMU, this will be confirmed in advance of any tree removal. Typical credentials for a qualified biologist

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shall include a minimum of five years of academic training and professional experience in biological sciences and related resource management activities, and successful completion of the Inland Marbled Murrelet Observer Training (Certified Observer) and a minimum of two years of experience conducting surveys for MAMU.

3. Trees determined to have suitable elements for nesting by MAMU and screen trees will be retained under the Project, if feasible. If a suitable nest tree(s) or screen trees cannot be retained as part of the Project, the qualified biologist shall coordinate with the USFWS and CDFW regarding removal of a potential MAMU nest/screen tree from occupied habitat and shall identify additional measures to address this loss. This may include follow-up monitoring of nest activity in the area to provide additional data on MAMU use of the Study Area, or other measures considered appropriate by the USFWS and CDFW.

**Project Construction Activities:**

4. In consultation with USFWS and CDFW, the qualified biologist shall develop a Nest Avoidance Program (NAP) by evaluating the potential sound levels of proposed activities occurring at each stage of construction to calculate appropriate no-disturbance buffers to be employed. A project area map, with seasonal no-disturbance buffers placed around occupied habitat, shall be distributed to work crews. To alert work crews to their presence, MAMU no-disturbance buffers, as determined by the NAP, shall be flagged within the project area.
5. No construction shall be allowed during the MAMU breeding season (March 24 to September 15). If Project construction activities must occur during the MAMU nesting season, the Project shall obtain a CESA ITP prior to construction.
6. The qualified biologist shall perform a worker training prior to the start of any construction to educate all workers on the sensitivity of the area, presence of MAMU, and importance of avoiding attracting predators as a result of construction activities. All garbage and food scraps shall be packed out and disposed of in animal-proof containers. Workers, when feasible, shall consume food inside their vehicles.
7. Construction practices called for in Mitigation Measure 8 [BIO-5] Construction Restrictions to Protect Wildlife shall be implemented to minimize disturbance to MAMU habitat and avoid attracting additional predators.

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### **Post Construction Monitoring and Management:**

8. Appropriate management practices shall be developed in consultation with CDFW and implemented as part of future trail use to minimize any adverse effects on MAMU habitat in the Study Area.

### **ENVIRONMENTAL DATA**

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB 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 appreciates the opportunity to comment on the revised IS/MND to assist the County in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Shannon Husband, Environmental Scientist, at (707) 337-1364 or [Shannon.Husband@wildlife.ca.gov](mailto:Shannon.Husband@wildlife.ca.gov); or Wesley Stokes, Senior Environmental Scientist (Supervisory) at [Wesley.Stokes@wildlife.ca.gov](mailto:Wesley.Stokes@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
*Erin Chappell*  
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Regional Manager  
Bay Delta Region



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ec: Office of Planning and Research, State Clearinghouse, Sacramento

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