



State of California – Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
 Northern Region
 601 Locust Street
 Redding, CA 96001
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
 CHARLTON H. BONHAM, Director



November 29, 2022

Kyla Burton
 Environmental Compliance Specialist
 Siskiyou County Public Works
 1312 Fairlane Road, Suite 3
 Yreka, CA 96097

SUBJECT: Review of the Initial Study and Mitigated Negative Declaration for Wooley Creek Bridge (2C-016) Seismic Retrofit and Pier Repair Project, State Clearing House Number 2022100570, Siskiyou County

Dear Kyla Burton:

The California Department of Fish and Wildlife (Department) has reviewed the Initial Study and Mitigated Negative Declaration (ISMND) dated November 2022, for the above-referenced project (Project). As a trustee for the State's fish and wildlife resources, the Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and their habitat. As a responsible agency, the Department administers the California Endangered Species Act (CESA) and other provisions of the Fish and Game Code (FGC) that conserve California's fish and wildlife public trust resources. The Department offers the following comments and recommendations on this Project in our role as a trustee and responsible agency pursuant to the California Environmental Quality Act (CEQA), California Public Resources Code §21000 et seq.

Project Description

The Project as described in the ISMND is as follows:

“Wooley Creek bridge has vulnerabilities that require corrective seismic retrofit and maintenance repairs. The purpose of the proposed project is to implement seismic retrofit measures, perform general maintenance repairs, and repair an in-river pier damaged by long term river bedload abrasion. Seismic retrofit measures are necessary to prevent collapse during a significant seismic event. The damaged pier exacerbates the bridge's seismic vulnerability and is affecting its overall condition rating. The project is needed to protect bridge users and extend the useful life of the structure”

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Comments and Recommendations

The Department recognizes that Siskiyou County and the Project proponent have taken the appropriate steps to identify and assess biological resources and state special status species that have potential to occur within or, in-proximity to, the Project area. These steps include a Natural Environmental Study (NES), a Water Quality Study, the preparation of a Biological Assessment, Informal Section 7 consultation with the National Marine Fisheries Service and early coordination with the Departments Region 1 Habitat Conservation Program. The Department acknowledges that many of the environmental commitments and mitigation measures listed in the ISMND are adequate in minimizing potential effects to biological resources. The Department has the following additional comments and recommendations:

Site Layout and Flagging

This measure in the ISMND states "...When feasible, staging, storage, and parking areas will be located on paved or graveled surfaces within the County right-of-way and away from any designated environmentally sensitive areas to minimize construction impacts on protected resources..."

This statement is indeterminate. The Department encourages Siskiyou County to remove vague and unenforceable language and incorporate more determinate language by removing "when feasible" to avoidance and minimization measures.

Pre-construction Survey and Species Rescue

This measure in the ISMND states "...A qualified biologist will conduct preconstruction species surveys for foothill yellow-legged frog. Visual encounter surveys will be conducted immediately before ground-disturbing activities..."

The Department concurs with preconstruction surveys for foothill yellow-legged frog, however, recommends the addition of surveys to occur each day prior to construction activities for the entire duration of construction activities.

Vegetation Trimming

This measure in the ISMND states "To avoid potential injury or mortality to foothill yellow-legged frogs using vegetated areas for cover along the Salmon River, initial vegetation trimming (i.e., willows within the staging area east of the bridge) will be done manually using hand tools (e.g., lopper, pruning shears). The vegetation will be trimmed and removed from the work area by hand."

The Department concurs with manual trimming, however, recommends the addition of foothill yellow-legged frog surveys to be performed prior to any

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vegetation trimming and removal.

Auditory or Visual Disturbance Raptors and Migratory Birds

This measure in the ISMND states “... *The preconstruction survey will be performed no more than 14 days prior to the implementation of construction activities (including staging and equipment access) ...*”

The Department concurs with a preconstruction survey for nesting birds, however, recommends preconstruction surveys to be performed no more than 7 days prior to implementation of construction activities.

Bats

The NES states “*evidence of roosting bats (i.e., guano accumulations) were observed at the north abutment area.*”, “*Indirect impacts may occur from construction disturbance if a maternity colony is present in or adjacent to the BSA. Substantial noise disturbance could result in adults temporarily or permanently leaving the maternity colony.*” and “*Construction activities near the north abutment could temporarily affect any bats roosting there through noise disturbance.*”.

The measure in the ISMND states “*A preconstruction survey for bats will be performed before construction to determine bat species’ presence and their use of the bridge. If bats are found to be using the structure and will be affected by project activities, then roosting deterrent measures may be implemented, in coordination with CDFW.*”

Bats are considered non-game mammals and are afforded protection by state law from take and/or harassment (FGC, § 4150; Cal. Code of Regs, § 251.1). Several bat species are considered California Species of Special Concern (SSC) and meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15065). Take of SSC could require a mandatory finding of significance by the Lead Agency (CEQA Guidelines, § 15065).

Due to the presence of suitable habitat and observable evidence of bats in the Project area, the Department strongly encourages construction activities that have potential to impact bats as described in the NES, to be performed outside of the bat maternity season (March 1 – August 31) and outside of bat hibernacula (November 1 – March 1). If in the event Project scheduling does not allow for work to be performed outside of these dates, the Project proponent should only then defer to preconstruction surveys performed by a qualified bat biologist in an attempt to accurately capture the use of the bridge for bats, potential for maternity colonies and to determine most effective avoidance and minimization measures. Please note that roost assessment typically requires input from biologists knowledgeable in the ecology of each specific species and, different species may require different mitigation strategies.

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The Department recommends amending the ISMND bat measure to include the above maternity season/hibernacula limiting operating period. The measure should clearly state that if the limiting operating period cannot be met, a preconstruction survey should be performed by a qualified bat biologist to conduct a nighttime emergence survey no less than two weeks prior to commencement of construction activities to determine bat use, most appropriate avoidance and minimization measures, and collaboration with the Department.

To learn more about bat surveys, bats and bridges, and appropriate avoidance and minimization measures, the 2003 Bat and Bridges Technical Bulletin¹ may serve as a resourceful tool.

State Listed Fish

The NES identifies two state listed species, which have potential to be present in the Project area, including state threatened Southern Oregon/Northern California Coast (SONCC) coho salmon (*Oncorhynchus kisutch*) and state threatened Upper Klamath and Trinity River chinook salmon (*Oncorhynchus tshawytscha*). The NES states “*After evaluating the potential effects of the proposed action, Caltrans concluded that although SONCC coho are not expected to occur in the construction area, their presence could not be ruled out. However, with construction avoidance measures in place, “take” can be avoided.*”

Since suitable habitat occurs within the Project area and the presence of state listed fish cannot be completely ruled out, the Department offers the following comments to further minimize the potential for take, as defined by FGC section 86.

Prior to in-water work activities including, but not limited to, isolating the Project work area, dewatering, net seining, fish capture and fish relocation, a preconstruction snorkel survey should be performed for CESA species by a qualified, Department-approved fish biologist to verify absence of state listed salmonids. If absence of state listed salmonids cannot be verified, all in-water work activities that could result in take (defined by FGC section 86 as hunt, pursue, catch, capture, kill, or attempt thereof) are discouraged unless water temperatures meet or exceed 26°C or an Incidental Take Permit (ITP) pursuant to FGC section 2081(b) is obtained.

The Department concurs with the in-water construction window, between July 15 and October 15, to avoid the most sensitive life stages of state listed salmonids. However, the ISMND does not appear to identify which life stages are anticipated to occur during the time of work activities. This information should be identified and clearly specified in the measures pertaining to preconstruction snorkel surveys and communicated to the biologist(s) performing snorkel surveys to effectively and accurately identify CESA listed and/or candidate species and verify their absence from the Project area.

¹ <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=10333>

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Additionally, the ISMND states “*The qualified biologist will capture and relocate listed salmonids prior to construction of the water diversion structures (e.g., cofferdams).*”. Capturing and relocating state listed species meets the definition of take under FGC section 86 and is only permissible with an ITP. Therefore, this measure should specify that capturing and relocating listed species, only applies to federal listed species covered in the Letter of Concurrence, unless in possession of an ITP.

Issuance of an ITP is subject to CEQA documentation. Information on how to submit an application for an ITP is available here:

<https://wildlife.ca.gov/Conservation/CESA/Permitting>.

If the Department receives an ITP application submission, this ISMND will be reviewed to ensure it adequately addresses impacts, mitigation measures, and a mitigation monitoring and reporting program for state listed salmonids.

Fish Screens

The ISMND states “*Exclude fish from occupying the work area by blocking the stream channel above and below the work area with fine-meshed net or screens. Mesh will be no greater than 1/8-inch diameter.*” and “*Screen Approach Velocity: The approach velocity must not exceed 0.40 feet per second for active screens. Using this approach velocity will minimize screen contact and/or impingement of juvenile fish.*” Fish screens and approach velocity should meet the National Marine Fisheries Service (NMFS) fish screen design criteria standards² for the anticipated class sized fish. The NMFS fish screen design criteria states, “*NMFS will normally assume that fry-sized salmonids are present at all sites unless adequate biological investigation proves otherwise.*” therefore, the Department strongly suggests the use of fry-sized approach velocity, mesh, screens, and nets for streams and rivers to be utilized (3/32” screen openings, 0.33 feet per second).

Lake and Streambed Alteration Agreement

The NES identifies temporary and permanent impacts to the Salmon River. Notification pursuant to Section 1602 of the FGC appears warranted. To obtain information about the 1600 Notification process, please access the Department’s website at:

<https://www.wildlife.ca.gov/Conservation/LSA>.

Conclusion

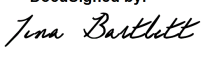
The Department appreciates the opportunity to comment on the Project and to assist the County in adequately analyzing and minimizing/mitigating impacts to biological resources.

² https://media.fisheries.noaa.gov/dam-migration/southwest_region_1997_fish_screen_design_criteria.pdf

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If you have any questions, please contact Erika Iacona, Environmental Scientist,
by email at R1CEQARedding@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Tina Bartlett, Regional Manager
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