

State of California
Department of Fish and Wildlife



Memorandum

Governor's Office of Planning & Research

Date: January 26, 2023

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To: Nicholas Puicci
California Department of Transportation
District 4
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STATE CLEARING HOUSE

DocuSigned by:

Erin Chappell

From: Ms. Erin Chappell, Regional Manager
California Department of Fish and Wildlife-Bay Delta Region, 2825 Cordelia Road, Suite 100, Fairfield, CA 94534

Subject: State Route 116 Permanent Storm Damage Restoration Project (04-2K360), Initial Study/Negative Declaration, SCH No. 2022120685, Sonoma County

The California Department of Fish and Wildlife (CDFW) has reviewed the Notice of Completion (NOC) for the draft Initial Study with Negative Declaration (IS/ND) for the State Route (SR) 116 Permanent Storm Damage Restoration Project (Project), pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹ CDFW is submitting comments on the draft IS/ND as a means to inform the California Department of Transportation (Caltrans) as the Lead Agency, of our concerns regarding potentially significant impacts to sensitive resources associated with the proposed Project.

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

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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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 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. Pursuant to our jurisdiction, CDFW has the following concerns, comments, and recommendations regarding the Project.

PROJECT LOCATION AND DESCRIPTION

Caltrans proposes to repair slide damage along SR-116 in the communities of Guerneville and Monte Rio, in Sonoma County. Slide repair will install a soldier pile retaining wall with anchor blocks and upgrade an existing drainage system from Post Mile (PM) 9.4 to 9.55 along SR-116.

Project Description

Caltrans proposes to install a tie-back retaining wall to stabilize a failing slope along SR-116. The Project will also replace an existing 18-inch diameter corrugated metal pipe (CMP) down-drain and an 18-inch diameter plastic down-drain with an 18-inch diameter corrugated steel pipe (CSP) down-drain. The existing 24-inch diameter CMP cross-road culvert under SR-116 will be replaced with a shallow pipe across the highway and a down-drain that outlets on the embankment, south of the highway in the Russian River side of SR-116. An existing drainage inlet will be replaced with five new drainage inlets. A concrete barrier between the highway shoulder and retaining would be constructed to improve the safety of drivers along this portion of SR-116.

Soldier Pile Retaining Wall

The anchored soldier pile retaining will be 626.5 feet long. The wall consists of 50-foot-long double steel channel sections in 30-inch diameter drilled holes filled with concrete backfill, spaced at 8-foot intervals. Two rows of ground anchors, 50 feet long, will be installed between the double steel channel sections to stabilize the slope. The maximum height of the exposed face of the wall will be 20 feet. The exposed face of wall will be covered with 12-inch-thick cast-in-place concrete facing or structural shotcrete for fire protection. Architectural treatment will be applied to the wall facing. A paved 10-foot-wide maintenance area will be constructed at the base of the wall. The work will include twenty-four 75-foot-long horizontal drains spaced 25 feet apart, positioned at a 5-degree incline, in order to address groundwater seepage along the wall.

Drainage Improvements

Drainage improvements will include the replacement of an existing 18-inch-diameter CMP down-drain and adjacent 18-inch-diameter plastic down-drain with an 18-inch CSP down-drain. The new down-drain will be connected to the existing plastic pipe at the

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point where it daylight through the existing soldier pile wall at Old Monte Rio Road. The existing inlet at the toe of slope will be replaced with a type G2 drainage inlet and the inlet will be covered with a bicycle-safe grate. The new down-drain will connect to the upgraded inlet with a vertical down-drain section passing over the wall. An existing 24-inch CMP cross-road culvert under SR-116 will be replaced in three segments with a shallow pipe across the highway and a down-drain that outlets on the embankment. Rock slope protection (RSP) will be installed at the culvert outfall. A new inlet in the eastbound shoulder connecting the downstream two segments will be installed and covered with a bicycle-safe grate. Five new drainage inlets will also be constructed and covered with bicycle-safe grates.

REGULATORY REQUIREMENTS

Lake and Streambed Alteration Agreement Notification

CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et. seq., 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, washes, watercourses with a subsurface flow, and floodplains are generally subject to notification requirements.

Fully Protected Species

Fully protected species may not be taken or possessed at any time and no licenses or permits may be issued for their take, except for collecting these species for necessary scientific research and relocation of a fully protected bird species for the protection of livestock. Take of any fully protected species is prohibited, and CDFW cannot authorize their take in association with a general project except under the provisions of a Natural Communities Conservation Plan (NCCP), 2081.7 or a Memorandum of Understanding for scientific research, including efforts to recover fully protected, threatened or endangered species. "Scientific Research" does not include an action taken as part of specified mitigation for a project, as defined in Section 21065 of the Public Resources Code.

California Endangered Species Act

Please be advised that a CESA Permit must be obtained if the Project has the potential to result in "take" of plants or animals listed under CESA, either during construction or over the life of the Project. Issuance of a CESA Permit is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA Permit. CEQA requires a Mandatory Finding of Significance if a project is likely to substantially impact threatened or endangered species (CEQA section 21001(c), 21083, and CEQA

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Guidelines section 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, section 2080. More information on the CESA permitting process can be found on the CDFW website at <https://www.wildlife.ca.gov/Conservation/CESA>.

COMMENTS AND RECOMMENDATIONS

CDFW has the following comments regarding potential impacts to fish and wildlife resources.

COMMENT 1: Lake and Streambed Alteration Program Notification

Issue: The IS/ND does not provide adequate rationale for the Project proponent's determination to not provide notification to the LSA Program. Figure 1-2 in Appendix A of the IS/ND indicates the installation of rock slope protection and replacement of a previously existing corrugated steel pipe culvert on the Russian River side of SR-116. Section 2.2.5 notes that up to thirty-eight (38) trees will be trimmed or removed over 1.33 acres. The IS/ND does not indicate if Caltrans will provide notification for LSA Agreement.

Recommendation: CDFW recommends Caltrans notify for an LSA Agreement due to work being conducted within the bed bank and/or channel of the Russian River.

COMMENT 2: Tree Removal Analysis

Issue: Section 2.2.5 of the IS/ND notes that up to thirty-eight (38) trees will be trimmed or removed over 1.33 acres. The IS/ND does not provide a map, figure, or inventory of trees proposed for trimming which would allow CDFW to assess the impact of the activity to fish and wildlife resources.

Recommendation 1 - Tree Inventory Report: A tree inventory report should be provided that includes a map or figure that identifies the location, species, diameter at breast height, estimated age, and overall health of all trees proposed for removal and trimming.

Recommendation 2 - On-Site Preservation of Forest Trees and Riparian Trees On-Site: Impact to trees should be avoided to the maximum extent feasible and additional designs should be incorporated to minimize impacts on mature native trees and riparian resources.

Recommendation 3 - Restoration and Mitigation Planning: CDFW strongly recommends that the lead agency develop a mitigation plan in coordination with CDFW for any permanent Project impacts that cannot be avoided that will be subject to LSA permitting and include that plan as part of the updated IS/ND. The mitigation plan

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should include in detail any proposed on and/or off-site mitigation needs necessary to compensate for net-loss of river or stream resources including, but not limited to, tree trimming, tree removals, hardscape materials and geo-textile fabric within the bed, bank or channel of a stream, loss of riparian vegetation and mature trees and expansion of existing infrastructure footprint(s). CDFW recommends proposed mitigation plan(s) include details such as engineered design drawings, mitigation location(s), proposed actions, monitoring, success criteria and any corrective actions.

COMMENT 3: Northern Spotted Owl Avoidance and Minimization

Issue: Caltrans is entering into Section 7 consultation with the United States Fish and Wildlife Service (USFWS) in order to obtain a Biological Opinion for northern spotted owl (*Strix occidentalis caurina*; NSO). NSO is federally listed as a threatened species under the Endangered Species Act (ESA) and is a CESA species listed as threatened. The Project proposes the removal of up to 38 trees but does not provide an adequate assessment to determine if these trees could support NSO or NSO nesting habitat. The Project could result in impacts to nesting NSO including mortality of young and result in a potential violation of CESA.

Evidence the Impact is Significant: The Project is within potential NSO habitat according to the California Natural Diversity Database (CNDDDB) Dataset (DS-876; NSO Habitat Connectivity Model). The closest NSO occurrences documented in CNDDDB (DS-704; NSO Observations) are less than 1,000 feet north of the Project location. Multiple occurrences of NSO also occur due east and south (DS-704). Although typically associated with old-growth or mature forests, NSO can utilize a wide variety of habitat types, including oak woodlands. They exhibit flexibility in their use of different forested areas for nesting, roosting, and feeding requirements. Typical habitat characteristics include a multi-storied structure and high canopy cover. Impacts from the Project would be significant if NSO nests or nesting trees were cut down or if nearby nesting NSO were exposed to elevated sound levels or human presence that would cause nest abandonment.

Recommendation 1 – California Endangered Species Act Consultation for NSO: If Project activities may result in take of NSO, the Project proponent shall apply for and obtain a CESA Incidental Take Permit from CDFW.

Recommendation 2 – Nest Avoidance Buffer and Seasonal Work Window: To reduce impacts to less-than-significant, CDFW recommends that no Project activities occur within 0.25 miles of NSO nesting habitat from March 15 to August 31, unless NSO surveys have been completed by a qualified biologist following the USFWS *Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls*, dated (revised) January 9, 2012 and the survey report is accepted by CDFW in writing. If breeding NSO are detected during surveys, a 0.25-mile no-disturbance buffer zone shall be implemented around the nest. NSO surveys shall be conducted for each year Project construction occurs. No Project activities shall occur within the buffer zone until

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the end of breeding season, or a qualified biologist determines that the nest is no longer active, unless otherwise approved in writing by CDFW. Alternate buffer zones may be proposed by a qualified biologist after conducting an auditory and visual disturbance analysis following the USFWS guidance, *Estimating the Effects of Auditory and Visual Disturbance to Northern Spotted Owls and Marbled Murrelets in Northwestern California*, dated October 1, 2020. Alternate buffers must be approved in writing by CDFW. Survey results shall be provided to the Spotted Owl Observations Database at <https://wildlife.ca.gov/Data/CNDDDB/Spotted-Owl-Info>. If NSO are detected, CDFW and the USFWS shall be immediately notified.

CONCLUSION

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California's fish and wildlife resources. 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.

Questions regarding this letter or further coordination should be directed to Mr. Robert Stanley, Senior Environmental Scientist (Specialist), at (707) 339-6534 or Robert.Stanley@wildlife.ca.gov; or Mr. Wesley Stokes, Senior Environmental Scientist (Supervisory), at (707) 339-6066 or Wesley.Stokes@wildlife.ca.gov.

cc: State Clearinghouse #2022120685