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Sent via email.

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500 South Main Street
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Subject: Draft Environmental Impact Report
Bridgeport Rehab (Project)
State Clearinghouse No. 2023030750

Dear Ryan Spaulding,

The California Department of Fish and Wildlife (CDFW) received a Draft Environmental Impact Report (DEIR) from the California Department of Transportation (Caltrans), District 9 for the Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

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

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.

need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

Proponent: Caltrans, District 9

Objective: The objectives of the Project are to rehabilitate pavement, regrade and widen shoulders, upgrade railings, replace drainage culverts, install rock slope protection (RSP), and make safety improvements for pedestrians and cyclists along U.S. Route 395. Primary Project activities include grinding existing pavement, placing new hot mix asphalt, grading and widening shoulders, installation of shoulder backing, installation of curb ramps, removal and replacement of five drainage culverts, removal of two additional culverts without replacement, installation of rock slope protection along Rickey Ditch, and installation of upgraded railings at five bridges.

Location: The Project site is located along 4.6 miles of U.S. Route 395 adjacent to East Walker River, Rickey Ditch, Robinson Creek, Buckeye Creek, and Swauger Creek, from postmile (PM) 76.0 to PM 80.6, in and near the community of Bridgeport, Mono County.

Timeframe: The Project is proposed to begin construction in the spring or summer of 2026 and is estimated to require 110 working days to be completed.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist Caltrans in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on special-status plants, nesting birds, bats, fish, and bumble bees. Additional comments address Streambed Alteration Agreement notification and mitigation.

CDFW requests that the final EIR include the suggested mitigation measures (see Attachment A) to avoid, minimize, and mitigate Project impacts on California fish and wildlife resources.

I. Mitigation Measure or Alternative and Related Impact Shortcoming

COMMENT 1: Special-Status Plants

Section 2.1.4, Page 15

Issue: The Project may impact special-status plants. CDFW appreciates that focused plant surveys were conducted in the summer of 2022 (Natural Environment Study (NES), page 15) and followed CDFW's Protocols for Surveying and Evaluating Impacts to Special-status Plant Populations and Sensitive Natural Communities (CDFW, 2018). No special-status plants were detected during the 2022 surveys (NES, page 65). However, CDFW generally considers assessments for rare plants valid for a period of up to three years. Considering that the Project is anticipated to begin in 2026, focused plant surveys should be performed no more than three years before the Project starts.

Specific impact: The Project has the potential to result in permanent and temporary impacts to special-status plants and their habitats, including fiddleleaf hawksbeard (*Crepis runcinata*, State Rare Plant Rank 2B.2²), golden violet (*Viola purpurea* ssp. *aurea*, 2B.2), and Torrey's blazing star (*Mentzelia torreyi*, 2B.2). The California Natural Diversity Database (CNDDDB) and Calflora indicate that these special-status plants are known to occur in the vicinity of the Project.

Why impact would occur: The Project may result in direct impacts to special-status plants. Direct impacts include vegetation removal, grading, and paving. Updated plant surveys are necessary to confirm absence/presence of special-status plants. There are no plant protection measures in the DEIR.

Evidence impact would be significant: CDFW considers the take of special-status plants and the loss of these species' habitats as a significant impact, unless mitigated to a level of less than significant. Plants with California Rare Plant Ranks 1A, 1B, 2A, and 2B generally meet the criteria of a CESA-listed species and should be considered as an endangered, rare, or threatened species for the purposes of CEQA analysis.

Recommended Potentially Feasible Mitigation Measure(s): CDFW recommends the inclusion of the below mitigation measure in the final EIR to ensure impacts to special-status plants are avoided, minimized, and mitigated. Additions are in ***bold italics***.

BIO-16 Rare Plant Surveys (New):

No more than three years prior to construction and during the appropriate blooming season for each plant with the potential to occur on-site, a qualified

² 2B.2 is a California Rare Plant Rank. 2B indicates that the plant species is rare, threatened, or endangered in California but more common elsewhere. The 2B.2 designation indicates that the species is moderately threatened in California. More information is available at: <https://www.cnps.org/rare-plants/california-rare-plant-ranks>.

biologist shall conduct a pre-construction plant survey according to *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW, 2018)*. The survey shall be considered valid for up to three years. Special-status plants must be flagged for visual identification to construction personnel for work avoidance. Special-status plants detected that feature multiple plants in a single location must be fenced with stakes and flagging to temporarily identify the environmentally sensitive area. If complete avoidance is not feasible, Caltrans shall mitigate the loss of the plants through land acquisition and conservation at a mitigation ratio determined by CDFW after Project analysis.

COMMENT 2: Nesting Birds

Section 2.1.4, Page 15

Issue: The Project may impact nesting birds. While the NES proposes nesting bird measures, the DEIR does not address potential impacts to birds.

Specific impact: The Project may impact suitable nesting and foraging habitat for black-crowned night heron (*Nycticorax nycticorax*) and yellow warbler (*Setophaga petechia*, a California Species of Special Concern (SSC)). CNDDDB reports that black-crowned night heron has been observed within a mile of the Project site. The NES reports that yellow warbler was observed foraging in willow thickets near Robinson Creek in 2022 (page 81), a location where the Project proposes to do bridge railing work. Bald eagle (*Haliaeetus leucocephalus*, CESA endangered, CDFW fully protected), lesser sandhill crane (*Antigone canadensis canadensis*, SSC), Swainson's hawk (*Buteo swainsoni*, CESA threatened), and yellow-headed blackbird (*Xanthocephalus xanthocephalus*, SSC) have also been observed near the Project site. Additionally, the NES recognizes that the following migratory bird species may nest in the Project area (page 74): American white pelican (*Pelecanus erythrorhynchos*), black tern (*Chlidonias niger*), California gull (*Larus californicus*), Cassin's finch (*Carpodacus cassinii*), Clark's grebe (*Aechmophorus clarkii*), evening grosbeak (*Coccothraustes vespertinus*), lesser yellowlegs (*Tringa flavipes*), Lewis's woodpecker (*Melanerpes lewis*), marbled godwit (*Limosa fedoa*), olive-sided flycatcher (*Contopus cooperi*), pinyon jay (*Gymnorhinus cyanocephalus*), rufous hummingbird (*Selasphorus rufus*), sage thrasher (*Oreoscoptes montanus*), western grebe (*Aechmophorus occidentalis*), and willet (*Tringa semipalmata*).

Evidence impact would be significant: CDFW recommends the completion of pre-construction nesting bird surveys regardless of the time of year to ensure that impacts to nesting birds are avoided. The timing of the nesting season varies greatly depending on several factors, such as bird species, weather conditions in any given year, and long-term climate changes (e.g., drought, warming, etc.). In response to warming, birds have been reported to breed earlier, thereby reducing temperatures

that nests are exposed to during breeding (Socolar *et al.*, 2017). CDFW staff have observed that climate change conditions may result in nesting bird season occurring earlier and later in the year than historical nesting season dates.

It is the Project proponent's responsibility to comply with all applicable laws related to nesting birds and birds of prey. Fish and Game Code sections 3503, 3503.5, and 3513 afford protective measures as follows: section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 *et seq.*). CDFW therefore recommends the completion of nesting bird surveys regardless of the time of year to ensure compliance with all applicable laws pertaining to nesting and migratory birds.

Recommended Potentially Feasible Mitigation Measure(s): CDFW recommends the inclusion of the below mitigation measure in the final EIR to ensure impacts to birds are avoided, minimized, and mitigated. Additions are in ***bold italics***.

BIO-17, Nesting Bird Surveys (New):

Within three days prior to the commencement of construction activities, a qualified biologist will perform a nesting bird and raptor survey that will consist of a site visit to each area with potential nesting habitat to determine whether there are active nests within 500 feet of the Project. This survey will also identify the species, and to the degree feasible, nesting stage (e.g., incubation of young, feeding of young, near fledging). Nests will be mapped, but not using GPS, since close encroachment may cause nest abandonment. If active nests are found during the pre-construction nesting bird surveys, a qualified biologist shall establish an appropriate nest buffer to be marked on the ground. Nest buffers are species specific and shall be at least 300 feet for passerines and 500 feet for raptors. A smaller or larger buffer may be determined by the qualified biologist familiar with the nesting phenology of the nesting species and based on nest and buffer monitoring results. Construction activities may not occur inside the established buffers. The buffers shall remain on-site until a qualified biologist determines the young have fledged or the nest is no longer active. Active nests and adequacy of the established buffer distance shall be monitored daily by the qualified biologist until the qualified biologist has determined the young have fledged or the

Project has been completed. The qualified biologist has the authority to stop work if nesting pairs exhibit signs of disturbance.

COMMENT 3: Bat Protection

Section 2.1.4, Pages 16-20

Issue: The Project may impact bat species. The measures proposed in the DEIR are not sufficient to limit impacts to bats to less than significant.

Specific impact: The Project area includes suitable habitat for Yuma myotis (*Myotis yumanensis*), including bridges and culverts. Project activities could also impact bats by attracting predators and displacing roosts. Road and bridge modification could impact bats by reducing habitat and habitat quality. If the Project utilizes artificial lighting, the Project may cause permanent and temporary impacts to bat species' roosting habitat, maternal colonies, and foraging behaviors.

Why impact would occur: Bat species could be directly impacted during construction through the physical removal of roosting sites at bridges and culverts. Roost destruction and abandonment, disturbance from construction noise and activities, increased risk of predation, and degradation of suitable habitat could also lead to significant impacts to bat species and local populations. The NES acknowledges that there is potential presence of bat species utilizing the Project impact area (page 67), and the Project description includes activities that would impact habitats and habitat features, such as bridges, which are utilized by roosting bats.

Evidence impact would be significant: Bat populations are vulnerable due to loss of roosting habitat and low reproductive turnover. Many bats are easily disturbed and very sensitive to disturbances at roosting sites. The protection of bat roosting habitat, particularly habitat identified as maternity or nursery sites, is vitally important to prevent adverse effects to, and further loss of remaining bat populations.

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). Several bat species are considered SSC and impacts to these species are considered significant by CDFW.

Bridges and culverts provide roosting habitat for 16 of the 25 bat species that occur in California. These roosting features are analogous to naturally occurring roosts, many of which have been degraded or lost due to human disturbance. Bridges and culverts can replace some of the lost natural roosting habitat features for bats, such as stable thermal conditions that bats require throughout their lifecycle.

In addition, Project activities such as elevated levels of noise, human activity, dust, ground vibrations, and vegetation disturbance can create impacts through destruction of nests, and abandonment of nests and roosts. These impacts can lead to the abandonment of young, loss of mating and foraging sites, and decrease the population size in the area surrounding the Project site if not properly managed.

Recommended Potentially Feasible Mitigation Measure(s): CDFW recommends the inclusion of the below revised mitigation measures in the final EIR to ensure impacts to bats are avoided, minimized, and mitigated. Deletions are in ~~strikethrough~~ and additions are in ***bold italics***.

BIO-1, Bat Surveys and Plan (Revised):

Pre-construction ***daytime and evening*** visual surveys to determine presence or absence of bats will be conducted in bridges and culverts within and adjacent to the project limits 14 days prior to the start of construction. If any sign of bat presence is identified, additional surveys using bat detector equipment may be used to confirm presence.

If bats are found roosting in or adjacent to the Project impact area, the Designated Biologist shall conduct emergence surveys and use acoustic monitoring during appropriate weather conditions to identify the species, estimated quantity present, roost type (e.g., maternity), and roost status (e.g., maternal occupied, seasonal refuge, etc.). CDFW shall be notified within 24 hours if bats are found roosting. Results of the surveys shall be provided to CDFW within seven days of completing the beforementioned surveys. If roosting bats or signs of roosting bats are found in the Project areas (e.g., occupied roosts, urine staining, guano masses, etc.), a Bat Avoidance and Monitoring Plan shall be submitted at least seven days prior to the start of Project activities for CDFW review and written approval. Project activities may not start until CDFW's written approval of the Bat Avoidance and Monitoring Plan has been provided. The Bat Avoidance and Monitoring Plan shall include: (1) an assessment of all Project impacts to bats, including noise disturbance during construction; (2) effective avoidance and minimization measures to protect bats; (3) compensatory mitigation for permanent impacts to roosts if impacted, such as, but not limited to, constructing artificial bat roosting habitats (e.g., bat boxes or panels).

BIO-2, Bat Exclusion Devices (Revised):

If bats are present within the project limits, use of exclusion devices may be installed ***outside of the maternity season (April 1 to August 31)*** to ensure no bats are present within areas of direct impact from construction activities while work is occurring.

BIO-3, Bat Monitoring (Revised):

If bats are present and exclusion devices are used, a full-time construction monitor will be present to ensure that no additional impacts are to occur during construction activities.

BIO-18, Daily Work Window (New):

To avoid unnecessary impacts to nocturnal and crepuscular wildlife, the Project shall adhere to either of the following: (1): All Project activities shall be terminated 30 minutes before sunset and shall not resume until 30 minutes after sunrise. Caltrans shall use the sunrise and sunset times established by the Astronomical Application Department found at: <https://aa.usno.navy.mil/data/index>. Or (2): All proposed nightwork shall be summarized and proposed to CDFW for review and approval, which shall include a light attenuation and augmentation plan, prior to the commencement of nighttime Project activities. The light attenuation and augmentation plan shall include a list of both common and special-status wildlife species with the potential to occur within the Project area proposed for nightwork, and methods that limit impacts associated with light, noise, air pollution, and vehicles to crepuscular and nocturnal wildlife species. CDFW may elect to impose further restrictions on night-based Project activities upon review of the proposed summarized nightwork and light attenuation and augmentation plan.

COMMENT 4: Fish Protection

Section 2.1.4, Page 18

Issue: The Project may impact special-status fish species. The measures proposed in the DEIR are not sufficient to limit impacts to fish to a level that is less than significant.

Specific impact: Caltrans has not conducted fish surveys for this Project. The NES assumes that Lahontan mountain sucker (*Catostomus lahontan*, SSC) and mountain whitefish (*Prosopium williamsoni*, SSC) are present based on historical records (Table 8, pages 49-50). Observations from CNDDDB suggest that Lahontan cutthroat trout (*Oncorhynchus clarkii henshawi*) is also likely to be present in the Project area. Lahontan cutthroat trout is an SSC and is threatened under the Federal Endangered Species Act. Brown trout (*Salmo trutta*) and rainbow trout (*Oncorhynchus mykiss*) are also present in these waterways, as part of the recreational fisheries associated with Bridgeport Reservoir.

Why impact would occur: The Project proposes to replace five culverts, install RSP in Rickey Ditch, and install bridge railings over Buckeye Creek, Robinson Creek, Rickey Ditch, and an unnamed tributary to Bridgeport Reservoir. The bridge railing work may require falsework (DEIR, page 4), which could include the temporary placement of construction materials in streambeds. The DEIR states that the culvert replacement and RSP may require temporary water diversions, as well as fish handling, removal, and relocation (pages 18-19). Given that the streams to be impacted are perennial, water diversions are likely necessary to perform Project activities, however water diversions are not described in Project documents.

Evidence impact would be significant: Dewatering and relocation can be stressful to fish (Miccoli et al., 2023), and proper design and implementation of stream manipulations (e.g., diversions) is necessary to minimize these impacts. Measure BIO-7 states that “A water diversion plan will be submitted to permitting agencies, if applicable.”

Measure BIO-8 states that “Standard special provisions will be included in the project’s contract to ensure fish protection measures are implemented by the contractor during construction.” While CDFW appreciates the inclusion of protection measures in the bid contracts, the DEIR does not disclose what these provisions are, nor does it outline what a water diversion plan will include. Caltrans should include detailed plans for dewatering and fish relocation in the final EIR. Caltrans should also develop a plan for water diversion that allows fish passage.

Recommended Potentially Feasible Mitigation Measure(s): CDFW recommends the inclusion of the below revised mitigation measures in the final EIR to ensure impacts to fish are avoided, minimized, and mitigated. Deletions are in ~~strikethrough~~ and additions are in ***bold italics***.

BIO-4, Pre-construction Fish Surveys (Revised):

A qualified biologist will conduct pre-construction surveys ~~in~~ of suitable habitat of ~~both~~ ***for*** fish species within the areas of direct impact from construction activities ***at least 30 days*** prior to the start of work at those locations.

BIO-7, Diversions (Revised):

If individuals are found within areas of direct impact and water needs to be diverted, a fish screen ***with openings no greater than one-eighth inch*** will be placed on the water intake pump to prevent take of the species, and any stranded fish will be rescued and relocated upstream or downstream of the construction area. A water diversion plan will be submitted to permitting agencies ***at least 30 days prior to the start of work at those locations. Project work shall not begin at those locations until CDFW reviews and approves the diversion plan***, ~~if applicable.~~

BIO-8, Fish Measures in Bid Contract (Revised):

Standard special provisions ***and relevant fish-protection measures from the final EIR*** will be included in the project's contract to ensure fish protection measures are implemented by the contractor during construction.

BIO-19, Water Diversions (New):

If Project activities involve dewatering or fish relocation, the following measures shall apply:

- 1. Water Diversion. If flowing water is present or reasonably anticipated, Caltrans shall submit to CDFW for approval a detailed water diversion plan, no later than thirty (30) calendar days prior to commencing construction activities. Water diversion plans shall include detailed designs, estimated flow diversion rates, intake screening sizes appropriate to avoid the impingement of any aquatic species with the potential to occur, and estimated dates of diversion. Caltrans may not commence the diversion of water without written approval from CDFW.***
- 2. Maintain Water Quality. Caltrans shall divert flow in a manner that prevents turbidity, siltation, or pollution and provides flows downstream. Flows downstream shall be provided during all times that the natural flow would have supported aquatic life. Said flows shall be of sufficient quality and quantity, and of appropriate temperature to support fish and other aquatic life both and below the diversion.***
- 3. Maintain Fish Passage. All water diversion facilities shall be designed, constructed, and maintained so they do not prevent, impede, or tend to prevent or impede the passing of fish upstream or downstream, as required by Fish and Game Code Section 5901. This includes maintaining or providing a supply of water at an appropriate depth and velocity to facilitate downstream migration of juvenile and adult fish.***
- 4. Stranded Aquatic Life. The Designated Biologist(s) shall check daily for stranded aquatic life as the water level in the dewatered area drops. All reasonable efforts shall be made to capture and move all stranded aquatic life observed in the dewatered area. Capture methods may include fish landing nets, dip nets, buckets, and by hand. Captured aquatic life shall be documented (quantity, species, size, survival and mortality) and released immediately in the closest suitable habitat to the Project area. An account of the species and quantity of aquatic organisms that are captured, handled, and/or moved shall be reported to CDFW. It is the responsibility of Caltrans to obtain any necessary take coverage for state or federally-listed threatened or endangered species.***

5. **Fish Relocation Plan.** Caltrans shall prepare and implement a Fish Relocation Plan to limit the number of fish that may be entrained and/or stranded during construction in dewatered areas. The plan shall include: 1) a list of fish species that may be encountered, 2) descriptions of the proposed methods and equipment to be used to prevent fish stranding, 3) the proposed timing of fish relocation activities, and 4) the qualifications of the Designated Biologist(s) implementing the plan. Caltrans shall submit the Fish Relocation Plan to CDFW no less than ten (10) calendar days prior to planned dewatering. Caltrans shall submit the Fish Relocation Plan to CDFW for review and approval prior to starting project activities. This measure does not allow for the take or relocation of any state listed species.
6. **Restore Normal Flows.** Caltrans shall restore normal flows to the affected watercourse immediately upon completion of work at that location.
7. **Removal of Temporary Structures.** Caltrans shall immediately remove all temporary diversions and associated structures once Project activities are complete.

BIO-20, Fish Screens (New):

If Project activities involve the use of fish screens, such as part of dewatering work or stream diversion, the following measures shall apply:

1. **Fish Screen Inspection.** Caltrans shall inspect all fish screens and as often as necessary to prevent clogging of the screen, and at the minimum once every 7 days to verify that they are operational and functioning as designed to protect salmonids and other fish species in accordance with the screen design criteria.
2. **Fish Screen Cleaning.** Caltrans shall clean and repair all fish screens as needed or necessary. If a fish screen is removed for cleaning or repair, Caltrans shall ensure that either a replacement screen is installed immediately, or water is not flowing through the area where the screen is removed.

COMMENT 5: Bumble Bee Protection

Section 2.1.4, Page 15

Issue: The Project may impact protected bumble bee species. While the NES proposes pre-construction invertebrate surveys, neither invertebrates nor bumble bees are mentioned in the DEIR.

Specific impact: The NES reports that several bumble bee species have been recently observed within foraging distance of the Project. These include Crotch's bumble bee (*Bombus crotchii*) and western bumble bee (*Bombus occidentalis*), both of which are candidate species for listing under CESA. Morrison bumble bee (*Bombus morrisoni*, State rank S1S2³) has also been reported nearby. Crotch's bumble bee forages in sage scrub and nests in rodent burrows, bunch grasses, and grass thatches. Western bumble bee and Morrison bumble bee are generalist foragers with behaviors similar to Crotch's bumble bee.⁴

The Project has the potential to impact sagebrush and grassland, including plant species used by bumble bees for foraging or nesting: big sagebrush (*Artemisia tridentata*), California buckwheat (*Eriogonum fasciculatum*), and sand rice grass (*Stipa hymenoides*) (NES, pages 25-27).

The NES reports that no survey work was performed for bumble bees (page 16), and the DEIR does not propose any measures to avoid impacts to bumble bees. CDFW is concerned with potential impacts to bumble bees and their habitat considering that the Project's design plans indicate disturbance of areas that appear to contain suitable habitat for bumble bees.

Why impact would occur: The Project has the potential for take of bumble bees from collapsing burrows, entombment, displacement, dust from Project operations, and vegetation removal that reduces foraging and nesting habitat and habitat quality.

Evidence impact would be significant: The NES reports that the biological study area contains potentially-suitable habitat for Crotch's bumble bee and Morrison bumble bee, including *Artemisia tridentata* shrubland (page 25). The Project is also near reported ranges for western bumble bee. The Project, as described, would remove potential habitat, including nesting and foraging habitat for bumble bees. CDFW considers the direct and indirect take of Crotch's bumble bee or western bumble bee, and the loss of the species' habitat, as a significant impact unless mitigated to a level of less than significant.

Recommended Potentially Feasible Mitigation Measure(s): CDFW recommends that the below mitigation measure be included in the final EIR to ensure that impacts

³ S1S2 indicates that this species is ranked between "Critically Imperiled" and "Imperiled." From Special Animals List, October 2024, CDFW. Accessed at

<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109406&inline>.

⁴ Species descriptions from Washington Department of Fish and Wildlife. 2024. Accessed at

<https://wdfw.wa.gov/species-habitats/species>.

to bumble bees and their habitats are evaluated and mitigated to a level of less than significant.

BIO-21, Bumble Bee Habitat Assessment (New):

Prior to vegetation removal and/or grading, a Designated Biologist shall assess whether habitat for Crotch's bumble bee or western bumble bee is present or absent in the Project site and adjoining area. The habitat assessment shall be performed according to the 2023 CDFW Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species (available at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150>).

If habitat for Crotch's bumble bee or western bumble bee is present, a Designated Biologist shall conduct focused surveys to determine presence/absence of Crotch's bumble bee and western bumble bee prior to vegetation removal and/or grading. Survey methodology shall follow the 2023 CDFW Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species). Surveys shall be conducted during the flying season when the species is most likely to be detected above ground, between April 1 to September 1, by an approved Designated Biologist familiar with bumble bee behavior and life history. Surveys shall be conducted within the Project site and areas adjacent to the Project site where suitable habitat exists. Survey results including negative findings shall be submitted to CDFW at least 30 days prior to Project-related vegetation removal and/or ground-disturbing activities. If the species is identified on site, Caltrans shall fully avoid the species absent take authorization. If the Project may result in take of Crotch's bumble bee or western bumble bee through either nest destruction or destruction of potential nests hidden in bunch grasses or other nesting habitat, or if complete avoidance cannot be achieved, Caltrans shall obtain appropriate CESA authorization (i.e., a finalized CESA Incidental Take Permit under Fish and Game Code section 2081) prior to initiation of Project activities.

COMMENT 6: Streambed Alteration Agreement Notification

Section 1.6, Page 6

Issue: CDFW appreciates that Caltrans plans to apply for a Lake or Streambed Alteration (LSA) Agreement pursuant to Fish and Game Code section 1602 (DEIR Table 1-1). However, the DEIR does not consider all areas within the Project site that are subject to Fish and Game Code section 1602.

Specific impact: The Project proposes to widen shoulders, replace five culverts, install RSP in Rickey Ditch, and install bridge railings over Buckeye Creek, Robinson Creek, Rickey Ditch, and an unnamed tributary to Bridgeport Reservoir. The bridge railing work may require falsework (DEIR, page 4), which could include the temporary placement of construction materials in streambeds. The DEIR states that the culvert replacement and rock slope protection may require temporary water diversions, as well as fish handling, removal, and relocation (pages 18-19). Therefore, the Project includes substantial diversion or obstruction of natural flow of a stream, substantial change in the bed, bank, and channel of a stream, and deposition of debris or other materials containing ground pavement where they may pass into a stream.

Why impact would occur: Based on the review of the DEIR, NES, and aerial photography, the Project is likely to impact Fish and Game Code section 1602 resources within the Project Area. Specific Project activities include the deposition of shoulder backing material (containing ground pavement) as part of widening road shoulders, replacement of culverts with potential installation of concrete headwalls and wingwalls, installation of RSP in Rickey Ditch, and the use of temporary falsework on several bridges.

Evidence impact would be significant: Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following: substantially divert or obstruct the natural flow of any river, stream, or lake; substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or deposit debris, waste or other materials that could pass into any river, stream, or lake. Please note that "any river, stream, or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). The Project, as described in the DEIR, will be subject to Notification under 1602. CDFW considers substantial adverse impacts and the deposition of materials where they may pass into streams as a significant impact, unless mitigated to a level of less than significant.

CDFW recommends Caltrans conduct an analysis of the Project area for where 1602 resources could be affected by the Project, including the placement of materials where they have the potential to pass into channel areas. This includes where paving and shoulder backing activities could have the potential to pass into Fish and Game Code section 1602 regulated areas during flood events. CDFW is available for coordination and review of areas where Fish and Game Code section 1602 resources occur within the Project area.

Recommended Potentially Feasible Mitigation Measure(s): CDFW recommends the inclusion of the below Mitigation Measure in the final EIR to ensure impacts to

Fish and Game Code section 1602 resources are mitigated to a level of less than significant. Additions are in ***bold italics***.

BIO-22, Notification to CDFW (New):

Caltrans shall notify CDFW under Fish and Game Code section 1600 et seq. for all portions of the Project that will substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake, or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake. Shoulder backing that is planned to be placed in or near channel areas that are subject to Fish and Game Code section 1600 notification shall not consist of asphalt, bitumen, or any other substance or material that is deleterious to fish, plant life, mammals, or birdlife in accordance with Fish and Game Code 5650 et seq.

COMMENT 7: Mitigation

Section 2.1.4, Page 21

Issue: The DEIR does not consider compensatory mitigation for anticipated impacts to Fish and Game Code section 1602 resources.

Specific impact: As described in the DEIR, the Project will permanently impact 0.334 acres of Fish and Game Code section 1602 resources (page 19). These impacts include removal of riparian vegetation, removal and replacement of culverts, and placement of RSP in a streambed.

Why impact would occur: Caltrans does not propose to mitigate for impacts to Fish and Game Code section 1602, citing a lack of CDFW-approved mitigation/conservation banks within the Project service area and because CDFW does not accept in-lieu fees as a reason. However, Caltrans did not consider habitat restoration, habitat enhancement, or land acquisition as potential options to mitigate impacts to a level of less than significant.

Evidence impact would be significant: Mitigation is an important tool for the protection of fish and wildlife resources. When a Project cannot avoid and minimize all impacts, mitigation can help offset impacts from Project activities.

Recommended Potentially Feasible Mitigation Measure(s): CDFW recommends the inclusion of the below revised mitigation measure in the final EIR to ensure impacts to Fish and Game Code section 1602 are avoided, minimized, and mitigated. Deletions are in ~~strikethrough~~ and additions are in ***bold italics***.

BIO-14, Riparian Habitat and Aquatic Resources Mitigation (Revised):

Proposed mitigation for impacts to riparian habitat and aquatic resources for impacts under Army Corps of Engineers and Lahontan Regional Water Quality Control Board will be identified during the acquisition of permits in the project's design phase. Available mitigation for these impacts in Mono County includes in-lieu fees only. ~~Mitigation for impacts under California Department of Fish and Wildlife are not feasible.~~ The California Department of Fish and Wildlife does not accept in-lieu fees as an acceptable form of mitigation, no mitigation banks are available within the project service area, and on-site planting within the Caltrans operational right-of-way is not possible due to driver safety constraints. ***Caltrans will consult with CDFW to identify appropriate mitigation for the Project. CDFW shall determine appropriate mitigation in the Lake or Streambed Alteration Agreement, which may include habitat restoration, habitat enhancement, or conservation and management in perpetuity of acquired lands.***

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).

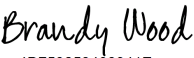
CONCLUSION

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

Ryan Spaulding, Senior Environmental Scientist (Specialist)
California Department of Transportation, District 9
December 13, 2024
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Questions regarding this letter or further coordination should be directed to Chris Briggs, Senior Environmental Scientist (Specialist) at 909-758-6774 or christopher.briggs@wildlife.ca.gov.

Sincerely,

DocuSigned by:

4D759253408941E...

Brandy Wood
Environmental Program Manager

ec: Office of Planning and Research, State Clearinghouse, Sacramento
state.clearinghouse@opr.ca.gov

REFERENCES

CDFW. 2018. Protocols for surveying and evaluating impacts to special status native plant populations and sensitive natural communities. Available at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>.

CDFW. 2023. Survey considerations for California Endangered Species Act (CESA) candidate bumble bee species. Available at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150>.

Miccoli, A., A. D. Luca, J. Bricker, F. T. Vriese, R. Moll, and G. Scapigliati. 2023. Stress response to entrainment flow speed near pump inlet fish screens in two model teleost species, *Anguilla anguilla* and *Oncorhynchus mykiss*. *Fishes* 8(3): 139. Accessed at <https://www.mdpi.com/2410-3888/8/3/139>.

Socolar, J. B., P. N. Epanchin, S. R. Beissinger, and M. W. Tingley. 2017. Phenological shifts conserve thermal niches. *Proceedings of the National Academy of Sciences* 114(49): 12976-12981. Accessed at <https://www.pnas.org/doi/10.1073/pnas.1705897114>.

Attachment A: Mitigation and Monitoring Reporting Plan

CDFW recommends that the following language be incorporated into the final EIR for the Project.

Mitigation Measure		Timing	Responsible Party
BIO-16 Rare Plant Surveys	No more than three years prior to construction and during the appropriate blooming season for each plant with the potential to occur on-site, a qualified biologist shall conduct a pre-construction plant survey according to Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW, 2018). The survey shall be considered valid for up to three years. Special-status plants must be flagged for visual identification to construction personnel for work avoidance. Special-status plants detected that feature multiple plants in a single location must be fenced with stakes and flagging to temporarily identify the environmentally sensitive area. If complete avoidance is not feasible, Caltrans shall mitigate the loss of the plants through land acquisition and conservation at a mitigation ratio determined by CDFW after Project analysis.	Prior to commencing ground- or vegetation-disturbing activities.	Project proponent
BIO-17, Nesting Bird Surveys	Within three days prior to the commencement of construction activities, a qualified biologist will perform a nesting bird and raptor survey that will consist of a site visit to each area with potential nesting habitat to determine whether there are active nests within 500 feet of the Project. This survey will also identify the species, and to the degree feasible, nesting stage (e.g., incubation of young, feeding of young, near fledging). Nests will be mapped, but not using GPS, since close encroachment may cause nest abandonment. If active nests are found during the pre-construction nesting bird surveys, a qualified biologist shall establish an appropriate nest buffer to be marked on the ground. Nest buffers are species specific and shall be at least 300 feet for passerines and 500 feet for raptors. A smaller or larger buffer may be determined by the qualified biologist familiar with the nesting phenology of the nesting species and based on nest and buffer monitoring results. Construction activities may not occur inside the established buffers. The buffers shall remain on-site until a qualified biologist determines the young have fledged or the nest is no longer active. Active nests and adequacy of the established buffer distance shall be monitored daily by the qualified biologist	Prior to commencing ground- or vegetation-disturbing activities.	Project proponent

Mitigation Measure		Timing	Responsible Party
	until the qualified biologist has determined the young have fledged or the Project has been completed. The qualified biologist has the authority to stop work if nesting pairs exhibit signs of disturbance.		
BIO-1, Bat Surveys and Plan	<p>Pre-construction daytime and evening visual surveys to determine presence or absence of bats will be conducted in bridges and culverts within and adjacent to the project limits 14 days prior to the start of construction. If any sign of bat presence is identified, additional surveys using bat detector equipment may be used to confirm presence.</p> <p>If bats are found roosting in or adjacent to the Project impact area, the Designated Biologist shall conduct emergence surveys and use acoustic monitoring during appropriate weather conditions to identify the species, estimated quantity present, roost type (e.g., maternity), and roost status (e.g., maternal occupied, seasonal refuge, etc.). CDFW shall be notified within 24 hours if bats are found roosting. Results of the surveys shall be provided to CDFW within seven days of completing the beforementioned surveys. If roosting bats or signs of roosting bats are found in the Project areas (e.g., occupied roosts, urine staining, guano masses, etc.), a Bat Avoidance and Monitoring Plan shall be submitted at least seven days prior to the start of Project activities for CDFW review and written approval. Project activities may not start until CDFW's written approval of the Bat Avoidance and Monitoring Plan has been provided. The Bat Avoidance and Monitoring Plan shall include: (1) an assessment of all Project impacts to bats, including noise disturbance during construction; (2) effective avoidance and minimization measures to protect bats; (3) compensatory mitigation for permanent impacts to roosts if impacted, such as, but not limited to, constructing artificial bat roosting habitats (e.g., bat boxes or panels).</p>	Prior to commencing ground- or vegetation-disturbing activities.	Project proponent
BIO-2, Bat Exclusion Devices	If bats are present within the project limits, use of exclusion devices may be installed outside of the maternity season (April 1 to August 31) to ensure no bats are present within areas of direct impact from construction activities while work is occurring.	Prior to commencing ground- or vegetation-disturbing activities.	Project proponent

Mitigation Measure		Timing	Responsible Party
BIO-3, Bat Monitoring	If bats are present, a full-time construction monitor will be present to ensure that no additional impacts are to occur during construction activities.	During Project activities.	Project proponent
BIO-18, Daily Work Window	To avoid unnecessary impacts to nocturnal and crepuscular wildlife, the Project shall adhere to either of the following: (1): All Project activities shall be terminated 30 minutes before sunset and shall not resume until 30 minutes after sunrise. Caltrans shall use the sunrise and sunset times established by the Astronomical Application Department found at: https://aa.usno.navy.mil/data/index . Or (2): All proposed nightwork shall be summarized and proposed to CDFW for review and approval, which shall include a light attenuation and augmentation plan, prior to the commencement of nighttime Project activities. The light attenuation and augmentation plan shall include a list of both common and special-status wildlife species with the potential to occur within the Project area proposed for nightwork, and methods that limit impacts associated with light, noise, air pollution, and vehicles to crepuscular and nocturnal wildlife species. CDFW may elect to impose further restrictions on night-based Project activities upon review of the proposed summarized nightwork and light attenuation and augmentation plan.	(1) During Project activities Or (2) Prior to commencing Project activities.	Project proponent
BIO-4, Pre-construction Fish Surveys	A qualified biologist will conduct pre-construction surveys in suitable habitat for fish species within the areas of direct impact from construction activities at least 30 days prior to the start of work at those locations.	Prior to commencing ground- or vegetation-disturbing activities.	Project proponent
BIO-7, Diversions	If individuals are found within areas of direct impact and water needs to be diverted, a fish screen with openings no greater than one-eighth inch will be placed on the water intake pump to prevent take of the species, and any stranded fish will be rescued and relocated upstream or downstream of the construction area. A water diversion plan will be submitted to permitting agencies at least 30 days prior to the start of work at those locations. Project work shall not begin at those locations until CDFW reviews and approves the diversion plan.	Prior to commencing ground- or vegetation-disturbing activities.	Project proponent
BIO-8, Fish Measures in Bid Contract	Standard special provisions and relevant fish-protection measures from the final EIR will be included in the project's contract to ensure fish	Prior to commencing	Project proponent

Mitigation Measure		Timing	Responsible Party
	protection measures are implemented by the contractor during construction.	Project activities.	
BIO-19, Water Diversions	<p>If Project activities involve dewatering or fish relocation, the following measures shall apply:</p> <ol style="list-style-type: none"> 1. <u>Water Diversion</u>. If flowing water is present or reasonably anticipated, Caltrans shall submit to CDFW for approval a detailed water diversion plan, no later than thirty (30) calendar days prior to commencing construction activities. Water diversion plans shall include detailed designs, estimated flow diversion rates, intake screening sizes appropriate to avoid the impingement of any aquatic species with the potential to occur, and estimated dates of diversion. Caltrans may not commence the diversion of water without written approval from CDFW. 2. <u>Maintain Water Quality</u>. Caltrans shall divert flow in a manner that prevents turbidity, siltation, or pollution and provides flows downstream. Flows downstream shall be provided during all times that the natural flow would have supported aquatic life. Said flows shall be of sufficient quality and quantity, and of appropriate temperature to support fish and other aquatic life both and below the diversion. 3. <u>Maintain Fish Passage</u>. All water diversion facilities shall be designed, constructed, and maintained so they do not prevent, impede, or tend to prevent or impede the passing of fish upstream or downstream, as required by Fish and Game Code Section 5901. This includes maintaining or providing a supply of water at an appropriate depth and velocity to facilitate downstream migration of juvenile and adult fish. 4. <u>Stranded Aquatic Life</u>. The Designated Biologist(s) shall check daily for stranded aquatic life as the water level in the dewatered area drops. All reasonable efforts shall be made to capture and move all stranded aquatic life observed in the dewatered area. Capture methods may include fish landing nets, dip nets, buckets, and by hand. Captured aquatic life shall be documented (quantity, species, size, survival and mortality) and released immediately in the closest suitable habitat to the Project area. An account of the species and quantity of aquatic organisms that are captured, handled, 	Prior to commencing and during Project activities.	Project proponent

Mitigation Measure	Timing	Responsible Party	
<p>and/or moved shall be reported to CDFW. It is the responsibility of Caltrans to obtain any necessary take coverage for state or federally-listed threatened or endangered species.</p> <p>5. <u>Fish Relocation Plan</u>. Caltrans shall prepare and implement a Fish Relocation Plan to limit the number of fish that may be entrained and/or stranded during construction in dewatered areas. The plan shall include: 1) a list of fish species that may be encountered, 2) descriptions of the proposed methods and equipment to be used to prevent fish stranding, 3) the proposed timing of fish relocation activities, and 4) the qualifications of the Designated Biologist(s) implementing the plan. Caltrans shall submit the Fish Relocation Plan to CDFW no less than ten (10) calendar days prior to planned dewatering. Caltrans shall submit the Fish Relocation Plan to CDFW for review and approval prior to starting project activities. This measure does not allow for the take or relocation of any state listed species.</p> <p>6. <u>Restore Normal Flows</u>. Caltrans shall restore normal flows to the affected watercourse immediately upon completion of work at that location.</p> <p>7. <u>Removal of Temporary Structures</u>. Caltrans shall immediately remove all temporary diversions and associated structures once Project activities are complete.</p>			
<p>BIO-20, Fish Screens</p>	<p>If Project activities involve the use of fish screens, such as part of dewatering work or stream diversion, the following measures shall apply:</p> <p>1. <u>Fish Screen Inspection</u>. Caltrans shall inspect all fish screens and as often as necessary to prevent clogging of the screen, and at the minimum once every 7 days to verify that they are operational and functioning as designed to protect salmonids and other fish species in accordance with the screen design criteria.</p> <p>2. <u>Fish Screen Cleaning</u>. Caltrans shall clean and repair all fish screens as needed or necessary. If a fish screen is removed for cleaning or repair, Caltrans shall ensure that either a replacement screen is installed immediately, or water is not</p>	<p>During Project activities.</p>	<p>Project proponent</p>

Mitigation Measure		Timing	Responsible Party
	flowing through the area where the screen is removed.		
BIO-21, Bumble Bee Habitat Assessment	<p>Prior to vegetation removal and/or grading, a Designated Biologist shall assess whether habitat for Crotch's bumble bee or western bumble bee is present or absent in the Project site and adjoining area. The habitat assessment shall be performed according to the 2023 CDFW Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species (available at https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150).</p> <p>If habitat for Crotch's bumble bee or western bumble bee is present, a Designated Biologist shall conduct focused surveys to determine presence/absence of Crotch's bumble bee and western bumble bee prior to vegetation removal and/or grading. Survey methodology shall follow the 2023 CDFW Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species). Surveys shall be conducted during the flying season when the species is most likely to be detected above ground, between April 1 to September 1, by an approved Designated Biologist familiar with bumble bee behavior and life history. Surveys shall be conducted within the Project site and areas adjacent to the Project site where suitable habitat exists. Survey results including negative findings shall be submitted to CDFW at least 30 days prior to Project-related vegetation removal and/or ground-disturbing activities. If the species is identified on site, Caltrans shall fully avoid the species absent take authorization. If the Project may result in take of Crotch's bumble bee or western bumble bee through either nest destruction or destruction of potential nests hidden in bunch grasses or other nesting habitat, or if complete avoidance cannot be achieved, Caltrans shall obtain appropriate CESA authorization (i.e., a finalized CESA Incidental Take Permit under Fish and Game Code section 2081) prior to initiation of Project activities.</p>	Prior to commencing ground- or vegetation-disturbing activities.	Project proponent
BIO-22, Notification to CDFW	Caltrans shall notify CDFW under Fish and Game Code section 1600 et seq. for all portions of the Project that will substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river,	Prior to commencing ground- or vegetation-	Project proponent

Mitigation Measure		Timing	Responsible Party
	stream, or lake, or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake. Shoulder backing that is planned to be placed in or near channel areas that are subject to Fish and Game Code section 1600 notification shall not consist of asphalt, bitumen, or any other substance or material that is deleterious to fish, plant life, mammals, or birdlife in accordance with Fish and Game Code 5650 et seq.	disturbing activities.	
BIO-14, Riparian Habitat and Aquatic Resources Mitigation	Proposed mitigation for impacts to riparian habitat and aquatic resources for impacts under Army Corps of Engineers and Lahontan Regional Water Quality Control Board will be identified during the acquisition of permits in the project's design phase. Available mitigation for these impacts in Mono County includes in-lieu fees only. The California Department of Fish and Wildlife does not accept in-lieu fees as an acceptable form of mitigation, no mitigation banks are available within the project service area, and on-site planting within the Caltrans operational right-of-way is not possible due to driver safety constraints. Caltrans will consult with CDFW to identify appropriate mitigation for the Project. CDFW shall determine appropriate mitigation in the Lake or Streambed Alteration Agreement, which may include habitat restoration, habitat enhancement, or conservation and management in perpetuity of acquired lands.	Prior to commencing ground- or vegetation-disturbing activities.	Project proponent