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***GAVIN NEWSOM**, Governor*
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July 15, 2024

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Vincent Thomas Bridge Deck Replacement Project Draft Environmental Impact Report/Environmental Assessment, SCH #2023040301, Los Angeles County, CA

Dear Jason Roach:

The California Department of Fish and Wildlife (CDFW) has reviewed the Draft Environmental Impact Report (DEIR)/Environmental Assessment (EA) from the California Department of Transportation (Caltrans, Lead Agency) Vincent Thomas Bridge Deck Replacement Project (Project). Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW's Role

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State [Fish and Game Code, §§ 711.7, subdivision (a) & 1802; Public Resources Code, § 21070; California Environmental Quality Act (CEQA) Guidelines, § 15386, subdivision (a)]. CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (Id., § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect State fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA (Public Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code, including lake and streambed alteration regulatory authority (Fish and Game 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 and Game Code, § 2050 et seq.), or CESA-

listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish and Game Code, § 1900 et seq.), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

Proponent: California Department of Transportation

Objective: The objective of the Project is to replace the deteriorated bridge deck, upgrade seismic sensors, and improve the existing median barrier and railings. A No Build Alternative (Alternative 1) and Build Alternative (Alternative 2) were analyzed in the DEIR/EA. Alternative 2 has four construction staging options for the closure of the bridge:

- **Single-Stage Construction:** This construction staging option consists of a full closure of the bridge that would last 16 to 41 months with detour routes and 24/7 work. The difference in construction timelines depends on the deck type chosen. Orthotropic and Pre-Cast deck types would lead to a construction timeline of approximately 16 months. A Cast-in-Place deck type would lead to a construction timeline of approximately 41 months.

- **Two-Stage Construction:** This construction staging option would leave one lane open in each direction for each stage (two stages). The work would require the installation of a temporary support/bracing system, potentially reduced speeds of approximately 25 miles per hour (mph) due to narrowed lanes, and multiple weekend (55-hour) full closures and overnight full closures of the bridge. Construction would last approximately 25 months.

- **Three-Stage Construction:** This construction staging option would leave one lane open in each direction and would require installation of a temporary support/bracing system. One lane would be open in each direction for each stage, and multiple weekend (55- hour) full bridge closures and full overnight bridge closures would be required. Construction would last approximately 32 months.

- **Nighttime Bridge Closure:** This construction staging option would leave the bridge fully open during daytime traffic hours (6:00 a.m. to 7:00 p.m.). The work would require the installation of a temporary support/bracing system and fully close the bridge during nighttime hours (7:00 p.m. to 6:00 a.m.) every day. Construction would last approximately 48 months.

Location: The Project is on the Vincent Thomas Bridge, which is in the Port of Los Angeles, in the City of Los Angeles, Los Angeles County. The Vincent Thomas Bridge is part of State Route (SR) 47, and the Project begins at PM 0.4 and ends at PM 2.0.

Timeframe: Construction and demolition activities within the Project area are anticipated to commence in fall 2025. The timeframe for each construction staging option is as follows:

- Single-Stage Construction: 16 or 41 months
- Two-Stage Construction: 25 months
- Three-Stage Construction: 32 months
- Nighttime Bridge Closure: 48 months

Biological Setting: The Vincent Thomas Bridge deck crosses the Los Angeles Channel and developed land used for storage and parking. The Los Angeles Channel connects the Port of Los Angeles and Port of Long Beach to the Pacific Ocean and is mostly saltwater, with some freshwater input from the Dominguez Channel and urban runoff. The channel is generally 50 to 58 feet deep under the Vincent Thomas Bridge. Peregrine falcon (*Falco peregrinus*) inhabit the bridge year-round; it nests and roosts on the bridge soffit and forages in the Project vicinity. The bridge soffit may provide suitable night roosting habitat for bats, including pallid bat (*Antrozous pallidus*), which is a Species of Special Concern (SSC).

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist Caltrans in adequately avoiding and/or mitigating the Project's impacts on fish and wildlife (biological) resources. Additional comments or other suggestions may also be included to improve the document. CDFW recommends the measures or revisions below be included in a science-based monitoring program that contains adaptive management strategies as part of the Project's CEQA mitigation, monitoring and reporting program (Public Resources Code, § 21081.6; CEQA Guidelines, § 15097).

COMMENT #1: Peregrine Falcon Protections

Issue: The proposed mitigation measures for peregrine falcons may not adequately reduce impacts to a less than significant level.

Specific impacts: Demolishing the bridge deck could cause nest failure, increased noise and human activity could disturb peregrine falcons, and the debris catchment system could impede their access to nesting areas.

Why impact would occur: Peregrine falcon inhabit the bridge year-round; it nests and roosts on the bridge soffit and forages in the Project vicinity. The DEIR states that if there are nests on the bridge at the time of Project commencement, demolition of the existing bridge deck would cause debris to fall onto and around nests, which could

cause nest failure (page 2.22-3). Adequate protective measures are necessary to prevent nest failure.

The Project will also increase noise and human activity levels, which would disturb the peregrine falcons. Human activity close to the nest would also cause peregrine falcon to expend excess energy on nest defense (page 2.22-3) instead of spending that energy on hunting, reproduction, and tending to eggs. Additionally, the Project's debris catchment system would block access to nesting areas (page 2.22-3).

While the Natural Environment study goes into about peregrine falcon surveys (page 6), Mitigation Measure (MM)-BIO-3 of the DEIR/EA does not specify a timeframe for surveying for bird nests prior to construction. If the surveys were conducted one month prior to construction, a nest could be established between the survey and construction starting. MM-BIO-2 states "Caltrans would remove existing nesting materials that are on the bridge when they are encountered prior to the nesting season" (page 2.19-5). Peregrine falcons are known to reuse nests. Removing nesting materials would require peregrine falcons to expend energy to build new nests. Therefore, less energy would be available for other nesting requirements. This may lead to a reduced probability of nesting success.

Evidence impacts may be significant: Caltrans is responsible for complying with all applicable laws related to nesting birds and birds of prey. Fish and Game Code sections afford protective measures as follows: 1) section 3503 makes it 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; 2) 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; and 3) section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by the rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act (MBTA) of 1918, as amended (16 U.S.C. § 703 et seq.). Peregrine falcons are part of the order Falconiformes, so it is unlawful to take, possess, or needlessly destroy their nests.

Recommended Potentially Feasible Mitigation Measure(s):

To ensure compliance with all applicable laws related to nesting birds and birds of prey, CDFW recommends that Caltrans revise their Mitigation Measures as provided below (additions underlined, deletions in strikethrough).

Mitigation Measure #1: Nesting Exclusionary Devices. CDFW recommends Caltrans revise MM-BIO-1 by incorporating the underlined language:

To prevent the project from interrupting nesting and causing nest failure, which would result in a substantial waste of energy and decreased ease of reproduction for peregrine falcon, Caltrans would install nesting exclusionary devices on the bridge prior to the nesting season in which construction is planned to occur. These devices shall be installed a minimum of 2 months prior to the initiation of demolition activities within 500 feet of existing nesting locations. If existing nesting sites are occupied, then exclusion activities shall not occur until 30 days after the last young leave the nests. The exclusionary devices would prevent the falcon and other birds from attempting to nest on the bridge.

Mitigation Measure #2: Nesting Material Removal. CDFW recommends Caltrans remove MM-BIO-2.

~~To prevent the project from interrupting nesting and causing nest failure, Caltrans would remove existing nesting materials that are on the bridge when they are encountered prior to the nesting season (generally February 1 to September 1, but when including the peregrine falcon season, it is January 15 to September 1). This would discourage peregrine falcon and other species that reuse nests from using the bridge for nesting and reduce the likelihood that falcons and other birds, their eggs, and nest would be injured or destroyed by construction activities such as concrete demolition.~~

Mitigation Measure #3: Artificial Nest Platform. CDFW recommends Caltrans revise MM-BIO-6 by incorporating the underlined language:

Prior to the nesting season in which construction is planned to occur, Caltrans will construct an artificial nest platform outside of the project impact area within the Port of Long Beach/Port of Los Angeles complex to compensate for the temporary loss of the nesting space on the Vincent Thomas Bridge. The artificial nest platform will likely be placed close to the bridge so that falcons that repeatedly nest on the Vincent Thomas Bridge are aware of the artificial nesting platform. The platform would be constructed in a way and at a site that would make it suitable for peregrine falcon nesting, taking into consideration the elevation, the visibility of the platform, and other site characteristics. Potential nest platform sites will be discussed in consultation with the CDFW. The artificial nest platform shall remain in place after Project completion.

Mitigation Measure #4: Surveys and Nest Buffer. CDFW recommends Caltrans revise MM-BIO-3 by incorporating the underlined language and removing the language with strikethrough:

A qualified biologist with experience in surveying and monitoring avian activity will survey the bridge and its surroundings at least three days prior to construction to establish a behavioral baseline of all identified nests ~~verify that birds are not nesting on the bridge prior to construction~~. Once Project activities begin, CDFW recommends having the qualified biologist continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends halting the

work causing that change and consulting with CDFW for additional avoidance and minimization measures. A lapse in construction is not planned, but if there is a lapse in construction for longer than 3 days, a repeat survey would be performed. If birds are observed attempting nesting on the bridge, then a no-work buffer of 500 feet around the nest shall ~~would~~ be implemented, and Caltrans shall ~~would~~ conduct consultation with the United States Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW). If peregrine falcon are nesting on the Vincent Thomas Bridge, work shall not occur in a 500 ft buffer around the nest until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or on-site parental care for survival.

Mitigation Measure #5: Nest monitoring. If nests are found on the Vincent Thomas Bridge, a qualified biologist shall monitor the nests weekly during the Project and shall send these reports to CDFW. After Project completion, a qualified biologist shall monitor the nest(s) monthly for three years and shall send these reports to CDFW.

COMMENT #2: Impacts to Bats

Issue: Bats may be impacted by Project activities.

Specific impacts: Construction activities, such as bridge deck removal and increased lighting for night work may prevent bats from night roosting at the Project site.

Why impact would occur: Caltrans performed a bat habitat assessment and concluded that the bridge soffit does not provide day roosting habitat. However, the DEIR/EA states that while the bridge soffit does not provide day roosting habitat for bats, it may be used for night roosting (page 2.16-2). The Biogeographic Information and Observation System's[1] bat habitat suitability databases show that the Project area has a medium habitat suitability for pallid bat. Construction will create light and noise that may temporarily impact these species' night roosting and foraging in the Project area. Eliminating a night roost can increase the energetic costs of bats commuting to foraging areas, which can cause them to abandon foraging habitat as well (Johnston et al., 2004). This can negatively affect bats' fitness and survival. Furthermore, increased light can reduce bat activity and affect foraging behavior (Stone et al., 2009; Cravens et al., 2019). Without more protective minimization measures, the Project may negatively impact the local populations.

Evidence impacts may be significant: Bats are considered non-game mammals and are protected by state law from take and/or harassment (Fish & G. Code, § 4150, Cal. Code Regs., tit. 14, § 251.1). Pallid bat may utilize the bridge for night roosting, and they are an SSC, which meets the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines §15065). CDFW considers adverse impacts to an SSC, for the purposes of CEQA, to be significant without mitigation. Mitigation is not just

[1] https://apps.wildlife.ca.gov/bios6/

exclusion from maternity roosts, wintering sites, night roosts, mating roosts and foraging sites, but providing similarly functioning habitat to what is impacted.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #6: Hours of operation and lighting. If night work is necessary, it shall be limited, and light shall be shielded from the Los Angeles Channel and adjacent habitat. Lighting shall be directed away from non-active work areas.

ADDITIONAL COMMENTS

Mitigation and Monitoring Reporting Plan. CDFW recommends the Project's environmental document to include mitigation measures recommended in this letter. CDFW provides comments to assist Caltrans in developing feasible mitigation measures that are specific, detailed (i.e., responsible party, timing, specific actions, location), and clear in order for a measure to be fully enforceable and implemented successfully via a mitigation monitoring and/or reporting program (CEQA Guidelines, § 15097; Pub. Resources Code, § 21081.6). Caltrans is welcome to coordinate with CDFW to further review and refine the Project's mitigation measures. Per Public Resources Code section 21081.6(a)(1), CDFW has provided a summary of our suggested mitigation measures and recommendations in the form of an attached Draft Mitigation Monitoring and Reporting Plan (Attachment A).

ENVIRONMENTAL DOCUMENT FILING FEES

The Project, as proposed, could have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by Caltrans and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying Project approval to be operative, vested, and final (California Code of Regulations, title 14, § 753.5; Fish and Game Code, § 711.4; Public Resources Code, § 21089).

CONCLUSION

CDFW appreciates the opportunity to comment on the Project to assist Caltrans in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that Caltrans has to

our comments and to receive notification of any forthcoming hearing date(s) for the Project [CEQA Guidelines, § 15073(e)].

Questions regarding this letter or further coordination should be directed to Victor Torres, Environmental Scientist at 858-203-5873 or victor.torres@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Heather A. Pert
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Heather A. Pert
Environmental Program Manager
South Coast Region

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

ec: California Department of Fish and Wildlife

Erinn Wilson-Olgin, Regional Manager
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California Department of Transportation

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REFERENCES

California Department of Fish and Wildlife [CDFW] (2013). Appendix I: CDFW's Conservation Measures for Biological Resources That May Be Affected by Program-level Actions.

Cravens, Z.M. & Boyles, J. G. (2019). Illuminating the physiological implications of artificial light on an insectivorous bat community. *Oecologia, 189*(1), 69-77.

H. T. Harvey & Associates. (2019). Caltrans Bat Mitigation: A Guide to Developing Feasible and Effective Solutions. H. T. Harvey & Associates. https://dot.ca.gov//media/dot-media/programs/environmental-analysis/documents/env/caltrans-bat mitigation-guide-a11y.pdf

Johnston, D., Tatarian, G., & Pierson, E. (2004). California bat mitigation techniques, solutions, and effectiveness. H. T. Harvey & Associates. https://www.researchgate.net/publication/328600738_CALIFORNIA_BAT_MITIATION_TECHNIQUES_SOLUTIONS_AND_EFFECTIVENESS

Stone, E.L., Jones, G., & Harris, S. (2009). Street lighting disturbs commuting bats. *Current Biology, 19*, 1123-1127.

Attachment A: Mitigation Monitoring and Reporting Plan
CDFW recommends the following language to be incorporated into a future environmental document for the Project.

Biological Resources (BIO)			
Mitigation Measure (MM) or Recommendation (REC)		**Timing**	**Responsible Party**
MM 1 – Nesting Exclusionary Devices	CDFW recommends Caltrans revise MM-BIO-1 by incorporating the underlined language: To prevent the project from interrupting nesting and causing nest failure, which would result in a substantial waste of energy and decreased ease of reproduction for peregrine falcon, Caltrans would install nesting exclusionary devices on the bridge prior to the nesting season in which construction is planned to occur. <u>These devices shall be installed a minimum of 2 months prior to the initiation of demolition activities within 500 feet of existing nesting locations. If existing nesting sites are occupied, then exclusion activities shall not occur until 30 days after the last young leave the nests.</u> The exclusionary devices would prevent the falcon and other birds from attempting to nest on the bridge.	Prior to finalizing CEQA document	Lead Agency
MM 2 – Nesting Material Removal	CDFW recommends Caltrans remove MM-BIO-2. ~~To prevent the project from interrupting nesting and causing nest failure, Caltrans would remove existing nesting materials that are on the bridge when they are encountered prior to the nesting season (generally February 1 to September 1, but when including the peregrine falcon season, it is January 15 to September 1).~~	Prior to finalizing CEQA document	Lead Agency

	~~This would discourage peregrine falcon and other species that reuse nests from using the bridge for nesting and reduce the likelihood that falcons and other birds, their eggs, and nest would be injured or destroyed by construction activities such as concrete demolition.~~		
MM 3 – Artificial Nest Platform	CDFW recommends Caltrans revise MM-BIO-6 by incorporating the underlined language: <u>Prior to the nesting season in which construction is planned to occur,</u> Caltrans will construct an artificial nest platform outside of the project impact area within the Port of Long Beach/Port of Los Angeles complex to compensate for the temporary loss of the nesting space on the Vincent Thomas Bridge. The artificial nest platform will likely be placed close to the bridge so that falcons that repeatedly nest on the Vincent Thomas Bridge are aware of the artificial nesting platform. The platform would be constructed in a way and at a site that would make it suitable for peregrine falcon nesting, taking into consideration the elevation, the visibility of the platform, and other site characteristics. Potential nest platform sites will be discussed in consultation with the CDFW. <u>The artificial nest platform shall remain in place after Project completion.</u>	Prior to finalizing CEQA document	Lead Agency
MM 4 – Surveys and Nest Buffer	CDFW recommends Caltrans revise MM-BIO-3 by incorporating the underlined language and removing the language with strikethrough:	Prior to finalizing CEQA document	Lead Agency

	A qualified biologist with experience in surveying and monitoring avian activity will survey the bridge and its surroundings at least three days prior to construction to establish a behavioral baseline of all identified nests ~~verify that birds are not nesting on the bridge prior to construction~~. Once Project activities begin, CDFW recommends having the qualified biologist continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends halting the work causing that change and consulting with CDFW for additional avoidance and minimization measures. A lapse in construction is not planned, but if there is a lapse in construction for longer than 3 days, a repeat survey would be performed. If birds are observed attempting nesting on the bridge, then a no-work buffer of 500 feet around the nest shall ~~would~~ be implemented, and Caltrans shall ~~would~~ conduct consultation with the United States Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW). If peregrine falcon are nesting on the Vincent Thomas Bridge, work shall not occur in a 500 ft buffer around the nest until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or on-site parental care for survival.		
MM 5 – Nest monitoring	If nests are found on the Vincent Thomas Bridge, a qualified biologist shall monitor the nests weekly during the Project and shall send these reports to CDFW. After Project completion, a qualified biologist shall monitor the	During Project activities/After completion of Project activities	Lead Agency

	nest(s) monthly for three years and shall send these reports to CDFW.		
MM 6 – Hours of operation and lighting	If night work is necessary, it shall be limited, and light shall be shielded from the Los Angeles Channel and adjacent habitat. Lighting shall be directed away from non-active work areas.	During Project activities	Lead Agency