

State of California  
Department of Fish and Wildlife



## Memorandum

Governor's Office of Planning & Research

Date: March 3, 2021

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To: Mr. Scott Guidi  
California Department of Transportation  
District 10; Central Region Environmental  
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### STATE CLEARINGHOUSE

DocuSigned by:

*Gregg Erickson*

From: Mr. Gregg Erickson, Regional Manager

California Department of Fish and Wildlife-Bay Delta Region, 2825 Cordelia Road, Suite 100, Fairfield, CA 94534

Subject: Stockton Channel Viaduct Bridge Improvement Project, Initial Study/Mitigated Negative Declaration, SCH No. 2017072033, San Joaquin County

The California Department of Fish and Wildlife (CDFW) has reviewed the proposed draft Initial Study/Mitigated Negative Declaration (IS/MND) for the Stockton Channel Viaduct Bridge Improvement Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup> CDFW is submitting comments on the IS/MND 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 is a Trustee Agency with responsibility under CEQA §15386 for commenting on projects that could impact fish, plant and wildlife resources. CDFW is also considered a Responsible Agency if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA), the Native Plant Protection Act, the Lake and Streambed Alteration (LSA) Program and other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources. Pursuant to our jurisdiction, CDFW has the following concerns, comments, and recommendations regarding the Project.

### Project Location and Description

Caltrans, as the lead agency, proposes to replace or rehabilitate the existing northbound and southbound Stockton Viaduct bridges (Bridge No. 29-0176L and Bridge No. 29-0176R) along Interstate 5 (I-5) in the San Joaquin River at post mile (PM) 26.1 to 27.6 in the City of Stockton, San Joaquin County, California.

<sup>1</sup> 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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The Project will replace or rehabilitate the existing bridge superstructures, including decks, girders, railings, diaphragms and expansion joints. The Project will also replace or rehabilitate the substructure, including existing abutments, wingwalls and piers. The IS/MND proposes three alternatives and a no build alternative. Alternative 1A will require a two-year construction window and will replace the road deck (superstructure), strengthen existing steel girders and lateral bracing, upgrade the substructure of the bridge abutments and rehabilitate the bridge foundations. Alternative 2 will require a four-year construction window and will replace the structure above superstructure from Alternative 1A and improve the existing substructure and foundation of the Stockton Channel Viaduct Bridge. Alternative 3 will require a four-year construction window and will require the full replacement of the bridge including the superstructure, substructure, and foundations. The no build alternative will leave the bridge structures in their current state without replacement or rehabilitation.

### **LAKE AND STREAMBED ALTERATION AGREEMENT**

The Project has the potential to impact resources of the San Joaquin River, Mormon Slough and McLeod Lake known to occur within the identified limits of the Project. If work is proposed that will impact the bed, bank, channel or riparian habitat, including the trimming or removal of trees and riparian vegetation please be advised that the proposed Project may be subject to LSA Notification. This includes impacts to drainage systems that connect to tributaries of main stem creeks and tributaries that occur within the Project Biological Study Area (BSA). CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et. seq., for or any activity that may substantially divert or obstruct the natural flow; change or use material from the bed, bank or channel 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.

### **CALIFORNIA ENDANGERED SPECIES ACT**

Please be advised that a CESA Incidental Take Permit (ITP) must be obtained if the Project has the potential to result in take of species of plants or animals listed under CESA, either during construction or over the life of the Project. Under CESA, take is defined as “to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill.” Issuance of an ITP is subject to CEQA documentation. If the Project will impact CESA-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.

### **ENVIRONMENTAL SETTING**

Threatened, endangered, and other special-status species that are known to occur, or have the potential to occur in or near the Project site, include, but are not limited to:

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- Delta Smelt (*Hypomesus transpacificus*), SE, FT
- Longfin Smelt (*Spirinchus thaleichthys*), ST
- Central Valley Spring Run Chinook Salmon (*Onchorhynchus tshawytscha*) ST, FT
- Sacramento Winter Run Chinook Salmon (*Oncorhynchus tshawytscha*) ST, FT
- Swainson's hawk (*Buteo swainsoni*), ST
- Roosting Bats
- Nesting birds

FT = Federally Threatened; ST = State Threatened; SE = State Endangered

CDFW recommends that prior to Project implementation, surveys be conducted for special-status species with potential to occur, following recommended survey protocols if available. Survey and monitoring protocols and guidelines are available at:

<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>.

## COMMENTS AND RECOMMENDATIONS

CDFW acting as a Responsible Agency, has discretionary approval under CESA through issuance of a CESA ITP and LSA Agreement, as well as other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife resources. CDFW would like to thank you for preparing the IS/MND and CDFW recommends the following updates, avoidance and minimization measures be imposed as conditions of Project approval by the lead agency, Caltrans, to ensure all Project-related impacts are mitigated to below a level of significance under CEQA:

### COMMENT 1: Hydroacoustic Analysis and Monitoring for Impact Pile Driving

**Issue:** Page 159 and 160 of Appendix E of the IS/MND provides adequate avoidance and minimization measures for potentially injurious sound output reduction from impact pile driving activities via cofferdam and/or bubble curtains. Avoidance and minimization measures for sound monitoring however have not been sufficiently proposed to ensure sound attenuation devices adhere to thresholds below potentially injurious sound levels.

**Evidence the impact would be significant:** Currently, the 2006 interim agreement notes sound output limits of 206 dB for peak output, 187dB cumulative output limits for fish over two grams and 183 dB output limits for fish under two grams. In order to ensure impact pile driving activities remain below these thresholds, sound monitoring will be required to avoid a potentially significant impact.

**Recommendation:** CDFW recommends the following measures are incorporated as conditions of approval in the updated IS/MND:

**Recommended Measure 1:** Sound Monitoring Hydro-Acoustic Monitoring Plan. A minimum of 14 days prior to the initiation of construction, an acoustic monitoring plan to evaluate sound levels during impact pile driving activities shall be submitted to CDFW for acceptance. The monitoring plan should be prepared by a qualified hydro-acoustic monitoring specialist who possess the same authority as the qualified biologist and has the ability to direct the resident engineer to stop work as necessary. At minimum, the monitoring plan should include the following:

- Acoustical monitoring experience history for the qualified hydro-acoustic monitoring specialist.
- A description of the methods necessary to continuously assess underwater sound pressure in real-time, including details on the number of strikes for each pile, the specific pile location, distance and depth of the wetted channel, the placement of hydrophones and distance to the action.
- A description of the Quality Assurance/Quality Control protocols for the appropriate monitoring equipment.
- Provide a means of recoding the time, number of pile strikes, peak sound energy per strike and interval between strikes.
- Two hydrophone underwater sound monitoring systems (hydrophone, signal amplifier and calibrator) that utilize current National Institute of Standards and Technology traceable calibration method.
- All piles monitored shall be driven in water depths that are representative of mid channel or typical water depths at the Project location where piles will be driven.
- Indicate the location of the piles to be monitored and the approximate hydrophone locations for each pile being monitored. All hydrophones will be placed at least 1 m (3.3 feet) below the surface.
- In waters less than 4 meters (13 feet) deep, a single hydrophone at midwater depth is sufficient. Hydrophones will be located 10 meters from each pile with a clear acoustic line-of-sight between the pile and the hydrophone. Additional distances measured concurrently are desirable, if possible, to estimate the site-specific range to the threshold boundary. Include any additional distances or depths where hydrophones will be located.
- Require standard monitoring distance of 10 meters from each pile being monitored. Position a hydrophone at the estimated isopleths for peak and cumulative estimated action areas to ensure monitoring threshold data is available. Provide a site-specific Underwater Sound Pressure Monitoring Plan.

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- Provide specific inputs and calculations for cumulative sound exposure limits in the monitoring reports. The results of hydro-acoustic monitoring shall be made available to CDFW upon request and submitted in weekly, monthly or annual compliance reports.

## **COMMENT 2: Migratory and Nesting Birds**

**Issue 1:** Avoidance and minimization measures BIO – 11, 12 and 13 on page 161, Appendix E, of the IS/MND describe activities that likely constitute take under CESA for state listed species including but not limited to Swainson’s hawk or have the potential to result in take of nesting birds protected under Fish and Game Code sections 3503 and 3503.5. Prior to the removal of any potential Swainson’s hawk nesting tree, or hacking activities related to Swainson’s an ITP would be required for those activities.

**Issue 2:** The installation of exclusionary netting is a potentially significant impact because no avoidance or minimization measure can be executed to completely avoid entanglement, injury or death to birds and bats.

**Evidence the impact would be significant:** Recent Caltrans projects in 2019/2020 at the Paintersville and Mokelumne River Bridge installed exclusionary netting without approval that resulted in the entanglement and mortality of migratory birds’ species. Exclusionary netting represents a potentially significant impact that cannot be avoided or minimized below a level of significance because it has the potential to ensnare bats and birds. Therefore, CDFW recommends avoidance and minimization measures on page 161, Appendix E, are amended.

### **Recommendation:**

**BIO-11:** Performing woody vegetation removal or other construction activities within nesting bird habitat (structure work) during the non-nesting season (between October 1 and January 31) would not require pre-construction surveys for migratory birds, unless work is occurring in potential special status or CESA listed species habitat. Consultation with CDFW would be necessary prior to the removal or disturbance of any habitat for CESA listed species.

**BIO-12:** CDFW recommends this measure is removed in its entirety from the IS/MND.

**BIO-13:** Woody vegetation removal, structures construction, ground-disturbing activities, or other Project-related activities are scheduled during the nesting season of protected raptors and migratory birds (February 1 to September 30), a focused survey for active nests of such birds shall be conducted by a designated biologist within 7 days before the start of Project-related activities. If active nests are found, a protective no-work buffer would be established, and Caltrans shall consult with the U.S. Fish and Wildlife Service (USFWS) regarding appropriate actions to comply with the Migratory Bird Treaty Act of 1918 and with CDFW to comply with provisions of the California Fish and Game Code. If a lapse in Project-related work of 7 days or

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longer occurs, another survey and, if required, consultation with USFWS and CDFW would be required before the work can start again.

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) 428-2093 or [Robert.Stanley@wildlife.ca.gov](mailto:Robert.Stanley@wildlife.ca.gov); or Mr. Wesley Stokes, Senior Environmental Scientist (Supervisory), at (707) 339-6066 or [Wesley.Stokes@wildlife.ca.gov](mailto:Wesley.Stokes@wildlife.ca.gov).

cc: State Clearinghouse No. 2017072033