

**FINAL INITIAL STUDY / MITIGATED
NEGATIVE DECLARATION
& COMMENTS AND RESPONSES**

for the

**Plumbago Road over Kanaka Creek
Bridge (13C0051) Replacement Project**

(Federal Aid Number: BRLO 5913 (058))

State Clearinghouse Number 2024040074

May 2024

**Sierra County
Department of Public Works and Department of Transportation
101 Courthouse Square
P.O. Box 98
Downieville, CA 95936**

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SECTION 1 – INTRODUCTION

The Sierra County Department of Public Works and Department of Transportation, as lead agency, released the Initial Study/Mitigated Negative Declaration (Public Review Draft IS/MND) for the Plumbago Road over Kanaka Creek Bridge Replacement Project for public review from April 4 to May 8, 2004, pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15105. The Public Review Draft IS/MND and supporting documents are available at the Sierra County Department of Public Works and Department of Transportation, located at 101 Courthouse Square, Downieville, California 95936 and at the Sierra County Clerk-Recorder Office, 100 Courthouse Square, Room 11, Downieville CA 95936. The Public Review Draft IS/MND is also available online at: [Plumbago Road over Kanaka Creek Bridge \(13C0051\) Replacement Project \(ca.gov\)](http://www.ca.gov/plumbago).

According to State CEQA Guidelines Sections 15073 and 15074, the lead agency must consider the comments received during consultation and review periods together with the IS/MND. However, unlike the process followed with an Environmental Impact Report (EIR), comments received on an IS/MND are not required to be attached to the IS/MND, nor must the lead agency make specific written responses to public agencies. Nonetheless, the lead agency has chosen to provide written responses to the comments received during the public review process for the Public Review Draft IS/MND, as well as revisions to the Public Review Draft IS/MND and Mitigation Monitoring and Reporting Program where necessary.

This document is organized into four sections:

- **Section 1 – Introduction**
- **Section 2 – Responses to Written Comments:** Provides a list of the agencies who commented on the Public Review Draft IS/MND. Bracketed copies of all letters received regarding the Public Review Draft IS/MND and written responses to the comments provided are included in this section.
- **Section 3 – Revisions to the Initial Study/Mitigated Negative Declaration:** Includes a listing of refinements and clarifications to mitigation measures identified in the Public Review Draft IS/MND, which have been incorporated.
- **Section 4 – Revisions to the Appendix A: Mitigation Monitoring and Reporting Program:** Includes a listing of refinements and clarifications to mitigation measures identified the Public Review Draft IS/MND, which have been incorporated.

SECTION 2 – RESPONSES TO WRITTEN COMMENTS

2.1 Introduction

In accordance with State CEQA Guidelines Section 15088, the County, as the lead agency, evaluated the comments received on the Public Review Draft IS/MND and has prepared the following responses to the comments received. This Response to Comments document becomes part of the Final IS/MND for the project in accordance with State CEQA Guidelines Section 15132.

2.2 List of Commenters

The County received two comment letters on the Public Review Draft IS/MND during the 30-day comment period from April 4 to May 8, 2024, which are listed in Table 1. The letters are reprinted in this section and followed by the corresponding responses. Individual comments within the letters have been bracketed and numbered so comments can be cross-referenced with responses.

Table 1. Agency Comments

Respondent	Code	Contact Information
<i>Agencies</i>		
Central Valley Regional Water Quality Control Board Letter dated: 05/01/2024	RWQCB	11020 Sun Center Drive, Suite 200 Rancho Cordova, CA 95670 Contact: Peter Minkel, Engineering Geologist (916) 464-4684 or Peter.Minkel2@waterboards.ca.gov
California Department of Fish and Wildlife (CDFW) Email dated: 5/02/2024	CDFW	Caitlyn Oswalt, Environmental Scientist at (916) 358-4315 or caitlyn.oswalt@wildlife.ca.gov.

2.3 Responses to Comments

The bracketed and numbered comment letters are shown in the following pages. The comments addressed the project site and conditions as they relate to the particular areas of concern of the respective agency. Revisions in response to these comments are provided under *Section 3 – Revisions to the Initial Study/Mitigated Negative Declaration*. The revisions have been added to clarify existing information; however, none of the revisions introduce significant new information. The comments are noted by the County and have been considered as part of the planning and implementation of the project.

2.3.5 CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD



Central Valley Regional Water Quality Control Board

1 May 2024

Bryan Davey
Sierra County
PO Box 98
Downieville, CA 95936
bdavey@sierracounty.ca.gov

COMMENTS TO REQUEST FOR REVIEW FOR THE MITIGATED NEGATIVE DECLARATION, PLUMBAGO ROAD OVER KANAKA CREEK BRIDGE (13C0051) REPLACEMENT PROJECT, SCH#2024040074, SIERRA COUNTY

Pursuant to the State Clearinghouse's 2 April 2024 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the *Request for Review for the Mitigated Negative Declaration* for the Plumbago Road over Kanaka Creek Bridge (13C0051) Replacement Project, located in Sierra County.

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore our comments will address concerns surrounding those issues.

I. Regulatory Setting

Basin Plan

The Central Valley Water Board is required to formulate and adopt Basin Plans for all areas within the Central Valley region under Section 13240 of the Porter-Cologne Water Quality Control Act. Each Basin Plan must contain water quality objectives to ensure the reasonable protection of beneficial uses, as well as a program of implementation for achieving water quality objectives with the Basin Plans. Federal regulations require each state to adopt water quality standards to protect the public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act. In California, the beneficial uses, water quality objectives, and the Antidegradation Policy are the State's water quality standards. Water quality standards are also contained in the National Toxics Rule, 40 CFR Section 131.36, and the California Toxics Rule, 40 CFR Section 131.38.

The Basin Plan is subject to modification as necessary, considering applicable laws, policies, technologies, water quality conditions and priorities. The original Basin Plans were adopted in 1975, and have been updated and revised periodically as required, using Basin Plan amendments. Once the Central Valley Water Board has adopted a Basin Plan amendment in noticed public hearings, it must be approved by

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MARK BRADFORD, CHAIR | PATRICK PULUPA, ESQ., EXECUTIVE OFFICER

11020 Sun Center Drive #200, Rancho Cordova, CA 95670 | www.waterboards.ca.gov/centralvalley

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the State Water Resources Control Board (State Water Board), Office of Administrative Law (OAL) and in some cases, the United States Environmental Protection Agency (USEPA). Basin Plan amendments only become effective after they have been approved by the OAL and in some cases, the USEPA. Every three (3) years, a review of the Basin Plan is completed that assesses the appropriateness of existing standards and evaluates and prioritizes Basin Planning issues. For more information on the *Water Quality Control Plan for the Sacramento and San Joaquin River Basins*, please visit our website:
http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/

RWQCB-1 (cont)

Antidegradation Considerations

All wastewater discharges must comply with the Antidegradation Policy (State Water Board Resolution 68-16) and the Antidegradation Implementation Policy contained in the Basin Plan. The Antidegradation Implementation Policy is available on page 74 at:

https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsir_2018_05.pdf

In part it states:

Any discharge of waste to high quality waters must apply best practicable treatment or control not only to prevent a condition of pollution or nuisance from occurring, but also to maintain the highest water quality possible consistent with the maximum benefit to the people of the State.

This information must be presented as an analysis of the impacts and potential impacts of the discharge on water quality, as measured by background concentrations and applicable water quality objectives.

The antidegradation analysis is a mandatory element in the National Pollutant Discharge Elimination System and land discharge Waste Discharge Requirements (WDRs) permitting processes. The environmental review document should evaluate potential impacts to both surface and groundwater quality.

II. Permitting Requirements

Clean Water Act Section 404 Permit

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the United States Army Corps of Engineers (USACE). If a Section 404 permit is required by the USACE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements. If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACE at (916) 557-5250.

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Clean Water Act Section 401 Permit – Water Quality Certification

If an USACE permit (e.g., Non-Reporting Nationwide Permit, Nationwide Permit, Letter of Permission, Individual Permit, Regional General Permit, Programmatic General Permit), or any other federal permit (e.g., Section 10 of the Rivers and Harbors Act or Section 9 from the United States Coast Guard), is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications. For more information on the Water Quality Certification, visit the Central Valley Water Board website at:
https://www.waterboards.ca.gov/centralvalley/water_issues/water_quality_certification/

RWQCB-3

Waste Discharge Requirements – Discharges to Waters of the State

If USACE determines that only non-jurisdictional waters of the State (i.e., “non-federal” waters of the State) are present in the proposed project area, the proposed project may require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation. For more information on the Waste Discharges to Surface Water NPDES Program and WDR processes, visit the Central Valley Water Board website at:
https://www.waterboards.ca.gov/centralvalley/water_issues/waste_to_surface_water/

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Projects involving excavation or fill activities impacting less than 0.2 acre or 400 linear feet of non-jurisdictional waters of the state and projects involving dredging activities impacting less than 50 cubic yards of non-jurisdictional waters of the state may be eligible for coverage under the State Water Resources Control Board Water Quality Order No. 2004-0004-DWQ (General Order 2004-0004). For more information on the General Order 2004-0004, visit the State Water Resources Control Board website at:
https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2004/wqo/wqo2004-0004.pdf

Dewatering Permit

If the proposed project includes construction or groundwater dewatering to be discharged to land, the proponent may apply for coverage under State Water Board General Water Quality Order (Low Threat General Order) 2003-0003 or the Central Valley Water Board’s Waiver of Report of Waste Discharge and Waste Discharge Requirements (Low Threat Waiver) R5-2018-0085. Small temporary construction dewatering projects are projects that discharge groundwater to land from excavation activities or dewatering of underground utility vaults. Dischargers seeking coverage under the General Order or Waiver must file a Notice of Intent with the Central Valley Water Board prior to beginning discharge.

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For more information regarding the Low Threat General Order and the application process, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0003.pdf

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For more information regarding the Low Threat Waiver and the application process, visit the Central Valley Water Board website at:
https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/waivers/r5-2018-0085.pdf

Limited Threat General NPDES Permit

If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. Dewatering discharges are typically considered a low or limited threat to water quality and may be covered under the General Order for *Limited Threat Discharges to Surface Water* (Limited Threat General Order). A complete Notice of Intent must be submitted to the Central Valley Water Board to obtain coverage under the Limited Threat General Order. For more information regarding the Limited Threat General Order and the application process, visit the Central Valley Water Board website at:

https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2016-0076-01.pdf

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NPDES Permit

If the proposed project discharges waste that could affect the quality of surface waters of the State, other than into a community sewer system, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. A complete Report of Waste Discharge must be submitted with the Central Valley Water Board to obtain a NPDES Permit. For more information regarding the NPDES Permit and the application process, visit the Central Valley Water Board website at: <https://www.waterboards.ca.gov/centralvalley/help/permit/>

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If you have questions regarding these comments, please contact me at (916) 464-4684 or Peter.Minkel2@waterboards.ca.gov.



Peter G. Minkel
Engineering Geologist

cc: State Clearinghouse unit, Governor's Office of Planning and Research,
Sacramento

Response to Letter from Central Valley Regional Water Quality Control Board

Comment No.	Response
RWQCB-1 through RWQCB-7	<p>The comments provide a summary of the Central Valley Regional Water Quality Control Board's (Central Valley Water Board) standard requirements related to water quality regulations and permitting and does not specifically address the adequacy of the IS/MND.</p> <p>This letter reiterates standard requirements that are included in the IS/MND and mitigation measures. No changes to the IS/MND are required in response to this comment. These comments are noted and have been provided to County decision-makers for consideration.</p>

2.3.6 CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE (CDFW)

From: Oswalt, Caitlyn@Wildlife <Caitlyn.Oswalt@Wildlife.ca.gov>
Sent: Thursday, May 2, 2024 2:53 PM
To: Bryan Davey <bdavey@sierracounty.ca.gov>
Cc: Wildlife R2 CEQA <R2CEQA@wildlife.ca.gov>; Wilson, Billie@Wildlife <Billie.Wilson@wildlife.ca.gov>; Sheya, Tanya@Wildlife <Tanya.Sheya@wildlife.ca.gov>; Kilgour, Morgan@Wildlife <Morgan.Kilgour@Wildlife.ca.gov>
Subject: CEQA Comments for the Plumbago Road over Kanaka Creek Bridge Replacement Project; SCH#2024040074

Dear Bryan Davey,

The California Department of Fish and Wildlife (CDFW) received and reviewed the Initial Consultation from Sierra County Department of Transportation for the Plumbago Road over Kanaka Creek Bridge Replacement Project (Project) in Sierra County pursuant the California Environmental Quality Act (CEQA) statute and guidelines.

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish, wildlife, plants and their habitats. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may need to exercise its own regulatory authority under the Fish and Game Code (Fish & G. 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. (Fish & G. Code., § 1802.) Similarly for purposes of CEQA, CDFW provides, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory

authority. (Fish & G. Code, § 1600 et seq.) CDFW also administers the Native Plant Protection Act, Natural Community Conservation Act, and other provisions of the Fish and Game Code that afford protection to California's fish and wildlife resources.

PROJECT DESCRIPTION SUMMARY

The Project site is located along Plumbago Road approximately 0.4 air miles southeast of the town of Alleghany in southwest Sierra County, California. Assessor's Parcel Numbers 006-090-002 (11.17 acres), 006-090-003 (15.34 acres), 004-190-035 (19.86 acres), 004-190-046 (0.14 acres) and 004-190-047 (0.15 acres).

The Project consists of a proposed replacement of the existing Plumbago Road Bridge (13C0051) over Kanaka Creek. The proposed new bridge will be 92.5-foot-long, 18.3-foot-wide, single-span bridge. The proposed new bridge will also be cast-in-place, and prestressed concrete box girder superstructure supported on seat type abutments with 36-inch cast-in-drilled-hole concrete pile shaft foundations. The proposed new bridge will be constructed on primarily the same alignment of the existing bridge.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the Sierra County Departments of Public Works and Transportation in adequately identifying and, where appropriate, mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources.

COMMENTS

COMMENT 1: Impacts to Foothill Yellow-legged Frog

Measure BIO-1 (Foothill yellow-legged frog [FYLF])

Issue: Some construction activities will occur near Kanaka Creek. The MND indicates that the Project Site is within the range of the Northeast/Northern Sierra clade (North Sierra Distinct Population Segment) of foothill yellow-legged frog (*Rana boylei*; FYLF); this clade is listed as threatened under the California Endangered Species Act (CESA). A season of operation that completely avoids FYLF presence does not exist; therefore, FYLF may be encountered in various life stages year-round. The MND describes that a Qualified Biologist will conduct pre-construction surveys for FYLF but does not provide sufficient detail on survey methods or timing.

Per CDFW's recommendations below, a Qualified Biologist is defined as a person who is knowledgeable and experienced in the biology, life stages, natural history, and identification of local fish and wildlife resources present at the Project Site.

Recommendation 1.1: CDFW recommends the Proponent provide additional detail on FYLF bioassessment survey methods and timing. The Proponent should review CDFW's Considerations for Conserving the Foothill Yellow-Legged Frog available at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=157562&inline>.

To increase the likelihood of detection, surveys should include at least one visual encounter survey (VES) during the breeding and/or oviposition period (generally April–June), a tadpole survey four to eight weeks after the breeding survey(s), and a subadult survey in

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late summer/early fall (generally late August–early October). VES conducted during the late summer are often the easiest method for determining presence (generally late August to early October); subadults and occasionally adults are often observed along river margins, and subadult and adult frogs will likely also be observed in tributary streams (Crump and Scott 1994). If any survey fails to detect FYLFs within suitable habitat, a follow-up survey should be conducted two to four weeks after the initial survey.

Recommendation 1.2: CDFW is responsible for ensuring appropriate conservation of fish and wildlife resources including threatened, endangered, and/or candidate plant and animal species, including FYLF, pursuant to CESA. Regardless of whether FYLF are detected during the bioassessment surveys (described above in Recommendation 1.1), CDFW recommends the Proponent prepare a Pre-Construction Survey Plan (Plan) for FYLF and submit it to CDFW for review at least 30 calendar days prior to commencing ground-disturbing or in-water work activities.

A Qualified Biologist should develop the Plan for FYLF. Prior to preparing the Plan, CDFW recommends the Proponent review CDFW's Considerations for Conserving the Foothill Yellow-Legged Frog available at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=157562&inline>. CDFW recommends the following survey and species considerations be incorporated into the Plan and final MND:

- a. The Plan should include what life-stage(s) shall be surveyed for, survey method(s), and timing of survey(s).
- b. The Plan should provide justification for timing and methodology of survey design (e.g., watershed characteristics, regional snowpack, timing and rate of spring runoff, day length, average ambient air and water temperatures, local and seasonal conditions).
- c. If the Project Site has suitable frog breeding habitat, the Plan should include performing egg mass/larval surveys.

Within 3 to 5 calendar days prior to ground-disturbing and in-water activities at the Project Site, the Qualified Biologist should perform a pre-construction survey, as specified in the Plan, within the boundaries of the Project Site, plus a minimum 500-foot buffer zone upstream and downstream of the Project Site. The survey should include a description of any standing or flowing water. The Proponent should provide Pre-Construction Survey results, notes, and observations to CDFW prior to commencing ground disturbing and in-water activities. Conducting surveys prior to maintenance work may allow avoidance of incidental take. If the Proponent encounters any life stages of FYLF during pre-construction surveys, ground-disturbing or in-water activities, work should be suspended at the Project Site, and CDFW should be notified within 24 hours. Work may not re-initiate in the Project Site until the Proponent demonstrates compliance with CESA.

Recommendation 1.3: CDFW is responsible for ensuring appropriate conservation of fish and wildlife resources including threatened, endangered, and/or candidate plant and animal species, pursuant to the CESA. Pending results of the surveys described above, CDFW recommends that a CESA Incidental Take Permit (ITP) be obtained if the Project has the potential to result in "take" (Fish & G. Code § 86 defines "take" as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill") of State-listed CESA species, including FYLF, either through construction or over the life of the Project. No relocation shall be done for special status species or CESA listed species without the

CDFW-1
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proper handling permits and/or CESA take coverage (e.g., an ITP).

Please note that mitigation measures that are adequate to reduce impacts to a less-than significant level to meet CEQA requirements may not be enough for the issuance of an ITP. To issue an ITP, CDFW must demonstrate that the impacts of the authorized take will be minimized and fully mitigated (Fish & G. Code § 2081 (b)). To facilitate the issuance of an ITP, if applicable, CDFW recommends the MND include measures to minimize and fully mitigate the impacts to any State-listed species the Project has potential to take. CDFW encourages early consultation with staff to determine appropriate measures to facilitate future permitting processes and to engage with the U.S. Fish and Wildlife Service to coordinate specific measures if both state and federally listed species may be present within the Project vicinity.

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CDFW-1
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COMMENT 2: Impacts to Western Pond Turtle
Measure BIO-2 (Western Pond Turtle [Emys Marmorata])

Issue: The MND states that a Qualified Biologist will conduct surveys for western pond turtle (*Actinemys marmorata*) prior to construction but does not provide sufficient detail on survey methods.

Recommendation: CDFW recommends the following language be added to Mitigation Measure BIO-2 to clarify survey details and minimize impacts to western pond turtle, prior to ground-disturbing activities near Kanaka Creek, a Qualified Biologist should survey the Project Site where suitable habitat (including nest sites) occurs for western pond turtle. Surveys shall be performed within 30 days prior to starting Project activities and should be performed within a minimum of 500 feet upstream and downstream of the Project activity where accessible. If detected during surveys, a site-specific avoidance, minimization, and/or relocation plan should be prepared and implemented by a Qualified Biologist. The plan should include daily construction monitoring. The plan shall be submitted to CDFW.

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CDFW-2

Comment 3: Nesting Birds
Measure BIO-3 (Migratory Birds and Birds of Prey)

Issue: The proposed Project involves vegetation trimming and clearing. Trimming or removal of trees and riparian understory associated with Project activities could result in significant habitat loss for a variety of bird species. The significance of the impact of habitat clearing is not reduced by virtue of the abundance of similar or equivalent adjacent habitat to the Project Site; vegetation trimming and clearing may reduce available habitat for wildlife and, potentially, for special-status species which may use these forest stands. Sections 3503, 3503.5, and 3513 of the Fish and Game Code protect nesting and migratory birds and birds of prey. 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 the Fish and Game Code or any regulation made pursuant thereto. Section 3503.5 states that it is 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 the Fish and Game Code or any regulation adopted pursuant thereto. Section 3513 states that it is unlawful to take or possess any migratory nongame bird as designated in the federal Migratory Bird Treaty Act.

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CDFW-3

Recommendation: CDFW recommends that nesting bird surveys be conducted if project



activities are scheduled to occur between February 1 and August 31, to fully encapsulate the potential nesting season. The survey should take place no more than 15 calendar days prior to ground disturbing activities. CDFW typically recommends a minimum of a 500-foot radius for migrating birds, and a ½ mile radius for nesting raptors. If any special-status species are encountered during project activities, work should be suspended, CDFW notified, and conservation measures should be developed in agreement with CDFW prior to re-initiating the activity. Conversely, if during project activities, any species listed pursuant to the CESA are encountered, work shall be suspended, and CDFW notified. Work may not re-initiate until the Project proponent has consulted with CDFW and can demonstrate compliance with CESA.

Please note that the MBTA and Fish & G. Code apply regardless of the time of year. Therefore, if an active nest is discovered outside of the typical nesting season, it should be avoided using the same avoidance measures that would be applied during the typical nesting season until such time as the young have fully fledged and are foraging independently of their parents.

Comment 4: Moving out of Harm's Way.

Issue: The proposed Project activities could result in both direct or indirect mortality of wildlife.

Recommendation: To avoid direct mortality, the Sierra County Departments of Public Works and Transportation should state in the MND a requirement for a Designated Biologist be retained to be onsite prior to and during all ground- and habitat-disturbing activities that have the possibility to cause harm to wildlife species. Furthermore, the MND should describe that the Designated Biologist with the proper permits may move out of harm's way special-status species or other wildlife of low or limited mobility that would otherwise be injured or killed from Project-related activities, as needed. The MND should also describe Designated Biologist qualifications and authorities to stop work to prevent direct mortality of special-status species. CDFW recommends fish and wildlife species be allowed to move out of harm's way on their own volition, if possible, and to assist their relocation as a last resort. It should be noted that the temporary relocation of onsite wildlife does not constitute effective mitigation for habitat loss.

**COMMENT 5: Notification for Lake and Streambed Alteration Agreement
*Measure BIO-6 (Kanaka Creek)***

Issue: Kanaka Creek passes directly through the project area. Depending on the Project activities a notification to CDFW pursuant to Section 1602 of the Fish and Game Code may be required. Notification is required for any activity that may do one or more of the following:

- a. Substantially divert or obstruct the natural flow of any river, stream, or lake;
- b. Substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or
- c. Deposit debris, waste, or other materials where it may pass into any river, stream, or lake.

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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). This includes ephemeral streams and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a body of water. Upon receipt of a complete notification, CDFW will determine if the Project activities may substantially adversely affect existing fish and wildlife resources and whether a Lake and Streambed Alteration (LSA) Agreement is required. An LSA Agreement will include measures necessary to protect existing fish and wildlife resources.

CDFW's issuance of an LSA Agreement is a "project" subject to CEQA (see Pub. Resources Code 21065). To facilitate issuance of an LSA Agreement, the Initial Study should fully identify the potential impacts to the lake, stream, or riparian resources, and provide adequate avoidance, minimization, mitigation, and monitoring and reporting commitments.

Recommendation: CDFW recommends that the Proponent notify pursuant to Section 1602 of the Fish and Game Code as early as possible to determine if an LSA is needed.

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 CNDDDB. The CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be submitted online or mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov.

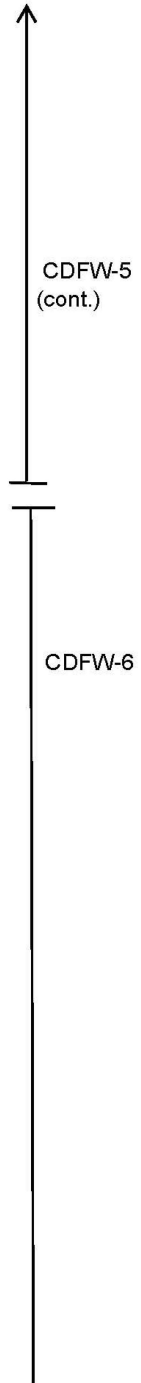
FILING FEES

The Project, as proposed, would have an effect on fish and wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Sierra County Department of Transportation 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. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

Pursuant to Public Resources Code §21092 and §21092.2, CDFW requests written notification of proposed actions and pending decisions regarding the proposed Project. Written notifications shall be directed to: California Department of Fish and Wildlife North Central Region, 1701 Nimbus Road, Rancho Cordova, CA 95670 or emailed to R2CEQA@wildlife.ca.gov.

CDFW appreciates the opportunity to comment on the Initial Consultation to assist in identifying and mitigating Project impacts on biological resources. CDFW personnel are available for consultation regarding biological resources and strategies to minimize and/or mitigate impacts. Questions regarding this letter or further coordination should be directed to Caitlyn Oswald, Environmental Scientist at (916) 358-4315 or caitlyn.oswalt@wildlife.ca.gov.



Thanks,
Caitlyn Oswalt
(She/Her)
Environmental Scientist | 916.358.4315
North Central Region – Region 2
California Department of Fish and Wildlife

Response to Email from California Department of Fish and Wildlife

Comment No.	Response
<p>1 – Impacts to Foothill Yellow-legged Frog</p>	<p>Thank you for your comments and the detailed survey recommendations. The following information has been considered and Mitigation Measure (MM) BIO-1 on IS/MND pp. 30-31 has been updated with the requested detail.</p> <p>Recommendation 1.1</p> <p><u>Habitat Assessment and Delineation:</u> Prior to initiating Covered Activities, a qualified Biologist shall conduct and submit to CDFW a habitat assessment to determine the likelihood (low, moderate, or high) of foothill yellow-legged frog occurring within and adjacent to the project area. The habitat assessment shall consider historical and existing land uses of the project area, presence of invasive species, proximity to known or potential instream foothill yellow-legged frog breeding sites, existing quality of riparian habitat, proximity to tributaries, barrier(s) to foothill yellow-legged frog movement between suitable riparian/upland and/or aquatic habitat and the project area, and other conditions pertinent to foothill yellow-legged frog presence.</p> <p>Recommendation 1.2</p> <p>The County will use the information provided by CDFW in Recommendations 1.1 and 1.2, including <i>CDFW’s Considerations for Conserving the Foothill Yellow-legged Frog</i>, to prepare a Pre-Construction Survey Plan, and conduct at least two visual encounter surveys (VES) during the breeding and/or oviposition survey period (April-June). The project does not include work in the aquatic zone, as the bridge will span the creek and work will be conducted atop each respective bank, approximately 20 to 30 feet from the wetted creek channel. The pertinent qualifications required for the Designated Biologist will also be included in the Pre-Construction Survey Plan. MM BIO-1 in the IS/MND and MMRP has been updated to include text stating that wildlife species will be allowed to move out of harm’s way on their own volition, if possible. Therefore, with implementation of project BMPs, there would be no impacts to FYLF eggs or tadpoles (i.e., no in-water work and measures in place to ensure sedimentation and pollutants do not reach the creek).</p> <p>VES surveys will be conducted during at least the breeding period to identify if FYLF are present in the site and surrounding area. Regardless of whether or not FYLF are observed during surveys, the County will implement additional avoidance measures such as wildlife exclusion fencing (see revised Measure BIO-1) to ensure no FYLF enter project work areas.</p> <p>Recommendation 1.3</p> <p>Although unlikely, <u>pending results of the surveys described above</u>, a California Endangered Species Act (CESA) Incidental Take Permit (ITP) will be obtained if the project has the potential to result in “take” (Fish & G. Code § 86 defines “take” as “hunt, pursue, catch, capture, or kill, or attempt</p>

PLUMBAGO ROAD OVER KANAKA CREEK BRIDGE REPLACEMENT PROJECT
INITIAL STUDY/MITIGATED NEGATIVE DECLARATION & COMMENTS AND RESPONSES

Comment No.	Response
	to hunt, pursue, catch, capture, or kill”) of State-listed CESA species, including FYLF, either through construction or over the life of the project. No relocation shall be done for special-status species or CESA listed species without the proper handling permits and/or CESA take coverage (e.g., an ITP).
2 – Impacts to Northwestern Pond Turtle (<i>Actinemys marmorata</i>)	The following language has been added to MM BIO-2, IS/MND p. 31: <i>Prior to ground-disturbing activities near Kanaka Creek, a Qualified Biologist will survey the project site where suitable habitat (including nest sites) occurs for northwestern pond turtle. Surveys shall be performed within 30 days prior to starting project activities and should be performed within a minimum of 500 feet upstream and downstream of the project activity where accessible. If detected during surveys, a site-specific avoidance, minimization, and/or relocation plan should be prepared and implemented by a Qualified Biologist. If needed, the plan will include appropriate construction monitoring. The plan will be submitted to CDFW.</i>
3 – Nesting Birds	The following language has been added to MM BIO-3, IS/MND pp. 32-33: <i>Nesting bird surveys will be conducted if project activities are scheduled to occur between February 1 and August 31, to fully encapsulate the potential nesting season. The survey will take place no more than 15 calendar days prior to ground disturbing activities. The County will work with CDFW to establish species-appropriate buffer radii if nesting birds are encountered. Although not likely due to human presence and paved roads, if any special-status species are encountered during project activities work should be suspended, CDFW notified, and conservation measures will be developed in agreement with CDFW prior to re-initiating the activity.</i>
4 – Moving Out of Harm’s Way	The following language has been added to MM BIO-1 and MM BIO-2, IS/MND pp. 30-31: <i>To avoid direct mortality, a Designated Biologist will be retained to be onsite prior to and during all ground- and habitat-disturbing activities that have the possibility to cause harm to wildlife species. Furthermore, the Designated Biologist with the proper authorizations may move out of harm’s way special-status species or other wildlife of low or limited mobility that would otherwise be injured or killed from project-related activities, as needed. The Designated Biologist will have the authority to stop work to prevent direct mortality of special-status species. Wildlife species will be allowed to move out of harm’s way on their own volition, if possible, and to assist their relocation is a last resort.</i>

PLUMBAGO ROAD OVER KANAKA CREEK BRIDGE REPLACEMENT PROJECT
 INITIAL STUDY/MITIGATED NEGATIVE DECLARATION & COMMENTS AND RESPONSES

Comment No.	Response
5 – Notification for Lake and Streambed Alteration	<p>The County has already initiated pre-application notification of a Lake and Streambed Alteration (LSA) and downloaded information to the EPIMS website. The LSA review process will commence upon approval of the IS/MND.</p> <p>The following language has been added to MM BIO-6, IS/MND pp. 34-35: <i>The County will notify CDFW pursuant to Section 1602 of the Fish and Game Code.</i></p>
6 – Environmental Data, Filing Fees, and Conclusion	<p>This is not a comment on the adequacy of the IS/MND. The responses below acknowledge the environmental data and filing fees typically required of all projects undergoing CEQA review.</p> <p>Pursuant to CEQA requirements, the County and its contractor will implement mitigation measure such as pre-construction surveys and upload the data into the appropriate databases reporting any special status species and communities detected during project surveys to the California Natural Diversity Database (CNDDDB).</p> <p>Sierra County will pay all required CDFW and County Clerk fees upon filing of the Notice of Determination.</p>

SECTION 3 – REVISIONS TO THE INITIAL STUDY/MITIGATED NEGATIVE DECLARATION

Overview

This document presents, in ~~striketrough~~ and double-underline format, the revisions to the Public Review Draft IS/MND for the Plumbago Road over Kanaka Creek Bridge Replacement Project. The revisions to the Public Review Draft IS/MND do not affect the adequacy of the environmental analysis or conclusions in the Public Review Draft IS/MND. The changes presented below would not result in any new significant impacts or an increase in impact significance from what was identified in the Public Review Draft IS/MND, and recirculation is not required (State CEQA Guidelines Section 15073.5).

Based on the comments received on the Public Review Draft IS/MND prepared for the proposed project (released for public review on April 4, 2024), the following revisions have been made to select mitigation measures in the Public Review Draft IS/MND and the Mitigation Monitoring and Reporting Plan.

Section 5. Initial Study Checklist and Supporting Documentation

SECTION 5.2.4, BIOLOGICAL RESOURCES

The CDFW comments warranted edits to the mitigation measures identified in the Biological Resources section of the Public Review Draft IS/MND, pp. 25 through 34, and Appendix A: Mitigation Monitoring and Reporting Plan. In response to the CDFW email, comments CDFW-1 through CDFW-5, Mitigation Measures BIO-1 (Foothill yellow-legged frog [FYLF]) on IS/MND pp. 30-31, Mitigation Measure BIO-2 (Western Pond Turtle [Emys Marmorata]) on IS/MND p. 31, Mitigation Measure BIO-3 (Migratory Birds and Birds of Prey) on IS/MND pp. 32-33, and BIO-6 (Kanaka Creek) on IS/MND pp. 34-35 have been clarified to ensure the mitigation measures and pre-construction surveys are conducted according to CDFW's requirements. The revised mitigation measures are shown below in ~~striketrough~~ and double-underline format.

Measure BIO-1 (Foothill yellow-legged frog [FYLF])

- ~~• A preconstruction survey for FYLF will be conducted immediately prior to the initiation of construction activities on the banks of Kanaka Creek. The preconstruction survey will be conducted by a biologist experienced with amphibian and reptile surveys in California. If FYLF are not found, construction will proceed. If FYLF are found, construction will not proceed on the banks of Kanaka Creek until the biologist verifies that individuals have left on their own, that work activities will not affect the individuals, or the biologist has moved the frog out of the construction zone.~~
- ~~• Prior to the start of construction, a biologist will conduct a training session for all construction personnel that includes a description of FYLF, their habitat, and how to proceed if a suspected special-status species is encountered. The training will also~~

~~describe the specific measures being implemented to avoid adverse effects to these species.~~

- Habitat Assessment and Delineation: Prior to initiating Covered Activities, the Biologist shall conduct and submit to CDFW a habitat assessment to determine the likelihood (low, moderate, or high) of foothill yellow-legged frog occurring within and adjacent to the project area. The habitat assessment shall consider historical and existing land uses of the project area, presence of invasive species, proximity to known or potential instream foothill yellow-legged frog breeding sites, existing quality of riparian habitat, proximity to tributaries, barrier(s) to foothill yellow-legged frog movement between suitable riparian/upland and/or aquatic habitat and the project area, and other conditions pertinent to foothill yellow-legged frog presence.
- Prior to groundbreaking activities, the County will use existing information, including CDFW's Considerations for Conserving the Foothill Yellow-legged Frog, to prepare a Pre-Construction Survey Plan, and a qualified Biologist will conduct at least two visual encounter surveys (VES) during the breeding and/or oviposition survey period (April-June). The pertinent qualifications required for the Designated Biologist will also be included in the Pre-Construction Survey Plan.
- Pending results of the surveys described above, a California Endangered Species Act (CESA) Incidental Take Permit (ITP) be obtained if the project has the potential to result in "take" (Fish & G. Code § 86 defines "take" as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill") of State-listed CESA species, including FYLF, either through construction or over the life of the project. No relocation shall be done for special status species or CESA listed species without the proper handling permits and/or CESA take coverage (e.g., an ITP).
- To avoid direct mortality, a Designated Biologist will be retained to be onsite prior to and during all ground- and habitat-disturbing activities that have the possibility to cause harm to wildlife species. Furthermore, the Designated Biologist with the proper authorizations may move out of harm's way special-status species or other wildlife of low or limited mobility that would otherwise be injured or killed from project-related activities, as needed. The Designated Biologist will have the authority to stop work to prevent direct mortality of special-status species. Wildlife species will be allowed to move out of harm's way on their own volition, if possible, and to assist their relocation is a last resort.
- All vegetation scheduled for removal on the banks of Kanaka Creek will be removed by hand or with hand tools, such as chain saws. After the vegetation has been removed, and a survey confirms the absence of FYLF, stumps and roots may be removed using mechanized vehicles and equipment.
- ~~A qualified biologist will be present to monitor for FYLF during ground-disturbing or vegetation removal activities on the banks of Kanaka Creek.~~
- ~~During construction, if a FYLF is observed in the active construction zone, construction will cease and a qualified biologist will be notified. Construction will resume when the~~

~~biologist has either relocated the FYLF to nearby suitable habitat outside the construction zone, or, after thorough inspection, determined that the FYLF has moved away from the construction zone.~~

- *Fueling and equipment maintenance activities shall be a minimum of 100 feet from Kanaka Creek. A toxic materials control and spill-response plan will be developed and implemented for the project.*
- *To eliminate the attraction of potential predators of FYLF and avoid degradation of its habitat, all food-related trash items such as wrappers, cans, bottles, and food scraps will be disposed of in closed containers and removed from the project site at the end of each working day.*
- *Exclusion-Fencing: The County will install exclusion fencing to prevent foothill yellow-legged frog from dispersing into the project area. The County will submit the design to CDFW for approval no less than 30 days prior to the proposed start of Covered Activities. The County shall place the exclusion fencing around the construction footprint and the exclusion fencing shall be maintained by the Permittee throughout all construction activities. The Biologist shall inspect the area prior to installation. The Biologist shall inspect the exclusion fencing daily and after storm events. The Permittee shall maintain and repair the exclusion fencing immediately to ensure that it is functional and without defects. The exclusion fencing shall be:*
 - *Properly installed, both trenched in and vertically stout, and regularly maintained to be effective.*
 - *At least three feet in height.*
 - *The top few inches of the exclusion fencing must be folded over and away from the construction area.*
 - *Plastic monofilament netting (“poly netting”) or similar material containing netting that could result in the entanglement or death of wildlife, including FYLF, will not be used at the project site. Acceptable substitutes include coconut coir matting or tackified hydroseeding compounds.*

Measure BIO-2 (Western Pond Turtle [*Emys Marmorata*])

- ~~*A preconstruction survey for WPT will be conducted immediately prior to the initiation of construction activities on the banks of Kanaka Creek. The preconstruction survey will be conducted by a qualified biologist experienced with reptile surveys in California. If WPT are not found, construction will proceed. If WPT are found, construction will not proceed on the banks of Kanaka Creek until the biologist verifies that the individuals have left on their own, that work activities will not affect the individuals, or the biologist has moved the turtle out of the construction zone.*~~
- *Prior to ground-disturbing activities near Kanaka Creek, a Qualified Biologist will survey the project site where suitable habitat (including nest sites) occurs for northwestern pond turtle. Surveys shall be performed within 30 days prior to starting project activities and should be performed within a minimum of 500 feet upstream and downstream of the project activity, where accessible. If northwestern pond turtles are detected during surveys, a site-specific avoidance, minimization, and/or relocation plan*

shall be prepared and implemented by a Qualified Biologist. If needed, the plan will include construction monitoring. The plan will be submitted to CDFW.

- To avoid direct mortality, a Designated Biologist with the appropriate qualifications will be retained to be onsite prior to and during all ground- and habitat-disturbing activities that have the possibility to cause harm to wildlife species. Furthermore, the Designated Biologist with the proper authorizations may move out of harm's way special-status species or other wildlife of low or limited mobility that would otherwise be injured or killed from project-related activities, as needed. The Designated Biologist will have the authority to stop work to prevent direct mortality of special-status species. Wildlife species will be allowed to move out of harm's way on their own volition, if possible. Assistance with their relocation is a last resort.
- Prior to start of construction, a biologist will conduct a training session for all construction personnel that includes a description of WPT, their habitat, and how to proceed if a suspected special-status species is encountered. The training will also describe the specific measures being implemented to avoid adverse effects to these species.

Measure BIO-3 (Migratory Birds and Birds of Prey)

Under the MBTA, nests that contain eggs or unfledged young are not to be disturbed during the breeding season. Nesting or attempted nesting by migratory birds and birds-of-prey is anticipated from 1 February to 31 August.

Nesting bird surveys will be conducted if project activities are scheduled to occur between February 1 and August 31, to fully encapsulate the potential nesting season. The survey will take place no more than 15 calendar days prior to ground disturbing activities. The County will work with CDFW to establish species-appropriate avoidance radii if nesting birds are encountered. If any special-status species are encountered during project activities, work should be suspended, CDFW notified, and conservation measures will be developed in agreement with CDFW prior to re-initiating the activity.

Bridge-Nesting Birds

In California, bridge-nesting swallows typically arrive in mid-February, increase in numbers until late March, and remain until October. Nesting begins in April, peaks in June, and continues into August. Although swallows are unlikely to nest on the Plumbago Road Bridge, other migratory birds may attempt to nest under the bridge. Black phoebes and Steller's jays occur in the area and are known to nest on bridges. Measures should be taken to prevent establishment of nests prior to construction. Techniques to prevent nest establishment include using exclusion devices, removing and disposing of partially constructed and unoccupied nests of migratory or nongame birds on a regular basis to prevent their occupation, or perform any combination of these. This can be done by:

- *The contractor can visit the site weekly and remove partially completed nests using either hand tools or high-pressure water; and/or*
- *Hang netting from the bridge before nesting begins. If this technique is used, netting should be in place from late February until project construction begins.*

Birds of Prey and Birds Protected by the Migratory Bird Treaty Act

- *If construction begins outside the 15 February to 31 August breeding season, there will be no need to conduct a preconstruction survey for active nests.*
- *Vegetation scheduled for removal should be removed during the non-breeding season from 1 September to 14 February. Vegetation removal includes trees and vegetation within the stream zone. Within the stream zone, vegetation will be removed using hand tools, including chain saws and mowers, and may be trimmed several inches above the ground with the roots left intact to prevent erosion.*
- *If construction or vegetation removal begins between 15 February and 31 August, a biologist shall conduct a survey for active bird of prey nests within 250 feet and active nests of all other MBTA-protected birds within 100 feet of the project area from publicly accessible areas within two weeks prior to construction. The measures listed below shall be implemented based on the survey results.*

No Active Nests Found:

- *If no active nest of a bird of prey, MBTA bird, or other CDFW protected bird is found, then no further avoidance and minimization measures are necessary.*

Active Nests Found:

- *The County will work with CDFW to establish a species-appropriate avoidance radius radii if nesting birds are encountered. If any special-status species are encountered during project activities, work should be suspended, CDFW notified, and conservation measures will be developed in agreement with CDFW prior to re-initiating the activity. Work may not re-initiate until the project proponent has consulted with CDFW and can demonstrate compliance with California Endangered Species Act.*
- ~~• *If an active nest of a bird of prey, MBTA bird, or other CDFW-protected bird is discovered that may be adversely affected by construction activities or an injured or killed bird is found, immediately:*~~
 - ~~○ *Stop all work within a 100-foot radius of the active nest*~~
 - ~~○ *Notify the Engineer*~~
 - ~~○ *Do not resume work within the specified radius of the discovery until authorized.*~~
- ~~• *The biologist shall establish a minimum 250-foot Environmentally Sensitive Area (ESA) around the nest if the nest is of a bird of prey, and a minimum 100-foot ESA around the nest if the nest is of an MBTA bird other than a bird of prey.*~~

Species Protection Areas

<i>Identification</i>	<i>Location</i>
<i>Bird of Prey</i>	<i>250-foot no-disturbance buffer</i>
<i>MBTA protected bird (not bird of prey)</i>	<i>100-foot no-disturbance buffer</i>

- *Activity in the ESA will be restricted as follows:*
 - *Do not enter the ESA unless authorized.*

- *If the ESA is breached, immediately (1) Secure the area and stop all operations within 100 feet of the ESA boundary, and (2) Notify the Engineer.*
- *If the ESA is damaged, the County determines what efforts are necessary to remedy the damage and who performs the remedy.*
- *No construction activity shall be allowed in the ESA until the biologist determines that the nest is no longer active, or unless monitoring determines that a smaller ESA will protect the active nest.*
- *The ESA may be reduced if the biologist monitors the construction activities and determines, in consultation with CDFW, that no disturbance to the active nest is occurring. Reduction of the ESA depends on the species of bird, the location of the nest relative to the project, project activities during the time the nest is active, and other project-specific conditions.*
- *Between 1 February and 31 August, if additional trees or shrubs need to be trimmed and/or removed after construction has started, a survey will be conducted for active nests in the area to be affected. If an active nest is found, the above measures will be implemented.*
- *If an active nest is identified in or adjacent to the construction zone after construction has started, the above measures will be implemented to ensure construction is not causing disturbance to the nest. If the biologist determines that disturbance to the active nest is occurring they will have authority to stop construction.*

Measure BIO-6 (Kanaka Creek)

- *Prior to the start of construction, a containment system will be installed to keep project-related debris from entering Kanaka Creek. Installation of the containment system will take place above the OHWM of Kanaka Creek, from the banks or from the existing bridge deck.*
- *During construction, water quality will be protected by implementation of Best Management Practices (BMPs) consistent with the latest version of Caltrans' Construction Site Best Management Practices (BMPs) Manual and the Stormwater Pollution Prevention Plan (SWPPP) and Water Pollution Control Program (WPCP) Preparation Manual (2017) to minimize the potential for siltation and downstream sedimentation of Kanaka Creek.*
- *Construction vehicles and equipment will be maintained to prevent contamination of soil and water from external grease and oil and from leaking hydraulic fluid, fuel, oil, and grease.*
- *The County will implement best management practices outlined in any authorizations or environmental permits issued for the project.*
- *The County will notify CDFW pursuant to Section 1602 of the Fish and Game Code.*

**SECTION 4 – REVISIONS TO APPENDIX A: MITIGATION
MONITORING AND REPORTING PLAN**

FINAL
MITIGATION MONITORING AND REPORTING PLAN
PLUMBAGO ROAD OVER KANAKA CREEK
BRIDGE (13C0051) REPLACEMENT PROJECT
(FEDERAL AID NUMBER: BRLO-5913 [058])

CEQA LEAD AGENCY:
Sierra County

PREPARED:
March 2024
(Revised May 2024)

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Introduction

The Sierra County Departments of Public Works and Transportation, in conjunction with the California Department of Transportation (Caltrans) and the Federal Highway Administration (FHWA), intend to replace the existing Plumbago Road Bridge (13C0051) over Kanaka Creek. The project is located along Plumbago Road approximately 0.4 air miles southeast of the town of Alleghany in southwest Sierra County, CA. As described in the IS/MND, the project itself incorporates a number of measures to minimize adverse effects on the environment. The IS/MND also identified several mitigation measures that are required to reduce potentially significant impacts to levels that are less than significant. This Mitigation Monitoring and Reporting Plan (MMRP) describes a program for ensuring that these mitigation measures are implemented in conjunction with the project. Sierra County, as the lead agency under the California Environmental Quality Act (CEQA), is responsible for overseeing the implementation and administration of this MMRP. The County will designate a staff member to manage the MMRP. Duties of the staff member responsible for program coordination will include conducting routine inspections and reporting activities, coordinating with the project construction contractor, coordinating with regulatory agencies, and ensuring enforcement measures are taken.

Regulatory Framework

California Public Resources Code Section 21081.6 and California Code of Regulations Title 14, Chapter 3, Section 15097 require public agencies to adopt mitigation monitoring or reporting plans when they approve projects under a MND. The reporting and monitoring plans must be adopted when a public agency makes its findings pursuant to CEQA so that the mitigation requirements can be made conditions of project approval.

Format of This Plan

Mitigation measures are followed by an implementation description, the criteria used to determine the effectiveness of the mitigation, the timeframe for implementation, and the party responsible for monitoring the implementation of the measure. Implementation of mitigation measures is ultimately the responsibility of the County; during construction, the delegated responsibility is shared by County's contractors.

PLUMBAGO ROAD OVER KANAKA CREEK BRIDGE REPLACEMENT PROJECT
INITIAL STUDY/MITIGATED NEGATIVE DECLARATION & COMMENTS AND RESPONSES

Environmental Factor	Mitigation Measure #	Environmental Protection Measures	Timing	Implementing Party	Monitoring Party	Frequency & Duration
Air Quality	AIR-1	<p>Naturally Occurring Asbestos</p> <ul style="list-style-type: none"> • Notify in writing the Northern Sierra Air Management District, Air Pollution Control Officer (APCO) at least fourteen (14) days before the beginning of the activity. • All the following dust control measures will be implemented during any project construction: <ul style="list-style-type: none"> ○ Unpaved areas subject to vehicle traffic must be stabilized by being kept adequately wetted, treated with a chemical dust suppressant, or covered with material that contains less than 0.25 percent asbestos; ○ The speed of any vehicles and equipment traveling across unpaved areas must be no more than fifteen (15) miles per hour unless the road surface and surrounding area is sufficiently stabilized to prevent vehicles and equipment traveling more than 15 miles per hour from emitting dust that is visible crossing the project boundaries; ○ Storage piles and disturbed areas not subject to vehicular traffic must be stabilized by being kept adequately wetted, treated with a chemical dust suppressant, or covered with material that contains less than 0.25 percent asbestos; and ○ Activities must be conducted so that no track-out from any road construction project is visible on any paved roadway open to the public. ○ Equipment and operations must not cause the emission of any dust that is visible crossing the project boundaries. 	Pre-Construction and Construction Phases	Sierra County / Contractor	Sierra County / Contractor	Prior to and during Construction

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Environmental Factor	Mitigation Measure #	Environmental Protection Measures	Timing	Implementing Party	Monitoring Party	Frequency & Duration
Biological Resources	BIO-1	<p>Foothill yellow-legged frog (FYLF)</p> <ul style="list-style-type: none"> ● A preconstruction survey for FYLF will be conducted immediately prior to the initiation of construction activities on the banks of Kanaka Creek. The preconstruction survey will be conducted by a biologist experienced with amphibian and reptile surveys in California. If FYLF are not found, construction will proceed. If FYLF are found, construction will not proceed on the banks of Kanaka Creek until the biologist verifies that individuals have left on their own, that work activities will not affect the individuals, or the biologist has moved the frog out of the construction zone. ● Prior to the start of construction, a biologist will conduct a training session for all construction personnel that includes a description of FYLF, their habitat, and how to proceed if a suspected special status species is encountered. The training will also describe the specific measures being implemented to avoid adverse effects to these species. ● <u>Habitat Assessment and Delineation: Prior to initiating Covered Activities, the Biologist shall conduct and submit to CDFW a habitat assessment to determine the likelihood (low, moderate, or high) of foothill yellow-legged frog occurring within and adjacent to the project area. The habitat assessment shall consider historical and existing land uses of the project area, presence of invasive species, proximity to known or potential instream foothill yellow-legged frog breeding sites, existing quality of riparian habitat, proximity to tributaries, barrier(s) to foothill yellow-legged frog movement between suitable riparian/upland and/or aquatic habitat and the project area, and other conditions pertinent to foothill yellow-legged frog presence.</u> 	Pre-Construction and Construction Phases	Approved Biologist / Sierra County	Approved Biologist / Sierra County	Throughout Construction

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Environmental Factor	Mitigation Measure #	Environmental Protection Measures	Timing	Implementing Party	Monitoring Party	Frequency & Duration
		<ul style="list-style-type: none"> <li data-bbox="533 289 1222 565">• <u>Prior to groundbreaking activities, the County will use existing information, including CDFW’s Considerations for Conserving the Foothill Yellow-legged Frog, to prepare a Pre-Construction Survey Plan, and a qualified Biologist will conduct at least two visual encounter surveys (VES) during the during the breeding and/or oviposition survey period (April-June). The pertinent qualifications required for the Designated Biologist will also be included in the Pre-Construction Survey Plan.</u> <li data-bbox="533 581 1222 889">• <u>Pending results of the surveys described above, a California Endangered Species Act (CESA) Incidental Take Permit (ITP) be obtained if the project has the potential to result in “take” (Fish & G. Code § 86 defines “take” as “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill”) of State-listed CESA species, including FYLF, either through construction or over the life of the project. No relocation shall be done for special status species or CESA listed species without the proper handling permits and/or CESA take coverage (e.g., an ITP).</u> <li data-bbox="533 906 1222 1312">• <u>To avoid direct mortality, a Designated Biologist will be retained to be onsite prior to and during all ground- and habitat-disturbing activities that have the possibility to cause harm to wildlife species. Furthermore, the Designated Biologist with the proper authorizations may move out of harm’s way special-status species or other wildlife of low or limited mobility that would otherwise be injured or killed from project-related activities, as needed. The Designated Biologist will have the authority to stop work to prevent direct mortality of special-status species. Wildlife species will be allowed to move out of harm’s way on their own volition, if possible, and to assist their relocation is a last resort.</u> <li data-bbox="533 1328 1222 1406">• All vegetation scheduled for removal on the banks of Kanaka Creek will be removed by hand or with hand tools, such as chain saws. After the vegetation has been removed, 				

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Environmental Factor	Mitigation Measure #	Environmental Protection Measures	Timing	Implementing Party	Monitoring Party	Frequency & Duration
		<p>and a survey confirms the absence of FYLF, stumps and roots may be removed using mechanized vehicles and equipment.</p> <ul style="list-style-type: none"> ● A qualified biologist will be present to monitor for FYLF during ground disturbing or vegetation removal activities on the banks of Kanaka Creek. ● During construction, if a FYLF is observed in the active construction zone, construction will cease and a qualified biologist will be notified. Construction will resume when the biologist has either relocated the FYLF to nearby suitable habitat outside the construction zone, or, after thorough inspection, determined that the FYLF has moved away from the construction zone. ● Fueling and equipment maintenance activities shall be a minimum of 100 feet from Kanaka Creek. A toxic materials control and spill-response plan will be developed and implemented for the project. ● To eliminate the attraction of potential predators of FYLF and avoid degradation of its habitat, all food-related trash items such as wrappers, cans, bottles, and food scraps will be disposed of in closed containers and removed from the project site at the end of each working day. ● <u>Exclusion-Fencing: The County will install exclusion fencing to prevent foothill yellow-legged frog from dispersing into the project area. The County will submit the design to CDFW for approval no less than 30 days prior to the proposed start of Covered Activities. The County shall place the exclusion fencing around the construction footprint and the exclusion fencing shall be maintained by the Permittee throughout all construction activities. The Biologist shall inspect the area prior to installation. The Biologist shall inspect the exclusion fencing daily and after storm events. The Permittee shall maintain and repair the exclusion fencing immediately to ensure that it is</u> 				

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		<p><u>functional and without defects. The exclusion fencing shall be:</u></p> <ul style="list-style-type: none"> ○ <u>Properly installed, both trenched in and vertically stout, and regularly maintained to be effective.</u> ○ <u>At least three feet in height.</u> ○ <u>The top few inches of the exclusion fencing must be folded over and away from the construction area.</u> ○ <u>Plastic monofilament netting (“poly netting”) or similar material containing netting that could result in the entanglement or death of wildlife, including FYLF, will not be used at the project site. Acceptable substitutes include coconut coir matting or tackified hydroseeding compounds.</u> 				
Biological Resources	BIO-2	<p>Western Pond Turtle (Emys Marmorata)</p> <ul style="list-style-type: none"> ● <u>A preconstruction survey for WPT will be conducted immediately prior to the initiation of construction activities on the banks of Kanaka Creek. The preconstruction survey will be conducted by a qualified biologist experienced with reptile surveys in California. If WPT are not found, construction will proceed. If WPT are found, construction will not proceed on the banks of Kanaka Creek until the biologist verifies that the individuals have left on their own, that work activities will not affect the individuals, or the biologist has moved the turtle out of the construction zone.</u> ● <u>Prior to ground-disturbing activities near Kanaka Creek, a Qualified Biologist will survey the project site where suitable habitat (including nest sites) occurs for northwestern pond turtle. Surveys shall be performed within 30 days prior to starting project activities and should be performed within a minimum of 500 feet upstream and downstream of the project activity, where accessible. If northwestern pond turtles are detected during surveys, a site-specific avoidance, minimization, and/or relocation</u> 	Pre-Construction	Approved Biologist / Sierra County	Approved Biologist / Sierra County	Once Prior to Construction

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		<p><u>plan shall be prepared and implemented by a Qualified Biologist. If needed, the plan will include construction monitoring. The plan will be submitted to CDFW.</u></p> <ul style="list-style-type: none"> • <u>To avoid direct mortality, a Designated Biologist with the appropriate qualifications will be retained to be onsite prior to and during all ground- and habitat-disturbing activities that have the possibility to cause harm to wildlife species. The Designated Biologist with the proper authorizations may move out of harm's way special-status species or other wildlife of low or limited mobility that would otherwise be injured or killed from project-related activities, as needed. The Designated Biologist will have the authority to stop work to prevent direct mortality of special-status species. Wildlife species will be allowed to move out of harm's way on their own volition, if possible. Assistance with their relocation is a last resort.</u> • Prior to start of construction, a biologist will conduct a training session for all construction personnel that includes a description of WPT, their habitat, and how to proceed if a suspected special-status species is encountered. The training will also describe the specific measures being implemented to avoid adverse effects to these species. 				
Biological Resources	BIO-3	<p>Migratory Birds and Birds of Prey</p> <p>Under the MBTA, nests that contain eggs or unfledged young are not to be disturbed during the breeding season. Nesting or attempted nesting by migratory birds and birds-of-prey is anticipated from 1 February to 31 August.</p> <p><u>Nesting bird surveys will be conducted if project activities are scheduled to occur between February 1 and August 31, to fully encapsulate the potential nesting season. The survey will take place no more than 15 calendar days prior to ground disturbing activities. The County will work with CDFW to establish</u></p>	Pre-Construction and Construction Phases	Approved Biologist / Sierra County	Approved Biologist / Sierra County	Once Prior to Construction and During Construction

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Environmental Factor	Mitigation Measure #	Environmental Protection Measures	Timing	Implementing Party	Monitoring Party	Frequency & Duration
		<p><u>species-appropriate avoidance radii if nesting birds are encountered. If any special-status species are encountered during project activities, work should be suspended, CDFW notified, and conservation measures will be developed in agreement with CDFW prior to re-initiating the activity.</u></p> <p>Bridge-Nesting Birds</p> <p>In California, bridge-nesting swallows typically arrive in mid-February, increase in numbers until late March, and remain until October. Nesting begins in April, peaks in June, and continues into August. Although swallows are unlikely to nest on the Plumbago Road Bridge, other migratory birds may attempt to nest under the bridge. Black phoebes and Steller’s jays occur in the area and are known to nest on bridges. Measures should be taken to prevent establishment of nests prior to construction. Techniques to prevent nest establishment include using exclusion devices, removing and disposing of partially constructed and unoccupied nests of migratory or nongame birds on a regular basis to prevent their occupation, or perform any combination of these. This can be done by:</p> <ul style="list-style-type: none"> • The contractor can visit the site weekly and remove partially completed nests using either hand tools or high-pressure water; and/or • Hang netting from the bridge before nesting begins. If this technique is used, netting should be in place from late February until project construction begins. <p>Birds of Prey and Birds Protected by the Migratory Bird Treaty Act</p> <ul style="list-style-type: none"> • If construction begins outside the 15 February to 31 August breeding season, there will be no need to conduct a preconstruction survey for active nests. 				

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		<ul style="list-style-type: none"> • Vegetation scheduled for removal should be removed during the non-breeding season from 1 September to 14 February. Vegetation removal includes trees and vegetation within the stream zone. Within the stream zone, vegetation will be removed using hand tools, including chain saws and mowers, and may be trimmed several inches above the ground with the roots left intact to prevent erosion. • If construction or vegetation removal begins between 15 February and 31 August, a biologist shall conduct a survey for active bird of prey nests within 250 feet and active nests of all other MBTA-protected birds within 100 feet of the project area from publicly accessible areas within two weeks prior to construction. The measures listed below shall be implemented based on the survey results. <p><i>No Active Nests Found:</i></p> <ul style="list-style-type: none"> • If no active nest of a bird of prey, MBTA bird, or other CDFW protected bird is found, then no further avoidance and minimization measures are necessary. <p><i>Active Nests Found:</i></p> <ul style="list-style-type: none"> • <u>The County will work with CDFW to establish a species-appropriate avoidance radius radii if nesting birds are encountered. If any special-status species are encountered during project activities, work should be suspended, CDFW notified, and conservation measures will be developed in agreement with CDFW prior to re-initiating the activity. Work may not re-initiate until the project proponent has consulted with CDFW and can demonstrate compliance with California Endangered Species Act.</u> • If an active nest of a bird of prey, MBTA bird, or other CDFW protected bird is discovered that may be adversely 				

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		<p>affected by construction activities or an injured or killed bird is found, immediately:</p> <ul style="list-style-type: none"> ○ Stop all work within a 100-foot radius of the active nest ○ Notify the Engineer ○ Do not resume work within the specified radius of the discovery until authorized. <ul style="list-style-type: none"> ● The biologist shall establish a minimum 250-foot Environmentally Sensitive Area (ESA) around the nest if the nest is of a bird of prey, and a minimum 100-foot ESA around the nest if the nest is of an MBTA bird other than a bird of prey. <p>Bird Species Protection Areas</p> <table border="1" data-bbox="537 808 1220 998"> <thead> <tr> <th><i>Protected Bird Type</i></th> <th><i>Size of Protection Area (ESA)</i></th> </tr> </thead> <tbody> <tr> <td><i>Bird of Prey</i></td> <td><i>250-foot no-disturbance buffer</i></td> </tr> <tr> <td><i>MBTA protected bird (not bird of prey)</i></td> <td><i>100-foot no-disturbance buffer</i></td> </tr> </tbody> </table> <ul style="list-style-type: none"> ● Activity in the ESA will be restricted as follows: <ul style="list-style-type: none"> ○ Do not enter the ESA unless authorized. ○ If the ESA is breached, immediately (1) Secure the area and stop all operations within 100 feet of the ESA boundary, and (2) Notify the Engineer. ○ If the ESA is damaged, the County determines what efforts are necessary to remedy the damage and who performs the remedy. ● No construction activity shall be allowed in the ESA until the biologist determines that the nest is no longer active, or 	<i>Protected Bird Type</i>	<i>Size of Protection Area (ESA)</i>	<i>Bird of Prey</i>	<i>250-foot no-disturbance buffer</i>	<i>MBTA protected bird (not bird of prey)</i>	<i>100-foot no-disturbance buffer</i>				
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		<p>unless monitoring determines that a smaller ESA will protect the active nest.</p> <ul style="list-style-type: none"> • The ESA may be reduced if the biologist monitors the construction activities and determines, in consultation with CDFW, that no disturbance to the active nest is occurring. Reduction of the ESA depends on the species of bird, the location of the nest relative to the project, project activities during the time the nest is active, and other project-specific conditions. • Between 1 February and 31 August, if additional trees or shrubs need to be trimmed and/or removed after construction has started, a survey will be conducted for active nests in the area to be affected. If an active nest is found, the above measures will be implemented. • If an active nest is identified in or adjacent to the construction zone after construction has started, the above measures will be implemented to ensure construction is not causing disturbance to the nest. If the biologist determines that disturbance to the active nest is occurring they will have authority to stop construction. 				
Biological Resources	BIO-4	<p>Bats</p> <p>The following measures will be implemented to avoid and minimize impacts to bats:</p> <ul style="list-style-type: none"> • Within the year prior to construction, the bridge shall be inspected for bats and/or bat sign. If evidence of bats is observed, exclusion measures using one-way exits shall be implemented. Bat exclusion must be complete prior to installation of netting for bird exclusion. 	Pre-Construction	Approved Biologist / Sierra County	Approved Biologist / Sierra County	Prior Construction

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		<ul style="list-style-type: none"> ○ Exclusion devices shall be installed between 1 September and 1 November, which is outside of the maternity and hibernation season. ○ If it is determined that the bats are not using the bridge as a maternity or hibernation site, exclusion devices may be installed at any time. ○ Exclusion devices shall remain in place until demolition of the bridge. ● If exclusion devices are not installed during the specified windows, a survey shall be conducted within 2 weeks prior to construction to determine bat use of the bridge. <ul style="list-style-type: none"> ○ If no bats and/or bat sign is observed, no further avoidance and minimization measures are necessary. ○ If it is determined that bats are using the bridge as a maternity or hibernation roost, CDFW shall be contacted to determine an appropriate avoidance buffer. ○ The avoidance buffer may be reduced if a qualified biologist monitors the construction activities and determines that no disturbance to the roost is occurring. Reduction of the buffer depends on the species of bat, the location of the roost relative to project activities, activities during the time the roost is active, and other project-specific conditions. ○ No work shall occur in the buffers until it is determined that the bats have left on their own, or until the end of the hibernation or maternity season, at which time exclusion devices can be installed. ● If it is determined that the bats are not using the bridge as a maternity or hibernation site, exclusion devices shall be 				

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		<p>installed a minimum of 48 hours prior to construction to ensure the bats have time to leave before construction begins.</p> <ul style="list-style-type: none"> Exclusion devices shall remain in place until demolition of the bridge. 				
Biological Resources	BIO-5	<p>Douglas Fir Forest/Trees</p> <ul style="list-style-type: none"> Vegetation removal will be minimized to the maximum extent feasible. Prior to construction, the limits of vegetation removal will be marked with temporary fencing or flagging. The limits of construction will be fenced by the County or Contractor to minimize impacts on retained trees. Trucks and other vehicles will not be allowed to park beyond, nor shall equipment be stored beyond, the fencing. No vegetation removal or ground disturbing activities will be permitted beyond the fencing. Incorporation of this measure will help ensure that trees are not impacted beyond what is permitted by construction entitlements. Temporarily impacted areas will be revegetated in accordance with the Revegetation Planting and Erosion Control Specifications (Appendix F) of the project's Natural Environment Study. 	Pre-Construction and Construction Phases	Sierra County / Contractor	Sierra County / Contractor	Prior to and during Construction
Biological Resources	BIO-6	<p>Kanaka Creek</p> <ul style="list-style-type: none"> Prior to the start of construction, a containment system will be installed to keep project-related debris from entering Kanaka Creek. Installation of the containment system will take place above the OHWM of Kanaka Creek, from the banks or from the existing bridge deck. During construction, water quality will be protected by implementation of best management practices (BMPs) consistent with the latest version of Caltrans' Construction 	Pre-Construction and Construction Phases	Sierra County / Contractor	Sierra County	Prior to and during Construction

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		<p>Site Best Management Practices (BMPs) Manual and the Stormwater Pollution Prevention Plan (SWPPP) and Water Pollution Control Program (WPCP) Preparation Manual (2017) to minimize the potential for siltation and downstream sedimentation of Kanaka Creek.</p> <ul style="list-style-type: none"> • Construction vehicles and equipment will be maintained to prevent contamination of soil and water from external grease and oil and from leaking hydraulic fluid, fuel, oil, and grease. • The County will implement best management practices outlined in any authorizations or environmental permits issued for the project. • <u>The County will notify CDFW pursuant to Section 1602 of the Fish and Game Code.</u> 				
Hazards & Hazardous Materials	HAZ-6	<p>Mine Tailings</p> <ul style="list-style-type: none"> • Prior to the start of construction sampling will be conducted in areas of potential mine tailings that would be disturbed by the project. The sampling will be performed to appropriate depths where project grading and excavation will occur. The samples will be tested for heavy metals including mercury, arsenic, and lead. • If heavy metal levels exceed the regulatory limits the project will implement the requirements of Title 22 of the California Code of Regulations (CCR) and the California Health and Safety Code (Section 25356.1). Title 22 of the CCR and the California Health and Safety Code Section 25356.1 statutorily require several courses of action to protect worker safety and the environment, including the following: <ul style="list-style-type: none"> ○ Prepare a Preliminary Endangerment Assessment (PEA): The PEA provides basic information for determining if there has been a release of a hazardous 	Pre-Construction	Sierra County / Contractor	Sierra County / Contractor	Prior to Construction

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		<p>substance that presents a risk to human health or the environment.</p> <ul style="list-style-type: none"> ○ Prepare a Remediation Action Plan (RAP) or Removal Action Workplan (RAW) in accordance with California Health and Safety Code Section 25356.1. The RAP or RAW will include a discussion of exposure pathways and receptors, preparation of a conceptual site model, a human health risk assessment, an ecological risk assessment and would specify remedial measures for those on-site soils that contain hazardous levels of heavy metals to minimize the exposure risk to construction workers and end-users. The RAP and or RAW would be reviewed and approved by California Department of Toxic Substances Control (DTSC) or the appropriate Regional Water Quality Control Board. 				