



DEPARTMENT OF FISH AND WILDLIFE  
Central Region  
1234 East Shaw Avenue  
Fresno, California 93710  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



June 11, 2024

Enrique Huerta  
California Department of Transportation (Caltrans)  
50 Higuera Street  
San Luis Obispo, CA 93401

Subject: Moss Landing CAPM (EA 05-1K870) (Project)  
Initial Study with Proposed Negative Declaration  
State Clearinghouse # 2024040285

Dear Enrique Huerta:

The California Department of Fish and Wildlife (CDFW) received an Initial Study with Proposed Negative Declaration (ND) from the California Department of Transportation (Caltrans) for the above referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, CDFW appreciates 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. While the comment period may have ended, CDFW respectfully requests that Caltrans still consider CDFW's comments.

## **CDFW ROLE**

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

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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.). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, §2050 et seq.), related authorization as provided by the Fish and Game Code may be required.

In this role, CDFW is responsible for providing, as available, biological expertise during public agency environmental review efforts (e.g., CEQA), focusing specifically on project activities that have the potential to adversely affect fish and wildlife resources. CDFW provides recommendations to identify potential impacts and possible measures to avoid or reduce those impacts.

**Fully Protected Species:** CDFW has jurisdiction over fully protected species of birds, mammals, amphibians and reptiles, and fish, pursuant to Fish and Game Code sections 3511, 4700, 5050, and 5515. Fully protected species may not be taken or possessed at any time and no licenses or permits may be issued for their take except as follows: 1) take is for necessary scientific research; 2) efforts to recover a fully protected, endangered, or threatened species, live capture, and relocation of a bird species for the protection of livestock; or 3) they are a covered species whose conservation and management is provided for in a Natural Community Conservation Plan (Fish & G. Code, §§ 3511, 4700, 5050, & 5515). Additionally, specified types of infrastructure projects may be eligible for an Incidental Take Permit (ITP) for unavoidable impacts to fully protected species if certain conditions are met (see Fish & G. Code § 2081.15). Project proponents should consult with CDFW early in the project planning process if an ITP may be pursued for the Project.

**Unlisted Species:** Species of plants and animals need not be officially listed as Endangered, Rare, or Threatened (E, R, or T) on any State or Federal list to be considered E, R, or T under CEQA. If a species can be shown to meet the criteria for E, R, or T, as specified in the CEQA Guidelines, section 15380, CDFW recommends it be fully considered in the environmental analysis for the Project.

## **PROJECT DESCRIPTION SUMMARY**

**Proponent:** Caltrans

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**Objective:** The Project will rehabilitate the pavement wear course on the two-lane highway and four-lane freeway, replace 30 sign panels, three closed-circuit televisions, seven vehicle detection systems, upgrade four Americans with Disabilities Act curb ramps, and upgrade 12 bus pads. Secondary improvements include upgrading guardrail and guardrail end treatments, vegetation control with minor concrete additions, shoulder backing, and pavement dig outs.

**Location:** The proposed Project site is located near the community of Moss Landing along State Route 1 in Monterey County from 0.5 mile north of Molera Road Overcrossing to the Monterey/Santa Cruz County line between postmiles R90.9 and R102.1.

**Timeframe:** Project construction is estimated to occur between December 2026 and May 2029.

## COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist Caltrans in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document.

Based on the Project location and proposed Project activities in the Initial Study, CDFW is concerned regarding potential impacts to special-status species, including but not limited to, the State and Federal threatened California tiger salamander (*Ambystoma californiense*), State and Federal endangered and fully protected Santa Cruz long-toed salamander (*Ambystoma macrodactylum croceum*).

### I. Environmental Setting and Related Impact

**Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or the United States Fish and Wildlife Service (USFWS)?**

**California Tiger Salamander (CTS) and Santa Cruz Long-Toed Salamander (SCLTS):**

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The Initial Study and corresponding biological technical study for this Project documents historic occurrences of CTS and SCLTS near the Project site. They describe negative observations in 2022 in ponds of Bennet Slough, but there is also potentially suitable, unsurveyed breeding habitat for CTS and SCLTS in the Project vicinity within dispersal distance for either salamander. CTS have been determined to be physiologically capable of dispersing up to approximately 1.5 miles from seasonally flooded wetlands (Searcy and Shaffer 2011). SCLTS have an identified dispersal distance of 1.2 miles based on anticipated mobility of the species within a single season (USFWS and CDFW 2012). Presence of suitable habitat features within the vicinity of the Project increases the potential for CTS or SCLTS to be encountered at the Project site. If CTS or SCLTS are present near the Project site, Project activities may result in potentially significant impacts to one or both species, including burrow collapse, inadvertent entrapment, reduced reproductive success, and direct mortality.

Prior to ground-disturbing activities and as part of the biological studies conducted in support of the CEQA document, CDFW recommends that a qualified biologist assess the Project site up to the full potential dispersal distance for CTS and SCLTS to evaluate the potential presence of either salamander. CDFW recommends that surveys for CTS follow the “Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander” (USFWS 2003) and SCLTS follow the “Guidance on Site Assessment and Field Surveys to Detect Presence or Report a Negative Finding of the Santa Cruz Long-toed Salamander” (USFWS and CDFW 2012). The CTS protocol requires that surveys be conducted during at least two seasons, with sufficient precipitation, to be considered complete.

If CTS or SCLTS are found in the Project area, take authorization would occur through the acquisition of an Incidental Take Permit (ITP) pursuant to Fish and Game Code section 2081, subdivision (b), for CTS, and section 2081.15 for SCLTS, assuming the 2081.15 required project criteria to qualify for take coverage of fully protected species can be met. In the absence of protocol surveys, the applicant can assume presence of CTS or SCLTS within the Project area and immediately focus on obtaining an ITP. For information regarding ITPs, please see the following link:

<https://www.wildlife.ca.gov/Conservation/CESA>. Included in the ITP would be measures required to avoid and/or minimize direct take as well as fully mitigating the take of CTS and SCLTS. An ITP for SCLTS would also require measures to satisfy the conservation standard of Fish and Game Code section 2085, subdivision (d).

In the absence of negative findings from protocol surveys or an ITP, CDFW recommends a minimum 50-foot no-disturbance buffer be delineated around all small mammal burrows in suitable upland refugia habitat within and adjacent to the Project site. Further, CDFW recommends potential or known breeding habitat within and

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adjacent to the Project site be delineated with a minimum 250-foot no-disturbance buffer. Both upland burrow and wetland/pond breeding no-disturbance buffers are intended to avoid impacts to CTS and SCLTS and their habitat.

## **II. Editorial Comments and/or Suggestions**

**Endangered Species Act (ESA) Consultation:** CDFW recommends consultation with the USFWS prior to Project ground disturbance, due to potential Project related impacts to federally listed species. Take under the ESA is more stringently defined than under CESA; take under ESA may also include significant habitat modification or degradation that could result in death or injury to a listed species, by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS in order to comply with ESA is advised well in advance of Project implementation.

## **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 mailed electronically to CNDDDB at the following email address: [CNDDDB@wildlife.ca.gov](mailto:CNDDDB@wildlife.ca.gov). The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

## **FILING FEES**

If it is determined that the Project has the potential to impact biological resources, an assessment of filing fees will be necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final (Cal. Code Regs, tit. 14, §753.5; Fish and Game Code, §711.4; Pub. Resources Code, §21089).

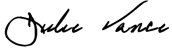
## **CONCLUSION**

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

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More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>). If you have any questions, please contact Grant Piepkorn, Environmental Scientist, at the address provided on this letterhead, by telephone at (559) 807-1459, or by electronic mail at [Grant.Piepkorn@wildlife.ca.gov](mailto:Grant.Piepkorn@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
FA83F09FE08945A...  
Julie A. Vance  
Regional Manager

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References:

Searcy, C.A. and H.B. Shaffer. 2011. Determining the migration distance of a vagile vernal pool specialist: How much land is required for conservation of California tiger salamanders? California State University, Chico, California, USA.

United States Fish and Wildlife Service (USFWS). 2003. Interim guidance on site assessment and field surveys for determining presence or a negative finding of the California tiger salamander. Sacramento, California, USA.

USFWS and California Department of Fish and Wildlife (CDFW), 2012. Guidance on Site assessment and field surveys to detect presence or report a negative finding of the Santa Cruz long-toed salamander December 2012.

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**Attachment 1**

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE**

**RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM  
 (MMRP)**

**PROJECT: Moss Landing CAPM (EA 05-1K870)**

**SCH No.: 20244040285**

<b>RECOMMENDED MITIGATION MEASURE</b>	<b>STATUS/DATE/INITIALS</b>
<i>Before Disturbing Soil or Vegetation</i>	
Mitigation Measure: CTS	
CTS surveys	
CTS take authorization	
Mitigation Measure: SCLTS	
SCLTS surveys	
SCLTS take authorization	
<i>During Construction</i>	
Mitigation Measure: CTS	
CTS avoidance buffer	
Mitigation Measure: SCLTS	
SCLTS avoidance buffer	