

Haggerty, Nicole@Wildlife

May 07 2024

From: Xiong, Mary@Wildlife
Sent: Tuesday, May 7, 2024 11:22 AM
To: NEV.PLA.20.CAPM@DOT; Greenwood, Caitlin@DOT
Cc: Stanfield, Melissa@Wildlife; Sheya, Tanya@Wildlife; Kilgour, Morgan@Wildlife; Wildlife R2 CEQA
Subject: CDFW Comments on the ND for 03-0J520 State Route Nevada/Placer 20 Capital Preventative Maintenance (CAPM) Project

STATE CLEARINGHOUSE

Dear Caitlin Greenwood:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to adopt a Negative Declaration (ND) from the California Department of Transportation (Caltrans) for the 03-0J520 State Route Nevada Placer 20 Capital Preventative Maintenance (CAPM) Project (Project) pursuant to 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, native plants, and their habitat. 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.

CDFW ROLE

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

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

PROJECT DESCRIPTION SUMMARY

The Project proposes pavement rehabilitation along State Route 20 (SR 20) in Nevada and Placer Counties at the locations in Table 1 below. The proposed Project consists of cold plane and overlay of existing pavement, shoulder backing, pavement digouts, striping and rumble strips, rehabilitation of 24 existing drainage systems, and installation of one new drainage system consisting of five culverts and five drainage inlets to address flooding issues at the intersection of SR 20 and Scotts Flat Road (post mile 23.38). Other work includes upgrading Transportation Management System (TMS)

elements, replacing non-standard Metal Beam Guardrail (MBGR) with Midwest Guardrail System (MGS), vegetation control, and fire hardening.

Table 1. Project Locations

Location	County	Location Detail
1	Nevada	Near Nevada City and Emigrant Gap from east of Dow Road to the Placer County line between post mile (PM) 20.0 to 41.28, excluding PM 25.6 to 25.9, 29.7 to 30.9, 31.7 to 31.9, and 37.0 to 39.8
2	Placer	From the Nevada County line to east of Lake Spaulding Road between PM 41.28 to 43.87
3	Nevada	From east of Lake Spaulding Road to Route 80 between PM 43.87 to 46.12

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist Caltrans in adequately identifying and, where appropriate, mitigating the Project’s significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources.

Comment 1: *Chapter 1.6 Standard Measures and Best Management Practices Included in All Alternatives, Page 8*

Section 15370 of the CEQA Guidelines defines mitigation as:

- a) Avoiding the impact altogether by not taking a certain action or parts of an action;
- b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation;
- c) Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment;
- d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; and
- e) Compensating for the impact by replacing or providing substitute resources or environments, including through permanent protection of such resources in the form of conservation easements.

Issue: This section of the ND states the standard measures and best management practices for biological resources and water quality, among other environmental factors, included in this document are not considered mitigation measures because they are prescriptive and sufficiently standardized to be generally applicable. The ND also states these general measures result from laws, permits, agreements, guidelines, and resource management plans that predate the Project’s proposal. General measures in documents like these, including, but not limited to Lake and Streambed Alteration (LSA) Agreements and California Endangered Species Act (CESA) Incidental Take Permits (ITP), are typically required to avoid, minimize, and/or mitigate impacts caused by projects that could significantly affect the environment.

Recommendation: CDFW believes that these measures should be considered mitigation under CEQA when the ND analyzes the effects of the Project with these measures in place. CDFW also recommends this document be identified as a “Mitigated Negative Declaration” considering the incorporation of measures that serve to avoid, minimize, and reduce/eliminate the effects of the Project to a point where no significant effect on the environment would occur. Subsequently, the Initial Study/Negative Declaration checklist should be updated to reflect which environmental factors would have impacts determined to be less than significant with mitigation incorporated.

Comment 2: *Chapter 1.6 Standard Measures and Best Management Practices Included in All Alternatives, Wetlands and Other Waters Section, Page 11*

Issue: The (Biological Resources) BR-5 Wetlands and Other Waters standard measure A in Chapter 1.6 refers to an Aquatic Species Relocation Plan that is in BR-2, but there is no discussion of aquatic species nor an aquatic species relocation plan in BR-2.

Recommendation: CDFW recommends that the BR-2 measure includes a measure about the aquatic species likely to occur within the Project and aquatic relocation plan details.

Comment 3: *Chapter 2.4 Biological Resources, Animal Species Section, Page 42, and Chapter 2.4a Biological Resources, Animal Species Section, Page 52*

Issue: The section on Page 42 provides a list of fully protected species and species of special concern in the CEQA document and states that there will be no impact to said species because there is no suitable habitat for the species within the environmental study limit or the Project is out of the geographical range of the species. Page 52 does not discuss the southern long-toed salamander (*Ambystoma macrodactylum sigillatum*), a species of special concern, as a potential species that can occur within the Project area when there is suitable habitat present. A desktop review shows there is potential for the southern long-toed salamander to occur either near or within the Project site at locations PM 41.08, 41.1, and 41.27 due to the potential habitat present.

Recommendation: CDFW recommends that the CEQA document discuss the species and include an amphibian pre-construction survey measure in the Biological Resources Animal Section on page 9, including that the survey should be conducted immediately prior to the start of construction, to avoid and minimize take of this species.

Comment 4: *Chapter 1.4 Proposed Project, Fire Hardening Section, Page 6, and Chapter 2.4b Biological Resources, Sensitive Natural Communities Section, Pages 46-47 and 53*

Issue: The Fire Hardening section in Chapter 1.4 identifies activities related to fire fuel reduction and states that vegetation management strips, in the form of vegetation removal, would be created at three structures (Bear River Bridge, South Yuba Canal, and Drum Canal) to potentially reduce threat of fire. The post mile provided for the Bear River and South Yuba Canal are switched. The post mile for Bear River Bridge should be PM 41.27, and the post mile for South Yuba Canal should be PM 40.74.

Although vegetation removal is anticipated to occur at these three locations where there are streams, the temporary and permanent impacts to riparian habitat are not discussed in the Sensitive Natural Communities sections of Chapter 2.4b.

Recommendation: CDFW recommends that Chapter 2.4b discuss the temporary and permanent impacts to riparian habitat as a result of vegetation removal for fire hardening and be included in

Table 3, which identifies the estimated maximum permanent and temporary impacts on riparian habitat.

Comment 5: *Chapter 1.4 Proposed Project, Drainage Section, Pages 4-5 and Chapter 2.4 and 2.4b Biological Resources, Wetlands and Other Waters Section, Pages 47-48 and 53*

Issue: The Drainage section in Chapter 1.4 states that one new drainage system will be installed to address flooding issues at Scotts Flat Road (PM 23.25), which consists of the installation of five 18-inch reinforced concrete pipe culverts and five drainage inlets. Chapter 2.4 does not include a discussion on the permanent and temporary impacts to the watercourses and associated riparian habitat caused by the installation of the culverts, inlets, and associated appurtenances. Although the location of the new drainage system is shown in Appendix A (Project Layouts), the map does not provide enough detail to adequately analyze potential biological impacts.

Recommendation: CDFW recommends that the CEQA document clarify if there will be temporary and permanent impacts to any watercourses and riparian habitat due to the installation of five culverts and five inlets. The appropriate sections in Chapter 2.4 and Table 4, which provide an estimate of the maximum permanent and temporary impacts on aquatic resources, should be updated to reflect any changes. CDFW also recommends that the CEQA document include a more detailed map that delineates the watercourse and impacts. If further analysis indicates that there will be additional permanent impacts to any watercourses and associated riparian habitat, additional mitigation may be required to reduce Project impacts to a less than significant level.

Comment 6: *Chapter 2.10 Hydrology and Water Quality c), Lake and Streambed Alteration, Pages 102-103*

Issue: This section has a “No Impact” determination on the question c) “Would the project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces...” however a temporary creek diversion system plan and dewatering are mentioned in BR-5(A) and Water Quality-1.

Section 1602 of the Fish and Game Code requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following:

- substantially divert or obstruct the natural flow of any river, stream or lake;
- substantially change or use any material from the bed, channel or bank of any river, stream, or lake;
- or deposit debris, waste or other materials that could pass into any river, stream, or lake.

Please note that "any river, stream or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams and watercourses with a subsurface flow.

If CDFW determines that the Project activities may substantially adversely affect an existing fish or wildlife resource, an LSA Agreement will be issued which will include reasonable measures necessary to protect the resource. Early consultation with CDFW is recommended, since modification of the Project may avoid or reduce impacts to fish and wildlife resources.

Recommendations: CDFW recommends that the “No Impact” determination be changed to “Less Than Significant Impact” due to the potential installation and removal of temporary water diversion systems and dewatering and discuss how the impacts to the drainage pattern of the site and alteration of the course of the streams will be reduced and minimized to less than significant.

CDFW recommends the lead agency provide more description of the construction activities in relation to the watercourses in the ND, more detailed maps, permanent and temporary impact quantities, and review the requirements under Section 1602 of the Fish and Game Code to determine if Notification is warranted. For more information on CDFW's LSA program including the online permitting portal, please visit <https://wildlife.ca.gov/Conservation/Environmental-Review/LSA>.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during Project surveys to the 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 impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the 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 ND 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 Mary Xiong, Senior Environmental Scientist (Specialist), at (916) 212-3876 or mary.xiong@wildlife.ca.gov.

Thank you,

Mary Xiong
Senior Environmental Scientist (Specialist)
North Central Region (Region 2)
1701 Nimbus Rd., Suite A
Rancho Cordova, CA 95670
P: 916-212-3876
mary.xiong@wildlife.ca.gov