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June 19, 2024

Antonia Toledo
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Dear Antonia Toledo:

Interstate 10 Facility Restoration Project
MITIGATED NEGATIVE DECLARATION (MND)
SCH# 2024051128

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from California Department of Transportation (Caltrans) for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW 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 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.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

Proponent: Caltrans District 8

Objective: The objective of the Project is to restore the existing I-10 facility to a state of good repair that requires minimal maintenance, extends the life of the facility, improves the ride quality, and upgrades other highway equipment and facilities that are worn or functionally obsolete. Primary Project activities include:

- Replace Lane #2 and #3 with Joint Plain Concrete Pavement (JPCP);
- Grind Lane #2;
- Conduct random slab replacement/grind Lane #1;
- Correct depression in Eastbound Lanes #1 and #2 from Cherry Valley Boulevard for 0.2 mile;

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

- Replace outside shoulders with Hot Mix Asphalt (HMA);
- Reconstruct median with HMA;
- Cold plane and overlay AC ramps at County Line Undercrossing (UC), Sandalwood Overcrossing (OC) and Singleton OC;
- Upgrade MBGR to Midwest Guardrail System (MGS);
- Upgrade curb ramps to ADA standards;
- Improve roadside safety at gore areas by using rock blanket slope paving;
- Construct Gross Solid Removal Device (GSRD) trash capture device near County Line Road eastbound entrance;
- Install of fiber optic cable systems along and adjacent to the shoulder area within the Caltrans right of way.

Location: I-10 near Calimesa, from Post Mile (PM) 0.0 to PM 4.40, in Riverside County. Coordinates: 33.975824, -117.047171.

Timeframe: Project start and end dates are not provided. The project is estimated to last 200 working days.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist Caltrans District 8 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's avoidance of significant impacts on biological resources, CDFW concludes that a Mitigated Negative Declaration is appropriate for the Project.

I. Project Description and Related Impact Shortcoming

COMMENT # 1: Project Activities and Environmental Analysis

Section Introduction Page 1-7; Appendix A

Issue: The MND may not adequately analyze environmental impacts.

Specific impact: The MND does not describe nor depict, to a sufficient level of detail, proposed project activities including locations of fiber optic installation, trash capture devices, gore paving, and outside shoulders, in addition to the limits of disturbance. Fish and wildlife resources occur throughout the Project area and without a clear understanding of the Project activities, the environment affected, potential impacts, and proposed avoidance, minimization, and mitigation measures may be insufficient.

Why impact would occur: The MND's Appendix A "Project Layout Map" depicts the limits of disturbance up to 200 feet from pavement based on the map's scale. The Project design is outlined in black; however, it does not distinguish between existing and proposed design nor does it distinguish between the various activities as listed in the Project description. Furthermore, the MND identifies numerous species with suitable habitat and assesses only one jurisdictional feature. Virtual windshield surveys, based on the NESMI², evaluated general habitat conditions without subsequent field visits. Despite the MND's assertion that the project won't significantly impact foraging or nesting habitat, a thorough analysis of site conditions is lacking. The NESMI² used the National Wetlands Inventory (NWI) to pinpoint jurisdictional features and then conducted a site visit solely at Feature 1 for confirmation. The project's disturbance boundaries intersect multiple other visible drainages from aerial views, with potentially more drainages identifiable through on-site evaluations.

Evidence impact would be significant: Compliance with CEQA is predicated on a complete and accurate description of the environmental setting that may be affected by the proposed Project. CDFW is concerned that the assessment of the existing

² California Department of Transportation. 2023d. Natural Environmental Study (Minimal Impacts). October, 2023.

environmental setting with respect to biological resources has not been adequately analyzed in the MND. CDFW is concerned that without a complete and accurate description of the existing environmental setting, the MND likely provides an incomplete or inaccurate analysis of Project-related environmental impacts and whether those impacts have been mitigated to a level that is less than significant. Section 15125(c) of the CEQA Guidelines states that knowledge of the regional setting of a project is critical to the assessment of environmental impacts, that special emphasis should be placed on environmental resources that are rare or unique to the region, and that significant environmental impacts of the proposed Project are adequately investigated and discussed.

Federal Endangered Species Act (ESA)-listed species are considered endangered, rare, or threatened species under CEQA (CEQA Guidelines, § 15380). Take under the ESA is more broadly defined than CESA. Take under ESA also includes 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. CEQA provides protection not only for State and federally listed species, but for any species including, but not limited to SSC, which can be shown to meet the criteria for State listing. SSC's meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15065). Take of SSC's could require a mandatory finding of significance (CEQA Guidelines, § 15065).

Fish and Game Code section 1602 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, desert washes, and watercourses with subsurface flow, and the hyporheic zones thereof. The Project, as described in the MND, will be subject to Notification under Fish and Game Code section 1602. CDFW considers substantial adverse impacts and the deposition of materials where they may pass into streams as a significant impact, unless mitigated to a level of less than significant.

Plants constituting California Rare Plant Ranks 1A, 1B, 2A, and 2B generally meet the criteria of a CESA-listed species and should be considered as an endangered, rare or threatened species for the purposes of CEQA analysis. Likewise, CDFW considers State listed communities to be imperiled habitats having both local and regional significance. Plant communities, alliances, and associations with a statewide ranking of S1, S2, and S3 should be considered sensitive and declining at the local and regional level. These ranks can be obtained by querying the CNDDDB and are included in the Manual of California Vegetation and California Native Plant Society (cnps.org) (CNPS 2023).

Comments and Recommendations

It is recommended to conduct field reviews to verify desktop analyses and reevaluate Project impacts. Assuming presence while adding avoidance and minimization measures may not be sufficient to avoid take. Likewise, utilizing the NWI database does not negate on site verification of the Project limits of disturbance. Absent a thorough impact analysis and mitigation strategy, it is unclear whether the Project's impacts can be adequately identified, disclosed, or mitigated. CDFW is concerned that without this information, the analysis in the MND is incomplete and the significance of these impacts cannot be determined as required under CEQA.

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 USFWS?

COMMENT # 2: Nesting Birds

Section IV. Biological Resources (a), Page 15, 18-20, 22-23; Appendix D

Issue: The Project may have impacts on nesting birds, including CESA-listed birds, CDFW Species of Special Concern (SSC), and common birds that are subject to Fish and Game Code Sections 3503, 3503.5, and 3513, and the Migratory Bird Treaty Act of 1918.

Specific impact: The Project as described could result in direct take associated with vehicle and equipment strike, indirect take associated with Project operations such as attracting predators, displacement, reduction of habitat and habitat quality associated with road infrastructure. The Project as described would cause permanent and temporary impacts to avian species' foraging and nesting habitat.

Why impact would occur: Project activities could result in temporary as well as long-term loss of suitable nesting and foraging habitats. Construction during the breeding season of nesting birds could potentially result in the incidental loss of breeding success or otherwise lead to nest abandonment. Noise from road use, generators, and heavy equipment may disrupt nesting bird mating calls or songs, which could impact reproductive success.^{3,4} Noise has also been shown to reduce the density of nesting birds⁵ and songbird abundance.⁶ Additionally, noise exceeding 70 dB(A) may affect feather and body growth of young birds.⁷

The timing of the nesting season varies greatly depending on several factors, such as the bird species, weather conditions in any given year, and long-term climate changes (e.g., drought, warming, etc.). CDFW staff have observed that changing climate conditions may result in the nesting bird season occurring earlier and later in the year than historical nesting season dates. CDFW recommends the completion of nesting bird survey regardless of time of year to ensure compliance with all applicable laws pertaining to nesting and to avoid take of nests.

The duration of a pair to build a nest and incubate eggs varies considerably, therefore, CDFW recommends surveying for nesting behavior and/or nests and construction within three days prior to start of Project construction to ensure all nests on site are identified and to avoid take of nests. Without appropriate species-specific avoidance measures, biological construction monitoring may be ineffective for detecting nesting birds. This may result in take of nesting birds. Project ground-disturbing activities such as grading and vegetation clearing may result in habitat destruction, causing the death or injury of adults, juveniles, eggs, or hatchlings. In addition, the Project may remove habitat by eliminating native vegetation that may support essential foraging and breeding habitat.

³ Patricelli, G. L., & Blickley, J. L. 2006. Avian Communication in Urban Noise: Causes and Consequences of Vocal Adjustment. *The Auk*, 123(3), 639–649. [https://doi.org/10.1642/0004-8038\(2006\)123\[639:ACIUNC\]2.0.CO;2](https://doi.org/10.1642/0004-8038(2006)123[639:ACIUNC]2.0.CO;2)

⁴ Halfwerk, W., L.J.M. Holleman, C. M Lessells, H. Slabbekoorn. 2011. Negative Impact of Traffic Noise on Avian Reproductive Success. *Journal of Applied Ecology* 48:210–219.

⁵ Francis, C.D., C.P. Ortega, and A. Cruz. 2009. Noise Pollution Changes Avian Communities and Species Interactions. *Current Biology* 19:1415–1419.

⁶ Bayne, E.M., L. Habib, and S. Boutin. 2008. Impacts of Chronic Anthropogenic Noise from Energy-Sector Activity on Abundance of Songbirds in the Boreal Forest. *Conservation Biology*, Volume 22, No. 5, 1186–1193. Accessed via <https://conbio.onlinelibrary.wiley.com/doi/10.1111/j.1523-1739.2008.00973.x>

⁷ Kleist, N. J., R. P. Guralnick, A. Cruz, C. A. Lowry, and C. D. Francis. 2018. Chronic Anthropogenic Noise Disrupts Glucocorticoid Signaling and has Multiple Effects on Fitness in an Avian Community. *Proceedings of the National Academy of Sciences* 115: E648–E657.

Evidence impact would be significant: It is the Project proponent's responsibility to avoid Take of all nesting birds. Fish and Game Code section 3503 makes it unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by the rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.). Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds of prey) to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto.

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Mitigation Measure or Alternative and Related Impact Shortcoming)

Mitigation Measure # BIO-12: To address the above issues and help the Project applicant avoid unlawfully taking of nesting birds, CDFW recommends the inclusion of the below revisions to **BIO-12** in the final MND (edits are in ~~striketrough~~ and **bold**).

BIO-12 Preconstruction Nesting Bird Survey. **Project activities shall not result in impacts to nesting birds or result in the take or removal of nests or eggs unless as otherwise provided for under CDFW and USFWS regulations.** ~~If project activities cannot avoid the nesting bird season, February 1—September 30, then~~
Preconstruction nesting bird surveys must be conducted 3 days prior to construction by a Qualified Biologist **experienced with: identifying local and migratory bird species; conducting bird surveys using appropriate survey methodology; nesting surveying techniques, recognizing breeding and nesting behaviors, locating nests and breeding territories, and identifying nesting stages and nest success; determining/ establishing appropriate avoidance and minimization measures; and monitoring the efficacy of implemented avoidance and minimization measures** to locate and avoid nesting birds. If an active avian nest is located, a no-construction buffer **shall** be established and monitored ~~for~~ **by** a qualified biologist. **Buffers shall be delineated by temporary flagging or other means and remain in effect as long as construction is occurring or until the nest is no longer active. Any active nests shall be continuously monitored by a qualified biologist during Project activities that have the potential to cause disturbance to any nesting birds to ensure avoidance buffers are effective. Avoidance buffers shall be expanded and/or modified as needed by the qualified biologist if any nesting bird shows behavioral responses resulting from Project related activities. Concurrent and further surveys shall occur as Project construction progresses, as the nature of the Project is linear in fashion.**

COMMENT # 3: Crotch Bumble Bee

Section IV. Biological Resources, Page 15, 17-18; Appendix D

Issue: The project may impact suitable habitat for Crotch's bumble bee (*Bombus crotchii*), a CESA candidate species, and has the potential for take pursuant to California Fish and Game Code Section 2081(b). This species does not have coverage under the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP).

Specific impact: The Project may result in temporal or permanent loss of suitable nesting and foraging habitat. Project ground-disturbing activities may cause death or injury of adults, eggs, and larva; burrow collapse; nest abandonment; and reduced nest success.

Why impact would occur: Crotch's bumble bee primarily nest in late February through late October underground in abandoned small mammal burrows but may also nest under perennial bunch grasses or thatched annual grasses, under-brush piles, in old

bird nests, and in dead trees or hollow logs.^{8,9} Overwintering sites utilized by Crotch's bumble bee mated queens include soft, disturbed soil¹⁰, or under leaf litter or other debris.⁸ Ground disturbance and vegetation removal associated with Project implementation during the breeding season could result in the incidental loss of breeding success or otherwise lead to nest abandonment in areas adjacent to the Project site. Indirect, permanent impacts include conversion of habitat through the introduction of invasive species. Without sufficient avoidance, minimization, or mitigation measures, the Project activities may result in unmitigated temporal or permanent loss of colonies, and suitable nesting and foraging habitat.

Evidence impact would be significant: The California Fish and Game Commission accepted a petition to list Crotch bumble bee as endangered under CESA, determining the listing "may be warranted" and advancing the species to the candidacy stage of the CESA listing process. Crotch bumble bee is granted full protection of a threatened species under CESA. Take of any endangered, threatened, candidate species that results from the Project is prohibited, except as authorized by State law (Fish & G. Code, §§ 86, 2062, 2067, 2068, 2080, 2085; Cal. Code Regs., tit. 14, § 786.9). In addition, Crotch's bumble bee has a State ranking of S1/S2. This means that the Crotch's bumble bee is considered critically imperiled or imperiled and is extremely rare (often 5 or fewer populations). Crotch's bumble bee is listed as an invertebrate of conservation priority under the California Terrestrial and Vernal Pool Invertebrates of Conservation Priority.¹¹

Prior to any ground disturbance, the Project should conduct site specific surveys for Crotch's bumble bee in accordance with any Crotch's bumble bee survey protocol provided by CDFW. If take or adverse impacts to Crotch's bumble bee cannot be avoided either during Project activities or over the life of the Project, the Project should obtain appropriate take authorization from CDFW pursuant to Fish and Game Code section 2081 subdivision (b).

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Mitigation Measure or Alternative and Related Impact Shortcoming)

Mitigation Measure # BIO-17, BIO-18: To address the above issues and help the Project applicant avoid unlawfully taking of Crotch bumble bee, CDFW recommends the inclusion of the below revisions to **BIO-17** and **BIO-18** in the final MND (edits are in ~~strikethrough~~ and **bold**).

BIO-17 Rare Insect Host Plant Preconstruction Clearance Survey, Flagging, and Fencing. No more than 3 days prior to project activities, a Qualified Biologist must perform a preconstruction survey for rare insect host plants **for Crotch's bumble bee, potential nesting locations, nests, and individuals**, within the PIA and 50 feet outside the PIA **following the CDFW Protocol found at:** <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150&inline#:~:text=The%20surveyor%20should%20walk%20through,are%20unsure%20of%20proper%20identification.&text=bumble%20bee%20surveys,-lf%20state%2Dlisted>. Should any rare insect host plants **for Crotch's bumble bee** be found, **or if potential Crotch's bumble bee nests or individuals are found**, the Resident Engineer must be contacted, and host plants must be flagged by the Qualified Biologist for visual identification to construction personnel for work avoidance. **If surveys are being conducted outside of an appropriate identification period (e.g., *Bombus* spp. dormancy period, drought year, etc.) for host plants and/or bumble bee species, their presence shall be assumed and the location avoided.** Should multiple plants in a single location be found, the groupings must be fenced with Environmentally

⁸ Williams, P. H., R. W. Thorp, L. L. Richardson, and S.R. Colla. 2014. Bumble bees of North America: An Identification guide. Princeton University Press, Princeton, New Jersey. 208pp.

⁹ Hatfield, R., Jepsen, S., Foltz Jordan, S., Blackburn, M., Code, Aimee. 2018. A Petition to the State of California Fish and Game Commission to List Four Species of Bumblebees as Endangered Species.

¹⁰ Goulson, D. 2010. Bumblebees: behavior, ecology, and conservation. Oxford University Press, New York. 317pp.

¹¹ California Department of Fish and Wildlife. 2017. California Terrestrial and Vernal Pool Invertebrates of Conservation Priority. <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=148248&inline>

Sensitive Area (ESA) temporary high visibility fencing. **Regarding potential nesting resources, if Caltrans expects take of Crotch's bumble bee through either nest destruction, destruction of potential nests hidden in bunch grasses, or other nesting habitat, or if complete avoidance of Crotch's bumble bee cannot be achieved, CDFW recommends that Project activities be postponed until appropriate authorization (i.e., a finalized CESA ITP under Fish and Game Code section 2081) is obtained.**

BIO-18 Plant Seed Mix. Seed mixes used for restoration of Project areas where Crotch's bumble bee habitat is impacted must contain a diverse array of local, native pollinator plant species appropriate for Crotch's bumble including, but not limited to: *Asclepias* spp., *Chaenactis* spp., *Clarkia* spp., *Eriogonum* spp., *Eschschlozia* spp., *Lupinus* spp., *Phacelia* spp., *Salvia* spp., and local native bunch grasses. Seed and seed mixes applied shall be irrigated as necessary to ensure germination and establishment. Caltrans shall maintain (as needed) and monitor locations where seed mixes are applied for a minimum of one-year to ensure successful germination and establishment. Additional maintenance and monitoring shall occur if germination and establishment fail to remediate Project impacted areas within one-year of seed mix application.

Would the Project have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption or other means?

COMMENT # 4: Lake and Streambed Alteration (LSA)

Section IV. Biological Resources, Page 15, 20-21

Issue: The MND does not fully consider all areas on-site that may be subject to Fish and Game Code section 1602.

Specific impact: The Project as described includes substantial diversion or obstruction of natural flow of a stream; substantial change in the bed, bank, and channel of a stream; and the potential for deposition of debris or other materials containing ground pavement to occur where they may pass into a stream.

Why impact would occur: Based on the review of the materials submitted with the MND, review of aerial photography, and available hydrological information, the Project as described has the potential to impact fish and wildlife resources subject to Fish and Game Code section 1602 et seq. The MND identified several Project activities throughout the Project limits; however, did not provide any information regarding the location. Several drainages exist throughout the Project including tributaries to San Timoteo Creek. Based on the MND and Jurisdictional Delineation, only one site at Calimesa Creek was evaluated.¹² There is no analysis or evaluation of all Project activities regarding Fish and Game Code section 1602 or whether they will be avoided or temporarily/permanently impacted by the construction activities.

Evidence impact would be significant: Fish and Game Code section 1602 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, desert washes, and watercourses with subsurface flow, and the hyporheic zones thereof. The Project, as described in the MND, will be subject to Notification under Fish and Game Code section 1602. CDFW considers substantial adverse impacts and the deposition of materials where they may pass into streams as a significant impact, unless mitigated to a level of less than significant.

¹² Caltrans. Jurisdictional Delineation RIV-10 Pavement Rehab Project. April 15, 2024

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Closely Related Past, Present, and Reasonably Foreseeable Probable Future Projects)

Mitigation Measure # BIO-20 (NEW): To address the above issues and help avoid impacting Fish and Game Code section 1602 resources, CDFW requests Caltrans add the following mitigation measure in the final MND.

BIO-20 NEW: Caltrans shall notify CDFW under Fish and Game Code section 1600 et seq. for all portions of the Project that will substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake, or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake. Shoulder backing that is planned to be placed in or near channel areas that are subject to Fish and Game Code section 1600 notification shall not consist of asphalt, bitumen, or any other substance or material that is deleterious to fish, plant life, mammals, or birdlife in accordance with Fish and Game Code 5650 et seq.

To minimize significant impacts: To ensure that any LSA notification will meet the threshold of completeness review and not generate an incomplete letter, CDFW recommends Caltrans conduct a new analysis of the Project area for where Fish and Game Code section 1602 resources could be affected by the Project, including the placement of materials where they have the potential to pass into channel areas. This includes where paving and shoulder backing activities may have the potential to be within Fish and Game Code section 1602 regulated areas. CDFW is available for coordination and review of areas where Fish and Game Code section 1602 resources occur within the Project area. This may include site visits and analysis prior to the submittal of any LSA notification.

Would the Project interfere substantially with movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede use of native wildlife nursery sites?

COMMENT # 5: GRSD Trash Capture Device and Wildlife Connectivity Barrier

Section IV. Biological Resources (d), Page 15, 21

Issue: California wildlife is losing the ability to move and migrate as habitat conversion and built infrastructure disrupt species habitat and cut off migration corridors.

Specific impact: Project implementation of the proposed trash capture device could result in the permanent alteration of wildlife connectivity in Calimesa Creek across the I-10 facility.

Why impact would occur: As proposed, the Project will result in modifications to current drainage structures that will likely impede wildlife movement. The Project is located adjacent to open-space areas—areas that provide suitable nesting, roosting, foraging, refugia, and wildlife connectivity, in addition to being in proximity of an identified CDFW priority barrier (W167).¹³ Page 7 of the MND indicates that the Project will “construct GSRD trash capture device near County Line Road eastbound entrance,” but does not include any additional details including specific location, plans, device type or additional design elements. Per the GSRD Design Guidance, there are two approved types of devices, both of which may contain additional design elements such as ladders, fencing, cable railing, and grating, of which none is discussed in the MND.¹⁴ Page 21 of the MND acknowledges wildlife barriers along I-10; however, concludes that the Project is “restoring the existing roadway facility to a condition that requires minimal maintenance, extending the life of the facility, improving the ride

¹³ California Department of Fish and Wildlife. 2022. Restoring California’s Wildlife Connectivity 2022. Biogeographic Data Branch, Sacramento, California.

<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=204648&inline>

¹⁴ Caltrans. 2020. Gross Solids Removal Devices Design Guidance. HQ Division of Design. https://dot.ca.gov/-/media/dot-media/programs/design/documents/7_dg-gsrds_ada.pdf

quality, and upgrading other highway equipment that are worn or otherwise become obsolete,” therefore, “impacts to the movement of wildlife would be considered less than significant.”

Evidence impact would be significant: In 2018, the U.S. Secretary of the Interior issued Secretarial Order No. 3362 (SO 3362) directing the Bureau of Land Management (BLM), U.S. Fish and Wildlife Service (USFWS), and National Park Service (NPS) to work with western state wildlife agencies to enhance the quality of big-game winter habitat and migration corridors on and adjacent to federal lands. Further, the State of California, with the passage of AB 2344, added a requirement to the Streets and Highway Code Section 158 that Caltrans consider wildlife connectivity areas identified by CDFW. CDFW released a 2022 update to the Wildlife Barrier Priorities report, which identifies the top wildlife barriers in each CDFW region of the state. Effective January 1, 2022 via Senate Bill 790, Fish and Game Code §1955 - 1958, titled “Wildlife Connectivity Actions,” allows CDFW to adopt guidelines to promote habitat connectivity projects in California. Additionally, as a permittee of the MSHCP, Caltrans is required to demonstrate compliance with the Urban/Wildlands Interface Guidelines as set forth in Section 6.1.4 of the MSHCP.

Comments and Recommendations The Project does not analyze any impacts from installing these devices to the natural landscape or effects thereof. The Project’s proposed installation of GRSD Trash Capture Device has the potential to significantly and adversely affect wildlife, wildlife connectivity and movement in the open-space areas adjacent to the Project footprint. CDFW recommends the final MND includes an analysis of the direct, indirect, and cumulative impacts of trash capture devices on wildlife connectivity and biological resources within the streambed and open-space adjacent to the Project.

Would the Project conflict with provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

COMMENT # 6: Western Riverside County Multiple Species Habitat Conservation Plan

Section IV. Biological Resources (f), Page 15, 21

Compliance with approved habitat plans, such as the MSHCP, is discussed in CEQA. Specifically, Section 15125(d) of the CEQA Guidelines requires that the CEQA document discuss any inconsistencies between a proposed project and applicable general plans and regional plans, including habitat conservation plans and natural community conservation plans. An assessment of the impacts to the MSHCP as a result of this Project is necessary to address CEQA requirements. The proposed Project occurs within the MSHCP area and is subject to the provisions and policies of the MSHCP.

Permittees need to demonstrate that proposed actions are consistent with the MSHCP, the Permits, and the Implementing Agreement. Caltrans is the Lead Agency and is signatory to the Implementing Agreement of the MSHCP. To demonstrate consistency with the MSHCP, as part of the CEQA review, Caltrans shall ensure the Project demonstrates compliance with:

- 1) The Protection of Species Associated with Riparian/Riverine Areas and Vernal Pools, set forth in Section 6.1.2 of the MSHCP;
- 2) The Protection of Narrow Endemic Plant Species set forth in Section 6.1.3;
- 3) The Guidelines Pertaining to the Urban/Wildlands Interface set forth in Section 6.1.4;
- 4) The policies set forth in Section 6.3.2;
- 5) The Best Management Practices and the siting, construction, design, operation and maintenance guidelines as set forth in Section 7.0 and Appendix C of the MSHCP; and

- 6) Policies and procedures set forth in Section 6.6.2 (F), State Permittee Project Review.
- 7) All obligations must be satisfied prior to project implementation.

COMMENT # 7: Commentary to Measures Proposed in MND

Section IV. Biological Resources, Page 22-24; Appendix D

Issue: The project proposed multiple general BIO measures to ensure minimization and avoidance of special status species. CDFW offers the following edits to **BIO-2, BIO-3, BIO-4.**

BIO-2 Temporary Artificial Lighting Restrictions: Artificial lighting must be **fully shielded and directed downward** at the job site to minimize light spillover onto surrounding habitat, if project activities occur ~~at night~~ **between dusk and dawn.**

BIO-3 Species Avoidance: If during project activities special-status plant species, nesting bird or special-status reptile species ~~are discovered within the project site, all construction activities must stop within 10-ft for plants, 100-ft for nesting birds, 50-ft for special-status reptiles, and 265-ft for burrowing owls,~~ **observed at any point during Project activities, Project proponent shall cease all work in the vicinity of observations a no disturbance buffer shall be established and monitored by the qualified biologist based on the professional judgement of the qualified biologist,** and the Caltrans Biologist and Resident Engineer must be notified. Coordination with CDFW and USFWS may be required prior to restarting activities.

BIO-4 Worker Environmental Awareness Program (WEAP): A Qualified Biologist must present a biological resource information program/WEAP for nesting birds, special status reptiles, WR-MSHCP species, and special-status plant species, prior to project activities to all personnel that will be present within the project limits for longer than 30 minutes at any given time. **The WEAP shall include, but not limited to: (1) information about the distribution and habitat needs of any special-status species that may be present, legal protections for those species, penalties for violations, and mitigation measures and (2) best practices for managing waste and reducing activities that can lead to increased occurrences of opportunistic species and the impacts these species can have on wildlife in the area . Interpretation shall be provided for any non-English speaking workers, and the same instruction shall be provided for any new workers prior to their performing any work on-site.**

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 California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

ENVIRONMENTAL DOCUMENT FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document 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 environmental document filing 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

CDFW appreciates the opportunity to comment on the MND to assist Caltrans in identifying and mitigating Project impacts on biological resources. CDFW recommends the final MND includes an analysis of the direct, indirect, and cumulative impacts of the entire project description including the proposed trash capture devices.

Questions regarding this letter or further coordination should be directed to CDFW Senior Environmental Scientist (Specialist), Alisha Curtis, at (909) 544-2522 or by e-mail at alisha.curtis@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Brandy Wood
4D759253408941E...

For Alisa Ellsworth
Environmental Program Manager

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



Attachment A: Mitigation and Monitoring Reporting Plan

CDFW recommends the following language to be incorporated into the Final MND for the Project.

Biological Resources (BIO)			
	Mitigation Measure (MM)	Timing	Responsible Party
BIO-2	Temporary Artificial Lighting Restrictions: Artificial lighting must be fully shielded and directed downward at the job site to minimize light spillover onto surrounding habitat, if project activities occur at night between dusk and dawn .	Prior to commencing ground- or vegetation disturbing activities	Project Proponent
BIO-3	Species Avoidance: If during project activities special-status plant species, nesting bird or special-status reptile species are discovered within the project site, all construction activities must stop within 10-ft for plants, 100-ft for nesting birds, 50-ft for special-status reptiles, and 265-ft for burrowing owls, observed at any point during Project activities, Project proponent shall cease all work in the vicinity of observations a no disturbance buffer shall be established and monitored by the qualified biologist based on the professional judgement of the qualified biologist, and the Caltrans Biologist and Resident Engineer must be notified. Coordination with CDFW and USFWS may be required prior to restarting activities.	Prior to commencing ground- or vegetation disturbing activities	Project Proponent
BIO-4	Worker Environmental Awareness Program (WEAP): A Qualified Biologist must present a biological resource information program/WEAP for nesting birds, special status reptiles, WR-MSHCP species, and special-status plant species, prior to project activities to all personnel that will be present within the project limits for longer than 30 minutes at any given time. The WEAP shall include, but not limited to: (1) information about the distribution and habitat needs of any special-status species that may be present, legal protections for those species, penalties for violations, and mitigation measures and(2) best practices for managing waste and reducing activities that can lead to increased occurrences of opportunistic species and the impacts these species can have on wildlife in the area . Interpretation shall be provided for any non-English speaking workers, and the same instruction shall be provided for any new workers prior to their performing any work on-site.	Prior to commencing ground- or vegetation disturbing activities	Project Proponent
BIO-12	Preconstruction Nesting Bird Survey. Project activities shall not result in impacts to nesting birds or result in the take or removal of nests or eggs unless as otherwise provided for under CDFW and USFWS	Prior to commencing ground- or vegetation disturbing	Project Proponent

Biological Resources (BIO)			
Mitigation Measure (MM)		Timing	Responsible Party
	<p>regulations. If project activities cannot avoid the nesting bird season, February 1—September 30, then Preconstruction nesting bird surveys must be conducted 3 days prior to construction by a Qualified Biologist experienced with: identifying local and migratory bird species; conducting bird surveys using appropriate survey methodology; nesting surveying techniques, recognizing breeding and nesting behaviors, locating nests and breeding territories, and identifying nesting stages and nest success; determining/ establishing appropriate avoidance and minimization measures; and monitoring the efficacy of implemented avoidance and minimization measures to locate and avoid nesting birds. If an active avian nest is located, a no-construction buffer shall be established and monitored for by a qualified biologist. Buffers shall be delineated by temporary flagging or other means and remain in effect as long as construction is occurring or until the nest is no longer active. Any active nests shall be continuously monitored by a qualified biologist during Project activities that have the potential to cause disturbance to any nesting birds to ensure avoidance buffers are effective. Avoidance buffers shall be expanded and/or modified as needed by the qualified biologist if any nesting bird shows behavioral responses resulting from Project related activities. Concurrent and further surveys shall occur as Project construction progresses, as the nature of the Project is linear in fashion.</p>	activities	
BIO-17	<p>Rare Insect Host Plant Preconstruction Clearance Survey, Flagging, and Fencing. No more than 3 days prior to project activities, a Qualified Biologist must perform a preconstruction survey for rare insect host plants for Crotch’s bumble bee, potential nesting locations, nests, and individuals, within the PIA and 50 feet outside the PIA following the CDFW Protocol found at: https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150&inline#:~:text=The%20surveyor%20should%20walk%20through,are%20unsure%20of%20proper%20identification.&text=bumble%20bee%20surveys.-,If%20state%2Dlisted. Should any rare insect host plants for Crotch’s bumble bee be found, or if potential Crotch’s bumble bee nests or individuals are found, the Resident Engineer must be contacted, and host plants must be flagged by the Qualified Biologist for visual identification to construction personnel for work</p>	Prior to commencing ground- or vegetation disturbing activities	Project Proponent

Biological Resources (BIO)			
Mitigation Measure (MM)		Timing	Responsible Party
	<p>avoidance. If surveys are being conducted outside of an appropriate identification period (e.g., <i>Bombus</i> spp. dormancy period, drought year, etc.) for host plants and/or bumble bee species, their presence shall be assumed and the location avoided. Should multiple plants in a single location be found, the groupings must be fenced with Environmentally Sensitive Area (ESA) temporary high visibility fencing. Regarding potential nesting resources, if Caltrans expects take of Crotch's bumble bee through either nest destruction, destruction of potential nests hidden in bunch grasses, or other nesting habitat, or if complete avoidance of Crotch's bumble bee cannot be achieved, CDFW recommends that Project activities be postponed until appropriate authorization (i.e., a finalized CESA ITP under Fish and Game Code section 2081) is obtained.</p>		
BIO-18	<p>Plant Seed Mix. Seed mixes used for restoration of Project areas where Crotch's bumble bee habitat is impacted must contain a diverse array of local, native pollinator plant species appropriate for Crotch's bumble including, but not limited to: <i>Asclepias</i> spp., <i>Chaenactis</i> spp., <i>Clarkia</i> spp., <i>Eriogonum</i> spp., <i>Eschschlozia</i> spp., <i>Lupinus</i> spp., <i>Phacelia</i> spp., <i>Salvia</i> spp., and local native bunch grasses. Seed and seed mixes applied shall be irrigated as necessary to ensure germination and establishment. Caltrans shall maintain (as needed) and monitor locations where seed mixes are applied for a minimum of one-year to ensure successful germination and establishment. Additional maintenance and monitoring shall occur if germination and establishment fail to remediate Project impacted areas within one-year of seed mix application.</p>	<p>Prior to commencing ground- or vegetation disturbing activities</p>	<p>Project Proponent</p>
BIO-20 (NEW)	<p>Caltrans shall notify CDFW under Fish and Game Code section 1600 et seq. for all portions of the Project that will substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake, or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake. Shoulder backing that is planned to be placed in or near channel areas that are subject to Fish and Game Code section 1600 notification shall not consist of asphalt, bitumen, or any other substance or</p>	<p>Prior to commencing ground- or vegetation disturbing activities</p>	<p>Project Proponent</p>

Biological Resources (BIO)			
Mitigation Measure (MM)		Timing	Responsible Party
	material that is deleterious to fish, plant life, mammals, or birdlife in accordance with Fish and Game Code 5650 et seq.		