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From: Moseby, Nicholas@Wildlife
Sent: Thursday, June 27, 2024 12:23 PM
To: Placerville CAPM@DOT
Cc: Wildlife R2 CEQA; Stanfield, Melissa@Wildlife; Boyd, Ian@Wildlife; Sheya, Tanya@Wildlife; Kilgour, Morgan@Wildlife
Subject: Review: DUE June 27 2024, CEQA Comment email Placerville CAPM / Project Tracking # 2024-0184-0000

Dear Marta Martinez-Topete:

The California Department of Fish and Wildlife (CDFW) received and reviewed the Notice of Intent to Adopt a Negative Declaration (ND) from the California Department of Transportation (Caltrans) for the Placerville Capital Prevention Maintenance (CAPM) Project (Project) pursuant the California Environmental Quality Act (CEQA) statute and guidelines.^[1]

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. (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 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. 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

The Project site is located in El Dorado County on US 50 from west of the Carson Road Overcrossing to west of Still Meadow Road (post mile (PM) 18.7 to 21.19); at Five Mile Road in the westbound direction (PM 22.6 to 22.9); and near Camino, from 1.1 miles west of the Snows Road Undercrossing to east of the Ridgeway Drive Undercrossing (PM 24.2 to R29.1).

The Project consists of the replacement of existing pavement; improvement of existing drainage systems; upgrade of existing curb ramps to Americans with Disabilities Act (ADA) standards, overhead signs and two-post, ground-mounted signs, Transportation Management System element, non-standard guardrails and median concrete barriers; pavement beyond the gore areas; and construction of new maintenance vehicle pullouts and one new acceleration lane that will require a soil-nail wall and Type 7 retaining wall.

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. Editorial comments or other suggestions may also be included to improve the document.

CDFW is primarily concerned with the Project impacts to:

1. California Native Plant Society (CNPS) rare plants
2. California red-legged frog (CRLF) (*Rana draytonii*)
3. Western pond turtle (*Emys marmorata*)
4. Wildlife Connectivity
5. Bats: Fringed myotis (*myotis thysanodes*), Yuma myotis (*Myotis yumanensis*), Silver-haired bat (*Lasionycteris noctivagans*), long-legged myotis (*Myotis volans*)
6. California spotted owl (*Strix occidentalis occidentalis*)

Comment 1: Incomplete Plant Species Lists and Analysis; Section 2.4 Biological Resources, pages 42-43.

Issue: The Initial Study/Negative Declaration (IS/ND) should adequately analyze potential Project impacts to all plant species which meet the CEQA definition of endangered, threatened, or rare (CEQA Guidelines § 15380) with special emphasis on resources that are rare or unique to the region (CEQA Guidelines § 15125(c)). Inadequate avoidance, minimization, and mitigation measures for impacts to special-status plant species may result in the Project having a significant impact on those species. Special-status species include, but are not limited to, those considered either rare or regionally unique throughout their range, identified as threatened, endangered, rare, or candidate by CDFW or U.S. Fish and Wildlife Service, or plants that have a CNPS California Rare Plant Rank of 1A, 1B, 2A, 2B, 3 and 4. Impacts to these species or their habitat must be analyzed during preparation of environmental documents relating to CEQA.

CDFW identified the following issues with the Plant Species section of the IS/ND.

1a) To determine the presence or absence of special-status species that may be directly or indirectly impacted by Project activities, botanical field surveys should be conducted in a manner which maximizes the likelihood of locating special-status plants and sensitive natural communities that may be present. For accurate results, botanical field surveys need be conducted at the times of year when plants will be both evident and identifiable (i.e., blooming period). Additionally, botanical field survey visits should be spaced throughout the growing season to accurately determine what plants exist in the Project area. This usually involves multiple visits to the Project area (e.g., in early, mid, and late season) to capture the floristic diversity at a level necessary to determine.

The Plant Species section of the IS/ND includes the results of botanical surveys conducted on May 15 and June 22, 2023. These surveys were conducted outside the blooming period for Brownish

beaked-rush (*Rhynchospora capitellata*) which blooms July – August; this plant is a S1 state and a rare 2B.2 plant species which was identified as having suitable habitat within the Project area.

1b) The Special-Status Plants section of the IS/ND concludes, “As no special-status plants were identified within the Project Environmental Study Limits (ESL), there would be no impact to special-status plants.” The IS/ND should include appropriate and adequate avoidance, minimization, and/or mitigation measures for all direct, indirect, and cumulative impacts that are expected to occur as a result of the construction and long-term operation and maintenance of the Project.

Recommendation: CDFW recommends the following measure be included in the IS/ND:

Protocol-level surveys in accordance with CDFW’s, *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities* (March 2018) will be conducted during the appropriate blooming period for all special-status and rare plant species with suitable habitat present, and the survey shall be performed by a qualified botanist. A protocol-level survey for the brownish beaked-rush shall also be conducted since suitable habitat may be present and it was not addressed surveys were not conducted during its blooming period. If any special-status plant species are present and will be affected by the Project, adequate avoidance measures shall be incorporated into the Project. If special-status plant species cannot be avoided, suitable species-specific mitigation must be developed in consultation with CDFW, which may include a combination of on-site and off-site plant preservation and compensation measures.

COMMENT 2: Mitigation Measures are needed to reduce impacts to California red-legged frog (CRLF) (*Rana draytonii*) to less-than-significant; Section 2.4 Biological Resources, Threatened and Endangered Species, page 47.

Issue: California red-legged frog (*Rana draytonii*) is a federally threatened species under the Endangered Species Act (ESA) and a California Species of Special Concern (SSC). The IS/ND acknowledges that there is suitable habitat onsite and known occurrences on adjacent Bureau of Land Management land; however, the IS/ND does not list avoidance or minimization measures for CRLF. Hangtown Creek, China Creek and their tributaries provide suitable habitat. In addition, there are California Natural Diversity Database (CNDDDB) occurrences of CRLF within 5 miles of PM 24.6 and PM 24.8. In-water work and other Project activities have the potential to result in “take” of CRLF. Pursuant to Fish and Game code section 86, “take” means hunt, pursue, catch, capture, or kill or attempt to hunt, pursue, catch, capture, or kill.” Without incorporation of avoidance and minimization measures, the Project may have a significant impact on CRLF.

Recommendation: To reduce potential Project impacts on CRLF to a less-than-significant level, CRLF avoidance and minimization measures should be incorporated into the IS/ND. CDFW recommends the following measures be incorporated into the IS/ND:

- 1) Whenever possible, construction at drainages shall be conducted when the drainage is dry and does not contain flowing or ponded water.
- 2) Environmental Awareness Training shall be incorporated into the IS/ND and implemented throughout the entire Project site to include life history information and avoidance and minimization measures for CRLF and other special-status species.
- 3) CDFW recommends that the IS/ND include a pre-construction survey measure for CRLF including that the multiple surveys should be conducted prior to the start of construction to avoid and minimize impacts to this species. Surveys should be performed using visual encounter survey methodology, either during daylight hours or at night by walking entirely

around the aquatic area of the creek or along the entire length of the creek or stream while repeatedly scanning for frogs. Surveys should be conducted by a qualified biologist with experience in CRLF and other amphibians.

COMMENT 3: Western Pond Turtle (WPT) (*Emys marmorata*), Section 2.4 Biological Resources, Threatened and Endangered Species, page 47.

Issue: WPT is designated as a California SSC and is a proposed threatened species under the ESA. The IS/ND states WPT either did not have suitable habitat present and/or the Project is out of the geographical range of the species; therefore, they will not be discussed further as there would be no effect/no impact to these species. There are known CNDDDB occurrences of WPT in 2019, 2016 and 2002 within 0.05 miles of PM 19.6, 20.74, 21.2, 21.3, 21.6 (perennial) and PM 19.75, 21.8 (intermittent), and 24.6, 24.8 (ephemeral) drainage systems. CDFW believes WPT could be present within the Project areas. WPT are known to nest in the spring or early summer within 100 meters of a water body, although nest sites as far away as 500 meters have also been reported (Thomson et al. 2016).

Recommendation: Without appropriate avoidance and minimization measures for WPT, potentially significant impacts associated with Project activities could include nest reduction, inadvertent entrapment, reduced reproductive success, reduction in health or vigor of eggs and/or young, and direct mortality.

To reduce Project impacts to a less-than-significant level, CDFW recommends the following mitigation measure be incorporated into the IS/ND: “A qualified biologist shall conduct focused surveys for WPT within 3 days prior to Project implementation. In addition, focused surveys for nests shall occur during the egg-laying season (March through August). If WPT or their nests are discovered where they may be impacted by construction activities, Caltrans shall suspend work and establish a no-disturbance buffer in consultation with CDFW and the qualified biologist.”

COMMENT 4: Wildlife connectivity, CEQA Environmental Checklist Question 2.4d) Biological Resources, page 51.

Issue: The IS/ND does not adequately address wildlife connectivity or wildlife vehicle collision mortality for deer (resident motherload blacktail deer herd), black bear, fox or bobcats that migrate in the vicinity of the Project area. CDFW expects cumulative impacts to their populations to continue if the wildlife connectivity issue is not addressed. Lack of wildlife connectivity continues to make it difficult for the wildlife to cross for seasonal or daily use.

Species occurrence data, road mortality data, linkage designs, and adjacent suitable habitat should inform the CEQA analysis regarding potential for impacts and the development of mitigation measures to improve or enhance wildlife movement as a result of the Project. In weighing the impacts of the Project on wildlife movement, beyond regional wildlife “corridors”, analysis should address other common movement patterns. Food sources, water sources, migration routes, and breeding and sheltering areas that may be disconnected should be included in the impact analysis and considered when developing mitigation concepts. CDFW recommends incorporating survey data from sources such as the California Roadkill Observation System to establish scientific reasoning for crossing locations and improvements for wildlife crossings as appropriate. CDFW also recommends surveys are done before, during, and after construction to identify key areas where wildlife is crossing,

observe how wildlife migration is affected by the Project, and assess the effectiveness of any newly constructed wildlife crossings.

In addition, CDFW recognizes the value of wildlife crossing structures being incorporated into the design plans to mitigate for the disturbance (permanent and temporary stream and riparian impacts, impediment to migration, etc.) or offset the impacts of the Project. CDFW may consider reducing mitigation required for Project impacts based upon how the crossings protect and/or improve wildlife connectivity.

Recommendation: CDFW recommends that Caltrans identify suitable locations and incorporate wildlife crossing structures/features into their design plans, with fences and jump-outs where geographically feasible. CDFW recommends considering PM 19.6 which has a 6' x 6' box culvert to be upsized for wildlife connectivity. CDFW also recommends upsizing and adding wildlife shelving for small mammals at perennial drainages PM 19.6 and 20.74 or wherever animal shelving is feasible. Caltrans may consult with CDFW to identify locations where wildlife fencing could be used to direct wildlife to safely cross under the highway. Culverts that can be feasibly modified to increase headroom and conveyance capacity should also be identified and incorporated into the design plans.

COMMENT 5: Fringed myotis (*myotis thysanodes*), Yuma myotis (*Myotis yumanensis*), silver-haired bat (*Lasiorycteris noctivagans*), long-legged myotis (*Myotis volans*), Chapter 2.4 Biological Resources, Special Status Animal Species - pages 44 - 46.

Issue: The IS/ND states there are no suitable maternity roosting sites within the Project area but also states later in the document that no directed surveys have been conducted for bats within the ESL. In addition, the IS/ND states that snags and suitable trees were observed throughout the ESL that may provide roosting habitat for bats. Removal of this habitat outside of the appropriate work window could result in the injury or mortality of bats if they are roosting in these trees at the time of the removal. A CNDDDB desktop review shows several occurrences of Yuma myotis and silver-haired bat within 0.2 miles of the proposed drainage work sites. Although there are protective measures for bats in the IS/ND, the measures lack maternity and torpor avoidance during tree removal, specific times of avoidance, and details for bat exclusion devices, and there are no compensatory mitigation measures proposed for the loss of bat roosting habitat.

Bats are considered non-game mammals and are protected by state law from take and/or harassment (Fish & G. Code, § 4150, CCR § 251.1). The IS/ND also does not have sufficient and enforceable avoidance measures to reduce impacts to bats to a less than significant level. For mitigation measures to be effective, they must be specific, enforceable, and feasible actions that will reduce the environmental impacts from the project to a less than significant level.

Recommendation: CDFW recommends Caltrans refer to *Caltrans Bat Mitigation: A Guide to Developing Feasible and Effective Solutions* (Johnston et. al, 2019) when analyzing and mitigating the Project impacts to bats and their habitat. To reduce the Project impacts to bats and native nursery sites to a less than significant level, CDFW makes the following recommendations:

Disturbance of roost sites during the maternity (April 15 – August 30) and hibernation (October 15 to March 1) seasons, are considered primary factors that may negatively impact bats and have the potential to result in take. During the hibernation period, bats are very slow to respond to disturbance and can lose fat stores needed to survive the winter while pups in the maternity colony may not have the ability to fly. CDFW recommends that tree removal occur outside of the maternity and hibernation seasons.

Prior to vegetation removal, a Designated Bat Biologist should determine the species of bats roosting

in the ESL and quantify the available roosting habitat within the Project vicinity. Replacement roost habitat should be installed and designed to accommodate the displaced and impacted bat species.

Impacted roost and maternity habitat on the trees removed should be mitigated at a ratio sufficient to compensate for the significant impacts to the colony. Bat replacement habitat should be designed generally following the guidelines in *Caltrans Bat Mitigation: A Guide to Developing Feasible and Effective Solutions* (Johnston et. al, 2019), which provides a review of mitigation options for bats in relation to Caltrans projects. Caltrans should coordinate with CDFW on the final plans for bat habitat replacement.

CDFW recommends that the Avoidance, Minimization, and Mitigation section be revised to include bat pre-construction surveys and ensure they are conducted prior to the start of construction activities as well as including a bat exclusion plan along with specific details for bat exclusion devices, all consistent with *Caltrans Bat Mitigation: A Guide to Developing Feasible and Effective Solutions* (Johnston et. al, 2019).

COMMENT 6: California spotted owl (*Strix occidentalis occidentalis*), Chapter 2.4 Biological Resources, Threatened and Endangered Species section, page 47.

Issue: The IS/ND states that California spotted owl (CSO) (*Strix occidentalis occidentalis*), which is a federal fully protected species and a California SSC, either did not have suitable habitat present and/or the Project is out of the geographical range of the species; therefore, they will not be discussed further as there would be no effect/no impact to these species. The survey results on page Appendix C-14 of the IS/ND for California spotted owl state that although habitat occurs in the greater vicinity northeast of the project site, there is no suitable habitat within the ESL. A CNDDDB desktop review shows that there are nest and activity occurrences for California spotted owl (*Strix occidentalis occidentalis*) within two miles of the proposed work at the PM 24.6 and 24.8 drainage systems.

Recommendation: The Project area may contain suitable habitat for CSO. To reduce potential Project impacts on CSO to a less-than-significant level, CDFW recommends the following avoidance and minimization measures to be incorporated into the IS/ND:

- 1) A qualified biologist will be present on-site to conduct monitoring during removal of the suitable California spotted owl (*Strix occidentalis occidentalis*) habitat identified during pre-construction surveys.
- 2) Environmental Awareness Training for CSO shall be incorporated into the IS/ND and implemented throughout all workers on the project site.
- 3) The IS/ND should include a CSO survey measure to determine species presence. If an active nest is observed within the project area, an appropriate and adequate buffer should be established by the qualified biologist between the construction activities and the active nest so that nesting activities are not interrupted.

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 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 for the Placerville CAPM Project to assist Caltrans 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 Nicholas B. Moseby, Environmental Scientist, at (916) 880–8406 or nicholas.moseby@wildlife.ca.gov.

Sincerely,

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Environmental Scientist
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Habitat Conservation - Region 2 (R2 HC)
(916) 880 - 8406



California Department of
Fish and Wildlife

^[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.