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August 2, 2024
 Sent via email.

Antonia Toledo
 Senior Environmental Planner
 California Department of Transportation, District 8
 464 West Fourth Street, Sixth Floor, MS 820
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Dear Antonia Toledo:

State Route-210U Frontage Road Lytle Creek Bridge Seismic Retrofit (PROJECT)
 MITIGATED NEGATIVE DECLARATION (MND)
 SCH# 2024070161

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from California Department of Transportation District 8 (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 retrofit or replace Lytle Creek Bridge (Bridge No. 54-0422). Project alternative activities include:

- Alternative 1 – No Build.
- Alternative 2 – Seismic Gates: Seismic gates would be installed to prevent vehicles from driving onto the bridge during and immediately after a strong seismic event.
- Alternative 3 – Seismic Retrofit: This preliminary retrofit alternative proposes to construct new bents, replacing each of the five pier walls and upgrading the existing diaphragm abutments to wide seat type abutments, in compliance with the

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.

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excessive superstructure movement of fault rupture. Each bent is proposed to be a 20-footwide single-span bent cap supported on four 36-inch diameter pile extensions, the piles are cast-in-drilled-hole (CIDH) piles. A portion of the existing pier wall below the level of bent cap would be removed. New bearing pads would be installed between the existing superstructure and the new bent caps to allow the superstructure movement. The lower portion abutment stem would be removed, new abutment footing would be built to 15-foot wide, new back wall would be constructed at each end of the bridge, the new bearing pads would be installed between abutment stems and the abutment footing, and the wingwalls would be reconstructed accordingly. A temporary detour will be provided to transfer traffic off the existing Lytle Creek Bridge while the bridge work is being completed.

- **Alternative 4 – Bridge replacement (Accelerated Bridge Construction):** This alternative proposes to replace the existing bridge over Lytle Creek with a new 336-foot-long and 72-foot-wide concrete bridge. The proposed structure would consist of three 112 ft spans. The superstructure would be 8” cast-in-place concrete deck on 4 ft deep precast prestressed California Wide-Flange (CA WF48) concrete girders supported with a 5-foot diameter round column and 7-foot diameter CIDH piles. The two seat type abutments would be also supported on 3-foot diameter CIDH piles. In compliance with the excessive movement of fault rupture, the superstructure and substructure would be separated with isolation bearings and the abutment and bent cap would be designed to allow 10-foot movement in transverse direction. The existing bridge would be removed completely and reconstructed, which requires a full road closure and a traffic detour.

For all alternatives, there is roadway work which includes upgrading the guardrail to current standard, and replacing the AC approach/departure roadway pavement located at both ends of the structure. The majority of the work would be within the state right of way, however, Temporary Construction Easements (TCEs) are needed for construction on both sides of the bridge and access on the south side of the bridge. The bridge is currently owned by Caltrans.

In addition, Geotechnical Design will conduct test borings of approximately 50’ – 100’ maximum depth at the following locations:

- **Location #1** – Near bridge abutment, located along the westbound shoulder along Highland Avenue, west of Lytle Creek Bridge
- **Location #2** – Near bridge abutment, located along the eastbound shoulder along Highland Avenue, east of Lytle Creek Bridge
- **Location #3** – Lytle Creek Wash, two borings, within the channel adjacent to the Lytle Creek Bridge pier walls.

Location: City of San Bernardino, in San Bernardino County on State Route 210U (SR-210U), E. Highland Avenue, post mile (PM) 20.8.
 Coordinates: 34.136049, -117.348231

Timeframe: None provided.

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 with implementation of mitigation measures, CDFW concludes that a Mitigated Negative Declaration is appropriate for the Project.

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I. Project Description and Related Impact Shortcoming

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 #1: California Endangered Species Act Authorization (Fish & G. Code § 2081)

Page v-vi; Section 1.7, Page 6; Section 2.1.4 (a), Page 16-25; Appendix C

Issue: The MND does not clearly identify whether the Project intends to obtain California Endangered Species Act (CESA) authorization (Fish & G. Code § 2081) for several CESA-listed species, San Bernardino Kangaroo Rat and Santa Ana River woollystar (addressed in Comment 8).

Specific impact: Page 18 of the MND indicates that San Bernardino kangaroo rat (SBKR) a CESA-listed species was captured during the 2023 trapping surveys and that “project activities have the potential to impact SBKR habitat.” Additionally, Mitigation Measures BIO-14, BIO-15, BIO-16, BIO-17, BIO-19, and BIO-20 in the MND indicate handling and relocation of SBKR, which constitutes CESA take, “by a biologist in possession of a federal 10(a)(1)(A) permit and a Memorandum of Understanding (MOU) with CDFW...for SBKR.” Page 19 of the MND further states, “Final mitigation for this species... would require a Section 2081(b) incidental take permit (ITP) from CDFW.” However, page 6 of the MND lists the permits and approvals needed for the Project, which does not include a CESA authorization (Fish & G. Code § 2081). Section 1.7 further states that the proposed project is anticipated to require coordination with United States Fish and Wildlife Service (USFWS) and *possibly* California Department of Fish and Wildlife (CDFW) for San Bernardino Merriam’s Kangaroo Rat (SBKR),” making it unclear whether the Project is pursuing a CESA authorization. Furthermore, due to Section 1.4 of the MND including geotechnical borings under all alternatives, and Section 2.1.4 not clearly differentiating project impact analyses from pre-project impact analyses, it can only be implied that measures cited above apply to all alternative activities and therefore CESA take is anticipated during pre-project activities.

Evidence impact would be significant: Take of CESA-listed species has been identified within the MND. Take of any CESA listed species is prohibited except as authorized by state law (Fish & G. Code, §§ 2080 & 2085). Consequently, if a Project, including Project construction or any Project-related activity during the life of the Project results in take of CESA-listed species, CDFW recommends that the Project proponent seek appropriate authorization prior to Project implementation. This may include an incidental take permit or a consistency determination (Fish & G. Code, §§ 2080.1 & 2081).

Comments and Recommendations

It is recommended that the Project impacts and subsequent permits and approvals be clear and consistent throughout the MND. Without information regarding occupancy of the site by SBKR and assurances that Caltrans will obtain take permitting, the MND may not be able to determine whether the project can mitigate its impacts to less than significant. CDFW recommends the MND be revised and circulated to provide this information. However, if Caltrans chooses not to collect and disseminate this information, then the mitigation measure should be updated, as provided below, to address a scenario in which the site is determined to be occupied.

Recommended Potentially Feasible Mitigation Measure: CDFW recommends the inclusion of the below revisions to **BIO-11, BIO-14, BIO-15, BIO-17, BIO-20, and BIO-21** in the final MND (edits are in ~~strikethrough~~ and **bold**) to ensure impacts to SBKR and their habitats are mitigated to a level of less than significant.

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BIO-11: If during Project activities a SBKR is discovered within the Project site, all construction activities must stop and the Caltrans biologist and Resident Engineer must be notified. Coordination with appropriate agencies **including CDFW shall** may be required prior to restarting activities.

BIO-14: Temporary SBKR exclusion fencing shall be constructed around the PIA as determined by the qualified biologist in coordination with the Resident Engineer (including ingress/egress routes and staging areas) during Project construction within suitable habitat where there is no barrier to SBKR movement (e.g., rip rap). No Project activities will be allowed outside of the SBKR exclusionary fencing. The fencing will be made of a smooth-faced material to prevent animals from climbing into the excluded areas, such as Aqua 30 coextruded polyethylene liner, Animex™ fencing, or similar material. The fencing will be installed at least 12 to 18 inches underground and extend at least three feet straight above ground, reinforced with metal T posts or similar support materials. If underground installation is not possible due to extremely rocky soils, then the bottom 12 to 18 inches of the fencing will be folded out and sandbags placed on the edges of the fencing. Installation of the exclusion fencing shall be overseen by a qualified SBKR biologist or biological monitor.

Inspections of the exclusion fence shall be conducted daily, and any required maintenance shall be performed immediately upon discovery or no later than one hour before dusk on the day it was discovered. Once construction activities are complete, the fencing will be removed. Fence installation and removal activities will be overseen by a qualified SBKR biologist or biological monitor. If potential SBKR burrows are found within the proposed pathway of the exclusion fencing construction, then the qualified SBKR biologist will either help the fencing crew identify an alternate route to avoid potential burrows and one that does not negatively affect Project construction, or they will hand-excavate potential SBKR burrows at least 200 feet in advance of the fence installation crew/equipment. Any SBKR found during burrow excavation activities will be released outside of the exclusion area into suitable habitat by the SBKR biologist. **A CESA Incidental Take Permit for SBKR shall be obtained prior to the start of ground disturbing activities, including geotechnical surveys.**

BIO-15: Following installation of the exclusionary fence, and prior to initial ground disturbance (i.e., clearing and grading), the fenced Project impact area will be trapped by a biologist in possession of a federal 10(a)(1)(A) permit and a Memorandum of Understanding (MOU) with CDFW to conduct trapping studies for SBKR, and any small mammals captured, including SBKR, will be released into adjacent suitable habitat outside of the fence on the side nearest to the point of capture. The biologist will live-trap and remove as many SBKR as possible from within the enclosed construction area. Trapping will be conducted for at least five consecutive nights. If SBKR are captured on the fourth or fifth night, trapping will continue until there have been two consecutive nights of trapping with no SBKR captures, or until the USFWS and CDFW have provided written approval to discontinue trapping. The biologist will create a temporary marking on all captured SBKR on the chest with a non-toxic marker to identify any SBKR that reenter the exclusion area during the trapping effort. If there are recaptures, the exclusion fence will be examined, repaired as necessary, and trapping will be conducted until there are two consecutive nights with no SBKR captures, or until the USFWS and CDFW have provided written approval to discontinue trapping. Once the trapping effort has been complete, Project activities may commence within the excluded areas. Inspections of the exclusion fence shall be conducted on a daily basis and any required maintenance shall be performed immediately upon discovery or no later than one hour before dusk on the day it was discovered. **A CESA Incidental Take Permit for SBKR shall be obtained prior to the start of ground disturbing activities, including geotechnical surveys.**

BIO-17: A qualified biologist or biological monitor with SBKR expertise, subject to USFWS and CDFW approval, will be present when construction or ground-disturbing activities (including exclusion fence or ESA fencing installation and removal) that could result in take of SBKR occurs in or adjacent to habitat for SBKR. Following removal of SBKR habitat within the areas inside the exclusion fence, the presence of the qualified biologist or biological monitor may reduce to one or more days per week **subject to**

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USFWS and CDFW approval. A CESA Incidental Take Permit for SBKR shall be obtained prior to the start of ground disturbing activities, including geotechnical surveys.

BIO-20: If a SBKR is injured as a result of Project-related activities, the permitted SBKR biologist will immediately take it to an agency-approved wildlife rehabilitation or veterinary facility that has been identified before starting Project activities. Project related injury or mortality of SBKR will be reported to USFWS **and CDFW** immediately via phone call or email and a written report will be submitted to USFWS **and CDFW** within three working days. Notification will include date, time, location of incident or discovery of dead or injured animal, and any other pertinent information **as required by the Resource Agencies. A CESA Incidental Take Permit for SBKR shall be obtained.**

BIO-21: An annual report will be prepared by the SBKR biologist for submittal to USFWS **and CDFW** that documents the Project’s compliance with the SBKR- specific avoidance, minimization, and mitigation measures, effectiveness and practicality of such measures, and as needed recommendations for modification of the existing measures to ensure continued protection of SBKR during Project activities. The report will also provide summaries of WEAP trainings given, exclusion trapping results, monitoring activities, ~~and~~ any observed SBKR, including injuries and mortalities, **and any other information as required by the Resource Agencies.**

II. Environmental Setting and Related Impact Shortcoming

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: Burrowing Owl

Section 2.1.4 (a), Page 16-25

Issue: The MND does not adequately identify the Project’s significant, or potentially significant impacts to burrowing owl (*Athene cunicularia*), a Species of Special Concern (SSC).

Specific Impact: Project construction and activities may result in injury or mortality of burrowing owl, disrupt natural burrowing owl breeding behavior, and reduce reproductive capacity. Also, the Project may impact breeding, wintering, and foraging habitat for the species. Habitat loss could result in local extirpation of the species and contribute to local, regional, and State-wide declines of burrowing owl.

Why impact would occur: Page 16 of the MND indicates “focused studies for Special status Species and a Delineation of Jurisdictional Waters and Wetlands were performed to document the existing conditions of biological resources”; however, it does not indicate an initial habitat assessment nor identifies which species had focused studies. Chapter 2 of the Natural Environmental Study ² (NES) further details field reviews and specifies the species of focused surveys, of which included: small mammal, vegetation, plants, bats, and waters subject to Fish & G. Code § 1602. However, the analysis and subsequent impacts to burrowing owl are not acknowledged nor discussed in either the MND or supporting documents. CDFW is concerned that the desktop analyses and general biological field assessment for burrowing owl may not adequately assess the Project site nor the surrounding area, and the potential for SSC to occur on or near the Project site.

² California Department of Transportation (Caltrans). 2024. Natural Environmental Study. District 8 Technical Report. Revised January.

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Burrowing owls could react to low level disturbances such as surveys, drive by, or minimal ground disturbance/excavation.³ The Project could generate noise and ground vibrations more consistent with medium to high level disturbance. Project construction would generate noise and ground vibrations during daytime and nighttime earthmoving activities, demolition, tunneling, spoils hauling, and operation of large machinery. These types of disturbances could result in burrowing owls abandoning active nests, potentially causing loss of eggs or developing young, and noise could cause birds to avoid suitable nesting habitat.

Evidence impact would be significant: Burrowing owl is a Species of Special Concern (SSC). A SSC is a species, subspecies, or distinct population of an animal native to California that currently satisfies one or more of the following (not necessarily mutually exclusive) criteria:

- is extirpated from the State or, in the case of birds, is extirpated in its primary season or breeding role;
- is listed under the Federal Endangered Act (ESA)-, but not CESA-, threatened, or endangered; meets the State definition of threatened or endangered but has not formally been listed;
- is experiencing, or formerly experienced, serious (noncyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status; and/or,
- has naturally small populations exhibiting high susceptibility to risk from any factor(s), that if realized, could lead to declines that would qualify it for CESA threatened or endangered status. CEQA provides protection not only for ESA and CESA-listed species, but for any species including but not limited to SSC which can be shown to meet the criteria for State listing. These SSC meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380). In addition, migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (Code of Federal Regulations, Title 50, § 10.13). Sections 3503, 3503.5, and 3513 of the California Fish and Game Code prohibit take of all birds and their active nests including raptors and other migratory nongame birds (as listed under the Federal MBTA). It is unlawful to take, possess, or needlessly destroy the nest or eggs of any raptor.

In California, burrowing owls are in decline primarily because of habitat loss, as well as disease, predation, and drought. Burrowing owls require specific soil and microhabitat conditions, occur in few locations within a broad habitat category of grassland and some forms of agricultural land, require a relatively large home range to support their life history requirements, occur in relatively low numbers, and are semi-colonial.

Comments and Recommendations

Without information regarding occupancy of the site and how the site may be used by burrowing owls (e.g., breeding, overwintering, foraging, etc.), the MND may not be able to determine whether the project can mitigate its impacts to less than significant. CDFW recommends the MND be revised and circulated to provide this information. However, if Caltrans chooses not to collect and disseminate this information, then the mitigation measure should be updated, as provided below, to address a scenario in which the site is determined to be occupied.

Recommended Potentially Feasible Mitigation Measure: CDFW recommends the adoption of **BIO-30 (NEW)** below in the final MND to ensure impacts to SSC and their habitats are mitigated to a level of less than significant.

³ Francis, C.D., C.P. Ortega, and A. Cruz. 2009. Noise Pollution Changes Avian Communities and Species Interactions. *Current Biology* 19:1415–1419.

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BIO-30 (New): Pre-construction Burrowing Owl Surveys -The following burrowing owl preconstruction surveys must be performed by a qualified biologist: one survey 14 to 30 days prior to Project activities; one survey 24 hours prior to Project activities; and burrowing owl preconstruction surveys shall be conducted in accordance with the 2012 Staff Report on Burrowing Owl Mitigation (Staff Report) (See: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline>) prior to vegetation removal or ground disturbing activities. If the preconstruction surveys confirm occupied burrowing owl habitat, Project activities shall be immediately halted. The qualified biologist shall coordinate with CDFW and prepare a Burrowing Owl Plan that shall be submitted to CDFW for review and approval prior to commencing Project activities and implementing the measures of the Burrowing Owl Plan.

The Burrowing Owl Plan shall describe proposed avoidance, monitoring, relocation, minimization, and/or mitigation actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites, acres of burrowing owl habitat that will be impacted, details of site monitoring, and details on proposed buffers and other avoidance measures if avoidance is proposed. If impacts to occupied burrowing owl habitat or burrows cannot be avoided, the Burrowing Owl Plan shall also describe minimization and compensatory mitigation actions that will be implemented. Proposed implementation of burrow exclusion (i.e., passive relocation) and closure shall only be considered as a last resort, after all other options have been evaluated as exclusion is not in itself an avoidance, minimization, or mitigation method and has the possibility to result in take.

The Burrowing Owl Plan shall identify compensatory mitigation for the temporary or permanent loss of occupied burrow(s) and habitat consistent with the “Mitigation Impacts” section of the 2012 Staff Report and Caltrans shall implement CDFW approved mitigation prior to the initiation of Project activities. Permanent protection of mitigation land through a conservation easement deeded to a nonprofit conservation organization or public agency with a conservation mission, development and implementation of a mitigation land management plan to address long-term ecological sustainability and maintenance of the site for burrowing owls, and funding for the maintenance and management of mitigation land through the establishment of a long-term funding mechanism such as an endowment. If impacts to occupied burrows cannot be avoided, information shall be provided regarding adjacent or nearby suitable habitat available to burrowing owls. If no suitable habitat is available nearby, details regarding the creation and funding of artificial burrows (numbers, location, and type of burrows) and management activities for relocated burrowing owls shall also be included in the Burrowing Owl Plan.

COMMENT #3: Assessment of Biological Resources

Section 2.1.4 (a), Page 16-25

Issue: The MND does not adequately identify the Project’s significant, or potentially significant impacts to biological resources.

Specific Impact: Direct impacts to SSC could result from Project construction and activities (e.g., equipment staging, mobilization, and grading); ground disturbance; vegetation clearing; and trampling or crushing from construction equipment, vehicles, and foot traffic. Indirect impacts could result from temporary or permanent loss of suitable habitat.

Why impact would occur: Page 16 of the MND indicates “focused studies for Special status Species and a Delineation of Jurisdictional Waters and Wetlands were performed to document the existing conditions of biological resources”; however, it does not indicate an

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initial habitat assessment nor identifies which species had focused studies. Chapter 2 of the NES² further details field reviews and specifies the species of focused surveys, of which included: small mammal, vegetation, plants, bats, and waters subject to Fish & G. Code § 1602. However, the analysis and subsequent impacts to SSC bird and reptile species are not acknowledged nor discussed within either MND document. CDFW is concerned that the desktop analyses and general biological field assessment for SSC birds and reptiles may not adequately assess the Project site nor the surrounding area, and the potential for SSC to occur on or near the Project site. Additionally, the MND does not identify Los Angeles pocket mouse and the NES², while citing suitable habitat, does not conduct appropriate analyses due to negative findings during the small mammal surveys. The California Natural Diversity Database (CNDDDB) and Biogeographic Information and Observation System (BIOS) indicate that occurrences have been recently reported within the Project area including, but not limited to, the following: **Reptiles:** Southern California legless lizard (*Anniella stebbinsi*), California glossy snake (*Arizona elegans occidentalis*); **Birds:** loggerhead shrike (*Lanius ludovicianus*); **Mammals:** Los Angeles pocket mouse (*Perognathus longimembris brevinasus*).

Recent surveys during the appropriate times of the year are needed to identify potential impacts to biological resources; inform appropriate avoidance, minimization, and mitigation measures; and determine whether impacts to biological resources have been mitigated to a level that is less than significant.

Evidence impact would be significant: CEQA provides protection not only for CESA-listed species, but for any species including but not limited to SSC which can be shown to meet the criteria for State listing. These species meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380). A SSC is a species, subspecies, or distinct population of an animal native to California that currently satisfies one or more of the following (not necessarily mutually exclusive) criteria:

- is extirpated from the State or, in the case of birds, is extirpated in its primary season or breeding role;
- is listed as ESA-, but not CESA-, threatened, or endangered; meets the State definition of threatened or endangered but has not formally been listed;
- is experiencing, or formerly experienced, serious (noncyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status; and/or
- has naturally small populations exhibiting high susceptibility to risk from any factor(s), that if realized, could lead to declines that would qualify it for CESA threatened or endangered status.

Impacts on SSC could require a mandatory finding of significance under CEQA (CEQA Guidelines, § 15065). 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 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. Absent a thorough species impact analysis and mitigation strategy, it is unclear whether the Project's impacts can be adequately identified, disclosed, or mitigated. CDFW recommends the MND be revised and circulated to provide this information. However, if Caltrans chooses not to collect and disseminate this information, then the mitigation measure should be updated, as provided below, to address a scenario in which the site is determined to be occupied.

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Recommended Potentially Feasible Mitigation Measure: CDFW recommends the adoption of **BIO-31 (NEW)** below in the final MND to ensure impacts to SSC and their habitats are mitigated to a level of less than significant.

BIO-31 (NEW): Preconstruction Species Surveys – Caltrans should retain a qualified biologist with experience surveying for special status species, including but not limited to: loggerhead shrike, Los Angeles pocket mouse, Southern California legless lizard, and California glossy snake. Prior to commencing any Project-related ground-disturbing activities, the qualified biologist shall conduct surveys for where suitable habitat is present. Project related activities include construction, equipment and vehicle access, parking, and staging. Focused surveys should consist of daytime surveys and nighttime surveys no more than one month from the start of any ground-disturbing activities. The surveys should include mapping of current locations of special-status wildlife species for avoidance and relocation efforts and to assist construction monitoring efforts. The survey should be conducted so that 100 percent coverage of the project site and surrounding areas is achieved.

If SSC are detected, the qualified biologist shall use visible flagging to mark the location where SSC was detected. The qualified biologist should take a photo of each location, map each location, and provide the specific species detected at that location. The qualified biologist shall provide a summary report of SSC surveys to Caltrans before any Project-related ground-disturbing activities. The CDFW should be notified and consulted regarding the presence of any special-status wildlife species found on site during surveys. If an Endangered Species Act-listed species is found prior to or during grading of the site, the USFWS should also be notified. Additional avoidance and minimization measures may need to be developed with CDFW/USFWS.

III. Mitigation Measure or Alternative and Related Impact Shortcoming

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 #4: Nesting Birds

Section Biological Resources (a), Page 16, 18; Appendix C

Issue: The Project may have impacts on nesting birds, including CESA-listed birds, 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.^{4,5}

⁴ 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)

⁵ 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.

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Noise has also been shown to reduce the density of nesting birds⁶ and songbird abundance.⁷ Additionally, noise exceeding 70 dB(A) may affect feather and body growth of young birds.⁸

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.

Evidence impact would be significant: It is the Project proponent's responsibility to avoid take of all nesting birds. Fish & G. Code § 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 & G. Code § 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 & G. Code § 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: 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-29** in the final MND (edits are in ~~strikethrough~~ and **bold**).

BIO-29: Project activities shall not result in impacts to nesting birds or result in the take or removal of nests or eggs. ~~If Project activities cannot avoid the nesting season, generally regarded as Feb 1—Sept 30, then P~~reconstruction 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 (100 feet for nonpasserine, 300 feet for passerine, and 500 feet for raptors) ~~shall~~ **may** be established and monitored by the qualified biologist **as long as construction is****

⁶ Francis, C.D., C.P. Ortega, and A. Cruz. 2009. Noise Pollution Changes Avian Communities and Species Interactions. *Current Biology* 19:1415–1419.

⁷ 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>

⁸ 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.

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occurring or until the nest is no longer active and may be demarcated by flagging, staking, or fencing. **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.**

COMMENT #5: Coastal California Gnatcatcher

Section 2.1.4 (a) (b), Page 16, 18, 20; Appendix C

Issue: The project may impact suitable habitat for coastal California gnatcatcher (*Poliioptila californica californica*), a Federally endangered species and California SSC). The Project site contains suitable habitat for coastal California gnatcatcher that was not accurately analyzed in the MND nor the NES².

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, juveniles, or eggs; nest abandonment; and reduced nest success.

Why impact would occur: Page 18 of the MND states “the BSA does not have suitable riparian/dense riparian habitat capable of supporting these federally listed bird species: Coastal California Gnatcatcher...” However, the range and distribution of the gnatcatcher is closely aligned with coastal scrub vegetation, including Riversidean coastal sage scrub communities,⁹ not riparian habitat. Page 20 of the MND states “the Project would temporary impact up to approximately 1.00 acre of scale broom scrub and up to 0.49 acres of California buckwheat – white sage scrub.” Scale broom scrub, as described by *A Manual of California Vegetation*, is also classified as Riversidean and coastal sage scrub under other classification systems.¹⁰ While the NES² identifies the correct suitable habitat type in Table 4 and Chapter 4, it again analyzes impacts as not having “suitable riparian/dense riparian habitat required to support the above special-status avian species.” Therefore, CDFW is concerned that the impacts analysis was predicated on the wrong habitat type.

Evidence impact would be significant: Coastal California gnatcatcher is an ESA listed species and a California SSC. 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).

Coastal California gnatcatchers are non-migratory, territorial, and have been found not to disperse far from their natal nests.^{11,12} Thus, the preservation of sensitive natural communities which they have been documented to utilize is paramount. Coastal California gnatcatcher surveys provide information needed to determine the potential effects of proposed Project and activities on the species, and to avoid take in accordance with FGC sections 86, 3503, and 3503.5. Impact assessments evaluate the extent to which coastal California gnatcatcher and their habitat may be impacted, directly or indirectly, on and within a reasonable distance of a proposed CEQA Project activity.

⁹ U.S. Fish and Wildlife Service. 2010. 5-Year Review: Coastal California Gnatcatcher. Accessed: https://ecosphere-documents-production-public.s3.amazonaws.com/sams/public_docs/species_nonpublish/1683.pdf

¹⁰ CNPS.2024. A Manual of California Vegetation, Online Edition. <http://www.cnps.org/cnps/vegetation/>; searched on July 23, 2024. California Native Plant Society, Sacramento, CA.

¹¹ Bailey, E. A. and P. J. Mock. (1998). Dispersal capability of the California Gnatcatcher: a landscape analysis of distribution data. *Western Birds* 29:351-360.

¹² Vandergast, A.G., Kus, B.E., Preston, K.L. et al. 2019. Distinguishing recent dispersal from historical genetic connectivity in the coastal California gnatcatcher. *Sci Rep* 9, 1355. <https://doi.org/10.1038/s41598-018-37712-2>

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Comments and Recommendations

It is recommended that the species habitat assessment and subsequent analysis be clear and consistent throughout the MND and its supporting documents. CDFW recommends the MND be revised and circulated to provide this information. However, if Caltrans chooses not to collect and disseminate this information, then the mitigation measure should be updated, as provided below, to address a scenario in which the site is determined to be occupied.

Recommended Potentially Feasible Mitigation Measure: CDFW recommends the adoption of **BIO-32 (NEW)** below in the final MND to ensure impacts to SSC and their habitats are mitigated to a level of less than significant.

BIO-32 (NEW): Prior to grading or other ground-disturbing activities are proposed, a qualified biologist shall survey all potential nesting vegetation within and adjacent to the site for nesting coastal California gnatcatcher according to United States Fish and Wildlife Service (USFWS) 2019 survey protocol guidelines. Caltrans shall complete focused surveys to be conducted prior to ground disturbance activities. A minimum of three (3) surveys shall be conducted at least one week apart to determine presence/absence of coastal California gnatcatcher. Surveys shall be conducted by the Designated Biologist at the appropriate time of day/night, during appropriate weather conditions, no more than 3 days prior to the initiation of project activities. Survey duration shall take into consideration the size of the project site; density, and complexity of the habitat; number of survey participants; survey techniques employed; and shall be sufficient to ensure the data collected is complete and accurate. Written and mapped qualitative descriptions of plant communities (including dominant species and habitat quality) on and adjacent to the area surveyed will also be provided with survey results to USFWS and CDFW, within 45 days following the field surveys, prior to ground disturbing activities. The results of the focused surveys shall be provided to CDFW, and USFWS for review and approval prior to commencement of ground disturbing activities.

COMMENT #6: Bats

Section 2.1.4 (a), Page 16, 18; Appendix C

Issue: The Project site contains suitable habitat for bats that was not analyzed in the MND nor the NES².

Why impact would occur: Year-round occupancy of cliff swallow (*Petrochelidon pyrrhonota*) mud-nests by several bat species has been observed throughout California.¹³ Page 81 of the NES² indicates that "cliff swallows are observed to inhabit Lytle Creek Bridge," and the report photograph depicts presence of mud-nests. Project activities and construction, notably the removal of swallow nests, may directly impact or disrupt the behaviors of bats and result in direct mortality or possible abandonment of a roost (e.g., maternity roost).

Evidence impact would be significant: Bats are considered non-game mammals and are afforded protection by State law from take and/or harassment (Fish & G. Code, § 4150; Cal. Code of Regs, § 251.1). Several bat species are considered SSC. A SSC is a species, subspecies, or distinct population of an animal native to California that currently satisfies one or more of the following (not necessarily mutually exclusive) criteria:

- is extirpated from the State or, in the case of birds, is extirpated in its primary season or breeding role;
- is listed as ESA-, but not CESA-, threatened, or endangered; meets the State definition of threatened or endangered but has not formally been listed;

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- is experiencing, or formerly experienced, serious (noncyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status; and/or
- has naturally small populations exhibiting high susceptibility to risk from any factor(s), that if realized, could lead to declines that would qualify it for CESA threatened or endangered status.

Impacts on SSC could require a mandatory finding of significance under CEQA (CEQA Guidelines, § 15065). Impacts on bats, either directly or indirectly through disturbances to roosts and loss of habitat, would be a significant impact. The Project's impact on bats has yet to be mitigated below a significant level. Accordingly, the Project continues to have a substantial adverse effect, either directly or through habitat modifications, on a species identified as a candidate, sensitive, or special-status species by CDFW.

Recommended Potentially Feasible Mitigation Measure: CDFW recommends following the *California Bat Working Group Guidance Document – Bats in Swallow Nests*¹³ and the adoption of **BIO-33 (NEW)** below in the final MND to ensure impacts to bats are mitigated to a level of less than significant.

BIO-33 (NEW): Timing: Mud-nest inspection and removal shall be performed after young are volant (flying) but before expected onset of seasonal torpor to the greatest extent feasible to avoid direct impacts to bats. In many areas of the state, this removal window occurs between September 1 and October 31, but local conditions could dictate otherwise and communication with an experienced bat biologist is highly recommended. Removal of previously occupied nests shall only occur if that night's weather conditions are conducive to bat activity, that is, the conditions exclude severe winds, precipitation, or low nighttime temperatures (typically below 45°F). If any of these conditions are present, then no removal can occur. Due to a higher potential for mortality, no removal should occur during the hibernation season, which typically begins in November or December (depending on weather conditions) and continues through mid-February. However, dependent upon weather conditions and at a CDFW-approved bat biologist's discretion, it may be possible to perform removal during winter if the forecast excludes the weather conditions described above. Mud-nests may be inspected and removed at night (i.e., beginning approximately 1.5 hours after sunset to avoid disrupting the emergence) when bats typically leave the roost to forage. This may decrease the chances of bat occupancy in the mud-nests at the time of survey and therefore increase the chances of being able to remove most or all the mud-nests in a single visit.

Inspection and Removal: Depending on site characteristics, access to swallow nests can be attained using a snooper truck, platform truck, scaffolding, man lift, bucket truck, or ladder. Safety reviews of access activities are strongly encouraged. Outside of bat maternity or hibernation season, prior to nest removal, a CDFW-approved biologist (with experience inspecting a range of structures for the presence of roosting bats) inspects each nest with a borescope inspection camera (or similar device) or by gently and carefully breaking open a small part of the nest to see inside. If bats are not present, the entire nest may be immediately removed so that it cannot be occupied or re-occupied. If any bats are present, a small portion of the nest may be removed to create more light and additional airflow rendering the nest less desirable for roosting without making any bat(s) inside the nest visible to predators. The bat should depart the nest that evening. The altered roost conditions are intended to minimize the likelihood of a bat returning to that roost. Any swallow mud-nests where bats were observed shall be inspected again the following day and can be removed if absence of roosting bats is confirmed at that time. If the bat has not departed on its own, then additional pieces of the nest shall be removed to make it more unsuitable, followed by additional inspections on subsequent days until the bat leaves. If bats are present during inspections and do not depart on their

¹³ California Bat Working Group 2022. Bats in Swallow Nests (rev. 4 April 2022). Accessed 2024 July 19. Available: <https://www.calbatwg.org/resources/>

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own after partial removal of nests (or if partial removal of nests is infeasible), additional options may be considered in consultation with CDFW and experienced bat biologists (e.g., those with a Scientific Collecting Permit to handle bats and relevant experience implementing bat-related minimization and mitigation measures) on a case-by-case basis. Emergence surveys that involve watching a roost site with appropriate effort (i.e., using methods and equipment to confidently detect emerging bats shortly prior to the removal of mud-nests) are not appropriate during the fall and winter months because bats infrequently emerge from their roosts at this time of year. At any time of year, bats may emerge later than expected or not at all on a given night. Moreover, mud-nests observed for bat emergence may become occupied later in the night after the emergence survey, as bats select the next day's roosts. Consequently, the absence of bat activity on a given night cannot be construed as the absence of roosting bats.

Exclusion Netting: Bird exclusion netting is strongly discouraged because of common entanglement of birds, bats, and other wildlife in the netting. Even with best practices, which are described below, entanglement has still been an issue. If no other alternatives to netting are possible, then inspections shall be performed prior to installing the netting to ensure no bats are roosting in the mud-nests or interstitial crevices between the mud-nests and the structure. The bird exclusion netting shall have a mesh size no greater than 0.25-inch and should be secured tightly to prevent potential entanglement of bats in the netting. Daily inspections of bird exclusion netting shall also be performed after its installation to identify and repair damaged sections that could create entrapment hazards for bats and birds.

COMMENT #7: Crotch's Bumble Bee

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 Fish & G. Code, § 2081(b). This species was not acknowledged in the MND yet was discussed in the NES². Additionally, suitable habitat was not sufficiently analyzed.

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: Page 84-85 of the NES² indicates that there is a lack of suitable host plants, notably milkweed, therefore the species is considered absent from the biological study area; however, 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.^{14,15} Overwintering sites utilized by Crotch's bumble bee mated queens include soft, disturbed soil¹⁶, 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's bumble bee as endangered under CESA, determining

¹⁴ 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.

¹⁵ 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.

¹⁶ Goulson, D. 2010. Bumblebees: behavior, ecology, and conservation. Oxford University Press, New York. 317pp.

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the listing “may be warranted” and advancing the species to the candidacy stage of the CESA listing process. Crotch’s 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.¹⁷

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 & G. Code, § 2081 subdivision (b).

Comments and Recommendations

It is recommended to conduct desktop analyses and field reviews to appropriately evaluate Project impacts. Absent a thorough species analysis and avoidance, minimization and mitigation strategy, it is unclear whether the Project’s impacts can be adequately identified, disclosed, or mitigated. CDFW recommends the MND be revised and circulated to provide this information. However, if Caltrans chooses not to collect and disseminate this information, then the mitigation measure should be updated, as provided below, to address a scenario in which the site is determined to be occupied.

Recommended Potentially Feasible Mitigation Measure: CDFW recommends following the *Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species*¹⁸ and the adoption of **BIO-34 (NEW)**, **BIO-35 (NEW)**, and **BIO-36 (NEW)** below in the final MND to ensure impacts to Crotch’s bumble bee and their habitats are mitigated to a level of less than significant.

BIO-34 (NEW): Due to suitable habitat within the Project site, a qualified entomologist familiar with the species behavior and life history should conduct surveys to determine the presence/absence of Crotch’s bumble bee. Surveys should follow CDFW’s *Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species*.¹⁸ If no CESA-protected bumble bees are found during the surveys, but the habitat assessment identified suitable nesting, foraging, or overwintering habitat within the project site, it is recommended that a biological monitor be onsite during vegetation or ground disturbing activities. Survey results, including negative findings, should be submitted to CDFW prior to implementing Project-related ground-disturbing activities. At minimum, a survey report should provide the following:

- a) A description and map of the survey area, focusing on areas that could provide suitable habitat for Crotch’s bumble bee. CDFW recommends the map show surveyor(s) track lines to document that the entire site was covered during field surveys.
- b) Field survey conditions that should include name(s) of qualified entomologist(s) and brief qualifications; date and time of survey; survey duration; general weather conditions; survey goals, and species searched.
- c) Map(s) showing the location of nests/colonies.
- d) A description of physical (e.g., soil, moisture, slope) and biological (e.g., plant composition) conditions where each nest/colony is found. A sufficient description of biological conditions, primarily impacted habitat, should include native plant composition (e.g., density, cover, and abundance) within

¹⁷ 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>

¹⁸ California Department of Fish and Wildlife. 2023. Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species. [Bumble Bee Survey Guidelines \(ca.gov\)](https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=148248&inline)

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impacted habitat (e.g., species list separated by vegetation class; density, cover, and abundance of each species).

BIO-35 (NEW): If Crotch's bumble bee is detected, Caltrans in consultation with a qualified entomologist should develop a plan to fully avoid impacts to Crotch's bumble bee. The plan should include effective, specific, enforceable, and feasible measures. An avoidance plan should be submitted to CDFW prior to implementing Project-related ground-disturbing activities and/or vegetation removal where there may be impacts to Crotch's bumble bee.

BIO-36 (NEW): If Crotch's bumble bee is detected and if impacts to Crotch's bumble bee cannot be feasibly and fully avoided during Project construction and activities, Caltrans should coordinate with CDFW to obtain appropriate permits for incidental take of Crotch's bumble bee and provide appropriate mitigation for impacts to Crotch's bumble bee habitat. Caltrans shall mitigate for impacts to Crotch's bumble bee habitat at a ratio comparable to the Project's level of impacts.

COMMENT #8: Santa Ana River Woollystar

Section 2.1.4 (a), Page 16-17; Appendix C

Issue: The project may impact suitable habitat for Santa Ana River woollystar (*Eriastrum densifolium* ssp. *sanctorum*), a CESA-listed species, and has the potential for take pursuant to Fish & G. Code, § 2081(b). The species was described as having high potential to occur and the Project does not currently anticipate CESA authorization.

Specific impact: Direct impacts to Santa Ana River woollystar could result from Project construction and activities (e.g., equipment staging, mobilization, and grading); ground disturbance; vegetation clearing; and trampling or crushing from construction equipment, vehicles, and foot traffic.

Why impact would occur: Page 17 of the MND acknowledges that there is suitable habitat for this species; however, states that "none of these plant species ... were found within the BSA during the 2023 rare plant focused surveys... and would result in no effect." While a floristic survey was conducted and had negative findings, CDFW recommends careful consideration of the high potential to occur based on occurrence data, suitable habitat present on site, and the dispersal nature of the species. CNDDDB occurrences as well as occurrences from Lytle Creek Conservation Bank document recent occurrences adjacent to the Project site.¹⁹ Additionally, the species "thrives in open areas that receive a lot of sun and where there are infrequent flood events that contribute to seed dispersal. Santa Ana River woolly-star grows in sandy areas and is a pioneer species, meaning that it will take over previously unutilized habitat."²⁰

Evidence impact would be significant: Take of any CESA listed species is prohibited except as authorized by state law (Fish & G. Code, §§ 2080 & 2085). Consequently, if a Project, including Project construction or any Project-related activity during the life of the Project results in take of CESA-listed species, CDFW recommends that the Project proponent seek appropriate authorization prior to Project implementation. This may include an incidental take permit or a consistency determination (Fish & G. Code, §§ 2080.1 & 2081).

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

Mitigation Measure: To address the above issues and help the Project applicant avoid unlawfully taking of special status plant species, CDFW recommends the inclusion of the below revisions to **BIO-6** and **BIO-7** in the final MND (edits are in ~~strike through~~ and **bold**).

¹⁹ Wildlands. 2020. Lytle Creek Conservation Bank, 2019 Monitoring Report.

²⁰ CDFW. 2015. Santa Ana River Woollystar.

<https://wildlife.ca.gov/Conservation/Plants/Endangered/Eriastrum-densifolium-ssp-sanctorum>

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BIO-6: Within the ~~Spring season~~ **appropriate identification periods for special-status plants**, prior to construction, a preconstruction survey must be conducted **according to the CDFW 2018 Protocols for Surveying and Evaluating Impacts to Special-status Plant Populations (found at: [https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID= 18959](https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959))** by a qualified biologist **experienced in conducting floristic botanical field surveys, knowledgeable of plant taxonomy and plant community ecology and classification, familiar with the plants of the area, including special-status and locally significant plants, and familiar with the appropriate state and federal statutes related to plants and plant collecting** for special status plant species within the project limits. Special status plant species must be flagged for visual identification to construction personnel for work avoidance. Special status plant species detected ~~that feature multiple plants in a single location~~ **must be fenced with ESA fencing with an appropriate buffer for visual identification to construction personnel for work avoidance.**

BIO-7: If a special status plant species is found within the job site and cannot be **avoided fenced**, but can survive transplantation, the qualified biologist must contact the Caltrans biologist to determine the time and suitable translocation area for the plant species to be moved. **If CESA-listed plants are present and impacts cannot be fully avoided, a CESA authorization shall be obtained prior to work and translocation occurring.** Additional requirements and actions must be determined at the time if such a situation occurs.

COMMENT #9: Editorial Commentary to Measures Proposed in the MND

Section 2.1.4 Biological Resources, Page 16-25; Appendix C

Issue: The project proposed multiple general BIO measures to ensure minimization and avoidance of special status species. CDFW recommends the inclusion of the below revisions to **BIO-3, BIO-4, BIO-5, BIO-9, BIO-25, and BIO-29** as well as the adoption of **BIO-37 (NEW)** in the final MND (edits are in ~~strikethrough~~ and **bold**).

BIO-3: To address impacts to CDFW Sensitive Natural Communities, this area **shall be avoided and would be delineated as an ESA with an appropriate buffer** in the plans and/or described in the specifications.

BIO-4: If the CDFW Sensitive Natural Communities cannot be avoided, then this habitat will be restored on site via planting and/or seed mix. **Planting and/or seed mixes used for restoration of Project areas where CDFW Sensitive Natural Communities are impacted shall contain a diverse array of appropriate native plant species. Plantings and seed mixes applied shall be irrigated as necessary to ensure germination and establishment. Caltrans shall establish success criteria and maintain (as needed) and monitor locations where planting or seed mixes are applied for a minimum of one-year to ensure successful germination and establishment. Additional months or years of maintenance and monitoring shall occur if germination and establishment fail to remediate Project impacted areas within one-year of planting or seed mix application.**

BIO-5: A qualified biologist must present a biological resource information program/WEAP for San Bernardino Kangaroo Rat, bat species, sensitive plants, and nesting birds 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,**

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and the same instruction shall be provided for any new workers prior to their performing any job site.

BIO-27: A qualified biologist must present a biological resource information program/WEAP for special status species/habitat 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 job site.**

BIO-9: To address impacts to special status wildlife species, including but not limited to SBKR, artificial lighting shall be **fully shielded and directed downward** at the job site to minimize light spillover onto the Lytle Creek Wash, **if project activities occur between dusk and dawn.**

BIO-25: To address impacts to nesting birds and roosting bats, artificial lighting must be **fully shielded and directed downward** at the work site to minimize light spillover outside of the construction footprint if Project activities occur ~~at night~~ **between dusk and dawn.**

BIO-37 (NEW): Permanent Artificial Nighttime Lighting - Caltrans shall ensure that all proposed permanent artificial nighttime lighting for the Project is fully shielded, cast downward and directed away from surrounding open-space, reduced in intensity to the greatest extent possible, and does not result in lighting trespass including glare into surrounding areas or upward into the night sky (see the International Dark-Sky Association standards at <http://darksky.org/>). Caltrans shall ensure use of LED lighting with a correlated color temperature of 2,700 Kelvins or less, proper disposal of hazardous waste, and recycling of lighting that contains toxic compounds with a qualified recycler. Photometric studies are recommended to ensure the parameters of this measure are adhered to.

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

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CDFW appreciates the opportunity to comment on the MND to assist Caltrans District 8 in identifying and mitigating Project impacts on biological resources.

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:



45B841E4-0391-4801-8000-000000000000
Alisa Ellsworth

Environmental Program Manager

Attachments: (A) Mitigation and Monitoring Reporting Plan

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



State of California – Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
 Inland Deserts Region
 3602 Inland Empire Boulevard, Suite C-220
 Ontario, CA 91764
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



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-3	To address impacts to CDFW Sensitive Natural Communities, this area shall be avoided and would be delineated as an ESA with an appropriate buffer in the plans and/or described in the specifications.	Prior to commencing ground- or vegetation disturbing activities.	Project Proponent
BIO-4	If the CDFW Sensitive Natural Communities cannot be avoided, then this habitat will be restored on site via planting and/or seed mix. Planting and/or seed mixes used for restoration of Project areas where CDFW Sensitive Natural Communities are impacted shall contain a diverse array of appropriate native plant species. Plantings and seed mixes applied shall be irrigated as necessary to ensure germination and establishment. Caltrans shall establish success criteria and maintain (as needed) and monitor locations where planting or seed mixes are applied for a minimum of one-year to ensure successful germination and establishment. Additional months or years of maintenance and monitoring shall occur if germination and establishment fail to remediate Project impacted areas within one-year of planting or seed mix application.	Prior to commencing ground- or vegetation disturbing activities.	Project Proponent
BIO-5	A qualified biologist must present a biological resource information program/WEAP for San Bernardino Kangaroo Rat, bat species, sensitive plants, and nesting birds 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 job site.	Prior to commencing ground- or vegetation disturbing activities.	Project Proponent
BIO-6	Within the Spring season appropriate identification periods for special-status plants , prior to construction, a preconstruction survey must be conducted according to the CDFW 2018 Protocols for Surveying and Evaluating Impacts to Special-status Plant Populations (found at: https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959) by a qualified biologist experienced in conducting floristic botanical field surveys, knowledgeable of plant taxonomy and plant community ecology and classification, familiar with the plants of the area,	Prior to commencing ground- or vegetation disturbing activities.	Project Proponent

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	<p>including special-status and locally significant plants, and familiar with the appropriate state and federal statutes related to plants and plant collecting for special status plant species within the project limits. Special status plant species must be flagged for visual identification to construction personnel for work avoidance. Special status plant species detected that feature multiple plants in a single location must be fenced with ESA fencing with an appropriate buffer for visual identification to construction personnel for work avoidance.</p>		
BIO-7	<p>If a special status plant species is found within the job site and cannot be avoided fenced, but can survive transplantation, the qualified biologist must contact the Caltrans biologist to determine the time and suitable translocation area for the plant species to be moved. If CESA-listed plants are present and impacts cannot be fully avoided, a CESA authorization shall be obtained prior to work and translocation occurring. Additional requirements and actions must be determined at the time if such a situation occurs.</p>	<p>Prior to commencing ground- or vegetation disturbing activities.</p>	<p>Project Proponent</p>
BIO-9	<p>To address impacts to special status wildlife species, including but not limited to SBKR, artificial lighting shall be fully shielded and directed downward at the job site to minimize light spillover onto the Lytle Creek Wash, if project activities occur between dusk and dawn.</p>	<p>Prior to commencing ground- or vegetation disturbing activities.</p>	<p>Project Proponent</p>
BIO-11	<p>If during Project activities a SBKR is discovered within the Project site, all construction activities must stop and the Caltrans biologist and Resident Engineer must be notified. Coordination with appropriate agencies including CDFW shall may be required prior to restarting activities.</p>	<p>Prior to commencing ground- or vegetation disturbing activities.</p>	<p>Project Proponent</p>
BIO-14	<p>Temporary SBKR exclusion fencing shall be constructed around the PIA as determined by the qualified biologist in coordination with the Resident Engineer (including ingress/egress routes and staging areas) during Project construction within suitable habitat where there is no barrier to SBKR movement (e.g., rip rap). No Project activities will be allowed outside of the SBKR exclusionary fencing. The fencing will be made of a smooth-faced material to prevent animals from climbing into the excluded areas, such as Aqua 30 coextruded polyethylene liner, Animex™ fencing, or similar material. The fencing will be installed at least 12 to 18 inches underground and extend at least three feet straight above ground, reinforced with metal T posts or similar support materials. If underground installation is not possible due to extremely rocky soils, then the bottom 12 to 18 inches of the fencing will be folded out and sandbags placed on the edges of the fencing. Installation of the exclusion fencing shall be overseen by a qualified SBKR biologist or biological monitor. Inspections of the exclusion fence shall be conducted daily, and any required maintenance shall be performed immediately upon discovery or no later than one hour before dusk on the day it was discovered. Once construction activities are complete, the fencing will be removed. Fence installation and removal activities will be overseen by a qualified SBKR biologist or biological monitor. If potential SBKR burrows are found within the proposed pathway of the exclusion fencing construction, then the qualified SBKR biologist will either help the</p>	<p>Prior to commencing ground- or vegetation disturbing activities.</p>	<p>Project Proponent</p>

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	fencing crew identify an alternate route to avoid potential burrows and one that does not negatively affect Project construction, or they will hand-excavate potential SBKR burrows at least 200 feet in advance of the fence installation crew/equipment. Any SBKR found during burrow excavation activities will be released outside of the exclusion area into suitable habitat by the SBKR biologist. A CESA Incidental Take Permit for SBKR shall be obtained prior to the start of ground disturbing activities, including geotechnical surveys.		
BIO-15	Following installation of the exclusionary fence, and prior to initial ground disturbance (i.e., clearing and grading), the fenced Project impact area will be trapped by a biologist in possession of a federal 10(a)(1)(A) permit and a Memorandum of Understanding (MOU) with CDFW to conduct trapping studies for SBKR, and any small mammals captured, including SBKR, will be released into adjacent suitable habitat outside of the fence on the side nearest to the point of capture. The biologist will live-trap and remove as many SBKR as possible from within the enclosed construction area. Trapping will be conducted for at least five consecutive nights. If SBKR are captured on the fourth or fifth night, trapping will continue until there have been two consecutive nights of trapping with no SBKR captures, or until the USFWS and CDFW have provided written approval to discontinue trapping. The biologist will create a temporary marking on all captured SBKR on the chest with a non-toxic marker to identify any SBKR that reenter the exclusion area during the trapping effort. If there are recaptures, the exclusion fence will be examined, repaired as necessary, and trapping will be conducted until there are two consecutive nights with no SBKR captures, or until the USFWS and CDFW have provided written approval to discontinue trapping. Once the trapping effort has been complete, Project activities may commence within the excluded areas. Inspections of the exclusion fence shall be conducted on a daily basis and any required maintenance shall be performed immediately upon discovery or no later than one hour before dusk on the day it was discovered. A CESA Incidental Take Permit for SBKR shall be obtained prior to the start of ground disturbing activities, including geotechnical surveys.	Prior to commencing ground- or vegetation disturbing activities.	Project Proponent
BIO-17	A qualified biologist or biological monitor with SBKR expertise, subject to USFWS and CDFW approval, will be present when construction or ground-disturbing activities (including exclusion fence or ESA fencing installation and removal) that could result in take of SBKR occurs in or adjacent to habitat for SBKR. Following removal of SBKR habitat within the areas inside the exclusion fence, the presence of the qualified biologist or biological monitor may reduce to one or more days per week subject to USFWS and CDFW approval. A CESA Incidental Take Permit for SBKR shall be obtained prior to the start of ground disturbing activities, including geotechnical surveys.	Prior to commencing ground- or vegetation disturbing activities.	Project Proponent
BIO-20	If a SBKR is injured as a result of Project-related activities, the permitted SBKR biologist will immediately take it to an agency-approved wildlife rehabilitation or veterinary facility that has been identified before starting Project activities. Project related injury or mortality of SBKR will be reported	Prior to commencing ground- or vegetation	Project Proponent

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	to USFWS and CDFW immediately via phone call or email and a written report will be submitted to USFWS and CDFW within three working days. Notification will include date, time, location of incident or discovery of dead or injured animal, and any other pertinent information as required by the Resource Agencies. A CESA Incidental Take Permit for SBKR shall be obtained.	disturbing activities.	
BIO-21	An annual report will be prepared by the SBKR biologist for submittal to USFWS and CDFW that documents the Project's compliance with the SBKR- specific avoidance, minimization, and mitigation measures, effectiveness and practicality of such measures, and as needed recommendations for modification of the existing measures to ensure continued protection of SBKR during Project activities. The report will also provide summaries of WEAP trainings given, exclusion trapping results, monitoring activities, and any observed SBKR, including injuries and mortalities, and any other information as required by the Resource Agencies.	Prior to commencing ground- or vegetation disturbing activities.	Project Proponent
BIO-25	To address impacts to nesting birds and roosting bats, artificial lighting must be fully shielded and directed downward at the work site to minimize light spillover outside of the construction footprint if Project activities occur at night between dusk and dawn.	Prior to commencing ground- or vegetation disturbing activities.	Project Proponent
BIO-27	A qualified biologist must present a biological resource information program/WEAP for special status species/habitat 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 job site.	Prior to commencing ground- or vegetation disturbing activities.	Project Proponent
BIO-29	Project activities shall not result in impacts to nesting birds or result in the take or removal of nests or eggs. If Project activities cannot avoid the nesting season, generally regarded as Feb 1 – Sept 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 (100 feet for nonpasserine, 300 feet for passerine, and 500 feet for raptors) shall may be established and monitored by the qualified biologist as long as	Prior to commencing ground- or vegetation disturbing activities.	Project Proponent

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	<p>construction is occurring or until the nest is no longer active and may be demarcated by flagging, staking, or fencing. 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.</p>		
<p>BIO-30 (NEW)</p>	<p>Pre-construction Burrowing Owl Surveys -The following burrowing owl preconstruction surveys must be performed by a qualified biologist: one survey 14 to 30 days prior to Project activities; one survey 24 hours prior to Project activities; and burrowing owl preconstruction surveys shall be conducted in accordance with the 2012 Staff Report on Burrowing Owl Mitigation (Staff Report) (See: https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline) prior to vegetation removal or ground disturbing activities. If the preconstruction surveys confirm occupied burrowing owl habitat, Project activities shall be immediately halted. The qualified biologist shall coordinate with CDFW and prepare a Burrowing Owl Plan that shall be submitted to CDFW for review and approval prior to commencing Project activities and implementing the measures of the Burrowing Owl Plan.</p> <p>The Burrowing Owl Plan shall describe proposed avoidance, monitoring, relocation, minimization, and/or mitigation actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites, acres of burrowing owl habitat that will be impacted, details of site monitoring, and details on proposed buffers and other avoidance measures if avoidance is proposed. If impacts to occupied burrowing owl habitat or burrows cannot be avoided, the Burrowing Owl Plan shall also describe minimization and compensatory mitigation actions that will be implemented. Proposed implementation of burrow exclusion (i.e., passive relocation) and closure shall only be considered as a last resort, after all other options have been evaluated as exclusion is not in itself an avoidance, minimization, or mitigation method and has the possibility to result in take.</p> <p>The Burrowing Owl Plan shall identify compensatory mitigation for the temporary or permanent loss of occupied burrow(s) and habitat consistent with the “Mitigation Impacts” section of the 2012 Staff Report and Caltrans shall implement CDFW approved mitigation prior to the initiation of Project activities. Permanent protection of mitigation land through a conservation easement deeded to a nonprofit conservation organization or public agency with a conservation mission, development and implementation of a mitigation land management plan to address long-term ecological sustainability and maintenance of the site for burrowing owls, and funding for the maintenance and management of mitigation land through the establishment of a long-term funding mechanism such as an endowment. If impacts to occupied burrows cannot be avoided, information shall be provided regarding adjacent or</p>	<p>Prior to commencing ground- or vegetation disturbing activities.</p>	<p>Project Proponent</p>

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	<p>nearby suitable habitat available to burrowing owls. If no suitable habitat is available nearby, details regarding the creation and funding of artificial burrows (numbers, location, and type of burrows) and management activities for relocated burrowing owls shall also be included in the Burrowing Owl Plan.</p>		
BIO-31 (NEW)	<p>Preconstruction Species Surveys –Caltrans should retain a qualified biologist with experience surveying for special status species, including but not limited to: loggerhead shrike, Los Angeles pocket mouse, Southern California legless lizard, and California glossy snake. Prior to commencing any Project-related ground-disturbing activities, the qualified biologist shall conduct surveys for where suitable habitat is present. Project related activities include construction, equipment and vehicle access, parking, and staging. Focused surveys should consist of daytime surveys and nighttime surveys no more than one month from the start of any ground-disturbing activities. The surveys should include mapping of current locations of special-status wildlife species for avoidance and relocation efforts and to assist construction monitoring efforts. The survey should be conducted so that 100 percent coverage of the project site and surrounding areas is achieved.</p> <p>If SSC are detected, the qualified biologist shall use visible flagging to mark the location where SSC was detected. The qualified biologist should take a photo of each location, map each location, and provide the specific species detected at that location. The qualified biologist shall provide a summary report of SSC surveys to Caltrans before any Project-related ground-disturbing activities. The CDFW should be notified and consulted regarding the presence of any special-status wildlife species found on site during surveys. If an Endangered Species Act-listed species is found prior to or during grading of the site, the USFWS should also be notified. Additional avoidance and minimization measures may need to be developed with CDFW/USFWS.</p>	<p>Prior to commencing ground- or vegetation disturbing activities.</p>	<p>Project Proponent</p>
BIO-32 (NEW)	<p>Prior to grading or other ground-disturbing activities are proposed, a qualified biologist shall survey all potential nesting vegetation within and adjacent to the site for nesting coastal California gnatcatcher according to United States Fish and Wildlife Service (USFWS) 2019 survey protocol guidelines. Caltrans shall complete focused surveys to be conducted prior to ground disturbance activities. A minimum of three (3) surveys shall be conducted at least one week apart to determine presence/absence of coastal California gnatcatcher. Surveys shall be conducted by the Designated Biologist at the appropriate time of day/night, during appropriate weather conditions, no more than 3 days prior to the initiation of project activities. Survey duration shall take into consideration the size of the project site; density, and complexity of the habitat; number of survey participants; survey techniques employed; and shall be sufficient to ensure the data collected is complete and accurate. Written and mapped qualitative</p>	<p>Prior to commencing ground- or vegetation disturbing activities.</p>	<p>Project Proponent</p>

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	<p>descriptions of plant communities (including dominant species and habitat quality) on and adjacent to the area surveyed will also be provided with survey results to USFWS and CDFW, within 45 days following the field surveys, prior to ground disturbing activities. The results of the focused surveys shall be provided to CDFW, and USFWS for review and approval prior to commencement of ground disturbing activities.</p>		
<p>BIO-33 (NEW)</p>	<p>Timing: Mud-nest inspection and removal shall be performed after young are volant (flying) but before expected onset of seasonal torpor to the greatest extent feasible to avoid direct impacts to bats. In many areas of the state, this removal window occurs between September 1 and October 31, but local conditions could dictate otherwise and communication with an experienced bat biologist is highly recommended. Removal of previously occupied nests shall only occur if that night’s weather conditions are conducive to bat activity, that is, the conditions exclude severe winds, precipitation, or low nighttime temperatures (typically below 45°F). If any of these conditions are present, then no removal can occur. Due to a higher potential for mortality, no removal should occur during the hibernation season, which typically begins in November or December (depending on weather conditions) and continues through mid-February. However, dependent upon weather conditions and at a CDFW-approved bat biologist’s discretion, it may be possible to perform removal during winter if the forecast excludes the weather conditions described above. Mud-nests may be inspected and removed at night (i.e., beginning approximately 1.5 hours after sunset to avoid disrupting the emergence) when bats typically leave the roost to forage. This may decrease the chances of bat occupancy in the mud-nests at the time of survey and therefore increase the chances of being able to remove most or all the mud-nests in a single visit.</p> <p>Inspection and Removal: Depending on site characteristics, access to swallow nests can be attained using a snooper truck, platform truck, scaffolding, man lift, bucket truck, or ladder. Safety reviews of access activities are strongly encouraged. Outside of bat maternity or hibernation season, prior to nest removal, a CDFW-approved biologist (with experience inspecting a range of structures for the presence of roosting bats) inspects each nest with a borescope inspection camera (or similar device) or by gently and carefully breaking open a small part of the nest to see inside. If bats are not present, the entire nest may be immediately removed so that it cannot be occupied or re-occupied. If any bats are present, a small portion of the nest may be removed to create more light and additional airflow rendering the nest less desirable for roosting without making any bat(s) inside the nest visible to predators. The bat should depart the nest that evening. The altered roost conditions are intended to minimize the likelihood of a bat returning to that roost. Any swallow mud-nests where bats were observed shall be inspected again the</p>	<p>Prior to commencing ground- or vegetation disturbing activities.</p>	<p>Project Proponent</p>

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	<p>following day and can be removed if absence of roosting bats is confirmed at that time. If the bat has not departed on its own, then additional pieces of the nest shall be removed to make it more unsuitable, followed by additional inspections on subsequent days until the bat leaves. If bats are present during inspections and do not depart on their own after partial removal of nests (or if partial removal of nests is infeasible), additional options may be considered in consultation with CDFW and experienced bat biologists (e.g., those with a Scientific Collecting Permit to handle bats and relevant experience implementing bat-related minimization and mitigation measures) on a case-by-case basis. Emergence surveys that involve watching a roost site with appropriate effort (i.e., using methods and equipment to confidently detect emerging bats shortly prior to the removal of mud-nests) are not appropriate during the fall and winter months because bats infrequently emerge from their roosts at this time of year. At any time of year, bats may emerge later than expected or not at all on a given night. Moreover, mud-nests observed for bat emergence may become occupied later in the night after the emergence survey, as bats select the next day's roosts. Consequently, the absence of bat activity on a given night cannot be construed as the absence of roosting bats.</p> <p>Exclusion Netting: Bird exclusion netting is strongly discouraged because of common entanglement of birds, bats, and other wildlife in the netting. Even with best practices, which are described below, entanglement has still been an issue. If no other alternatives to netting are possible, then inspections shall be performed prior to installing the netting to ensure no bats are roosting in the mud-nests or interstitial crevices between the mud-nests and the structure. The bird exclusion netting shall have a mesh size no greater than 0.25-inch and should be secured tightly to prevent potential entanglement of bats in the netting. Daily inspections of bird exclusion netting shall also be performed after its installation to identify and repair damaged sections that could create entrapment hazards for bats and birds.</p>		
<p>BIO-34 (NEW)</p>	<p>Due to suitable habitat within the Project site, a qualified entomologist familiar with the species behavior and life history should conduct surveys to determine the presence/absence of Crotch's bumble bee. Surveys should follow CDFW's <i>Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species</i>.¹⁸ If no CESA-protected bumble bees are found during the surveys, but the habitat assessment identified suitable nesting, foraging, or overwintering habitat within the project site, it is recommended that a biological monitor be onsite during vegetation or ground disturbing activities. Survey results, including negative findings, should be submitted to CDFW prior to implementing Project-related ground-disturbing activities. At minimum, a survey report should provide the following:</p>	<p>Prior to commencing ground- or vegetation disturbing activities.</p>	<p>Project Proponent</p>

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	<p>a) A description and map of the survey area, focusing on areas that could provide suitable habitat for Crotch’s bumble bee. CDFW recommends the map show surveyor(s) track lines to document that the entire site was covered during field surveys.</p> <p>b) Field survey conditions that should include name(s) of qualified entomologist(s) and brief qualifications; date and time of survey; survey duration; general weather conditions; survey goals, and species searched.</p> <p>c) Map(s) showing the location of nests/colonies.</p> <p>d) A description of physical (e.g., soil, moisture, slope) and biological (e.g., plant composition) conditions where each nest/colony is found. A sufficient description of biological conditions, primarily impacted habitat, should include native plant composition (e.g., density, cover, and abundance) within impacted habitat (e.g., species list separated by vegetation class; density, cover, and abundance of each species).</p>		
<p>BIO-35 (NEW)</p>	<p>If Crotch’s bumble bee is detected, Caltrans in consultation with a qualified entomologist should develop a plan to fully avoid impacts to Crotch’s bumble bee. The plan should include effective, specific, enforceable, and feasible measures. An avoidance plan should be submitted to CDFW prior to implementing Project-related ground-disturbing activities and/or vegetation removal where there may be impacts to Crotch’s bumble bee.</p>	<p>Prior to commencing ground- or vegetation disturbing activities.</p>	<p>Project Proponent</p>
<p>BIO-36 (NEW)</p>	<p>If Crotch’s bumble bee is detected and if impacts to Crotch’s bumble bee cannot be feasibly and fully avoided during Project construction and activities, Caltrans should coordinate with CDFW to obtain appropriate permits for incidental take of Crotch’s bumble bee and provide appropriate mitigation for impacts to Crotch’s bumble bee habitat. Caltrans shall mitigate for impacts to Crotch’s bumble bee habitat at a ratio comparable to the Project’s level of impacts.</p>	<p>Prior to commencing ground- or vegetation disturbing activities.</p>	<p>Project Proponent</p>
<p>BIO-37 (NEW)</p>	<p>Permanent Artificial Nighttime Lighting - Caltrans shall ensure that all proposed permanent artificial nighttime lighting for the Project is fully shielded, cast downward and directed away from surrounding open-space, reduced in intensity to the greatest extent possible, and does not result in lighting trespass including glare into surrounding areas or upward into the night sky (see the International Dark-Sky Association standards at http://darksky.org/). Caltrans shall ensure use of LED lighting with a correlated color temperature of 2,700 Kelvins or less, proper disposal of hazardous waste, and recycling of lighting that contains toxic compounds with a qualified recycler. Photometric studies are recommended to ensure the parameters of this measure are adhered to.</p>	<p>Prior to commencing ground- or vegetation disturbing activities.</p>	<p>Project Proponent</p>