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November 5, 2024

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**SUBJECT: INITIAL STUDY AND MITIGATED NEGATIVE DECLARATION FOR THE  
COAST HIGHWAY BRIDGE REPLACEMENT PROJECT, SCH  
NO.2024100243, SAN DIEGO COUNTY, CA**

Dear Shannon Vitale:

The California Department of Fish and Wildlife (CDFW) reviewed the Initial Study and Mitigated Negative Declaration (IS/MND) from the City of Oceanside (City) for the Coast Highway Bridge Replacement Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines<sup>1</sup>.

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

**CDFW ROLE**

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

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<sup>1</sup> 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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CDFW may also act as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law<sup>2</sup> of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.) or the Native Plant Protection Act (NPPA; Fish & G. Code, §1900 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

CDFW also administers the Natural Community Conservation Planning (NCCP) program, a California regional habitat conservation planning program. The City of Oceanside has participated in the NCCP program by preparing a draft Subarea Plan (SAP) under the North County Subregional Multiple Habitat Conservation Program (MHCP) (San Diego Association of Governments 2003). The MHCP identifies critically important biological resources, which if lost to development, would result in significant specific or cumulative impacts within a given jurisdiction and across the MHCP subregion.

Unfortunately, the Oceanside SAP was not finalized and has not been adopted by the City nor received permits from the Wildlife Agencies. The Focused Planning Areas nonetheless are considered highly relevant when evaluating the significance of biological resources on a given property within the cities comprising the MHCP planning effort.

## **PROJECT DESCRIPTION SUMMARY**

**Proponent:** City of Oceanside (City)

**Objective:** The City proposes to replace the existing Coast Highway (Hill Street) Bridge over the San Luis Rey River. The existing bridge was built in 1929 and is in poor structural condition. The proposed activities include removing the existing structure and replacing it with a new bridge designed to current structural and geometric standards. The Project would be a cast-in-place post-tensioned concrete box girder bridge on column piers along a new alignment immediately west of the existing bridge. No additional traffic lanes are proposed for the Project. Bridge construction would require construction of a temporary trestle adjacent to the existing bridge and along the new bridge to facilitate access. Cofferdams would be installed along the banks of the San Luis Rey River in order to construct the piers and supports on land while bubble curtains would be used to construct the piers and supports within the river.

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<sup>2</sup> "Take" is defined in Section 86 of the Fish and Game Code as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill."

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The Project would also include construction of a roundabout on the north end of the proposed project and improvements to public safety by the addition of a raised sidewalk on the westside of the bridge.

**Location:** The Project area is located within the City of Oceanside directly over the San Luis Rey River between the South Entrance of Marine Corps Base Camp Pendleton and the northern portion of the City. The bridge that is proposed to be replaced is located approximately 0.3 miles south of Harbor Drive, immediately west of and parallel to Interstate 5.

**Biological Setting:** The City's draft SAP identifies critical movement corridors between core populations of coastal California gnatcatcher (*Poliioptila californica californica*; gnatcatcher) between Marine Corps Base Camp Pendleton and southern San Diego County. The provisions therein also provide protection for southwestern willow flycatcher (*Empidonax traillii extimus*) and least Bell's vireo (*Vireo bellii pusillus*), which inhabit the sensitive waterways and riparian areas present in the City. Of note, the San Luis Rey River is home to one of few existing populations of southwestern willow flycatcher in the region.

The San Luis Rey River is the primary feature within the biological study area (BSA) where it drains into the Pacific Ocean directly west of the Project area. The topography is generally flat, with the lowest elevations at the water's surface. Per the IS/MND there are nine vegetation communities or land cover types present in the BSA which include: freshwater marsh (0.10 acre), disturbed southern riparian scrub (1.17 acres), non-native riparian (4.17), open water (1.12 acres), Diegan coastal sage scrub (1.11 acres), disturbed Diegan coastal sage scrub (0.21 acre), eucalyptus woodland (0.74 acre), disturbed habitat (3.43 acres), and urban (developed) (9.00 acres).

Per the Natural Environment Survey (NES) (RECON, April 2023), a total of six special status plant species, ten special status wildlife species, and critical habitat for three wildlife species have been recorded within the BSA. These include San Diego marsh-elder (*Iva hayesiana*), variegated dudleya (*Dudleya variegata*), sticky dudleya (*Dudleya viscida*), Nuttall's acmispon/Nuttall's lotus (*Acmispon prostratus* (= *Lotus nuttallianus*)), Lewis' evening-primrose (*Camissoniopsis lewisii*), southwestern spiny rush (*Juncus acutus* ssp. *leopoldii*), tidewater goby (*Eucyclogobius newberryi*), western least bittern (*Ixobrychus exilis hesperis*), Cooper's hawk (*Accipiter cooperii*), osprey (*Pandion haliaetus*), Olive-sided flycatcher (*Contopus cooperi*), southwestern willow flycatcher, least Bell's vireo, Clark's marsh wren (*Cistothorus palustris clarkae*), yellow warbler (*Setophaga* [= *Dendroica*] *petechia*), and yellow breasted chat (*Icteria virens auricollis*).

Crotch's bumble bee (*Bombus crotchii*) and Southern California steelhead (steelhead; *Oncorhynchus mykiss*) also have a potential to occur onsite.

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## COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist the City in identifying and/or mitigating Project impacts on biological resources and to ensure regional conservation objectives in the MHCP and draft Oceanside SAP would not be eliminated by implementation of the Project. We understand the City Council has voted not to adopt the draft SAP and that they released the Environmental Impact Report (EIR) for the General Plan Update, which included provisions from the draft SAP; however, that plan is still not finalized nor is it subject to approval by the Wildlife Agencies.

### COMMENT # 1: Impacts on Streams

**Issue:** This Project may impact the San Luis Rey River.

**Specific impact:** Bridge demolition and replacement, Project construction, and ground-disturbing activities (e.g., equipment staging, mobilization, and road work) may result in fugitive dust, runoff, and encroachment on the San Luis Rey River. CDFW is concerned that bridge demolition and replacement of the Coast Highway Bridge may result in impacts to the river, sensitive species, and encroach into the riparian zone.

**Why impact would occur:** In Section 4.1 of the NES, it states that there will be impacts to waters subject to CDFW regulatory authority from construction and installation of the new bridge. The San Luis Rey River and the areas surrounding the river are part of an essential wildlife corridor and open space that supports the biological diversity in the area. Any impact to the watershed, which includes the riparian habitat, could affect this major corridor within the City of Oceanside.

**Evidence impact may be significant:** CDFW exercises its regulatory authority as provided by Fish and Game Code section 1600 et seq. to conserve fish and wildlife resources which include rivers, streams, or lakes and associated natural communities. Fish and Game Code section 1602 requires any person, state or local governmental agency, or public utility to notify CDFW prior to beginning any activity that may do one or more of the following:

- 1) Divert or obstruct the natural flow of any river, stream, or lake;
- 2) Change the bed, channel, or bank of any river, stream, or lake;
- 3) Use material from any river, stream, or lake; or,
- 4) Deposit or dispose of material into any river, stream, or lake.

The Project may adversely affect the San Luis Rey River in the middle of the Project site. Inadequate avoidance and mitigation measures will result in the Project continuing to have a substantial adverse direct and cumulative 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.

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## **Recommended Potentially Feasible Mitigation Measure(s)**

**Mitigation Measure #1: Lake and Streambed Alteration** – The Project proponent shall notify the California Department of Fish and Wildlife (CDFW) pursuant to Fish and Game Code 1602 and obtain an LSA Agreement from CDFW prior to Project activities. The LSA Notification shall include a hydrology report to evaluate whether altering streams within the Project site may impact hydrologic activity. The hydrology report shall also include a hydrological evaluation of any potential scour or erosion at the Project site due to a 100, 50, 25, 10, 5, and 2-year frequency storm event for existing and proposed conditions. Please visit CDFW's [Lake and Streambed Alteration Program](#) webpage for more information (CDFW 2024a).

**Mitigation Measure #2: Compensatory Mitigation** – If impacts to streams are unavoidable, the City shall provide compensatory mitigation for impacts on streams and associated plant communities. Any off-site mitigation should occur where a stream supports the same plant communities impacted by the Project and preferably within the same watershed.

### **COMMENT # 2: Impacts on Southern California Steelhead**

**Issue:** The Project may impact southern California steelhead during migration season.

**Specific impact:** Project activities (e.g., bridge demolition, pile driving, etc.) within the San Luis Rey River would have an impact on aquatic species, including southern steelhead.

**Why impact would occur:** The most recent focused species surveys were done in 2021. Although those surveys were negative for steelhead, the San Luis Rey watershed is designated as a high priority for recovery of the species. According to the NES, this section of the river would most likely be used by this species as a migration corridor during periods of high flow with duration to sustain the movement. Biological Mitigation Measures 1-5 (BIO-1-BIO-5) are intended to minimize impacts to biological resources but are specific to the aquatic species that are located onsite. While CDFW appreciates the effort to reduce significant impacts to steelhead during Project activities, these measures are not specific to the species. The mitigation measures fail to establish in-channel seasonal working periods outside of the steelhead migration season. Although December to March is the primary window for returning adult steelhead, the time frames should be expanded to account for weather variability and emigrating smolts. Smolts generally migrate to the ocean between March through May (Booth 2020). Project activities conducted in months outside of the proposed time frame may result in incidental take and/or disruption of migration.

The mitigation measures do not define what hours of the day in-creek work can occur. Nighttime work can negatively impact steelhead by increasing their risk of predation and slowing the downstream migration of smolt (Nelson et al 2021, Tabor et al 2004). All

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construction activities associated with the demolition and construction of the Coast Highway Bridge should be conducted during daylight hours to minimize impact.

**Evidence impact would be significant:** Southern steelhead are designated as a candidate species under CESA and afforded full protection under the law. Southern steelhead also meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380). Impacts on southern steelhead may require a mandatory finding of significance because the Project would have the potential to threaten to eliminate a plant or animal community and/or substantially reduce the number or restrict the range of an endangered, rare, or threatened species (CEQA Guidelines, §15065). The reduction in the number of southern steelhead, either directly or indirectly through habitat loss, would constitute a significant impact absent appropriate mitigation.

Inadequate avoidance and mitigation measures will result in the Project continuing to have a substantial adverse direct and cumulative 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 Wildlife Agencies.

### **Recommended Potentially Feasible Mitigation Measure(s)**

**Mitigation Measure #3: Seasonal In Channel Work Window** – If new protocol surveys determine southern steelhead are present Project activities in and around the stream channel shall be limited between June 1 and October 31 to avoid impacts to migrating steelhead.

**Mitigation Measure #4: Hours of Operation and Lighting** - Construction activities shall take place during daylight hours (30 minutes before sunrise to 30 minutes after sunset). If night work is necessary, it shall be limited and light shall be shielded from adjacent habitat.

### **COMMENT # 3: Impacts on Crotch's Bumble Bee**

**Issue:** Project activities may result in incidental take of Crotch's bumble bee and indirect and cumulative impacts to Crotch's bumble bee, a candidate species for CESA listing. The IS/MND does not provide avoidance, minimization, and/or mitigation measures to reduce the impact to Crotch's bumble bee to less than significant.

**Specific impact:** The Project may result in temporary or permanent loss of suitable nesting and foraging habitat of Crotch's bumble bee. 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:** According to [California's Natural Diversity Database \(CNDDB\)](#), observations of Crotch's bumble bee have been recorded within the city of Oceanside (CDFW 2024a) and within the BSA. Additionally, [iNaturalist](#) has recent recorded observations of Crotch's bumble bee within San Diego County (iNaturalist

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2024). As with any flying species, Crotch's bumble bee may fly throughout the City and utilize areas that have suitable nesting habitat and floral resources. The vegetation mentioned in the IS/MND identified in areas of the Project site has the potential to provide suitable nesting and foraging habitat for this species. As for nesting habitat, 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 (Williams et al. 2014; Hatfield et al. 2018). Overwintering sites utilized by Crotch's bumble bee mated queens include soft, disturbed soil (Goulson 2010), or under leaf litter or other debris (Williams et al. 2014). 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. The IS/MND does not discuss the Project's impact on Crotch's bumble bee. Furthermore, IS/MND does not provide specific avoidance and minimization measures directly related to Crotch's bumble bee. Without sufficient species-specific avoidance, minimization, or mitigation measures impacts to Crotch's bumble bee may occur.

**Evidence impact would be significant:** Impacts to CESA-listed species and their habitat meet the definition of endangered, rare, or threatened under CEQA (CEQA Guidelines § 15380). Impacts to CESA listed species and their habitats may result in a mandatory finding of significance because the Project has the potential to substantially reduce the number or restrict the range of an endangered, rare, or threatened species (CEQA Guidelines § 15065).

### **Recommended Potentially Feasible Mitigation Measure(s)**

**Mitigation Measure #5: Crotch's Bumble Bee Surveys** - Within one year prior to vegetation removal and/or grading, a qualified entomologist/biologist with appropriate handling permits and is familiar with the species behavior and life history, shall conduct focused surveys to determine the presence/absence of Crotch's bumble bee. Focused surveys shall follow CDFW's [Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species](#) (CDFW 2023b) and shall be developed in consultation with CDFW. Focused surveys shall also be conducted throughout the entire Project site during the appropriate flying season to ensure no missed detection of Crotch's bumble bee occurs. Survey results, including negative findings, shall be submitted to CDFW and the City prior to implementing Project-related ground-disturbing activities. At minimum, a survey report shall provide the following:

- 1) a description and map of the survey area, focusing on areas that could provide suitable habitat for Crotch's bumble bee;
- 2) field survey conditions that shall include name(s) of qualified entomologist(s) and brief qualifications; date and time of survey; survey duration; general

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- weather conditions; survey goals, and species searched;
- 3) map(s) showing the location of nests/colonies; and,
  - 4) 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, shall 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).

**Mitigation Measure #6: Avoidance Plan** - If Crotch's bumble bee is detected, the Project applicant in consultation with a qualified entomologist/biologist and CDFW shall develop a plan to fully avoid impacts to Crotch's bumble bee. The plan shall include effective, specific, enforceable, and feasible measures. An avoidance plan shall be submitted to the City prior to implementing Project-related ground-disturbing activities and/or vegetation removal where there may be impacts to Crotch's bumble bee.

**Mitigation Measure #7: Incidental Take Permit** - If Crotch's bumble bee is detected and if impacts to Crotch's bumble bee cannot be feasibly avoided, the Project applicant shall consult with CDFW and obtain appropriate take authorization from CDFW (pursuant to Fish & G. Code, § 2080 et seq.). The Project applicant shall comply with the mitigation measures detailed in the take authorization issued by CDFW. The Project applicant shall provide a copy of a fully executed take authorization prior to the issuance of a grading permit and before any ground disturbance and vegetation removal.

#### **COMMENT # 4: Impacts on Least Bell's Vireo and Southwestern Willow Flycatcher**

**Issue:** Project activities may result in direct, indirect, and cumulative impacts on least Bell's vireo and southwestern willow flycatcher, both listed as endangered species under CESA and ESA.

**Specific impacts:** Project activities could result in nest abandonment or decreased feeding frequency. This could result in increased nestling mortality, a significant impact on least Bell's vireo and/or southwestern willow flycatcher. The Project may also result in a loss of breeding and/or foraging habitat for least Bell's vireo and southwestern willow flycatcher.

**Why impact would occur:** The Project site contains suitable habitat for both species, and several recent documented occurrences of least Bell's vireo. Project activities include vegetation removal, surface water diversion, dewatering, drilling, and construction. Project activities could create elevated levels of noise, human activity, dust, ground vibrations, and vegetation disturbance. These disturbances and stressors occurring near potential nests could cause individuals to abandon their nests, resulting in the loss of fertile eggs or nestlings. After construction activities are completed, the Project could continue to impact these species through an increase in noise from



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heavier road use and closer access by recreational trail users. The increase of shading from new bridges could result in the decline or loss of vegetated habitat for riparian birds and other species.

**Evidence impact would be significant:** CDFW considers adverse impacts to a species protected by CESA, absent appropriate mitigation, to be significant under CEQA. 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). DEIR Mitigation Measures RIP-1, RIP-2, RIP-3, and RIP-4 as proposed may not (1) provide a sufficiently large buffer to avoid take, (2) commit the Project to mitigation particularly if take occurs, (3) adopt specific performance standards the mitigation will achieve, nor (4) identify the type(s) of potential action(s) that can feasibly achieve that performance standard that will be considered, analyzed, and potentially incorporated in the mitigation measure (CEQA Guidelines, § 15126.4).

CDFW considers impacts to CESA-listed species a significant direct and cumulative adverse effect without implementing appropriate avoidance and/or mitigation measures. In addition, nests of all native bird species are protected under State laws and regulations, including Fish and Game Code, sections 3503 and 3503.5.

### **Recommended Potentially Feasible Mitigation Measure(s)**

**Mitigation Measure #8: Work During the Avian Breeding Season-** If work is scheduled during the riparian avian breeding season (February 15 through September 15), and within suitable habitat for least Bell's vireo or southwestern willow flycatcher, a qualified biologist will conduct a preconstruction nesting survey to ensure that no active bird nests are present within 500 feet of construction activities. If no nests are detected, then vegetation removal will be permitted during the nesting season. The qualified biologist shall establish and maintain a minimum 300-foot no-disturbance buffer around all active bird nests. For raptors and special status species, this buffer shall be expanded to a minimum of 500 feet.

**Mitigation Measure #9: Detection of Nests-** If an active least Bell's vireo or southwestern willow flycatcher nest is detected, no construction activities will be permitted within 500 feet of the nest. Work, vehicle traffic, and foot traffic within nest buffers may not resume until the young fledge and disperse, or the nest has been determined to fail by the qualified biologist. Limits of construction to avoid a nest site will be established in the field with flagging and stakes or construction fencing.

**Mitigation Measure #10: Incidental Take Permit-** If the Project or any Project-related activity for the duration of the Project will result in take of a CESA-listed species, or a candidate for listing under CESA, the City shall seek appropriate take authorization under CESA before commencing Project activities. Appropriate authorization from

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CDFW may include an Incidental Take Permit (ITP) or a Consistency Determination in certain circumstances, among other options [Fish & G. Code, §§ 2080.1, 2081, subds. (b) and (c)]. Early consultation is encouraged, as significant modification to a Project and Mitigation Measures may be required to obtain a CESA Permit. Revisions to the Fish and Game Code, effective January 1998, may require that CDFW issue a separate CEQA document for the issuance of an ITP unless the Project CEQA document addresses all Project impacts to CESA-listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of an ITP. For these reasons, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for a CESA ITP.

### **COMMENT # 5: Impacts on California Species of Special Concern (SSC)**

**Issue:** The Project may impact several SSC that utilize the natural resources within the Project site.

**Specific impact:** Direct impacts to wildlife designated as SSC could result in the form of trampling and crushing from Project construction activities, including equipment staging, mobilization, grading, and vegetation clearing. Project activities such as vegetation removal will also result in habitat destruction.

**Why impact would occur:** The IS/MND and the NES state that the Project site provides habitat for several SSC (Table 3, NES). Although these species were not observed during the biological surveys that Recon Environmental, Inc. (RECON) conducted in 2015, 2016, 2017, and 2021, it should not exclude the possibility of these species being present during Project activities given that there is marginal habitat present. Without appropriate avoidance or minimization measures, the Project may continue to impact SSC through direct harm and/or loss of occupied habitat.

**Evidence impact would be significant:** A California 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:

- if the species is extirpated from the State or, in the case of birds, is extirpated in its primary season or breeding role;
- if the species is listed as threatened or endangered under ESA-, but not CESA-, threatened, or endangered;
- if the species meets the State definition of threatened or endangered but has not formally been listed;
- if the species is experiencing, or formerly experienced, serious (nonscyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status; and,
- if 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 (CDFW 2024a).

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CEQA provides protection not only for CESA-listed species, but for any species including but not limited to SSC that 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). Inadequate avoidance, minimization, and mitigation measures for impacts to sensitive or special status species will result in the Project continuing to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species by CDFW.

### **Recommended Potentially Feasible Mitigation Measure(s)**

**Mitigation Measure #11: Wildlife Relocation and Avoidance Plan** - The Project proponent shall retain a qualified biologist to prepare a Wildlife Relocation and Avoidance Plan. The Wildlife Relocation and Avoidance Plan shall describe all SSC that could occur within the project site and proper avoidance, handling, and relocation protocols. The Wildlife Relocation Plan shall include species-specific avoidance buffers and suitable relocation areas at least 200 feet outside of the project site.

**Mitigation Measure #12: Biological Monitor** - To avoid direct injury and mortality of SSC, the Project proponent shall have a qualified biologist on site to move out of harm's way wildlife of low mobility that would be injured or killed. Wildlife shall be protected and allowed to move away on its own in a passive manner. In areas where an SSC was found, work may only occur in these areas after a qualified biologist has determined it is safe to do so. The qualified biologist shall advise workers to proceed with caution near flagged areas. A qualified biologist shall be on site daily during initial ground- and habitat-disturbing activities and vegetation removal. Then, the qualified biologist shall be on site weekly or bi-weekly (once every 2 weeks) for the remainder of the Project until the cessation of all ground-disturbing activities to ensure that no wildlife of any kind is harmed.

**Mitigation Measure #13: Permits** - The Project proponent shall retain a qualified biologist with appropriate handling permits, or should obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities. CDFW has the authority to issue permits for the take or possession of wildlife, including mammals; birds, nests, and eggs; reptiles, amphibians, fish, plants; and invertebrates (Fish & G. Code, §§ 1002, 1002.5, 1003).

**Mitigation Measure #14: Negatively Impacted SSC** - If any SSC are harmed during relocation or a dead or injured animal is found, work in the immediate area shall stop immediately, the qualified biologist shall be notified, and dead or injured wildlife documented immediately. A formal report shall be sent to CDFW within three calendar days of the incident or finding. The report shall include the date, time of the finding or

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incident (if known), and location of the carcass or injured animal and circumstances of its death or injury (if known). Work in the immediate area may only resume once the proper notifications have been made and additional mitigation measures have been identified to prevent additional injury or death.

## **ADDITIONAL COMMENTS**

1. Compensatory Mitigation: The IS/MND states that after Project permits are obtained and the final design is complete, the City will purchase 0.30-acre offsite mitigation credit from a mitigation bank within the San Luis Rey Watershed to achieve no net loss of the resources. Upon construction completion, rehabilitation of southern riparian scrub within the Habitat Enhancement Area will be completed as required by the Conceptual Mitigation Plan and will occur at a 1:1 revegetation ratio for temporary impacts and a 3:1 revegetation and restoration ratio for permanent impacts, as outlined in the Conceptual Mitigation Plan. CDFW appreciates the proposed mitigation approach, however we recommend that the City coordinate with CDFW prior to fulfilling their mitigation at a Conservation/Mitigation Bank, as several of the banks listed in the IS/MND do not have CDFW-approved credits. Regarding impacts to CSS habitat, CDFW recommends mitigating in the Wildlife Corridor Planning Zone as is discussed in the City of Oceanside's draft SAP.
2. Impacts to Sensitive Habitat from Artificial Light: CDFW recommends that the new Coast Highway Bridge install lights that do not have negative impacts on wildlife. The bridge will be directly over sensitive habitat for several species. Artificial light at night (ALAN) is increasing in extent and intensity across the globe. It has been shown to interfere with animal sensory systems, orientation, and distribution, with the potential to cause significant ecological impacts (Barrientos et. al 2023). ALAN also causes changes in reproductive timing or success of birds in response to light leading to phenological mismatches and lower fitness (Barrientos et. al 2023). The impacts of light pollution also cause responses from biodiversity that include advance of spring leaf budding in deciduous trees, inhibition of mating insects under artificial light, wildlife shifts to darker/brighter areas where perceived predation risk is lowers, and avoidance of lit wildlife crossings by mammals creating a barrier effect for linear infrastructure (Barrientos et. al 2023). The issue of light pollution and the associated impacts to wildlife should be considered when planning for additional development within the City of Oceanside.

**Mitigation and Monitoring Reporting Plan.** CDFW recommends the Project's environmental document include mitigation measures recommended in this letter. CDFW has provided comments via a mitigation monitoring and reporting plan to assist in the development of feasible, specific, detailed (i.e., responsible party, timing, specific

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actions, location), and fully enforceable mitigation measures (CEQA Guidelines, § 15097; Pub. Resources Code, § 21081.6). The Lead Agency is welcome to coordinate with CDFW to further review and refine the Project's mitigation measures. Per Public Resources Code section 21081.6(a)(1), CDFW has provided a summary of our suggested mitigation measures and recommendations in the form of an attached Draft Mitigation Monitoring and Reporting Plan (Attachment A).

## **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 website](#)<sup>3</sup> provides direction regarding the types of information that should be reported and allows on-line submittal of field survey forms.

In addition, information on special status native plant populations and sensitive natural communities, should be submitted to CDFW's Vegetation Classification and Mapping Program using the [Combined Rapid Assessment and Relevé Form](#)<sup>4</sup>.

## **FILING FEES**

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental document filing fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

## **CONCLUSION**

CDFW appreciates the opportunity to comment on the IS/MND to assist the City in identifying and mitigating Project impacts on biological resources. CDFW requests an opportunity to review and comment on any response that the City has to our comments and to receive notification of any forthcoming hearing date(s) for the Project (CEQA Guidelines, § 15073(e)).

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<sup>3</sup> <https://wildlife.ca.gov/Data/CNDDDB>

<sup>4</sup> <https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities/Submit>

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Questions regarding this letter or further coordination should be directed to Emily Gray<sup>5</sup>, Environmental Scientist.

Sincerely,

Signed by:



AD7D070BCB66466...  
Glen M. Lubcke

Environmental Program Manager  
South Coast Region

ec: California Department of Fish and Wildlife  
Glen M. Lubcke, Environmental Program Manager (NCCP, Mitigation Banking)  
Jennifer Turner, Senior Environmental Scientist (Supervisory; CEQA)  
Steve Gibson, Senior Environmental Scientist (Supervisory; CESA)  
Frederick (Fritz) Rieman, Senior Environmental Scientist (Supervisory; LSA)  
Melanie Burlaza, Senior Environmental Scientist (Supervisory; NCCP)

Office of Planning and Research  
[State.Clearinghouse@opr.ca.gov](mailto:State.Clearinghouse@opr.ca.gov)

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<sup>5</sup> Email: [Emily.gray@wildlife.ca.gov](mailto:Emily.gray@wildlife.ca.gov)

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**ATTACHMENT A: DRAFT MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)**

CDFW provides the following language to be incorporated into the MMRP for the Project.

| <b>Mitigation Measure</b>   | <b>Timing</b>                         | <b>Responsible Party</b> |
|---|---------------------------------------|--------------------------|
| <p><b>Mitigation Measure #1: LSA</b></p> <p>The Project proponent shall notify the California Department of Fish and Wildlife (CDFW) pursuant to Fish and Game Code 1602 and obtain an LSA Agreement from CDFW prior to Project activities. The LSA Notification shall include a hydrology report to evaluate whether altering streams within the Project site may impact hydrologic activity. The hydrology report shall also include a hydrological evaluation of any potential scour or erosion at the Project site due to a 100, 50, 25, 10, 5, and 2-year frequency storm event for existing and proposed conditions. Please visit CDFW's <a href="#">Lake and Streambed Alteration Program</a> webpage for more information (CDFW 2024a).</p> | <p>Prior to Project activities</p>    | <p>Project Proponent</p> |
| <p><b>Mitigation Measure #2: Compensatory Mitigation</b></p> <p>If impacts to streams are unavoidable, the City should provide compensatory mitigation for impacts on streams and associated plant communities. Any off-site mitigation should occur where a stream supports the same plant communities impacted by the project and preferably within the same watershed.</p>   | <p>Prior to Project activities</p>    | <p>Project Proponent</p> |
| <p><b>Mitigation Measure #3: Seasonal In Channel Work Window</b></p> <p>If new protocol surveys determine southern steelhead are present Project activities in and around the stream channel shall be limited between June 1 and October 31 to avoid impacts to migrating steelhead.</p>  | <p>During Construction Activities</p> | <p>Project Proponent</p> |



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| <b>Mitigation Measure</b>   | <b>Timing</b>   | <b>Responsible Party</b>                        |
|---|---|---|
| <p><b>Mitigation Measure #4: Hours of Operation and Lighting</b></p> <p>Construction activities shall take place during daylight hours (30 minutes before sunrise to 30 minutes after sunset). If night work is necessary, it shall be limited, and light shall be shielded from adjacent habitat.</p>  | <p>During Construction Activities</p>                               | <p>Project Proponent</p>                        |
| <p><b>Mitigation Measure #5: Crotch’s Bumble Bee Surveys</b></p> <p>Within one year prior to vegetation removal and/or grading, a qualified entomologist/biologist with appropriate handling permits and is familiar with the species behavior and life history, shall conduct focused surveys to determine the presence/absence of Crotch’s bumble bee. Focused surveys shall follow CDFW’s Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species (CDFW 2023b). Focused surveys shall also be conducted throughout the entire Project site during the appropriate flying season to ensure no missed detection of Crotch’s bumble bee occurs. Survey results, including negative findings, shall be submitted to CDFW and the City prior to implementing Project-related ground-disturbing activities. At minimum, a survey report shall provide the following:</p> <p>1) a description and map of the survey area, focusing on areas that could provide suitable habitat for Crotch’s bumble bee;</p> <p>2) field survey conditions that shall 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>3) map(s) showing the location of nests/colonies; and,</p> | <p>Prior to vegetation removal and ground-disturbing activities</p> | <p>Project Applicant/Qualified Entomologist</p> |

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| <b>Mitigation Measure</b>  | <b>Timing</b>   | <b>Responsible Party</b>      |
|--|---|-------------------------------|
| <p>4) 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, shall 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><b>Mitigation Measure #6: Avoidance Plan</b></p> <p>If Crotch’s bumble bee is detected, the Project applicant in consultation with a qualified entomologist/biologist shall develop a plan to fully avoid impacts to Crotch’s bumble bee. The plan shall include effective, specific, enforceable, and feasible measures. An avoidance plan shall be submitted to the City 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 vegetation removal and ground-disturbing activities</p>         | <p>Project Applicant/City</p> |
| <p><b>Mitigation Measure #7: Incidental Take Permit</b></p> <p>If Crotch’s bumble bee is detected and if impacts to Crotch’s bumble bee cannot be feasibly avoided, the Project applicant shall consult with CDFW and obtain appropriate take authorization from CDFW (pursuant to Fish &amp; G. Code, § 2080 et seq.). The Project applicant shall comply with the mitigation measures detailed in the take authorization issued by CDFW. The Project applicant shall provide a copy of a fully executed take authorization prior to the issuance of a grading permit and before any ground disturbance and vegetation removal.</p> | <p>Prior to issuance of grading permit and ground-disturbing activities</p> | <p>Project Applicant</p>      |

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| <b>Mitigation Measure</b>   | <b>Timing</b>                                      | <b>Responsible Party</b>                     |
|---|--|--|
| <p><b>Mitigation Measure #8: Work During Avian Breeding Season</b></p> <p>If work is scheduled during the riparian avian breeding season (February 15 through September 15), and within suitable habitat for least Bell’s vireo or southwestern willow flycatcher, a qualified biologist will conduct a preconstruction nesting survey to ensure that no active bird nests are present within 500 feet of construction activities. If no nests are detected, then vegetation removal will be permitted during the nesting season. The qualified biologist shall establish and maintain a minimum 300-foot no-disturbance buffer around all active bird nests. For raptors and special status species, this buffer shall be expanded to a minimum of 500 feet.</p> | <p>During Project Construction Activities</p>      | <p>Project Proponent</p>                     |
| <p><b>Mitigation Measure #9: Detection of Nests</b></p> <p>If an active least Bell’s vireo or southwestern willow flycatcher nest is detected, no construction activities will be permitted within 500 feet of the nest. Work, vehicle traffic, and foot traffic within nest buffers may not resume until the young fledge and disperse, or the nest has been determined to fail by the qualified biologist. Limits of construction to avoid a nest site will be established in the field with flagging and stakes or construction fencing.</p>   | <p>Prior to and during construction activities</p> | <p>Project Proponent/Qualified Biologist</p> |
| <p><b>Mitigation Measure #10: Incidental Take Permit</b></p> <p>If the Project or any Project-related activity for the duration of the Project will result in take of a CESA-listed species, or a candidate for listing under CESA, the City shall seek appropriate take authorization under CESA before commencing</p>   | <p>Prior to Project Activities</p>                 | <p>Project Proponent</p>                     |

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| <b>Mitigation Measure</b>  | <b>Timing</b>                                 | <b>Responsible Party</b>                     |
|--|---|--|
| <p>Project activities. Appropriate authorization from CDFW may include an Incidental Take Permit (ITP) or a Consistency Determination in certain circumstances, among other options [Fish &amp; G. Code, §§ 2080.1, 2081, subds. (b) and (c)]. Early consultation is encouraged, as significant modification to a Project and Mitigation Measures may be required to obtain a CESA Permit. Revisions to the Fish and Game Code, effective January 1998, may require that CDFW issue a separate CEQA document for the issuance of an ITP unless the Project CEQA document addresses all Project impacts to CESA-listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of an ITP. For these reasons, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for a CESA ITP.</p> |   |  |
| <p><b>Mitigation Measure #11: Wildlife Relocation and Avoidance Plan</b></p> <p>The Project proponent shall retain a qualified biologist to prepare a Wildlife Relocation and Avoidance Plan. The Wildlife Relocation and Avoidance Plan shall describe all SSC that could occur within the project site and proper avoidance, handling, and relocation protocols. The Wildlife Relocation Plan shall include species-specific avoidance buffers and suitable relocation areas at least 200 feet outside of the project site.</p>  | <p>Prior to and during Project Activities</p> | <p>Project Proponent/Qualified Biologist</p> |
| <p><b>Mitigation Measure #12: Biological Monitor</b></p> <p>To avoid direct injury and mortality of SSC, the Project proponent shall have a qualified biologist on site to move out of harm’s way wildlife of low mobility that would be injured or killed. Wildlife shall be protected and allowed to move away</p>   | <p>During Project</p>                         | <p>Project Proponent</p>                     |

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| <b>Mitigation Measure</b>  | <b>Timing</b>                      | <b>Responsible Party</b>                     |
|--|------------------------------------|--|
| <p>on its own in a passive manner. In areas where an SSC was found, work may only occur in these areas after a qualified biologist has determined it is safe to do so. The qualified biologist shall advise workers to proceed with caution near flagged areas. A qualified biologist shall be on site daily during initial ground- and habitat-disturbing activities and vegetation removal. Then, the qualified biologist shall be on site weekly or bi-weekly (once every 2 weeks) for the remainder of the Project until the cessation of all ground-disturbing activities to ensure that no wildlife of any kind is harmed.</p> | <p>Construction Activities</p>     |  |
| <p><b>Mitigation Measure #13: Permits</b></p> <p>The Project proponent shall retain a qualified biologist with appropriate handling permits, or should obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with project construction and activities. CDFW has the authority to issue permits for the take or possession of wildlife, including mammals; birds, nests, and eggs; reptiles, amphibians, fish, plants; and invertebrates (Fish &amp; G. Code, §§ 1002, 1002.5, 1003).</p>   | <p>Prior to Project Activities</p> | <p>Project Proponent</p>                     |
| <p><b>Mitigation Measure #14: Negatively Impacted SSC</b></p> <p>If any SSC are harmed during relocation or a dead or injured animal is found, work in the immediate area shall stop immediately, the qualified biologist shall be notified, and dead or injured wildlife documented immediately. A formal report shall be sent to CDFW within three calendar days of the incident or finding. The report shall include the date, time of the finding or incident (if known), and location of the carcass or injured animal and circumstances of its death or injury (if</p>   | <p>During Project Activities</p>   | <p>Project Proponent/Qualified Biologist</p> |

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| <b>Mitigation Measure</b>  | <b>Timing</b> | <b>Responsible Party</b> |
|--|---------------|--------------------------|
| known). Work in the immediate area may only resume once the proper notifications have been made and additional mitigation measures have been identified to prevent additional injury or death. |               |                          |