

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
CALIFORNIA ENDANGERED SPECIES ACT
INCIDENTAL TAKE PERMIT
NO. 2081-2020-029-02**

**Plumas County Department of Public Works
Spanish Ranch Road Bridge Replacement**

CEQA FINDINGS

INTRODUCTION:

The California Department of Fish and Wildlife (CDFW) has prepared these findings to document its compliance with the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 *et seq.*). CDFW is a responsible agency under CEQA with respect to the Spanish Ranch Road Bridge Replacement Project (Project) because of its permitting authority under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 *et seq.*). (See generally Pub. Resources Code, §§ 21002.1, subd. (d), 21069; CEQA Guidelines, § 15381; see also Cal. Code Regs., tit. 14, § 783.3, subd. (a).)¹ CDFW makes these findings under CEQA as part of its discretionary decision to authorize Plumas County Department of Public Works (Permittee) to incidentally take Sierra Nevada yellow-legged frog (*Rana sierrae*) and foothill yellow-legged frog (*Rana boylei*) Feather River clade (hereafter, collectively referred to as Covered Species) during implementation of the Project. (See generally Fish & G. Code, § 2081, subd. (b); Cal. Code Regs., tit. 14, § 783.4.) The Sierra Nevada yellow-legged frog and foothill yellow-legged frog are designated as threatened species under CESA. (Cal. Code Regs., tit. 14, § 670.5, subd. (b)(3)(H) and (b)(3)(J), respectively).

CDFW is a responsible agency under CEQA with respect to the Project because of prior environmental review and approval of the Project by the lead agency, Plumas County Planning Department of Public Works (Plumas County Planning Department). (See generally Pub. Resources Code, § 21067; CEQA Guidelines, § 15367.) Plumas County Planning Department analyzed the environmental impacts associated with implementation of the Project in a Mitigated Negative Declaration Spanish Ranch Road Bridge (No. 9C-0039) Replacement Project (SCH No. 2013092039) and approved the Project on October 31, 2013. In so doing, Plumas County Planning Department imposed various mitigation measures for impacts to the Covered Species as conditions of Project approval and concluded that Project-related impacts to the Covered Species could be substantially lessened with implementation of mitigation and avoidance measures, such that the impacts would be less than significant.

As approved by Plumas County Public Works, the Project involves the replacement of the existing 50-foot-long Spanish Ranch Road Bridge (9C-0039) over Spanish Creek with a new 114-foot-long, and 29-foot-wide bridge with metal tube railings mounted on the curbs. The new bridge approaches will be approximately 125 feet in length and will confirm back

¹ The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with Section 15000.

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to the existing roadway. The Project site is within the range of the Covered Species and is known to support individuals of the Covered Species. Development of the Project site will result in the permanent loss of 0.01-acres of habitat for the Covered Species and take of the Covered Species as defined by Fish and Game Code is expected. (Fish & G. Code, § 86.) These impacts fall within CDFW's permitting jurisdiction under CESA. (*Id.*, §§ 2080, 2081, subd. (b).)

As a responsible agency, CDFW's CEQA obligations are more limited than those of the lead agency, in that CDFW is responsible for considering only the effects of those activities involved in the Project which it is required by law to carry out or approve. Thus, while CDFW must consider the environmental effects of the Project as set forth in the Plumas County Public Works' Mitigated Negative Declaration, CDFW has responsibility to mitigate or avoid only the direct or indirect environmental effects of those parts of the Project which it decides to carry out, finance, or approve. (Pub. Resources Code, § 21002.1, subd. (d); CEQA Guidelines, §§ 15041, subd. (b), 15096, subds. (f)-(g).) Accordingly, because CDFW's exercise of discretion is limited to issuance of an incidental take permit (ITP) for the Project, CDFW is responsible for considering only the environmental effects that fall within its permitting authority under CESA. (See generally *San Diego Navy Broadway Complex Coalition v. City of San Diego* (2010) 185 Cal.App.4th 924, 935-941.) Indeed, with respect to all other effects associated with implementation of the Project, CDFW is bound by the legal presumption that the Mitigated Negative Declaration fully complies with CEQA. (Pub. Resources Code, § 21167.3; *City of Redding v. Shasta County Local Agency Formation Commission* (1989) 209 Cal.App.3d 1169, 1178-1181; see also CEQA Guidelines, § 15096, subd. (e); Pub. Resources Code, § 21167.2; *Laurel Heights Improvement Association v. Regents of the University of California* (1993) 6 Cal.4th 1112, 1130.)

FINDINGS:

CDFW has considered the Mitigated Negative Declaration adopted by Plumas County Public Works as the lead agency for the Project.

CDFW finds that the mitigation measures imposed as conditions of Project approval by Plumas County Public Works, along with the mitigation measures and Conditions of Approval set forth in CDFW's ITP for the Project, will ensure that all Project-related impacts on the Covered Species are mitigated to below a level of significance under CEQA.

CDFW finds that issuance of the ITP will not result in any previously undisclosed potentially significant effects on the environment or a substantial increase in the severity of any potentially significant environmental effects previously disclosed by the lead agency. Furthermore, to the extent the potential for such effects exists, CDFW finds adherence to and implementation of the conditions of Project approval adopted by the lead agency, as well as adherence to and implementation of the Conditions of Approval

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imposed by CDFW through the issuance of the ITP, will avoid or reduce such potential effects to below a level of significance.

The following measures and others set forth in CDFW's ITP for the Project will avoid to the extent feasible and mitigate to below a level of significance all Project-related impacts on the Covered Species:

- A. Designated Biologist: Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a biological monitor (Designated Biologist) at least three (3) calendar days before starting Covered Activities. Permittee shall ensure the Designated Biologist is knowledgeable in the biology, has the valid handling authorizations for the Covered Species, is experienced in the natural history, and collecting and handling of the Covered Species. The Designated Biologist shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist in writing before starting Covered Activities and shall also obtain approval in advance in writing if the Designated Biologist must be changed.
- B. Education Program: Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once every 30 calendar days for permanent employees that will be conducting work in the Project Area.
- C. Covered Species Checks: Before the start of work each morning, the Designated Biologist shall check for the Covered Species individuals under all vehicles, equipment, materials, or otherwise suitable locations for the Covered Species to hide. Workers shall inspect under vehicles and equipment for the Covered Species before the vehicles and equipment are moved.
- D. Notification of Non-compliance: The Designated Representative shall immediately notify CDFW in writing if it determines that the Permittee is not in compliance with

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any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall report any non-compliance with this ITP to CDFW within 24 hours.

- E. Avoid Covered Species Entrapment: Permittee shall ensure all excavated locations, steep-walled holes, or trenches more than six (6) inches deep are completely covered or one or more escape ramps of earth fill or wooden planks are installed at the end of each workday or 30 minutes prior to sunset, whichever occurs first. All steep-walled holes or trenches will be inspected by the Designated Biologist each morning to ensure that Covered Species, or other wildlife, has not become entrapped. All construction pipes, culverts, similar structures, construction equipment, and construction debris left overnight will be inspected for Covered Species by the Designated Biologist prior to being moved.

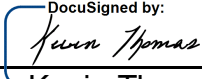
- F. Covered Species Relocation Plan: Permittee shall ensure the Designated Biologist prepares a Relocation Plan (Relocation Plan) for all life stages of the Covered Species. The Relocation Plan shall include the name(s) of the Designated Biologist who will relocate the Covered Species; pre-construction habitat assessment methodology; identification of refuge areas, capture, handling, and relocation methods; a map and description of the relocation area(s) for captured Covered Species, including relative location, quality of habitat, distance to aquatic habitat, and potential barriers for movement; written permission from the landowner to use their land as a relocation site; and identification of a CDFW-approved wildlife rehabilitation center or veterinary facility that routinely evaluates or treats Covered Species. Permittee shall submit the Relocation Plan to CDFW at least 3 days prior to the beginning of any Covered Activities.

CDFW finds that the Mitigation Monitoring and Reporting Program in Attachment 1 of CDFW's ITP for the Project will ensure compliance with mitigation measures by requiring the Permittee to monitor and report progress in implementing those measures for review by CDFW staff.

The Mitigation Monitoring and Reporting Program is adopted.

The Project is approved.

DATE: 8/13/2020 _____

By:  _____
Kevin Thomas, Regional Manager
North Central Region
DEPARTMENT OF FISH AND WILDLIFE