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September 6, 2024

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California Department of Transportation
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SUBJECT: ALBION RIVER BRIDGE PROJECT - STATE CLEARINGHOUSE NO: 2015042016

Dear Liza Walker:

On July 8, 2024, the California Department of Fish and Wildlife (CDFW) received a Draft Environmental Impact Report (DEIR) from the California Department of Transportation (Caltrans; Lead Agency) for the Albion River Bridge Project (Project), Mendocino County, California. CDFW understands the Lead Agency will accept comments on the Project through September 9, 2024.

As a Trustee Agency for the State's fish and wildlife resources, CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and the habitat necessary to sustain their populations. As a Responsible Agency, CDFW administers the California Endangered Species Act (CESA) and other provisions of the Fish and Game Code (Fish & G. Code) that conserve the State's fish and wildlife public trust resources. CDFW offers the following comments and recommendations in our role as Trustee and Responsible Agency pursuant to the California Environmental Quality Act (CEQA; California Public Resource Code, § 21000 *et seq.*). CDFW participates in the regulatory process in its roles as Trustee and Responsible Agency to minimize Project impacts and avoid potentially significant environmental impacts by recommending avoidance and minimization measures. These comments are intended to reduce the Project's impacts on public trust resources.

Project Description

As stated in the DEIR, Caltrans proposes to replace the existing Albion River Bridge (Caltrans Bridge #10-0136), which is located on State Route 1 (SR 1) in the community of Albion, Mendocino County, California. The Project limits on SR 1 are from post mile (PM) 43.3 to PM 44.2. The DEIR states the purpose of the Project is to provide a bridge across the Albion River that meets modern seismic safety standards, provides safe and reliable multimodal access, and minimizes ongoing maintenance costs. The Project considers three Build Alternatives that would replace the bridge west of the existing bridge alignment, east of the existing bridge alignment, and along the same alignment of the existing bridge. These Build Alternatives include arch and non-arch design options. The Project also considers a No Build alternative.

The DEIR contains many Standard Measures and Best Management Practices to avoid or minimize impacts to biological and other resources. Additionally, as summarized in DEIR Appendix D, the Project includes eight biological resources mitigation measures for potentially significant impacts to special status species and habitats.

Environmental Setting and Special Status Species

The Project is located just east of the Pacific Ocean within the Albion River estuary. The Project's biological study area contains potential habitat for at least 63 special status species, including 41 plants, three invertebrates, three amphibians and reptiles, five fishes, six birds, and five mammals (DEIR Appendix G). Additionally, the study area contains nine Sensitive Natural Communities and 14 acres of Waters of the State[1] (DEIR tables 48 and 52).

[1] "Waters of the state" means any surface water or groundwater, including saline waters, within the boundaries of the state (Cal. Wat. Code, § 13050).

CDFW Consultation History

CDFW consultation for this Project began in 2015, when Caltrans released a Notice of Preparation (NOP) for the DEIR. On April 30, 2015, CDFW provided comments on the Project's NOP. CDFW appreciates the level of communication and coordination by the Lead Agency. While many Project alternatives, potential Project impacts, and potential mitigation for those impacts have been discussed since 2015, the Final Environmental Impact Report (FEIR) should address CDFW's remaining comments.

CDFW looks forward to continued communication and coordination by the Lead Agency regarding specific Project components, impacts, and proposed mitigation strategies.

CDFW Permitting

Based on information provided in the DEIR, the proposed Project will have substantial impacts to the bed, bank and channel of the Albion River and other streams in the Project area. Caltrans should notify CDFW for a Lake or Streambed Alteration (LSA) Agreement. Based on information provided in the DEIR, CDFW agrees with the Lead Agency that the Project, as proposed, may result in take[2] of coho salmon (*Oncorhynchus kisutch*) and require CESA take authorization from CDFW. CDFW looks forward to continuing coordination with the Lead Agency to ensure that mitigation approaches will be compatible with state permitting requirements.

[2] "Take" means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill (Fish and Game Code 86).

CDFW Comments on the DEIR:

1. **Project Alternatives**

   The DEIR provides five design alternatives (1A, 1B, 2A, 2B, 3A) and a no-build alternative. All design alternatives involve temporary trestle construction (installation of 14-24 inch steel H pile or steel pipe using pile driving hammers). Two of the alternatives (1A & 3A) involve permanent installation of bridge piers within the channel (below the ordinary mean high-water mark). These two alternatives are expected to have the greatest hydroacoustic impacts to listed species. Additionally, CDFW is concerned that installing permanent piles within the channel could impact eelgrass (*Zostera marina*) and surfgrass (*Phyllospadix* spp.) habitats from scouring or other changes to channel hydrodynamics.

   To minimize impacts to sensitive species and habitats within the aquatic environment, CDFW recommends the FEIR select a design alternative that does not involve permanent installation of piers within the Albion River channel **(Recommendation 1)**.

2. **CEQA Mitigation**

   The DEIR's Environmental Commitment Record (ECR) appears to serve the purpose of a mitigation monitoring or reporting program/plan (CEQA Guidelines 15097), with additional commitments for impacts the Lead Agency has determined are less than significant without mitigation (i.e. "standard measures," as described on the DEIR). For ECR items that are mitigating for potentially significant impacts, those mitigation measures should include specific details on implementation unless the DEIR explains why it's impractical or infeasible to provide those details at this time. If specific details are not included, the mitigation measures should include specific performance standards the mitigation will achieve (CEQA Guidelines 15126.4(a)(1)(B)). Additionally, the impacts associated with mitigation implementation should be addressed when considering the Project's "whole of the action" (CEQA Guidelines 15003(h), 15063(a)(1), 15378(a), and 15126.4 (a)(1)(D)).

Therefore, the FEIR should include specific details regarding mitigation measure performance standards, success criteria, and potential impacts associated with mitigation implementation **(Recommendation 2)**.

3. Mitigation Ratios

For mitigation measures that contain mitigation ratios (e.g., AMM-BR-1 for Sensitive Natural Communities (SNC) and AMM-BR-9 for Wetlands/Waters and riparian), mitigation ratios of 1:1 would only be appropriate if impacts are restored to baseline conditions in less than one year from the impact.

For situations where baseline cannot be restored in less than one year, a higher mitigation ratio should be used to compensate for temporal loss of habitat function **(Recommendation 3)**.

4. Impacts to Rare Plant Species

CDFW recommends the Project result in no-net-loss of California Rare Plant Rank 1 and 2 taxa (rare, threatened, or endangered in California; CDFW 2024). If pre-Project conditions cannot be restored within one year, a mitigation ratio greater than 1:1 should occur to account for temporal losses **(Recommendation 4)**.

5. The Mendocino Coast Mitigation Bank

The Mendocino Coast Mitigation Bank is not creating credits with CDFW's mitigation bank program. These bank credits are not eligible for mitigating impacts within the purview of CDFW's permitting authority (e.g., Streambed Alternation and the California Endangered Species Act).

Therefore, the Project should propose mitigation for impacts within CDFW's permitting authority that do not rely on the Mendocino Coast Mitigation Bank **(Recommendation 5)**.

6. Seasonal Work Window for Coho Take Avoidance

The DEIR includes an in-water work window of June 15 - October 15. Coho salmon outmigrants are expected to peak in May but could outmigrate later in high water years, potentially well into June. To minimize impacts to coho salmon outmigrants, CDFW recommends a revised in-water work window of July 1 - October 15 **(Recommendation 6)**.

7. Early Coordination for CESA Take Authorization

The DEIR states that Caltrans will coordinate with CDFW to obtain either a Fish and Game Code section 2080.1 Consistency Determination or section 2081 Incidental Take Permit for potential effects to CESA-listed coho salmon. CDFW recommends Caltrans engage in early consultation to determine Project impacts to coho salmon and adequate mitigation. Any requests to conduct in-water work outside of the recommended work window could result in increased impacts to listed salmonids. If Caltrans anticipates in-water work window extension requests, these should be addressed early on to evaluate increased impacts to listed salmonids and mitigation options.

Therefore, CDFW recommends Caltrans engage in early consultation to determine Project impacts to coho salmon and adequate mitigation **(Recommendation 7)**.

8. Hydroacoustic Impacts

Hydroacoustic impacts from pile driving and other construction activities have the potential to impact salmonids and other marine and aquatic species that inhabit the Albion River estuary and use it as nursery habitat, such as rockfishes (*Sebastes* spp.), surfperches (Embiotocidae), English sole (*Parophrys vetulus*), kelp greenling (*Hexagrammos decagrammus*), saddleback gunnel (*Pholis ornata*), red Irish lord (*Hemilepidotus hemilepidotus*), and bay pipefish (*Syngnathus leptorhynchus*). The FEIR should describe in further detail the methods and amount of pile driving (e.g., when impact vs. vibratory driving will be used and estimated

amounts of each, i.e., number of strikes/minutes) as well as mitigation measures to avoid injurious sound pressure levels to fish.

CDFW recommends that a vibratory hammer is used for pile driving to the greatest extent possible to minimize hydroacoustic impacts. CDFW also recommends that sound attenuation, sound dampening methods, and a "soft start" procedure be required during pile driving activities. The DEIR discusses bubble curtains and isolation casings as sound attenuation systems that may be implemented. Additionally, sound dampening devices such as wooden blocks, pile cushions, and/or caps should be used during impact pile driving.

At the commencement of pile driving activities each day, or after pile driving has been paused for 30 minutes or more, a "soft start" procedure (i.e., ramp-up period) should be implemented to allow marine species that may be present to vacate the area before injury occurs. For impact pile driving, the "soft start" should consist of an initial set of three strikes at 40 percent energy, followed by one minute of inactivity, followed by two additional three-strike sets, before starting full-energy, continuous pile driving. For vibratory pile driving, the "soft start" should consist of a gradual increase of intensity to full-intensity driving **(Recommendation 8)**.

9. Description of Temporary and Permanent Piles

CDFW recommends the FEIR include a table that summarizes the number of piles, types of piles, seasonal timing and number of pile driving days, and the anticipated peak and accumulated sound exposure level (SEL) for the Lead Agency's preferred alternative. It should also include the number of years and days per year of in-water work, including the amount of time temporary piles will remain in the channel **(Recommendation 9)**.

10. Temporary Creek Diversion Plan

The DEIR states that contractors would be required to submit a Temporary Creek Diversion System Plan to Caltrans prior to any creek diversions. The

FEIR should provide more information and location details for any potential stream diversions that are anticipated to occur for this Project **(Recommendation 10)**.

11. Eelgrass Habitat

The DEIR provides estimated temporary and permanent impacts to eelgrass habitat for each design alternative, attributing temporary impacts to installation of temporary piers for work trestles and shading. However, the California Eelgrass Mitigation Policy (CEMP; NMFS 2014) defines localized temporary impacts as impacts of less than 100 square meters and fully restored within one year of the initial impact. As work trestles will remain within the channel for 3 to 5 years, it would not be possible for the impacted areas to be fully restored within one year and, as such, these impacts cannot be considered temporary in nature for eelgrass mitigation purposes. In accordance with the CEMP, any impacts identified by the post-construction survey(s) will require compensatory mitigation at a 1.2:1 ratio. "Natural" restoration of these areas, as mentioned in Mitigation Measure AMM-BR-8, is likely not an option for this Project. CDFW recommends removing references to "temporary" eelgrass impacts and natural restoration of impacted areas in the FEIR, unless there will be actual temporary impacts as defined by the CEMP.

CDFW appreciates the addition of reference to the CEMP, pre- and post-construction surveys, and a seagrass mitigation and monitoring plan to AMM-BR-8. The mitigation and monitoring plan should adhere to the CEMP and be developed in advance of or concurrent with Project permitting in consultation with CDFW, the National Marine Fisheries Service (NMFS), and other relevant agencies **(Recommendation 11)**. The mitigation and monitoring plan should include, but not be limited to, the following:

- Minimization of pile driving or placement of any construction equipment within eelgrass and surfgrass habitat to the maximum extent feasible (the CEMP defines eelgrass habitat as "areas of vegetated eelgrass cover...bounded by a 5 m wide perimeter of unvegetated area").

- Evaluation of the multi-year temporal loss of seagrass habitat caused by the Project.
- Pre-and post-construction surveys following the guidelines outlined in the CEMP:
    - Eelgrass surveys should include 1) spatial distribution, 2) areal extent, 3) percentage of vegetated cover, and 4) the turion (shoot) density.
    - All mapping efforts should be completed during the active growth period for eelgrass (May through September for northern California) and should be considered valid for a period of 60 days to ensure significant changes in eelgrass distribution and density do not occur between survey date and the Project start date. However, when the end of the 60-day validity period falls outside of the region-specific active growth period, the survey could be considered valid until the beginning of the next active growth period.
    - After construction, a post-action survey of the eelgrass habitat in the action area and at an appropriate reference site(s) should be completed within 30 days of completion of construction, or within the first 30 days of the next active growth period following completion of construction that occurs outside of the active growth period.
    - CDFW recommends annual monitoring surveys, including several years post-Project, to capture any changes in eelgrass and surfgrass habitat from scouring, sedimentation, and/or changes in local hydrodynamics caused by the Project.
- Compensatory mitigation at a minimum of a 1.2:1 ratio.
    - In northern California, a starting ratio of 4.82:1 is recommended to ensure mitigation success. That is, for each square meter of impacted eelgrass habitat, 4.82 square meters of new habitat with suitable conditions to support eelgrass should be planted with a comparable bottom coverage and eelgrass density as impacted habitat.
    - A reduced mitigation ratio may be considered if eelgrass is successfully transplanted well in advance of impacts.

- Mitigation monitoring should be completed for a minimum period of five years at the mitigation site and at appropriate reference site(s) to ensure success.

12. Harbor Seals

CDFW is concerned the DEIR does not adequately analyze or mitigate for potentially significant effects to Pacific harbor seals (*Phoca vitulina richardii*). CDFW asserts the Project may have a substantial adverse effect on, interfere substantially with the movement of, and/or impede the use of nursery sites of harbor seals in the area (DEIR Section 4.3.4, checklist items (a) and (d)). As described in the DEIR, harbor seals regularly transit through the Project site and utilize surrounding areas to feed and rest, including multiple haul-outs located nearby. The DEIR also states that frequent sightings of females with pups have been reported during late spring and early summer. Both in-air and underwater noise have the potential to impact harbor seals via direct injury, behavioral disruption, and exclusion from important habitat. The DEIR states that "in-air acoustic thresholds for harbor seals…would likely be exceeded with implementation of vibratory and impact pile driving and demolition" and suggests that the Permanent Threshold Shift (Level A) onset (i.e., permanent hearing loss) thresholds could likely be exceeded for harbor seals during vibratory pile driving since harbor seals frequent the Project area.

The DEIR concludes the Project's impacts on marine mammals, in general, will be "Less Than Significant with Mitigation Incorporated" (DEIR Section 4.3.4, checklist item (a)) and includes development of a Marine Animal Monitoring Plan (MAMP) in its Environmental Commitments Record (AMM-BR-6) to reduce impacts to marine mammals. However, Caltrans has excluded harbor seals from this mitigation measure due to "the abundance and frequent presence of harbor seals in the vicinity of the cove and river", because stopping work for harbor seals would be infeasible for the construction schedule. The DEIR then appears to dismiss any potentially significant impacts to harbor seal because it is a "common species" and assumes population-level effects will not occur, without providing evidence of this assumption.

CDFW disagrees with the DEIR's conclusion that harbor seals would not be significantly impacted by the Project. The DEIR determines that impacts to marine mammals from the Project will be "Less than Significant with Mitigation Incorporated;" however, impacts to harbor seals are not mitigated for. While harbor seals may be a common species, they are still protected under the Marine Mammal Protection Act (MMPA) from harassment, hunting, capturing or killing. Any such impacts to harbor seals could be considered significant. The Project's in-water work window would overlap with the Northern California pupping season, which extends through June (NOAA Fisheries 2022; this is incorrectly stated in the DEIR as April through May). For at least 3 to 5 years, harbor seals would be exposed to high levels of underwater sound during four months of the year and in-air noise as well as some underwater noise all year long. While harbor seals may be able to flee before injury occurs, CDFW expects behavioral changes and habitat exclusion to occur for any design alternative. For the reasons outlined above, CDFW asserts that, without mitigation, the Project could have significant impacts on harbor seals via direct substantial adverse effects (Section 4.3.4 (a)) and/or substantial interference with/impedance of movement or use of nursery sites by harbor seals (Section 4.3.4 (d)).

The FEIR should analyze the above impacts to harbor seals in greater detail. Additional evaluation of harbor seals' (including pups') use of the Project area is recommended. CDFW recommends the FEIR include harbor seals in the MAMP. If work stoppage is infeasible, other mitigation, such as an adaptive management plan, should be developed in coordination with CDFW and NMFS. Caltrans should consult with NMFS regarding incidental take authorization of harbor seals under the MMPA **(Recommendation 12)**.

13. Soil Contamination

The DEIR states that a preliminary site investigation performed in December 2014 determined the chemical preservative treatment in the existing bridge is leaching into soil immediately adjacent to the bridge foundations including contaminants of potential concern (COPC) consisting of arsenic, chromium, hexavalent chromium, and lead. The DEIR also states the COPC present a potential risk to the adjacent Albion River sediment and porewater. Given that the last site investigation was completed over 10 years ago, CDFW recommends the FEIR require a pre-construction site investigation to evaluate current contamination in the Project area and that a soil contamination plan be followed during bridge demolition to ensure contaminated soil is properly managed and does not impact the surrounding environment, including the Albion River **(Recommendation 13)**.

14. Impacts to Public's Fish and Wildlife Resource Recreation

It appears the Project will result in closures and restrictions of the river, beach, and access to other natural resources that are used and enjoyed by the public. While AMM-PR-1 will provide public outreach regarding construction activities and planned closures, the public's recreation, as well as use and enjoyment, related to this unique location of California's diverse fish, wildlife, plant resources and habitats will be impacted for multiple years. Uses that could be impacted include, but may not be limited to, fishing, harvest of aquatic species, wildlife viewing, research, and cultural gathering. The FEIR should consider additional ways the Project can mitigate these impacts. Examples include increasing or enhancing public access or experience value (e.g., interpretive signage) for fish and wildlife recreation **(Recommendation 14)**.

Summary of Recommendations

1. To minimize impacts to sensitive species and habitats within the aquatic environment, CDFW recommends the FEIR select a design alternative that does not involve permanent installation of piers within the Albion River channel.
2. The FEIR should include specific details regarding mitigation measure

performance standards, success criteria, and potential impacts associated with mitigation implementation.

3. For SNC and aquatic or riparian impacts where baseline cannot be restored in less than one year, a higher mitigation ratio should be used to compensate for temporal loss of habitat function.
4. CDFW recommends the Project result in no-net-loss of California Rare Plant Rank 1 and 2 taxa (rare, threatened, or endangered in California). If pre-Project conditions cannot be restored within one year, a mitigation ratio greater than 1:1 should occur to account for temporal losses.
5. The FEIR should propose mitigation for impacts within CDFW's permitting authority that do not rely on the Mendocino Coast Mitigation Bank.
6. To minimize impacts to coho salmon outmigrants, CDFW recommends a revised in-water work window of July 1 - October 15.
7. CDFW recommends Caltrans engage in early consultation to determine Project impacts to coho salmon and adequacy of mitigation.
8. The FEIR should describe in further detail the methods and amount of pile driving and mitigation measures to avoid injurious sound pressure levels to fish. CDFW recommends that a vibratory hammer is used for pile driving to the greatest extent possible. CDFW also recommends that sound attenuation (e.g., bubble curtain), sound dampening methods (e.g., wooden block), and a "soft start" procedure be required during pile driving activities.
9. The FEIR should include a table that summarizes the number of piles, types of piles, seasonal timing and number of pile driving days, and the anticipated peak and accumulated SEL for the Lead Agency's preferred alternative. It should also include the number of years and days per year of in-water work.
10. The FEIR should provide more information and location details for any potential stream diversions that are anticipated to occur for this Project.
11. CDFW recommends removing references to "temporary" eelgrass impacts and natural restoration as mitigation in the FEIR. The seagrass mitigation and monitoring plan should adhere to the CEMP and be developed in advance of, or concurrent with, Project permitting in consultation with CDFW, NMFS, and other relevant agencies.
12. The FEIR should analyze impacts to harbor seal in greater detail. Additional evaluation of harbor seals' use of the Project area is recommended.

CDFW recommends the FEIR include harbor seals in the MAMP. If work stoppage is infeasible, other mitigation, such as an adaptive management plan, should be developed in coordination with CDFW and NMFS. Caltrans should consult with NMFS regarding incidental take authorization of harbor seals under the MMPA.

13. The FEIR should require a pre-construction site investigation to evaluate current contamination in the Project area and that a soil contamination plan be followed during bridge demolition to ensure contaminated soil is properly managed and does not impact the surrounding environment, including the Albion River.

14. The FEIR should consider additional ways the Project can mitigate impacts to public use and enjoyment. Examples include increasing or enhancing public access or experience value (e.g., interpretive signage) for fish and wildlife enjoyment.

Thank you for the opportunity to comment on this DEIR. CDFW staff are available to meet with you to consult with or address the contents of this letter in greater depth. If you have questions on this matter or would like to discuss these recommendations, please contact Senior Environmental Scientist Specialist Greg O'Connell at Gregory.OConnell@Wildlife.ca.gov.

Sincerely,

Bartlett, Tina@Wildlife

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Citations

CDFW. 2024. Special Vascular Plants, Bryophytes, and Lichens List, July 2024. Biogeographic Data Branch, California Department of Fish and Wildlife. Retrieved August 6, 2024, from https://wildlife.ca.gov/Data/CNDDB/Plants-and-Animals.

[NMFS] National Marine Fisheries Service. 2014. California Eelgrass Mitigation Policy and Implementing Guidelines. Retrieved August 6, 2024, from https://media.fisheries.noaa.gov/dam-migration/cemp_oct_2014_final.pdf.

NOAA Fisheries. 2022. Harbor Seals Pupping Timeframes Along the West Coast. NOAA Fisheries West Coast Regional Office. Retrieved August 6, 2024, from https://www.fisheries.noaa.gov/resource/map/harbor-seals-pupping-timeframes-along-west-coast.