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GAVIN NEWSOM, Governor
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February 2, 2026

Stefan Galvez-Albadia
California High-Speed Rail Authority
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Sacramento, CA 95814
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Subject: Draft Environmental Impact Report/Environmental Impact Study for the California High-Speed Rail Los Angeles to Anaheim Project Section, SCH No. 2007031067, Los Angeles and Orange Counties, CA

Dear Stefan Galvez-Albadia:

The California Department of Fish and Wildlife (CDFW) reviewed the Draft Environmental Impact Report/Environmental Impact Study (EIR/EIS) from California High-Speed Rail Authority (Authority) for the California High-Speed Rail Los Angeles to Anaheim Project Section (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines[1].

Thank you for the opportunity to provide comments and recommendations regarding Project activities that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to comment on 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.

[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.

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[2] 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.

PROJECT DESCRIPTION SUMMARY

Proponent: California High-Speed Rail Authority

Objective: The High-Speed Rail (HSR) system would provide a reliable high-speed electrified train system linking the San Francisco Bay Area and Central Valley to Southern California. The 30-mile-long segment from Los Angeles to Anaheim would connect the Burbank to Los Angeles Project Section. This segment is included in Phase 1, which would connect San Francisco to Los Angeles and Anaheim via the Pacheco Pass and the Central Valley, and the Los Angeles to San Diego corridor when Phase 2 begins. The Project would construct, maintain, and operate an electrified, high-speed train system connecting the Los Angeles Union Station and the Anaheim Regional Transit Intermodal Center. The HSR system would provide travel between highly urbanized centers and connectivity to major areas, which would alleviate travel demand on highways and airports as California's population increases.

The Project includes construction, improvement, upgrade, operation, and maintenance of new and existing facilities and infrastructure necessary to support the HSR system. This includes new and upgraded track, overhead contact systems, maintenance and traction power facilities, grade separations, drainage improvements, communications towers, security fencing, and modifications to passenger train stations. The only difference between the two presented Build Alternatives is the placement of a Light Maintenance Facility, which is a facility where trains are inspected, cleaned, serviced, and stored.

Location: The Project spans the City of Los Angeles at Los Angeles Union Station to Anaheim at the Anaheim Regional Transportation Intermodal Center, using already exiting railways by expanding them for HSR use. The Project extends through a mostly urban and developed environment, having contact with natural areas where the existing track follows river banks. Both Build Alternatives will utilize the same railway path from beginning to end. Major water crossings include the Los Angeles River, Rio Hondo (and

[2] "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."

basins), San Gabriel River, North Fork Coyote Creek, La Mirada Creek, Coyote Creek, Brea Creek, Fullerton Creek, and Carbon Creek.

Timeframe: Project activities are proposed to occur January 2031 to September 2037.

Biological Setting: Within the Supplemental Resource Study Area (RSA; Project footprint with a three-mile buffer), over 95 percent of the land has been developed. Other RSAs defined within the EIR/EIS include the Botanical RSA (Project footprint with a 100-foot buffer), the Aquatic RSA (Project footprint with a 250-foot buffer), and the Wildlife RSA (Project footprint with 1,000-foot buffer). Vegetation communities that were identified within the Wildlife RSA include eucalyptus (*Eucalyptus* spp.) – tree of heaven (*Ailanthus altissima*) – black locust (*Robinia pseudoacacia*) woodland seminatural alliance; wild oats (*Avena* spp.) and annual brome (*Bromus* spp.) grasslands seminatural alliance; hardstem (*Schoenoplectus acutus*) and California bulrush marsh herbaceous alliance (State Rank (S) 3; S4); mulefat (*Baccharis salicifolia*) thickets shrubland alliance (S4); cattail (*Typha* spp.) marshes herbaceous alliance (S5); Goodding's willow – red willow riparian woodland and forest (S3); duckweed (*Lemna* spp., *Spirodela* spp., *Wolffia* spp., *Wolffiella* spp.) blooms and relatives' provisional herbaceous alliance (S4); and salt grass flats herbaceous alliance (S4). Permanent, temporary, and shading impacts to each vegetation community are proposed be less than one acre.

Field surveys for special status plants, special status wildlife, special status natural communities, aquatic resources, and habitats of concern were completed between May 2007 and April 2017. Site reconnaissance surveys were conducted to assess habitat for wildlife and plants from the public right-of-way and where access was granted. Suitable habitat for special-status plants and wildlife was mapped and field verified during reconnaissance field surveys. Bat roost surveys were conducted in accessible areas in 2010. No other wildlife surveys (including protocol surveys) were conducted.

Sensitive species that are of potential concern for the Project include, but are not limited to western burrowing owl (*Athene cunicularia hypugaea*; CESA listed-candidate endangered), western mastiff bat (*Eumops perotis californicus*; California Species of Special Concern (SSC)), pallid bat (*Antrozous pallidus*; SSC), Mexican long-tongued bat (*Choeronycteris mexicana*; SSC), Townsend's big-eared bat (*Corynorhinus townsendii*; SSC), pocketed free-tailed bat (*Nyctinomops femorosaccus*; SCC), western red bat (*Lasiurus blossevillii*; SSC), western yellow bat (*Lasiurus xanthinus*; SSC), big free-tailed bat (*Nyctinomops macrotis*; SSC), and white-tailed kite (*Elanus leucurus*; CDFW Fully Protected).

The EIR/EIS includes a variety of mitigation measures. They consist of avoidance and minimization actions specific to aquatic resources, nesting birds and raptors, special status plants and vegetation communities, western burrowing owl, wildlife movement corridors, white-tailed kite, bats, and protected trees. Additionally, the EIR/EIS includes numerous general construction mitigation measures.

Project History: The California HSR System plans to provide intercity, high-speed service on more than 800 miles of track throughout California, connecting the major population centers. The Authority plans to implement the California HSR System in two phases. Phase 1 is currently underway and would connect San Franciso to Anaheim via the Pacheco Pass and the Central Valley. Phase 2 would extend the HSR system from the Central Valley to the state's capital in Sacramento and from Los Angeles to San Diego.

In February 2021, CDFW provided the Authority with comments on an administrative draft EIR/EIS. CDFW's primary concerns were the Project's impact on unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*; Endangered Species Act (ESA) endangered; CESA endangered; CDFW Fully Protected), wildlife connectivity, and CESA-listed species including (but not limited to) western Joshua tree (*Yucca brevifolia*; CESA Candidate), and mountain lion (*Puma concolor*) Southern California/Central Coast Evolutionarily Significant Units.

In December 2022, CDFW provided the Authority with comments on the Palmdale to Burbank Section Draft EIR/EIS. Comments consisted of potential impacts to unarmored threespine stickleback, mountain lion and wildlife connectivity, aquatic resources, western Joshua tree, Crotch's bumble bee (*Bombus crotchii*; CESA candidate endangered), monarch butterfly (*Danaus plexippus plexippus pop. 1*; ESA proposed threatened), special status amphibian species, western pond turtle (*Actinemys pallida*; SSC), western burrowing owl, bats, and special status plants and sensitive natural communities.

Lastly, CDFW has been included in a quarterly HSR Agency Meeting.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the Authority in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Additional comments or other suggestions are also included to improve the document.

COMMENT # 1: Impacts to Western Burrowing Owl

Issue: The Project may have impacts to western burrowing owl.

Specific impact: Project construction and activities may result in injury or mortality of western burrowing owl, disrupt natural western 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 western burrowing owl.

Why impact would occur: Impacts in the form of habitat loss and degradation will occur as a result of grading and construction activities. These ground-disturbing activities may also cause direct mortality of western burrowing owl. To mitigate for impacts on western burrowing owl, the Project proposes mitigation measures BIO-MM#20, 21, and 44. However, the Project's impact has yet to be mitigated below a level of significance. BIO-MM#21 would require 600-foot no-work buffers around occupied burrowing owl burrows both during the nesting season and outside breeding season and if buffers are not feasible, western burrowing owl would be relocated citing CDFW's Staff Report on Burrowing Owl Mitigation (CDFW 2012). However, 600 feet could be an insufficient buffer from occupied burrows and adjacent foraging grounds given the types of disturbance associated with the Project. The Project is proposing a buffer that may be more suitable for low level disturbances; however, the Project could generate noise and ground vibrations more consistent with medium to high level disturbance. Furthermore, CDFW's Staff Report on Burrowing Owl Mitigation does not support relocating breeding western burrowing owls as mitigation, which is why relocating/translocating is not a measure in the Staff Report on Burrowing Owl Mitigation. BIO-MM#44 requires compensatory mitigation for loss of active western burrowing owl burrows and habitat. However, BIO-MM#44 is not specific and does not provide any performance standards suitable for successfully mitigating impacts on western burrowing owl habitat. The mitigation measure proposed in the EIR/EIS may not satisfy the CEQA standards for mitigation and may be considered deferred mitigation (CEQA Guidelines, § 15126.4).

Evidence impact may be significant: Western burrowing owl is a species designated as candidate for listing as threatened or endangered pursuant to CESA (Fish & G. Code, § 2050 et seq.). Take of any endangered, threatened, or 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). Additionally, take of individual western burrowing owl and their nests is defined by Fish and Game Code section 86 and prohibited by sections 3503, 3503.5, and 3513.

Take is defined in Fish and Game Code section 86 as "hunt, pursue, catch, capture or kill, or attempt to hunt, pursue, catch, capture or kill." 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.

Recommended Potentially Feasible Mitigation Measure(s)

CDFW requests the following recommendations and mitigation measures are incorporated into the final CEQA document:

Mitigation Measure #1: Incidental Take Permit – If an occupied burrow or western burrowing owl is found within the Project site, the Project proponent shall coordinate with CDFW and attain appropriate take authorization from CDFW (pursuant to Fish and

Game code, § 2080 et seq.). The Project proponent shall comply with the mitigation measures detailed in the take authorization issued by CDFW. The Project proponent shall provide a copy of a fully executed take authorization prior to implementing Project activities with potential to impact western burrowing owl.

Mitigation Measure #2: Conduct Protocol Surveys for Burrowing Owls – The Authority should revise BIO-MM#20 to incorporate the underlined language and omit language in strikethrough:

Prior to ground-disturbing activity, the Project Biologist will conduct protocol-level surveys for Burrowing Owl within suitable habitat in the work area and extending 500 feet from the boundary of the work area, where access is available. Surveys will be conducted in accordance with guidelines in CDFW's Staff Report on Burrowing Owl Mitigation (CDFW 2012) or CDFW's most recent guidance. Survey protocol for breeding seasonal survey states to conduct 4 survey visits: 1) at least one site visit between February 15 and April 15 and 2) a minimum of three survey visits at least three weeks apart between April 15 and July 15, with at least one visit after June 15. If no Burrowing Owls are observed and construction occurs within 14~~30~~ days of the last survey, no further action is required for Burrowing Owls. However, if no Burrowing Owls are observed and construction is delayed more than 14~~30~~ days after the last surveys, prior to ground-disturbing activities, within 14~~30~~ days prior to construction, the Project Biologist will conduct preconstruction clearance surveys for Burrowing Owl within suitable habitat in the work area and extending 500 feet from the boundary of the work area, where access is available. If no Burrowing Owls are observed, ground disturbance may occur.

Mitigation Measure #3: Implement Avoidance and Minimization Measures for Burrowing Owl – The Authority should revise BIO-MM#21 to incorporate the underlined language and omit language in strikethrough:

If o~~O~~ccupied Burrowing Owl burrows are found within the work area, ~~that would be directly affected by ground-disturbing activities~~ (if documented under BIO-MM#20), ~~will be relocated in accordance with CDFW's Staff Report on Burrowing Owl Mitigation (CDFG 2012), which will include the preparation of~~ a Burrowing Owl Exclusion Plan, which will be approved by CDFW, will be prepared. The Authority shall obtain an Incidental Take Permit from CDFW for impacts to Burrowing Owl. ~~To the extent feasible,~~ T~~t~~he Project Biologist will establish no-work buffers of 1650 feet around occupied Burrowing Owl burrows in the work area. Work shall not resume in this area unless the Project Biologist determines the burrow is inactive and concurrence from CDFW has been granted. Reductions in the nest buffer distance may be appropriate depending on ambient levels of human activity, screening vegetation, or possibly other factors. ~~From April 1 through October 15, the no-work buffer will be at least 600 feet, and from October 16 through March 31, the no-work buffer will be at least 165 feet. If the no-work buffer is not feasible and occupied burrows will be relocated during the nesting season, relocation will occur either before the birds have begun egg-laying and incubation or~~

~~after the Project Biologist has determined that the juveniles from the occupied burrows are foraging independently and are capable of independent survival.~~

Recommendation #1: Provide Compensatory Mitigation for Loss of Active Burrowing Owl Burrows and Habitat - CDFW recommends the Authority revise mitigation measure BIO-MM#44 to provide a specific mitigation measure addressing compensatory mitigation for western burrowing owl habitat. Mitigation should be specific, provide performance standards, and action(s) to achieve those performance standards. The Authority should provide criteria for selecting mitigation lands appropriate for western burrowing owl; mitigation land performance criteria; a plan to monitor success of mitigation; and contingency measures if mitigation does not meet performance criteria. The mitigation land should also provide equivalent or greater habitat value than that of the Project area. The Project proponent should protect replacement habitat in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands pursuant to Government Code § 65967(c). Recordation of the conservation easement should occur prior to commencement of Project activities. An appropriate endowment should also be provided for the long-term monitoring and management of mitigation lands.

COMMENT # 2: Impacts on Bats

Issue: The Project may have a significant impact on special status bat species.

Specific impact: Potential direct impacts include Project construction on structures or trees that may provide roosting habitat and therefore has the potential for the direct loss of bats. Indirect impacts to bats and roosts could result from increased noise disturbances, human activity, dust, vegetation clearing, ground disturbing activities (e.g., staging, access, excavation, grading), and vibrations caused by heavy equipment.

Why impact would occur: Multiple species of bats, such as pocketed free-tailed bat and western yellow bat, may be adversely impacted by Project activities. According to Table 3.7-12 of the EIR/EIS, there will be permanent direct impacts to these special status bat species regardless of the Build Alternative chosen. To mitigate for impacts on bats, the Project proposes mitigation measures BIO-MM#25, 26, and 27. BIO-MM#26 and 27 would require avoidance or relocation of active hibernacula or maternity roosts "guided by accepted exclusion and deterrent techniques." The EIR/EIS does not state what those "accepted exclusion and deterrent techniques" would be or from where they were derived. Additionally, it is unclear how the mitigation measure would avoid or relocate active hibernacula or maternity roosts. BIO-MM#27 states that bats in active maternity roosts would not be evicted and instead active maternity roosts would be relocated. Relocating or evicting bats in maternity roosts could result in reduced fecundity or injury and mortality of reproductive female bats and pups. Maternity colonies that are affected by temporarily reduced fecundity or mortality may require

multiple years to recover following a disturbance event (H.T. Harvey & Associates 2019).

Finally, no compensatory mitigation is proposed in the EIR/EIS. The Project could result in loss of roosting habitat. Without replacement of habitat, the Project would contribute to the ongoing loss of suitable habitat on a local and regional scale. Relocating or evicting active hibernacula or maternity roosts is not mitigating for loss of habitat that would occur.

Evidence impact would be significant: Bats are considered non-game mammals and are protected by state law from take and/or harassment (Fish and Game Code § 4150, CCR § 251.1). Several bat species are also considered Species of Special Concern (SSC), which meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines §15065). CDFW considers adverse impacts to a SSC, for the purposes of CEQA, to be significant without mitigation. Mitigation is not just exclusion from maternity roosts, wintering sites, night roosts, mating roosts and foraging sites, but providing similarly functioning habitat to what is impacted.

Recommended Potentially Feasible Mitigation Measure(s)

CDFW requests the following recommendations and mitigation measures are incorporated into the final CEQA document:

Mitigation Measure #4: Conduct Preconstruction Surveys for Special-Status Bat Species – The Authority should revise BIO-MM#25 to incorporate the underlined language and omit language in strikethrough:

Two spring surveys (April through June) and two winter surveys (November through January) shall be performed by the Project Biologist. Each survey shall consist of one dusk emergence survey (start one hour before sunset and last for three hours), followed by one pre-dawn re-entry survey (start one hour before sunrise and last for two hours), and one daytime visual inspection of all potential roosting habitat on the Project site. Surveys shall be conducted within one 24-hour period. Visual inspections shall focus on the identification of bat sign (i.e., individuals, guano, urine staining, corpses, feeding remains, scratch marks and bats squeaking and chattering). Bat detectors, bat call analysis, and visual observation shall be used during all dusk emergence and pre-dawn re-entry surveys.

No earlier than 30 days prior to the start of ground-disturbing activities in a work area, the Project Biologist will conduct protocol ~~a visual and acoustic~~ surveys ~~(over the course of one day and one evening at a minimum)~~ for roosting bats in the work area and extending 500 feet from the boundary of the work area, where access is available. ~~When necessary,~~ ~~s~~Such surveys will be conducted in suitable habitat for special-status bats, including those areas in which bridges, abandoned structures, or trees with large cavities or dense foliage are present within up to a half-mile of the boundary of the work area, dependent on potential project indirect effects on bat hibernacula or maternity

colonies. The Project Biologist will determine if surveys extending past 500 feet are necessary.

Mitigation Measure #5: Implement Bat Avoidance and Relocation Measures– The Authority should revise BIO-MM#26 to incorporate the underlined language and omit language in strikethrough:

Prior to ground-disturbing activity or bridge work, the Project Biologist will survey for active hibernacula or maternity roosts. If active hibernacula or maternity roosts are identified in the work area or within 500 feet extending from the work area during preconstruction surveys, they will be avoided ~~to the extent feasible~~. For maternity roosts, Project construction will only between October 1 and February 28, outside of the maternity roosting season when young bats are present but are yet ready to fly out of the roost (March 1 to September 30). Maternity roosts shall not be evicted, excluded, removed, or disturbed.

A minimum 500-foot no-work buffer shall be provided around hibernacula. The buffer shall not be reduced. Project-related construction and activities shall not occur within 500 feet of or directly under or adjacent to hibernacula. Buffers shall be left in place until the end of Project construction and activities or until a qualified bat biologist determines that the hibernacula are no longer active. Project-related construction and activities shall not occur between 30 minutes before sunset and 30 minutes after sunrise. Hibernacula roosts shall not be evicted, excluded, removed, or disturbed.

If avoidance of a hibernaculum is not feasible, the Project Biologist will prepare a relocation plan to remove the hibernaculum and provide for construction of an alternative bat roost outside of the work area.

The Project Biologist will implement the relocation plan and new roost sites shall be in place before the commencement of ground-disturbing activities that would occur within 500 feet of the hibernaculum where the qualified biologist deems removal to be more beneficial than avoidance. If avoidance is possible without disturbing the bats, then avoidance will be implemented. New roost sites shall be in place prior to the initiation of Project-related activities to allow enough time for bats to relocate. ~~Removal of roosts will be guided by accepted exclusion and deterrent techniques.~~

The relocation plan may include the following elements:

- Required pre-construction surveys and monitoring
- Timing considerations for temporal avoidance (e.g., outside of the maternity season if the project may potentially impact a maternity roost or non-flying juvenile bats)
- Humane relocation and exclusion methods to remove and/or exclude bats from roosting sites within structures or vegetation slated for removal
- Protective fencing or signage to avoid impacts to potential roosting habitat that shall remain on site

- Best Management Practices for minimizing the effects of noise, human activity, dust, lighting, and ground vibrations on bats
- On and/or off-site mitigation measures to compensate for lost roosting habitat, including installation of alternative roosting habitat
- Monitoring to evaluate the effectiveness of bat-related mitigation

Mitigation Measure #6: Bat Compensatory Mitigation – If the Project shall impact confirmed habitat of bats and avoidance is not achievable, the Project proponent shall provide compensatory mitigation for temporary and permanent loss of any habitat supporting SSC. There should be no net loss of habitat supporting SSC (CEQA Guidelines, § 15370(e)). Mitigation shall provide appropriate habitat (depending on the species), refugia, and habitat structures that support that species. Additionally, mitigation shall include habitat of comparable size, function, and quality should be created or preserved and maintained in the new bat habitat, or for bats in trees, at a nearby suitable undisturbed area. Additionally, the mitigation and monitoring plan shall include a discussion on the territory size; roosting and foraging locations; food availability; and how all life cycle functions will be mitigated. The mitigation and monitoring plan shall describe proposed mitigation habitat and include performance standards for the use of replacement roosts/hibernacula by the displaced species, as well as provisions to prevent harassment, predation, and disease of relocated bats. Bat mitigation methods may include, but is not limited to, Texas Bat Abode-style structures, Oregon wedges, and other alternate bat roosting habitat installation depending on the impact area. The Authority shall consult and coordinate with CDFW regarding bat habitat creation and implementation if necessary.

ADDITIONAL COMMENTS

Lake and Streambed Alteration Notification CDFW has regulatory authority over activities in streams that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of any river, stream, or lake or use material from a river, stream, or lake. For any such activities, the Project proponent (or "entity") must provide written notification to CDFW pursuant to section 1600 et seq. of the Fish and Game Code. Based on this notification and other information, CDFW determines whether a Lake and Streambed Alteration Agreement (LSAA) with the applicant is required prior to conducting the proposed activities. CDFW's issuance of a LSAA for a project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. A Notification package for a LSAA may be obtained by accessing CDFW's Lake and Streambed Alteration Program website[3].

Fully Protected Species. The EIR/EIS notes that white-tailed kite was observed and there is potential for this Fully Protected species to forage within the Project site. Fully Protected Species may not be taken or possessed at any time according to the Fish and

[3] http://www.wildlife.ca.gov/Conservation/LSA

Game Code § 3511. CDFW cannot authorize take for white-tailed kite and the Authority must completely avoid impacts to these species during Project's construction and operational activities.

Use of Rodenticides. Vegetation may need to be managed via chemical methods. Herbicides, pesticides, and rodenticides may impact wildlife. Second generation anticoagulant rodenticides are known to have harmful effects on the ecosystem and wildlife. Assembly Bill 1788[4] prohibits the use of any second-generation anticoagulant rodenticides because second generation anticoagulant rodenticides have a higher toxicity and are more dangerous to nontarget wildlife (California Legislative Information 2020). CDFW recommends the Final EIR/EIS include a discussion as to the Project's use of herbicides, pesticides, and second-generation anticoagulant rodenticides to maintain the restored areas within the Project site in perpetuity. CDFW recommends the Authority include measures that would prohibit the use of any second-generation anticoagulant rodenticides throughout the Project.

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 actions, location), and fully enforceable mitigation measures (CEQA Guidelines, § 15097; Pub. Resources Code, § 21081.6). The Authority 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 (CNDDB). The CNDDB website[5] 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[6].

[4] https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1788
[5] https://wildlife.ca.gov/Data/CNDDB
[6] https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities/Submit

The Authority should ensure data collected for the preparation of the EIR/EIS is properly submitted.

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

Questions regarding this letter or further coordination should be directed to Joleena De La Fe[7], Environmental Scientist.

Sincerely,

DocuSigned by:
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Victoria Tang
Environmental Program Manager
South Coast Region

ATTACHMENTS

Attachment A: Draft Mitigation, Monitoring, and Reporting Program

ec: California Department of Fish and Wildlife
Erinn Wilson-Olgin, South Coast Regional Manager
Victoria Tang, Environmental Program Manager
Frederic (Fritz) Rieman, Senior Environmental Scientist (Supervisor)
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REFERENCES

[CDFW] California Department of Fish and Wildlife. 2012. Staff Report on Burrowing Owl Mitigation. Available from: https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline

California Legislative Information. 2020. AB-1788 Pesticides: use of second-generation anticoagulant rodenticides. Available from: https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1788

H.T. Harvey & Associates 2019. Caltrans Bat Mitigation: A Guide to Developing Feasible and Effective Solutions. Available from: https://dot.ca.gov/-/media/dot-media/programs/environmental-analysis/documents/env/caltrans-bat-mitigation-guide-a11y.pdf

Figure 1: Figure S-2 Los Angeles to Anaheim Project Section

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

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

Mitigation Measure	**Timing**	**Responsible Party**
Mitigation Measure #1: Incidental Take Permit – If an occupied burrow or western burrowing owl is found within the Project site, the Project proponent shall coordinate with CDFW and attain appropriate take authorization from CDFW (pursuant to Fish and Game code, § 2080 et seq.). The Project proponent shall comply with the mitigation measures detailed in the take authorization issued by CDFW. The Project proponent shall provide a copy of a fully executed take authorization prior to implementing Project activities with potential to impact western burrowing owl.	Prior to Project Initiation/During Project Construction	Project Proponent
Mitigation Measure #2: Conduct Protocol Surveys for Burrowing Owls – The Authority should revise BIO-MM#20 to incorporate the underlined language and omit language in strikethrough: Prior to ground-disturbing activity, the Project Biologist will conduct protocol-level surveys for Burrowing Owl within suitable habitat in the work area and extending 500 feet from the boundary of the work area, where access is available. Surveys will be conducted in accordance with guidelines in CDFW's Staff Report on Burrowing Owl Mitigation (CDFW 2012) or CDFW's most recent guidance. Survey protocol for breeding seasonal survey states to conduct 4 survey visits: 1) at least one site visit between February 15 and April 15 and 2) a minimum of three survey visits at least three weeks apart between April 15 and July 15, with at least one visit after June 15. If no Burrowing Owls are observed and construction occurs within 14~~30~~ days of the last survey, no further action is required for Burrowing Owls. However, if no Burrowing Owls are observed and construction is delayed more than 14~~30~~ days after the last surveys, prior to ground-disturbing activities, within 14~~30~~ days prior to	Prior to Project Initiation	Lead Agency

Mitigation Measure	Timing	Responsible Party
construction, the Project Biologist will conduct preconstruction clearance surveys for Burrowing Owl within suitable habitat in the work area and extending 500 feet from the boundary of the work area, where access is available. If no Burrowing Owls are observed, ground disturbance may occur.		
Mitigation Measure #3: Implement Avoidance and Minimization Measures for Burrowing Owl – The Authority should revise BIO-MM#21 to incorporate the underlined language and omit language in strikethrough: If o~~O~~ccupied Burrowing Owl burrows are found within the work area, ~~that would be directly affected by ground-disturbing activities~~ (if documented under BIO-MM#20), ~~will be relocated in accordance with CDFW's Staff Report on Burrowing Owl Mitigation (CDFG 2012), which will include the preparation of~~ a Burrowing Owl Exclusion Plan, which will be approved by CDFW, will be prepared. The Authority shall obtain an Incidental Take Permit from CDFW for impacts to Burrowing Owl. ~~To the extent feasible,~~ T~~t~~he Project Biologist will establish no-work buffers of 1650 feet around occupied Burrowing Owl burrows in the work area. Work shall not resume in this area unless the Project Biologist determines the burrow is inactive and concurrence from CDFW has been granted. Reductions in the nest buffer distance may be appropriate depending on ambient levels of human activity, screening vegetation, or possibly other factors. ~~From April 1 through October 15, the no-work buffer will be at least 600 feet, and from October 16 through March 31, the no-work buffer will be at least 165 feet. If the no-work buffer is not feasible and occupied burrows will be relocated during the nesting season, relocation will occur either before the birds have begun egg-laying and incubation or after the Project Biologist~~	Prior to Project Initiation	Lead Agency

Mitigation Measure	Timing	Responsible Party
~~has determined that the juveniles from the occupied burrows are foraging independently and are capable of independent survival.~~		
Recommendation #1: Provide Compensatory Mitigation for Loss of Active Burrowing Owl Burrows and Habitat - CDFW recommends the Authority revise mitigation measure BIO-MM#44 to provide a specific mitigation measure addressing compensatory mitigation for western burrowing owl habitat. Mitigation should be specific, provide performance standards, and action(s) to achieve those performance standards. The Authority should provide criteria for selecting mitigation lands appropriate for western burrowing owl; mitigation land performance criteria; a plan to monitor success of mitigation; and contingency measures if mitigation does not meet performance criteria. The mitigation land should also provide equivalent or greater habitat value than that of the Project area. The Project proponent should protect replacement habitat in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands pursuant to Government Code § 65967(c). Recordation of the conservation easement should occur prior to commencement of Project activities. An appropriate endowment should also be provided for the long-term monitoring and management of mitigation lands.	Prior to Project Initiation	Lead Agency
Mitigation Measure #4: Conduct Preconstruction Surveys for Special-Status Bat Species – The Authority should revise BIO-MM#25 to incorporate the <u>underlined</u> language and omit language in strikethrough: <u>Two spring surveys (April through June) and two winter surveys (November through January) shall be performed by the Project Biologist. Each survey shall consist of one dusk emergence survey (start one hour before sunset and last for three hours), followed by one pre-dawn re-entry survey (start one hour before sunrise and last for</u>	Prior to Project Initiation	Lead Agency

Mitigation Measure	Timing	Responsible Party
two hours), and one daytime visual inspection of all potential roosting habitat on the Project site. Surveys shall be conducted within one 24-hour period. Visual inspections shall focus on the identification of bat sign (i.e., individuals, guano, urine staining, corpses, feeding remains, scratch marks and bats squeaking and chattering). Bat detectors, bat call analysis, and visual observation shall be used during all dusk emergence and pre-dawn re-entry surveys. No earlier than 30 days prior to the start of ground-disturbing activities in a work area, the Project Biologist will conduct protocol ~~a visual and acoustic~~ surveys ~~(over the course of one day and one evening at a minimum)~~ for roosting bats in the work area and extending 500 feet from the boundary of the work area, where access is available. ~~When necessary, s~~Such surveys will be conducted in suitable habitat for special-status bats, including those areas in which bridges, abandoned structures, or trees with large cavities or dense foliage are present within up to a half-mile of the boundary of the work area, dependent on potential project indirect effects on bat hibernacula or maternity colonies. The Project Biologist will determine if surveys extending past 500 feet are necessary.		
Mitigation Measure #5: Implement Bat Avoidance and Relocation Measures– The Authority should revise BIO-MM#26 to incorporate the underlined language and omit language in strikethrough: Prior to ground-disturbing activity or bridge work, the Project Biologist will survey for active hibernacula or maternity roosts. If active hibernacula or maternity roosts are identified in the work area or within 500 feet extending from the work area during preconstruction surveys, they will be avoided ~~to the extent feasible~~. For maternity roosts, Project construction will only between October 1 and February 28, outside of the maternity roosting season when young bats are present but are yet ready to fly	Prior to Project Initiation	Lead Agency

Mitigation Measure	Timing	Responsible Party
out of the roost (March 1 to September 30). Maternity roosts shall not be evicted, excluded, removed, or disturbed. A minimum 500-foot no-work buffer shall be provided around hibernacula. The buffer shall not be reduced. Project-related construction and activities shall not occur within 500 feet of or directly under or adjacent to hibernacula. Buffers shall be left in place until the end of Project construction and activities or until a qualified bat biologist determines that the hibernacula are no longer active. Project-related construction and activities shall not occur between 30 minutes before sunset and 30 minutes after sunrise. Hibernacula roosts shall not be evicted, excluded, removed, or disturbed. If avoidance of a hibernaculum is not feasible, the Project Biologist will prepare a relocation plan to remove the hibernaculum and provide for construction of an alternative bat roost outside of the work area. The Project Biologist will implement the relocation plan and new roost sites shall be in place before the commencement of ground-disturbing activities that would occur within 500 feet of the hibernaculum where the qualified biologist deems removal to be more beneficial than avoidance. If avoidance is possible without disturbing the bats, then avoidance will be implemented. New roost sites shall be in place prior to the initiation of Project-related activities to allow enough time for bats to relocate. ~~Removal of roosts will be guided by accepted exclusion and deterrent techniques.~~ The relocation plan may include the following elements: • Required pre-construction surveys and monitoring		

Mitigation Measure	Timing	Responsible Party
• Timing considerations for temporal avoidance (e.g., outside of the maternity season if the project may potentially impact a maternity roost or non-flying juvenile bats) • Humane relocation and exclusion methods to remove and/or exclude bats from roosting sites within structures or vegetation slated for removal • Protective fencing or signage to avoid impacts to potential roosting habitat that shall remain on site • Best Management Practices for minimizing the effects of noise, human activity, dust, lighting, and ground vibrations on bats • On and/or off-site mitigation measures to compensate for lost roosting habitat, including installation of alternative roosting habitat • Monitoring to evaluate the effectiveness of bat-related mitigation		
Mitigation Measure #6: Bat Compensatory Mitigation – If the Project shall impact confirmed habitat of bats and avoidance is not achievable, the Project proponent shall provide compensatory mitigation for temporary and permanent loss of any habitat supporting SSC. There should be no net loss of habitat supporting SSC (CEQA Guidelines, § 15370(e)). Mitigation shall provide appropriate habitat (depending on the species), refugia, and habitat structures that support that species. Additionally, mitigation shall include habitat of comparable size, function, and quality should be created or preserved and maintained in the new bat habitat, or for bats in trees, at a nearby suitable undisturbed area. Additionally, the mitigation and monitoring plan shall include a discussion on the territory size; roosting and foraging locations; food availability; and how all life cycle functions will be mitigated. The mitigation and monitoring plan shall describe proposed mitigation habitat and include performance standards for the use of replacement roosts/hibernacula by the displaced species, as well as provisions to prevent harassment, predation, and	Prior to Project Initiation	Project Proponent

Mitigation Measure	Timing	Responsible Party
disease of relocated bats. Bat mitigation methods may include, but is not limited to, Texas Bat Abode-style structures, Oregon wedges, and other alternate bat roosting habitat installation depending on the impact area. The Authority shall consult and coordinate with CDFW regarding bat habitat creation and implementation if necessary.		
Lake and Streambed Alteration Notification CDFW has regulatory authority over activities in streams that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of any river, stream, or lake or use material from a river, stream, or lake. For any such activities, the Project proponent (or "entity") must provide written notification to CDFW pursuant to section 1600 et seq. of the Fish and Game Code. Based on this notification and other information, CDFW determines whether a Lake and Streambed Alteration Agreement (LSAA) with the applicant is required prior to conducting the proposed activities. CDFW's issuance of a LSAA for a project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. A Notification package for a LSAA may be obtained by accessing CDFW's Lake and Streambed Alteration Program website[8].	Prior to Project Initiation	Project Proponent
Fully Protected Species. The EIR/EIS notes that white-tailed kite was observed and there is potential for this Fully Protected species to forage within the Project site. Fully Protected Species may not be taken or possessed at any time according to the Fish and Game Code § 3511. CDFW cannot authorize take for white-tailed kite and	Prior to Project Initiation/During Project Construction	Lead Agency

[8] http://www.wildlife.ca.gov/Conservation/LSA

Mitigation Measure	Timing	Responsible Party
the Authority must completely avoid impacts to these species during Project's construction and operational activities.		
Use of Rodenticides. Vegetation may need to be managed via chemical methods. Herbicides, pesticides, and rodenticides may impact wildlife. Second generation anticoagulant rodenticides are known to have harmful effects on the ecosystem and wildlife. Assembly Bill 1788[9] prohibits the use of any second-generation anticoagulant rodenticides because second generation anticoagulant rodenticides have a higher toxicity and are more dangerous to nontarget wildlife (California Legislative Information 2020). CDFW recommends the Final EIR/EIS include a discussion as to the Project's use of herbicides, pesticides, and second-generation anticoagulant rodenticides to maintain the restored areas within the Project site in perpetuity. CDFW recommends the Authority include measures that would prohibit the use of any second-generation anticoagulant rodenticides throughout the Project.	Prior to Project Initiation/During Project Construction	Lead Agency

[9] https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1788