



Bay Delta Region
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To:

Office of Land Use and Climate
Innovation
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From:

California Department of Fish and Wildlife
Region 3 – Bay Delta Region
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Lead Agency (if different than CDFW):

California Department of Transportation
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NOTICE OF DETERMINATION

Subject: Filing of Notice of Determination pursuant to Section 21108 of the Public Resources Code

State Clearinghouse Number: 2020070226

Project Title: State Route (SR) 37 Sears Point to Mare Island Improvement Project: Package 1, SR37/SR 121 Intersection and Tolay Creek Bridge Replacement Project (Project) (California Endangered Species Act Incidental Take Permit No. 2081-2025-059-03 (ITP))

Project Location (Sonoma County): The Project is located on State Route (SR) 37 from Post Mile (PM) 2.9 to PM 4.9 and on SR 121 from PM 0.0 to 0.2. Project activities will span Tolay Creek in Sonoma County, CA. Tolay Creek is an ephemeral drainage/tributary to San Pablo Bay. The Project site is located within southwest quadrant, Township 4N, Range 5W (GPS Coordinates 38.152549; -122.44165).

Project Description: The California Department of Fish and Wildlife (CDFW) has issued ITP No. 2081-2025-059-03 to the California Department of Transportation.

The Project will replace the existing two-lane bridge with a wider five-lane structure and reconfigure the SR 37/SR 121 interchange to improve traffic flow, including shifting the eastbound lane drop about one mile east. The Project will widen SR 37 in both directions, replace the Tolay Creek Bridge with a much longer span to restore tidal habitat, and upgrade drainage, barriers, pavement, lighting, signage, and traffic monitoring systems. Construction will use temporary roadways, bridge crossings, creek diversion systems, staging areas, and containment systems. Retaining walls, an embankment confinement system, and wildlife benches under the bridge will support the roadway and enhance habitat connectivity.

The Project is expected to result in incidental take of the following species protected under the California Endangered Species Act (CESA): longfin smelt (*Spirinchus thaleichthys*, threatened), California Ridgway's rail (*Rallus obsoletus obsoletus*, endangered and fully protected), California black rail (*Laterallus jamaicensis coturniculus*, threatened and fully-protected), and salt marsh harvest mouse (*Reithrodontomys raviventris*, endangered and fully-protected) (collectively the Covered Species). The Project will result in impacts to 2.70 acres of Covered Species habitat including temporary impacts to 1.85 acres; the Project will permanently remove 0.85 acres of open water and brackish marsh habitat. For all Covered Species there is an overlap of 0.77 acres of permanent impacts and 1.41 acres of temporary impacts between species. The replacement of Tolay Creek Bridge will result in the creation of 1.13 acres of tidal waters (e.g., in-water and accreted marsh habitat) in the Tolay Creek channel by removing the existing 320-foot-wide embankment and constructing a new bridge spanning the entire increased channel width.

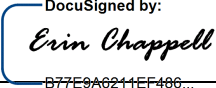
The ITP referenced above as issued by CDFW, pursuant to Section 2081 (b) of the Fish and Game Code and pursuant to Fish and Game Code section 2081.13 with respect to salt-marsh harvest mouse, California Ridgway's rail, and California black rail. Fish and Game Code sections 3511 and 4700 prohibit the take of fully protected birds and mammals, respectively, except as provided by the Fish and Game Code. However, CDFW may authorize the incidental take of salt-marsh harvest mouse, California Ridgway's rail, and California Black Rail resulting from impacts attributable to, or otherwise related to, the State Route (SR) 37 Sears Point to Mare Island Improvement Project: Package 1, SR37/SR 121 Intersection and Tolay Creek Bridge Replacement Project, if the conditions set forth in Fish and Game Code sections 2081.13, subdivisions (a)-(d) and 2081, subdivisions (b) and (c) are met. (See Assembly Bill No. 697 (stats. 2025).)

The Permittee will permanently conserve 2.802 acres of high quality occupied Covered Species habitat that will include a monitoring program and an adaptive management plan, approved by CDFW to fully mitigate the impacts of the authorized take of the species.

This is to advise that CDFW, acting as a Responsible Agency, approved the project described above on June 19, 2026 and has made the following determinations regarding the above-described project:

1. The Project **will not** have a significant effect on the environment. This determination is limited to effects within CDFW's permitting jurisdiction as a Responsible Agency.
2. An environmental impact report **was** prepared by the lead agency for the original project.
3. Additional mitigation measures **were** made a condition of CDFW's approval of the project.
4. A Mitigation Reporting or Monitoring Plan **was** adopted by CDFW for this project.
5. A Statement of Overriding Considerations **was not** adopted by CDFW for this project.
6. Findings **were** made by CDFW pursuant to Public Resources Code § 21081(a).
7. Compliance with the environmental filing fee requirement at Fish and Game Code §711.4: **A copy of a receipt showing prior payment was submitted to CDFW.**

The environmental impact report prepared by the lead agency for the Project is available to the general public at the office location listed above for the lead agency. CDFW's administrative record of proceedings related to the incidental take permit is available to the public for review at CDFW's regional office.

Signature: 
Erin Chappell, Bay Delta Regional Manager

Date: 6/19/2026