



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
South Coast Region
3883 Ruffin Road
San Diego, CA 92123
wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



July 9, 2025

Ellen Renker
California Department of Transportation
4050 Taylor Street MS 242
San Diego, CA 92110
ellen.renker@dot.ca.gov

**Subject: Draft Environmental Impact Report for the I-15/SR-78 Managed Lanes
Direct Connector and Woodland Interchange Project, SCH No.
2020100326, San Diego, CA**

Dear Ellen Renker:

The California Department of Fish and Wildlife (CDFW) reviewed the Draft Environmental Impact Report (DEIR) from the California Department of Transportation (Caltrans) for the Interstate 15 (I-15)/State Route 78 (SR-78) Managed Lanes Direct Connector and Woodland Interchange Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines¹.

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.

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CDFW may also act as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by state law² 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: Caltrans, District 11

Objective: The Project proposes to extend and connect the existing managed lanes on I-15 to SR-78. Road widening will occur to include new managed lanes on SR-78. These will extend in both eastbound and westbound directions for approximately three miles. Barham Drive and the Woodland Parkway interchange would be reconstructed with Class I multiuse paths along both roads. Additionally, a westbound lane would be constructed from Nordhal Road overcrossing to the Nordhal Road westbound on-ramp and a second westbound lane from Mission Road to the Woodland Parkway westbound on-ramp. A section of the existing auxiliary lane from the Barham Drive eastbound on-ramp to the Mission Road overhead bridge would also be removed. Equipment associated with tolling on express lanes such as overhead equipment, vehicle detection stations, toll message signage, and monitor tolling equipment would be installed.

Location: The Project area is located in the cities of Escondido and San Marcos, San Diego County, California. Specifically, the Project area encompasses the I-15 from Post Mile (PM) R30.6 (33.114906, -117.098577) to PM R32.0 (33.133885, -117.105003) and on SR-78 from PM 11.0 (33.145989, -117.193548) to PM R16.7 (33.127740, -117.102218). The Project extends 0.4 miles south of Hale Avenue overcrossing to 0.5 miles north of the I-15/SR-78 separation, and on SR-78 from 0.2 miles west of the Las Posas Road undercrossing to 0.2 miles west of the Rock Springs Road overcrossing.

Timeframe: Project construction is anticipated to commence in February 2030 and continue until February 2035.

Biological Setting: The Biological Study Area (BSA) includes the Project area, Caltrans right-of-way, and a 500-foot buffer. A habitat assessment of the BSA was conducted in 2020 to determine the habitat on site. The BSA is characterized by a mix of developed urban areas, residential neighborhoods, commercial center, field and pasture, and several vegetation communities. Vegetation communities noted in the BSA

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."

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include, but are not limited to, Diegan coastal sage scrub, southern riparian scrub, valley and foothill grassland, and nonnative grassland. Additionally, one tributary to the San Marcos Creek consists of a drainage running north to south in the area where Barham Drive will be realigned. The Project is anticipated to permanently impact approximately 7 acres of Diegan coastal sage scrub, 0.4 acre of valley and foothill grassland, and 0.1 acre of southern riparian scrub to the tributary of the San Marcos Creek.

Wildlife surveys were conducted on August 9 and August 24, 2023, and September 19, 2024. Focused surveys for coastal California gnatcatcher (*Polioptila californica californica*; Endangered Species Act (ESA)-listed threatened; Species of Special Concern (SSC)), were conducted from June through July 2021. Survey findings were compiled in a Natural Environment Study (NES). During focused surveys, a nesting pair of coastal California gnatcatchers and their young were observed within the Project footprint. In addition to coastal California gnatcatcher, three monarch butterfly (*Danaus plexippus* pop.1; federally proposed threatened) caterpillars were observed on narrow-leaf milkweed within the valley and foothill grassland area. Moreover, least Bell's vireo (*Vireo bellii pusillus*; ESA-listed endangered and CESA-listed endangered) was observed during Project surveys in the riparian woodland of San Marcos Creek, which is outside of the Project footprint. A Biological Opinion (BO) was issued by the United States Fish and Wildlife Service (USFWS) on January 8, 2025, addressing Project impacts on coastal California gnatcatcher and monarch butterfly. In the BO, it was determined that the Project is not likely to impact least Bell's vireo because its habitat would be avoided.

The following special-status species may also have the potential to occur in the Project area: southern tarplant (*Centromadia parryi* ssp. *australis*; California Rare Plant Rank (CRPR) 1B.1), San Diego thorn-mint (*Acanthomintha ilicifolia*; ESA-listed threatened, CESA-listed endangered, CRPR 1B.1), Crotch's bumble bee (*Bombus crotchii*; CESA candidate), and burrowing owl (*Athene cunicularia*; CESA candidate).

According to the BO and DEIR, Caltrans will obtain eight acres of coastal sage scrub preservation credits from Sage Hill Mitigation Bank, 0.8 acre of native grassland habitat preservation credits from Rancho San Diego mitigation Bank, and 0.2 acre of riparian scrub habitat preservation credits from Rancho San Diego Mitigation Bank. Temporary Project impacts to 2.6 acres of disturbed valley and foothill grassland will be mitigated by on-site restoration of 2.6 acres of in-kind habitat. Avoidance and minimization measure specific to monarch butterfly, coastal California gnatcatcher, and migratory birds were also incorporated in the DEIR.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist Caltrans in adequately identifying and/or mitigating the Project's significant, or potentially

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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 Crotch's Bumble Bee

Issue: The Project may result in adverse impacts to Crotch's bumble bee.

Specific impact: Project activities, which include ground disturbance and vegetation removal, could result in the loss of foraging resources, loss of nesting habitat, burrow collapse, reduced nest success, and/or direct mortality of adults, eggs, and larva.

Why impact would occur: The NES notes that the Project area contains Diegan coastal sage scrub and valley and foothill grassland, both of which are suitable habitat for Crotch's bumble bee (NES, page 16). According to the DEIR, the Project will result in both permanent and temporary impacts to Diegan coastal sage scrub and valley and foothill grassland. Based on CDFW's [Crotch's Bumble Bee Range dataset](#)³, the Project area lies within the current range of Crotch's bumble bee. Crotch's bumble bee occur in a range of habitats and have been documented to nest in abandoned small mammal burrows, perennial bunch grasses or thatched annual grasses, brush piles, old bird nests, and dead trees or hollow logs (Williams et al. 2014; Hatfield et al. 2012). This species may also utilize pristine or disturbed areas with soft, disturbed soil (Goulson 2010) and/or leaf litter or other debris (Williams et al. 2014) for overwintering sites.

While there is suitable habitat present in the Project area, the DEIR acknowledges the CESA candidate status of Crotch's bumble bee and simply states that no take of state-listed species is anticipated. The DEIR does not provide a biologically-sound justification as to its determination that there is no possibility of Crotch's bumble bee presence within the Project area. While Crotch's bumble bee were not identified during general surveys, no focused surveys were conducted specifically for this species to accurately demonstrate absence from the Project area. Moreover, there are several recent observations of Crotch's bumble bee recorded on [iNaturalist](#)⁴ within the cities of San Marcos and Escondido. Given that positive detections of Crotch's bumble bee has been recorded in the general vicinity of the Project, it is probable that Crotch's bumble bee may be present during construction activities and vegetation removal. Focused surveys should be conducted during the appropriate survey period to confirm absence and avoid unauthorized take of this CESA candidate species.

Furthermore, the DEIR does not discuss floral foraging opportunities within the Project area. In addition to loss of suitable nesting habitat, the Project may also result in additional permanent and temporary impacts of foraging resources that was not accounted for in the DEIR. Furthermore, Project implementation during the breeding season could result in the incidental loss of breeding success or otherwise lead to nest abandonment in areas adjacent to the Project area. Given that there is a potential to

³ <https://data-cdfw.opendata.arcgis.com/datasets/CDFW::crotchs-bumble-bee-range-cdfw-ds3095/about>

⁴ https://www.inaturalist.org/observations?taxon_id=271451

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impact individual Crotch's bumble bee and suitable habitat for the species (i.e., nesting, overwintering sites, and floral resources), Caltrans should conduct focused surveys and confirm that any habitat loss that occurs as a result of Project activities will not contribute to the cumulative decrease of Crotch's bumble bee habitat on a regional scale.

Evidence impact may be significant: Crotch's bumble bee is CESA candidate species, and 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). Crotch's bumble bee is also listed as an invertebrate of conservation priority under the [California Terrestrial and Vernal Pool Invertebrates of Conservation Priority](#)⁵ (CDFW 2017). Accordingly, Crotch's bumble bee meets the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380). Therefore, take of Crotch's bumble bee could require a mandatory finding of significance by the City (CEQA Guidelines, § 1565). The Project may have a substantial adverse 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 the CDFW or USFWS.

Recommended Potentially Feasible Mitigation Measure(s)

Mitigation Measure #1: Crotch's Bumble Bee Habitat and Resource Assessment. Prior to Project implementation, a CDFW approved qualified biologist shall conduct a habitat assessment to determine if the Project area, or its immediate vicinity, contains suitable habitat for Crotch's bumble bee. The habitat assessment shall survey and document all plant species present and include documentation of any habitat present which may support foraging, nesting, and/or overwintering. The habitat assessment shall identify which plant species are in bloom, record how many individuals of each species were identified, and determine the percent cover of each species at the Project location. Caltrans shall ensure that these site assessments are conducted over the course of multiple site visits during the colony's active season (April - August). Recorded foraging resources should include all flowering plants, including non-natives and invasives. In addition to assessing foraging resources, Caltrans shall assess potential nesting sites during habitat assessment surveys. Nesting resources may include, but are not limited to bare ground, leaf litter and woody edge habitat, and rodent burrows. The assessment shall include a review of available historical records and updated species observation records as well as the Project's proximity to the last known sighting. The written report summarizing the assessment results assessment shall be provided to CDFW prior to initiating Project activities.

Mitigation Measure #2: Crotch's Bumble Bee Focused Surveys. Focused surveys for Crotch's bumble bee shall be conducted by a CDFW approved qualified biologist familiar with the species' behavior and life history. The qualified biologist shall possess all necessary permits to conduct such surveys. Surveys shall be conducted during the

⁵ <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=157415&inline>

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same calendar year that vegetation removal and/or ground disturbance will occur to determine the presence/absence of Crotch's bumble bee. Caltrans shall consult [Survey Considerations for California Endangered Species Act \(CESA\) Candidate Bumble Bee Species](#)⁶ when making their survey plan and shall send the plan to CDFW for review and written approval before conducting focused surveys. If Crotch's bumble bee is detected, the qualified biologist shall notify CDFW immediately as further coordination with CDFW will be required to avoid significant impacts. Caltrans shall conduct surveys each year that Project activities will occur.

Mitigation Measure #3: Incidental Take Permit. If Crotch's bumble bee is detected, Caltrans shall coordinate with CDFW to determine if take authorization from CDFW is warranted (pursuant to Fish & Game Code, § 2080 et seq).

Recommendation #1: Disclosure of Impacts. The DEIR should include a discussion regarding the Project's impacts on floral resources, nesting habitat, and overwintering habitat for Crotch's bumble bee. The DEIR should also provide full disclosure of the presence of Crotch's bumble bee within and adjacent to the Project area. The discussion should be of sufficient depth and scope that a CESA Incidental Take Permit (ITP) can be issued based on the analysis provided in the DEIR.

COMMENT # 2: Impacts to Western Burrowing Owl

Issue: The DEIR does not address the potential presence of western burrowing owl, a CESA candidate species, and Project impacts toward individual western burrowing owl and its associated habitat.

Specific impact: Direct impacts to western burrowing owl could result from Project construction and activities such as equipment staging, mobilization, grading, ground disturbance, vegetation clearing, and trampling or crushing from construction equipment and foot traffic. Project construction activities may also disrupt the foraging behavior of over-wintering western burrowing owl present on site.

Why impact would occur: The NES acknowledges that valley and foothill grassland serves as a suitable habitat for western burrowing owl. There is also a historical western burrowing owl observation within a mile of the Project area recorded on CDFW's [California Natural Diversity Database](#)⁷ and a 2018 observation of an individual western burrowing owl recorded on iNaturalist less than 2 miles from the Project area. In addition to observations of western burrowing owl near the Project area, the western portion of the Project area lies within the western burrowing owl range for overwintering based on CDFW's [Burrowing Owl Range dataset](#)⁸. The DEIR does discuss the potential for western burrowing owl to be present in the valley and foothill grassland prior to or during Project activities. The DEIR also does not analyze the Project's impact on

⁶ <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150&inline>

⁷ <https://wildlife.ca.gov/Data/CNDDDB>

⁸ <https://www.arcgis.com/home/item.html?id=8e18caa8807b42ad94be8322d7911160>

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breeding habitat, foraging habitat, and nesting and wintering burrows for western burrowing owl.

On October 15, 2024, the Fish and Game Commission published a Notice of Findings that designates western burrowing owl as a CESA candidate species. Without focused surveys, this CESA candidate species may go undetected. If Project activities overlap with the breeding season for western burrowing owl there is potential for Project activities to result in abandonment of burrows, burrow collapse, or injury/mortality of owlets. Furthermore, attempts to flush western burrowing owl from the site may disturb, distress, or lead to potential take of individual western burrowing owl. To avoid unauthorized take, Caltrans should incorporate a measure that prescribes focused surveys and coordination with CDFW to obtain appropriate take authorization if western burrowing owl is identified on site.

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)

Mitigation Measure #4: Western Burrowing Owl Focused Surveys. Caltrans shall retain a CDFW-approved qualified biologist to conduct focused surveys for western burrowing owl prior to Project activities. Focused surveys shall be conducted pursuant to CDFW’s March 7, 2012, [Staff Report on Burrowing Owl Mitigation](#)⁹ (CDFW 2012) or CDFW’s most recent guidance. In California, the burrowing owl breeding season extends from February 1 to August 31. Caltrans shall conduct surveys with at least one survey occurring between October 1 and February 14, one survey occurring between February 15 and April 15, and a minimum of three surveys between April 15 and July 15 conducted at least three weeks apart and with at least one survey after June 15. Surveys shall include five site visits conducted from as many fixed points as necessary to provide visual coverage of the site using spotting scopes or binoculars. Disturbance shall be minimized around potential occupied burrows during all Project activities and seasons.

⁹ <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline>

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Results of all surveys shall be provided to CDFW after surveys are complete, no more than 30 days prior to Project commencement. If a burrowing owl is observed during the focused surveys, the qualified biologist shall notify CDFW immediately and prepare a Burrowing Owl Plan (BOP) that shall be submitted to CDFW for review and approval at least 30 days prior to commencing Project activities. The (BOP) shall describe survey results, specify proposed avoidance and minimization measures to prevent take, and include a monitoring plan. All measures in the BOP shall be implemented as approved by CDFW. If burrowing owls are detected, all work in the affected area shall cease until appropriate avoidance or take authorization is in place.

Mitigation Measure #5: Western Burrowing Owl Incidental Take Permit. If an occupied burrow or individual western burrowing owl is found within the Project area, Caltrans shall coordinate with CDFW and obtain appropriate take authorization from CDFW (pursuant to Fish & Game Code, § 2080 et seq).

Recommendation #2: Western Burrowing Owl DEIR Revisions. The DEIR should be revised to acknowledge that western burrowing owls are designated as a CESA candidate species and afforded full protection under CESA. If the Project may impact western burrowing owl, the DEIR should incorporate measures to mitigate potential impacts to western burrowing owl as well as the habitat which supports the species. The discussion in the DEIR should be of a depth and scope that a CESA ITP can be issued based on the analysis provided in the DEIR.

COMMENT # 3: Impacts to Special Status and Rare Plants

Issue: The Project may result in adverse impacts to southern tarplant and San Diego thorn-mint.

Specific impact: Vegetation clearing, grading, and construction of the Project will result in loss of suitable habitat, loss of population, and direct mortality of rare plants. Project activities may also result in the seedbank being buried, crushed, or trampled on.

Why impact would occur: According to the DEIR, southern tarplant was observed within the BSA in 2014 and suitable habitat currently exists within the Project footprint (DEIR, page 166). Within the Project footprint, Diegan coastal sage scrub and valley and foothill grassland provide suitable habitat for the dually listed rare plant, San Diego thorn-mint. A historical observation (1991) of San Diego thorn-mint was recorded on CNDDDB within a mile of the Project area. In addition to CNDDDB, there are historical observations on [Calflora](https://www.calflora.org/app/taxon?crn=49)¹⁰ of San Diego thorn-mint in the general vicinity of the Project area and along SR-78. The DEIR does not mention the potential presence of San Diego thorn-mint within the Project area or the Project impacts on this listed species. While general surveys did not observe either rare plant, surveys were not conducted for San Diego thorn-mint during its appropriate identification period (April-June). Additionally, no floristic protocol-level surveys were conducted to accurately confirm presence or

¹⁰ <https://www.calflora.org/app/taxon?crn=49>

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absence of southern tarplant and San Diego thorn-mint within the Project area. If the Project proceeds without floristic surveys, the Project may result in direct loss of undetected rare plants through vegetation removal and construction activities. Heavy machinery may crush the seedbank of rare plants preventing new population growth during the subsequent bloom period. Any loss of a rare plant populations would contribute to the cumulative loss of the species on a regional scale and possible extirpation of the rare plant species on a local scale.

Evidence impact may be significant: Impacts on rare flora could be considered a significant effect on the environment. Plants with a CRPR of 1B are classified as rare throughout their range, endemic to California, and are seriously or fairly threatened. Most of the plants that are ranked 1B have declined significantly over the last century. The additional threat rank of 0.1 indicates a species with over 80 percent of its occurrences threatened in California. The additional threat rank of 0.2 indicates a species with 20 to 80 percent of its occurrences threatened (CNPS 2024). Impacts to CRPR 1B plant species and their habitat meet the definition of endangered, rare, or threatened species (CEQA Guidelines, § 15380).

Impacts to CRPR 1B plant species and their habitat may result in a mandatory finding of significance because the Project would potentially threaten to eliminate a plant community and substantially reduce the number or restrict the range of an endangered, rare, or threatened species (CEQA Guidelines, § 15065). Insufficient mitigation may result in unmitigated temporal or permanent impacts to a rare plant species. Without appropriate avoidance and minimization measures or appropriate mitigation, the Project would have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on a species identified as a candidate, sensitive, or special status species by CDFW.

Recommended Potentially Feasible Mitigation Measure(s)

Mitigation Measure #6: Rare Plant Surveys. Prior to the construction of the proposed Project, qualified CDFW-approved botanists with experience with local flora shall conduct focused surveys during the appropriate identification period(s) to ensure no special-status plant species are present or will be impacted within the proposed impact areas. Methods during the surveys shall be in accordance with CDFW's [Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities](#)¹¹ (CDFW 2018). If a special-status plant or population of special-status plants is discovered on-site, Caltrans shall notify CDFW within 24 hours. Caltrans shall provide survey results to CDFW at least 14 days prior to the planned commencement of Project activities. If any rare plants or special-status species are observed during floristic surveys, no activities with the potential to impact special-status plants shall occur until CDFW is notified and provides further direction and written concurrence for those activities to begin.

¹¹ <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>

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Mitigation Measure #7: Habitat Mitigation and Monitoring Plan. If special-status plants are detected during surveys, the Project proponent shall coordinate with CDFW prior to Project initiation to identify suitable compensatory mitigation for impacts on these species. The Project proponent shall prepare a Habitat Mitigation and Monitoring Plan (HMMP) for review and written approval by CDFW prior to any ground disturbance. The HMMP shall detail relocation, salvage, and/or restoration of impacted species and subsequent maintenance and monitoring, payment to an agency approved mitigation bank, or acquisition of off-site lands to be protected under a conservation easement in perpetuity. The HMMP shall outline initial and long-term management and maintenance activities that would occur on mitigation lands. The HMMP shall provide measurable goals and success criteria for establishing self-sustaining populations (e.g., percent survival rate, absolute cover). Maintenance activities outlined in the HMMP shall include measures pertaining to control of non-native invasive vegetation, irrigation schedule, and protection from future disturbance or maintenance activities.

Mitigation Measure #8: Listed Plant Species. If a state or federally-listed plant species is present, consultation with CDFW and/or USFWS should be required prior to initiating any Project activities to coordinate any take permits pursuant to state and/or federal regulations and requisite compensatory mitigation.

ADDITIONAL COMMENTS

Lake and Streambed Alteration Agreement. The DEIR notes that a Lake and Streambed Alteration (LSA) Agreement for the Project is in progress on page 17, however, CDFW has not received a notification. CDFW looks forward to receiving a LSA notification and future coordination with Caltrans.

Revisions to Proposed Measures. To ensure compliance with CEQA and to reduce potential impacts to biological resources to less-than-significant levels, CDFW recommends that the following revisions be incorporated into the final EIR. CDFW has revised the measures to provide clearer implementation requirements, strengthen enforceability, and better protect fish and wildlife resources by ensuring that avoidance, minimization, and mitigation measures are specific, measurable, and effective.

Nesting Bird Measures. The Project proponent is responsible for ensuring that all Project activities comply with the federal Migratory Bird Treaty Act (MBTA; 16 U.S.C. §§ 703–712) and relevant provisions of the California Fish and Game Code (e.g., §§ 3503, 3503.5, and 3513), which prohibit the take, possession, or destruction of birds, their nests, or eggs. CDFW recommends that Mitigation Measure MTB-1 and MTB-2 are revised in the final EIR to omit the following language in strikethrough and include the language underlined.

MTB -1.

Project activities shall occur outside the avian nesting season (February 1 – September 30 to the fullest extent practicable. If avoidance during nesting season is not feasible

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and project activities may indirectly disturb suitable avian nesting habitat or remove a shrub or tree, a qualified biologist shall conduct pre-construction nesting bird surveys ~~If shrub or tree removal is to take place during the breeding season a pre-construction breeding bird survey shall be conducted~~ within 7 days prior to start of work and within 48 hours prior to start of Project ~~of these~~ activities.

MTB - 2.

If active nests are present within 300 feet of the work area would occur, a A no-disturbance buffer shall be established around any active nest or breeding pair territory to limit the impacts of construction activities. The buffer shall not be removed until after the breeding season or until after a qualified wildlife biologist determines that the young have fledged (usually late June to mid-July). Once the buffer is established, the qualified biologist shall document baseline behavior, stage of reproduction, expected fledge date, and existing site conditions, including vertical and horizontal distances from proposed work areas, visual or acoustic barriers, and existing level of disturbance. The qualified biologist shall monitor the nest daily at the onset of Project activities, and at the onset of any changes in Project activities (e.g., increase in number or type of equipment, change in equipment usage, etc.) to determine the efficacy of the buffer. If the qualified biologist determines that Project activities may be causing an adverse reaction, the qualified biologist shall adjust the buffer accordingly. The extent of these buffers shall be determined by the biologist (coordinating with USFWS and CDFW) and would depend on the level of noise or construction disturbance, line of sight between the nest and the disturbance, ambient levels of noise and other disturbances, and other topographical or artificial barriers. Suitable buffer distances may vary between species but is typically 300-400 feet for migratory birds and 500 feet for active raptor nests. Work within the buffer zone shall not resume without written approval from the qualified biologist.

Water Measures. The Project proponent is responsible for ensuring that all Project activities related to the bed, bank, and channel of any river, stream, or lake should comply with Fish and Game Code section 1602. To comply with Fish and Game Code, CDFW recommends that Mitigation Measure WATER-2 is revised in the final EIR to omit the following language in strikethrough and include the language underlined.

WATER - 2.

The temporary construction staging areas, access roads, and equipment storage shall be strategically placed at a minimum of 150 ~~400~~-feet to avoid impacts to jurisdictional waters.

Employee Education Program. CDFW recommends Caltrans incorporate the following measure into the DEIR to ensure that each employee is properly educated with the necessary training on special-status species and vegetation potentially on site.

The Project Biologist shall develop and implement an employee education program. Each employee will receive a training and awareness program prior to working on the

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proposed Project. They will be advised of the potential impact to special-status species potentially found at the Project site and the potential penalties for taking such species. At a minimum, the program will include the following: 1) Occurrence of the listed and sensitive species in the area (including photographs), their general ecology, and sensitivity to human activities; 2) The legal protection afforded to the listed and sensitive species, penalties for noncompliance with federal and state laws and reporting requirements; and 3) Project features designed to reduce the impacts to the listed and sensitive species and promote continued successful occupation of the Project area. Caltrans 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 Project activities.

Mitigation and Monitoring Reporting Plan.

CDFW recommends the Project's environmental document include mitigation measures recommended in this letter. Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments [(Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15126.4(a)(2)]. 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). Caltrans is welcome to coordinate with CDFW to further review and refine the Project's mitigation measures. Per Public Resources Code section 21081.6(a)(1), CDFW has provided a summary of our suggested mitigation measures and recommendations in the form of an attached Draft Mitigation Monitoring and Reporting Plan (Attachment A).

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB website 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](#)¹².

Caltrans should ensure data collected for the preparation of the DEIR is properly submitted.

¹² <https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities/Submit>

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FILING FEES

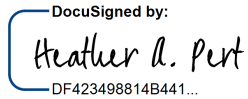
The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental 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 DEIR to assist Caltrans in identifying and mitigating Project impacts on biological resources. CDFW requests an opportunity to review and comment on any response that Caltrans has to our comments prior to adoption of the environmental document 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 [Andrew Domingos](#),¹³ Senior Environmental Scientist.

Sincerely,

DocuSigned by:

DF423498814B441...

Heather A. Pert
Environmental Program Manager
South Coast Region

ATTACHMENTS

Attachment A: Draft Mitigation, Monitoring, and Reporting Program

ec: California Department of Fish and Wildlife
Heather A. Pert, Environmental Program Manager
Erika Cleugh, Senior Environmental Scientist (Supervisor)
Andrew Domingos, Senior Environmental Scientist (Specialist)
Julisa Portugal, Senior Environmental Scientist (Specialist)

Office of Planning and Research
State.Clearinghouse@opr.ca.gov

¹³ Phone: 858-354-9919; Email: andrew.domingos@wildlife.ca.gov

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Goulson, D. (2010). *Bumblebees: behaviour, ecology, and conservation*. Oxford University Press, New York, New York.

Hatfield, R., S. Jepsen, E. Mader, S. H. Black, and M. Shepherd. (2012). *Conserving Bumble Bees Guidelines for Creating and Managing Habitat for America's Declining Pollinators*. Portland, OR: The Xerces Society for Invertebrate Conservation.

Williams, P. H., R. W. Thorp, L. L. Richardson, and S. R. Colla. (2014). *Bumble Bees of North America: An Identification Guide*. Princeton University Press.

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

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

Mitigation Measure	Timing	Responsible Party
<p>Mitigation Measure #1: Crotch’s Bumble Bee Habitat and Resource Assessment. Prior to Project implementation, a CDFW approved qualified biologist shall conduct a habitat assessment to determine if the Project area, or its immediate vicinity, contains suitable habitat for Crotch’s bumble bee. The habitat assessment shall survey and document all plant species present and include documentation of any habitat present which may support foraging, nesting, and/or overwintering. The habitat assessment shall identify which plant species are in bloom, record how many individuals of each species were identified, and determine the percent cover of each species at the Project location. Caltrans shall ensure that these site assessments are conducted over the course of multiple site visits during the colony’s active season (April - August). Recorded foraging resources should include all flowering plants, including non-natives and invasives. In addition to assessing foraging resources, Caltrans shall assess potential nesting sites during habitat assessment surveys. Nesting resources may include, but are not limited to bare ground, leaf litter and woody edge habitat, and rodent burrows. The assessment shall include a review of available historical records and updated species observation records as well as the Project’s proximity to the last known sighting. The written report summarizing the assessment results assessment shall be provided to CDFW prior to initiating Project activities.</p>	<p>Prior to Project Initiation</p>	<p>Qualified Biologist</p>
<p>Mitigation Measure #2: Focused Surveys for Crotch’s bumble bee. Focused surveys for Crotch’s bumble bee shall be conducted by a CDFW approved qualified biologist familiar with the species’ behavior and life history. The qualified</p>	<p>Prior to Project Initiation</p>	<p>Qualified Biologist</p>

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Mitigation Measure	Timing	Responsible Party
<p>biologist shall possess all necessary permits to conduct such surveys. Surveys shall be conducted during the same calendar year that vegetation removal and/or ground disturbance will occur to determine the presence/absence of Crotch’s bumble bee. Caltrans shall consult Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species¹⁴ when making their survey plan and shall send the plan to CDFW for review and written approval before conducting focused surveys. If Crotch’s bumble bee is detected, the qualified biologist shall notify CDFW immediately as further coordination with CDFW will be required to avoid significant impacts. Caltrans shall conduct surveys each year that Project activities will occur.</p>		
<p>Mitigation Measure #3: Incidental Take Permit.</p> <p>If Crotch’s bumble bee is detected, Caltrans shall coordinate with CDFW to determine if take authorization from CDFW is warranted (pursuant to Fish & Game Code, § 2080 et seq).</p>	<p>Prior to Project Initiation</p>	<p>Project Proponent</p>
<p>Mitigation Measure #4: Western Burrowing Owl Focused Surveys.</p> <p>Caltrans shall retain a CDFW-approved qualified biologist to conduct focused surveys for western burrowing owl prior to Project activities. Focused surveys shall be conducted pursuant to CDFW’s March 7, 2012, Staff Report on Burrowing Owl Mitigation¹⁵ (CDFW 2012) or CDFW’s most recent guidance. In California, the burrowing owl breeding season extends from February 1 to August 31. Caltrans shall conduct surveys with at least one survey occurring between October 1 and February</p>	<p>Prior to Project Initiation</p>	<p>Qualified Biologist</p>

¹⁴ <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150&inline>

¹⁵ <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline>

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Mitigation Measure	Timing	Responsible Party
<p>14, one survey occurring between February 15 and April 15, and a minimum of three surveys between April 15 and July 15 conducted at least three weeks apart and with at least one survey after June 15. Surveys shall include five site visits conducted from as many fixed points as necessary to provide visual coverage of the site using spotting scopes or binoculars. Disturbance shall be minimized around potential occupied burrows during all Project activities and seasons.</p> <p>Results of all surveys shall be provided to CDFW after surveys are complete, no more than 30 days prior to Project commencement. If a burrowing owl is observed during the focused surveys, the qualified biologist shall notify CDFW immediately and prepare a Burrowing Owl Plan (BOP) that shall be submitted to CDFW for review and approval at least 30 days prior to commencing Project activities. The (BOP) shall describe survey results, specify proposed avoidance and minimization measures to prevent take, and include a monitoring plan. All measures in the BOP shall be implemented as approved by CDFW. If burrowing owls are detected, all work in the affected area shall cease until appropriate avoidance or take authorization is in place.</p>		
<p>Mitigation Measure #5: Western Burrowing Owl Incidental Take Permit.</p> <p>If an occupied burrow or individual western burrowing owl is found within the Project area, Caltrans shall coordinate with CDFW and obtain appropriate take authorization from CDFW (pursuant to Fish & Game Code, § 2080 et seq).</p>	<p>Prior to Project Initiation</p>	<p>Project Proponent</p>
<p>Mitigation Measure #6: Rare Plant Surveys.</p> <p>A qualified CDFW-approved botanists with experience with local flora shall conduct focused surveys during the appropriate identification period(s) to ensure no special-</p>	<p>Prior to Project Initiation</p>	<p>Qualified Botanists</p>

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Mitigation Measure	Timing	Responsible Party
<p>status plant species are present or will be impacted within the proposed impact areas. Methods during the surveys shall be in accordance with CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities. If a special-status plant or population of special-status plants is discovered on-site, Caltrans shall notify CDFW within 24 hours. Caltrans shall provide survey results to CDFW at least 14 days prior to the planned commencement of Project activities. If any rare plants or special-status species are observed during floristic surveys, no activities with the potential to impact special-status plants shall occur until CDFW is notified and provides further direction and written concurrence for those activities to begin.</p>		
<p>Mitigation Measure #7: Habitat Mitigation and Monitoring Plan.</p> <p>If special-status plants are detected during surveys, the Project proponent shall coordinate with CDFW prior to Project initiation to identify suitable compensatory mitigation for impacts on these species. The Project proponent shall prepare a Habitat Mitigation and Monitoring Plan (HMMP) for review and written approval by CDFW prior to any ground disturbance. The HMMP shall detail relocation, salvage, and/or restoration of impacted species and subsequent maintenance and monitoring, payment to an agency approved mitigation bank, or acquisition of off-site lands to be protected under a conservation easement in perpetuity. The HMMP shall outline initial and long-term management and maintenance activities that would occur on mitigation lands. The HMMP shall provide measurable goals and success criteria for establishing self-sustaining populations (e.g., percent survival rate, absolute cover). Maintenance activities outlined in the HMMP shall include measures pertaining to control of non-</p>	<p>Prior to Project Initiation</p>	<p>Project Proponent</p>

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Mitigation Measure	Timing	Responsible Party
<p>native invasive vegetation, irrigation schedule, and protection from future disturbance or maintenance activities.</p>		
<p>Mitigation Measure #8: Listed Plant Species.</p> <p>If a state or federally-listed plant species is present, consultation with CDFW and/or USFWS should be required prior to initiating any Project activities to coordinate any take permits pursuant to state and/or federal regulations and requisite compensatory mitigation.</p>	<p>Prior to Project Initiation</p>	<p>Project Proponent</p>
<p>Mitigation Measure #9: MTB-1.</p> <p>Project activities shall occur outside the avian nesting season (February 1 – September 30 to the fullest extent practicable. If avoidance during nesting season is not feasible and project activities may indirectly disturb suitable avian nesting habitat or remove a shrub or tree, a qualified biologist shall conduct pre-construction nesting bird surveys within 7 days prior to start of work and within 48 hours prior to start of Project activities.</p>	<p>Prior to Project Initiation</p>	<p>Qualified Biologist</p>
<p>Mitigation Measure #10: MTB-2.</p> <p>If active nests are present within 300 feet of the work area would occur, a no-disturbance buffer shall be established around any active nest or breeding pair territory to limit the impacts of construction activities. The buffer shall not be removed until after the breeding season or until after a qualified wildlife biologist determines that the young have fledged (usually late June to mid-July). Once the buffer is established, the</p>	<p>Prior to and During Project activities</p>	<p>Qualified Biologist</p>

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Mitigation Measure	Timing	Responsible Party
<p>qualified biologist shall document baseline behavior, stage of reproduction, expected fledge date, and existing site conditions, including vertical and horizontal distances from proposed work areas, visual or acoustic barriers, and existing level of disturbance. The qualified biologist shall monitor the nest daily at the onset of Project activities, and at the onset of any changes in Project activities (e.g., increase in number or type of equipment, change in equipment usage, etc.) to determine the efficacy of the buffer. If the qualified biologist determines that Project activities may be causing an adverse reaction, the qualified biologist shall adjust the buffer accordingly. Suitable buffer distances may vary between species but is typically 300 feet for migratory birds and 500 feet for active raptor nests. Work within the buffer zone shall not resume without written approval from the qualified biologist.</p>		
<p>Mitigation Measure #11: WATER-2.</p> <p>The temporary construction staging areas, access roads, and equipment storage shall be strategically placed at a minimum of 150 feet to avoid impacts to jurisdictional waters.</p>	<p>Prior to Project Initiation</p>	<p>Project Proponent</p>
<p>Recommendation #1: Disclosure of Impacts.</p> <p>The DEIR should include a discussion regarding the Project’s impacts on floral resources, nesting habitat, and overwintering habitat for Crotch’s bumble bee. The DEIR should also provide full disclosure of the presence of Crotch’s bumble bee within the Project area. The discussion should be of sufficient depth and scope that a CESA Incidental Take Permit can be issued based on the analysis provided in the DEIR.</p>	<p>Prior to final EIR</p>	<p>Lead Agency</p>

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Mitigation Measure	Timing	Responsible Party
<p>Recommendation #2: Western Burrowing Owl DEIR Revisions.</p> <p>The DEIR should be revised to acknowledge that western burrowing owls are designated as a CESA candidate species and afforded full protection under CESA. If the Project may impact western burrowing owl, the DEIR should incorporate measures to mitigate potential impacts to western burrowing owl as well as the habitat which supports the species. The discussion in the DEIR should be of a depth and scope that a CESA ITP can be issued based on the analysis provided in the DEIR.</p>	<p>Prior to final EIR</p>	<p>Lead Agency</p>
<p>Recommendation #3: Employee Education Program.</p> <p>The Project Biologist shall develop and implement an employee education program. Each employee will receive a training and awareness program prior to working on the proposed Project. They will be advised of the potential impact to special-status species potentially found at the Project site and the potential penalties for taking such species. At a minimum, the program will include the following: 1) Occurrence of the listed and sensitive species in the area (including photographs), their general ecology, and sensitivity to human activities; 2) The legal protection afforded to the listed and sensitive species, penalties for noncompliance with federal and state laws and reporting requirements; and 3) Project features designed to reduce the impacts to the listed and sensitive species and promote continued successful occupation of the Project area. Caltrans 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 Project activities.</p>	<p>Prior to final EIR</p>	<p>Lead Agency</p>