

Lake and Streambed Alteration Evaluation

Mono County, California
District 9 – Mono – 395 – post miles 51.5 and 52.1
EA: 09-37430/Project ID: 0918000015

Initial Study with Negative Declaration



Prepared by the
State of California, Department of Transportation

December 2024



The California Department of Transportation (Caltrans) proposes to improve roadway drainage and reduce erosion at two unnamed stormwater drainage locations on U.S. Route 395 within Mono County.

**INITIAL STUDY
with Negative Declaration**

Submitted Pursuant to: (State) Division 13, California Public Resources Code

THE STATE OF CALIFORNIA
Department of Transportation

Responsible Agencies: California Department of Fish and Wildlife



Kirsten Helton
Deputy District Director, Planning and Environmental
California Department of Transportation
CEQA Lead Agency

12/3/2025
Date

The following individual can be contacted for more information about this document:

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Negative Declaration

Pursuant to: Division 13, Public Resources Code

District-County-Route-Post Mile: 09-Mono-395-51.5 and 52.1

EA/Project Identification: 09-37430/0918000015

Project Description

The California Department of Transportation (Caltrans) proposes to improve roadway drainage and reduce erosion at two unnamed stormwater drainage locations on U.S. Route 395 within Mono County.

Location Number	Caltrans Culvert Number	Post Mile	Existing Culvert	Proposed Culvert
1	473954005150	51.5	8-inch corrugated metal pipe	Not applicable
2	473954005207	52.1	30-inch corrugated steel pipe arch	30-inch corrugated steel pipe arch

Determination

An Initial Study has been prepared by Caltrans District 9. On the basis of this study, it is determined that the proposed project will not have a significant effect on the environment for the following reasons:

- The project would have no impacts to Aesthetics, Agriculture, Air Quality, Cultural Resources, Energy, Geology and Soils, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Planning, Mineral Resources, Noise, Population and Housing, Public Services, Recreation, Transportation, Tribal Cultural Resources, Utilities and Service Systems, and Wildfire.
- The project would have less than significant impacts to Biological Resources.

Kirsten Helton
Deputy District Director, Planning and Environmental
District 9
California Department of Transportation

Date

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Chapter 1 Proposed Project

1.1 Introduction

The Department of Transportation (Caltrans) proposes to improve roadway drainage and reduce erosion at two unnamed stormwater drainage locations on U.S. Route 395 within Mono County.

This document has been prepared solely to provide California Environmental Quality Act clearance for the purpose of obtaining a Lake and Streambed Alteration (1600) Agreement from the California Department of Fish and Wildlife. Therefore, it is focused only on impacts that are within California Department of Fish and Wildlife 1600 jurisdictional areas. A separate CEQA document has been prepared for the transportation project in its entirety and focuses on all areas of potential environmental impact and was submitted to the California Department of Fish and Wildlife and the public for review and comment. That document (“Lee Vining Rehab Initial Study with Negative Declaration”) and all the findings made therein is incorporated into this document by reference. For that reason, only Biological Resources are addressed here.

1.2 Project Description

The proposed project will improve roadway drainage and reduce erosion at two unnamed stormwater drainage locations on U.S. Route 395 within Mono County. The project is within and adjacent to the town of Lee Vining along U.S. Route 395. The project area consists of developed areas associated with buildings, roads, culverts, and parking areas, as well as bitterbrush scrub and riparian habitat. The two locations are identified below.

Location Number	Caltrans Culvert Number	Post Mile	Existing Culvert	Proposed Culvert
1	473954005150	51.5	8-inch corrugated metal pipe	Not applicable
2	473954005207	52.1	30-inch corrugated steel pipe arch	30-inch corrugated steel pipe arch

1.2.1 Location 1

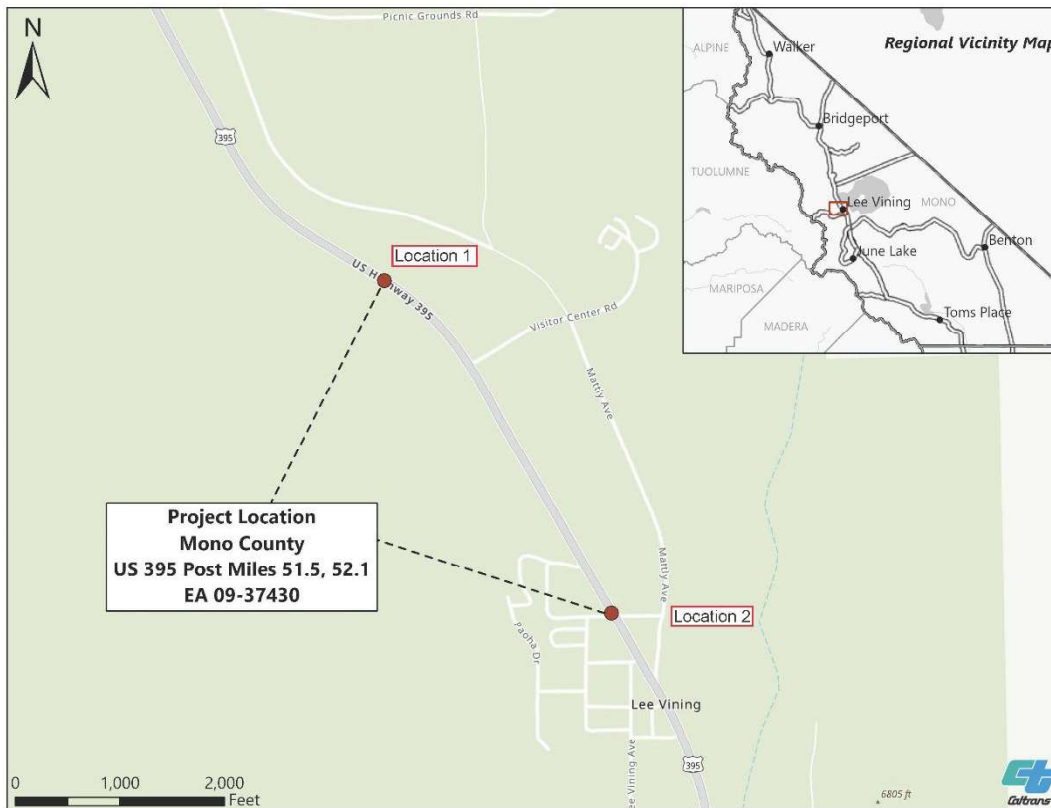
The existing culvert system at Location 1 will remain in place (no culverts being replaced or added). Approximately 170 feet of existing rock slope protection at the outlet of the culvert will be excavated out and replaced with new larger rock to dissipate energy and alleviate erosion. [Note that the previous sentence has been updated since the draft version of this document

circulated for public comment and review; the previous estimate was that 135 feet of rock slope protection would be replaced.] Replacement of the existing rock slope protection will not expand fill within the channel beyond what is currently there. No work is planned to occur along the dirt access road. Excavators will be used to remove the existing undersized rock slope protection and install the new rock slope protection. Dump trucks will haul the material offsite and be used to haul in the new, larger rock slope protection. Backhoes and loaders may also be used. All equipment will access the channel from the north side.

1.2.2 Location 2

The existing culvert at Location 2 will be removed and replaced in kind with the same-sized pipe. Rock slope protection will be installed at the culvert outfall as energy dissipation control to alleviate erosion. Excavators will be used to remove and replace the culvert. Dump trucks will be used to haul in the rock slope protection, and excavators will be used to install it. Backhoes and loaders may also be used. Access will be restricted to U.S. Route 395 and the road shoulder.

Figure 1-1 Project Location and Vicinity Map



Chapter 2 CEQA Evaluation

2.1 CEQA Environmental Checklist

This checklist identifies physical, biological, social, and economic factors that might be affected by the proposed project. Potential impact determinations include Potentially Significant Impact, Less Than Significant with Mitigation Incorporated, Less Than Significant Impact, and No Impact. In many cases, background studies performed in connection with a project will indicate that there are no impacts to a particular resource. A No Impact answer reflects this determination. The questions in this checklist are intended to encourage the thoughtful assessment of impacts and do not represent thresholds of significance.

Project features, which can include both design elements of the project and standardized measures that are applied to all or most Caltrans projects such as Best Management Practices and measures included in the Standard Plans and Specifications or as Standard Special Provisions, are considered to be an integral part of the project and have been considered prior to any significance determinations documented below.

“No Impact” determinations in each section are based on the scope, description, and location of the proposed project as well as the appropriate technical report (bound in a separate volume), and no further discussion is included in this document. Detailed information regarding survey methodologies and results are also found.

2.1.1 Biological Resources

Considering the information included in the Biological Resources Evaluation Memo prepared for this project, the following significance determinations have been made:

Question—Would the project:	CEQA Significance Determinations for Biological Resources
a) 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 California Department of Fish and Wildlife, U.S. Fish and Wildlife Service, or National Oceanic and Atmospheric Administration Fisheries?	No Impact.

Question—Would the project:	CEQA Significance Determinations for Biological Resources
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	Less Than Significant Impact.
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	No Impact.
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	No impact.
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	No Impact.
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	No Impact.

Affected Environment

The two drainages associated with the project are unnamed features that do not convey natural flow. Instead, they carry roadway runoff via drainage inlets on U.S. Route 395. No riverine habitat exists within the project area; it is found farther downstream of the drainages.

Location 1 was created by a culvert system that collects water via multiple curb and gutter storm drains that come together at the intersection of U.S. Route 395 and First Street. The main Caltrans storm drain culvert runs east under First Street and appears above ground adjacent to two other non-Caltrans culverts after crossing under Mattly Avenue. Water flows from these culverts into a rock-lined channel on land owned by the Los Angeles Department of Water and Power, eventually forming an erosional feature connecting to Lee Vining Creek. Drainage location 1 contains emergent riparian vegetation.

Location 2 conveys roadway runoff through a culvert and into an erosional feature that eventually leads to riparian habitat adjacent to Mono Lake and

has no obvious surface connection to the lake. This location contains mostly upland vegetation consisting of bitterbrush scrub habitat, but several individual emergent riparian plants are also present.

Environmental Consequences

At Location 1, approximately 0.01 acre of temporary impacts to riparian vegetation will result from replacing rock slope protection at the culvert outlet and in the channel. No permanent impacts are anticipated. Ten narrowleaf willows (*Salix exigua*) occur within the channel and will require removal; all are less than 2 inches in diameter at breast height.

At Location 2, approximately 0.01 acre of temporary impacts to riparian vegetation will result from replacing the culvert, and approximately 0.02 acre of permanent impacts will result from the new rock slope protection installation. Three narrowleaf willows will be trimmed; both are less than 2 inches in diameter at breast height.

In total, the project will result in 0.02 acre of permanent impacts from placement of rock slope protection and 0.02 acre of temporary impacts due to construction.

Avoidance, Minimization, and/or Mitigation Measures

While the project does not have the potential to result in significant impacts requiring implementation of mitigation measures, the following avoidance and minimization measures will be implemented to reduce impacts that have been determined to be less than significant:

BIO-1: The project resident engineer shall notify the project biologist 2 weeks prior to the anticipated construction start date so that pre-construction surveys can be conducted to identify the presence (or absence) of sensitive plant or wildlife species, or nesting birds within the project impact area. If sensitive species are found within the project limits, Caltrans will coordinate with the California Department of Fish and Wildlife on measures that may be needed to avoid, minimize or mitigate potential impacts. If active bird nests are found within the project area, protective no-work buffers and/or active monitoring (by biological monitors) of the nest during work activities will occur during construction. With the implementation of these measures, no impacts to nesting birds are expected during construction of this project.

BIO-2: Prior to the start of work, workers will receive a Biological Resource Information Program training on California Department of Fish and Wildlife 1602 resources before performing onsite work. A qualified biologist will conduct the training, which will be required for all construction personnel.

BIO-3: Project work will be conducted during a dry period when there are no surface flows.

BIO-4: Environmentally sensitive areas will be established to protect California Department of Fish and Wildlife 1602 resources.

BIO-5: A biological monitor will be present onsite during initial ground-clearing activities when working within the California Department of Fish and Wildlife 1602 resource area to ensure no sensitive species are present and that work does not occur within environmentally sensitive area boundaries.

Appendix A Title VI Policy Statement

CALIFORNIA STATE TRANSPORTATION AGENCY

GAVIN NEWSOM, GOVERNOR

California Department of Transportation

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September 2023

NON-DISCRIMINATION POLICY STATEMENT

The California Department of Transportation, under Title VI of the Civil Rights Act of 1964, ensures "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."

Caltrans will make every effort to ensure nondiscrimination in all of its services, programs and activities, whether they are federally funded or not, and that services and benefits are fairly distributed to all people, regardless of race, color, or national origin. In addition, Caltrans will facilitate meaningful participation in the transportation planning process in a non-discriminatory manner.

Related federal statutes, remedies, and state law further those protections to include sex, disability, religion, sexual orientation, and age.

For information or guidance on how to file a complaint, or obtain more information regarding Title VI, please contact the Title VI Branch Manager at (916) 639-6392 or visit the following web page: <https://dot.ca.gov/programs/civil-rights/title-vi>.

To obtain this information in an alternate format such as Braille or in a language other than English, please contact the California Department of Transportation, Office of Civil Rights, at PO Box 942874, MS-79, Sacramento, CA 94274-0001; (916) 879-6768 (TTY 711); or at Title.VI@dot.ca.gov.

A handwritten signature in black ink, appearing to read 'Tony Tavares'.

TONY TAVARES
Director

"Provide a safe and reliable transportation network that serves all people and respects the environment"

Appendix B Public Comments

This appendix contains the comments received during the public circulation and comment period from October 24, 2024 to November 23, 2024, retyped for readability. One comment letter was received. The comment letter is stated verbatim as submitted, with acronyms, abbreviations, and any original grammatical or typographical errors included. A Caltrans response follows each comment presented. A copy of the original comment letter is available upon request.

Comment Letter from the California Department of Fish and Wildlife

November 20, 2024

Ryan Spaulding, Senior Environmental Scientist (Specialist)
California Department of Transportation, District 9
500 S. Main Street
Bishop, CA 93514

Subject: Initial Study with Proposed Negative Declaration,
Lake and Streambed Alteration Evaluation, EA/Project ID: 09-
37430/0918000015 (Project)
State Clearinghouse No. 2024101065

Dear Ryan Spaulding:

The California Department of Fish and Wildlife (CDFW) received an Initial Study with a Proposed Negative Declaration (IS/ND) from the California Department of Transportation, District 9 (Caltrans) for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding 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. (*Id.*, § 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.

CDFW is also submitting comments 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 of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

Proponent: Caltrans District 9

Objective

The objective of the Project is to improve roadway drainage and reduce erosion at two (2) unnamed drainages located off U.S. Route 395 (US 395) near Lee Vining within Mono County.

Project Description:

Location 1: The existing culvert system at Location 1 will remain in place (no culverts being replaced or added). However, existing rock slope protection (RSP) at the outfall and in the approximately 135-foot-long channel, which leads to an existing dirt access road, will be excavated out and replaced with new larger rock to dissipate energy and alleviate erosion. Replacement of the existing RSP will not expand the fill within the channel beyond that which is currently there. No work is planned to occur along the dirt access road. Excavators will be used to remove the existing undersized RSP and install the new RSP. Dump trucks will haul the material offsite and will be used to haul in the new larger RSP. Backhoes and loaders may also be used. All equipment will access the channel from the north side.

Location 2: The existing culvert at Location 2 will be removed and replaced in kind. New RSP will be installed (where there was no previous RSP) at the culvert outfall as energy dissipation control to alleviate erosion. Excavators will be used to remove and replace the culvert and to place the new RSP. Dump trucks will be used to haul in the RSP, and excavators will be used to install it. Backhoes and loaders may also be used. Access will be restricted to US-395 and the road shoulder.

Location: Location 1 and Location 2 are in Lee Vining, California, Mono County off US 395. Location 1 is located at Postmile 51.5 on 1st Street, and at Latitude 37.9587 and Longitude -119.1211. Location 2 is located at Postmile 52.1 on Lee Vining Ave, 0.2 Miles North of Visitor Center Drive, and at Latitude 37.9653 and Longitude -119.1267.

Timeframe

Anticipated start and end dates are not provided in the IS/ND, but the Project appears to be related the Caltrans Lee Vining Rehabilitation Project (<https://ceqanet.opr.ca.gov/Project/2022020127>), which is expected to be delivered in 2026. CDFW recommends that the final ND includes anticipated start and end dates for this Project.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below and in Attachment A to assist Caltrans District 9 in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions are also included to improve the document.

I. Mitigation Measure or Alternative and Related Impact Shortcoming

COMMENT #1: Southwestern Willow Flycatcher (*Empidonax traillii extimus*)

Section #2.1.1.b, Pages #4-6

Issue: The Project has the potential to result in impacts to southwestern willow flycatcher, a CESA-listed endangered species. Location 1 and Location 2 contain suitable habitat for southwestern willow flycatcher, specifically narrowleaf willow (*Salix exigua*). While the Project conducted biological surveys in 2022, no details were provided regarding protocols used, and therefore, CDFW is concerned that surveys may not have been appropriate to determine Project related impacts to special-status species, such as southwestern willow flycatcher. Further, CDFW generally considers biological field assessments for wildlife to be valid for a one-year period.

Specific Impact: According to the California Natural Diversity Database (CNDDDB), southwestern willow flycatcher, a State and Federally listed species, has been detected within the vicinity of the Project. The Project proposes the removal of habitat suitable to southwestern willow flycatcher, including at least ten (10) narrowleaf willows at Location 1 and trimming of three (3) narrowleaf willows at Location 2. CDFW is particularly concerned with potential impacts the Project may have on southwestern willow flycatcher, including mortality, modification of habitat, impacts to nesting sites, and nesting behavior.

Why impact would occur: The Project will replace existing RSP at Location 1 within the 135-foot-long channel and install new RSP at Location 2, but the IS/ND does not include specific dimensions for the RSP. Based on preliminary aerial analysis, CDFW estimates potential impacts to at least 0.28 acres of suitable habitat for southwestern willow flycatcher. CDFW suggests that prior to adoption, the ND be revised to provide clarity on the Project's impact on riparian habitat and southwestern willow flycatcher.

Evidence impact would be significant: Southwestern willow flycatcher is a State and Federally endangered species. The Project may result in direct take of southwestern willow flycatcher (California Fish and Game Code Section 86 defines "take" as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill"), the loss of habitat for the species, take of its nests and eggs, abandonment of nesting sites by individuals, and alteration of nesting habits due to dust, noise, and vibration.

Recommended Potentially Feasible Mitigation Measure(s): CDFW recommends the adoption of BIO-6 below in the final ND to ensure impacts to southwestern willow flycatcher are mitigated to a level of less than significant.

BIO-6: Southwestern Willow Flycatcher Pre-Construction Survey

The Project area shall be reviewed by a qualified biologist for presence of suitable southwestern willow flycatcher habitat. If habitat is present, surveys according to "A Willow Flycatcher Survey Protocol for California" developed by Helen L. Bombay, Teresa M. Benson, Brad E. Valentine, and Rosemary A. Stefani, May 29, 2003 (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=84019&inline>) shall be completed before Project activities begin to determine if southwestern willow flycatcher are present, unless Project activities are conducted outside the southwestern willow flycatcher breeding season (May 1 through August 31). If current-year surveys (per the protocol) determine the presence of southwestern willow flycatcher, the following additional measures shall be followed:

- 1. No Project activities shall occur during the breeding season (May 1 through August 31) in and within 300 feet of southwestern willow flycatcher habitat where southwestern willow flycatcher have been found present.**
- 1. Any Project activities conducted within or adjacent to suitable southwestern willow flycatcher habitat where southwestern willow flycatcher have been found shall not damage or destroy willows or other riparian shrubs, unless agreed on through consultation with CDFW.**

COMMENT #2: Nesting Birds

Section #2.1.1.b, Pages #4-6

Issue: The Project contains suitable habitat for birds, including narrowleaf willows and bitterbrush (*Purshia tridentata*) scrub. CDFW is particularly concerned with potential impacts the Project may have on nesting birds, including take of nests and disruption of nesting behavior. While the IS/ND includes Measure BIO-1, which requires the Project Resident Engineer to notify the project biologist 2 weeks prior to the anticipated construction start date so that pre-construction surveys can be conducted to identify the presence (or absence) of sensitive plant or wildlife species, or nesting birds within the project impact area, Measure BIO-1 is not sufficient to mitigate impacts to nesting birds to a level less than significant (see CDFW recommended BIO-7 below for comparison).

Specific Impact: According to CNDDDB the following birds have been found in the vicinity of the Project area: Brewer's Sparrow (*Spizella breweri*), Northern Harrier (*Circus hudsonius*), Yellow-Headed Blackbird (*Xanthocephalus xanthocephalus*), Yellow Warbler (*Setophaga petechia*), American Goshawk (*Accipiter gentilis*), California Quail (*Callipepla californica*), Common Raven (*Corvus corax*), Green-Tailed Towhee (*Pipilo chlorurus*), and Black-Throated Sparrow (*Amphispia bilineata*).

Why impact would occur: The Project as described could result in direct take associated with vehicle and equipment strike, indirect take associated with Project operations such as attracting predators, displacement, reduction of habitat and habitat quality associated with road infrastructure expansion. The Project as described would cause permanent and temporary impacts to avian species' foraging and nesting habitat.

Evidence impact would be significant: Fish and Game Code section 3503 makes it unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by the rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.). Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto.

Recommended Potentially Feasible Mitigation Measure(s): CDFW recommends the adoption of BIO-7 below in the final ND to ensure impacts to nesting birds are mitigated to a level of less than significant.

BIO-7: Nesting Bird Pre-Construction Survey

Project activities shall not result in impacts to nesting birds, or result in the take or removal of nests or eggs in accordance with CDFW and USFWS regulations. Pre-construction nesting bird surveys must be conducted within and adjacent to the Project area where Project activities have the potential to affect nesting birds 3-days prior to construction by a qualified biologist experienced with: identifying local and migratory bird species; conducting bird surveys using appropriate survey methodology; nesting surveying techniques, recognizing breeding and nesting behaviors, locating nests and breeding territories, and identifying nesting stages and nest success; determining/establishing appropriate avoidance and minimization measures; and monitoring the efficacy of implemented avoidance and minimization measures, in order to locate and avoid nesting birds. If an active avian nest is located, a no disturbance buffer shall be established and monitored by the qualified biologist based on the professional judgement of the qualified biologist, and on any nesting bird behavioral response associated with Project related activities. Any active nests shall be continuously monitored by a qualified biologist during the course of Project activities that have the potential to cause disturbance to any nesting birds to ensure avoidance buffers are effective until the young have fledged or the nest is no longer active. Avoidance buffers shall be expanded and/or modified as needed by the qualified biologist if any nesting bird shows behavioral responses resulting from Project related activities. All nest failures and/or take of bird species shall be reported to CDFW.

COMMENT #3: Lake and Streambed Alteration (LSA)

Section #1.2. and 2.1.1, Pages # 1-2, 4-6

Issue: CDFW is not clear whether Caltrans intends to notify pursuant to Fish and Game Code section 1602 and obtain a LSA Agreement. The IS/ND states, "This document is being prepared solely to provide California Environmental Quality Act clearance for the purpose of obtaining a Lake and Streambed Alteration (1600) Agreement from the California Department of Fish and Wildlife (CDFW) and is focused only on impacts that are within CDFW 1600 jurisdictional areas". However, no measures in the IS/ND were included to address 1602 Notification.

Specific impact: The Project will impact Fish and Game Code section 1602 resources. As described, the Project includes diversion or obstruction of natural flow of a stream; changes in the bed, bank, and channel of a stream; and the potential for deposition of debris or other materials into two (2) unnamed ephemeral streams with connected outflow to Lee Vining Creek and Mono Lake. The Project estimates that in total, 0.02 acres of permanent impacts from placement of RSP and 0.02 acres of temporary impacts due to

removal of riparian vegetation will occur. In addition, ten (10) narrowleaf willows will be removed and three (3) narrowleaf willows will be trimmed.

Why impact would occur: The Project includes replacement and modification of two (2) culverts, stream excavation, replacement and installation of RSP, and removal of riparian habitat.

Evidence impact would occur: Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following: substantially divert or obstruct the natural flow of any river, stream, or lake; substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or deposit debris, waste or other materials that could pass into any river, stream, or lake. Please note that "any river, stream, or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams, desert washes, and watercourses with subsurface flow, and the hyporheic zones thereof.

The Project, as described in the IS/ND is subject to notification under Fish and Game Code section 1602. CDFW considers substantial adverse impacts and the deposition of materials where they may pass into streams as a significant impact, unless avoided and minimized to a level of less than significant.

Recommended Potentially Feasible Mitigation Measure(s): To address the above issues and help avoid impacting Fish and Game Code section 1602 resources, CDFW requests Caltrans add the following mitigation measures in the final ND:

BIO-8: Caltrans shall notify CDFW under Fish and Game Code section 1600 et seq. for all portions of the Project that will substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake, or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake. Culvert replacement and repair and replacement and installation of RSP that is planned to be placed in or near areas that are subject to Fish and Game Code section 1600 notification shall not consist of asphalt, bitumen, or any other substance or material that is deleterious to fish, plant life, mammals, or bird life in accordance with Fish and Game Code 5650 et seq.

BIO-9: Permanent impacts to 1602 resources shall mitigated at a minimum 3:1 (mitigated to impacted) ratio by acreage area, or other ratio deemed appropriate by CDFW. Mitigation for the temporary and permanent impacts to 1600 resource areas shall be conducted either on-site through restoration activities, or through purchase of mitigation

credits from a CDFW-approved bank and/or land acquisition, conservation, and management, or a combination of both, in coordination with CDFW.

II. Editorial Comments and/or Suggestions

Caltrans Lee Vining Rehabilitation Project: This Project referred to the Caltrans Lee Vining Rehabilitation Project in reference to CEQA documentation and Biological Surveys. CDFW recommends that Caltrans clarify whether this Project is part of the Caltrans Lee Vining Rehabilitation Project in the final ND.

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 field survey form can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

ENVIRONMENTAL DOCUMENT 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 IS/ND to assist Caltrans in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Scott Jakubowski, Senior Environmental Scientist (Specialist) at (909) 345-0919 or Scott.Jakubowski@Wildlife.ca.gov.

Sincerely,

Brandy Wood
Environmental Program Manager

ec: Office of Planning and Research, State Clearinghouse, Sacramento
state.clearinghouse@opr.ca.gov.

REFERENCES

California Department of Fish and Wildlife. BIOS / California Natural Diversity Database (CNDDDB) Government [ds45]: Dataset Lee Vining, California. 2024. California Department of Fish and Wildlife. Retrieved October 29-31, 2024, from <https://apps.wildlife.ca.gov/bios6/Default.aspx>.

Planning and Research. California Environmental Quality Act (CEQA) Net Web Portal Search Results. State Clearing House No. 2022020127. Retrieved October 28, 2024, <https://ceqanet.opr.ca.gov/Project/2022020127>.

Caltrans' Response to Comment #1 (Southwestern Willow Flycatcher; pages 11-12 of this document):

In 2022, Caltrans followed the protocol outlined in *A Natural History Summary and Survey Protocol for the Southwestern Willow Flycatcher* (Sogge et al., 2010) due to the potential for suitable southwestern willow flycatcher habitat to overlap with the project's limits. The survey found that willow (*Salix* spp.) species were present in the project areas; however, the habitat was deemed unsuitable for the willow flycatcher, and the project would not impact the species. According to Sogge et al. (2010), willow flycatchers are not typically found in narrow, linear habitats less than 10 meters (32 feet) wide. Also, on June 16, 2021, California Department of Fish and Wildlife biologist Lacey Greene confirmed that willow flycatchers are unlikely to occur within the project area because the species is confined to river and riparian corridors with dense, shrubby vegetation and standing or flowing water. The project's two locations are less than 10 meters (32 feet) wide, lack dense shrubby areas, and do not contain standing or flowing water. No changes have occurred in the habitat since the 2022 protocol survey.

Caltrans' Response to Comment #2 (Nesting Birds; pages 13-14 of this document):

Caltrans intends to perform surveys for nesting birds within the project limits prior to the start of construction, as detailed in the measure titled BIO-1 (page 5 of this document). If active bird nests are found, protective no-work buffers and/or active monitoring (by biological monitors) of the nest during work activities will occur during construction. With the implementation of these measures, no impacts to nesting birds are expected during construction of this project.

Caltrans' Response to Comment #3 (Lake and Streambed Alteration; pages 14-15 of this document):

Caltrans plans to obtain a Lake and Streambed Agreement from the California Department of Fish and Wildlife for this project. The Lake and Streambed Agreement will include two project locations as described in the project description. Mitigation measures shall align with measures recommended by the California Department of Fish and Wildlife in BIO-8 (page 16 of this document). Regarding California Department of Fish and Wildlife measure BIO-9 (page 17 of this document), mitigation for the temporary and permanent impacts include recontouring and natural recruitment of riparian vegetation. California Department of Fish and Wildlife-approved mitigation banks are not available in Mono County and current vegetation management practices control vegetation grown within the Caltrans facility.

Caltrans' Response to Editorial Comment (Caltrans Lee Vining Rehabilitation Project; page 16 of this document):

Caltrans provides clarification about this project's relation to the "Lee Vining Rehabilitation" project in Chapter 1, Section 1.1 (Introduction), which reads as follows:

This document has been prepared solely to provide California Environmental Quality Act clearance for the purpose of obtaining a Lake and Streambed Alteration (1600) Agreement from the California Department of Fish and Wildlife. Therefore, it is focused only on impacts that are within California Department of Fish and Wildlife 1600 jurisdictional areas. A separate CEQA document has been prepared for the transportation project in its entirety and focuses on all areas of potential environmental impact and was submitted to the California Department of Fish and Wildlife and the public for review and comment. That document ("Lee Vining Rehab Initial Study with Negative Declaration") and all the findings made therein is incorporated into this document by reference.

The work to be performed at the locations described in this document (post miles 51.5 and 52.1) will occur as part of the "Lee Vining Rehab" project.

To obtain a copy of one or more of the technical studies/reports used to document the determinations made in this Initial Study, please send your request to:

Ryan Spaulding
Senior Environmental Scientist (Specialist)
California Department of Transportation
500 South Main Street, Bishop, California 93514

Or send your request via email to: Ryan.Spaulding@dot.ca.gov
Or call: 760-937-1556

Please provide the following information in your request:

Lake and Streambed Alteration Evaluation
09-MNO-395-51.5/52.10
EA: 09-37430/Project ID: 0918000015