Haggerty, Nicole@Wildlife

From:	Morford, Samantha@Wildlife
Sent:	Thursday, January 29, 2026 8:58 AM
To:	Greenwood, Caitlin@DOT
Cc:	Stanfield, Melissa@Wildlife; Sheya, Tanya@Wildlife; Kilgour, Morgan@Wildlife; Wildlife R2 CEQA
Subject:	CDFW Comments on the ND for the EA 03-3J930 Durham Pentz Intersection (SCH No. 2026010061)

Dear Caitlin Greenwood:

The California Department of Fish and Wildlife (CDFW) received and reviewed the Notice of Intent to Adopt an ND from California Department of Transportation (Caltrans) for the EA 03-3J930 Durham Pentz Intersection (project) pursuant the California Environmental Quality Act (CEQA) statute and guidelines.[1]

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish, wildlife, native plants, and their habitat. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may need to exercise 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 provides, 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 may also act as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law 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

The project site is located on State Route (SR) 191 at the intersection of Durham Pentz Road in Butte County between Post Miles (PM) 3.28 and 3.78.

The project consists of improving the existing intersection at SR 191 and Durham Pentz Road. The proposed project would improve the existing temporary roundabout through installation of a permanent roundabout with a larger inscribed circle diameter, raised splitter islands, raised truck apron, and chicanes. The project would also include electrical work to improve lighting, modify flashing beacons, and upgrading a count station. Other proposed work includes upgrading signs, improvements to traffic striping, improving drainage, including culverts and ditches, and constructing Maintenance Vehicle Pullouts (MVPs) at PM 3.39, PM 3.68 and near the flashing beacons on Durham Pentz Road. Improvements to culverts and ditches would occur at the proposed MVPs, gas station driveway, and proposed driveway leading to the strawberry field on the east leg of Durham Pentz Road, as well as around the roundabout. Landscaping removal and underground and overhead utility relocation may be required. The landscaping proposed to be removed consists of four mature coast redwood (*Sequoia sempervirens*), two mature oak trees (*Quercus* sp.), and two manzanita (*Arctostaphylos* sp.) bushes. Seven-foot-deep ground disturbance could occur during utility pole relocations.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist Caltrans in adequately identifying and, where appropriate, mitigating the project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

COMMENT 1: *Chapter 2.4 Biological Resources, Discussion of CEQA Environmental Checklist Question A, Western Spadefoot, Page 29-36*

Issue: Western spadefoot is a primarily terrestrial fossorial species. They spend most of the year in underground burrows and are rarely found on the surface (Stebbins 1972) (Dimmitt and Ruibal 1980a). Spadefoots emerge from their underground burrows to breed and forage during and following relatively warm rains during late winter-spring (Morey 2000). Aquatic habitat is used for breeding and developing larvae and typically includes temporary vernal pools, sand or gravel washes, and small streams that are often seasonal (Stebbins and McGinnis 2012). However, eggs and larvae of western spadefoot have been observed in a variety of permanent and temporary wetlands, both natural and altered, including rivers, creeks, artificial ponds, livestock ponds, sedimentation and flood control ponds, irrigation and roadside ditches, roadside puddles, tire ruts, and borrow pits (CNDDB 2024).

The ND states that there is no habitat in or adjacent to the project for western spadefoot (*Spea hammondii*), a California Species of Special Concern, candidate for listing under the federal Endangered Species Act, and recently petitioned for listing under CESA. However, the ND also states that there are vernal pools and a seasonal wetland adjacent to the project footprint. Western spadefoot could utilize these aquatic features for breeding habitat and utilize the grassland within the project footprint for upland aestivation habitat. Impacts to western spadefoot from ground disturbing activities, if onsite, may be considered potentially significant unless adequate mitigation is incorporated.

For mitigation measures to be effective, they must be specific, enforceable, and feasible actions that will reduce the environmental impacts from the project to a less than significant level. The ND does not provide an adequate analysis to determine western spadefoot absence or presence at the site and fails to account for western spadefoot life history, seasonal movements, and cryptic nature. To determine whether the project may have a significant impact on this species, the project proponent must first determine whether they occur within or adjacent to the proposed work area including staging and access. Western spadefoot can only be detected while they are above ground during their breeding season (late winter-early spring). Performing preconstruction surveys outside the breeding season when spadefoots are aestivating underground will result in potentially false negative findings. False negative survey results could lead to unidentified and unmitigated significant impacts on this biological resource.

Recommended Mitigation Measure: To mitigate potential impacts to western spadefoot to a less-than-significant level, CDFW recommends the following language be incorporated into the ND:

"<u>Western Spadefoot Surveys</u>. During the winter preceding the start of construction activities, a biologist with education and experience in western spadefoot natural history and identification will conduct a minimum of three nighttime visual encounter and acoustic detection (i.e., listening for male breeding call) surveys and one day time egg mass survey. Surveys will be conducted within the project site and a 200 foot buffer around the site. Surveys will be timed during late winter and early spring, generally February 15-April 1, but will not begin until the site has received adequate rainfall to form breeding ponds and daytime temperatures are consistently greater than 60 degrees. Surveys will be conducted no more than 24 hours following a rain event with at least 7 calendar days between each survey. If any life stage of western spadefoot is encountered, CDFW will be consulted to determine appropriate avoidance, minimization, and compensatory mitigation measures."

COMMENT 2: *Chapter 2.4 Biological Resources, Discussion of CEQA Environmental Checklist Question A, Tree Roosting Bats and Native Nursery Sites, Page 29-36*

Issue: Bats are considered non-game mammals and are protected by state law from take and/or harassment (California Fish and Game Code §4150, §2126, §3007; California Code of Regulation, Title 14, §251.1). Several bat species are also considered species of special concern, which meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines §15065). The ND does not mention surveying for bat roosting habitat or potential nursery colonies and does not analyze potential impacts on bat roosting habitat and potential nursery colonies. Bat species that are known to occur in the project vicinity, such as silver-haired bat (*Lasionycteris noctivagans*), little brown bat (*Myotis lucifugus*), long-eared myotis (*Myotis evotis*) and long-legged myotis (*Myotis volans*), could utilize the trees that are proposed for removal as day roosting habitat.

Without an analysis of the type, quality, and quantity of roosting bat habitat within the project footprint and appropriate surveys to determine presence/absence, it is unclear if bats are present. If there is roosting habitat in the trees marked for removal, the project would result in the permanent loss of roosting habitat and could result in direct bat mortality. Disturbance or loss of roost habitat can be particularly detrimental if the construction activities are conducted during maternity season (typically April 15 to August 31) or torpor season (typically October 15 to March 1). As currently proposed, the project has potential to have significant and unmitigated impacts to bats. The ND, as written, does not sufficiently disclose impacts to bats nor does it include mitigation to reduce potential impacts to bats to a level of less than-significant.

Recommendation : CDFW recommends Caltrans refer to *Caltrans Bat Mitigation: A Guide to Developing Feasible and Effective Solutions (Johnston et. al, 2019)* when analyzing and mitigating Project impacts to bats and their habitat. To reduce project impacts to bats and native nursery sites to a less-than-significant level, CDFW recommends that a biologist with education and experience in bat biology and identification survey the project site for potentially suitable bat roosting habitat. The habitat assessment should include a visual inspection of suitable habitat features (i.e., tree cavities and exfoliating bark) for bat roosting habitat within the project. Suitable roosting sites should be mapped, photographed, and evidence of bat presence noted (i.e. bat guano or urine staining). The methodology and results of the bat habitat assessment should be incorporated into the ND. If bat roosting habitat is present, mitigation measures should be included in the ND to mitigate potential impacts to bats and nursery sites. These measures could include, but are not limited to:
Implementing work widows within suitable bat roosting habitat to avoid critical life stages (maternity season - April 15 to August 31 and torpor season - October 15 to March 1); bat pre-construction survey(s) conducted by a biologist with education and experience in bat biology and identification prior to the

initiation of construction activities; and the development of a bat avoidance or exclusion plan by a biologist with education and experience in bat biology and identification if bats are detected. CDFW recommends this plan be developed well in advance of the project so that avoidance or exclusion could be appropriately timed in coordination with scheduled construction, if necessary. If a nursery site (i.e. maternity colony) will be impacted by the project, it should be mitigated for at a ratio sufficient to compensate for the significant impacts to the colony. Bat replacement habitat shall be designed generally following the guidelines in *Caltrans Bat Mitigation: A Guide to Developing Feasible and Effective Solutions (Johnston et. al, 2019)*, which provides a review of bat mitigation options. Final plans for bat habitat replacement should be approved by Caltrans and CDFW.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDB). The CNNDB field survey form can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Submitting-Data. The completed form can be submitted online or mailed electronically to CNDDB at the following email address: CNDDB@wildlife.ca.gov.

FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of 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 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

Pursuant to Public Resources Code § 21092 and § 21092.2, CDFW requests written notification of proposed actions and pending decisions regarding the proposed project. Written notifications shall be directed to: California Department of Fish and Wildlife North Central Region, 1701 Nimbus Road, Rancho Cordova, CA 95670 or emailed to R2CEQA@wildlife.ca.gov.

CDFW appreciates the opportunity to comment on the ND for the EA 03-3J930 Durham Pentz Intersection to assist Caltrans in identifying and mitigating Project impacts on biological resources. CDFW personnel are available for consultation regarding biological resources and strategies to minimize and/or mitigate impacts. Questions regarding this letter or further coordination should be directed to Sammi Morford, Environmental Scientist at (916) 880-8324 or samantha.morford@wildlife.ca.gov.

Sincerely,

Sammi Morford
Environmental Scientist (Caltrans Liaison)
Habitat Conservation Program | North Central Region (R2)
1701 Nimbus Rd., Suite A
Rancho Cordova, CA 95670

CALIFORNIA DEPARTMENT OF FISH and WILDLIFE

[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.