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January 5, 2026

Jack Parker
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Subject: Notice of Preparation of a Draft Environmental Impact Report for the State Route 52 Operational Improvement Project, SCH No. 2025120128, San Diego County, CA

Dear Jack Parker:

The California Department of Fish and Wildlife (CDFW) reviewed the Notice of Preparation (NOP) from California Department of Transportation (Caltrans) for the State Route 52 Operational Improvements (Project) pursuant to 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, CDFW appreciates 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 (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.

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

[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.

regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law[2] of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.) or the Native Plant Protection Act (NPPA; Fish & G. Code, §1900 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

CDFW also administers the Natural Community Conservation Planning (NCCP) program, a California regional habitat conservation planning program (Fish and Game Code 2800 et seq.). The Project area is located within the City of San Diego and City of Santee. The City of Santee is in the process of developing an NCCP/Habitat Conservation Plan Subarea Plan under the Multiple Species Conservation Program (MSCP) Subregional Plan; however, a SAP has not yet been adopted by the City of Santee, and state and federal permits have not been issued. The United States Fish and Wildlife Service and CDFW continue to meet frequently with the City of Santee in an effort to achieve a Subarea Plan which will be brought forward for public review. The City of San Diego participates in the NCCP program by implementing its approved Multiple Species Conservation Program (MSCP) Subarea Plan (SAP) and Implementing Agreement (IA). The City of San Diegos Multi-Habitat Planning Area (MHPA) is also identified in the SAP delineates core biological resource areas and corridors targeted for conservation. The NOP and future DEIR for the proposed Project should ensure that all requirements and conditions of the SAP and IA are met. The NOP and future DEIR should also address any biological issues that are not addressed in the SAP and IA, such as specific impacts to and mitigation requirements for sensitive species that are not covered by the SAP and IA.

PROJECT DESCRIPTION SUMMARY

Proponent: California Department of Transportation (Caltrans) District 11

Objective: The objective of the Project is to improve traffic operations and enhance safety on State Route 52 (SR-52). Primary Project activities include adding truck climbing lanes, extending an auxiliary lane, adding a bikeway including a cantilevered bikeway off two separate bridges, restriping lanes, and widening an on-ramp.

Location: The Project is in San Diego County within the cities of San Diego and Santee along SR-52 from Interstate 15 (I-15) to the Mission Gorge Road Undercrossing, including the SR-52/Mast Boulevard interchange. SR-52 crosses the San Diego River, Forrester Creek, San Clemente Creek, unnamed intermittent streams, ephemeral

[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."

washes, and vernal pools. The Project falls within the MHPA's of both the adopted plan for the City of San Diego and the draft plan for the City of Santee.

Biological Setting: The Project takes place near Marine Corps Air Station (MCAS) Miramar and Mission Trails Regional Park. These lands support diverse fish, wildlife, and plant communities. The surrounding habitat is composed of coastal sage scrub vernal pool complexes, and riparian areas.

The NOP does not disclose specific biological resources that may occur on site. A copy of the Preliminary Environmental Analysis Report (PEAR) was obtained at the request of CDFW. The PEAR addresses avoiding the breeding and nesting season for sensitive bird species, avoidance of indirect effects such as the use of night lighting that will increase predation on native bird species, and Executive Order 13112 (Invasive Plant and Animal Species) directing federal agencies to expand and coordinate efforts to prevent the introduction and spread of non-native plants and animals. The PEAR states that the Project is anticipated to require informal consultation with the U.S. Fish and Wildlife Service (USFWS) for the coastal California gnatcatcher (*Polioptila californica californica*). The PEAR states 17 special-status plant species and 18 special-status animal species have been detected with the Biological Study Area (BSA) and another 33 special-status plant species and another 20 special-status animal species have suitable habitat and presence within the vicinity of the BSA.

Several special-status plant and animal species occur or have the potential to occur within the Project area, including Coastal California gnatcatcher (*Polioptila californica californica*; Endangered Species Act (ESA)-listed threatened; California Species of Special Concern (SSC)), Least bell's vireo (*Vireo bellii pusillus*; ESA-listed endangered, CESA-listed endangered), Crotch's bumble bee (*Bombus crotchii*; CESA candidate), western spadefoot toad (*Spea hammondii*; ESA under review for ESA Threatened status, SSC), coast horned lizard (*Phrynosoma blainvillii*; SSC), nesting birds, and bat species.

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 significant, direct and indirect impacts on fish and wildlife (biological) resources and maintaining consistency with the subregional MSCP and the City of Santee's draft SAP and the approved City of San Diego SAP.

Specific Comments

1) <u>Least Bell's Vireo</u>. Least Bell's vireo have been observed in multiple locations within and adjacent to the Project area. In preparation of the Project's draft environmental impact report (DEIR), CDFW recommends Caltrans designate an approved biologist who is knowledgeable about least Bell's vireo natural history, habitat requirements, seasonal movements, and range to survey and monitor for least Bell's vireo to

conduct surveys following the protocols provided within the Least Bell's Vireo Survey Guidelines[3] (USFWS, January 2001) or similar protocol guidelines to determine presence of least Bell's vireo. If least Bell's vireo I are identified within 500 linear feet of Project site activities, the Permittee should design the Project to avoid impacts to the species, which include avoiding Project activities within 1000 linear feet of occupied least Bell's vireo habitat from March 1 through July 15 and avoiding Project activities within 500 linear feet of occupied least Bell's vireo habitat from July 15 to September 15. If full avoidance cannot be accomplished, Permittee can apply for take authorization through an Incidental Take Permit[4].

2) Coastal California gnatcatcher. Gnatcatchers have been observed on site and in adjacent habitat during past surveys. In preparation of the Project's DEIR, CDFW recommends Caltrans conduct protocol surveys for gnatcatcher within any suitable habitat to confirm the presence or absence of gnatcatcher following the United States Fish and Wildlife Service (USFWS) Survey Guidelines for the Coastal California Gnatcatcher[5] (USFWS 1997). If gnatcatcher is detected during surveys, CDFW recommends Caltrans develop avoidance, minimization, and mitigation measures to be included within the DEIR.

3) Crotch's bumble bee. Crotch's bumble bee has been observed in past surveys adjacent to the Project site. The Project site may contain suitable foraging or nesting habitat for Crotch's bumble bee. The California Fish and Game Commission accepted a petition to list the Crotch's bumble bee as threatened or endangered under CESA, determining the listing "may be warranted" and advancing the species to the candidacy stage of the CESA listing process. Crotch's bumble bee is granted full protection under CESA. Take of any endangered, threatened, 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). In addition, Crotch's bumble bee has a State ranking of S1/S2. This means that Crotch's bumble bee is considered critically imperiled or imperiled and is extremely rare (often five or fewer populations). Crotch's bumble bee is also listed as an invertebrate of conservation priority under the Terrestrial and Vernal Pool Inverts of Conservation Priority List (CDFW 2017). Crotch's bumble bee also 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 Caltrans (CEQA Guidelines, § 1565). In preparation of the Project's DEIR, CDFW recommends Caltrans do the following to evaluate and assess the impacts on the species.

   a. Surveys. CDFW recommends Caltrans retain a qualified biologist familiar with the species to survey the Project site for Crotch's bumble bee and suitable habitat. Surveys should be conducted during the flying season when the species

[3] https://www.fws.gov/sites/default/files/documents/survey-protocol-for-least-bells-vireo.pdf
[4] https://wildlife.ca.gov/Conservation/CESA/Permitting/Incidental-Take-Permits#50033467-applications.
[5] https://www.fws.gov/sites/default/files/documents/survey-protocol-for-coastal-california-gnatcatcher.pdf

is most likely to be detected above ground, between March 1 to September 1 (Thorp et al. 1983). Survey should also occur within one year prior to vegetation removal and/or ground disturbance and adhere to guidance such as the [Survey Considerations for CESA Candidate Bumble Bee Species][6] (CDFW 2023). The DEIR should provide full disclosure of the presence of Crotch's bumble bee and the Project's potential impact on Crotch's bumble bee.

b. Avoidance, Minimization, and Mitigation. If the site is determined to be occupied by Crotch's bumble bee, the DEIR should include measures to avoid impacts on Crotch's bumble bee. Measures should include the qualified biologist identifying the location of all nests in or adjacent to the Project site prior to Project activities to protect the nests with a 50-foot no-disturbance buffer. Additionally, the DEIR should require consultation with CDFW to determine if a CESA Incidental Take Permit (ITP) is required. In addition, Caltrans should provide compensatory mitigation for removal or damage to any floral resource associated with Crotch's bumble bee. Floral resources should be replaced as close to their original location as is feasible.

4) Vernal Pool. The Project site contains vernal pools. Vernal pools are considered a rare resource, as it is estimated over 95% of vernal pools in California have been destroyed (U.S. Fish and Wildlife Service, 1998). Given that few vernal pools remain in San Diego County, CDFW considers the loss of these pool complexes to be regionally biologically significant. CDFW recommends avoiding vernal pools throughout the Project site. To fully avoid impacts to the vernal pool and depressions, the entire sub-watershed that supports the hydrology of each pool/depression should be avoided and conserved.

5) Western spadefoot toad. Western spadefoot toads have been observed adjacent to the Project site in past surveys. Outside of their breeding season, they live in burrows that are about three feet deep (LPFW, 2019). Western spadefoot toad has an average upland home range of 1,355 feet from their breeding habitat (Hunt, 2013), and most stable populations are distributed around a series of ponds connected by dispersal. Western spadefoot toad has been extirpated from over 80% of its range in southern California (Neal, 2014). CDFW recommends conducting focused surveys to determine presence or absence and creating a minimum no impact buffer of at least 1,400 feet from the edge of their breeding habitat to facilitate unimpeded breeding and dispersal.

6) Bats. The Project site contains suitable roosting and foraging habitat for bat species including bridges, culverts, and riparian areas. CDFW recommends that Caltrans should follow the 2019 Caltrans Bat Mitigation: A Guide to Developing Feasible and

[6] https://www.bing.com/ck/a?!&&p=0a4c61cca754f5d248eef1c32d062779d0ea6b373d35f5b92d4ff61da5e973bdJmltdHM9MTc2NjAxNjAwMA&ptn=3&ver=2&hsh=4&fclid=0b1d6675-64f3-613b-3a49-75b465346023&psq=Considerations+for+sesa+candidate+bumble+bee+species&u=a1aHR0cHM6Ly9ucm0uZGZnLmNhLmdvdi9GaWxlSGFuZGxlci5hc2h4P0RvY3VtZW50SUQ9MjEzMTUw

Effective Solutions[7] for surveys and developing measures to avoid and minimize impacts.

7) Wildlife Connectivity. SR-52 bisects open space which could impede movement of wildlife throughout the landscape. Habitat connectivity and wildlife migratory corridors are essential to eh continued survival of many California species. Habitat connectivity is also necessary to reduce wildlife-vehicle collisions, which put people and wildlife at risk of injury or death (F&G Code § 1955(e)). Caltrans should consult CDFW, the Caltrans Wildlife Crossings Guidance Manual[8] (2009), and the US Department of Transportation, Federal Highway Administration's Wildlife Crossing Structure Handbook Design and Evaluation in North America[9] when developing the Project. Caltrans should also conduct a wildlife connectivity survey along the Project route. In the Project area, species to consider when designing connectivity enhancements and crossings include mountain lions (*Puma concolor*), mule deer (*Odocoileus hemionus),* coyote (*Canis latrans*), and bobcats *(Lynx rufus)*. CDFW recommends that the following are considered when drafting mitigation measures for biological resources and when designing the Project:

   a. Structures should be designed to meet the movement needs of the widest range of species possible that live in the area or might be expected to recolonize the area, e.g., high- and low-mobility species.

   b. Nighttime construction should be avoided to minimize the indirect impacts of increased activity and noise levels during the hours that wildlife are more active and more likely to traverse the Project site and/or roadway.

   c. Caltrans should attempt to mirror habitat conditions found on both sides of the roadway, and strive to provide continuous habitat adjacent to, and within any crossing structures and/or culverts.

   d. If any underpasses or culverts occur within the Project area, they should be sized appropriately to allow for the movement of all the target species listed above.

   e. Caltrans should consider the use of directional fencing to guide wildlife away from and off the road. Directional fencing should be at least 10 feet tall and buried two feet deep. It should have escape structures such as jump outs at appropriate and regular intervals and have fencing end points such that wildlife are unable to access the road. Directional fencing should be regularly maintained and kept free from even small gaps in the structure.

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[7] https://dot.ca.gov/-/media/dot-media/programs/environmental-analysis/documents/env/caltrans-bat-mitigation-guide-a11y.pdf
[8] http://www.dot.ca.gov/hq/env/bio/wildlife_crossings
[9] https://www.fhwa.dot.gov/clas/ctip/wildlife_crossing_structures/

f. Caltrans should seek to retain natural surfaces and avoid the use of riprap/rock slope protection (RSP), energy dissipaters, and other structures that may obstruct animal movement excluding the use of directional fencing. If riprap or RSP is used, Caltrans should backfill with native soils and vegetation.

g. Caltrans should conduct regular road and culvert maintenance activities during periods of decreased wildlife activity to remove obstructions and facilitate wildlife movement.

8) Fish Passage. At least thirteen stream crossings are within the Project footprint and the locations have an "unknown" barrier status or are "unassessed" according to the California Fish Passage Assessment Database[10]. California Streets and Highway Code section 156.3 requires an assessment of potential barriers to fish passage be completed prior to commencing project design and that the results are submitted to the CALFISH database. If any structural barrier to passage exists, remediation of the problem shall be designed into the project. In addition, Fish and Game Code section 5901 states that it is unlawful to construct or maintain any device or contrivance that prevents, impedes, or tends to prevent or impede, the passing of fish up and down stream. CDFW recommends Caltrans:

a. Adequately assess all the stream crossings within the Project footprint for fish passage.

b. Consult the Caltrans manual for Fish Passage Design for Road Crossings[11] (2024) when designing road crossings for this Project to ensure adequate fish passage is maintained or created. This includes adequately sizing all structures to retain natural surfaces and avoid the use of riprap/rock slope protection (RSP), energy dissipaters, and other structures that may obstruct fish movement.

General Comments

9) Disclosure. The DEIR should provide an adequate, complete, and detailed disclosure about the effects which a proposed project is likely to have on the environment (Pub. Resources Code, § 20161; CEQA Guidelines, § 15151). Such disclosure is necessary so CDFW may provide comments on the adequacy of proposed avoidance, minimization, or mitigation measures, as well as assess the significance of the specific impact relative to plant and wildlife species impacted (e.g., current range, distribution, population trends, and connectivity).

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[10] https://www.calfish.org/programsdata/habitatandbarriers/californiafishpassageassessmentdatabase.aspx

[11] https://dot.ca.gov/-/media/dot-media/programs/design/documents/f00020339-200705-fpm-complete-a11y.pdf

10) <u>Project Description and Alternatives</u>. To enable adequate review and comment on the proposed Project from the standpoint of the protection of fish, wildlife, and plants, CDFW recommends the following information be included in the DEIR.

c. A complete discussion of the purpose and need for, and description of the proposed Project.

d. A range of feasible alternatives to the Project location to avoid or otherwise minimize direct and indirect impacts on sensitive biological resources and wildlife movement areas. CDFW recommends Caltrans select Project designs and alternatives that would avoid or otherwise minimize direct and indirect impacts on biological resources. CDFW also recommends Caltrans consider establishing appropriate setbacks from sensitive and special status biological resources. Setbacks should not be impacted by ground disturbance or hydrological changes from any future Project-related construction, activities, maintenance, and development. As a general rule, CDFW recommends reducing or clustering a development footprint to retain unobstructed spaces for vegetation and wildlife and provide connections for wildlife between properties and minimize obstacles to open space.

e. Project alternatives should be thoroughly evaluated, even if an alternative would impede, to some degree, the attainment of the Project objectives or would be more costly (CEQA Guidelines, § 15126.6). The DEIR shall include sufficient information about each alternative to allow meaningful evaluation, public participation, analysis, and comparison with the proposed Project (CEQA Guidelines, § 15126.6).

f. Where the Project may impact aquatic and riparian resources, CDFW recommends Caltrans select Project designs and alternatives that would fully avoid impacts to such resources. CDFW also recommends an alternative that would not impede, alter, or otherwise modify existing surface flow, watercourse and meander, and water-dependent ecosystems and natural communities. Project designs should consider elevated crossings to avoid channelizing or narrowing of watercourses. Any modifications to a river, creek, or stream may cause or magnify upstream bank erosion, channel incision, and drop in water level, which may cause the watercourse to alter its course of flow.

11) <u>Biological Baseline Assessment</u>. An adequate biological resources assessment should provide a complete assessment and impact analysis of the flora and fauna within and adjacent to the Project site and where the Project may result in ground disturbance. The assessment and analysis should place emphasis on identifying endangered, threatened, rare, and sensitive species; regionally and locally unique species; and sensitive habitats. An impact analysis will aid in determining the Project's potential direct, indirect, and cumulative biological impacts, as well as specific mitigation or avoidance measures necessary to offset those impacts. CDFW

also considers impacts to Species of Special Concern (SSC) a significant direct and cumulative adverse effect without implementing appropriate avoidance and/or mitigation measures. The DEIR should include the following information.

a. Information on the regional setting that is critical to an assessment of environmental impacts, with special emphasis on resources that are rare or unique to the region (CEQA Guidelines, § 15125(c)). The DEIR should include measures to fully avoid and otherwise protect Sensitive Natural Communities. CDFW considers Sensitive Natural Communities as threatened habitats having both regional and local significance. Natural communities, alliances, and associations with a State-wide rarity ranking of S1, S2, and S3 should be considered sensitive and declining at the local and regional level. These ranks can be obtained by visiting the Vegetation Classification and Mapping Program - Natural Communities webpage[12].

b. A thorough, recent, floristic-based assessment of special status plants and natural communities following CDFW's *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities*[13]. Botanical field surveys should be comprehensive over the entire Project site, including areas that will be directly or indirectly impacted by the Project. Adjoining properties should also be surveyed where direct or indirect Project effects could occur, such as those from fuel modification, herbicide application, invasive species, and altered hydrology. Botanical field surveys should be conducted in the field at the times of year when plants will be both evident and identifiable. Usually, this is during flowering or fruiting. Botanical field survey visits should be spaced throughout the growing season to accurately determine what plants exist in the Project site. This usually involves multiple visits to the Project site (e.g., in early, mid, and late season) to capture the floristic diversity at a level necessary to determine if special status plants are present.

c. Floristic alliance- and/or association-based mapping and vegetation impact assessments conducted in the Project site and within adjacent areas. The Manual of California Vegetation[14], second edition, (Sawyer, Keeler-Wolf, & Evens, 2009) should also be used to inform this mapping and assessment. Adjoining habitat areas should be included in this assessment where the Project's construction and activities could lead to direct or indirect impacts offsite.

d. A complete and recent assessment of the biological resources associated with each habitat type in the Project site and within adjacent areas. A full literature review includes but is not limited to CDFW's California Natural Diversity

[12] https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities
[13] https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline
[14] https://vegetation.cnps.org/

Database[15] (CNDDB). The CNDDB should be accessed to obtain current information on any previously reported sensitive species and habitat. An assessment should include a minimum nine-quadrangle search of the CNDDB to determine a list of species potentially present in the Project site. A nine-quadrangle search should be provided in the Project's CEQA document for adequate disclosure of the Project's potential impact on biological resources.

e. A complete, recent, assessment of endangered, rare, or threatened species and other sensitive species within the Project site and adjacent areas, including SSC and California Fully Protected Species (Fish & G. Code, §§ 3511, 4700, 5050, and 5515). Species to be addressed should include all those which meet the CEQA definition of endangered, rare, or threatened species (CEQA Guidelines, § 15380). Seasonal variations in use of the Project site should also be addressed such as wintering, roosting, nesting, and foraging habitat. Focused species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, may be required if suitable habitat is present. See CDFW's Survey and Monitoring Protocols and Guidelines[16] for established survey protocol. Acceptable species-specific survey procedures may be developed in consultation with CDFW and U.S. Fish and Wildlife Service.

f. A recent wildlife and rare plant survey. A lack of records in the CNDDB does not mean that rare, threatened, or endangered plants and wildlife do not occur. Field verification for the presence or absence of sensitive species is necessary to provide a complete biological assessment for adequate CEQA review (CEQA Guidelines, § 15003(i)). CDFW generally considers biological field assessments for wildlife to be valid for a one-year period, and assessments for rare plants may be considered valid for a period of up to three years. Some aspects of the proposed Project may warrant periodic updated surveys for certain sensitive taxa, particularly if Project implementation build out could occur over a protracted time frame or in phases.

12) Direct and Indirect Impacts on Biological Resources. The DEIR should provide a thorough discussion of direct and indirect impacts expected to affect biological resources with specific measures to offset such impacts. The DEIR should address the following.

a. A discussion of potential impacts from lighting, noise, temporary and permanent human activity, and exotic species, and identification of any mitigation measures. A discussion regarding Project-related indirect impacts on biological resources. These include resources in nearby public lands, open space, adjacent natural habitats, riparian ecosystems, and any designated and/or proposed or existing

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[15] https://wildlife.ca.gov/Data/CNDDB
[16] https://wildlife.ca.gov/conservation/survey-protocols

reserve lands (e.g., preserve lands associated with a Natural Community Conservation Plan (Fish & G. Code, § 2800 et. seq.)).

b. A discussion of both the short-term and long-term effects of the Project on species population distribution and concentration, as well as alterations of the ecosystem supporting those species impacted (CEQA Guidelines, § 15126.2(a)).

c. Impacts on, and maintenance of, wildlife corridor/movement areas, including access to undisturbed habitats in areas adjacent to the Project, should be fully analyzed and discussed in the DEIR.

d. A discussion of post-Project fate of drainage patterns, surface flows, and soil erosion and/or sedimentation in streams and water bodies. The discussion should also address the potential water extraction activities and the potential resulting impacts on habitat supported by the groundwater. Measures to mitigate such impacts should be included.

e. An analysis of impacts from proposed changes to land use designations and zoning, and existing land use designation and zoning located nearby or adjacent to natural areas that may inadvertently contribute to wildlife-human interactions. A discussion of possible conflicts and mitigation measures to reduce these conflicts should be included in the DEIR.

13) <u>Cumulative Impact</u>. Cumulative impacts on biological resources can result from collectively significant projects which are individually insignificant. The Project, when considered collectively with prior, concurrent, and probable future projects, may have a significant cumulative effect on biological resources. The Project may have the potential to substantially reduce the number or restrict the range of endangered, rare, or threatened species. Species that may be impacted by the Project include, but are not limited to, the biological resources described in this letter.

Accordingly, CDFW recommends the DEIR evaluate the Project’s potential cumulative impacts on biological resources. The Project may have a “significant effect on the environment” if the possible effects of the Project are individually limited but cumulatively considerable. “Cumulatively considerable” means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects (Pub. Resources Code, § 21083(b)). Caltrans’s conclusions regarding the significance of the Project’s cumulative impact should be justified and supported by evidence to make those conclusions. Specifically, if Caltrans concludes that the Project would not result in cumulative impacts on biological resources, Caltrans, “shall identify facts and analysis supporting the Lead Agency’s conclusion that the cumulative impact is less than significant” (CEQA Guidelines section § 15130(a)(2)).

14) Nesting Birds. To avoid impacts to nesting birds, CDFW recommends that clearing of vegetation occur outside of the peak avian breeding season, which general runs from February 1 through September 15 (as early as January 1 for some raptors). If Project construction is necessary during the bird breeding season, a qualified biologist with experience in conducting breeding bird surveys should conduct a nesting bird survey within three days prior to work in the area. If an active nest is identified, a buffer shall be established between the construction activities and the nest so that nesting activities are not interrupted. A buffer should be proposed to CDFW and once a buffer is agreed upon, it shall delineated by temporary fencing and remain in effect as long as construction is occurring. No Project construction shall occur within the fenced nest zone until the young have fledged, are no longer being fed by the parents, have left the nest, and will no longer be impacted by the Project. Reductions in the nest buffer distance may be appropriate depending on the avian species involved, ambient levels of human activity, screening vegetation, or possibly other factors.

15) Mitigation Measures. Public agencies have a duty under CEQA to prevent significant, avoidable damage to the environment by requiring changes in a project through the use of feasible alternatives or mitigation measures (CEQA Guidelines, §§ 15002(a)(3), 15021). Pursuant to CEQA Guidelines section 15126.4, an environmental document shall describe feasible measures which could mitigate impacts below a significant level under CEQA. Mitigation measures must be feasible, effective, implementable, and fully enforceable/imposed by the lead agency through permit conditions, agreements, or other legally binding instruments (Pub. Resources Code, § 21081.6(b); CEQA Guidelines, § 15126.4).

a. The DEIR should provide mitigation measures that are specific and detailed (i.e., responsible party, timing, specific actions, location) in order for a mitigation measure to be fully enforceable and implemented successfully via a mitigation monitoring and/or reporting program (Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15097).

b. If a proposed mitigation measure would cause one or more significant effects, in addition to impacts caused by the proposed Project, the DEIR should include a discussion of the effects of proposed mitigation measures (CEQA Guidelines, § 15126.4(a)(1)). In that regard, the DEIR should provide an adequate, complete, and detailed disclosure about the Project's proposed mitigation measure(s). Adequate disclosure is necessary so CDFW may assess the potential impacts of proposed mitigation measures.

16) Compensatory Mitigation. The DEIR should include compensatory mitigation measures for the Project's significant impacts (direct and/or through habitat modification) to sensitive and special status plants, animals, and habitats. Mitigation measures should emphasize avoidance and minimization of Project-related impacts. For unavoidable impacts, on-site habitat restoration or enhancement should be

discussed in detail. If on-site mitigation is not feasible or would not be biologically viable and therefore inadequate to mitigate the loss of biological functions and values, off-site mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed. Areas proposed as mitigation lands should be protected in perpetuity with a conservation easement and financial assurance and dedicated to a qualified entity for long-term management and monitoring.

17) Long-term Management of Mitigation Lands. For proposed mitigation lands, the DEIR should include measures to protect the targeted habitat values in perpetuity. The mitigation should offset Project-induced qualitative and quantitative losses of biological resources. Issues that should be addressed include (but are not limited to) restrictions on access, proposed land dedications, monitoring and management programs, control of illegal dumping, water pollution, and increased human intrusion. An appropriate endowment should be set aside to provide for long-term management of mitigation lands.

18) CESA. CDFW considers adverse impacts to a species protected by CESA to be significant. Take of any endangered, threatened, candidate species, or NPPA-listed plant species that results from the Project is prohibited, except as authorized by state law (Fish & G. Code §§ 2080, 2085; Cal. Code Regs., tit. 14, §786.9). Consequently, if the Project or any Project-related activity will result in take of a species designated as endangered or threatened, or a candidate for listing under CESA, CDFW recommends that the Project proponent seek appropriate take authorization under CESA prior to implementing the Project. Appropriate authorization from CDFW may include an Incidental Take Permit (ITP) or a consistency determination in certain circumstances, among other options (Fish & G. Code, §§ 2080.1, 2081, subds. (b) and (c)). Early consultation is encouraged, as significant modification to a Project and mitigation measures may be required to obtain a CESA Permit.

To ensure CDFW will be able to use Caltrans CEQA document for the issuance of an ITP, the DEIR should address all Project impacts to CESA-listed species and specify a mitigation, monitoring, and reporting program that will meet the requirements of an ITP.

19) Translocation/Salvage of Plants and Animal Species. Translocation and transplantation is the process of removing plants and wildlife from one location and permanently moving it to a new location. CDFW generally does not support the use of translocation or transplantation as the primary mitigation strategy for unavoidable impacts to endangered, rare, or threatened plants and animals. These efforts are experimental, and the outcome is unreliable. CDFW has found that permanent preservation and management of habitat capable of supporting these species is often a more effective long-term strategy for conserving plants and animals and their habitats.

20) Scientific Collecting Permit and Voucher Collecting Permit. A Scientific Collecting Permit would be necessary if there is a plan to capture and relocate wildlife. Pursuant to the California Code of Regulations, title 14, section 650, qualified biologist(s) must obtain appropriate handling permits to capture, temporarily possess, and relocated wildlife to avoid harm or mortality in connection with Project-related activities. CDFW has the authority to issue permits for the take or possession of wildlife, including mammals; birds, nests, and eggs; reptiles, amphibians, fish, plants; and invertebrates (Fish & G. Code, §§ 1002, 1002.5, 1003). A Scientific Collecting Permit is required to monitor project impacts on wildlife resources, as required by environmental documents, permits, or other legal authorizations; and, to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with otherwise lawful activities (Cal. Code Regs., tit. 14, § 650). For more information, please see CDFW's Scientific Collecting Permit webpage[17].

A voucher collection permit is required to collect state-listed plant species for identification purposes during field surveys, or to collect voucher specimens to document a newly-discovered or previously unvouchered occurrence of a state-listed plant. There is no charge to apply for a voucher collection permit. Anyone who collects scientific plant specimens of state-listed species, or who may encounter a state-listed species during field surveys should have a plant voucher collection permit. To apply for a Voucher Collecting Permit please see CDFW's Voucher Collecting Permit Page.

21) Lake and Streambed Alteration. CDFW has regulatory authority over activities in streams that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of any river, stream, or lake or use material from a river, stream, or lake. For any such activities, the Project applicant (or "entity") must provide written notification to CDFW pursuant to section 1600 et seq. of the Fish and Game Code. Based on this notification and other information, CDFW determines whether a Lake and Streambed Alteration Agreement (LSAA) with the applicant is required prior to conducting the proposed activities. CDFW's issuance of a LSAA for a project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. CDFW recommends that Caltrans assess whether notification is appropriate. A Notification package for a LSAA may be obtained by accessing CDFW's Lake and Streambed Alteration Program website[18].

22) Wetland Resources. CDFW, as described in Fish and Game Code section 703(a), is guided by the Fish and Game Commission's (Commission) policies[19]. Through its Wetlands Resources policy, the Commission "…seek[s] to provide for the protection, preservation, restoration, enhancement, and expansion of wetland habitat in

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[17] https://wildlife.ca.gov/Licensing/Scientific-Collecting
[18] http://www.wildlife.ca.gov/Conservation/LSA
[19] https://fgc.ca.gov/About/Policies/Miscellaneous

California" (California Fish and Game Commission, 2005). It is the policy of the Commission to strongly discourage development in or conversion of wetlands. It opposes, consistent with its legal authority, any development or conversion that would result in a reduction of wetland acreage or wetland habitat values. To that end, the Commission opposes wetland development proposals unless, at a minimum, project mitigation assures there will be 'no net loss' of either wetland habitat values or acreage. The Commission strongly prefers mitigation which would achieve expansion of wetland acreage and enhancement of wetland habitat values."

a. The Wetlands Resources policy provides a framework for maintaining wetland resources and establishes mitigation guidance. CDFW encourages avoidance of wetland resources as a primary mitigation measure and discourages the development or type conversion of wetlands to uplands. CDFW encourages activities that would avoid the reduction of wetland acreage, function, or habitat values. Once avoidance and minimization measures have been exhausted, a project should include mitigation measures to assure a "no net loss" of either wetland habitat values, or acreage, for unavoidable impacts to wetland resources. Conversions include, but are not limited to, conversion to subsurface drains, placement of fill or building of structures within the wetland, and channelization or removal of materials from the streambed. All wetlands and watercourses, whether ephemeral, intermittent, or perennial, should be retained and provided with substantial setbacks, which preserve the riparian and aquatic values and functions benefiting local and transient wildlife populations. CDFW recommends mitigation measures to compensate for unavoidable impacts be included in the DEIR and these measures should compensate for the loss of function and value.

b. The Fish and Game Commission's Water policy guides CDFW on the quantity and quality of the waters of this State that should be apportioned and maintained respectively so as to produce and sustain maximum numbers of fish and wildlife; to provide maximum protection and enhancement of fish and wildlife and their habitat; encourage and support programs to maintain or restore a high quality of the waters of this State; prevent the degradation thereof caused by pollution and contamination; and, endeavor to keep as much water as possible open and accessible to the public for the use and enjoyment of fish and wildlife. CDFW recommends avoidance of water practices and structures that use excessive amounts of water, and minimization of impacts that negatively affect water quality, to the extent feasible (Fish & G. Code, § 5650).

23) <u>Use of Native Plants and Trees</u>. CDFW recommends Caltrans require the Project Applicant to provide a native plant palette for the Project. The Project's landscaping plan should be disclosed and evaluated in the DEIR for potential impacts on biological resources such as natural communities adjacent to the Project site (e.g., introducing non-native, invasive species). CDFW supports the use of native plants for the Project especially considering the Project's location adjacent to protected

open space and natural areas. CDFW strongly recommends avoiding non-native, invasive species for landscaping and restoration, particularly any species listed as 'Moderate', 'High', 'Limited', and 'Watch' by the California Invasive Plant Council[20] CDFW supports the use of native species found in naturally occurring plant communities within or adjacent to the Project site. In addition, CDFW supports planting native species of trees, such as oaks (Quercus genus), and understory vegetation (e.g., ground cover, vines, subshrubs, and shrubs) that create habitat and provide a food source for birds. CDFW recommends retaining any standing, dead, or dying tree (snags) where possible because snags provide perching and nesting habitat for birds and raptors. Finally, CDFW supports planting species of vegetation with high insect and pollinator value.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDB). The CNDDB website[21] 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[22].

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

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.)

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[20] https://www.cal-ipc.org/plants/inventory/
[21] https://wildlife.ca.gov/Data/CNDDB
[22] https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities/Submit

CONCLUSION

CDFW appreciates the opportunity to comment on the NOP to assist Caltrans in identifying and mitigating Project impacts on biological resources to insure consistency with existing regional plans and NCCPs.

Questions regarding this letter or further coordination should be directed to Andrew Domingos, Senior Environmental Scientist (Specialist), at (858) 354-9919 or Andrew.Domingos@wildlife.ca.gov.

Sincerely,

DocuSigned by:
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