



STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

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March 26, 2026

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**Subject: State Route 166 Capital Preventative Maintenance 05-1P120 (Project)
Initial Study with Proposed Mitigated Negative Declaration (Initial Study)
State Clearinghouse Number: 2026030127**

Dear Lucas Marsalek:

The California Department of Fish and Wildlife (CDFW) received an Initial Study from the California Department of Transportation (Caltrans) for the above-referenced 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 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

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

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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. 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.), related authorization as provided by the Fish and Game Code may be required.

Bird Protection: CDFW has jurisdiction over actions with the potential to result in the disturbance or destruction of active nest sites or unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs, or nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

Fully Protected Species: CDFW has jurisdiction over fully protected species of birds, mammals, amphibians and reptiles, and fish, pursuant to Fish and Game Code sections 3511, 4700, 5050, and 5515. Take of any fully protected species was previously prohibited and CDFW was not able to authorize their incidental take. Senate Bill No. 147, which became effective on July 10, 2023, amended Fish and Game Code sections 3511, 4700, 5050, and 5515, and added 2081.15, to authorize CDFW the ability to issue a permit under CESA that authorizes the take of a fully protected species resulting from impacts attributable to the implementation of specified projects, which includes specified types of infrastructure projects.

Unlisted Species: Species of plants and animals need not be officially listed as Endangered, Rare, or Threatened (E, R, or T) on any State or federal list to be considered E, R, or T under CEQA. If a species can be shown to meet the criteria for E, R, or T, as specified in the CEQA Guidelines section 15380, CDFW recommends it be fully considered in the environmental analysis for the Project.

PROJECT DESCRIPTION SUMMARY

Proponent: Caltrans

Objective: The Project proposes to preserve approximately 8 miles of pavement on State Route (SR) 166. The Project would also replace two existing drainage culverts, add a new culvert and drainage inlets to an existing drainage system, upgrade guardrails and end treatments to current standards, construct concrete barriers, add slope paving under the U.S. Route 101/SR 166 separation structures, construct bike lanes at the U.S. Route 101/SR 166 interchange.

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Location: The proposed Project is located on SR 166 in San Luis Obispo County from post mile 8.9 to 16.0, beginning at the north junction of U.S. Route 101/SR 166 and ending 0.45 miles west of the Huasna River Bridge.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations 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. Editorial comments or other suggestions may also be included to improve a subsequent CEQA document if additional CEQA review is conducted for the Project.

Based on a review of the Initial Study, the Natural Environment Study (NES) in support of the Initial Study, California Natural Diversity Database (CNDDDB) records, and aerial imagery of the Project site and surrounding habitat, the Project is within the geographic range of, and could potentially impact, several special-status animal species including, but not limited to, the State candidate western burrowing owl (*Athene cunicularia hypugaea*) and Crotch's bumblebee (*Bombus crotchii*); the fully protected bald eagle (*Haliaeetus leucocephalus*), golden eagle (*Aquila chrysaetos*), and white-tailed kite (*Elanus leucurus*); the federally proposed threatened and State species of special concern western spadefoot (*Spea hammondi*); and State species of special concern American badger (*Taxidea taxus*).

CDFW recommends that the following additional information be addressed in the Mitigated Negative Declaration, including proposed avoidance, minimization, and compensatory measures prior to adoption by Caltrans.

Western Burrowing Owl

The California Fish and Game Commission (Commission) approved western burrowing owl (BUOW) as a candidate for potential listing as a protected species under CESA on October 10, 2024, and published these findings in the California Regulatory Notice Register on October 25, 2024. As such, BUOW is now a candidate under CESA and receives the same legal protection afforded to an endangered or threatened species (Fish & G. Code, §§ 2074.2 & 2085).

The Project site is within the known geographic range of BUOW, and a recent occurrence is located within ½ mile of the Project site (unprocessed CDFW CNDDDB report). BUOW typically inhabit open grasslands containing small mammal burrows, a requisite habitat feature used by BUOW for nesting and cover. BUOW may also use "man-made burrows" such as pipes or culverts. Based on aerial imagery the Project site and adjacent areas contain suitable habitat for BUOW overwintering and foraging.

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Recommended Mitigation Measure 1: BUOW Baseline Surveys

To evaluate potential Project impacts to BUOW, CDFW recommends that a qualified biologist conduct surveys for BUOW following the 2012 Staff Report on Burrowing Owl Mitigation (2012 Staff Report; CDFG 2012) within at least 500 meters (1,640 feet) of the Project site as part of the biological studies are conducted in support of the Initial Study.

Recommended Mitigation Measure 2: BUOW Pre-construction Surveys

CDFW recommends assessing presence/absence of BUOW on the Project site, as well as a 500-meter buffer surrounding the Project site, by having a qualified biologist conduct surveys for BUOW following the 2012 Staff Report the survey season immediately prior to Project initiation.

Recommended Mitigation Measure 3: BUOW Avoidance Buffer

Should a BUOW individual or known BUOW burrow (active or inactive, including overwintering) be detected, either during pre-construction surveys or construction activities, CDFW recommends that no-disturbance buffers, as outlined in the 2012 Staff Report, be implemented prior to and during any ground-disturbing activities.

Recommended Mitigation Measure 4: BUOW Take Authorization

If a BUOW individual or known BUOW burrow is detected, and the no-disturbance buffers outlined in the 2012 Staff Report are not feasible, consultation with CDFW is warranted to discuss how to implement the Project and avoid take. If take cannot be avoided, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b), is necessary to comply with CESA.

Crotch's Bumble Bee

The Project site is within the known geographic range of the State candidate Crotch's bumble bee (CBB), a recent occurrence is located within 5 miles of the Project site (CDFW 2026), and biological surveys in support of the Initial Study identified CBB within the Project survey area. CBB inhabits a variety of habitats, including grasslands, scrublands, openings in woodlands, and areas with bare ground such as vacant lots, dirt roads, and levees (Xerces Society et al. 2018). CBB uses requisite habitat elements for nesting, such as small mammal burrows and bunch/thatched grasses, which may be present in or near the Project site. The Initial Study describes that CBB may be present within the Project site but was not expected to be impacted by Project activities due to lack of potentially suitable nesting and foraging habitat in Project impact areas. However, CBB may forage on plants commonly found along roadsides in the Project vicinity (including non-native thistles [*Centaurea* spp., *Carduus* spp., *Cirsium* spp.]

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California poppy [*Eschscholzia californica*], buckwheats [*Eriogonum* spp.], and sages [*Salvia* spp.]) and suitable nesting habitat may be found in the Project site, particularly the proposed temporary construction access roads.

Recommended Mitigation Measure 5: CBB Pre-construction Surveys

CDFW recommends a qualified biologist conduct focused surveys for CBB and their requisite habitat features within and adjacent to the Project site following the methodology outlined in the Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species (CDFW 2023), during the blooming period immediately prior to Project initiation.

Recommended Mitigation Measure 6: CBB Avoidance Buffer

If CBB is detected, CDFW recommends that all small mammal burrows and thatched/bunch grasses be avoided by a minimum of 50 feet to avoid take and potentially significant impacts. If CBB are detected during surveys and ground-disturbing activities will occur during the overwintering to nesting period (year-round, except possibly September), consultation with CDFW is warranted to discuss how to implement Project activities and avoid take. Any detection of CBB prior to or during Project implementation warrants consultation with CDFW to discuss how to avoid take.

Recommended Mitigation Measure 7: CBB Take Authorization

If take cannot be avoided, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA.

Fully Protected Raptors

The Project site is within the known geographic range of bald eagle (BAEA), golden eagle (GOEA), and white-tailed kite (WIKI). All three raptors have been documented recently in the Project vicinity, including a BAEA nest at Twitchell Reservoir and several observations of GOEA and WIKI within and near the Project site (eBird 2026; CDFW 2026). BAEA typically nest on large trees and cliffs near large bodies of water, feed on fish, waterfowl, and carrion, and can range many miles from nesting and overwintering areas to hunt. GOEA are known to inhabit open areas throughout California with large trees and cliffs for nesting. WIKI are found in open grasslands, farmlands, and emergent wetlands and nests in dense oak, willow, or other stands of trees located near open foraging areas. Based on information presented in the Initial Study and aerial imagery, these habitat features are found within and adjacent to the Project site.

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Recommended Mitigation Measure 8: Fully Protected Raptor Baseline Surveys

To evaluate potential Project impacts to these fully-listed species, CDFW recommends that a qualified biologist conduct focused BAEA, GOEA, and WIKI surveys within at least ½ mile of the Project site as part of the biological studies in support of the Initial Study. CDFW recommends that the surveys follow the survey methods outlined in the Protocol for Evaluating Bald Eagle Habitat and Populations in California (Jackman and Jenkins 2004), the Interim Golden Eagle Inventory and Monitoring Protocols and Other Recommendations (USFWS 2010), and appropriate modifications for WIKI.

Recommended Mitigation Measure 9: Fully Protected Raptor Pre-construction Surveys

CDFW recommends that a qualified biologist conduct surveys for nesting BAEA, GOEA, and WIKI following methods described above prior to Project implementation.

Recommended Mitigation Measure 10: Fully Protected Raptor Avoidance Buffer

If a BAEA, GOEA, or WIKI nest is found prior to, or during construction, CDFW recommends implementing a minimum ½-mile no-disturbance buffer around the nest. CDFW advises that this buffer remain in place until the breeding season has ended or until a qualified biologist has determined that nesting has ceased, the birds have fledged and are no longer reliant upon parental care for survival. In the event that a BAEA, GOEA, or WIKI nest is detected during surveys, and a ½-mile no-disturbance buffer is not feasible, consultation with CDFW is recommended.

Recommended Mitigation Measure 11: Fully Protected Raptor Take Authorization

CDFW also recommends that in the event an active BAEA, GOEA, or WIKI nest is detected, and a ½-mile no-disturbance buffer is not feasible, consultation with CDFW is warranted to discuss how to implement the Project and avoid take. If take cannot be avoided, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code sections 2081 subdivision (b) and 2081.15 is necessary to comply with CESA.

Western Spadefoot

On September 24, 2025, the Commission received a petition to list the northern population of western spadefoot (WESP) as threatened species and the southern

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population of WESP as an endangered species under CESA. If the Commission takes action and WESP becomes listed as a Candidate for listing pursuant to CESA (possible in 2026) or ultimately becomes listed as threatened or endangered pursuant to CESA, it will receive the same legal protection afforded to an endangered or threatened species (Fish & G. Code, §§ 2074.2 & 2085).

As identified in the Initial Study, the Project site is within the geographic range and has suitable habitat for WESP. The Project site and surrounding habitats may provide suitable habitat for breeding and/or dispersal. The Initial Study describes that WESP may be present within the Project site, but that nearby streams and ponds are not expected to provide suitable breeding habitat. However, aerial imagery suggests that ephemeral pools and streams within and adjacent to the Project site may stay wet long enough during some years, which could result in pools and habitat features that support WESP breeding and aestivation. CDFW supports the avoidance and minimization measures presented in the Initial Study, with the following recommended addition:

Recommended Mitigation Measure 12: WESP Take Authorization

Please note that implementation of the WESP measures in the Initial Study would help minimize impacts to WESP as required by CEQA but would not fully avoid impacts and thus additional measures would be needed to avoid take of WESP. In the event that WESP becomes protected under CESA, CDFW recommends early consultation to help identify if avoidance is feasible or if not, to initiate discussions regarding the need for ITP, pursuant to Fish and Game Code section 2081 subdivision (b), to comply with CESA.

Editorial Comments and/or Suggestions

CNDDDB: Please note that the CNDDDB is populated by records through voluntary submissions of species detections. As a result, species may be present in locations not depicted in the CNDDDB, but where there is suitable habitat features capable of supporting species. A lack of an occurrence record in the CNDDDB does not mean a species is not present. To adequately assess any potential Project-related impacts to biological resources, surveys conducted by a qualified biologist during the appropriate survey period(s) using the appropriate protocol survey methodology are warranted to determine whether any special-status species are present at or near the Project site.

Cumulative Impacts: CDFW recommends that a cumulative impact analysis be conducted for all biological resources that will either be significantly or potentially significantly impacted by implementation of the Project, including those whose impacts are determined to be less than significant with mitigation incorporated or for those resources that are rare or in poor or declining health and will be impacted by the Project, even if those impacts are relatively small (i.e., less than significant). Cumulative impacts are recommended to be analyzed using an acceptable methodology to evaluate the impacts of this Project's incremental contribution to habitat loss and past, present,

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and reasonably foreseeable future projects on resources and be focused specifically on the resource, not the Project. The cumulative impacts analysis should specifically include all past, present, and foreseeable projects in the Project vicinity. An appropriate resource study area should also be identified and mapped for each resource being analyzed and utilized for this analysis. CDFW staff are available for consultation in support of cumulative impacts analyses as a trustee and responsible agency under CEQA.

Nesting birds: CDFW encourages that Project ground-disturbing or vegetation-disturbing activities occur during the bird non-nesting season. However, if ground- or vegetation-disturbing activities must occur during the nesting season (February 1 through September 15), the Project applicant is responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Code sections as referenced in this letter.

If the nesting season cannot be avoided, CDFW recommends that a qualified wildlife biologist conduct pre-activity surveys for active nests no more than 10 days prior to the start of ground or vegetation disturbance to maximize the probability that nests that could potentially be impacted are detected. CDFW also recommends that surveys cover a sufficient area around the Project site to identify nests and determine their status. A sufficient area means any area potentially affected by the Project. In addition to direct impacts (i.e., nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. Prior to the start of construction activities, CDFW recommends that a qualified biologist conduct a survey to establish a behavioral baseline of all identified nests. Once construction begins, CDFW recommends having a qualified biologist continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends halting the work causing that change and consulting with CDFW for additional avoidance and minimization measures.

If continuous monitoring of identified nests by a qualified wildlife biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or on-site parental care for survival. Variance from these no-disturbance buffers is possible when there is compelling biological or ecological reason to do so, such as when the construction area would be concealed from a nest site by topography. CDFW recommends that a qualified wildlife biologist counsel and support any variance from these buffers and notify CDFW in advance of implementing a variance.

Lake and Streambed Alteration: As identified in the Initial Study, Project activities will substantially change or use material from the bed, bank, and channel of unnamed tributaries to Suey Creek. These activities are subject to CDFW's regulatory authority pursuant Fish and Game Code section 1600 et seq. However, the Initial Study

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concludes that project activities within the culvert at PM 14.24 would not impact stream habitat. Based on review of aerial imagery and topographic maps, it appears that the proposed activities have the potential to result in impacts to streams... Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake (including the removal of riparian vegetation); (c) deposit or dispose of debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral or intermittent as well as those that are perennial and may include those that are highly modified such as canals and retention basins.

CDFW is required to comply with CEQA prior to issuance of a Final Lake or Streambed Alteration Agreement; therefore, if the CEQA document approved for the Project does not adequately describe the Project and its impacts to lakes or streams, a subsequent CEQA analysis may be necessary for Final Lake or Streambed Alteration Agreement issuance. For information on notification requirements, please refer to CDFW's website (<https://wildlife.ca.gov/Conservation/LSA>) or contact the CDFW staff in the Caltrans Liaison Unit of the Central Region, listed below.

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 CNDDDB. The CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to the CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to the CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

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).

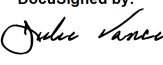
CONCLUSION

CDFW appreciates the opportunity to comment on the Initial Study to assist Caltrans in identifying and mitigating Project impacts on biological resources. Please see the

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enclosed Mitigation Monitoring and Reporting Program (MMRP) table (Attachment 1) which corresponds with the recommended mitigation measures in this comment letter. If you have any questions, please contact Mindy Trask, Senior Environmental Scientist (Specialist), at the address provided on this letterhead, by telephone at (559) 939-0282, or by electronic mail at Mary.Trask@wildlife.ca.gov.

Sincerely,

DocuSigned by:

FA83F09FE08945A...

Julie A. Vance
Regional Manager

Attachment (MMRP)

ec: State Clearinghouse
Land Use and Climate Innovation
state.clearinghouse@lci.ca.gov

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REFERENCES

California Department of Fish and Game (CDFG). 2012. Staff report on burrowing owl mitigation. Sacramento, California, USA.

California Department of Fish and Wildlife (CDFW). 2026. Biogeographic information and observation system (BIOS). <https://www.wildlife.ca.gov/Data/BIOS>. Accessed March 6, 2026.

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eBird. 2026. eBird: An online database of bird distribution and abundance (web application). eBird, Cornell Lab of Ornithology, Ithaca, New York. <http://www.ebird.org>. Accessed March 6, 2026.

Jackman, E. and J. Jenkins. 2004. Protocol for evaluating bald eagle habitat and populations in California. Prepared for U.S. Fish and Wildlife Service, Endangered Species Division, Sacramento, CA, USA.

U.S. Fish and Wildlife Service (USFWS). 2010. Golden eagle inventory and monitoring protocols; and other recommendations. Division of Migratory Bird Management, Arlington, Virginia, USA.

Xerces Society for Invertebrate Conservation (Xerces Society), Defenders of Wildlife, and Center for Food Safety. 2018. A petition to the state of California fish and game commission to list the Crotch's bumble bee (*Bombus crotchii*), Franklin's bumble bee (*Bombus franklini*), Suckley cuckoo bumble bee (*Bombus suckleyi*), and western bumble bee (*Bombus occidentalis occidentalis*) as Endangered under the California Endangered Species Act. October 2018.

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Attachment

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
 RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM
 (MMRP)**

**PROJECT: State Route 166 Capital Preventative Maintenance Project (05-1P120)
 Initial Study with Proposed Mitigated Negative Declaration
 State Clearinghouse No.: 2026030127**

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
<i>Before Finalizing Environmental Document</i>	
Recommended Mitigation Measure 1: BUOW Baseline Surveys	
Recommended Mitigation Measure 8: Fully Protected Raptor Baseline Surveys	
<i>Before Disturbing Soil or Vegetation</i>	
Recommended Mitigation Measure 2: BUOW Pre-construction Surveys	
Recommended Mitigation Measure 4: BUOW Take Authorization	
Recommended Mitigation Measure 5: CBB Pre-construction Surveys	
Recommended Mitigation Measure 7: CBB Take Authorization	
Recommended Mitigation Measure 9: Fully Protected Raptor Pre-construction Surveys	
Recommended Mitigation Measure 11: Fully Protected Raptor Take Authorization	
Recommended Mitigation Measure 12: WESP Take Authorization	
<i>During Construction</i>	
Recommended Mitigation Measure 3: BUOW Avoidance Buffer	
Recommended Mitigation Measure 6: CBB Avoidance Buffer	
Recommended Mitigation Measure 10: Fully Protected Raptor Avoidance Buffer	