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From: Morford, Samantha@Wildlife
Sent: Thursday, April 23, 2026 2:17 PM
To: Flores, Angelica@DOT
Cc: Stanfield, Melissa@Wildlife; Wildlife R2 CEQA; Sheya, Tanya@Wildlife; Kilgour, Morgan@Wildlife
Subject: CDFW Comments on the MND for 03-2J200_Henness Pass Capital Preventative Maintenance (SCH No. 2026040092)

Dear Angelica Flores:

The California Department of Fish and Wildlife (CDFW) received and reviewed the Notice of Intent to Adopt an MND from California Department of Transportation (Caltrans) for the EA 03-2J200_Henness Pass Capital Preventative Maintenance (CAPM) (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) 89, between Post Mile (PM) 0.0 and 15.2 in Sierra County, California. The Project starts at approximately latitude 39.446270 and longitude -120.214333 and ends at approximately latitude 39.590100 and longitude -120.369530. The total length of the Project is approximately 30.3 miles.

The Project consists of overlaying 0.20-foot of Hot-Mix Asphalt-Type A and placing a new structural section on dig out areas identified with local pavement failure. The Project would also replace 21 existing culverts and rehabilitate 36 existing culverts using Cured-in Place Pipe (CIPP). Additional work would include construction of a Maintenance Vehicle Pullout (MVP) at southbound PM 12.25, replacing approximately 11,830 linear feet of guardrail with metal beam guardrail (MBGR), upgrading Transportation Management Systems (TMS) elements (signs, non-standard signs, etc.), and replacing the existing census station at PM 14.75 to meet current standards.

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: Sierra Nevada Yellow-legged Frog, 2.4 Biological Resources, Discussion of CEQA Environmental Checklist Question A, Page 29

Issue: Sierra Nevada yellow-legged frog (*Rana sierrae*) is a state threatened species under CESA and as such, it is afforded full protection under the act. It is unlawful to take a State-listed endangered, threatened, or candidate species (Fish & G. Code §2050 et seq.). Take is defined as "hunt, pursue, catch, capture or kill or attempt to hunt, pursue, catch, capture or kill" (Fish & G. Code §86). CESA take authorization, should be obtained if the proposed Project has the potential to result in take of Sierra Nevada yellow-legged frog.

The MND acknowledges that there is potential for Sierra Nevada yellow-legged frog to be present in the Project site. The MND states that due to the lack of water present at most culverts and the limited scope of work it is unlikely that Sierra Nevada yellow-legged frog would occur where work is proposed. However, the MND also states that the Project will impact perennial and intermittent streams; therefore, it is possible for water to be present during Project activities. The MND does not include any specific mitigation measures for this species. The MND, as written, does not sufficiently analyze or disclose impacts to Sierra Nevada yellow-legged frog nor does it include mitigation to reduce potential impacts to Sierra Nevada yellow-legged frog to a level of less than-significant.

Recommendation: To reduce the Project's potential impact on Sierra Nevada yellow-legged frog to a less-than-significant level, CDFW recommends that the MND incorporate a measure requiring a qualified biologist to be onsite to monitor in-water work, particularly during the installation and removal of any diversion systems that are needed. It is also recommended that the MND incorporate an amphibian clearance survey measure. The measure could include, but need not be limited to, the following language:

"If standing or flowing water is present at a Project location, immediately prior to the start of Project related activities (i.e., ground disturbance, vegetation clearing, in-water work) each day a qualified biologist with education and experience in Sierra Nevada yellow-legged frog biology and identification will survey 500 feet upstream and downstream of the Project location. If a Sierra Nevada yellow-legged frog individual, its egg masses, or larval stages are identified during surveys or during Project activities, the Project activities in the immediate vicinity will be suspended and CDFW notified. Work may not re-initiate until Caltrans has consulted with CDFW and can demonstrate compliance with CESA.

If it is determined that the Project may result in "take," as defined in the Fish & G. Code, section 86, of Sierra Nevada yellow-legged frog, a CESA Incidental Take Permit (ITP) should be obtained."

COMMENT 2: Western Bumble Bee, 2.4 Biological Resources, Discussion of CEQA Environmental Checklist Question A, Page 27-29

Issue: Western bumble bee (*Bombus occidentalis*) is a state candidate species for listing under CESA and as such, it is afforded full protection under the act. It is unlawful to take a State-listed endangered, threatened, or candidate species (Fish & G. Code § 2050 et seq.). Take is defined as “hunt, pursue, catch, capture or kill or attempt to hunt, pursue, catch, capture or kill” (Fish & G. Code § 86). CESA take authorization, should be obtained if the proposed Project has the potential to result in take of western bumble bee.

Western bumble bees can nest in a variety of habitats, including agricultural and urban landscapes as well as in alpine, dune, forested, forest edge, and grassland (Liczner and Colla 2019). Most western bumble bee nests have been found in cavities, including in abandoned rodent burrows. Western bumble bees are generalist foragers and likely do not require flowering resources in the immediate vicinity of their nests. They are often foraging 100 meters or more from the entrance of the nest (Dramstad 1996, Dramstad et al. 2003, Osborne et al. 1999).

Table 4 in the MND states that the Project will have no take of western bumble bee and does not provide any analysis for the species. However, the Project is within this species range and from a desktop review, there is habitat present within the Project site.

As currently proposed, the Project has potential to have significant and unmitigated impacts to western bumble bee. The MND, as written, does not sufficiently analyze or disclose impacts to western bumble bee nor does it include mitigation to reduce potential impacts to western bumble bee to a less-than-significant level.

Recommendation: CDFW recommends the MND include an analysis and appropriate mitigation measures to reduce Project impacts to western bumble bee to a less-than-significant level. Mitigation measures could include, but are not limited to:

“Western Bumble Bee Protocol Survey. The Project proponent will develop a Pre-Construction Survey Plan for western bumble bee, in coordination with CDFW (see <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150&inline>). A total of three non-lethal surveys will be conducted prior to any ground-disturbing or vegetation removal Project activities that will take place during the active season for western bumble bee (April 1 through September 1), to determine if any active nests are within the Project area. Each survey will be spaced two to four weeks apart, with the last survey taking place within 72 hours prior to the start of construction activity. A qualified biologist will perform meandering transects through the planned construction footprint, plus a 50-foot buffer where accessible, to visually survey the area for western bumble bee activity. If a suspected or confirmed western bumble bee is identified during any of these surveys, the qualified biologist will notify CDFW within 48 hours.

If only foraging western bumble bees are observed (i.e., no nest is found), construction activities may proceed without additional monitoring requirements. If a lapse in construction greater than 14 days occurs, an additional nest survey will be conducted prior to construction being re-initiated.

If a western bumble bee nest is discovered Project activities in the immediate vicinity of the nest will be suspended and CDFW notified. Work may not be re-initiated until Caltrans has consulted with CDFW and can demonstrate compliance with CESA.”

If it is determined that the proposed Project may result in “take,” as defined in the Fish & G. Code, section 86, of western bumble bee, a CESA ITP should be obtained.

COMMENT 3: Rare Plants, 2.4 Biological Resources, Discussion of CEQA Environmental Checklist Question A, Page 27-29

Issue: Special-status species include but are not limited to those considered either rare or regionally unique throughout their range (CEQA Guidelines § 15125[c]) or those identified as threatened, endangered, rare, or candidate by CDFW or U.S. Fish and Wildlife Service (USFWS) (CEQA Guidelines § 15380). Impacts to these species or their habitat must be analyzed during preparation of environmental documents relating to CEQA. Plants that have a California Native Plant Society (CNPS) California Rare Plant Rank (CRPR) of 1A, 1B, 2A, 2B, 3 and 4 should be considered rare or regionally unique for the purposes of CEQA.

The MND does not analyze the potential for rare plants to occur in the Project site or quantify the Project’s potential impacts to rare plant populations. From a desktop review, there is potential for several rare plant species to occur including, but not limited to, scalloped moonwort (*Botrychium crenulatum*), mingan moonwort (*Botrychium minganense*), Davy's sedge (*Carex davyi*), mud sedge (*Carex limosa*), Nevada daisy (*Erigeron eatonii* var. *nevadincola*), Plumas ivesia (*Ivesia sericoleuca*), sagebrush bluebells (*Mertensia oblongifolia* var. *oblongifolia*), and alder buckthorn (*Rhamnus alnifolia*). As currently proposed, the Project has potential to have significant and unmitigated impacts to rare plant populations.

Recommended Mitigation Measure: It is recommended that protocol level rare plant surveys be conducted in accordance with CDFW’s, *Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities* (3/18). The surveys should be conducted by a qualified botanist during the appropriate blooming period for all rare plant species with the potential to occur within or adjacent to the Project site. If rare plant populations are detected, the boundaries of the populations should be mapped using a GPS. The survey results and an analysis on the Project’s potential impacts to rare plant species should be incorporated into the MND. If rare plants will be impacted by the Project, the MND should also be updated to include mitigation measures to completely avoid the occurrences and describe how the Project plans to mitigate impacts to a less-than-significant level.

COMMENT 4: Tree Roosting Bats, 2.4 Biological Resources, Discussion of CEQA Environmental Checklist Question A, Page 27-29

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 (SSC), which meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines § 15380).

The MND does not state if tree removal will be necessary to complete the Project and does not include an analysis of potential tree roosting bat habitat or potential nursery colonies within the Project site. Bat species that are known to occur in the Project vicinity, such as pallid bat (*Antrozous pallidus*), silver-haired bat (*Lasiurus noctivagans*), hoary bat (*Lasiurus cinereus*), fringed myotis (*Myotis thysanodes*), long-eared myotis (*Myotis evotis*), and long-legged myotis (*Myotis volans*) could utilize the trees within the Project site that may need to be removed for the completion of the Project as day roosting and nursery habitat.

Without an analysis of the type, quality, and quantity of roosting bat habitat within the Project site and appropriate surveys for presence/absence, it is unclear if there are bats present that could be impacted by the Project. The presence of bats in trees that will be removed during construction could result in direct mortality. Additionally, if there is roosting habitat in trees that will be removed, the Project would result in the permanent loss of roosting and nursery habitat. The MND, as written, does not sufficiently analyze or disclose impacts to bats nor does it include mitigation to reduce potential impacts to bats and native nursery sites to a level of less than-significant.

Recommendation: 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 MND. If bat roosting habitat is present, mitigation measures should be included in the MND to mitigate potential impacts to bats and nursery sites. These measures could include, but are not limited to:

- Timing tree removal to avoid critical bat life stages (maternity season - April 15 to August 31 and torpor season - October 15 to March 1);
- Requiring bat pre-construction survey(s) conducted by a biologist with education and experience in bat biology and identification prior to the initiation of tree removal; and
- If bats are roosting in trees slated for removal, Caltrans should consult with CDFW.

Additionally, CDFW recommends the following language be incorporated into the MND to help reduce potential impacts to bats and native nursery sites to a less-than-significant level:

"Replacement Structures. If bat roosts cannot be avoided, replacement roost structures shall be designed to accommodate the bat species they are intended for. Replacement roost structures shall be designed and installed in close coordination with a qualified bat biologist. The size of suitable roosting habitat to be removed shall be quantified by the bat biologist and a minimum of twice the roosting habitat shall be installed in close proximity to the removed roost habitat. Replacement roost habitat shall be monitored by a qualified bat biologist for a minimum of two years to document bat use and monitoring reports shall be submitted to CDFW."

COMMENT 5: Fish Species of Special Concern, 2.4 Biological Resources, Discussion of CEQA Environmental Checklist Question A, Page 27-29

Issue: Lahontan cutthroat trout (*Oncorhynchus henshawi henshawi*) is listed as threatened under the Federal Endangered Species Act and as SSC in California. Lahontan mountain sucker (*Pantosteus lahontan*) and mountain whitefish (*Prosopium williamsoni*) are also listed as SSC in California. There are known occurrences of all three of these species in the Project vicinity and from a desktop review, there is suitable habitat within the Project area for these species. There is potential for all three species to occur in streams that may be affected by the Project. The MND does not mention Lahontan mountain sucker or mountain whitefish or analyze the Project's potential impacts to these species. The MND acknowledges that there is potential for Lahontan cutthroat trout to occur in the Project. The MND does not include any specific mitigation measures for this species. As currently proposed, the Project has potential to have significant and unmitigated impacts to Lahontan cutthroat trout, Lahontan mountain sucker, and mountain whitefish if present. The MND, as written, does not sufficiently analyze or disclose impacts to Lahontan cutthroat trout, Lahontan mountain sucker, and

mountain whitefish nor does it include mitigation to reduce potential impacts to these species to a level of less than-significant.

Recommendation: To reduce the Project’s potential impact on these species to a less-than-significant level, CDFW recommends that the MND incorporate a measure requiring the development and implementation of a relocation plan if in-water work is required. CDFW also recommends that the MND incorporate a measure requiring a qualified biologist to be onsite to monitor in-water work, particularly during the installation and removal of any diversion systems that are needed.

COMMENT 7: Wildlife Connectivity. 2.4 Biological Resources, Discussion of CEQA Environmental Checklist Question D, Page 26

Issue: The MND states that the proposed Project would not substantially interfere with the movement of any native wildlife species nor interfere with established native resident or migratory wildlife corridors. However, the southern half of the Project overlaps with migration corridors identified during a migration study on for the Loyalton heard of mule deer (CDFW 2021). Additionally, according to CDFW’s Areas of Conservation Emphasis (ACE) Terrestrial Connectivity layer, the majority of the Project occurs within the “Irreplaceable and Essential Corridors” or “Conservation Planning Linkages” designation (BIOS 2025). SR 89 bisects several native resident or migratory wildlife corridors. Most of SR 89 prevents or severely limits wildlife movement. The California Roadkill Observation System (CROS) strike data shows that there is a long-standing issue with deer and black bears being struck by vehicles along this stretch of SR 89 (CROSPLAN 2026). Although the proposed project analyzed in the MND is not proposing to worsen the connectivity issues that SR 89 presents, the project has an opportunity to improve wildlife connectivity in this area.

Recommendation: To improve wildlife connectivity within this stretch of SR 89, CDFW recommends Caltrans identify suitable locations and incorporate wildlife crossing structures/features into their design plans. For example, the culverts at PM 10.29, 13.69, 13.70, and 13.72 are in close proximity to roadkill hotspots and may be beneficial locations to include wildlife connectivity elements such as upsizing, under crossings, or shelving if feasible.

CDFW recognizes the value of wildlife connectivity elements and may consider the incorporation of such elements into the project design as a component of Project mitigation.

COMMENT 8: Fish Passage. 2.4 Biological Resources, Discussion of CEQA Environmental Checklist Question D, Page 26

Issue: The MND states that the proposed Project would not substantially interfere with the movement of any native resident or migratory fish species. However, the existing culverts within the Project may currently be barriers to movement for native resident fish species and the proposed replacements and CIPP lining may maintain or make barrier to movement even less permeable. The MND, as written, does not sufficiently analyze or disclose impacts fish passage nor does it include mitigation to reduce potential impacts to fish passage to a level of less than-significant.

Recommendation: CDFW recommends that Caltrans analyze the current fish passage status of culverts proposed for replacement or rehabilitation. CDFW recommends the results along with an analysis on how the Project will or will not significantly impact fish passage be incorporated into the MND. All culvert replacements and rehabilitation should be implemented in a way that does not cause, maintain, or exacerbate barriers to fish movement. To ensure fish passage concerns are properly addressed, CDFW recommends utilizing the design principles outlined in the *California Salmonid Stream Habitat Restoration Manual, Part XII* (CDFW 2009) and *NOAA Fisheries Service*

Guidelines for Salmonid Passage at Stream Crossings (NMFS 2001) into stream crossing designs. CDFW strongly recommends the above manuals are included and referenced when finalizing culvert replacement design. The design principles should allow natural stream flow and sedimentation processes to continue for long term dynamic channel stability. CDFW encourages Caltrans to collaborate with CDFW's Conservation Engineers when designing culverts with fish passage in mind.

CDFW recognizes the value of fish passage structures being incorporated into the design plans. As appropriate, CDFW may consider the installation of the proposed fish passage as a component of Project mitigation.

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 found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be submitted online or mailed electronically to CNDDDB at the following email address: CNDDDB@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 MND for the EA 03-2J200_Hennes Pass CAPM 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

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REFERENCES

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^[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.