



STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

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May 19, 2026

Rachel Calvert, Senior Civil Engineer
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Subject: Muir Woods Road Improvement Project, Mitigated Negative Declaration, SCH No. 2026040917, Marin County

Dear Rachel Calvert:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) from the County of Marin (County) for the Muir Woods Road Improvement Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹ We appreciate the County's previous coordination with CDFW on the Project, which is further described below.

CDFW is submitting comments on the MND to inform the County, as the Lead Agency, of our concerns regarding potentially significant impacts to biological resources associated with the Project, and recommended mitigation measures, as further described below and in **Attachment 1**.

CDFW ROLE

CDFW is a **Trustee Agency** with responsibility under the California Environmental Quality Act (CEQA) for commenting on projects that could impact fish, plant, and wildlife resources (Pub. Resources Code, § 21000 et seq.; Cal. Code Regs., tit. 14, § 15386). CDFW is also considered a **Responsible Agency** if a project would require discretionary approval, such as a permit pursuant to the California Endangered Species Act (CESA) or Native Plant Protection Act (NPPA), Lake and Streambed Alteration (LSA) Program, and other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources. Pursuant to our authority, CDFW has the following concerns, comments, and recommendations regarding the Project.

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.

Rachel Calvert, Senior Civil Engineer
County of Marin
May 19, 2026
Page 2

PROJECT DESCRIPTION SUMMARY

Proponent: County of Marin

Objective: The Project involves resurfacing, restoring, and rehabilitating Muir Woods Road, which is owned and maintained by the County, and serves as the primary access route to Muir Woods National Monument within Muir Woods National Park. The road also provides access to Mount Tamalpais State Park which is managed by the California Department of Parks and Recreation, Golden Gate National Recreation Area, and to the Panoramic Highway. The Project objective is to restore structural integrity of 2.4 miles of roadway, enhance road safety, correct drainage problems, reduce ongoing maintenance requirements, and reduce water quality impacts to Redwood Creek. Project activities include stabilizing the roadway embankment in areas of slope failure, implementing drainage improvements consisting of culvert repair, culvert replacement, and culvert outfall protection, replacing and realigning the existing bridge over Redwood Creek, and formalizing a segment of the Redwood Creek Trail along the roadway. Road improvements will widen the existing road 1 to 4 feet to achieve a consistent 22-foot width, slope stabilization activities will occur in 10 locations, there will be 36 culvert replacements and associated activities, and the bridge will involve complete removal of the existing bridge and in-channel abutments, tree removal for the new alignment, placement of the new 150-foot long by 45-foot wide clear span bridge, and path connection to Redwood Creek Trail, which would be constructed as part of a separate National Parks Service project.

Location: The Project will occur in Marin County, State of California, with an approximate centroid of 37.88079° Latitude, -122.57783° Longitude.

REGULATORY REQUIREMENTS

California Endangered Species Act

Please be advised that a CESA Incidental Take Permit (ITP) must be obtained if the Project has the potential to result in "take" of plants or animals listed or candidate species under CESA, either during construction or over the life of the Project.² **The Project has the potential to impact Coho salmon (*Oncorhynchus kisutch* pop. 4), CESA listed as endangered, and longfin smelt (*Spirinchus thaleichthys* pop. 2), and Northern Spotted Owl (*Strix occidentalis caurina*), both CESA listed as threatened. Thank you for including in the MND:**

- **Requirements and mitigation measures for Coho salmon including, but not limited to, adhering to the National Marine Fisheries Service Biological Opinion issued June 11,**

² "Take" means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill (Fish & G. Code, § 86).

Rachel Calvert, Senior Civil Engineer
County of Marin
May 19, 2026
Page 3

2025 for the Project, and obtaining a CESA Consistency Determination from CDFW (Table 2, MND page 21 and AMM BIO-38 through 45); and

- **Mitigation measures for longfin smelt and Northern Spotted Owl to avoid and minimize impacts to these species, which include but are not limited to, seasonal work windows for Project activities:**
 - **In-water work limited to July 15 – October 31 for longfin smelt (AMM BIO-33), and**
 - **No construction activities within Northern Spotted Owl habitat during Northern Spotted Owl nesting season (February 1 – July 31) and clearing of large trees limited to September 1 – December 31 (AMMs BIO-34 and 37).**

CDFW recommends an additional mitigation measure to avoid impacts to Northern Spotted Owl, described below.

Issuance of a CESA ITP is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA ITP.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially restrict the range or reduce the population of a threatened or endangered species. (Pub. Resources Code, §§ 21001, subd. (c) & 21083; CEQA Guidelines, §§ 15380, 15064, & 15065.). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency's FOC does not eliminate the project proponent's obligation to comply with CESA.

Lake and Streambed Alteration

An LSA Notification, pursuant to Fish and Game Code section 1600 et seq., is required for project activities affecting lakes or streams and associated riparian habitat. Notification is required for any activity that may substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland resources; or deposit or dispose of material where it may pass into a river, lake or stream. Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. **The Project would result in impacts Redwood Creek, Kent Creek, hydrologically connected wetlands, and an unnamed ephemeral tributary (Table 4-4. MND Page 62), therefore an LSA Notification would be required as further described below.** CDFW will consider the CEQA document for the Project and may issue an LSA Agreement. CDFW may not execute the final LSA Agreement (or ITP) until it has complied with CEQA as a Responsible Agency.

Rachel Calvert, Senior Civil Engineer
County of Marin
May 19, 2026
Page 4

Raptors and Other Nesting Birds

CDFW has jurisdiction over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nests 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). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Based on the Project's avoidance of significant impacts on biological resources with implementation of mitigation of measures, including those CDFW recommends in Attachment 1, CDFW concludes that a MND is appropriate for the Project.

I. *Mandatory Findings of Significance:* Does the Project have the potential to substantially reduce the number or restrict the range of an endangered, rare, or threatened species?

And,

Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or U.S. Fish and Wildlife Service (USFWS)?

COMMENT 1: Northern spotted owl, Environmental Setting and Related Impact Shortcoming

Issue, specific impacts, why they may occur and be potentially significant: The Project may impact nesting Northern Spotted Owl due to potential auditory or visual disturbance up to 0.25 miles away from the Project area, the distance at which Northern Spotted Owl may be impacted. The MND includes mitigation measures to protect nesting Northern Spotted Owl, however the measures do not clearly state that Project activities will be avoided within 0.25 miles of Northern Spotted Owl nesting habitat during Northern Spotted Owl nesting season. The MND indicates that a reduced buffer zone of 330 feet has been established, however CDFW has not reviewed the proposed reduction. If Northern Spotted Owl nest within 0.25-mile of the Project area, Northern Spotted Owl could be impacted by Project activities resulting in nest abandonment and loss of eggs, or reduced health and vigor and loss of young. Northern Spotted Owl is CESA listed as a threatened species and is also listed under the federal Endangered Species Act and

Rachel Calvert, Senior Civil Engineer
County of Marin
May 19, 2026
Page 5

therefore is considered to be a threatened species pursuant to CEQA Guidelines section 15380. Therefore, if an active Northern Spotted Owl nest is disturbed by the Project, the Project may result in a substantial reduction in the number of a threatened species, which is considered a Mandatory Finding of Significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

Recommended Mitigation Measure: To reduce potential impacts to Northern Spotted Owl to less-than-significant and comply with CESA and Fish and Game Codes section 3500 et seq., CDFW recommends including the following mitigation measure in the MND.

Mitigation Measure BIO-1 (Northern Spotted Owl): Project activities shall not occur on or within 0.25 miles of Northern Spotted Owl nesting habitat between February 1 and July 31 unless a qualified biologist approved in writing by CDFW conducts Northern Spotted Owl surveys following the USFWS *Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls*, dated (revised) January 9, 2012, unless otherwise approved in writing by CDFW. Surveys shall be conducted in accordance with Section 9 of the survey protocol, *Surveys for Disturbance-Only Projects*. If breeding Northern Spotted Owl are detected during surveys, CDFW shall be immediately notified and a 0.25-mile no-disturbance buffer zone shall be implemented around the nest until the end of the breeding season, or a qualified biologist determines that the nest is no longer active, unless otherwise approved in writing by CDFW. The Project shall obtain CDFW's written acceptance of the qualified biologist and survey report prior to Project construction occurring between February 1 and July 31 each year.

Alternate buffer zones may be proposed to CDFW after conducting an auditory and visual disturbance analysis following the USFWS guidance, *Estimating the Effects of Auditory and Visual Disturbance to Northern Spotted Owls and Marbled Murrelets in Northwestern California*, dated October 1, 2020. Alternative buffers must be approved in writing by CDFW.

If take of Northern Spotted Owl cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP.

II. Would the Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by CDFW or USFWS?

COMMENT 2: Stream, Wetland, and Riparian Habitat Impacts and LSA Notification, Mitigation Measures and Related Impact Shortcomings

Issue, specific impacts, why they may occur and be potentially significant: Under Agency Coordination (MND page 25), the MND states that the County met with CDFW in 2023 to discuss the applicability of an LSA Agreement for the Project pursuant to Fish and Game

Rachel Calvert, Senior Civil Engineer
County of Marin
May 19, 2026
Page 6

Code section 1600 et seq. Further discussion occurred in 2025 and 2026 and CDFW advised the County that the Project is subject to Section 1600 et seq. The MND concludes that the Project is subject to other state statutes and regulations, such as CEQA and CESA (MND Table 2 and page 74), however, it does not list an LSA Agreement as one of these statutes or regulations. Fish and Game Code section 1602 requires notification to CDFW for impacts to streams including associated riparian habitat. The Project would result in impacts to streams, connected wetlands, and riparian habitat, which occur on or adjacent to the Project area, through temporary and permanent habitat removal (1.7 acres and 2.1 acres, respectively per MND page 87), temporary dewatering, and construction or installation of infrastructure, such as streambank repairs and culvert replacements, which may cause flow restriction, riparian tree removal, or permanent fill. These activities may also result in downstream impacts to fish and wildlife species from sediment or other potentially deleterious materials. Streams and riparian zones are of critical importance to protecting and conserving the biotic and abiotic integrity of an entire watershed. The MND includes mitigation measures to reduce impacts to riparian habitat, such as on-site restoration of temporary impacts and mitigating permanent impacts on-site or through a mitigation bank as determined through consultation with regulatory agencies, however little detail is provided for on-site restoration and there is no requirement for an agency approved restoration plan including success criteria, management, and monitoring, and it is unclear which agencies would be consulted. When riparian habitat is substantially altered, riparian functions become impaired, thereby potentially substantially adversely impacting aquatic and terrestrial species. Therefore, if the Project impacts streams, connected wetlands, or riparian habitat, impacts to these sensitive habitats would be potentially significant.

Recommended Mitigation Measure: To reduce impacts to streams, connected wetlands, and riparian habitat to less-than-significant and comply with Fish and Game Code section 1600 et seq., CDFW recommends that the MND include the below mitigation measure.

Mitigation Measure BIO-2 (LSA Notification and Agreement): The Project shall notify CDFW for Project impacts to the streams, connected wetlands, and riparian habitat pursuant to Fish and Game Code section 1600 et seq. and shall comply with the LSA agreement, if issued. More information on the LSA Notification process is available at <https://wildlife.ca.gov/Conservation/Environmental-Review/LSA>. The Project shall not commence activities with potential to impact the stream(s) until the LSA Agreement process has been completed. Temporary impacts shall be restored and permanent impacts shall be mitigated by restoring stream habitat on-site or off-site within the same watershed at an appropriate ratio, unless otherwise approved in writing by CDFW. Trees shall be replaced at an appropriate ratio based on size, species, and temporal habitat loss, unless otherwise approved in writing by CDFW. An LSA Agreement, if issued, may include additional avoidance and minimize measures to protect fish and wildlife resources, such as the Northern Spotted Owl avoidance measure recommended above.

Rachel Calvert, Senior Civil Engineer
County of Marin
May 19, 2026
Page 7

ENVIRONMENTAL DATA

CEQA requires that information developed in EIRs 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 CNDDDB. The CNDDDB online field survey form and other methods for submitting data can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Plantsand-Animals>.

FILING FEES

CDFW anticipates that the Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish & G. Code, § 711.4; Pub. Resources Code, § 21089). 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.

CONCLUSION

CDFW appreciates the opportunity to comment on the MND to assist the County in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Jordan Beaton, Environmental Scientist, at Jordan.Beaton@wildlife.ca.gov or (707) 980-5172; or Melanie Day, Senior Environmental Scientist (Supervisory), at Melanie.Day@wildlife.ca.gov or (707) 210-4415.

Sincerely,

DocuSigned by:
Erin Chappell
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Erin Chappell
Regional Manager
Bay Delta Region

Attachment: Attachment 1

ec: Office of Land Use and Climate Innovation, State Clearinghouse, Sacramento
Michael Fris, USFWS - Michael.Fris@fws.gov
Joel Casagrande, National Oceanic and Atmospheric Administration -
Joel.Casagrande@noaa.gov
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Rachel Calvert, Senior Civil Engineer
 County of Marin
 May 19, 2026
 Page 8

ATTACHMENT 1

Draft Mitigation and Monitoring Reporting Plan

Biological Resources (BIO)			
Mitigation Measure (MM)	Description	Timing	Responsible Party
BIO-1	<p><u>Northern Spotted Owl</u>: Project activities shall not occur on or within 0.25 miles of Northern Spotted Owl nesting habitat between February 1 and July 31 unless a qualified biologist approved in writing by CDFW conducts Northern Spotted Owl surveys following the USFWS <i>Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls</i>, dated (revised) January 9, 2012, unless otherwise approved in writing by CDFW. Surveys shall be conducted in accordance with Section 9 of the survey protocol, <i>Surveys for Disturbance-Only Projects</i>. If breeding Northern Spotted Owl are detected during surveys, CDFW shall be immediately notified and a 0.25-mile no-disturbance buffer zone shall be implemented around the nest until the end of the breeding season, or a qualified biologist determines that the nest is no longer active, unless otherwise approved in writing by CDFW. The Project shall obtain CDFW's written acceptance of the qualified biologist and survey report prior to Project construction occurring between February 1 and July 31 each year.</p> <p>Alternate buffer zones may be proposed to CDFW after conducting an auditory and visual disturbance analysis following the USFWS guidance, <i>Estimating the Effects of Auditory and Visual Disturbance to Northern Spotted Owls and Marbled Murrelets in Northwestern California</i>, dated October 1, 2020. Alternative buffers must be approved in writing by CDFW.</p> <p>If take of Northern Spotted Owl cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP.</p>	<p>Prior to Ground Disturbance and for Duration of Construction</p>	<p>Project Applicant</p>
BIO-2	<p><u>LSA Notification and Agreement</u>: The Project shall notify CDFW for Project impacts to the streams, connected wetlands, and riparian habitat pursuant to Fish and Game Code section 1600 et seq. and shall comply with the LSA agreement, if issued. More information on the LSA Notification process is available at</p>	<p>Prior to Ground Disturbance and for</p>	<p>Project Applicant</p>

Rachel Calvert, Senior Civil Engineer
County of Marin
May 19, 2026
Page 9

	<p>https://wildlife.ca.gov/Conservation/Environmental-Review/LSA. The Project shall not commence activities with potential to impact the stream(s) until the LSA Agreement process has been completed. Temporary impacts shall be restored and permanent impacts shall be mitigated by restoring stream habitat on-site or off-site within the same watershed at an appropriate ratio, unless otherwise approved in writing by CDFW. Trees shall be replaced at an appropriate ratio based on size, species, and temporal habitat loss, unless otherwise approved in writing by CDFW. An LSA Agreement, if issued, may include additional avoidance and minimize measures to protect fish and wildlife resources, such as the Northern Spotted Owl avoidance measure recommended above.</p>	Duration of Construction	
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