

Haggerty, Nicole@Wildlife

From: Xiong, Mary@Wildlife
Sent: Monday, September 21, 2026 2:21 PM
To: Akther, Obaida@DOT; 03_2J670_Project_Inbox@DOT
Cc: Wildlife R2 CEQA; Stanfield, Melissa@Wildlife; Sheya, Tanya@Wildlife; Kilgour, Morgan@Wildlife
Subject: CDFW Comments on the MND for the EA 03-2J670_Cache Creek Rehabilitation Project (SCH No. 2026080700)

Dear Obaida Akther:

The California Department of Fish and Wildlife (CDFW) received and reviewed the Notice of Intent to Adopt an MND from the California Department of Transportation (Caltrans) for the EA 03-2J670_Cache Creek Rehabilitation Project (Project) pursuant to 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) 16 in Yolo County between Post Mile (PM) 15.1 (0.1 miles west of County Road 68) and PM 20.5 (0.3 miles east of County Road 78A). The total length of the Project is approximately 5.4 miles.

The Project consists of resurfacing, restoration and rehabilitation (3R) to improve pavement conditions and roadway safety. The scope of work includes pavement rehabilitation, shoulder widening; drainage reconstruction due to shoulder widening; culvert work including replacement, upsizing, extension and end treatments; bridge replacement and widening with upgraded bridge railings; replacement of guardrails, end terminals, and nonstandard roadside signs; and implementation of complete street features where feasible. Winter Creek Bridge at PM 16.38 and Taylor Creek Bridge at PM 20.14 are proposed to be replaced, and Mossy Creek Bridge at PM 18.13 is proposed to be widened.

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: Nesting Birds, Biological Resources BR-2A: Animal Species, 1.6 Standard Measures and Best Management Practices Included in All Alternatives, Page 22

Issue: Native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) (16 U.S.C., §§ 703-712). CDFW implements the MBTA by adopting Fish & G. Code, § 3513. Fish & G. Code, § 3503, 3503.5 and 3800 provide additional protection to nongame birds, birds of prey, their nests and eggs.

The Mitigated Negative Declaration (MND) states in Standard Measure BR-2A that a nesting bird survey would be conducted by a qualified biologist within five days prior to vegetation removal. This measure is not specific enough to effectively minimize impacts on migratory and nongame birds. The Project is approximately 5.40 miles long, and it is assumed work would be phase spatially and temporally. A single nesting bird survey would not effectively avoid impacts to nesting birds as nests could become active between when the survey is conducted and when Project activities reach different portions of the Project site.

Recommendation: CDFW recommends that the Standard Measure BR-2A be revised to specify that if Project activities will occur during the nesting season, a nesting bird survey will be conducted by a designated biologist 1) within a minimum of 500 feet from the Project activities where work will be occurring, 2) within three calendar days prior to those Project activities, and 3) when there has been a lapse of seven calendar days of construction activities. CDFW recommends that this measure apply to all Project activities and not just vegetation removal; therefore, the measure should replace "vegetation removal" with "Project activities."

COMMENT 2: Bird Exclusion Plan, Biological Resources BR-2B: Animal Species, 1.6 Standard Measures and Best Management Practices Included in All Alternatives, Page 22

Issue: Pursuant to Fish & G. Code, § 3505, it is unlawful to take, process, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by this code or regulation made pursuant thereto.

The MND states in Standard Measure BR-2B, Bird Exclusion Plan, that on structures or parts of structures where it is not feasible to install bird exclusion devices, partially constructed and unoccupied nests within the construction area would be removed and disposed of on a regular basis throughout the breeding season to prevent occupation (i.e. excluding through monitoring) and that nest removal would be repeated weekly or as needed to prevent active nesting under the guidance of

a qualified biologist. Exclusion through monitoring and partial nest removal during nesting season is not a recommended exclusion method. Species such as cliff swallows (*Petrochelidon pyrrhonota*) have high site fidelity, returning to the same bridge or cliff annually, and will continue to attempt to nest regardless of partially constructed nests being removed. Excluding through often results in the accidental take of nests when birds begin to lay eggs in partially constructed nests.

Recommendation: CDFW does not support excluding birds through monitoring. CDFW recommends the BR-2B measure be revised to remove the language about nest removal during the nesting season. Physical exclusion devices should be installed on the bridge structures prior to the start of the nesting season, or alternatively, bridge construction should be timed to occur outside the nesting season. CDFW recommends that the Bird Exclusion Plan also addresses contingency actions should the exclusion device fails.

COMMENT 3: Avoidance, Minimization and Mitigation Measures, 2.4 Biological Resources, Page 52

Issue: The Standard Measures BR-5A and BR-5B do not support the avoidance of sensitive plant biological resources.

Recommendation: CDFW recommends the MND be amended to use Standard Measures BR-4A and BR-4B.

COMMENT 4: Impacts to Riparian and Aquatic Resources, Brooks Creek, Pages 55 – 56

Issue: Mossy Creek Bridge will be widened, but the MND does not quantify the permanent impact to riparian and aquatic habitat from increased shading.

Recommendation: CDFW recommends that the impact to riparian and aquatic habitats from increased shading resulting from the new wider Mossy Creek Bridge at Brooks Creek be analyzed and mitigated to a less-than-significant level.

COMMENT 5: Burrowing Owl and Yolo Habitat Conservation Plan/Natural Community Conservation Plan (Yolo HCP/NCCP), Animal Species, Page 67 and Discussion of CEQA Environmental Checklist Questions 2.4a and 2.4e and f – Biological Resources, Pages 83 and 87

Issue: Burrowing owl (*Athene cunicularia*) 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 burrowing owl.

Burrowing owls can be found in agricultural and range lands and can adopt burrows on the edge of, and forage within, agricultural fields, roads, levee embankment, and other disturbed sites where there is sufficient friable soil for burrows. A desktop review shows that the Project is within this species range and there is habitat present adjacent to the Project site.

The MND does not analyze the potential Project impacts to burrowing owl nor its habitat. The MND, as written, does not sufficiently analyze or disclose impacts to burrowing owl nor does it include mitigation to reduce potential impacts to burrowing owl to a level of less-than-significant. The Project is also within the boundaries of the Yolo HCP/NCCP, and the current Standard Measures, avoidance and minimization measures, and Best Management Practices (BMPs) in the MND do not address burrowing owl. Thus, the MND did not adequately evaluate if the Project will conflict with provisions of the adopted Yolo HCP/NCCP.

Recommendation: CDFW recommends the MND includes an analysis of the potential Project impacts to burrowing owl and includes appropriate mitigation measures to reduce Project impacts to burrowing owl to a less-than-significant level. Because the Yolo HCP/NCCP is currently being implemented, the MND should include a discussion on how Caltrans will ensure that implementation of the Project will not impede the plan's ability to meet its biological goals and objectives. Furthermore, CDFW recommends that Caltrans coordinate with the implementing agency of the Yolo HCP/NCCP to ensure significant environment impacts are adequately investigated. If it is determined that the proposed Project may result in "take," as defined in the Fish & G. Code, section 86, of burrowing owl, a CESA ITP should be obtained.

COMMENT 6: Swainson's Hawk Surveys, Environmental Consequences – Avoidance and Minimization Measure, Pages 76 – 77

Issue: The primary threat to the Swainson's hawk (*Buteo swainsoni*) population in California continues to be habitat loss, especially the loss of suitable foraging habitat (California Department of Fish and Game 2016). Suitable nesting habitat occurs within the Project limits, and adjacent agricultural fields provide suitable foraging habitat. In addition, breeding mother Swainson's hawks can travel up to 18 miles from their nests to forage for food (Yolo HCP/NCCP 2018). Unmitigated loss of foraging habitat for a CESA listed threatened species is a significant impact unless mitigated.

Based on desktop review, there have been several occurrences of SWHA within 10 miles of the Project area in the last five years. The MND acknowledges that the Project may result in the removal of up to 0.28 acres of potential nesting habitat and 0.48 acres of potential foraging habitat for Swainson's hawk, but the MND does not discuss mitigation to reduce Project impacts to a level of less than significant with mitigation incorporated.

The MND avoidance and minimization measure states that if work activities are conducted during the nesting season (February 1 to September 1), a nesting bird survey will be completed by a qualified Caltrans-approved biologist no earlier than five days prior to the start of construction to minimize impacts on Swainson's hawk. One survey may be inadequate to accurately detect the absence or presence of nesting Swainson's hawk in the area.

Recommended Mitigation Measures:

CDFW recommends the following mitigation measure be added to the MND:

Compensatory Mitigation for Permanent Impacts to Swainson's Hawk Foraging Habitat: To mitigate impacts from the permanent loss of 0.48 acres of Swainson's hawk foraging habitat to a less than significant level, CDFW recommends Caltrans either purchase 1.44 acres of Swainson's hawk foraging habitat credits from a CDFW-approved conservation bank OR provide for both the permanent protection and management of 1.44 acres of Habitat Management (HM) lands including calculation and deposit of management funds as approved by CDFW. Prior to transfer of Swainson's hawk foraging credits, Caltrans shall obtain CDFW approval to ensure the conservation bank is

appropriate to compensate for the impacts of the Project. Caltrans shall submit to CDFW a copy of the executed Credit Transfer Agreement prior to initiating construction activities.

If some or all of the 0.28 acres of nesting habitat are also foraging habitat, the acreage should be accounted for in the recommended compensatory mitigation measure above.

CDFW recommends the avoidance and minimization measure be revised to be read:

“Prior to the initiation of construction activities, Caltrans will have a qualified biologist conduct surveys for Swainson’s hawk in accordance with the *Swainson’s Hawk Technical Advisory Committee’s (TAC) Recommended Timing and Methodology for Swainson’s Hawk Nesting Surveys in California’s Central Valley* (2000), available on CDFW’s webpage at <https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds>. Survey methods should be closely followed by starting early in the nesting season to maximize the likelihood of detecting an active nest (nests, adults, and chicks are more difficult to detect later in the growing season because trees become less transparent as vegetation increases). Surveys should be conducted within a minimum 0.25-mile radius of the Project area or a larger area, if necessary, to identify potentially impacted active nests. Surveys should occur annually for the duration of the Project. The qualified biologist should have a minimum of two years of experience implementing the TAC survey methodology. If an active nest is identified, a 0.25-mile protective buffer should be maintained around the nest until the young fledge. The protective buffer should be clearly marked and be an area where no project-related activities or personnel are allowed while in place. If the 0.25-mile buffer must be reduced or take of Swainson’s hawk cannot be avoided, the Project proponent should consult with CDFW and demonstrate compliance with CESA.”

COMMENT 7: Bat Surveys, Western Red Bat – Affected Environment and Avoidance and Minimization Measures, Page 78 and Discussion of CEQA Environmental Checklist Question 2.4a) – Biological Resources, Western Red Bat, Page 83

Issue: Bats are considered non-game mammals and are protected by state law from take and/or harassment (Fish & G. Code §4150, CCR §251.1). Project impacts to bats may be considered potentially significant unless adequate mitigation is incorporated.

The MND states that a bat habitat assessment was performed on November 4, 2025, wherein a night roost and potentially suitable day roosting tree habitat was identified. The MND states that the standard protection measures and BMPs outlined in Section 1.6 would be implemented to avoid and minimize impacts to bats; however, Section 1.6 of the MND does not include mitigation measures specific to bats. The MND, as written, does not include effective and enforceable mitigation to reduce potential impacts to bats to a level of less than-significant.

Recommendation: CDFW recommends mitigation measures be included in the MND to mitigate potential impacts to roosting bats and potential nursery sites. These measures could include, but are not limited to:

- Timing tree removal and bat exclusion installation on bridge structure to avoid critical bat life stages (maternity season - April 15 to August 31 and torpor season - October 15 to March 1);
- Requiring bat emergence surveys and pre-construction survey(s) conducted by a biologist with education and experience in bat biology and identification prior to the initiation of tree removal/bat exclusion installation; and
- If bats are roosting in trees slated for removal or occupying structure slated for bridge work, 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 day 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 8: Crotch's Bumble Bee, Affected Environment and Avoidance and Minimization Measures, Pages 79 – 80 and Discussion of CEQA Environmental Checklist Question 2.4a) – Biological Resources, Crotch's Bumble Bee, Page 84

Issue: Crotch's bumble bee (*Bombus crotchii*) 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 Crotch's bumble bee.

The MND states that bee surveys were not conducted and assumed suitable marginal habitat was present. Based on desktop review, the Project is within this species range and there is suitable habitat present. The MND states that the standard protection measures and BMP BR-2 outlined in Section 1.6 would be implemented to avoid and minimize impacts to Crotch's bumble bee. These measures and BMPs do not address this species; therefore, the avoidance measure is inadequate. The MND, as written, does not include mitigation to reduce potential impacts to Crotch's bumble bee to a level of less than-significant.

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

"Crotch's Bumble Bee Protocol Survey. The Project proponent will develop a Pre-Construction Survey Plan for Crotch's 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 by a qualified biologist prior to any ground-disturbing or vegetation removal activities that will take place during the active season for Crotch's bumble bee (April 1 through August 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 bee activity.

If a Crotch's bumble bee 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 Crotch's bumble bee, a CESA ITP should be obtained.

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 03-2J670_Cache Creek Rehabilitation Project 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 Mary Xiong, Senior Environmental Scientist (Specialist) at (916) 212-3876 or mary.xiong@wildlife.ca.gov.

--

¹CEQA 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.

Sincerely,

Mary Xiong

Senior Environmental Scientist (Specialist)

Habitat Conservation Program

California Department of Fish and Wildlife – North Central Region (R2)

1701 Nimbus Road, Rancho Cordova

Cell: (916) 212-3876 | mary.xiong@wildlife.ca.gov