



STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

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September 30, 2026

Jonathan Coley
California Department of Transportation
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**Subject: Tuolumne 49 Pavement Anchor Project 10-1P090 (Project)
Initial Study with Proposed Mitigated Negative Declaration
State Clearinghouse Number: 2026080778**

Dear Jonathan Coley:

The California Department of Fish and Wildlife (CDFW) received an Initial Study with proposed Mitigated Negative Declaration (MND) 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. While the comment period may have ended, CDFW respectfully requests that Caltrans still consider our comments.

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

Fully Protected Species: CDFW has jurisdiction over fully protected species of birds, mammals, amphibians, 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 section 2081.15, to authorize CDFW 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 transportation projects, if certain conditions are satisfied.

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).

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 proposed Project would rehabilitate pavement and improve multimodal access along State Route 49, widen Woods Creek Bridge at post mile 13.2, and overlay the bridge deck at Mono Way Undercrossing on State Route 108 at post mile R2.2. The pavement rehabilitation portion of the Project would also include drainage, signs, guardrails, and curb ramp upgrades.

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Location: The proposed Project is located at various locations along State Route 49 in Tuolumne County, California between post mile 12.8 and 18.8 and the Mono Way Undercrossing on State Route 108 at post mile R2.2.

Timeframe: Construction of the proposed Project is anticipated to take about 390 working days beginning in the summer of 2030.

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 the document.

Based on the Project location and proposed Project activities in the MND, CDFW is concerned regarding potential impacts to special-status species, including, but not limited to, the State endangered and fully-protected bald eagle (*Haliaeetus leucocephalus*); the State and federally endangered foothill yellow-legged frog (*Rana boylei*); the State threatened and species of special concern tricolored blackbird (*Agelaius tricolor*); and the State candidate western burrowing owl (*Athene cunicularia hypugaea*) and Crotch's bumblebee (*Bombus crotchii*).

CDFW advises that the special-status species be addressed with appropriate avoidance and minimization measures. If take could occur as a result of Project implementation, consultation with CDFW would also be warranted. The special-status species listed below have the greatest chance to be impacted by the Project, or the MND did not address sufficient proposed avoidance and mitigation measures:

Bald Eagle (BAEA)

The Project area is within the known geographic range of BAEA and there are several documented occurrences of nesting and foraging BAEA in the Project vicinity (CDFW in-house data). BAEA inhabits forested areas that contain large bodies of water and perching trees (USFWS 2009) and have been documented nesting as far away as approximately 3 miles from foraging habitat (Airola et al. 2025). The migratory bird measures proposed in the MND are not sufficient to prevent take of BAEA if they are nesting near the Project area during Project activities. As such, CDFW recommends the following measures be added to the MND for FYLF

Recommended Mitigation Measure 1: BAEA Surveys

CDFW recommends that a qualified biologist conduct focused BAEA surveys as part of the biological studies conducted in support of the MND. To avoid Project-related impacts to this species, CDFW recommends incorporating survey methods outlined in the Protocol for Evaluating Bald Eagle Habitat and Populations in California

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(Jackman and Jenkins 2004). If surveys indicate the presence or potential presence of BAEA nesting territories within ½-mile of the Project area, implementation of avoidance measures are warranted.

Recommended Mitigation Measure 2: BAEA Avoidance Buffer

CDFW recommends that a qualified wildlife biologist be on-site during all ground-disturbing/construction related activities and that a ½-mile no-disturbance buffer be put into effect. If the ½-mile no-disturbance buffer cannot feasibly be implemented, contacting CDFW to assist with providing and implementing additional avoidance measures is suggested.

Foothill Yellow-legged Frog (FYLF)

The Project area is within the known geographic and historic area of FLYF (CDFW 2026). FYLF are primarily stream dwelling and require shallow, flowing water in streams and rivers with at least some cobble-sized substrate (Thomson et al. 2016). FYLF move into neighboring upland areas to shelter when stream flow levels are high, and movement prior to overwintering coincides with fall rains and declining temperatures (Hayes et al, 2016). The proposed measures in the MND are not sufficient to prevent take of FYLF if they are present near the Project area during Project activities. As such, CDFW recommends the following measures be added to the MND for FYLF.

Recommended Mitigation Measure 3: FYLF Surveys

CDFW recommends that a qualified biologist assess stream habitats within the Project area where FYLF have potential to occur for potential FYLF habitat. If potential habitat is present, CDFW recommends that a qualified biologist conduct focused surveys in accordance with the Considerations for Conserving the Foothill Yellow-Legged Frog (CDFW 2018), and that surveys be completed prior to any ground-disturbance activities associated with the Project. Please note that dip-netting would constitute take as defined by Fish and Game Code section 86, so it is recommended this survey technique be avoided. In addition, CDFW advises surveyors adhere to the protocols set forth in “The Declining Amphibian Task Force Fieldwork Code of Practice” (DAPTF 1998).

Recommended Mitigation Measure 4: FYLF Take Authorization

If any life stage of the FYLF (adult, metamorph, larvae, egg mass) is found during pre-construction surveys or at any time during construction, consultation with CDFW is warranted to develop avoidance measures and evaluate permitting needs. 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.

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Tricolored Blackbird (TRBL)

The Project area is within the known geographic range of TRBL (CDFW 2026). There is a recent occurrence within 2 miles of the southern end of the Project area (CDFW in-house data), and the Project area may contain suitable foraging and nesting habitat for TRBL. Important sites for nesting colonies include heavy growths of cattails, tules, thistles, willows, blackberries, mustard, nettles, and salt cedar (Grinnell and Miller 1944). Nesting can occur synchronously, with all eggs laid within one week (Orians 1961). For these reasons, depending on timing, disturbance to nesting colonies can cause abandonment, significantly impacting TRBL populations (Beedy et al. 2020). The MND does not sufficiently address TRBL, and the migratory bird measures proposed in the MND are not sufficient to prevent take of TRBL if they are nesting near the Project area during Project activities, and unauthorized take of TRBL could occur. As such, CDFW recommends the following measures be added to the MND for TRBL.

Recommended Mitigation Measure 5: TRBL Surveys

CDFW recommends that construction be timed to avoid the typical bird breeding season (February 1 through September 15). However, if construction must occur during that time, CDFW recommends that a qualified wildlife biologist conduct surveys for nesting TRBL within the Project area no more than 10 days prior to the start of implementation to evaluate presence/absence of TRBL nesting colonies in proximity to Project activities, and to evaluate potential Project-related impacts.

Recommended Mitigation Measure 6: TRBL Avoidance Buffer

If an active TRBL nesting colony is found during pre-activity surveys, CDFW recommends implementation of a minimum 300-foot no-disturbance buffer around the colony in accordance with CDFW's "Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields in 2015" (CDFW 2015). CDFW advises that this buffer remains 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 the colony or parental care for survival.

Recommended Mitigation Measure 7: TRBL Take Authorization

If a 300-foot no-disturbance buffer is not feasible, consultation with CDFW is warranted to discuss how to 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.

Western Burrowing Owl (BUOW)

The Project area is within the known geographic range of BUOW (CDFW 2026), and potentially suitable BUOW habitat may be near the southern end of Project area. 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

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burrows" such as pipes or culverts. Based on aerial imagery the Project area and adjacent areas contain suitable habitat for BUOW overwintering and foraging.

The California Fish and Game Commission (Commission) approved western burrowing owl 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 migratory bird measures proposed in the MND are not sufficient to prevent take of BUOW if they are present in the Project area during Project activities, and unauthorized take of BUOW could occur. As such, CDFW recommends the following measures be added to the MND for BUOW.

Recommended Mitigation Measure 8: BUOW Surveys

CDFW recommends that focused surveys, following the 2012 Staff Report on Burrowing Owl Mitigation (2012 Staff Report) (CDFG 2012), be conducted the survey season immediately prior to construction. Please note that the 2012 Staff Report necessitates multiple surveys prior to the initiation of construction.

Recommended Mitigation Measure 9: 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 10: BUOW Take Authorization

If a BUOW individual or known BUOW burrow (active or inactive) 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 (CBB)

The Project area is within the known geographic range of CBB (CDFW 2026), and the MND identifies that CBB have the potential to occur within and near the Project 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 area. CBB may forage on plants commonly found along roadsides in the Project area vicinity (including non-native thistles [*Centaurea* spp., *Carduus* spp.] and buckwheats [*Eriogonum* spp.], and suitable nesting habitat may be found in the vicinity of the Project area. The CBB measures proposed in the MND are not sufficient to

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prevent take of CBB if they are present in the Project area during Project activities, and unauthorized take of CBB could occur. As such, CDFW recommends the following measures be added to the MND for CBB.

Recommended Mitigation Measure 11: CBB Surveys

CDFW recommends a qualified biologist conduct focused surveys for CBB and their requisite habitat features within and adjacent to the Project area 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 12: 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 13: 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.

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 area.

Federally Listed Species: CDFW recommends consulting with the United States Fish and Wildlife Service (USFWS) regarding potential impacts to federally listed or proposed species. The Federal Endangered Species Act (ESA) is more broadly defined than CESA; take under ESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS in order to comply with ESA is advised well in advance of any Project activities.

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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, 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.

Lake and Streambed Alteration Agreement: Project activities that will substantially change the bed, bank, and channel of streams and associated wetlands are subject to CDFW's regulatory authority pursuant Fish and Game Code section 1600 et seq. 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; (c) deposit 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. It is important to note that if Project activities require notification, CDFW is required to comply with CEQA in the issuance of a Lake or Streambed Alteration (LSA) Agreement; therefore, if the CEQA document approved for the Project does not adequately describe the Project and its impacts, a subsequent CEQA analysis may be necessary for LSA Agreement issuance. For additional information on notification requirements, please contact our staff in the Caltrans Liaison Unit at RRR.R4@wildlife.ca.gov and the CDFW website: <https://wildlife.ca.gov/Conservation/LSA>.

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

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be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

FILING FEES

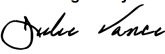
The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order 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 MND to assist Caltrans in identifying and mitigating Project impacts on biological resources. Please see the 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 Grant Piepkorn, Environmental Scientist, at the address provided on this letterhead, by telephone at (559) 807-1459, or by electronic mail at Grant.Piepkorn@wildlife.ca.gov.

Sincerely,

DocuSigned by:

FA83F09FE08945A...

Julie A. Vance
Regional Manager

Attachment (MMRP)

ec: State Clearinghouse
Land Use and Climate Innovation
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Attachment 1

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

**PROJECT: Tuolumne 49 Pavement Anchor Project (10-1P090)
Initial Study with Proposed Mitigated Negative Declaration
State Clearinghouse Number: 2026080778**

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
<i>Before Disturbing Soil or Vegetation</i>	
Bald Eagle (BAEA)	
Recommended Mitigation Measure 1: BAEA surveys	
Foothill Yellow-legged Frog (FYLF)	
Recommended Mitigation Measure 3: FYLF surveys	
Recommended Mitigation Measure 4: FYLF take authorization	
Tricolored blackbird (TRBL)	
Recommended Mitigation Measure 5: TRBL surveys	
Recommended Mitigation Measure 7: TRBL take authorization	
Burrowing owl (BUOW)	
Recommended Mitigation Measure 8: BUOW pre-construction Surveys	
Recommended Mitigation Measure 10: BUOW take authorization	
Crotch's bumblebee (CBB)	
Recommended Mitigation Measure 11: CBB pre-construction surveys	
Recommended Mitigation Measure 13: CBB take authorization	
<i>During Construction</i>	
Bald Eagle (BAEA)	
Recommended Mitigation Measure 2: BAEA avoidance buffer	
TRBL	
Recommended Mitigation Measure 6: TRBL avoidance buffer	
BUOW	
Recommended Mitigation Measure 9: BUOW avoidance buffer	

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RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
CBB	
Recommended Mitigation Measure 12: CBB avoidance buffer	