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DEPARTMENT OF FISH AND WILDLIFE

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Sent via email

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SR-79 CAPM Drainage and Bridge Rail Project (Project)
Negative Declaration (ND)
SCH# 2026080807

Dear Malisa Lieng:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an ND from the California Department of Transportation, District 8 (Caltrans) for the Project pursuant 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, we appreciate 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 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. (*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 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.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

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.

PROJECT DESCRIPTION SUMMARY

Proponent: California Department of Transportation, District 8 (Caltrans)

Objective: The objective of the Project is to repair pavement and culverts on State Route (SR)-79 and on Interstate 10 at the junction of SR-79, in Riverside County, including guardrail and end treatments with vegetation control underneath, repairing and replacing culverts, and installation of rock slope protection (RSP).

Location: The Project is located along SR-79 from Post Mile (PM) M31.7 to 40.4, and at Interstate 10 near PM 7.6 at the junction with SR-79, extending south from Beaumont to near Gilman Hot Springs, in Riverside County, California.

Timeframe: The construction timeline is not given in the ND.

COMMENTS AND RECOMMENDATIONS

CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (i.e., biological resources). CDFW offers the comments and recommendations below to assist Caltrans in adequately identifying and mitigating the Project's significant, or potentially significant, direct and indirect impacts on biological resources. The ND has not adequately identified and disclosed the Project's direct, indirect, and cumulative impacts on biological resources or whether those impacts are reduced to less than significant.

The Notice of Intent to Adopt an ND suggests that Caltrans has determined that there is no substantial evidence supporting a fair argument that the proposed Project might have a significant effect on the environment. However, the ND includes avoidance, minimization, and/or mitigation measures that will be implemented for the Project. Page 2-20 of the ND indicates that "with implementation of avoidance and minimization measures, impacts would be less than-significant." This conclusion supports a Mitigated Negative Declaration (MND) as the appropriate CEQA document, rather than an ND. CDFW is concerned that the proposed Project could result in significant impacts to the environment and that the impacts would only be less than significant with mitigation incorporated. Therefore, CDFW recommends a Mitigated Negative Declaration (MND) as the appropriate CEQA document for this Project,

CDFW's comments and recommendations on the ND are explained in greater detail below and summarized here. CDFW is concerned that the ND does not adequately identify or mitigate the Project's significant, or potentially significant, impacts to biological resources. CDFW requests that additional avoidance, minimization, and mitigation measures be added to a revised CEQA document, to avoid or reduce impacts to less than significant.

Existing Environmental Setting

Compliance with CEQA is predicated on a complete and accurate description of the environmental setting that may be affected by the proposed Project. CDFW is concerned that the existing environmental setting has not been adequately analyzed in the ND. CDFW is concerned that without a complete and accurate description of the existing environmental setting, the ND may provide an incomplete analysis of Project-related environmental impacts. The ND lacks a complete assessment of biological resources associated with Crotch's bumble bee (*Bombus crotchii*), small mammals, bats, western spadefoot (*Spea hammondi*), burrowing owl (*Athene cunicularia*), special-status plants, nesting birds, and branchiopods/fairy shrimp. CDFW is concerned that focused surveys have not been conducted to establish the existing environmental setting for this Project and that species surveys have been deferred to the time of construction and consist

only of pre-construction surveys rather than focused or protocol-level surveys.

The ND mentions a Natural Environment Study (Condensed Format) (NESCOF), which could potentially include more details, but these details are not provided in the ND.

Mitigation Measures

To support Caltrans in ensuring that Project impacts to biological resources are reduced to less than significant, CDFW recommends revising or adding avoidance, minimization, and mitigation measures regarding CDFW's Lake and Streambed Alteration Program, the Western Riverside County Multiple Species Habitat Conservation Plan (WR-MSHCP), artificial nighttime lighting, biological monitoring, fencing, special-status plants, Crotch's bumble bee, small mammals, bats, western spadefoot, nesting birds, least Bell's vireo, coastal California gnatcatcher, burrowing owl, and branchiopods/fairy shrimp.

Pursuant to the CEQA Guidelines, section 15097(f), CDFW has prepared a draft Mitigation Monitoring and Reporting Program (MMRP) in Attachment 1 for revised and proposed measures.

Comment 1: CDFW Lake and Streambed Alteration Program

Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following: substantially divert or obstruct the natural flow of any river, stream, or lake; substantially change or use any material from the bed, channel, or bank of any river, stream, or lake; or deposit debris, waste, or other materials that could pass into any river, stream, or lake. Note that "any river, stream, or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams, desert washes, and water courses with a subsurface flow. It may also apply to work undertaken within the flood plain of a body of water.

Section 2.3.4.1 of the ND indicates that waters may be impacted by the Project, estimates areas of temporary impacts, and states that no permanent impacts will occur. The Project description identifies installation of impermeable vegetation control under guardrails (page 1-8), construction of an access road to a culvert (page 2-21), removal of material from channels (page 2-22), culvert work at four locations (page 1-8), potential installation of rock slope protection at culverts (page 2-22), and habitat restoration (page 2-21). The ND also states that Project activities would not impact surrounding habitat (page 2-20). Table 1-1 of the ND (section 1.5, page 1-10) indicates that coordination to apply for a Section 1602 permit would occur during the Project's Final Design Phase.

Through the Lake and Streambed Alteration (LSA) Program, CDFW determines if an activity may substantially impact a river, lake, or stream, and this determination is made by CDFW after a notification is submitted. Given the presence of streams on-site that will be impacted by the Project, CDFW recommends the Project proponent notify CDFW's LSA Program.

CDFW is concerned that (1) while the narrative of the ND identifies plans to notify the LSA program, the ND does not include a mitigation measure calling for this notification; (2) the ND does not allow for CDFW determination of the spatial extent of impact areas, nor CDFW determination of whether those impacts are temporary or permanent; (3) the ND does not acknowledge that Project impacts could include indirect effects on wildlife and habitat via noise, vibration, and light; and (4) the ND does not acknowledge that restoration efforts may need to be conditioned within a Lake and Streambed Alteration Agreement issued by CDFW.

To support Caltrans in avoiding or reducing impacts to stream resources to a level of less than significant, CDFW recommends that the revised ND include the following new mitigation measure:

BIO-[A]: CDFW Lake and Streambed Alteration Program (New)

Prior to construction and issuance of any grading permit, the Project Sponsor shall obtain written correspondence from the California Department of Fish and Wildlife (CDFW) stating that notification under section 1602 of the Fish and Game Code is not required for the Project, OR the Project Sponsor should obtain a CDFW-executed Lake and Streambed Alteration Agreement, authorizing impacts to Fish and Game Code section 1602 resources associated with the Project.

Comment 2: Western Riverside County Multiple Species Habitat Conservation Plan (WR-MSHCP)

CDFW issued Natural Community Conservation Plan Approval and Take Authorization for the WR-MSHCP per Section 2800, et seq., of the California Fish and Game Code on June 22, 2004. The WR-MSHCP establishes a multiple species conservation program to minimize and mitigate habitat loss and provides for the incidental take of covered species in association with activities covered under the permit.

Compliance with approved habitat plans, such as the WR-MSHCP, is discussed in CEQA. Specifically, Section 15125(d) of the CEQA Guidelines requires that the CEQA document discuss any inconsistencies between a proposed Project and applicable general plans and regional plans, including habitat conservation plans and natural community conservation plans. An assessment of the impacts to the WR-MSHCP as a result of this Project is necessary to address CEQA requirements. To obtain additional information regarding the WR-MSHCP please go to:
<https://www.wrc-rca.org/>.

The procedures described in Protection of Species Associated with Riparian/Riverine Areas and Vernal Pools section (WR-MSHCP Section 6.1.2) are to ensure that the biological functions and values of these areas are maintained throughout the WR-MSHCP area. Additionally, this process helps identify areas to consider for priority acquisition, as well as those functions that may affect downstream values related to Conservation of Covered Species within the WR-MSHCP Conservation Area. The assessment of riparian/riverine and vernal pool resources may be completed as part of the CEQA review process as set forth in Article V of the State CEQA Guidelines. However, the WR-MSHCP identifies that the U.S. Fish and Wildlife Service and CDFW shall be notified in advance of approval of public or private projects of draft determinations for the biologically equivalent or superior determination findings associated with the Protection of Wetland Habitats and Species policies presented in Section 6.1.2 of the WR-MSHCP (WR-MSHCP Section 6.11). As required by the WR-MSHCP, completion of the DBESP process prior to adoption of the environmental document ensures that the project is consistent with the WR-MSHCP and provides public disclosure and transparency during the CEQA process by identifying the project impacts and mitigation for wetland habitat, a requirement of CEQA Guidelines (§§ 15071, subds.(a)-(e)).

The proposed Project occurs within the WR-MSHCP area and is subject to the provisions and policies of the WR-MSHCP. To be considered a covered activity, Permittees need to demonstrate that proposed actions are consistent with the WR-MSHCP, the Permits, and the Implementing Agreement. Caltrans is the Lead Agency and is signatory to the Implementing Agreement of the WR-MSHCP. To demonstrate consistency with the WR-MSHCP, as part of the CEQA review, Caltrans shall ensure the Project implements the following:

1. Pays Local Development Mitigation Fees and other relevant fees as set forth in Section 8.5 of the WR-MSHCP.
2. Demonstrates compliance with the HANS process (WR-MSHCP Section 6.1.1) or equivalent process to ensure application of the Criteria and thus, satisfaction of the local acquisition obligation.
3. Demonstrates compliance with the policies for (1) the Protection of Species Associated with Riparian/Riverine Areas and Vernal Pools, set forth in Section 6.1.2 of the WR-MSHCP; (2) the policies for the Protection of Narrow Endemic Plant Species set forth in Section 6.1.3 of the WR-MSHCP; (3) compliance with the Urban/Wildlands Interface Guidelines as set forth in Section 6.1.4 of the WR-MSHCP; (4) the policies set forth in Section 6.3.2 and associated vegetation survey requirements identified in Section 6.3.1; and (5) compliance with the Best Management Practices and the siting, construction, design, operation and maintenance guidelines as set forth in Section 7.0 and Appendix C of the WR-MSHCP.

Following this sequential identification of the relationship of the Project to the WR-MSHCP, the ND should then include an in-depth discussion of the Project in the context of these aforementioned elements, and as mentioned, examine how the Project might contribute to, or conflict with, the conservation criteria of the WR-MSHCP. The Project is located within the WR-MSHCP Criteria Area and therefore, pursuant to the Implementing Agreement, public and private projects are expected to be designed and implemented in accordance with the Criteria for each Area Plan and all other WR-MSHCP requirements as set forth in the WR-MSHCP and in Section 13.0 of the Implementing Agreement. Section 13.2 of the Implementing Agreement identifies that Caltrans obligations under the WR-MSHCP and the Implementing Agreement include the amendment of general plans as appropriate, to implement the requirements and to fulfill the purposes of the Permits, the WR-MSHCP, and the Implementing Agreement for private and public development projects (including siting, construction, design, operation and maintenance guidelines as set forth in Section 7.0 and Appendix C of the WR-MSHCP); and taking all necessary and appropriate actions, following applicable land use permit enforcement procedures and practices, to enforce the terms of the project approvals for public and private projects, including compliance with the WR-MSHCP, the Permits, and the Implementing Agreement. Caltrans is also obligated to notify the Western Riverside County Regional Conservation Authority (RCA), through the Joint Project/Acquisition Review Process (JPR) set forth in Section 6.6.2 of the WR-MSHCP or proposed discretionary Projects within the Criteria Area and participate in any further requirements imposed by WR-MSHCP Section 6.6.2.

In short, CDFW requests that Caltrans complete the consistency review process for the WR-MSHCP before adoption of the environmental document to ensure that the project is consistent with the WR-MSHCP.

Comment 3: Artificial Nighttime Lighting

Page 2-24 of the ND indicates that “artificial lighting must be directed at the job site” (BIO-2). CDFW is concerned that the ND does not address other issues related to artificial nighttime lighting, such as additional information on lighting plans, and avoidance, minimization, and mitigation measures associated with artificial nighttime lighting. The ND also lacks an analysis of direct, indirect, and cumulative impacts of artificial nighttime lighting on biological resources including migratory birds that fly at night, bats, and other nocturnal or crepuscular wildlife. The Project's proposed artificial nighttime lighting has the potential to significantly and adversely affect wildlife in vacant and open space areas adjacent to the Project site. Artificial lighting alters ecological processes including the temporal niches of species; the repair and recovery of physiological function; the measurement of

time through interference with the detection of circadian and lunar and seasonal cycles; the detection of resources and natural enemies; and navigation.² Many species use photoperiod cues for communication (e.g., bird song³), determining when to begin foraging,⁴ behavioral thermoregulation,⁵ and migration.⁶ Phototaxis, a phenomenon that results in attraction and movement towards light, can disorient, entrap, and temporarily blind wildlife species that experience it.⁷

CDFW recommends that the ND is revised to include an analysis of the direct, indirect, and cumulative impacts of artificial nighttime lighting associated with the Project's construction on biological resources, and appropriate avoidance, minimization, and mitigation measures that will avoid or reduce impacts to less than significant.

To support Caltrans in avoiding or reducing the Project's direct and indirect impacts of artificial nighttime lighting on biological resources to a level less than significant, CDFW recommends that Caltrans revise BIO-2 as below, with additions in **bold italics** and removals in ~~strike through~~:

BIO-2: Bio-General-2 Temporary Artificial Lighting Restrictions: **(Revised)**

To address impacts to adjacent habitat and special status species, artificial lighting must be directed at the job site to minimize light spillover onto adjacent habitat if project activities occur at night. **Throughout Project construction, Caltrans shall eliminate all nonessential lighting throughout the Project area and avoid or limit the use of artificial light at night during the hours of dawn and dusk when many wildlife species are most active. Caltrans shall ensure that all lighting for the Project is fully shielded, cast downward and directed away from surrounding open-space and agricultural areas, reduced in intensity to the greatest extent possible, and does not result in lighting trespass including glare into surrounding areas or upward into the night sky (see the International Dark-Sky Association standards at <http://darksky.org/>). Caltrans shall ensure use of LED lighting with a correlated color temperature of 3,000 Kelvins or less, proper disposal of hazardous waste, and recycling of lighting that contains toxic compounds with a qualified recycler.**

Comment 4: Biological Monitoring

Page 2-25 of the ND describes a requirement for biological monitoring (BIO-12). CDFW is concerned that the measure in the ND is not clear regarding the required frequency of biological monitoring, nor does it specify whether to contact CDFW if special-status species are detected. If BIO-12 is meant to focus on western spadefoot monitoring, CDFW recommends that the measure is revised to address western spadefoot more directly. In addition, BIO-12 includes "blasting work" as a Project activity, and this is not described elsewhere in the ND. CDFW recommends removing blasting work from this list of activities unless it is addressed in more detail in the Project description.

² Gatson, K. J., Bennie, J., Davies, T., Hopkins, J. 2013. The ecological impacts of nighttime light pollution: a mechanistic appraisal. *Biological Reviews*, 88.4: 912-927.

³ Miller, M. W. 2006. Apparent effects of light pollution on singing behavior of American robins. *The Condor* 108: 130-139.

⁴ Stone, E. L., G. Jones, and S. Harris. 2009. Street lighting disturbs commuting bats. *Current Biology* 19: 1123-1127.

⁵ Beiswenger, R. E. 1977. Diet patterns of aggregative behavior in tadpoles of *Bufo americanus*, in relation to light and temperature. *Ecology* 58: 98-108.

⁶ Longcore, T., and C. Rich. 2004. Ecological light pollution - Review. *Frontiers in Ecology and the Environment* 2: 191-198.

⁷ Ibid.

To support Caltrans in avoiding or reducing impacts to streams and wildlife to a level of less than significant, CDFW recommends that BIO-12 is revised as follows, with additions in **bold italics** and removals in ~~strike through~~:

BIO-12 Bio-Project-Specific Measure 5 – Biological Monitor. **(Revised)**

The CDFW-pre-approved biologist with the appropriate **Memorandum of Understanding from CDFW** ~~recovery permit~~ for Western Spadefoot relocation will monitor all construction-related activities **on a daily basis** to ensure that all conservation measures are being implemented and that there are no unanticipated impacts. These activities include, but are not limited to, ~~blasting work~~, clearing and grubbing, and staging/storage of equipment. **If western spadefoot is encountered at any life stage (i.e., within the active work area), Caltrans will suspend construction activities and contact CDFW for further instruction.**

Comment 5: Fencing

Page 2-24 of the ND identifies the use of exclusionary fencing to prevent western spadefoot from entering the construction area (BIO-6). Page 2-26 of the ND calls for fence inspections by monitors or those trained by monitors (BIO-16). Page 2-27 of the ND calls for fencing around environmentally-sensitive areas (ESAs) but does not identify who is to perform such delineations (BIO-23). Fencing can be a hazard to wildlife causing entanglement and mortality.^{8,9,10} Fencing choices are likely to influence the effectiveness of avoidance measures. CDFW is concerned that the proposed measures do not specify fence materials, design, or installation details, and the inspection responsibilities are not clearly defined.

Several terrestrial species of concern may be found in this area, to be discussed further in separate comments below, including western spadefoot and San Bernardino kangaroo rat (*Dipodomys merriami parvus*). Western spadefoot is proposed for listing under CESA, and San Bernardino kangaroo rat is an endangered species under CESA.

To support Caltrans in avoiding or reducing impacts to wildlife to a level of less than significant, CDFW recommends revision of BIO-6, BIO-16, and BIO-23 as follows, with additions in **bold italics** and removals in ~~strike through~~:

BIO-6: Bio-7 Exclusion Fence: **(Revised)**

Prior to any ground-disturbance activities, **a CDFW-approved Designated Biologist shall review and approve the design of and supervise the installation of** exclusionary fencing (i.e., silt fence or other suitable non-penetrable fencing) ~~will be installed~~ along the **Project** boundary to prevent any construction activities from encroaching into adjacent areas and to prevent Western Spadefoot from moving into the construction area. **If western spadefoot is encountered within exclusion fencing at any life stage (i.e., within the active work area), Caltrans will suspend construction activities and contact CDFW for further instruction.**

BIO-16: Bio-12 Fence Monitoring: **(Revised)**

Fence and enclosure (onsite cleared areas) inspections shall occur **daily** throughout the duration of the project by ~~the monitor and/or project~~

⁸ Harrington, J. L., and M. R. Conover. 2006. Characteristics of ungulate behavior and mortality associated with fences. Wildlife Society Bulletin 34:1295–1305.

⁹ van der Ree, R. 1999. Barbed wire fencing as a hazard for wildlife. The Victorian Naturalist 116:210–217.

¹⁰ Stuart, J. N., M. L. Watson, T. L. Brown, and C. Eustice. 2001. Plastic netting: An entanglement hazard to snakes and other wildlife. Herpetological Review 32:162–164.

~~personnel trained by the monitor~~ **a Designated Biologist, plus inspections** prior to commencing construction activities and after construction activities are completed. If during construction the fence fails, work will cease until it is repaired, and afterwards the **Designated Biologist** ~~biological monitor~~ will inspect ~~(and clear)~~ the site for **ARTOs wildlife**.

BIO-23: Bio-20 ESA Fencing: **(Revised)**

Prior to vegetation clearing or construction, highly visible barriers (such as orange construction fencing) will be installed providing a no work buffer around riparian and riverine communities adjacent to the project footprint and flagged as Environmentally Sensitive Areas (ESAs) to be preserved, **as delineated on design plans and as directed by a CDFW-approved Designated Biologist**. The ESAs will serve as an exclusionary buffer delineating areas where no work shall be performed. More specifically, no grading or fill activity of any type will be permitted within these ESAs. In addition, heavy equipment, including motor vehicles, will not be allowed to operate within the ESAs. All construction equipment will be operated in a manner so as to prevent accidental damage to nearby preserved areas. No structure of any kind, or incidental storage of equipment or supplies, shall be allowed within these protected zones. Silt fence barriers will be installed at the ESA boundary to prevent accidental deposition of fill material in areas where vegetation is adjacent to planned grading activities.

Comment 6: Special-Status Plants

Page 2-25 of the ND calls for surveys for rare insect host plants, no more than three days prior to construction (BIO-7). Page 2-26 of the ND calls for rare plant surveys within one week prior to construction (BIO-15). CDFW is concerned that the ND does not disclose results of any focused or protocol-level surveys for plants on the Project site to establish the existing environmental setting. Surveys are instead deferred to the time of construction, which may not be adequate to reduce impacts to less than significant. CDFW is concerned that the measures do not require surveys to be performed during seasons appropriate for plant identification, do not identify the insect species of concern for rare insect host plants, and do not allow sufficient time to develop avoidance or mitigation plans for impacts to plants.

The California Natural Diversity Database (CNDDDB) indicates that several special-status plant species may occur in the Project area, including chaparral sand-verbena (*Abronia villosa* var. *aurita*), Davidson's saltscale (*Atriplex serenana* var. *davidsonii*), Plummer's mariposa-lily (*Calochortus plummerae*), and smooth tarplant (*Centromadia pungens* ssp. *laevis*). Chaparral sand-verbena and smooth tarplant have a California Rare Plant Rank of 1B.1, which indicates plants that are seriously threatened in California. Impacts to these species must be analyzed during preparation of environmental documents relating to CEQA because they meet the definition of rare or endangered under CEQA Guidelines § 15125 (c) and/or § 15380.

Floristic assessments typically involve multiple visits to the Project site at various times of year to detect plants in various blooming seasons. If the presence of special-status plant species is not determined through floristic based surveys, unauthorized take or disturbance of special-status plant species could occur. CDFW recommends a thorough, floristic-based assessment of special-status plants at the appropriate time of year, usually involving multiple visits to the Project area. CDFW recommends that Caltrans perform the surveys and report the results in a revised CEQA document that is re-circulated for public review.

To support Caltrans in avoiding or reducing impacts to special-status plants to a level of less than significant, CDFW recommends that Caltrans revise BIO-7 and BIO-15 as follows, with additions in **bold italics** and removals in ~~strike through~~:

BIO-7: ~~Bio-Invertebrate~~ **Invertebrate-1 – Project-Specific Measure 1 – Pre-construction-Rare Insect Host Plant Surveys: (Revised)**

~~Within 3 days prior to construction~~ **Prior to construction and during the appropriate blooming season for each plant**, a **CDFW-approved** qualified biologist will conduct ~~pre-construction clearance surveys for to ensure no rare insect~~ host plants **(such as for Crotch's bumble bee)** occurring within the proposed area of ground disturbance or vegetation removal. **Results of the surveys shall be submitted to CDFW for review no less than 30 days prior to the initiation of project activities.**

BIO-15: Bio-Plant-1 Rare Plant Surveys, Flagging and Fencing: **(Revised)**

~~Within 1 week prior to construction, a~~ **Prior to construction and during the appropriate blooming season for each plant with the potential to occur on site, a CDFW-approved** qualified biologist will conduct **a thorough floristic-based assessment of special-status plants and natural communities, following CDFW's Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Natural Communities (CDFW 2018 or most recent version)** ~~a preconstruction survey for rare plants, including all areas of proposed off-highway work.~~ **The surveys shall be conducted at the appropriate time of year when plants will both be evident and identifiable and in a manner that maximizes the likelihood of locating special status plants and sensitive natural communities that may be present. Results of the surveys shall be submitted to CDFW for review no less than 30 days prior to the initiation of project activities. The Project shall avoid all impacts to state-listed plants unless CESA or NCCP authorization is obtained. If other special-status plant species are identified within the Project site, Caltrans shall develop a special-status plant species avoidance plan that shall be submitted for CDFW approval at least 30 calendar days prior to the start of Project activities and following CDFW approval shall be implemented prior to the start of Project activities.** Any rare plants discovered must be flagged for visual identification to construction personnel for work avoidance. If rare plants are discovered featuring multiple plants in a single location must be fenced with Environmentally Sensitive Area (ESA) temporary fencing. **If impacts cannot be avoided, on-site or off-site habitat restoration (whichever is applicable) and/or enhancement and preservation should be evaluated and discussed in detail. Where habitat preservation is not available on-site, off-site land acquisition, management, and preservation should be evaluated.**

Comment 7: Crotch's Bumble Bee

Page 2-25 of the ND calls for a pre-construction survey for Crotch's bumble bee (*Bombus crotchii*) no more than one week prior to project activities (BIO-8). The ND does not include any other information on the potential for Crotch's bumble bee to be impacted by this Project. CDFW is concerned that deferring surveys until the time of construction does establish the existing environmental setting and is not adequate to reduce impacts to less than significant. Waiting until the time of construction to survey does not provide sufficient lead time to reliably detect the species in the Project area and does not allow for sufficient time to develop an avoidance and mitigation plan if Crotch's bumble bee is found on-site or nearby.

Crotch's bumble bee is likely to be present in the Project area. Recent observations on iNaturalist show Crotch's bumble bee foraging on plants near this section of SR-79. Images from Google StreetView show sage scrub vegetation and

California buckwheat (*Eriogonum fasciculatum*) along this section of SR-79, and these plant communities are known to be foraging resources for Crotch's bumble bee. Crotch's bumble bee primarily nests in late February through late October underground in abandoned small mammal burrows, and may also nest under perennial bunch grasses or thatched annual grasses, under-brush piles, in old bird nests, and in dead trees or hollow logs. Overwintering sites utilized by Crotch's bumble bee mated queens include soft, disturbed soil, or under leaf litter or other debris.

Crotch's bumble bee is a Candidate Endangered species under CESA. As a Candidate species, Crotch's bumble bee receives the same legal protection as Endangered or Threatened species under CESA (Fish & G. Code, § 2085). The ND does not analyze potential impacts to Crotch's bumble bee. Therefore, CDFW recommends that a qualified entomologist conduct a survey for Crotch's bumble bee based on the species' needs. Special focus should be placed on identifying potential nest and overwintering sites as any ground disturbance may lead to take of adults, eggs, or larvae that are in the ground.

To support Caltrans in avoiding or reducing impacts to Crotch's bumble bee to a level of less than significant, CDFW recommends that BIO-8 is revised as follows, with additions in **bold italics** and removals in ~~strike through~~:

BIO-8: Bio-Invertebrate ~~Invertebrate~~ ***Invertebrate***-2 – Project-Specific Measure 2 – **Focused and** Preconstruction Invertebrate Species Surveys: ***(Revised)***

Focused surveys for Crotch's bumble bee shall be performed by a CDFW-approved qualified entomologist familiar with the species behavior and life history to determine the presence/absence of Crotch's bumble bee within one year prior to vegetation removal and/or grading. Surveys should be conducted during flying season when the species is most likely to be detected above ground, between March 1 to September 1 (Thorp et al. 1983). Survey results, including negative findings, should be submitted to CDFW prior to implementing Project-related ground-disturbing activities. At minimum, a survey report should provide the following: a) A description and map of the survey area, focusing on areas that could provide suitable habitat for Crotch's bumble bee. CDFW recommends the map show surveyors track lines to document that the entire site was covered during field surveys. b) Field survey conditions that should include names of qualified entomologists and brief qualifications; date and time of survey; survey duration; general weather conditions; survey goals, and species searched. c) Maps showing the location of nests/colonies. d) A description of physical (e.g., soil, moisture, slope) and biological (e.g., plant composition) conditions where each nest/colony is found. A sufficient description of biological conditions, primarily impacted habitat, should include native plant composition (e.g., density, cover, and abundance) within impacted habitat (e.g., species list separated by vegetation class; density, cover, and abundance of each species).

Prior to any ground disturbance, a **CDFW-approved** qualified biologist **entomologist** shall survey for potential habitat suitability and presence of Crotch's bumble bee (*Bombus crotchii*). The habitat assessment for Crotch's bumble bee shall be performed according to the 2023 CDFW Survey Considerations for Candidate Bumble Bee (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150>). **conduct a** The preconstruction Crotch's bumblebee survey must be conducted by a contractor-supplied biologist no more than 1 week prior to project activities within the Biological Study Area. The surveys shall **follow the survey guidelines outlined in CDFW's Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species (2023) and** include 100 percent

visual coverage and include a minimum 50-foot buffer in adjacent habitat. If a Crotch's bumble bee or bumble bee nest is located, ~~the Resident Engineer and Caltrans~~ **shall halt Project activities and notify CDFW immediately. If impacts to Crotch's bumble bee cannot be avoided, the Project shall be postponed until appropriate CESA authorization is obtained. This may include an incidental take permit (Fish and Game Code, § 2081).** ~~biologist must be contacted and additional measures and/or agency coordination will be required.~~

Comment 8: Small Mammals

Page 2-25 of the ND calls for a pre-construction survey for special-status small mammals within three days prior to construction (BIO-9). The ND does not include any other information on the potential for small mammals to be impacted by this Project. CDFW is concerned that deferring surveys until the time of construction does not establish the existing environmental setting and is not adequate to reduce impacts to less than significant. Waiting until the time of construction to survey for special-status small mammals does not provide sufficient time for detection of these species and does not allow for sufficient time to develop an avoidance and mitigation plan if special-status small mammals are found on site or nearby. The California Natural Diversity Database (CNDDDB) indicates that San Bernardino kangaroo rat (*Dipodomys merriami parvus*) and Stephens' kangaroo rat (*Dipodomys stephensi*) are likely to be present in the Project area, along with northwestern San Diego pocket mouse (*Chaetodipus fallax fallax*), San Diego desert woodrat (*Neotoma lepida intermedia*), and Los Angeles pocket mouse (*Perognathus longimembris brevinasus*).

San Bernardino kangaroo rat and Stephens' kangaroo rat

San Bernardino kangaroo rat is an endangered species pursuant to CESA and the federal ESA. Stephens' kangaroo rat is a threatened species pursuant to CESA (Fish & G. Code, § 2050 et seq.) and the federal Endangered Species Act (ESA). According to the San Bernardino Kangaroo Rat – Final Critical Habitat – USFWS [ds328] layer on Biogeographic Information and Observation System (BIOS), the Project borders critical habitat for San Bernardino kangaroo rat from Gilman Springs Road south through the San Jacinto River. According to the Stephens' Kangaroo Rat Predicted Habitat – CWHR M108 [ds2562] and Stephens' Kangaroo Rat Range – CWHR M108 [ds1895] layers on BIOS, the Project lies entirely within habitat for Stephens' kangaroo rat, especially north of S California Avenue, a segment of SR-79 extending a mile south of County Landfill Road, and near Gilman Springs Road. CDFW recommends that Caltrans conduct protocol-level surveys for San Bernardino kangaroo rat and Stephens' kangaroo rat in the Project area, and include those results in a revised CEQA document that is re-circulated for public review. CDFW, US Geological Survey, or US Fish and Wildlife Service protocols for small mammals should be used for the focused surveys. The WR-MSHCP survey protocol for San Bernardino kangaroo rat may also be used (https://www.wrc-rca.org/survey_protocols/).

To support Caltrans in avoiding or reducing impacts to small mammals to a level of less than significant, CDFW recommends that BIO-9 is revised as follows, with additions in **bold italics** and removals in ~~strike through~~:

BIO-9: Bio-Project-Specific Measure 2 – **Focused and** Pre-construction Small-Mammal Surveys: **(Revised)**

Prior to the start of Project activities, Caltrans shall designate a CDFW-approved biologist with appropriate permitting to conduct focused surveys for San Bernardino kangaroo rat (SBKR) and Stephens' kangaroo rat (SKR) within the Project footprint and an appropriate buffer. The focused surveys

should be conducted during appropriate weather and temperature conditions and should follow survey guidelines in a protocol for small mammals approved by CDFW, US Geological Survey, or US Fish and Wildlife Service. The results of the focused surveys shall be provided to CDFW no less than 30 days prior to the start of Project activities. If SBKR or SKR are present, the Project shall be postponed until appropriate CESA or NCCP authorization is obtained.

~~Within 3 days prior to construction, a~~ **CDFW-approved** qualified biologist **knowledgeable in the habitat, ecology, and field identification of San Diego pocket mouse (*Chaetodipus fallax fallax*), San Diego desert woodrat (*Neotoma lepida intermedia*), and Los Angeles pocket mouse (*Perognathus longimembris brevinasus*)** ~~shall will conduct pre-construction clearance surveys to~~ **in the entirety of the Project site and an appropriate buffer to identify any features/habitats (i.e., burrows, dens, cavities, etc.) suitable to support these special-status small mammals within the Project footprint and an appropriate buffer. Where an identifiable feature is present, the qualified biologist shall mark the potentially occupied feature for avoidance. If special-status small mammals are detected, Permittee shall notify CDFW and submit species-specific avoidance measures.** ~~ensure no special-status small mammals occur within the proposed areas of off-highway work, ground disturbance or vegetation removal~~

Comment 9: Bats

Page 2-25 of the ND calls for pre-construction bat clearance surveys within three days prior to construction (BIO-10). The ND does not include any other information on the potential for bats to be impacted by this Project. CDFW is concerned that deferring surveys until the time of construction does not establish the existing environmental setting and is not adequate to reduce impacts to less than significant. Waiting until the time of construction to survey for bats does not provide sufficient time for detection of these species and does not allow for sufficient time to develop an avoidance and mitigation plan if bats are found on-site or nearby.

Bats are protected as nongame mammals under Fish and Game Code section 4150. According to the Big Brown Bat Predicted Habitat – CWHR M032 [ds2491], Canyon Bat Predicted Habitat – CWHR M031 [ds2490], and Pallid Bat Predicted Habitat – CWHR M038 [ds2497] layers on BIOS, the Project lies within medium- to high-quality habitat for big brown bats (*Eptesicus fuscus*), canyon bats (*Parastrellus hesperus*), and pallid bats (*Antrozous pallidus*). Both canyon bats and pallid bats are known to roost in rock crevices, such as are present on the hills near this Project. CDFW recommends that focused bat surveys are completed and that the results of those surveys are included in a revised CEQA document.

To support Caltrans in avoiding or reducing impacts to bats to a level of less than significant, CDFW recommends that BIO-10 is revised as follows, and that Caltrans adopt Measures BIO-[B] and BIO-[C], with additions in **bold italics** and removals in ~~strike through~~:

BIO-10: Bio-Project-Specific Measure 3 – **Focused and** Pre-construction Bat Clearance Surveys: **(Revised)**

Prior to the initiation of Project activities within suitable bat roosting habitat, Caltrans shall retain a CDFW-approved qualified biologist to conduct focused surveys to determine presence of daytime, nighttime, wintering (hibernacula), and maternity roost sites. Two spring surveys (April through June) and two winter surveys (November through January) shall be performed by qualified biologists. Surveys shall be conducted during favorable weather conditions only. Each survey shall consist of one dusk emergence survey (start one hour before sunset and last for three hours),

followed by one pre-dawn re-entry survey (start one hour before sunrise and last for two hours), and one daytime visual inspection of all potential roosting habitat on the Project site. Surveys shall be conducted within one 24-hour period. Visual inspections shall focus on the identification of bat sign (i.e., individuals, guano, urine staining, corpses, feeding remains, scratch marks and bats squeaking and chattering). Bat detectors, bat call analysis, and visual observation shall be used during all dusk emergence and pre-dawn re-entry surveys. The results of the focused surveys shall be submitted to CDFW prior to commencement of project activities and shall include: 1) the exact location of all roosting sites (mapped), 2) the number of bats present at the time of survey (count or estimate), 3) each species of bat present (include how the species was identified), 4) the location, amount, distribution, and age of all bat guano shall be described and mapped, and 5) the type of roost (day, night, maternity, wintering).

If active maternity roosts are identified in the work area or 1000 feet extending from the work area, Project construction will only occur between October 1 and February 28, outside of the maternity roosting season after young bats are volant (flying). Maternity roosts shall not be evicted, excluded, removed, or disturbed. If active hibernacula are identified in the work area or 1000 feet extending from the work area, a minimum 1000-foot no-work buffer shall be provided around hibernacula. Buffers shall be left in place until the end of Project construction and activities or until the qualified bat biologist determines that the hibernacula are no longer active. Project-related construction and activities shall not occur between 30 minutes before sunset and 30 minutes after sunrise. Hibernacula roosts shall not be evicted, excluded, removed, or disturbed.

~~Within 3 days prior~~ **Prior** to construction, a qualified **CDFW-approved** biologist will conduct preconstruction bat ~~clearance~~ surveys to ensure no **bats** ~~special-status small mammals~~ occur within the proposed area of off-highway work, ground disturbance or vegetation removal, including culvert locations and at the San Jacinto River bridge, **plus a 500-foot survey buffer.**

Mitigation Measure BIO-[B]: Avoidance of Bats during Tree Removal. (New)

Tree removal work with the potential to house roosting bats shall be performed after maternity season when young are volant (flying) but before expected onset of torpor (wintering inactivity) to minimize direct impacts to roosting bats (i.e., tree removal could be conducted between approximately September 15 and October 31). Tree removal work may also be conducted following winter torpor and prior to the start of the maternity season (i.e., tree removal could be conducted approximately between February 15 and March 31). No tree removals shall occur during the hibernation season, which typically begins in November or December (depending on weather conditions) and continues through mid-February, due to the high potential for mortality of hibernating bats. All tree removals shall require a two-step removal process and the involvement of a CDFW-approved qualified bat biologist to ensure that no roosting bats are killed during this activity. This two-step removal shall occur over two consecutive days as follows: on Day 1, branches and limbs not containing cavities, as identified by the qualified bat biologist, will be removed. On Day 2, the remainder of the tree may be removed. The disturbance caused by limb removal, followed by an interval of one evening, will allow bats to safely abandon the roost.

BIO-[C] Bat Avoidance and Monitoring. (New)

If there are suitable and/or occupied hibernacula (winter roosts) or maternity roosts of any bat species in the Project area, Permittee shall submit to CDFW for review and approval a Bat Avoidance and Monitoring Plan (BAMP) prior to initiating Project activities. The BAMP will include Project-specific avoidance and minimization measures to ensure that impacts to bats do not occur. The BAMP shall be created in coordination with, and implemented by, the CDFW-approved bat biologist. The BAMP shall include, at a minimum: monitoring protocols; survey timing and duration; procedures and frequency of direct reporting to CDFW; and Project-specific avoidance and minimization measures that consider but are not necessarily limited to: Project phasing and timing; installation and monitoring of exclusionary materials, where and when appropriate; monitoring of Project-related noise, vibration, and lighting; and installation of buffers.

Comment 10: Western Spadefoot

Western spadefoot (*Spea hammondi*) is a candidate species under CESA and is afforded the same protection and threatened and endangered species. Breeding habitat includes seasonal ephemeral water bodies such as vernal pools, intermittent streams, stock ponds, irrigation ditches, and other temporary depressions capable of supporting larval development. Hydroperiod is a key factor influencing breeding success, as pools must persist long enough to allow larval development. Western spadefoots is also associated with upland habitats including grasslands, coastal sage scrub, chaparral, and oak woodlands, where they occupy friable soils suitable for burrowing and may use small mammal burrows or areas with duff for aestivation. Because the species relies on both habitat types, connectivity between aquatic and upland habitats is critical. According to the Western Spadefoot Predicted Habitat – CWHR A028 [ds1994] layer on BIOS, portions of the Project are within high-quality habitat for western spadefoot. Observations on CNDDDB indicate that western spadefoot is likely to occur in the Project area.

Section 2.4.3.1 of the ND identifies potential impacts to habitat for western spadefoot, and says that Caltrans will implement surveys (BIO-11), breeding season avoidance (BIO-21), and other avoidance measures (BIO-18 and BIO-20). CDFW is concerned that these measures are inadequate in timing and scope to reduce impacts to less than significant. Because western spadefoot is secretive and remains underground during dry periods, CDFW recommends that Caltrans conduct surveys as soon as possible during wet periods, and include those results in a revised CEQA document. This will inform appropriate avoidance, minimization, and mitigation measures.

To support Caltrans in avoiding or reducing impacts to western spadefoot to a level of less than significant, CDFW recommends that BIO-11, BIO-18, BIO-20, and BIO-21 are revised as follows, with additions in ***bold italics*** and removals in ~~strike through~~:

BIO-11: Bio-Project-Specific Measure 4 – ***Focused*** ~~Pre-Construction~~ Surveys (Western Spadefoot). ***(Revised)***

The ***Prior to any ground-disturbing activities, focused*** ~~pre-construction~~ surveys ***for western spadefoot*** will be conducted by a ***CDFW- and*** USFWS-approved qualified Biologist (~~i.e., one with Western Spadefoot surveying/handling experience~~) to determine ***if suitable aquatic breeding and upland habitat features occur for western spadefoot, their egg masses, or their larval stages. Surveys shall be conducted at the appropriate time of year and in appropriate conditions*** ~~their presence or absence within~~ ***and adjacent to*** the construction footprint. ~~The Biologist will walk the impact area to search for any potential breeding areas. A report documenting the pre-construction~~

survey **methods**, results, and **recommended avoidance** measures that will be required during construction will be provided to Caltrans and the Wildlife Agencies (**CDFW and USFWS**), **for review and approval. If western spadefoot, their egg masses, or their larval stages are detected during the surveys, Caltrans shall obtain appropriate CESA or NCCP authorization prior to commencement of any Project activities.** ~~The surveys and the relocation of Western Spadefoot shall be conducted as directed by the relocation plan approved by USFWS.~~

BIO-18: Bio-14 Control of Work: **(Revised)**

No construction work within Western Spadefoot habitat shall occur until ~~the area is cleared of the~~ **appropriate CESA or NCCP authorization is obtained.** No work will be allowed if any of the exclusionary devices (**such as barrier fences**) are not installed in accordance with respective specifications (**as determined by the approved biologist**).

BIO-20: Bio-16 Western Spadefoot in Project Area: **(Revised)**

If during construction activities western spadefoot is discovered within the project site, all construction activities shall stop, and the **approved** biologist shall ~~be notified~~ **coordinate with CDFW and USFWS for further instruction.**

BIO-21: Bio-18 Western Spadefoot Seasonal Avoidance: **(Revised)**

For proposed culvert repair work at PM 32.78, **and any other Project area with suitable western spadefoot habitat**, Caltrans will avoid the wet season and breeding season for western spadefoot, ~~from January through May. Work at this location will only occur in July through December during the calendar year during construction.~~ **Because annual precipitation is variable, these seasons shall be determined by the approved biologist in coordination with CDFW and USFWS, based on current observations during field visits to the Project site.**

Comment 11: Nesting Birds

Suitable habitat for nesting birds occurs in the Project area. Page 2-26 of the ND calls for a preconstruction nesting bird survey, but only during the nesting season (BIO-13). CDFW considers the mitigation measure for nesting birds in the ND to be inadequate in scope and timing to avoid or reduce impacts to nesting birds to a level less than significant.

CDFW recommends that Project construction activities are conducted outside of the peak nesting bird season, which is January 15 to September 15. CDFW also recommends the completion of nesting bird surveys regardless of the time of year to ensure that impacts to nesting birds and their nests and eggs are avoided. The timing of the nesting season varies greatly depending on several factors, such as bird species, weather conditions in any given year, and long-term climate changes (e.g., drought, warming, etc.). In response to warming, birds have been reported to breed earlier, thereby reducing temperatures that nests are exposed to during breeding and tracking shifts in availability of resources.¹¹ CDFW staff have observed that climate change conditions may result in the nesting bird season occurring earlier and later in the year than historical nesting season dates. CDFW recommends that disturbance of occupied nests of migratory birds and raptors within the Project site and surrounding area be avoided any time birds are nesting on site. CDFW therefore recommends the completion of nesting bird surveys

¹¹ Socolar JB, Epanchin PN, Beissinger SR and Tingley MW (2017). Phenological shifts conserve thermal niches. *Proceedings of the National Academy of Sciences* 114(49): 12976-12981.

regardless of the time of year to ensure compliance with all applicable laws pertaining to nesting and migratory birds.

The ND does not include a measure regarding nest monitoring, so CDFW recommends that BIO-13 is revised to account for daily monitoring and for minimum avoidance buffers of 500 feet for raptors and 300 feet for non-raptors.

To support Caltrans in avoiding or reducing impacts to nesting birds to a level of less than significant, CDFW recommends that BIO-13 is revised as follows, with additions in **bold italics** and removals in ~~strike through~~:

BIO-13: Bio-Avian-1 Preconstruction Nesting Bird Survey: **(Revised)**

To the greatest extent feasible, the Project will avoid construction and any ground-disturbing activities, including vegetation-clearing activities, during the peak nesting season (January 15 through September 15). ~~If project activities cannot avoid the nesting season, generally regarded as Feb 1 – Sept 30, then~~ ***Regardless of the time of year,*** preconstruction nesting bird surveys must be conducted ***no more than*** 3 days prior to ***vegetation removal or ground-disturbing activities*** construction by a ***CDFW-approved qualified*** ~~Contractor-supplied~~ biologist to locate and avoid nesting birds ***in areas of suitable habitat within the Project limits plus a 500-foot buffer. Pre-construction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified biologist will make every effort to avoid potential nest predation as a result of survey and monitoring efforts.*** ~~If an active avian nest is located during the surveys (or during construction), the qualified biologist shall establish an appropriate nest buffer to be marked on the ground. a Caltrans biologist must establish a no-construction buffer.~~ ***Nest buffers are species-specific and shall be at least 300 feet for non-raptors and at least 500 feet for raptors. A Caltrans biologist will monitor the nest until the young have fledged or the nest is no longer active. If the qualified biologist determines that Project activities may be causing an adverse reaction, the qualified biologist shall increase the buffers accordingly. Construction activities may not occur inside the established buffers, which shall remain on-site until a qualified biologist determines that the young have fledged or the nest is no longer active. All active nests and adequacy of the established buffer distance shall be monitored daily by the qualified biologist until the qualified biologist has determined the young have fledged or the Project has been completed. The qualified biologist has the authority to stop work if nesting pairs exhibit signs of disturbance.***

Least Bell's vireo and Coastal California gnatcatcher

Least Bell's vireo (*Vireo bellii pusillus*) is listed as endangered species under CESA and the federal ESA. Coastal California gnatcatcher (*Poliophtila californica californica*) is a California Species of Special Concern and is listed as threatened under the federal ESA. According to the California Gnatcatcher Predicted Habitat – CWHR B553 [ds2363], California Gnatcatcher Habitat Evaluation Model [ds456], Least Bell's Vireo Predicted Habitat – CWHR B413b [ds3340], and Least Bell's Vireo Habitat Suitability Model – California – 2019 – USGS [ds2949] layers on BIOS, portions of the Project are within high-quality habitat for California gnatcatcher and least Bell's vireo. Observations on CNDDb indicate that coastal California gnatcatcher and least Bell's vireo are likely to occur in the Project area. CDFW recommends that focused surveys for least Bell's vireo are conducted using the US Fish and Wildlife Service protocol (Least Bell's Vireo Survey Guidelines; <https://www.fws.gov/sites/default/files/documents/survey-protocol-for-least-bells-vireo.pdf>). Focused surveys for coastal California gnatcatcher should also be conducted using the US Fish and Wildlife Service protocol (Coastal California Gnatcatcher Presence/Absence Survey Guidelines; <https://www.fws.gov/sites/default/files/documents/survey-protocol-for-coastal->

[california-gnatcatcher.pdf](#)). The results of focused surveys for these species should be included in a revised CEQA document.

BIO-[D] Focused Surveys for Least Bell's Vireo and Coastal California Gnatcatcher. (New)

Prior to the start of Project activities, a CDFW-approved Designated Biologist shall complete necessary surveys, impact assessments, and associated reports within all locations subject to Project site activities following the protocols provided within the Least Bell's Vireo Survey Guidelines (USFWS, January 2001) to ensure avoidance of impacts. Survey results shall be submitted in writing to CDFW for review prior to the start of Project activities. Caltrans shall not conduct any Project activities within 1000 linear feet of occupied least Bell's vireo habitat from March 1 through September 30.

Prior to the start of Project activities, a CDFW-approved Designated Biologist shall complete necessary surveys, impact assessments, and associated reports within all locations subject to Project site activities following the protocols provided within the Survey Guidelines for the Coastal California Gnatcatcher (USFWS, July 1997) to ensure avoidance of impacts. Survey results shall be submitted in writing to CDFW for review prior to the start of Project activities. Caltrans shall not conduct any Project activities within 500 linear feet of occupied coastal California gnatcatcher habitat from February 15 to August 30.

Comment 12: Burrowing Owl

On October 10, 2024, the Fish and Game Commission determined that western burrowing owl warrants protection as a candidate species under the CESA (Fish & G. Code, § 2050 et seq.). During the candidacy period, western burrowing owl will be afforded the same protection as threatened and endangered species under CESA. If Project activities, including relocation, could result in take, appropriate CESA authorization (i.e., Incidental Take Permit under Fish and Game Code section 2081) or NCCP authorization should be obtained prior to commencement of Project activities.

Take of individual burrowing owls and their nests or eggs is defined by Fish and Game Code section 86, and prohibited by sections 3503, 3503.5, and 3513. Take is defined in Fish and Game Code section 86 as "hunt, pursue, catch, capture or kill, or attempt to hunt, pursue, catch, capture or kill." Fish and Game Code sections 3503, 3503.5, and 3513 afford protective measures as follows: section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.).

The ND mentions burrowing owls on page 2-20, and claims that because work activities will be confined to paved roadways and shoulders, the Project will not impact surrounding habitat. Page 2-26 of the ND calls for preconstruction surveys (BIO-14). Burrowing owl habitat is identified in the Burrowing Owl Range (CWHR B269, ds907) and Burrowing Owl Predicted Habitat (CWHR B269, ds2184) layers in BIOS. These layers indicate that suitable habitat for burrowing owls is located throughout the Project area.

Because the ND lacks the findings of a habitat assessment and recent focused surveys for burrowing owl following the guidelines in the *Staff Report on Burrowing Owl Mitigation*¹², or other protocol agreed upon by CDFW, the number and locations of suitable and occupied burrows within the Project site are unknown. Given the lack of results from focused surveys for burrowing owl following recommended or approved protocols and the lack of survey reports, CDFW is limited in its ability to provide biological expertise to support Caltrans in reducing impacts to burrowing owl to a level less than significant. CDFW recommends that the CEQA document is revised to include the results of four focused surveys for burrowing owl within all appropriate habitat areas, including survey reports, following the guidelines outlined in Appendix D of the *Staff Report on Burrowing Owl Mitigation*, or other protocol agreed upon by CDFW, and to incorporate appropriate avoidance, minimization, and mitigation measures for burrowing owl. Focused surveys are needed to inform appropriate avoidance, minimization, and mitigation measures and support Caltrans in avoiding or reducing impacts to burrowing owl to a level less than significant. CDFW requests that if burrowing owls are detected during focused surveys, survey results are submitted to CDFW, and that Caltrans initiate consultation with CDFW to identify a path forward regarding the protection of burrowing owls.

To support Caltrans in avoiding or reducing impacts to burrowing owl to a level less than significant, CDFW recommends that BIO-14 is revised as follows, with additions in **bold italics** and removals in ~~strike through~~:

BIO-14: Bio-Avian-2 **Focused and** Preconstruction Burrowing Owl ~~Clearance Survey~~ **Surveys: (Revised)**

Prior to the start of Project-related activities, a burrowing owl habitat assessment shall be conducted by a CDFW-approved qualified biologist. ~~In accordance with the 2012 CDFW Staff Report on Burrowing Owl Mitigation (or most recent version), preconstruction focused occupancy surveys shall be conducted in the locations where suitable habitat is present if temporary or permanent impacts extend into the BSA. Caltrans will perform one survey within 30 days prior to construction, and an additional survey within 24 hours of beginning construction.~~

If the habitat assessment demonstrates suitable burrowing owl habitat, then focused burrowing owl surveys shall be conducted on and adjacent to the Project site by a CDFW-approved qualified biologist prior to Project activities, including vegetation removal or ground-disturbing activities. CDFW strongly recommends that focused surveys are conducted in accordance with the Staff Report on Burrowing Owl Mitigation (2012 or most recent version). If burrowing owls are detected during the focused surveys, the qualified biologist and Project proponent shall begin coordination with CDFW immediately, and shall submit the results of focused surveys to CDFW as soon results become available and before commencement of any Project activities, including any vegetation- or ground-disturbing activities. CDFW recommends that the information included in the survey results be consistent with Appendix D of the Staff Report on Burrowing Owl Mitigation, including a detailed map showing locations of all burrowing owls, burrowing owl sign, potential burrows, and occupied burrows (occupied means at least one burrowing owl or its sign has been observed within the last three years; may be indicated by owl sign including feathers, pellets, prey remains, eggshell fragments, or excrement at or near a burrow entrance or perch site); a description of the behavior of burrowing owls during surveys; a description of survey methods; and other items listed in Appendix D of the Staff Report on

¹² California Department of Fish and Wildlife (CDFW). 2012. Staff Report on Burrowing Owl Mitigation. State of California, Natural Resources Agency. Available for download at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843>.

Burrowing Owl Mitigation under "Survey Reports." Consultation with CDFW and USFWS must be completed prior to commencement of any Project activities, including vegetation- or ground-disturbing activities. If impacts to occupied burrowing owl habitat or burrow(s) or burrowing owl individuals, nests, or eggs cannot be avoided, appropriate CESA authorization (i.e., Incidental Take Permit under Fish and Game Code section 2081(b)) should be obtained from CDFW prior to commencement of Project activities, including vegetation- or ground-disturbing activities.

Preconstruction burrowing owl surveys shall be conducted no less than 14 days prior to the start of Project-related activities and within 24 hours prior to ground disturbance. Preconstruction surveys should be repeated when there is a pause in construction of more than 30 days. Preconstruction surveys should be performed by a CDFW-approved qualified biologist, and CDFW strongly recommends that preconstruction surveys follow the recommendations and guidelines provided in the Staff Report on Burrowing Owl Mitigation (2012 or most recent version). If the preconstruction surveys confirm occupied burrowing owl habitat, Project activities shall be immediately halted and the qualified biologist shall coordinate with CDFW and USFWS. Project activities shall not recommence until consultation with CDFW and USFWS is completed.

Comment 13: Branchiopods/Fairy Shrimp

Page 2-22 of the ND states that Project activities would not encroach on vernal pools or marsh areas. The ND does not disclose any other details of vernal pools or marsh areas in the Project vicinity. CDFW is concerned that the ND has not established the environmental setting with respect to vernal pool and marsh habitat. Page 2-27 of the ND calls for culvert work at PM 32.78 to occur only from July through December, to avoid fairy shrimp breeding season. However, the timing of breeding season can vary depending on changes in annual precipitation. In addition, special-status fairy shrimp, such as Riverside fairy shrimp (*Streptocephalus woottoni*) and vernal pool fairy shrimp (*Branchinecta lynchi*), can also be impacted during the dry season. As a result, CDFW recommends that Caltrans conduct focused surveys as soon as possible during wet periods, and share the results in a revised CEQA document.

Ponding areas and ditches holding water 3 cm or deeper more than 24 hours after the end of a rain event should be surveyed for threatened and endangered species of fairy shrimp following the U.S. Fish & Wildlife Service's (USFWS) 2017 survey protocol for large branchiopods in Southern California. A complete fairy shrimp protocol survey consists of both a wet-season survey that covers an entire rainy season (October 1 – May 31), and a dry-season survey (including the hatching-out of all cysts found which belong to the genus *Branchinecta*). Both seasonal surveys must be completed within a 3-year period. Wet-season surveys concluding that listed species of fairy shrimp are absent, but which were performed during a drier-than average winter, may be ruled inconclusive by USFWS, and may have to be repeated during a rainy season featuring average or better rainfall during the normal wet months, at the discretion of USFWS. With respect to the WR-MSHCP, , Caltrans should conduct appropriate surveys and identify mitigation (in a DBESP) prior to adoption of any CEQA document

To support Caltrans in avoiding or reducing impacts to fairy shrimp to a level of less than significant, CDFW recommends that Caltrans revise BIO-22 as follows, with additions in ***bold italics*** and removals in ~~strike through~~:

BIO-22: Bio-19 Branchiopod ***Focused Surveys and*** Seasonal Avoidance:
(Revised)

Prior to the start of Project activities, a CDFW-approved biologist shall conduct focused surveys for fairy shrimp in all suitable habitat that could be impacted by the Project. Surveys shall be conducted according to the USFWS 2017 guidelines titled "Survey Guidelines for the Listed Large Branchiopods."¹³ For proposed culvert repair work at PM 32.78, **and any other Project area with suitable fairy shrimp habitat**, Caltrans will avoid the breeding season for Riverside fairy shrimp and vernal pool fairy shrimp, ~~from January through May. Work at this location will only occur in July through December during the calendar year during construction.~~ **Because annual precipitation is variable, these seasons shall be determined by the approved biologist in consultation with CDFW, based on current observations during field visits to the Project site. If focused survey results are positive, and the project cannot permanently avoid fairy shrimp habitat, a Determination of Biologically Equivalent or Superior Preservation report shall be required to propose mitigation that demonstrates equivalent or superior function and value.**

Editorial Comment: Worker Education Programs

Page 2-24 of the ND describes two education programs (BIO-3 and BIO-5). The descriptions overlap in some ways, but may lead to confusion during implementation. CDFW suggests that the requirements in BIO-3 and BIO-5 be combined into a single measure.

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 filled out and submitted online 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://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

ENVIRONMENTAL DOCUMENT FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document 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 environmental document filing 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 ND to assist Caltrans in identifying and mitigating Project impacts on biological resources. CDFW concludes that the ND does not adequately identify or mitigate the Project's significant, or potentially significant, impacts to biological resources. CDFW recommends that revised and additional mitigation measures and analysis as described in this letter be added to a revised CEQA document, an MND. CDFW also recommends that the MND be re-circulated for public review.

¹³ Available at: <https://www.fws.gov/media/survey-guidelines-listed-large-branchiopods>.

Questions regarding this letter or further coordination should be directed to Chris Briggs, Senior Environmental Scientist (Specialist), at 909-758-6774 or Christopher.Briggs@wildlife.ca.gov.

Sincerely,

DocuSigned by:

84F92FFEEFD24C8...
Kim Freeburn
Environmental Program Manager

Attachment 1: MMRP for CDFW-Proposed Mitigation Measures

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ATTACHMENT 1: MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

Mitigation Measures	Timing, Methods	Responsible Parties
BIO-[A]: CDFW Lake and Streambed Alteration Program (New) Prior to construction and issuance of any grading permit, the Project Sponsor shall obtain written correspondence from the California Department of Fish and Wildlife (CDFW) stating that notification under section 1602 of the Fish and Game Code is not required for the Project, OR the Project Sponsor should obtain a CDFW-executed Lake and Streambed Alteration Agreement, authorizing impacts to Fish and Game Code section 1602 resources associated with the Project.	See Mitigation Measure	Caltrans
BIO-2: Bio-General-2 Temporary Artificial Lighting Restrictions: (Revised) To address impacts to adjacent habitat and special status species, artificial lighting must be directed at the job site to minimize light spillover onto adjacent habitat if project activities occur at night. Throughout Project construction, Caltrans shall eliminate all nonessential lighting throughout the Project area and avoid or limit the use of artificial light at night during the hours of dawn and dusk when many wildlife species are most active. Caltrans shall ensure that all lighting for the Project is fully shielded, cast downward and directed away from surrounding open-space and agricultural areas, reduced in intensity to the greatest extent possible, and does not result in lighting trespass including glare into surrounding areas or upward into the night sky (see the International Dark-Sky Association standards at http://darksky.org/). Caltrans shall ensure use of LED lighting with a correlated color temperature of 3,000 Kelvins or less, proper disposal of hazardous waste, and recycling of lighting that contains toxic compounds with a qualified recycler.	See Mitigation Measure	Caltrans
BIO-12 Bio-Project-Specific Measure 5 – Biological Monitoring. (Revised) The CDFW-approved biologist with the appropriate Memorandum of Understanding from CDFW for Western Spadefoot will monitor all construction-related activities on a daily basis to ensure that all conservation measures are being implemented and that there are no unanticipated impacts.	See Mitigation Measure	Caltrans

These activities include, but are not limited to, clearing and grubbing, and staging/storage of equipment. If western spadefoot is encountered at any life stage (i.e., within the active work area), Caltrans will suspend construction activities and contact CDFW for further instruction.		
BIO-6: Bio-7 Exclusion Fence: (Revised) Prior to any ground-disturbance activities, a CDFW-approved Designated Biologist shall review and approve the design of and supervise the installation of exclusionary fencing (i.e., silt fence or other suitable non-penetrable fencing) along the Project boundary to prevent any construction activities from encroaching into adjacent areas and to prevent Western Spadefoot from moving into the construction area. If western spadefoot is encountered within exclusion fencing at any life stage (i.e., within the active work area), Caltrans will suspend construction activities and contact CDFW for further instruction.	See Mitigation Measure	Caltrans
BIO-16: Bio-12 Fence Monitoring: (Revised) Fence and enclosure (onsite cleared areas) inspections shall occur daily throughout the duration of the project by a Designated Biologist, plus inspections prior to commencing construction activities and after construction activities are completed. If during construction the fence fails, work will cease until it is repaired, and afterwards the Designated Biologist will inspect the site for wildlife.	See Mitigation Measure	Caltrans
BIO-23: Bio-20 ESA Fencing: (Revised) Prior to vegetation clearing or construction, highly visible barriers (such as orange construction fencing) will be installed providing a no work buffer around riparian and riverine communities adjacent to the project footprint and flagged as Environmentally Sensitive Areas (ESAs) to be preserved, as delineated on design plans and as directed by a CDFW-approved Designated Biologist. The ESAs will serve as an exclusionary buffer delineating areas where no work shall be performed. More specifically, no grading or fill activity of any type will be permitted within these ESAs. In addition, heavy equipment, including motor vehicles, will not be allowed to operate within the ESAs. All construction equipment will be operated in a manner so as to prevent accidental damage to nearby preserved areas. No structure of any kind, or incidental storage of equipment or supplies, shall be allowed within these protected zones. Silt fence barriers will be installed at the ESA boundary to prevent accidental deposition of fill material in areas where vegetation is adjacent to planned grading activities.	See Mitigation Measure	Caltrans
BIO-7: Bio-Invertebrate-1 – Project-Specific Measure 1 –Rare Insect Host Plant Surveys: (Revised) Prior to construction and during the appropriate blooming season for each plant, a qualified biologist will conduct surveys for rare insect host plants (such as for Crotch's bumble bee) occurring within the proposed area of ground disturbance or vegetation removal. Results of the surveys shall be submitted to CDFW for review no less than 30 days prior to the initiation of project activities.	See Mitigation Measure	Caltrans
BIO-15: Bio-Plant-1 Rare Plant Surveys, Flagging and Fencing: (Revised) Prior to construction and during the appropriate blooming season for each plant with the potential to occur on site, a CDFW-approved qualified biologist will conduct a thorough floristic-based assessment of special-status plants and natural communities, following CDFW's Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Natural Communities (CDFW 2018 or most recent version). The surveys shall be conducted at the appropriate time of year when plants will both be evident and identifiable and in a manner that maximizes the likelihood of locating special status plants and sensitive natural communities that may be present. Results of the surveys shall be submitted to CDFW for review no less than 30 days prior to the initiation of project activities. The Project shall avoid all impacts to state-listed	See Mitigation Measure	Caltrans

plants unless CESA or NCCP authorization is obtained. If other special-status plant species are identified within the Project site, Caltrans shall develop a special-status plant species avoidance plan that shall be submitted for CDFW approval at least 30 calendar days prior to the start of Project activities and following CDFW approval shall be implemented prior to the start of Project activities. Any rare plants discovered must be flagged for visual identification to construction personnel for work avoidance. If rare plants are discovered featuring multiple plants in a single location must be fenced with Environmentally Sensitive Area (ESA) temporary fencing If impacts cannot be avoided, on-site or off-site habitat restoration (whichever is applicable) and/or enhancement and preservation should be evaluated and discussed in detail. Where habitat preservation is not available on-site, off-site land acquisition, management, and preservation should be evaluated.		
BIO-8: Bio-Invertebrate-2 – Project-Specific Measure 2 – Focused and Preconstruction Invertebrate Species Surveys: (Revised) Focused surveys for Crotch's bumble bee shall be performed by a CDFW-approved qualified entomologist familiar with the species behavior and life history to determine the presence/absence of Crotch's bumble bee within one year prior to vegetation removal and/or grading. Surveys should be conducted during flying season when the species is most likely to be detected above ground, between March 1 to September 1 (Thorp et al. 1983). Survey results, including negative findings, should be submitted to CDFW prior to implementing Project-related ground-disturbing activities. At minimum, a survey report should provide the following: a) A description and map of the survey area, focusing on areas that could provide suitable habitat for Crotch's bumble bee. CDFW recommends the map show surveyors track lines to document that the entire site was covered during field surveys. b) Field survey conditions that should include names of qualified entomologists and brief qualifications; date and time of survey; survey duration; general weather conditions; survey goals, and species searched. c) Maps showing the location of nests/colonies. d) A description of physical (e.g., soil, moisture, slope) and biological (e.g., plant composition) conditions where each nest/colony is found. A sufficient description of biological conditions, primarily impacted habitat, should include native plant composition (e.g., density, cover, and abundance) within impacted habitat (e.g., species list separated by vegetation class; density, cover, and abundance of each species). Prior to any ground disturbance, a CDFW-approved qualified entomologist shall conduct a preconstruction Crotch's bumblebee survey no more than 1 week prior to project activities within the Biological Study Area. The surveys shall follow the survey guidelines outlined in CDFW's Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species (2023) and include 100 percent visual coverage and include a minimum 50-foot buffer in adjacent habitat. If a Crotch's bumble bee or bumble bee nest is located, Caltrans shall halt Project activities and notify CDFW immediately. If impacts to Crotch's bumble bee cannot be avoided, the Project shall be postponed until appropriate CESA authorization is obtained. This may include an incidental take permit (Fish and Game Code, § 2081).	See Mitigation Measure	Caltrans
BIO-9: Bio-Project-Specific Measure 2 – Focused and Pre-construction Small-Mammal Surveys: (Revised) Prior to the start of Project activities, Caltrans shall designate a CDFW-approved biologist with appropriate permitting to conduct focused surveys for San Bernardino kangaroo rat (SBKR) and Stephens' kangaroo rat (SKR) within the Project footprint and an appropriate buffer. The focused surveys	See Mitigation Measure	Caltrans

should be conducted during appropriate weather and temperature conditions and should follow survey guidelines in a protocol for small mammals approved by CDFW, US Geological Survey, or US Fish and Wildlife Service The results of the focused surveys shall be provided to CDFW no less than 30 days prior to the start of Project activities. If SBKR or SKR are present, the Project shall be postponed until appropriate CESA or NCCP authorization is obtained. Prior to construction, a CDFW-approved qualified biologist knowledgeable in the habitat, ecology, and field identification of San Diego pocket mouse (<i>Chaetodipus fallax fallax</i>), San Diego desert woodrat (<i>Neotoma lepida intermedia</i>), and Los Angeles pocket mouse (<i>Perognathus longimembris brevinasus</i>) shall conduct pre-construction surveys in the entirety of the Project site and an appropriate buffer to identify any features/habitats (i.e., burrows, dens, cavities, etc.) suitable to support these special-status small mammals within the Project footprint and an appropriate buffer. Where an identifiable feature is present, the qualified biologist shall mark the potentially occupied feature for avoidance. If special-status small mammals are detected, Permittee shall notify CDFW and submit species-specific avoidance measures.		
BIO-10: Bio-Project-Specific Measure 3 – Focused and Pre-construction Bat Surveys: (Revised) Prior to the initiation of Project activities within suitable bat roosting habitat, Caltrans shall retain a CDFW-approved qualified biologist to conduct focused surveys to determine presence of daytime, nighttime, wintering (hibernacula), and maternity roost sites. Two spring surveys (April through June) and two winter surveys (November through January) shall be performed by qualified biologists. Surveys shall be conducted during favorable weather conditions only. Each survey shall consist of one dusk emergence survey (start one hour before sunset and last for three hours), followed by one pre-dawn re-entry survey (start one hour before sunrise and last for two hours), and one daytime visual inspection of all potential roosting habitat on the Project site. Surveys shall be conducted within one 24-hour period. Visual inspections shall focus on the identification of bat sign (i.e., individuals, guano, urine staining, corpses, feeding remains, scratch marks and bats squeaking and chattering). Bat detectors, bat call analysis, and visual observation shall be used during all dusk emergence and pre-dawn re-entry surveys. The results of the focused surveys shall be submitted to CDFW prior to commencement of project activities and shall include: 1) the exact location of all roosting sites (mapped), 2) the number of bats present at the time of survey (count or estimate), 3) each species of bat present (include how the species was identified), 4) the location, amount, distribution, and age of all bat guano shall be described and mapped, and 5) the type of roost (day, night, maternity, wintering). If active maternity roosts are identified in the work area or 1000 feet extending from the work area, Project construction will only occur between October 1 and February 28, outside of the maternity roosting season after young bats are volant (flying). Maternity roosts shall not be evicted, excluded, removed, or disturbed. If active hibernacula are identified in the work area or 1000 feet extending from the work area, a minimum 1000-foot no-work buffer shall be provided around hibernacula. Buffers shall be left in place until the end of Project construction and activities or until the qualified bat biologist determines that the hibernacula are no longer active. Project-related construction and activities shall not occur between 30 minutes before sunset and 30 minutes after sunrise. Hibernacula roosts shall not be evicted, excluded, removed, or disturbed.	See Mitigation Measure	Caltrans

Prior to construction, a qualified CDFW-approved biologist will conduct preconstruction bat surveys to ensure no bats occur within the proposed area of off-highway work, ground disturbance or vegetation removal, including culvert locations and at the San Jacinto River bridge, plus a 500-foot survey buffer.		
Mitigation Measure BIO-[B]: Avoidance of Bats during Tree Removal. (New) Tree removal work with the potential to house roosting bats shall be performed after maternity season when young are volant (flying) but before expected onset of torpor (wintering inactivity) to minimize direct impacts to roosting bats (i.e., tree removal could be conducted between approximately September 15 and October 31). Tree removal work may also be conducted, following winter torpor and prior to the start of the maternity season (i.e., tree removal could be conducted approximately between February 15 and March 31). No tree removals shall occur during the hibernation season, which typically begins in November or December (depending on weather conditions) and continues through mid-February, due to the high potential for mortality of hibernating bats. All tree removals shall require a two-step removal process and the involvement of a CDFW-approved qualified bat biologist to ensure that no roosting bats are killed during this activity. This two-step removal shall occur over two consecutive days as follows: on Day 1, branches and limbs not containing cavities, as identified by the qualified bat biologist, will be removed. On Day 2, the remainder of the tree may be removed. The disturbance caused by limb removal, followed by an interval of one evening, will allow bats to safely abandon the roost.	See Mitigation Measure	Caltrans
BIO-[C] Bat Avoidance and Monitoring. (New) If there are suitable and/or occupied hibernacula (winter roosts) or maternity roosts of any bat species in the Project area, Permittee shall submit to CDFW for review and approval a Bat Avoidance and Monitoring Plan (BAMP) prior to initiating Project activities. The BAMP will include Project-specific avoidance and minimization measures to ensure that impacts to bats do not occur. The BAMP shall be created in coordination with, and implemented by, the CDFW-approved bat biologist. The BAMP shall include, at a minimum: monitoring protocols; survey timing and duration; procedures and frequency of direct reporting to CDFW; and Project-specific avoidance and minimization measures that consider but are not necessarily limited to: Project phasing and timing; installation and monitoring of exclusionary materials, where and when appropriate; monitoring of Project-related noise, vibration, and lighting; and installation of buffers.	See Mitigation Measure	Caltrans
BIO-11: Bio-Project-Specific Measure 4 – Focused Surveys (Western Spadefoot). (Revised) Prior to any ground-disturbing activities, focused surveys for western spadefoot will be conducted by a CDFW- and USFWS-approved qualified Biologist to determine if suitable aquatic breeding and upland habitat features occur for western spadefoot, their egg masses, or their larval stages. Surveys shall be conducted at the appropriate time of year and in appropriate conditions within and adjacent to the construction footprint. A report documenting the survey methods, results, and recommended avoidance measures that will be required during construction will be provided to the Wildlife Agencies (CDFW and USFWS), for review and approval. If western spadefoot, their egg masses, or their larval stages are detected during the surveys, Caltrans shall obtain appropriate CESA or NCCP authorization prior to commencement of any Project activities.	See Mitigation Measure	Caltrans
BIO-18: Bio-14 Control of Work: (Revised) No construction work within Western Spadefoot habitat shall occur until appropriate CESA or NCCP authorization is obtained. No work will be allowed if any of the exclusionary devices (such as barrier fences) are not installed in	See Mitigation Measure	Caltrans

accordance with respective specifications (as determined by the approved biologist).		
BIO-20: Bio-16 Western Spadefoot in Project Area: (Revised) If during construction activities western spadefoot is discovered within the project site, all construction activities shall stop, and the approved biologist shall coordinate with CDFW and USFWS for further instruction.	See Mitigation Measure	Caltrans
BIO-21: Bio-18 Western Spadefoot Seasonal Avoidance: (Revised) For proposed culvert repair work at PM 32.78, and any other Project area with suitable western spadefoot habitat, Caltrans will avoid the wet season and breeding season for western spadefoot. Because annual precipitation is variable, these seasons shall be determined by the approved Biologist in coordination with CDFW and USFWS, based on current observations during field visits to the Project site.	See Mitigation Measure	Caltrans
BIO-13: Bio-Avian-1 Preconstruction Nesting Bird Survey: (Revised) To the greatest extent feasible, the Project will avoid construction and any ground-disturbing activities, including vegetation-clearing activities, during the peak nesting season (January 15 through September 15). Regardless of the time of year, preconstruction nesting bird surveys must be conducted no more than 3 days prior to vegetation removal or ground-disturbing activities by a CDFW-approved qualified biologist to locate and avoid nesting birds in areas of suitable habitat within the Project limits plus a 500-foot buffer. Pre-construction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified biologist will make every effort to avoid potential nest predation as a result of survey and monitoring efforts. If an active avian nest is located during the surveys (or during construction), the qualified biologist shall establish an appropriate nest buffer to be marked on the ground. Nest buffers are species-specific and shall be at least 300 feet for non-raptors and at least 500 feet for raptors. If the qualified biologist determines that Project activities may be causing an adverse reaction, the qualified biologist shall increase the buffers accordingly. Construction activities may not occur inside the established buffers, which shall remain on-site until a qualified biologist determines that the young have fledged or the nest is no longer active. All active nests and adequacy of the established buffer distance shall be monitored daily by the qualified biologist until the qualified biologist has determined the young have fledged or the Project has been completed. The qualified biologist has the authority to stop work if nesting pairs exhibit signs of disturbance.	See Mitigation Measure	Caltrans
BIO-[D] Focused Surveys for Least Bell's Vireo and Coastal California Gnatcatcher. (New) Prior to the start of Project activities, a CDFW-approved Designated Biologist shall complete necessary surveys, impact assessments, and associated reports within all locations subject to Project site activities following the protocols provided within the Least Bell's Vireo Survey Guidelines (USFWS, January 2001) to ensure avoidance of impacts. Survey results shall be submitted in writing to CDFW for review prior to the start of Project activities. Caltrans shall not conduct any Project activities within 1000 linear feet of occupied least Bell's vireo habitat from March 1 through September 30. Prior to the start of Project activities, a CDFW-approved Designated Biologist shall complete necessary surveys, impact assessments, and associated reports within all locations subject to Project site activities following the protocols provided within the Survey Guidelines for the Coastal California Gnatcatcher (USFWS, July 1997) to ensure avoidance of impacts. Survey results shall be submitted in writing to CDFW for review prior to the start of Project activities.	See Mitigation Measure	Caltrans

Caltrans shall not conduct any Project activities within 500 linear feet of occupied coastal California gnatcatcher habitat from February 15 to August 30.		
BIO-14: Bio-Avian-2 Focused and Preconstruction Burrowing Owl Surveys: (Revised) Prior to the start of Project-related activities, a burrowing owl habitat assessment shall be conducted by a CDFW-approved qualified biologist in accordance with the 2012 CDFW Staff Report on Burrowing Owl Mitigation (or most recent version), If the habitat assessment demonstrates suitable burrowing owl habitat, then focused burrowing owl surveys shall be conducted on and adjacent to the Project site by a CDFW-approved qualified biologist prior Project activities, including to vegetation removal or ground-disturbing activities. CDFW strongly recommends that focused surveys are conducted in accordance with the Staff Report on Burrowing Owl Mitigation (2012 or most recent version). If burrowing owls are detected during the focused surveys, the qualified biologist and Project proponent shall begin coordination with CDFW immediately, and shall submit the results of focused surveys to CDFW as soon results become available and before commencement of any Project activities, including any vegetation- or ground-disturbing activities. CDFW recommends that the information included in the survey results be consistent with Appendix D of the Staff Report on Burrowing Owl Mitigation, including a detailed map showing locations of all burrowing owls, burrowing owl sign, potential burrows, and occupied burrows (occupied means at least one burrowing owl or its sign has been observed within the last three years; may be indicated by owl sign including feathers, pellets, prey remains, eggshell fragments, or excrement at or near a burrow entrance or perch site); a description of the behavior of burrowing owls during surveys; a description of survey methods; and other items listed in Appendix D of the Staff Report on Burrowing Owl Mitigation under "Survey Reports." Consultation with CDFW and USFWS must be completed prior to commencement of any Project activities, including vegetation- or ground-disturbing activities. If impacts to occupied burrowing owl habitat or burrow(s) or burrowing owl individuals, nests, or eggs cannot be avoided, appropriate CESA authorization (i.e., Incidental Take Permit under Fish and Game Code section 2081(b)) should be obtained from CDFW prior to commencement of Project activities, including vegetation- or ground-disturbing activities. Preconstruction burrowing owl surveys shall be conducted no less than 14 days prior to the start of Project-related activities and within 24 hours prior to ground disturbance. Preconstruction surveys should be repeated when there is a pause in construction of more than 30 days. Preconstruction surveys should be performed by a CDFW-approved qualified biologist, and CDFW strongly recommends that preconstruction surveys follow the recommendations and guidelines provided in the Staff Report on Burrowing Owl Mitigation (2012 or most recent version). If the preconstruction surveys confirm occupied burrowing owl habitat, Project activities shall be immediately halted and the qualified biologist shall coordinate with CDFW and USFWS. Project activities shall not recommence until consultation with CDFW and USFWS is completed.	See Mitigation Measure	Caltrans
BIO-22: Bio-19 Branchiopod Focused Surveys and Seasonal Avoidance: (Revised) Prior to the start of Project activities, a CDFW-approved biologist shall conduct focused surveys for fairy shrimp in all suitable habitat that could be impacted by the Project. Surveys shall be conducted according to the USFWS 2017 guidelines titled "Survey Guidelines for the Listed Large Branchiopods." For proposed culvert repair work at PM 32.78,	See Mitigation Measure	Caltrans

and any other Project area with suitable fairy shrimp habitat, Caltrans will avoid the breeding season for Riverside fairy shrimp and vernal pool fairy shrimp. Because annual precipitation is variable, these seasons shall be determined by the approved biologist in consultation with CDFW, based on current observations during field visits to the Project site. If focused survey results are positive, and the project cannot permanently avoid fairy shrimp habitat, a Determination of Biologically Equivalent or Superior Preservation report shall be required to propose mitigation that demonstrates equivalent or superior function and value.		
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