



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
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GAVIN NEWSOM, Governor  
CHARLTON H. BONHAM, Director



February 10, 2020

Governor's Office of Planning & Research

**FEB 14 2020**

## STATE CLEARINGHOUSE

Heather Adamson  
Association of Bay Area Governments  
24580 Silver Cloud Court  
Monterey, California 93940  
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**Subject: AMBAG 2045 Metropolitan Transportation Plan/Sustainable  
Communities Strategy and Regional Transportation Plans (Project)  
Notice of Preparation (NOP)  
SCH#: 2020010204**

Dear Ms. Adamson:

The California Department of Fish and Wildlife (CDFW) received the NOP from the Association of Bay Area Governments for the above-referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under Fish and Game Code.

### 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,

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<sup>1</sup> 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.

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

**Water Pollution:** Pursuant to Fish and Game Code section 5650, it is unlawful to deposit in, permit to pass into, or place where it can pass into "Waters of the State" any substance or material deleterious to fish, plant life, or bird life, including non-native species. It is possible that without appropriate mitigation measures, implementation of the Project could result in pollution of Waters of the State from storm water runoff or construction-related erosion. Potential impacts to the wildlife resources that utilize these watercourses include the following: increased sediment input from road or structure runoff; toxic runoff associated with development activities and implementation; and/or impairment of wildlife movement along riparian corridors. The Regional Water Quality Control Board and United States Army Corps of Engineers also have jurisdiction regarding discharge and pollution to Waters of the State.

**Nesting Birds:** CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

In this role, CDFW is responsible for providing, as available, biological expertise during public agency environmental review efforts (e.g., CEQA), focusing specifically on Project activities that have the potential to adversely affect fish and wildlife resources. CDFW provides recommendations to identify potential impacts and possible measures to avoid or reduce those impacts.

## PROJECT DESCRIPTION SUMMARY

**Proponent:** Association of Bay Area Governments

**Objective:** The proposed Project will guide the development of the Regional and Federal Transportation Improvement Programs as well as other transportation programming documents and plans throughout Monterey, Santa Cruz and San Benito Counties. Specifically, the Project is intended to implement Regional Transportation Planning Agency goals regarding future mobility needs and identify programs, actions, and a plan of projects intended to address these needs consistent with adopted goals and policies. The Project includes the Sustainable Communities Strategy pursuant to the requirements of Senate Bill 375. Accordingly, the Project identifies transportation improvement projects and a land use scenario that would meet Senate Bill 375 greenhouse gas emission requirements.

**Location:** The Project is located throughout Monterey, San Benito, and Santa Cruz Counties.

## COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist the Association of Bay Area Governments in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document.

There are many special-status resources present within the Project location and these resources may need to be evaluated and addressed prior to any approvals that would allow vegetation- or ground-disturbing activities. CDFW is concerned regarding potential impacts to special-status species including, but not limited to, the State and federally endangered as well as State fully protected Santa Cruz long-toed salamander (*Ambystoma macrodactylum croceum*), the State threatened and federally endangered San Joaquin kit fox (*Vulpes macrotis mutica*), the State and federally threatened California tiger salamander (*Ambystoma californiense*), the State threatened Swainson's hawk (*Buteo swainsoni*), the State and federally endangered as well as State fully protected blunt-nosed leopard lizard (*Gambelia sila*), the State threatened bank swallow (*Riparia riparia*), the State and federally endangered as well as State fully protected California least tern (*Sternula antillarum browni*), the State endangered and federally threatened western yellow-billed cuckoo (*Coccyzus americanus occidentalis*), the State threatened tricolor blackbird (*Agelaius tricolor*), the State and federally endangered least Bell's vireo (*Vireo bellii pusillus*), the State endangered and fully protected bald eagle (*Haliaeetus leucocephalus*), the State and federally endangered as well as State fully protected California condor (*Gymnogyps californianus*), the State fully



protected white-tailed kite (*Elanus leucurus*), the State threatened Nelson's antelope squirrel (*Ammospermophilus nelsoni*), the State and federally endangered giant kangaroo rat (*Dipodomys ingens*), the State and federally endangered Morro Bay kangaroo rat (*Dipodomys heermanni morroensis*), the State candidate for listing as threatened foothill yellow-legged frog (*Rana boylei*), the State and federally endangered California Ridgway's rail (*Rallus obsoletus obsoletus*), the State candidate for listing as endangered western bumble bee (*Bombus occidentalis*), the State candidate for listing as endangered crotch bumble bee (*Bombus crotchii*), the State endangered San Francisco popcornflower (*Plagiobothrys diffusus*), the State threatened surf thistle (*Cirsium rhotophilum*), the State and federally endangered marsh sandwort (*Arenaria paludicola*), the State and federally endangered Menzies' wallflower (*Erysimum menziesii*), the State threatened beach spectaclepod (*Dithyrea maritima*), the State endangered and federally threatened Santa Cruz tarplant (*Holocarpha macradenia*), the State threatened and federally endangered Gambel's water cress (*Nasturtium gambelii*), the State and federally endangered Nipomo Mesa lupine (*Lupinus nipomensis*), the State threatened and federally endangered La Graciosa thistle (*Cirsium scariosum* var. *loncholepis*), the State and federally endangered Indian Knob mountainbalm (*Eriodictyon altissimum*), the State rare and federally endangered Pismo clarkia (*Clarkia speciosa* ssp. *immaculata*), the State rare and federally threatened Camatta Canyon amole (*Chlorogalum purpureum* var. *reductum*), the State rare Cuesta Pass checkerbloom (*Sidalcea hickmanii* ssp. *anomala*), the State endangered Hearsts' manzanita (*Artostaphylos hookeri* ssp. *hearstiorum*), the State rare Dudley's lousewort (*Pedicularis dudleyi*), the State rare Hearsts' ceanothus (*Ceanothus hearstiorum*), the State rare adobe sanicle (*Sanicula maritima*), the State and federally endangered Chorro Creek bog thistle (*Cirsium fontinale* var. *obispoense*), the State threatened and federally endangered Monterey gilia (*Gilia tenuiflora* ssp. *arenaria*), the State endangered seaside bird's-beak (*Cordylanthus rigidus* ssp. *littoralis*), the State and federally listed Santa Cruz wallflower (*Erysimum teretifolium*), the State endangered and federally threatened marbled murrelet (*Brachyramphus marmoratus*), the State endangered and federally threatened Santa Cruz cypress (*Hesperocyparis abramsiana* var. *abramsiana*), the State threatened and State fully protected California black rail (*Laterallus jamaicensis coturniculus*), the State and federally endangered coho salmon - central California coast ESU (*Oncorhynchus kisutch*), the State and federally endangered white-rayed pentachaeta (*Pentachaeta bellidiflora*), the State and federally endangered Scotts Valley polygonum (*Polygonum hickmanii*), and the following State species of special concern: burrowing owl (*Athene cunicularia*), western pond turtle (*Actinemys marmorata*), California red-legged frog (*Rana draytonii*), western spadefoot toad (*Spea hammondi*), tidewater goby (*Eucyclogobius newberryi*), California giant salamander (*Dicamptodon ensatus*), black swift (*Cypseloides niger*), Townsend's big-eared bat (*Corynorhinus townsendii*), northern California legless lizard (*Anniella pulchra*), Santa Cruz black salamander (*Aneides niger*), western snowy plover (*Charadrius alexandrinus nivosus*), San Francisco dusky-footed woodrat (*Neotoma fuscipes annectens*), and American badger (*Taxidea taxus*).

Due to the very limited information provided in the Project description, CDFW is only able to provide general comments regarding potential impacts to State-listed species. CDFW will provide more substantive comments when specific Project description details are provided, such as specific routes and/or specific Project construction locations, when the Environmental Impact Report (EIR) prepared for this Project is circulated for public review. Please note that the large-scale tri-county Project involves multiple CDFW Regions: Region 3 (Bay Delta Region), Region 4 (Central Region), and potentially Region 7 (Marine Region). The general comments below pertain to the coastal area of California in Santa Cruz and Monterey Counties in CDFW Region 7, inland Santa Cruz County in CDFW Region 3, and inland Monterey and San Benito Counties in CDFW Region 4.

## **I. Environmental Setting and Related Impact**

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

### **COMMENT 1: State Fully Protected Species in Monterey, San Benito, and Santa Cruz Counties**

**Issue:** State fully protected species are known to occur within the Project area (CDFW 2020). CDFW has jurisdiction over fully protected species of birds, mammals, amphibians, reptiles, and fish pursuant to Fish and Game Code sections 3511, 4700, 5050, and 5515. Take, as defined by Fish and Game Code section 86 is to “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill”, of any fully protected species is prohibited and CDFW cannot authorize their incidental take. Without appropriate mitigation measures, Project activities conducted within occupied territories have the potential to significantly impact these species.

**Specific Impacts:** Without appropriate avoidance and minimization measures for fully protected species, potentially significant impacts associated with Project activities may include, but are not limited to, burrow collapse, inadvertent entrapment, reduced reproductive success, reduced health and vigor, nest abandonment, loss of nest trees, and/or loss of foraging habitat that would reduce nesting success (loss or reduced health or vigor of eggs or young), and direct mortality.

**Evidence impact would be significant:** The Project will involve noise, groundwork, use of heavy machinery, and movement of workers that may occur in or

directly adjacent to habitat and thus have the potential to significantly impact fully protected species populations.

**Recommended Potentially Feasible Mitigation Measure(s)**

To evaluate potential impacts to fully protected species, CDFW recommends conducting the following evaluation of the Project site, incorporating the following mitigation measures into the EIR prepared for this Project, and that these measures be made conditions of approval for the Project.

**Recommended Mitigation Measure 1: Fully Protected Habitat Assessment**

CDFW recommends that a qualified biologist conduct a habitat assessment in advance of Project implementation, to determine if the Project site or its vicinity contains suitable habitat for fully protected raptors.

**Recommended Mitigation Measure 2: Fully Protected Species Surveys**

CDFW recommends that focused surveys following a species-specific protocol or methodology, if applicable, be conducted by experienced biologists at the Project site prior to Project implementation to avoid impacts to these species. If Project activities are to take place when fully protected species are active, CDFW recommends that additional pre-activity surveys for active nests or above-ground individuals be conducted by a qualified biologist no more than ten days prior to the start of Project activities.

**Recommended Mitigation Measure 3: Fully Protected Species Avoidance**

In the event a fully protected species is found within or adjacent to the Project site, implementation of avoidance measures is warranted. Detection during surveys or construction activities warrants consultation with CDFW to discuss how to implement the Project and avoid take. CDFW recommends that a qualified wildlife biologist be on-site during all Project-related activities and that an appropriate no-disturbance buffer be implemented. Contacting CDFW for assistance with species-specific avoidance measures is recommended. Fully addressing potential impacts to fully protected species and requiring measurable and enforceable mitigation in the EIR is recommended.

**Recommended Mitigation Measure 4: Santa Cruz Long-Toed Salamander Full Avoidance.**

CDFW recommends that the Project completely avoid impacts to Santa Cruz long-toed salamander. Santa Cruz long-toed salamander is a State fully protected species located only within Santa Cruz and Monterey counties. CDFW is unable to issue permits for take of Santa Cruz long-toed salamander, which includes take

during species-specific surveys, unless they are conducted for scientific purposes pursuant to Fish and Game Code section 2081(a) or a project has an approved Natural Communities Conservation Plan pursuant to Fish and Game Code section 2800. Therefore, CDFW recommends impacts to Santa Cruz long-toed salamander be completely avoided. Contacting CDFW for assistance with avoidance measures is recommended.

## **COMMENT 2: State Threatened or Endangered Wildlife Species in Monterey, San Benito, and Santa Cruz Counties**

**Issue:** State threatened or endangered wildlife species are known to occur within the Project area (CDFW 2020). Without appropriate mitigation measures, Project activities conducted within occupied territories or habitats have the potential to significantly impact these species.

**Specific impact:** Impacts to State-listed wildlife species include, but are not limited to, inability to reproduce, capture, burrow/den collapse, crushing as a result of burrow collapse, entombment, inadvertent entrapment, reduced reproductive success, reduction in health and vigor of young, nest abandonment, loss of nest trees/breeding habitat, or loss of foraging habitat that would reduce nesting success (loss or reduced health or vigor of eggs or young), and direct mortality. Unauthorized take of species listed as threatened or endangered pursuant to CESA is a violation of Fish and Game Code.

**Evidence impact would be significant:** Approval of the Project may lead to subsequent ground-disturbing activities that involve noise, groundwork, use of heavy machinery, and movement of workers that could affect these State-listed wildlife species throughout the Project location.

### **Recommended Potentially Feasible Mitigation Measure(s)**

To evaluate potential impacts to State-listed wildlife species, CDFW recommends conducting the following evaluation of the Project site, incorporating the following mitigation measures into the EIR prepared for this Project, and that these measures be made conditions of approval for the Project.

### **Recommended Mitigation Measure 5: State-listed Wildlife Species Focused Surveys**

CDFW recommends that the Project area be surveyed for State-listed wildlife species by a qualified biologist following species-specific protocol-level surveys, if applicable. Protocol-level surveys contain methods that, when adhered to, are intended to maximize detectability. In the absence of protocol-level surveys being



performed or when performed outside of the parameters of the methodology, additional surveys may be necessary.

**Recommended Mitigation Measure 6: State-listed Wildlife Species Avoidance**

In the event a State-listed wildlife species is found within or adjacent to the Project site, implementation of avoidance measures is warranted. CDFW recommends that a qualified wildlife biologist be on-site during all Project-related activities and that a no-disturbance buffer be implemented. Contacting CDFW for assistance with species-specific avoidance measures is recommended. Fully addressing potential impacts to State-listed wildlife species and requiring measurable and enforceable mitigation in the EIR is recommended.

**Recommended Mitigation Measure 7: State-listed Species Take Authorization**

If a State-listed wildlife species is identified and detected during surveys or during project implementation, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided, take authorization through acquisition of an Incidental Take Permit (ITP) issued by CDFW pursuant to Fish and Game Code section 2081(b) is necessary to comply with CESA.

**COMMENT 3: State Threatened, Endangered, or Rare Plant Species in Monterey, San Benito, Santa Cruz Counties**

**Issue:** Special-status plants have been documented to occur in the vicinity of the Project area (CDFW 2020). The Project area contains habitat that may support special-status plants meeting the definition of rare or endangered under Fish and Game Code sections 1901 and 1907 and CEQA Guidelines section 15380.

**Specific impact:** Without appropriate avoidance and minimization measures potential impacts to special-status plants include inability to reproduce and direct mortality. Unauthorized take of plant species listed as threatened, endangered, or rare pursuant to CESA or the Native Plant Protection Act is a violation of Fish and Game Code.

**Evidence impact would be significant:** Many special-status plants are narrowly distributed endemic species. These species are threatened with habitat loss and habitat fragmentation resulting from development, vehicle and foot traffic, road maintenance, and introduction of non-native plant species (CNPS 2020). Therefore, impacts of the Project have the potential to significantly impact populations of the species mentioned above.



### **Recommended Potentially Feasible Mitigation Measure(s)**

To evaluate potential impacts to special-status plants, CDFW recommends conducting the following evaluation of the Project site, incorporating the following mitigation measures into the EIR prepared for this Project, and that these measures be made conditions of approval for the Project.

#### **Recommended Mitigation Measure 8: Special-Status Plant Focused Surveys**

CDFW recommends that the Project area be surveyed for special-status plants by a qualified botanist following the "Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities" (CDFW 2018b). This protocol, which is intended to maximize detectability, includes identification of reference populations to facilitate the likelihood of field investigations occurring during the appropriate floristic period. In the absence of protocol-level surveys being performed, additional surveys may be necessary.

#### **Recommended Mitigation Measure 9: Special-Status Plant Avoidance**

CDFW recommends special-status plant species be avoided whenever possible by delineation and observing a no-disturbance buffer of at least 50 feet from the outer edge of the plant population(s) or specific habitat type(s) required by special-status plant species. If buffers cannot be maintained, then consultation with CDFW is warranted to determine appropriate minimization and mitigation measures for impacts to special-status plant species.

#### **Recommended Mitigation Measure 10: Special-Status Plant Take Authorization**

If a State-listed or State rare plant is identified during botanical surveys, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided, acquisition of an Incidental Take Permit (ITP) or a Native Plant Protection Act Incidental Take Permit issued by CDFW Pursuant to Fish and Game Code section 2081(b) and/or section 1900 et seq is necessary to comply with CESA and the Native Plant Protection Act.

### **COMMENT 4: State Species of Special Concern in Monterey, San Benito, Santa Cruz Counties**

**Issue:** State species of special concern are known to occur within the Project area (CDFW 2020). Without appropriate mitigation measures, Project activities conducted within occupied territories have the potential to significantly impact these species.

**Specific impact:** Without appropriate avoidance and minimization measures, potential impacts to species of special concern include nest reduction, inadvertent entrapment, reduced reproductive success, reduction in health or vigor of eggs and/or young, and direct mortality.

**Evidence impact would be significant:** The Project involves ground-disturbing activities in species of special concern habitat. Noise, vegetation removal, use of heavy machinery, movement of workers, and ground-disturbance as a result of Project activities have the potential to significantly impact species of special concern populations.

#### **Recommended Potentially Feasible Mitigation Measure(s)**

To evaluate potential impacts to State species of special concern, CDFW recommends conducting the following evaluation of the Project site, incorporating the following mitigation measures into the EIR prepared for this Project, and that these measures be made conditions of approval for the Project.

#### **Recommended Mitigation Measure 11: State Species of Special Concern Focused Surveys**

CDFW recommends that a qualified biologist conduct focused surveys for species of special concern no more than ten days prior to Project implementation. In addition, CDFW recommends that focused surveys for eggs/nests occur during the egg-laying season and that any eggs/nests discovered remain undisturbed until the eggs have hatched and the young are no longer dependent on the nest or parental care.

#### **Recommended Mitigation Measure 12: State Species of Special Concern Avoidance**

CDFW recommends species of special concern be avoided whenever possible by delineation and observing a no-disturbance buffer. If buffers cannot be maintained, then consultation with CDFW is warranted to determine appropriate minimization and mitigation measures for impacts to species of special concern.

#### **COMMENT 5: Lake and Streambed Alteration in Monterey, San Benito, and Santa Cruz Counties**

**Issue:** The Project area has the potential to contain features subject to CDFW's lake and streambed alteration authority, pursuant to Fish and Game Code section 1600 *et seq.* Ground- and vegetation-disturbing activities associated with the Project have the potential to involve temporary and permanent impacts to these features. CDFW recommends that aquatic features be evaluated to determine whether or not they are subject to CDFW's lake and streambed alteration regulatory

authority and that Notification to CDFW for impacts to features that fall under this regulatory authority be required as conditions of approval in the Project's EIR.

**Specific impact:** Work within freshwater marsh, wetland, and riparian features has the potential to result in substantial diversion or obstruction of natural flows; substantial change or use of material from the bed, bank, or channel (including removal of riparian vegetation); deposition of debris, waste, sediment, toxic runoff or other materials into water causing water pollution and degradation of water quality.

**Evidence impact is potentially significant:** The Project area has the potential to include features subject to CDFW's lake and streambed alteration regulatory authority. Construction activities within these features has the potential to impact downstream waters and to significantly impact the remaining acreage of freshwater marsh, wetland, and riparian communities.

#### **Recommended Potentially Feasible Mitigation Measure(s)**

To evaluate potential impacts of the Project to features subject to CDFW's lake and streambed alteration authority, CDFW recommends conducting the following evaluation of the Project area and including the following measures as conditions of approval in the Project's EIR.

#### **Recommended Mitigation Measure 13: Habitat Assessment**

CDFW recommends that a qualified biologist conduct a habitat assessment in advance of project implementation, to determine if the Project area or its immediate vicinity supports freshwater marsh, wetland, and/or riparian communities.

#### **Recommended Mitigation Measure 14: Wetland Delineation and Lake and Stream Notification**

Where applicable, CDFW recommends a formal wetland delineation be conducted by a qualified biologist to determine the location and extent of wetlands and waterways on or within the vicinity of the Project area. Please note that, while there is overlap, State and Federal definitions of wetlands, as well as which activities require Notification pursuant to Fish and Game Code section 1602, differ. Therefore, CDFW further recommends that the delineation identify both State and Federal wetlands as well as which activities may require Notification to comply with Fish and Game Code. Fish and Game Code section 2785 (g) defines wetlands; further section 1600 *et seq.* applies to any area within the bed, channel, or bank of any river, stream, or lake (including riparian vegetation). It is important to note that while accurate delineations by qualified individuals have resulted in more rapid review and response from the U.S. Army Corps of Engineers and CDFW, substandard or inaccurate delineations have resulted in unnecessary time delays for

applicants due to insufficient, incomplete, or conflicting data. CDFW advises that site map(s) designating wetlands as well as the location of any activities that may affect a lake or stream be included with any site evaluations.

### **Recommended Mitigation Measure 15: Notification of Lake or Streambed Alteration**

Project-related activities that have the potential to change the bed, bank, and channel of streams and other waterways, may be subject to CDFW's regulatory authority pursuant to Fish and Game Code section 1600 *et seq.*, therefore in these instances Notification is recommended. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake (including the removal of riparian vegetation); (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral or intermittent as well as those that are perennial. CDFW is required to comply with CEQA in the issuance of a Lake and Streambed Alteration Agreement. For additional information on notification requirements, please contact our staff in the Lake and Streambed Alteration Program at (559) 243-4593 for Monterey and San Benito Counties or (707) 428-2002 for Santa Cruz County.

## **II. Impact Analysis**

The CEQA Guidelines (§15126.2) necessitate that the draft EIR discuss all direct and indirect impacts (temporary and permanent) that may occur with implementation of the Project. This includes evaluating and describing impacts such as:

- Potential for take of special-status species;
- Loss or modification of breeding, nesting, dispersal and foraging habitat, including vegetation removal, alternation of soils and hydrology, and removal of habitat structural features (e.g. snags, roosts, overhanging banks, etc.);
- Direct and cumulative impacts to species and biological resources;
- The cumulative impact of the installation of infrastructures within the watershed;
- Permanent and temporary habitat disturbances associated with ground-disturbance, noise, lighting, reflection, air pollution, traffic, or human presence; and
- Obstruction of movement corridors, fish passage, or access to water sources and other core habitat features.



The CEQA document also should identify reasonably foreseeable future projects in the Project vicinity, disclose any cumulative impacts associated with these projects, determine the significance of each cumulative impact, and assess the significance of the Project's contribution to the impact (CEQA Guidelines, §15355). Although a project's impacts may be insignificant individually, its contributions to a cumulative impact may be considerable; a contribution to a significant cumulative impact – e.g., reduction of available habitat for a listed species – should be considered cumulatively considerable without mitigation to minimize or avoid the impact.

### **III. Editorial Comments and/or Suggestions**

**Nesting birds:** CDFW encourages that Project implementation occur during the bird non-nesting season; however, if ground-disturbing or vegetation-disturbing activities must occur during the breeding season (February through mid-September), the Project applicant is responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Codes as referenced above.

To evaluate Project-related impacts on nesting birds, CDFW recommends that a qualified wildlife biologist conduct pre-activity surveys for active nests no more than ten days prior to the start of ground or vegetation-disturbance to maximize the probability that nests that could potentially be impacted are detected. CDFW also recommends that surveys cover a sufficient area around the Project site to identify nests and determine their status. A sufficient area means any area potentially affected by the Project. In addition to direct impacts (i.e. nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. Prior to initiation of construction activities, CDFW recommends that a qualified biologist conduct a survey to establish a behavioral baseline of all identified nests. Once construction begins, CDFW recommends having a qualified biologist continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends halting the work causing that change and consulting with CDFW for additional avoidance and minimization measures.

If continuous monitoring of identified nests by a qualified wildlife biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species, a 500-foot no-disturbance buffer around active nests of non-listed raptors, and a ½-mile buffer for listed bird/raptor species. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or on-site parental care for survival. Variance from these no-disturbance buffers is possible when there is compelling biological or ecological reason to do so, such as when the construction area would be concealed from a nest site by topography. CDFW

recommends that a qualified wildlife biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

**Federally Listed Species:** CDFW recommends consulting with the USFWS and National Marine Fisheries Service (NMFS) on potential impacts to federally listed species. Take under the Federal Endangered Species Act (FESA) is more broadly defined than CESA; take under FESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS and NMFS in order to comply with FESA is advised well in advance of any ground-disturbing activities.

## ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email address: [CNDDDB@wildlife.ca.gov](mailto:CNDDDB@wildlife.ca.gov). The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

## FILING FEES

If it is determined that the Project has the potential to impact biological resources, an assessment of filing fees will be necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

CDFW appreciates the opportunity to comment on the Project to assist the Association of Bay Area Governments in identifying and mitigating the Project's impacts on biological resources. Due to the large extent of the Project and the limited information provided in the NOP, CDFW recommends a consultation meeting with CDFW to discuss methods to fully address potential impacts to State-listed species and to provide additional species-specific avoidance, minimization, and mitigation measures prior to circulating the EIR. Survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>).

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February 10, 2020  
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If you have any questions for Project activities in Santa Cruz County, please contact Monica Oey, Environmental Scientist, by telephone at (707) 428-2088, or by electronic mail at [Monica.Oey@wildlife.ca.gov](mailto:Monica.Oey@wildlife.ca.gov). For any questions regarding Project activities in Monterey and San Benito Counties, please contact Jim Vang, Environmental Scientist, at the address provided on this letterhead, by telephone at (559) 243-4014 extension 254, or by electronic mail at [Jim.Vang@wildlife.ca.gov](mailto:Jim.Vang@wildlife.ca.gov).

Sincerely,



Julie A. Vance  
Regional Manager (Central Region, Region 4)

cc: United States Fish and Wildlife Service  
2800 Cottage Way, Suite W-2605  
Sacramento, California 95825

United States Army Corps of Engineers  
San Joaquin Valley Office  
1325 "J" Street, Suite #1350  
Sacramento, California 95814-2928

Regional Water Quality Control Board  
Central Coast Region  
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**Attachment 1**

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

**PROJECT: AMBAG 2045 Metropolitan Transportation  
Plan/Sustainable Communities Strategy and Regional  
Transportation Plans**

**SCH No.: 2020010204**

<b>RECOMMENDED MITIGATION MEASURE</b>	<b>STATUS/DATE/INITIALS</b>
<i>Before Disturbing Soil or Vegetation</i>	
Mitigation Measure 1: Fully Protected Habitat Assessment	
Mitigation Measure 2: Fully Protected Species Surveys	
Mitigation Measure 3: Fully Protected Species Avoidance	
Mitigation Measure 4: Santa Cruz Long-Toed Salamander Full Avoidance	
Mitigation Measure 5: State-listed Wildlife Species Focused Surveys	
Mitigation Measure 6: State-listed Wildlife Species Avoidance	
Mitigation Measure 7: State-listed Species Take Authorization	
Mitigation Measure 8: Special-Status Plant Focused Surveys	
Mitigation Measure 9: Special-Status Plant Avoidance	
Mitigation Measure 10: Special-Status Plant Take Authorization	
Mitigation Measure 11: State Species of Special Concern Focused Surveys	
Mitigation Measure 12: State Species of Special Concern Avoidance	
Mitigation Measure 13: Habitat Assessment	
Mitigation Measure 14: Wetland Delineation and Lake and Stream Notification	
Mitigation Measure 15: Notification of Lake or Streambed Alteration	
<i>During Construction</i>	
Mitigation Measure 3: Fully Protected Species Avoidance	
Recommended Mitigation Measure 4: Santa Cruz Long-Toed Salamander Full Avoidance	

Recommended Mitigation Measure 6: State-listed Wildlife Species Avoidance	
Recommended Mitigation Measure 9: Special-Status Plant Avoidance	
Recommended Mitigation Measure 12: State Species of Special Concern Avoidance	