

State of California  
Department of Fish and Wildlife



## Memorandum

Date: May 12, 2020

Governor's Office of Planning & Research

To: Ms. Arnica MacCarthy  
California Department of Transportation  
District 4  
111 Grand Avenue  
Oakland, CA 94612

**MAY 13 2020**

**STATE CLEARINGHOUSE**

DocuSigned by:

*Gregg Erickson*

From: Mr. Gregg Erickson, Regional Manager  
California Department of Fish and Wildlife-Bay Delta Region, 2825 Cordelia Road, Suite 100, Fairfield, CA 94534

Subject: Sonoma 1 – Soldier Pile Wall Project, Initial Study with Mitigated Negative Declaration, SCH #2020040415, Sonoma County

The California Department of Fish and Wildlife (CDFW) received a Notice of Completion of an Initial Study/Mitigated Negative Declaration (IS/MND) from the California Department of Transportation (Caltrans) for the Sonoma 1 – Soldier Pile Wall Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.

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 a Trustee Agency pursuant to CEQA Section 15386 and has authority to comment on projects that could impact fish, plant or wildlife resources. CDFW is also considered a Responsible Agency under CEQA Section 15381 if a project requires discretionary approval, such as permits issued under the California Endangered Species Act (CESA), Lake and Streambed Alteration (LSA) Program, and other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources.

### REGULATORY REQUIREMENTS

#### *California Endangered Species Act*

CESA prohibits unauthorized take of candidate, threatened, and endangered species. Therefore, if take<sup>1</sup> of any species listed under CESA cannot be avoided either during Project activities or over the life of the Project, a CESA Incidental Take Permit (ITP) is warranted (pursuant to Fish and Game Code Section 2080 *et seq.*). Issuance of a CESA ITP is subject to CEQA documentation; therefore, the CEQA document should specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the proposed Project will

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<sup>1</sup> Fish and Game Code §86: "Take" means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.

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impact any CESA-listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required to obtain a CESA ITP. More information on the CESA permitting process can be found on the CDFW website at <https://www.wildlife.ca.gov/Conservation/CESA>.

#### *Lake and Streambed Alteration*

CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et. seq., for Project activities affecting lakes or streams and associated riparian habitat. Notification is required for any activity that may substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland resources; or deposit or dispose of material where it may pass into a river, lake or stream. Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. CDFW will consider the CEQA document for the Project and may issue an LSA Agreement. CDFW may not execute the final LSA Agreement (or ITP) until it has complied with CEQA as a Responsible Agency.

#### *Migratory Birds and Raptors*

CDFW also has jurisdiction over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code Sections protecting birds, their eggs, and nests include 3503 (regarding unlawful take, possession or needless destruction of the nests or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird). Fully protected species may not be taken or possessed at any time (Fish and Game Code Section 3511). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

## **PROJECT DESCRIPTION SUMMARY**

**Proponent:** California Department of Transportation, District 4

**Objective:** The Project is needed because State Route 1 (SR-1) between postmile (PM) 26.72 and 26.79 has several discontinuous longitudinal cracks in the middle of the southbound lane. The highway pavement has settled between one and six inches, creating uneven pavement and undulated areas. In addition, the embankment has settled about three inches along the southbound shoulder next to the existing guardrails. Between PM 26.86 and 26.91 there is a 95-foot-long slide along the southbound shoulder. The entire highway in both directions has dropped approximately four inches. If not addressed, further erosion would affect the structural integrity of the highway and ultimately the safety of the travelling public.

**Location:** The Project is located along SR-1 in Sonoma County, California, 0.5 miles north of Meyers Grade Road, north of the Town of Jenner. The Project is located between PMs 26.67 and 27.09. along SR-1.

**Environmental Setting:** The Biological Study Area (BSA) is approximately 13.62 acres and includes portions of the highway prism, developed bare ground, potential waters of the U.S. and State, coastal wetlands, Environmentally Sensitive Habitat Areas, special-status species habitat, and vegetated upland habitat. Areas outside the BSA but near the Project area were also assessed using literature, aerial images, satellite imagery and database searches to identify potential wildlife dispersal corridors.

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## COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations below to assist Caltrans in identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

### *Project Description and Design Plans*

The Project Description section of the IS/MND adequately describes the installation methods of the proposed Project elements and the overall impacts to the proposed construction area. The IS/MND does not provide an adequate set of design plans for the Project in regards to rock class size, wire gauge size and illustration on how the elements of the entire embankment confinement system (ECS) are designed in and around culverts and drainages. Page 2-13 of the IS/MND provides only one-typical cross section view of the tieback soldier pile wall with a small section of the ECS displayed. CDFW recommends that a full plan set is provided in order for CDFW to conduct a full evaluation of the potentially significant impacts and recommend avoidance and minimization measures to reduce those impacts below a level of significance as required by CEQA.

### *Natural Environmental Study/Technical Studies*

The Biological Resources Section of the IS/MND summarizes information from the Natural Environmental Study (NES) for a select group of special-status species known to occur within the BSA but does not provide a full list or evaluation of all special-status-species with the potential to exist within the BSA. In addition, the IS/MND includes a list of technical studies as references but does not provide the documents themselves as appendices within the IS/MND, nor has a link been provided for all documents noted as appendices, see below for specific documents that CDFW requires.

CDFW recommends that a list or table is included that notes species common name, scientific name, State and Federal listing status (as applicable), habitat type preference and determination on presence, for all special status species with the potential to occur within the BSA. In addition, CDFW requests access to the following reference documents in order to facilitate a complete evaluation of the Project; *California Department of Transportation (Caltrans). 2019b. Hydraulics Recommendation and Estimate. Technical Memorandum. File 04-SON-1. EA 04.0J300. Office of Hydraulic Engineering. Oakland, CA. August 2019* and *California Department of Transportation (Caltrans). 2020b. Soldier Pile Wall Natural Environment Study. File 04-SON-1 EA 04.0J300. Office of Biological Sciences and Permits, District 4. February 2020.*

### *Embankment Confinement System*

Section 2.3.2, page 2-3, of the IS/MND describes the ECS as a large wire mesh basket system filled with varied sized rocks and backfilled with soil. These structures are also referred to as gabion baskets and have the potential to limit the growth of vegetation and trees by limiting the roots access to open soil. CDFW is unable to determine if ECS installation may be subject to Fish and Game Code section 1600 et. seq. CDFW does not recommend the installation of wire mesh within the bed, bank, channel or upland riparian habitat of any aquatic drainage feature or culvert known to occur on-site as it has the potential to cause increased scour factors in aquatic habitats and can ensnare or entrap aquatic and terrestrial wildlife if exposed by scour or erosion events.

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### *Erosion and Scour Control*

Page 2-4 of the IS/MND adequately describes the installation and design elements of culvert inlets and outlets but a full set of design plans should be submitted to include drainage inlet and outfall details in order for CDFW to adequately evaluate potentially significant impacts to fish and wildlife resources. Page 2-4 also notes the potential use of rock slope protection and filter fabric as methods of erosion and scour control. Filter fabric should not be employed as a method of erosion and scour control due to the potential to prevent larger woody vegetation (such as scrub habitat species) and trees from taking root in riparian and upland areas. In addition, CDFW considers the placement of filter-fabric, geo-textile and rock slope protection as a permanent impact. In order to address these concerns, CDFW recommends incorporating the following:

AMM-BIO – Erosion Control: Plastic monofilament netting (i.e., erosion control matting), rock slope protection filter fabric, geo-textile or similar material will not be used. Acceptable substitutes would include coconut coir matting or tackifying hydroseeding compounds, or engineered streambed material of varying size that is hydro-jetted into place to fill potential voids.

### *California Giant Salamander*

The California Natural Diversity Database (CNDDDB) yielded known occurrences of California giant salamander within a reasonable dispersal distance of the BSA. CDFW recommends the IS/MND includes an impact analysis for California giant salamander, a California species of special concern and incorporate the following avoidance and minimization measure to reduce impacts below a level of significance:

AMM-BIO – California Giant Salamander. A Qualified Biologist shall conduct pre-construction surveys 48 hours prior to the initiation of construction. They surveys shall inspect all vegetation and aquatic habitat within the vicinity of the Project for California giant salamander. Methods shall include; inspecting under rocks, within vegetation, within leaf litter and within culverts or drainages proposed for construction or rehabilitation. If a salamander is found within the Project site or enters the site during active construction, all work shall stop and the salamander shall be relocated out of harm's way to appropriate habitat within the immediate vicinity of the Project by a Qualified Biologist. Any sightings and/or injuries shall be reported in writing to wildlife agencies immediately within 24 hours.

### *Special-Status Plants*

The IS/MND notes on page 3-17, suitable habitat is present for 38 special-status plant species referenced within Table 5 of the NES. The NES and Table 5 is not included with the IS/MND. CDFW recommends the NES be included as an appendix to the IS/MND as it may contain much of the information requested in this comment letter. A species list has not been provided and CDWF is unable to determine if significant impacts are occurring to special-status plant species or if threatened and endangered plant species have the potential to be impacted by the Project. Additionally, CDFW requests to be able to review and approve the survey protocols.

AMM BIO-1 for Botanical Survey on page 3-18 notes that protocol level surveys are to be conducted during the 2020 blooming period. CDFW recommends that AMM BIO-1 is re-written to include including the following language to reduce potential impacts to special-status plants to less-than-significant:

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AMM BIO-1 Botanical Survey. A Qualified Biologist shall conduct a survey during the appropriate blooming period for all special-status plants that have the potential to occur within the Project site prior to the start of construction. Surveys should be conducted following the *Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities*, prepared by CDFW, dated March 20, 2018<sup>2</sup>. If special-status plants are found, the Project will be re-designed to avoid impacts to special-status plants to the greatest extent feasible. If impacts to special-status plants cannot be avoided completely during construction, compensatory mitigation and onsite restoration will be implemented and the plan provided to CDFW for review and approval. A Qualified Biologist in this context should be knowledgeable about plant taxonomy, familiar with plants of the region, and have experience conducting botanical field surveys according to vetted protocols. If take of any species listed under CESA cannot be avoided either during Project activities or over the life of the Project, a CESA Incidental Take Permit (ITP) is warranted (pursuant to Fish and Game Code Section 2080 *et seq.*).

### **ENVIRONMENTAL DATA**

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

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish and Game Code, § 711.4; Pub. Resources Code, § 21089).

### **CONCLUSION**

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

If you have any questions, please contact Mr. Robert Stanley, Senior Environmental Scientist (Specialist), at (707) 428-2093 or [Robert.Stanley@wildlife.ca.gov](mailto:Robert.Stanley@wildlife.ca.gov); or Mr. Craig Weightman, Environmental Program Manager at [Craig.Weightman@wildlife.ca.gov](mailto:Craig.Weightman@wildlife.ca.gov).

cc: State Clearinghouse (SCH #2020040415)

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<sup>2</sup> <https://www.wildlife.ca.gov/Conservation/Survey-Protocols#377281280-plants>