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CALIFORNIA ENVIRONMENTAL QUALITY ACT STATUTORY EXEMPTION FOR RESTORATION PROJECTS
CONCURRENCE NO. 21080.56-2023-036-R6

Project:	I-15 Mojave Wildlife Crossings Restoration Project
Location:	San Bernardino County
Lead Agency:	California Department of Transportation, District 8
Lead Agency Contact:	Craig Wentworth; craig.wentworth@dot.ca.gov

Background

Project Location: The I-15 Mojave Wildlife Crossings Restoration Project (Project) is located at three locations along Interstate 15 (I-15) in San Bernardino County from Post Mile (PM) R114.0 to PM 171.5. The Project proposes to construct three vegetated wildlife overcrossings and wildlife directional fencing in the Mojave Desert near Cady Mountain (PM R116.70; 35.088, -116.322), Zzyzx Road (PM R129.75; 35.195, -116.142), and Clark Mountain (PM 168.05; 35.475, -115.572).

Project Description: California Department of Transportation (Caltrans) proposes to conserve, restore, protect, or enhance, and assist in the recovery of California native fish and wildlife, and the habitat upon which they depend and restore or provide habitat for California native fish and wildlife. The Project is designed to benefit desert bighorn sheep (*Ovis canadensis nelsoni*) populations in the Mojave Desert. Construction of I-15 has created a linear barrier that isolates desert bighorn sheep populations by bisecting suitable and historical habitats. The Project will construct a wildlife overcrossing with directional wildlife fencing on both sides of I-15 at each of the three locations (Cady Mountain, Zzyzx Road, and Clark Mountain). Locations for the three overcrossings have been determined in partnership with Oregon State University (OSU) and California Department of Fish and Wildlife (CDFW) at key sites where desert bighorn sheep are most likely to cross. The directional wildlife fencing will serve to guide desert bighorn sheep to the wildlife overcrossings and stop them from attempting to cross the highway where they could be struck by vehicles. The project will assist in restoring and enhancing wildlife connectivity for desert bighorn sheep and facilitate passage for other terrestrial species.

The need for the project is based on desert bighorn sheep genetic and tracking data demonstrating that I-15 is a movement barrier for sheep that have historically traveled between the northern mountain ranges and southern mountain ranges of the Mojave Desert. While there are several undercrossings (washes and large box culverts) present throughout the I-15 corridor in the Mojave Desert, desert bighorn sheep strongly prefer overcrossings

and are much less likely than other mammals to utilize undercrossings. From 2007 to 2020, at least 59 desert bighorn sheep were killed by vehicles in California, with one male killed near the Soda Mountains. I-15 divides the previously connected ranges into isolated habitat fragments, which decreases desert bighorn sheep genetic diversity, increases inbreeding, and increases territorial disputes amongst males. Furthermore, habitat fragmentation currently forces desert bighorn sheep to cross over I-15, increasing risk of vehicular crashes and desert bighorn sheep fatalities.

A multi-year research project lead by OSU, in collaboration with CDFW, used GPS tracking and wildlife cameras to evaluate the movements of 94 desert bighorn sheep from 2013 to 2020. One individual appears to have successfully crossed in 2016 (one ewe from Soda Mountains accompanied by a lamb) and a second individual (a ram from Cady Mountains) was suspected to have crossed in 2019. However, this event could have been due to a GPS error and is not verifiable. Despite the presence of desert bighorn sheep at all three overcrossing locations, seven years of monitoring by OSU indicates that successful I-15 crossings are rare.

The three overcrossings are proposed to be three-span, with openings for the existing Northbound and Southbound I-15 lanes and a proposed future rail line in the I-15 median. Each overcrossing will be approximately 100 feet wide, and the spans will accommodate space for one additional future travel lane in each direction on I-15. Although the travel lanes are being accommodated by overcrossing design, adding lanes to I-15 is not part of this Project. Railing and fencing will be installed at the edges of the overcrossings and chain link directional fencing will also be installed at various lengths along an access control line on each side of I-15 to guide wildlife to the appropriate overcrossing. The limits of the directional fencing were determined based on specific recommendations by OSU and CDFW biologists. The chain link directional fencing will also have permanent desert tortoise fencing to guide desert tortoise (*Gopherus agassizii*) to undercrossings or overcrossings instead of vehicle lanes. The overcrossings will be surfaced with native soil and rock and planted with native Mojave Desert plants, matching the characteristics of the surrounding desert habitats. The overcrossings will be off-limits to the public and all recreational uses will be prohibited. The Project size, including the three overcrossings and directional fencing, is approximately 20.5 acres and the overcrossings have an expected service life of approximately 75 years.

Tribal Engagement: Caltrans initiated Section 106 consultation with seven Native American Tribes or Tribal organizations on March 6, 2023. The Chemehuevi and Yuhaaviatam/San Manual have indicated a desire to be involved in the Section 106 consultation process for the Project. Caltrans followed up with the remaining five Tribes on April 6, 2023, and May 5, 2023, to determine their desire to consult. Caltrans will continue discussing the Project with Tribes on an ongoing basis and will continue the Section 106 consultation process with the Chemehuevi and Yuhaaviatam/San Manual Tribes.

Interested Party Coordination: Caltrans has worked closely with CDFW and OSU to determine the optimal locations for these wildlife overcrossings. Coordination has been ongoing since 2021 to access data, obtain expert recommendations on overcrossing locations, and determine how to construct the overcrossings to maximize wildlife use. Further coordination has taken place with the Bureau of Land Management (BLM), US Fish and Wildlife Service (USFWS), and local conservation groups including but not limited to The

Nature Conservancy, the Society for the Conservation of Bighorn Sheep, and the Mojave Desert Land Trust.

As part of the overall project development and environmental efforts, regular stakeholder outreach meetings and email communication have occurred since April 2023, with partners and interested parties. Participants include the National Parks Conservation Association, CA Chapter Wild Sheep Foundation, Defenders of Wildlife, Mountain Lion Foundation, Mojave National Preserve Conservancy, National Park Service, and BLM. Outreach meetings are expected to continue indefinitely. In addition, Caltrans is developing a project website to further engage and provide updates to agencies, the public, and other interested parties.

Further coordination with the U.S. Army Corps of Engineers, Lahontan Regional Water Quality Control Board, USFWS, and CDFW are ongoing for permitting, including Sections 404 and 401 of the Clean Water Act. Federal take of desert tortoise is authorized pursuant to a programmatic biological opinion. Several letters indicating the need for the Project have been submitted by nonprofits, public agencies, and elected officials.

Anticipated Project Implementation Timeframes: Start date: May 2024
Completion date: April 2026

Lead Agency Request for CDFW Concurrence: On August 28, 2023, the Director of the California Department of Fish and Wildlife (CDFW Director) received a concurrence request from Caltrans (Lead Agency) pursuant to Public Resources Code section 21080.56, subdivision (e) (Request). The Request seeks the CDFW Director's concurrence with the Lead Agency's determination on August 28, 2023, that the Project meets certain qualifying criteria set forth in subdivisions (a) to (d), inclusive, of the same section of the Public Resources Code (Lead Agency Determination). The CDFW Director's concurrence is required for the Lead Agency to approve the Project relying on this section of the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).

Concurrence Determination

The CDFW Director concurs with the Lead Agency Determination that the Project meets the qualifying criteria set forth in Public Resources Code section 21080.56, subdivisions (a) to (d), inclusive (Concurrence).

Specifically, the CDFW Director concurs with the Lead Agency that the Project meets all of the following conditions: (1) the Project is exclusively to conserve, restore, protect, or enhance, and assist in the recovery of California native fish and wildlife, and the habitat upon which they depend; or is exclusively to restore or provide habitat for California native fish and wildlife; (2) the Project may have public benefits incidental to the Project's fundamental purpose; (3) the Project will result in long-term net benefits to climate resiliency, biodiversity, and sensitive species recovery; and includes procedures and ongoing management for the protection of the environment; and (4) Project construction activities are solely related to habitat restoration. Pursuant to Public Resources Code section 21080.56, subdivision (g), CDFW will post this Concurrence on its CEQA Notices and Documents internet page: https://wildlife.ca.gov/Notices/CEQA.

This Concurrence is based on best available science and supported, as described below, by substantial evidence in CDFW's administrative record of proceedings for the Project.

This Concurrence is also based on a finding that the Project is consistent with and that its implementation will further CDFW's mandate as California's trustee agency for fish and wildlife, including the responsibility to hold and manage these resources in trust for all the people of California.

Discussion

A. Pursuant to Public Resources Code section 21080.56, subdivision (a), the CDFW Director concurs with the Lead Agency that the Project will exclusively conserve, restore, protect, or enhance, and assist in the recovery of California native fish and wildlife, and the habitat upon which they depend; or restore or provide habitat for California native fish and wildlife.

   By constructing three wildlife overcrossings with directional wildlife fencing, the Project will directly benefit desert bighorn sheep and other sensitive California native species currently impacted by climate change, habitat fragmentation, and vehicle collisions. At a similar overcrossing constructed in Arizona, bighorn sheep passage rates at the overcrossings increased by 210 percent within four years, and vehicle collisions were drastically reduced. By providing desert bighorn sheep with overcrossings at known movement corridors, vehicle strikes will be reduced, sheep will be able to freely travel across the landscape to access core habitats, and genetic diversity of desert bighorn sheep is expected to improve over time. Furthermore, the directional wildlife fencing will help to decrease the number of vehicle collisions with desert bighorn sheep and other terrestrial wildlife attempting to cross I-15, thus assisting in the long-term recovery and conservation of wildlife across a large portion of the Mojave Desert region. This Project is exclusively a restoration project, and no other Caltrans highway construction or maintenance work will be conducted as part of the Project.

B. Pursuant to Public Resources Code section 21080.56, subdivision (b), the CDFW Director concurs with the Lead Agency that the Project may have incidental public benefits, such as public access and recreation.

   From 2007 to 2020, at least 59 bighorn sheep were killed by vehicles in California, including a young ram that was found on I-15 in February 2020, near the Soda Mountains/Zzyzx Mountain location. Vehicle collisions with wildlife can impact public safety. By providing three wildlife overcrossings and directional wildlife fencing, desert bighorn sheep and other large mammals are not anticipated to cross the roadways at those locations in the future. This will provide incidental public benefits for the traveling public by reducing the risk of wildlife-vehicle collisions, personal injury, and monetary damage to property. The Project is designed to prevent unauthorized recreational use of the overcrossings. Project elements such as large boulders, bollards, or other features may be used to ensure that desert bighorn sheep can use the overcrossings while preventing unauthorized recreational use.

C. Pursuant to Public Resources Code section 21080.56, subdivision (c), the CDFW Director concurs with the Lead Agency that the Project will result in long-term net benefits to climate resiliency, biodiversity, and sensitive species recovery, and includes procedures and ongoing management for the protection of the environment.

Long-term Net Benefits to Climate Resiliency: CDFW's *Restoring California's Wildlife Connectivity 2022* report lists desert bighorn sheep as a target species for top priority connectivity projects and identifies the Cave Mountain, Soda Mountain (Zzyzx Road), and Clark Mountain segment as a top priority for reestablishing connectivity. This Project will assist in conserving ecosystem resilience. By restoring the ability for desert bighorn sheep and other wildlife to cross I-15, the barrier effects of I-15 will be significantly diminished. With implementation of the Project, wildlife will be allowed to move freely to find food and mates, and to escape threats including climate change.

In the near term, the wildlife overcrossings will better aid in the natural movements of desert bighorn sheep. Based on OSU collar data, the three overcrossing locations have either had successful crossings or multiple approaches by radio collared desert bighorn sheep, showing that they will likely cross I-15 if provided adequate access. By reestablishing connectivity, desert bighorn sheep will have a greater accessible range that more closely aligns with their historical habitat and will be able to better defend against short term climate change impacts, such as flooding or extreme drought.

In the long term, as excessive heat, aridification, and drought conditions continue in California, desert bighorn sheep may experience contraction of their historical range because of climate change. Based on data from OSU and CDFW, successful I-15 crossings are infrequent and rarely successful. By creating these overcrossings, desert bighorn sheep will have greater access to core habitats, assisting their adaptation to greater frequency and intensity of future long-term adverse climatological changes.

Long-term Net Benefits to Biodiversity: The Project is designed to benefit biodiversity through the creation of wildlife overcrossings. By creating these wildlife overcrossings, desert bighorn sheep will be able to safely cross I-15, directly benefiting the species at the population level by promoting greater genetic diversity. Furthermore, these overcrossings can be used by other animals crossing I-15. By both providing overcrossings and maintaining or enhancing access to existing undercrossings such as culverts, animals will have greater opportunities to safely cross the interstate, potentially preventing genetic bottlenecks and increasing genetic diversity. The overcrossings themselves will also provide habitat for native plant species. Wildlife expected to use the overcrossings include but are not limited to Mojave fringe-toed lizard (*Uma scoparia*), desert tortoise, and monarch butterfly (*Danaus plexippus*). Birds in the area, such as Bendire's thrasher (*Toxostoma bendirei*), may use the vegetation on the overcrossings as foraging habitat as well.

Long-term Net Benefits to Sensitive Species Recovery: Desert bighorn sheep will be the primary sensitive species benefitting from the Project, with secondary benefits to mountain lion (*Puma concolor*) and other wildlife of conservation concern. The overcrossing locations have been chosen carefully to align with historical records of

desert bighorn sheep migration routes. Past construction and maintenance of I-15, along with increasing vehicle traffic, have significantly reduced opportunities for north-south wildlife movement in the Mojave Desert region. Research from OSU and CDFW have determined that while undercrossings facilitate some limited connectivity for certain species, desert bighorn sheep are unlikely to use them. Implementation of the Project, including the creation and long-term management of overcrossings within the I-15 corridor, is imperative for restoring desert bighorn sheep connectivity. Providing overcrossings will increase native species range and distributions, improve connectivity vital for sustaining ecosystems, and increase ecosystem distributions to areas previously difficult or impossible for desert bighorn sheep to reach. The overcrossing structures are expected to have a minimum anticipated service life of 75 years, providing a long-term benefit for sensitive species recovery.

Procedures for the Protection of the Environment: Avoidance and minimization measures will be implemented to ensure the protection of the environment during Project implementation. These measures will include, but are not limited to: pre-construction plant, nesting bird, and desert tortoise surveys; environmentally sensitive area fencing to protect sensitive plant species in the project impact areas; temporary desert tortoise fencing to exclude desert tortoises from Project impact areas; potential work restriction windows to avoid nesting bird season (between February 1 and August 31); a Worker Environmental Awareness Program to train workers on how to identify and protect sensitive species; and the purchase of mitigation bank credits for any protected species or habitats for which impacts are unavoidable, such as waters of the US. Caltrans will also follow standard Best Management Practice (BMP) measures (2022 or latest version) to ensure no impacts to species.

Caltrans conducted a full habitat suitability assessment for rare plants and desert tortoise on April 10, 2023, and will conduct further suitability assessments and surveys at the three Project locations before construction starts. A habitat suitability assessment and survey report will be prepared to discuss avoidance and minimization measures that will be implemented during project construction to protect identified special-status species and discuss design elements to enhance habitat in the near- and long-term future. Avoidance and minimization measures will include a Worker Environmental Awareness Program, biological monitor, temporary high visibility fencing, temporary desert tortoise fencing, invasive weed control, and other measures.

Ongoing Management for the Protection of the Environment: Caltrans will implement ongoing management of the overcrossings for the protection of the environment. native habitat established on the overcrossings will be monitored and maintained by Caltrans. As with all structures managed by Caltrans, the overcrossings themselves will be periodically inspected by bridge engineers for damage and appropriate preservation work will be conducted to extend their service life. Ongoing management will also include long-term effectiveness monitoring by Caltrans in partnership with CDFW. This work will include installing wildlife cameras and implementing a long-term monitoring plan. Cameras will be installed so that they are built into the overcrossings and are protected to decrease the risk of theft. These cameras will depict species utilizing the overcrossings and aid in determining the success of the restoration efforts

and troubleshooting future actions. Caltrans will also follow standard BMP measures (2022 or latest version) when performing its management activities.

D. Pursuant to Public Resources Code section 21080.56, subdivision (d), the CDFW Director concurs with the Lead Agency that the Project does not include any construction activities, except those solely related to habitat restoration.

   Project work is composed solely of installing, maintaining, and monitoring wildlife overcrossings and directional fencing. The overcrossings have independent utility and are not connected to any existing or future Caltrans project and will only serve to provide suitable wildlife overcrossings and habitat. There will be no other construction or maintenance activities connected to this project other than the long-term inspection and maintenance of the structures themselves in order to extend the life cycle of the overcrossings. All Project work will be directly related to the construction of either the wildlife overcrossings or the wildlife directional fencing.

Scope and Reservation of Concurrence

This Concurrence is based on the proposed Project as described by the Lead Agency Determination and the Request. If there are any subsequent changes to the Project that affect or otherwise change the Lead Agency Determination, the Lead Agency, or any other public agency that proposes to carry out or approve the Project, shall submit a new lead agency determination and request for concurrence from CDFW pursuant to Public Resources Code section 21080.56. If any other public agency proposes to carry out or approve the Project subsequent to the effective date of this Concurrence, this Concurrence shall remain in effect and no separate concurrence from CDFW shall be required so long as the other public agency is carrying out or approving the Project as described by the Lead Agency Determination and the Request.

Other Legal Obligations

The Project shall remain subject to all other applicable federal, state, and local laws and regulations, and this Concurrence shall not weaken or violate any applicable environmental or public health standards. (Pub. Resources Code, § 21080.56, subd. (f).)

CDFW Director's Certification

By:_____ Date: 10/13/2023

Charlton H. Bonham, Director
California Department of Fish and Wildlife