



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Central Region  
1234 East Shaw Avenue  
Fresno, CA 93710  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



October 7, 2024

Katie Drexhage, Senior Environmental Scientist  
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**Subject: Piedras Blancas California Coastal Trail Project (Project)**  
**MITIGATED NEGATIVE DECLARATION (MND)**  
**SCH: 2024090173**

Dear Katie Drexhage:

The California Department of Fish and Wildlife (CDFW) received a MND from California Department of Parks and Recreation (CDPR) for the 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 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

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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.

Katie Drexhage, Senior Environmental Scientist  
California Department of Parks and Recreation  
October 7, 2024  
Page 2

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.

**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).

## **PROJECT DESCRIPTION SUMMARY**

**Proponent:** California Department of Parks and Recreation

**Objective:** The Project would construct the Piedras Blancas segment of the California Coastal Trail. The Project consists of the construction of 4.2 miles of accessible trail including boardwalks, bridges, and compacted gravel surface. The width of the trail will vary between 4 and 5 feet and total approximately 2.5 acres once constructed. The Project would result in approximately 9.5 acres of total disturbance which includes temporary impacts as a result of staging and stockpiling and temporary vegetation disturbance.

**Location:** The Project is located approximately nine miles north of Old San Simeon Village, in Piedras Blancas. The Project would be located west of Highway 1 and would extend north from the elephant seal boardwalk at the Caltrans Vista Point 4 parking lot to the Arroyo de la Cruz parking lot and trailhead.

**Timeframe:** N/A

## **COMMENTS AND RECOMMENDATIONS**

CDFW offers the comments and recommendations below to assist CDPR in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct,

Katie Drexhage, Senior Environmental Scientist  
California Department of Parks and Recreation  
October 7, 2024  
Page 3

indirect, and cumulative impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the CEQA document.

Currently, the MND acknowledges that the Project site is within the geographic range of several special-status animal species and proposes specific mitigation measures to reduce impacts to less than significant. CDFW has concerns about the ability of these measures to reduce impacts to less than significant and avoid unauthorized take for several special-status animal species, including the State species of special concern burrowing owl (*Athene cunicularia*).

### Burrowing owls

A-1-1

The Project site is within the range of burrowing owl (BUOW) and the MND notes that BUOW is present “along the coast during the overwintering season, outside of summer”. As the MND concluded that BUOW only had the potential to winter within the area, no mitigation measures were proposed to mitigate for potential Project-related impacts to the species. CDFW would like to note that while the Project is located within the species winter range, mitigation measures should still be incorporated within the MND to mitigate for potential impacts to the species. As such, CDFW recommends the following:

#### Recommended Mitigation Measure 1: BUOW Surveys

CDFW recommends assessing presence/absence of BUOW by having a qualified biologist conduct surveys following the California Burrowing Owl Consortium’s “Burrowing Owl Survey Protocol and Mitigation Guidelines” (CBOC 1993) and CDFW’s Staff Report on Burrowing Owl Mitigation” (2012 Staff Report; CDFG 2012) the survey season immediately prior to construction. Please note, the 2012 Staff Report specifically incorporates measures and survey considerations for wintering residents.

#### Recommended Mitigation Measure 2: BUOW Consultation

If BUOW are found within the Project site during surveys or at any point during ground disturbance activities, consultation with the CDFW is recommended for guidance on the development of mitigation measures such as take avoidance, minimization, and mitigation.

A-1-2

### Editorial Comments and/or Suggestions

**CNDDDB Positive Submission of Data:** Please note that the California Natural Diversity Database (CNDDDB) is populated by and records voluntary submissions of species detections. As a result, species may be present in locations not depicted in the CNDDDB

Katie Drexhage, Senior Environmental Scientist  
California Department of Parks and Recreation  
October 7, 2024  
Page 4

A-1-2 continued

but where there is suitable habitat and features capable of supporting species. A lack of an occurrence record in the CNDDDB does not mean a species is not present. In order to adequately assess any potential Project-related impacts to biological resources, surveys conducted by a qualified wildlife biologist/botanist during the appropriate survey period(s) and using the appropriate protocol survey methodology are warranted in order to determine whether or not any special-status species are present at or near the Project area.

**Lake and Streambed Alteration:** The MND notes that the Project will impact wetlands within the Project site. Based on a review of aerial imagery, it appears that these features may also be subject to CDFW's regulatory authority pursuant to Fish and Game Code Section 1600 et seq. CDFW would like to note that Project activities that substantially change the bed, bank, and channel of any river, stream, or lake are subject to CDFW's regulatory authority pursuant Fish and Game Code section 1600 et seq. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake (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 and may include those that are highly modified such as canals and retention basins.

CDFW is required to comply with CEQA in the issuance of a Lake or Streambed Alteration Agreement (LSAA); therefore, if the CEQA document approved for the Project does not adequately describe the Project and its impacts to lakes or streams, a subsequent CEQA analysis may be necessary for LSAA issuance. For information on notification requirements, please refer to CDFW's website (<https://wildlife.ca.gov/Conservation/LSA>) or contact CDFW staff in the Central Region Lake and Streambed Alteration Program at (559) 243-4593.

**Nesting birds:** CDFW encourages that Project ground-disturbing activities occur during the bird non-nesting season; however, if ground-disturbing or vegetation-disturbing activities must occur during the nesting season (February 1st through September 15th), 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 Code sections as referenced above.

To evaluate Project-related impacts on nesting birds, CDFW recommends that a qualified biologist conduct a pre-construction survey for active nests no more than 10 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

A-1-3

A-1-4

Katie Drexhage, Senior Environmental Scientist  
California Department of Parks and Recreation  
October 7, 2024  
Page 5

their status. A sufficient area means any area potentially affected, either directly or indirectly, by the Project. In addition to direct impacts (i.e., nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. CDFW recommends that a qualified biologist establish a behavioral baseline of all identified nests. Once Project activities begin, 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 biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined 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 a compelling biological or ecological reason to do so, such as when the Project area would be concealed from a nest site by topography. CDFW recommends that a qualified biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

## ENVIRONMENTAL DATA

A-1-5

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 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>.

## FILING FEES

The Project, as proposed, could 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).

A-1-6

Katie Drexhage, Senior Environmental Scientist  
California Department of Parks and Recreation  
October 7, 2024  
Page 6

## CONCLUSION

CDFW appreciates the opportunity to comment on the MND to assist CDPR in identifying and mitigating Project impacts on biological resources. A Mitigation and Monitoring Program (MMRP) (Attachment 1) is included below to assist CDPR with incorporating the recommended mitigation measures provided above. Questions regarding this letter or further coordination should be directed to Evelyn Barajas-Perez, Environmental Scientist at (805) 503-5738, [evelyn.barajas-perez@wildlife.ca.gov](mailto:evelyn.barajas-perez@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
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Julie A. Vance  
Regional Manager

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Katie Drexhage, Senior Environmental Scientist  
California Department of Parks and Recreation  
October 7, 2024  
Page 7

## **References**

California Burrowing Owl Consortium. 1993. Burrowing owl survey protocol and mitigation guidelines. Pages 171-177 *in* Lincer, J. and K. Steenhof (editors). 1993. The burrowing owl, its biology and management. Raptor Research Report Number 9.

California Department of Fish and Game. 2012. Staff report on burrowing owl mitigation. Sacramento, California, USA.

Katie Drexhage, Senior Environmental Scientist  
California Department of Parks and Recreation  
October 7, 2024  
Page 8

Attachment 1

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

**PROJECT: Piedras Blancas California Coastal Trail Project (Project)  
SCH No.: 2024090173**

| RECOMMENDED MITIGATION MEASURE                                | STATUS/DATE/INITIALS |
|---|----------------------|
| <i>Before Disturbing Soil or Vegetation</i>                   |                      |
| Burrowing Owl (BUOW)  |                      |
| <b>Recommended Mitigation Measure 1:</b><br>BUOW Surveys      |                      |
| <b>Recommended Mitigation Measure 2:</b><br>BUOW consultation |                      |