

**CALIFORNIA COASTAL COMMISSION**

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# W14b

**MEMORANDUM**

**Date:** August 5, 2022

**To:** Commissioners and Interested Persons

**From:** Shana Gray, Deputy Director  
Melissa Kraemer, District Manager  
Amber Leavitt, Transportation Program Analyst

**Subject:** Addendum to Commission Meeting for Wednesday, August 10, 2022  
Item W14b, CDP Application No. 1-22-0446  
(Caltrans Elk Creek Bridge)

The purpose of this addendum is to modify the staff recommendation and related findings of the July 29, 2022 staff report in response primarily to changes requested by the applicant on August 4, 2022. The changes involve Special Conditions 2-D, 3, 13, and 15 and the reasons for each change are discussed below. Essentially, the changes relate to (1) the timing of the proposed stormwater pollution prevention plan submittal and implementation measures; (2) rare plant ESHA buffers, and (3) plan components for the temporary creek diversion. Staff continues to recommend that the Commission, upon completion of the public hearing, approve the coastal development permit with the special conditions and findings included in the staff recommendation of July 29, 2022, as modified by the changes recommended herein.

## I. Changes to the Special Conditions

Bullets below reference page numbers of the July 29, 2022 staff report where changes are made. Text to be deleted is shown in ~~bold double strikethrough~~, and text to be added is shown in **bold double underline** format.

- Page 8: Revise Special Condition 2 as follows:
  2. **Construction Responsibilities Required to Protect Coastal Resources.** The Permittee shall undertake development in compliance with all conditions of CDP 1-22-0446 and with all proposed Avoidance and Minimization Measures (AMMs) and Best Management Practices (BMPs) attached here as Exhibit 5, except as supplemented or modified herein, including, but not limited to, the following:

[...]

- D. **Water Pollution Prevention.** PRIOR TO COMMENCEMENT OF ANY DEVELOPMENT, including major vegetation removal, the Permittee shall ensure all temporary erosion, runoff, and sediment control BMPs are in place in accordance with standard measures, including those proposed in Exhibit 5 as applicable, and PRIOR TO THE COMMENCEMENT OF CONSTRUCTION with any additional BMPs in the final Stormwater Pollution Prevention Plan (SWPPP), required to be prepared and implemented by Special Condition 15.

[...]

Reasons for Change: Special Condition 2-D requires compliance with various best management practices to protect water quality in accordance with the Stormwater Pollution Prevention Plan (SWPPP) that the applicant proposes to develop, which is required to be submitted for the Executive Director's review and approval by Special Condition 15. Special Condition 2-D requires that the water quality protection measures in the final SWPPP be in place prior to the commencement of any development, which would include the removal of major vegetation from the work area several months prior to the commencement of construction activities. However, preparation of the final SWPPP is not needed for, and may not be completed prior to, initial vegetation removal activities planned to be completed in the first phase of the project after permit issuance. Instead, standard water quality protection measures will be implemented during all project phases, including initial vegetation removal activities. Therefore, the suggested change clarifies that standard water quality protection measures shall be in place prior to commencement of any development, including major vegetation removal, and additional water quality protection BMPs required by the final SWPPP shall be in place prior to commencement of construction.

- Pages 10-11: Revise Special Condition 3 as follows:

3. **Protection of Rare Plant ESHA.** All development shall avoid rare plant ESHA by complying with the following measures:
- A. PRIOR TO THE COMMENCEMENT CONSTRUCTION, including removal of herbaceous vegetation or clearing and grubbing work, the Permittee shall conduct updated pre-construction surveys for Humboldt milkvetch (*Astragalus agnicidus*) and North Coast semaphore grass (*Pleuropogon hooverianus*) to confirm absence of both species in the project area. Surveys shall be conducted as close to the start of construction activities as possible, but also in the appropriate season for optimal species-specific detection (i.e., when plants are flowering). Survey methods shall comply with CNPS/CDFW rare plant survey protocols and shall be performed by qualified field botanists.

- B. If surveys identify rare plants<sup>1</sup> in the project area, the plants shall be mapped and flagged for avoidance during construction activities, and no construction activities shall occur within 100 feet of the rare plant, **unless a reduced buffer is requested by the Permittee and approved by the Executive Director in consultation with CDFW on the basis that the reduced buffer is still sufficient to protect the rare plant ESHA from significant impacts.** The locations of any rare plant populations to be avoided shall be clearly identified in the contract documents (plans and specifications). Results of the surveys shall be submitted to the Executive Director prior to the commencement of any development.
- C. If the Permittee determines that it is not possible to avoid impacting rare plants that occur in the project site, the Permittee shall halt construction activities until the Permittee obtains an amendment to this CDP that authorizes modifications to the project, including any necessary mitigation for authorized, unavoidable impacts to rare plant ESHA, unless the Executive Director determines that no such permit amendment is necessary.

Reasons for Change: Compared with wildlife that may be easily disturbed by lights, noise, and human proximity, rare plants in many cases are less sensitive to these types of impacts, and a buffer of less than 100 feet may be sufficient to prevent significant impacts to rare plant ESHA. The suggested change will allow the Executive Director to approve an appropriate reduced buffer in consultation with CDFW on the basis that the buffer will be large enough to prevent impacts that would significantly degrade the adjacent rare plant ESHA, consistent with section 30240(b).

- Page 24: Revise Special Condition 13 as follows:

**13. Temporary Creek Diversion System Plan.** The Permittee shall undertake development in compliance with the proposed measures included in Exhibit 5 to protect coastal resources during the temporary stream diversion activities, as supplemented or modified herein:

- A. NOT LESS THAN 30 DAYS PRIOR TO ANY CREEK DIVERSION OR DEWATERING ACTIVITIES, the Permittee shall submit a Temporary Creek Diversion System Plan for the review and approval of the Executive Director. The plan shall specify in graphic and narrative form, at a minimum:
- (a) the layout and footprint of stream diversion configurations used for each in-water season;
  - (b) BMPs to minimize turbidity increases during installation and removal and to periodically monitor water quality while the diversion is in place;
  - (c) details concerning the quantity, size, and layout of pass-through

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<sup>1</sup> Rare plants are those defined as having a global rarity ranking by NatureServe of G1-G3, as determined by the California Department of Fish and Wildlife, (CDFW) and CNPS, or a rare plant ranking by CNPS and the California Natural Diversity Database, (CNDDB), of 1A, 1B, 2A, 2B, 3 or 4. Also included are plant species listed as threatened or endangered under the Federal or State Endangered Species Acts. Rare habitats have been assigned a ranking of S1 – S3 by CNPS.

culverts or alternative fish passage method in the stream diversion that will be used to achieve permeability sufficient to accommodate fish passage, if feasible; (d) the methods for pumping, storing, and discharging water generated from diversion and dewatering activities, if any; ~~and~~ (e) methods for aquatic species guidance, capture, and relocation; and (f) a schedule for installation and removal of the stream diversion before and after each construction season that a stream diversion is required.

- B. The Permittee shall undertake development in accordance with the approved final Temporary Creek Diversion System Plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission approved amendment to this CDP unless the Executive Director determines that no amendment is legally required.

Reasons for Change: Section E of the July 29, 2022 staff report contains findings to support the proposal that the proposed temporary stream diversion will not substantially alter the stream due to its temporary nature and incorporation of best mitigation measures feasible. The applicant proposes to adhere to a seasonal work window for installation and removal of the stream diversion and to remove the stream diversion in between construction seasons and after completion of construction. The suggested change requires submittal of a schedule for installation and removal of the stream diversion that conforms to this proposal, which will assure that the proposed stream diversion will be temporary and will not substantially alter the stream inconsistent with section 30236.

- Pages 25-26: Revise Special Condition 15 as follows:  
  
15. **Stormwater Pollution Prevention Plan.** NOT LESS THAN 30 DAYS PRIOR TO COMMENCEMENT OF ~~ANY DEVELOPMENT~~CONSTRUCTION, ~~including vegetation removal~~, the Permittee shall submit, for the review and approval of the Executive Director, a Stormwater Pollution Prevention Plan. The plan shall include written confirmation that the plan includes all Proposed measures included in Exhibit 5, as supplemented or modified herein, and complies with all terms and conditions of this CDP.

[...]

Reasons for Change: This change clarifies that the SWPPP is not required to be submitted to the Executive Director for review and approval until 30 days prior to the commencement of construction rather than prior to the commencement of any development, as the final SWPPP is not needed for, and may not be completed prior to, initial vegetation removal activities (though standard water quality protection measures will be implemented during all project phases, including initial vegetation removal activities).

## II. Changes to the Findings

- Page 39-40: Revise Section D (Wetlands) as follows:

Caltrans proposes various standard construction-phase avoidance and minimization measures (AMMs) and best management practices (BMPs) (Exhibit 5) that will be implemented to generally protect wetland habitat and wildlife within these habitats in the project area during dredging and filling activities, including:

[...]

- Preparation of a stormwater pollution prevention plan prior to the commencement of construction; and

[...]

To ensure these measures are implemented, the Commission attaches **Special Condition 2 (Construction Responsibilities)**. The condition requires the permittee to undertake development in compliance with the proposed AMMs and BMPs, except as supplemented or modified by the special conditions of this CDP.

- Pages 69-70: Revise Section G (Environmentally Sensitive Habitat Areas) as follows:

Therefore, the Commission attaches **Special Condition 3 (Protection of Rare Plant ESHA)**, which requires Caltrans to complete updated rare plant surveys prior to commencement of construction (including removal of herbaceous vegetation or clearing and grubbing work), to confirm absence of both milk-vetch and semaphore grass (and other rare plant species) in the project area. Any populations of rare plants that are detected shall be mapped and flagged for avoidance with a 100-foot buffer around the rare plant habitat area. However, compared with wildlife that may be easily disturbed by lights, noise, and human proximity, rare plants in many cases are less sensitive to these types of impacts, and a buffer of less than 100 feet may be adequate to prevent significant impacts to habitat areas that support rare plants. Therefore, Special Condition 3 allows for an appropriate buffer of less than 100 feet to be established around rare plant ESHA if Caltrans requests a reduced buffer and if the Executive Director, in consultation with CDFW, determines the reduced buffer is sufficient to prevent impacts that would significantly degrade the adjacent rare plant ESHA, consistent with section 30240(b).

- Page 54: Revise Section E (Stream Alteration) as follows:

Caltrans proposes to prepare and submit a Temporary Creek Diversion System Plan prior to any stream diversion or dewatering activities, which would include various specifications, including details of the layout and footprint of the stream diversion configurations to be used each construction season, how permeability for fish passage will be maintained, ~~and~~ methods for the relocation of sensitive aquatic species, and a schedule for installation and removal of the diversion before and after each

**construction season that a stream diversion is required**. The stream diversion and measures to minimize impacts to water quality and sensitive fish species is discussed in more detail in Section F (Protection of Marine Resources and Water Quality), below. To ensure the impacts of the temporary work platform, stream diversion, and potential dewatering are temporary and insubstantial as anticipated, the Commission attaches **Special Condition 13** which requires submittal of the Temporary Creek Diversion System Plan for review and approval prior to commencement of construction.

- Page 57: Revise Section F (Protection of Marine Resources and Water Quality) as follows:

Caltrans proposes and **Special Condition 15 (Stormwater Pollution Prevention Plan)** reinforces that a Stormwater Pollution Prevention Plan (SWPPP) be prepared prior to commencement of construction, **rather than prior to commencement of any development, as preparation of the final SWPPP is not needed for and may not be completed prior to initial vegetation removal activities planned to be completed in the first phase of the project after permit issuance (though standard water quality protection measures will be implemented during all project phases, including initial vegetation removal activities)**. The SWPPP shall demonstrate compliance with the proposed water quality protection BMPs listed in Exhibit 5. Special Condition 15 also requires that the SWPPP include: (a) a construction site map identifying the location of all temporary construction-phase BMPs; (b) a narrative description of the BMPs to be implemented; and (c) a schedule for the management of all BMPs.