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# F11a

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Staff: M. Policicchio-SF  
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Hearing Date: 02/09/2024

## STAFF REPORT: REGULAR CALENDAR

**Application No.:** 2-24-0002

**Applicant:** California Department of Technology (CDT)

**Agent:** California Department of Transportation (Caltrans)

**Location:** Within Caltrans State Highways rights-of-way along State Route 1 (PM29.03 to PM46.85), State Route 92 (PM0 to PM5.2), and State Route 35 (PM28.55 to PM28.7) in San Mateo County.

**Project Description:** Install Middle-Mile Broadband Network infrastructure, including high density conduit, fiber optic cables, vaults, and markers along approximately 23 miles of the State Highway System rights-of-way.

**Staff Recommendation:** Approval with Conditions

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## SUMMARY OF STAFF RECOMMENDATION

The State of California intends to build, maintain, and operate an essential statewide Middle-Mile Broadband Network (MMBN) to ensure high-speed internet connectivity to all Californians, especially those that are currently underserved or lack high-speed internet access. Overseen by the California Department of Technology (CDT), the California Department of Transportation (Caltrans) is leading construction of the network, which will be installed alongside state highways throughout California. The primary purpose of the project is to help bridge the “digital divide” by constructing a

state, open-access network to provide reliable and affordable fast internet access to all Californians. ([About MMBN | State of California Middle-Mile Broadband Initiative.](#)) The MMBN will provide broadband internet connectivity, that local governments, local service providers, or local entities can plug into through “last mile” networks. The MMBN will cover approximately 450 miles within the coastal zone touching almost all areas of the state’s coastline. Commission staff, Caltrans staff, and the CDT have worked extensively together to streamline permitting of the MMBN in the coastal zone.

In this CDP application, Caltrans District 4 proposes to install sections of the MMBN along the state highway right-of-way within San Mateo County in the Commission’s North Central Coast district. The project conduit path extends from Half Moon Bay in the south to the Pacifica/Daly City border in the north and includes approximately 18 miles along Highway 1 and 5.2 miles along Highway 92. A very small segment (0.2 miles) will be along Route 35 at the interchange of Highway 1 and Route 35. The MMBN infrastructure will be installed below ground surface along previously disturbed outside shoulders of the roadway, within six feet of paved shoulders, or underneath the roadway itself. Construction of the MMBN includes installation of one to two 2-inch high-density polyethylene conduit, fiber optic cable, pull vaults, splice vaults, and cable markers within the state highways’ system right-of-way. Because the project is proposed in areas of the Commission’s jurisdiction as well as some certified local governments’ jurisdictions, Commission staff worked with CDT and Caltrans to process a consolidated CDP for the entire district. In this case, San Mateo County and the cities of Daly City, Pacifica and Half Moon Bay all agreed to a consolidated CDP, and the Executive Director agreed to process the application under the consolidated CDP process in Coastal Act Section 30601.3.

In order to avoid impacts to ESHA, Caltrans has designed the conduit pathway to avoid potential impacts, including, by 1) locating the MMBN alongside the road in areas outside of ESHA; 2) moving the MMBN from one side of the road to the other; 3) or installing the MMBN under roadway pavement. The MMBN here will primarily be installed using horizontal directional drilling (HDD), which avoids all direct, and with appropriate BMPs included here, all significant indirect ESHA disturbance. **Special Condition 2** requires Caltrans to submit, prior to construction, final construction plans demonstrating no significant disruption to ESHA. **Special Conditions 3 and 7** provide BMPs to ensure protection of ESHA.

**Special Condition 4** requires that traffic impacts, including cumulative impacts, are minimal and do not impact public access, and **Special Condition 2** protects public access pull outs and parking areas from significant disruption or closures.

Staff believes that the MMBN project will provide much needed broadband internet access to underserved communities within the coastal zone. The project, as conditioned, includes avoidance and minimization measures necessary to protect coastal resources. Thus, staff recommends that the **Commission conditionally approve CDP 2-24-0002**. The motion to implement this recommendation can be found on **page 4**.

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## LIST OF EXHIBITS

[Exhibit 1 – Project Area Vicinity Map](#)

[Exhibit 2 – Project Location Map](#)

[Exhibit 3 – Caltrans Project Description](#)

[Exhibit 4 – Caltrans MMBN Design Guidelines](#)

[Exhibit 5 – Caltrans MMBN Coastal Zone Guidelines for Programmatic Permitting](#)

[Exhibit 6 – Coastal MMBN Coastal Resource Assessment-ESA Report](#)

[Exhibit 7 – Excerpt Project Plans](#)

## I. Motion and Resolution

Staff recommends that the Commission, after public hearing, **approve** a CDP with conditions for the proposed development. To implement this recommendation, staff recommends a **YES** vote on the following motion. Passage of this motion will result in approval of the CDP as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

**Motion:** *I move that the Commission **approve** Coastal Development Permit Number 2-24-0002 pursuant to the staff recommendation.*

**Resolution to Approve CDP:** *The Commission hereby approves Coastal Development Permit Number 2-24-0002 and adopts the findings set forth below on grounds that the development, as conditioned, will be in conformity with the Chapter 3 policies of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.*

## II. Standard Conditions

This permit is granted subject to the following standard conditions:

- 1. Notice of Receipt and Acknowledgment.** The permit is not valid, and development shall not commence, until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

### III. Special Conditions

This permit is granted subject to the following special conditions:

1. **Approved Project.** This CDP authorizes the Permittee (CDT) and its agent (Caltrans) to undertake the following development subject to the terms and conditions of this CDP:
  - A. The installation of MMBN network infrastructure including broadband conduit, fiber-optic cable, pull vaults, and splice vaults, in the following segment locations within San Mateo County, as generally depicted in [Exhibit 2](#):
    1. Segment 1Y960 - Highway 1 from PM 29.034 to PM 46.72
    2. Segment 1Y930 - Highway 92 PM 0.0 to PM 5.2
    3. Segment 1Y960 - Highway 35 in PM 28.55 to PM 28.7
  - B. All development shall be substantially consistent with the Final CDP Application and final construction plans, except as otherwise modified by this CDP's terms and conditions.
2. **Final Segment Construction Plans.** NOT LESS THAN 30 DAYS PRIOR TO COMMENCEMENT OF CONSTRUCTION of any segment identified in Special Condition 1.A above, the Permittee shall submit for the review and written approval of the Executive Director, "Final Segment Construction Plans" in a full hard copy and electronic set for each project segment. The Final Segment Construction Plans shall be in substantial conformance to the Final CDP Application, except as otherwise modified by this CDP's terms and conditions. The Final Segment Construction Plans, shall, at a minimum, include and provide for the following:
  - A. **Construction Areas.** Final specification, including in a map or plan, of all construction areas, all final staging areas, and all construction access corridors in site plan view. Construction is prohibited outside of the defined construction, staging, and storage areas. The final construction plans shall demonstrate that no project development work will occur within ESHA. In the event the plans do show that development will occur in ESHA, the applicant shall submit an amendment application to this CDP prior to commencement of any development work in that segment.
  - B. **Staging.** All such areas within which construction activities or staging are to take place shall be minimized in size to the maximum extent feasible in order to have the least impact on coastal resources. Construction areas shall be sited and designed to minimize impacts to public parking and public views. No public access parking areas or pullouts shall be completely blocked, outside of

temporary events (4 days or less) when no other feasible alternative is present and when authorized by the Executive Director.

- C. **Visual Elements.** Final specification of all visual elements of the project including design, colors, and other aesthetic treatments of any bridge crossings shall be designed to be subordinate to the natural setting through measures such as matching colors with existing infrastructure, the use of colors that blend in hue and brightness with the surroundings, and landscaping.
- D. **Construction Methods.** The Final Segment Construction Plans shall specify all construction methods to be used (trenching, micro-trenching, HDD, etc.), and protocol to keep the construction areas separated from public recreational use areas, including the public pullout areas (e.g., using unobtrusive fencing or equivalent measures to delineate construction areas), all of which shall be clearly identified on the construction site map and described in a narrative description.
- E. **Construction Timing.** The Final Segment Construction Plans shall provide an updated estimated construction timetable for each segment consistent with **the terms and conditions of this CDP.**
- F. **Future Multimodal Improvements.** The Final Segment Construction Plans shall reflect coordination with San Mateo County and avoid, to the maximum extent feasible, causing disruptions or impediments to future county multimodal projects described in current county plans. The Executive Director shall review any proposed changes resulting from coordination with San Mateo County to ensure conformance with this CDP and determine whether an amendment to this CDP is required. If the Executive Director determines the changes do legally require a CDP amendment, the Permittee shall submit an amendment application to authorize any changes to the proposed plans.
- G. **Modifications.** The Permittee shall undertake development in accordance with the approved Final Segment Construction Plans. The Executive Director may approve minor adjustments to these plans if the Executive Director determines that the adjustments are 1) de minimus in nature and scope, 2) reasonable and necessary, 3) do not adversely impact coastal resources, and 4) do not legally require an amendment to this CDP.

**3. Construction Responsibilities Required to Protect Coastal Resources.** The Permittee shall undertake development in compliance with all conditions of this CDP and with all proposed Avoidance and Minimization Measures (AMMs) and Best Management Practices (BMPs), except as supplemented or modified herein:

- A. **Construction Timing.** All work that has the potential to directly (either within or directly adjacent to surface waters) impact surface waters shall take place between June 15 and October 15 in any given year, when the surface water within drainages is likely to be dry or at seasonal minimum. Soil disturbing work shall be minimized to the extent feasible during the rainy season (November 1 to March 1), unless otherwise approved in writing by the Executive Director as having no substantial impacts to coastal resources because of timing.

- B. Environmental Awareness Training.** PRIOR TO COMMENCEMENT OF ANY DEVELOPMENT, including major vegetation removal, a qualified biologist shall provide a pre-construction meeting with all construction personnel (contractors and subcontractors), consisting of a briefing on environmental permit conditions and requirements relative to each stage of the proposed project, including but not limited to work windows, construction site management within the project area, locations of environmentally sensitive areas, and how to identify and report sensitive species within the project area. This shall be repeated each season of construction and, if there is worker turnover within the construction season, each new worker shall be advised on best practices. This information shall also be available at the job site to ensure the importance of these measures is recognized.
- C. Flagging of Biologically Sensitive Areas.** The boundaries of ESHA within and adjacent to the project area shall be demarcated, and the demarcations shall be inspected regularly throughout construction to ensure that they are visible for construction personnel. Any fencing that is used shall be properly installed. If any fencing is removed, damaged, or otherwise compromised during the construction period, construction activities shall cease until the fencing is repaired or replaced.
- D. Water Pollution Prevention.** The Permittee shall ensure all temporary erosion, runoff, and sediment control BMPs are in place in accordance with the final Stormwater Pollution Prevention Plan (SWPPP) required by **Special Condition 6** below.
- E. Spill Prevention.** Fuels, lubricants, solvents, and other hazardous materials shall not be allowed to enter coastal waters, wetlands, or other sensitive habitats. Fueling and maintenance of construction equipment and vehicles shall be conducted off-site, if feasible. Any fueling and maintenance of mobile equipment conducted on-site shall take place at a designated area located at least 50 feet from coastal waters and sensitive habitat. The fueling and maintenance area shall be designed to fully contain any spills of fuel, oil, or other contaminants. Equipment that cannot be feasibly relocated to a designated fueling and maintenance area (such as cranes) may be fueled and maintained in other areas of the site, provided that procedures are implemented to fully contain any potential spills. Hazardous materials management equipment, including a spill kit shall be available immediately on-hand at the project site, and a registered first-response, professional hazardous materials cleanup/remediation service shall be on call. Any accidental spill shall be rapidly contained and cleaned up.
- F. Invasive Species Prevention.** All construction equipment shall be cleaned prior to entering the work site consistent with California Department of Fish and Wildlife (CDFW) protocols to minimize the potential for the transport of non-native vegetation seeds and plant material or invasive species. Rock, sand, or any material used during construction shall originate from local sources to avoid the inadvertent introduction of non-native plant species to surrounding environmentally sensitive areas. To prevent the spread of invasive plant species in disturbed soil after construction, all disturbed areas shall be seeded with native herbaceous species and straw, straw bales, seed, mulch, or other material used

for erosion control or landscaping shall be free of noxious weed seed and propagules.

- G. **Trash/Debris.** During construction, all trash and debris shall be properly contained, removed from the work site, and disposed of on a regular basis to avoid contamination of habitat during construction activities. Any debris inadvertently discharged into coastal waters or surrounding habitats shall be recovered immediately and disposed of consistent with the requirements of this CDP. All construction debris shall be disposed of in an upland location outside of the coastal zone or at another disposal facility approved by the Executive Director or Commission, as appropriate.
- H. **Plastic Netting Prohibition.** To minimize wildlife entanglement and plastic debris pollution, the use of temporary rolled erosion and sediment control products with plastic netting (such as polypropylene, nylon, polyethylene, polyester, or other synthetic fibers used in fiber rolls, erosion control blankets, and mulch control netting) is prohibited. Any erosion-control associated netting shall be made of natural fibers and constructed in a loose-weave design with movable joints between the horizontal and vertical twines.
- I. **Vegetation Removal.** Vegetation cutting and removal activities shall be done with the use of hand tools (including chainsaws) to the maximum extent feasible. To minimize the opportunity of spreading tree pathogens, all pine trees that will be cut down, and any trimmed branches or green woody material, shall be chipped to a size equal to or less than 6-inches in diameter and left on-site.
- J. **Soil Protection.** To the extent feasible, vegetation within proposed access roads shall be cut back close to the ground with roots left undisturbed. Soils within temporarily disturbed areas shall be protected from compaction and tilling of native soils shall be avoided to the extent feasible. Any soil protection materials, barriers, or any additional road base shall be completely removed upon completion of construction. All areas of fill shall be amended with either locally sourced and as weed-free as feasible topsoil or with compost, to create conditions appropriate for planting and revegetation. Where feasible, existing topsoil shall be removed, stockpiled, and replaced with new fill. Fill slopes may also be amended by incorporating compost into the top layer. Topsoil shall not be stockpiled or redistributed from soils where invasive plant species are abundant.
- K. **Revegetation.** Any disturbed areas shall be appropriately stabilized and revegetated following construction utilizing only regionally appropriate or locally grown or collected native plant seeds and shall not include any species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or the State of California.
- L. **Night Lighting.** The use of artificial lighting shall be of short duration and lighting shall be directed away from environmentally sensitive habitat areas, shielded and pointed downward, and focused specifically on the portion of the project area actively under construction to reduce potential disturbance to sensitive species.



M. **Protection of Wildlife.** To prevent the inadvertent entrapment of any special status wildlife, all excavated, steep-walled holes or trenches more than one foot deep shall be covered at the close of each working day by plywood or similar materials or, if that is infeasible, one or more escape ramps constructed of earthen fill or wooden planks shall be installed.

N. **Nesting Bird Protection.** Prior to commencement of any activity that may impact potential bird nesting vegetation, a qualified biologist shall conduct pre-construction surveys for nesting birds and submit the results of all surveys. If vegetation removal is to take place during the nesting/breeding season, buffers of at least 300 feet from active nests and 500 feet from any active raptor nests shall be maintained until the young have fledged and no second nesting attempts have been observed.

4. **Final Transportation Management Plan.** NOT LESS THAN 30 DAYS PRIOR TO COMMENCEMENT OF CONSTRUCTION of any segment identified in Special Condition 1.A above, the Permittee shall submit for the review and written approval of the Executive Director, a final Transportation Management Plan (TMP), which shall limit lane closures to the maximum extent feasible and be in substantial conformance with such limitations proposed in the application, including that lane closure will only occur if there is no impact to traffic causing delays over 15 minutes. The TMP shall also consider the cumulative impacts of multiple ongoing broadband construction projects in the area, including an analysis of how close other MMBN projects are and how those traffic delays may interact with traffic impacts. Lane closures will not be allowed during large community events (Mavericks, Tribal Pow Wows, Half Moon Bay Pumpkin Festival, etc.), weekends from Memorial Day to Labor Day or on holidays, unless a demonstration is made to the Executive Director that no significant impacts are anticipated. All one-way traffic lane closures shall provide for full and continuous access for pedestrians and cyclists through the work corridor. The Transportation Management Plan shall also provide for emergency services during any one-way traffic stops. Updated versions of the Transportation Management Plan shall be provided after any substantial changes.

5. **Stormwater Pollution Prevention Plan.** NOT LESS THAN 30 DAYS PRIOR TO COMMENCEMENT OF CONSTRUCTION of any segment identified in Special Condition 1.A above, the Permittee shall submit for the review and written approval of the Executive Director, a Stormwater Pollution Prevention Plan. The plan shall include written confirmation that the plan complies with all terms and conditions of this CDP.

A. The plan shall include, at a minimum, the following required components:

- 1) A construction site map delineating the construction site and the location of all temporary construction-phase BMPs (such as silt fences, fiber rolls, straw wattle dikes, compost berms, and inlet protection), staging and stockpiling areas, vehicle and equipment maintenance and fueling areas;

- 2) A description of the BMPs that will be implemented to minimize erosion and sedimentation, control runoff, and minimize the discharge of other pollutants as a result of construction activities;
  - 3) A description of how accumulated stormwater, groundwater, and surface water from excavations, temporary containment facilities, and dewatering operations, if any, would be handled and disposed of in a way that minimizes erosion and water quality impacts; and
  - 4) A schedule for the management of all construction-phase BMPs (including installation; training for construction personnel; and ongoing operation, inspection, maintenance, and monitoring and reporting).
- B. The Permittee shall undertake development in accordance with the approved final Stormwater Pollution Prevention 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.
- 6. Protection of Archaeological Resources.** The Permittee shall undertake development in compliance with the proposed AMMs included in [Exhibit 3](#) (Project Summary) to protect archaeological resources, as supplemented or modified herein:
- A. Should any cultural resources be encountered during project activities, the Permittee shall cease all project activities that have the potential to uncover or otherwise disturb cultural deposits, and an “exclusion zone” where unauthorized equipment and personnel are not permitted shall be established (e.g., taped off) in an area not less than a 60-foot-wide buffer around the discovery. The Permittee shall immediately notify the representatives of all potentially relevant tribes. Construction within the exclusion zone shall not recommence except as provided in subsection (B) hereof. Construction may continue outside of the exclusion zone area.
  - B. If the Permittee seeks to recommence project activities within the sensitive area following discovery of cultural resources, the Permittee, in consultation with relevant tribes, shall submit written documentation of any proposed measures or changes to construction activities to address the discovery. The Executive Director shall review the proposed changes and/or additional measures for conformance with this CDP and with the Coastal Act. Implementation of the changes or additional measures and recommencement of construction in the sensitive area shall not occur until the Executive Director provides written notice that no amendment to this CDP is legally required, or the Commission approves an amendment to this CDP.
- 7. Horizontal Directional Drilling Contingency Plan.** The Prior to commencement of construction, a Horizontal Directional Drilling (HDD) Plan will be submitted to the Executive Director for review and approval detailing measures for prevention of a

frac-out as well as containment, cleanup, and disposal in the event of any accidentally released drilling fluids or drilling mud during construction.

- 8. Other Agency Approvals.** PRIOR TO COMMENCEMENT OF CONSTRUCTION of any segment identified in Special Condition 1.A above, the Permittee shall submit to the Executive Director written evidence that all necessary permits, permissions, approvals, or authorizations for the approved project have been granted by all other applicable agencies, including at a minimum the California Department of Fish and Wildlife (CDFW), United States Fish and Wildlife Service, the Regional Water Quality Control Board (RWQCB), and the U.S. Army Corps of Engineers (USACE) or evidence that no such authorizations are required from each of these entities. The Permittee shall inform the Executive Director of any changes to the project required by any other authorizations. Any such changes shall not be incorporated into the project until the Permittee obtains an amendment to this CDP, unless the Executive Director determines that no amendment is legally required.
- 9. Authority to Implement Conditions of Approval.** PRIOR TO ISSUANCE OF CDP 2-24-0002, the Applicant shall submit for the review and approval of the Executive Director evidence that clearly demonstrates the legal right, interest, or entitlement to carry out the conditions of approval of CDP 2-24-0002, including but not limited to evidence the Applicant has acquired all necessary right-of-way and/or temporary construction easement(s) for properties on which the proposed development would be located.
- 10. Assumption of Risk, Waiver of Liability, and Indemnity Agreement.** By acceptance of this permit, the Permittee acknowledges and agrees (A) that the site may be subject to hazards from tsunamis, storms, flooding, erosion, earth movement, and other natural hazards, which may worsen with climate change and sea level rise; (B) to assume the risks to the Permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (C) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (D) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- 11. Liability for Costs and Attorneys' Fees.** By acceptance of this permit, the Applicant/Permittee agrees to reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys' fees (including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorneys' fees that the Coastal Commission may be required by a court to pay) that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the Applicant/Permittee against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance

of this CDP. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.

#### IV. Findings and Declarations:

##### A. Project Description, Background, and Location

The California Middle Mile Broadband Network (MMBN) project intends to construct a statewide open access broadband network that will provide increased internet connectivity to millions of Californians.

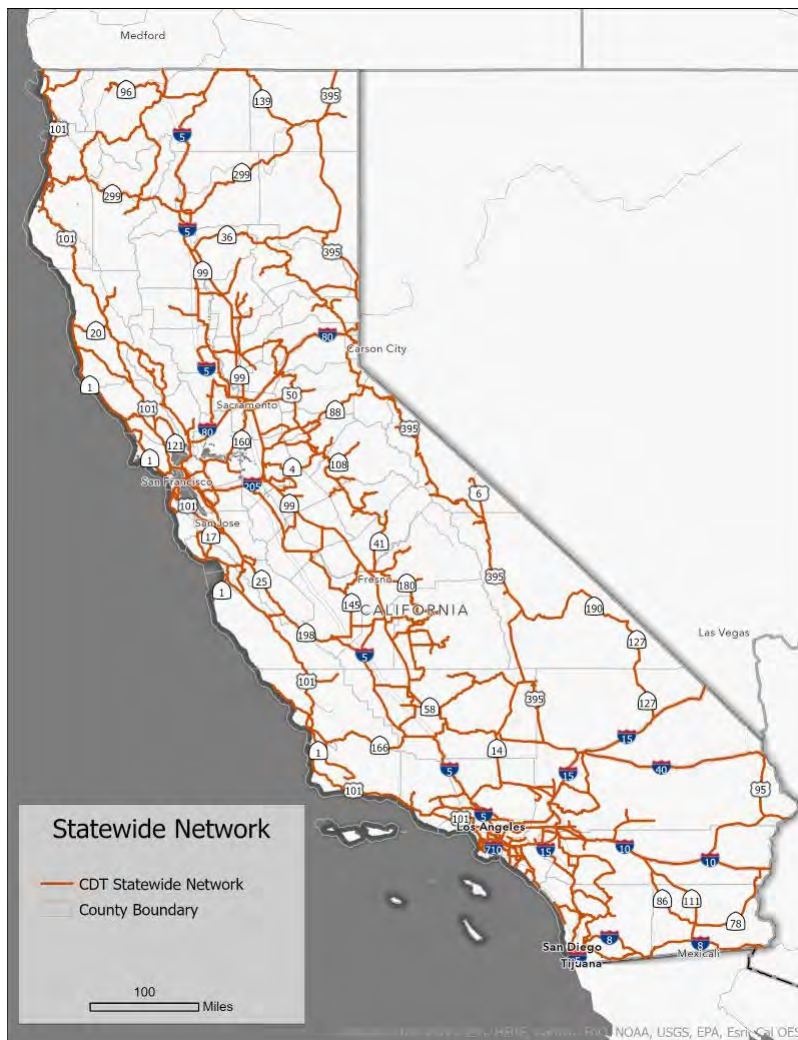


Figure 01: State MMBN Map

Many Californians currently lack access to high-speed internet. The MMBN will provide the virtual backbone for an open access broadband internet network, providing long needed high speed internet access to many rural, low-income, or underserved communities. The planned MMBN, which will be the nation's largest, will cover the entire state to help bring reliable, high-speed internet access to millions of Californians.

The proposed project would help reduce inequities by increasing access to more reliable, faster, and affordable high-speed internet service. Constructing high-speed broadband infrastructure throughout the state is key to achieving digital equity for all of Californians. Senate Bill (SB) 156, supported by Executive Order (EO) N-73-20, directs CDT to oversee and manage the development, implementation, and operation of the proposed MMBN project; however, the bill also requires all State agencies to work in cooperation to expedite delivery and permitting. Per the Interagency Agreement between Caltrans and CDT, Caltrans proposes to install high density fiber optic conduit, cable, underground vaults, and cable markers as part of the statewide MMBN project. This project is part of the statewide commitment to supporting the MMBN by delivering 10,000 miles of broadband infrastructure in California within the State Highway System right-of-way.

Approximately 450 miles of the MMBN will be constructed within the Coastal Zone. Caltrans District 1 (Del Norte, Humboldt and Mendocino counties), District 4 (Marin and Sonoma counties) District 5 (Santa Cruz, Monterey, San Luis Obispo and Santa Barbara counties), District 7 (Ventura and Los Angeles counties), District 11 (San Diego County) and 12 (Los Angeles and Orange counties) will all be constructing segments of the MMBN infrastructure within the coastal zone. Some of the MMBN has already been authorized through small waivers or exemptions, and Commission staff expect to receive CDP applications for the remaining sections of the project throughout the year. The length of conduit pathway varies from district to district, however, all state and local agencies are working in cooperation to expedite delivery and permitting for each district. Caltrans and Caltrans contractors are responsible for the installation of the infrastructure within each district and will follow the design guidelines included in [Exhibit 4](#).

Under SB 156, all projects must break ground by December 2024 and be completed by December 2026. Construction of the MMBN is currently underway in numerous parts of the state outside the coastal zone. Construction within the coastal zone may commence as early as Spring 2024 in some districts and will continue throughout 2024. The most up to date statewide MMBN map for the proposed project can be found on CDT's website ([Statewide Middle-Mile Network Map | State of California Middle-Mile Broadband Initiative \(arcgis.com\)](#)).

This project is part of the Caltrans District 4 network ([Exhibit 1](#)). In this case, working with Caltrans and CDT staff, Commission staff prioritized the San Mateo County area while Caltrans is still finalizing final details of Sonoma and Marin counties. Therefore, this CDP only applies to the MMBN in San Mateo County, including the incorporated cities of Half Moon Bay and Pacifica. This project covers approximately 23 miles, mostly along Highway 1, with some additional MMBN on Highway 92 in the Coastal Zone ([Exhibit 2](#)).

#### Project Construction

Caltrans included a project description with their application ([Exhibit 3](#)). Construction plans were guided by the *Middle-Mile Broadband Network Design Guidelines* ([Exhibit](#)

**4).** Caltrans and Coastal Commission staff also worked together to develop the *Middle-Mile Broadband Network Coastal Zone Guidelines For Programmatic Permitting (Exhibit 5)* to guide final design and siting of specific project segments and ensure consistency with the Coastal Act.

As part of the MMBN, Caltrans proposes to install one 2-inch high-density polyethylene (HDPE) conduit with fiber optic cables within roughly 23 linear miles of the State Highway System right-of-way in San Mateo County. The infrastructure will also include pull vaults approximately every 2,400 feet, splice vaults every 12,500 feet, and cable markers. The conduit, cable and vaults will all be installed below ground and would be considered underground utilities.

The project conduit path extends from Half Moon Bay in the south to Pacifica in the north which includes approximately 18 miles along Highway 1 and 5.1 miles along Highway 92. A very small segment (0.1 miles) will be along Route 35 at the interchange of Highway 1 and Route 35. Due to the length of the MMBN project area, the construction footprint is divided into three distinct construction segments, and each may be constructed independently of the other. All segments are part of the proposed Statewide MMBN project.

Highway 1 is a north-south highway which runs along the coast. Although this stretch of Highway 1 in San Mateo County is predominantly urban, it is also quite scenic, with numerous vista points as well as beach access points. Highway 92 is a primary east-west corridor that connects Half Moon Bay and other seaside towns to the City of San Mateo and the metropolitan Bay Area. The highway is a two-lane highway from the City of Half Moon Bay west to Route 35 and runs from agricultural fields in the west through open space in the east. The topographic features, native habitats, and the urban-rural character of this region make the area's coastal resources very special for residents and visitors alike.

Caltrans has developed 95% complete plans for Segment 1Y960 which includes 18 miles along Highway 1 in San Mateo County, attached here in excerpted form in [Exhibit 7](#). Project plans for segment 1Y930 (approximately 5.2 miles within the Coastal Zone) are anticipated to be completed within the next few months and would be similar in design.

Caltrans District 4 intends to mainly use a horizontal directional drilling (HDD) construction method to install the conduit along the highway shoulder within the right-of-way. Active work zones would be located along the rights-of-way within a temporary 20-foot-wide construction corridor that would extend for approximately 800-foot-long segments each workday. Ultimately, approximately 1,104 square feet of permanent ground disturbance would result from the combined total of installed vaults at the ground surface level (each vault would have an approximate 3 feet by 4 feet surface area, at a total of approximately 90 locations along the 23-mile project route within the coastal zone).

#### Fiber Optic Cables and Conduit Installation

The project will consist of installing one or two two-inch HDPE conduit below ground surface within the project limits. The HDPE conduit would have a pressure durability rating of SDR11 (standard dimension ratio) and have smooth inner and outer walls. CDT will provide the HDPE conduit so that the conduit can be Department Furnished Material. Conduit would be installed at a minimum of 24 inches below asphalt paved surfaces and a minimum of 42 inches below unpaved areas. In some locations, at bridge and overpass crossings, the fiber optic conduit would be attached to the existing structure. In these locations, one to three separate rigid two-inch Type 1 conduits can be placed on the bridge, or a two-inch HDPE flexible conduit can be encased in a single steel outer conduit and attached to the bridge or overpass. For bridges with existing utility openings, conduit will be installed within these passages.

For lined culverts and channels, the conduit would be placed at least 12 inches below the feature. For unlined channels or ditches, the conduit would be placed at a minimum of 24 inches below the feature. In some cases, conduit could be attached to culverts with clamps. Installation methods would avoid impacts to the drainage system and be designed to maintain the original line and grade, hydraulic capacity, or original purpose of drainage feature. More details on installation criteria for different structures can be found in the Caltrans MMBN Design Guidelines ([Exhibit 4](#)) or the ESA report ([Exhibit 6](#)).

#### Vaults

Both pull vaults and splice vaults will be installed below ground surface along the MMBN conduit path. Pull vaults which will measure approximately 2.5 feet by 4 feet by 3 feet deep allow for installation of fiber optic cable within the conduit to be “pulled” over long distances. Pull vaults also provide drainage for the conduit system so that freezing water does not damage either conduit or cable. Splice vaults will be slightly bigger at 3x4x4 feet. Both pull vaults and splice vaults will be installed below grade, flush with the existing surface. Each vault would contain approximately 100 feet of excess fiber optic cable to accommodate geological movements, facilitate future repairs, and allow for anticipated last mile connections. Pull vaults would be located approximately every 2,400 feet along the fiber optic conduit path and can be moved in order to avoid impacts to environmentally sensitive areas. Additionally, pull vaults are also required to be installed at the end of structures (e.g., bridges, culverts, etc.) to allow for conduit transitions and in certain situations where the conduit bends to allow for easier installation of fiber optic cable.

Splice vaults perform all the functions of pull vaults but also allow for the splicing of the fiber optic cable segments based on the maximum spool length (approximately 25,000 feet) and serve as demarcation points for MMBN trunk cable. A demarcation point is the physical point at which a local last mile broadband provider can connect to the statewide MMBN. Splice vaults provide access to the network and allow for maintenance. Installation of the splice vaults would occur every 12,000 feet (every 5<sup>th</sup> vault), replacing a pull vault in that location. The location of these vaults can be adjusted up to 500 feet to allow for easier access for local providers to connect to the MMBN. In

some situations, pull vaults will provide a location where a splice is made to allow local access to the fiber backbone.

### Fiber Optic Markers

Fiber optic markers would be installed on existing signage and metallic disk markers would be installed in pavement when feasible.

### Construction Methods

Construction methods for installing fiber optic conduit include open trenching, trenching in pavement, and horizontal directional drilling (HDD). Depending on the terrain and the need to avoid sensitive areas, different construction methods may be utilized; however, HDD will be utilized for the majority of the conduit pathway. A brief description of each construction method is provided below.

Trench method of installation involves digging open trenches 6 to 12-inches wide using traditional trenchers with rock-wheel blades or similar equipment (see figure below). This construction method is most suitable for rural to suburban areas with long and relatively flat terrain with few obstacles. Although this method allows for more controlled installations and better depth control, it may not be practical for locations containing sensitive environmental resources, landscaping, underground utilities, sidewalks, or road crossings. Typically, no more than 1,000 feet of trench would be exposed at any time during construction, and trenches would be filled and compacted each day.

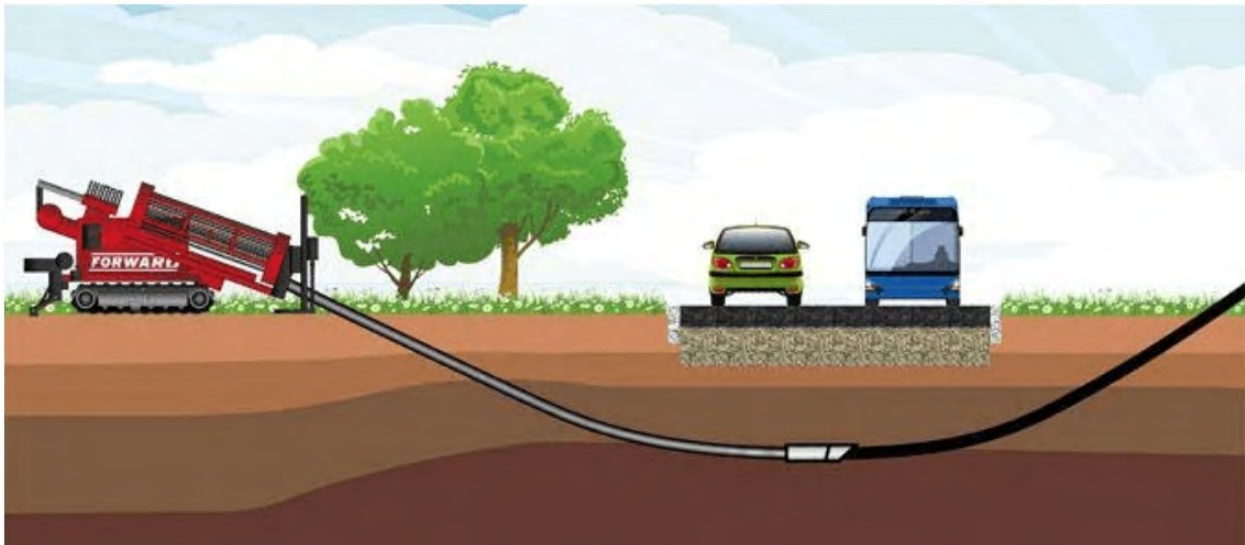


Trench in pavement (micro-trenching) construction can be used on most conventional highways with asphalt travel lanes and asphalt shoulders. This method is not allowed in



concrete areas. For the trench in pavement method, the conduits are placed into a trench that is 3 inches to 6 inches wide and a minimum depth of 12 to 24 inches. Equipment consists of a specially designed asphalt-cutting saw blade connected to a vacuum truck/trailer which removes spoils and dust. Trench compaction is a challenge with this method. A colored cementitious slurry backfill is required as part of the installation. Once trenching is complete, conduit would be placed into the trench and a colored cementitious slurry would be used as backfill. To restore pavement surface, cold planning and placement of hot mix asphalt may be required.

HDD is a trenchless construction method that can be utilized in various locations along the project route to cross under areas where surface disturbance or sensitive resources must be avoided (e.g., streams/rivers, cultural resources, railroad crossings, culverts, etc.). A geotechnical boring may be required prior to selecting the HDD construction method to determine whether or not the construction technique is feasible in the given area. The HDD construction method will require excavation of entry and exit bore pits, approximately 7-foot-wide by 7-foot-long by 4-foot-deep, along the conduit path crossing (see figure below). These entry/exit bore pits may ultimately become locations for pull vaults or splice vaults along the conduit pathway and would be sited outside environmentally sensitive areas. At the entry pit, a steerable drill stem is used to bore a pilot hole through the soil to the exit pit. The depth and direction of the boring is controlled by the equipment operator. Once the drill stem reaches the exit pit, a reamer (i.e., device used to enlarge the pilot hole) would be attached along with the conduit. The drilling machine would then ream an approximately 6 to 12-inch-diameter hole back toward the entry pit while concurrently pulling the conduit. Once the reamer and conduit are fully pulled through the entry pit, both the entry and exit pits would be backfilled and compacted and conduit placement would be complete.



HDD uses a clay/water mixture (drilling mud) that is pumped down the drill stem to lubricate the drill head and pipe, maintain the borehole opening and remove bore cuttings. The drilling mud would be stored in tanks at the drill site when not in use, and

drilling fluid remaining after the bore is complete would be removed from the site and either reused by the drilling contractor or disposed of at an appropriate location.

### Traffic Management

Depending on the conduit path along the highway right-of-way, lane closures may be needed during construction at certain segments of the project. One-way-reversing traffic-control lane would be implemented during lane closure. Traffic control would include flaggers, an automated flagger system (e.g., temporary signal with solar or generator backup), and/or changeable message signs. Full road closure or detours are not proposed. Pedestrians, bicyclists, and emergency service vehicles would be accommodated through the work zone and connection to coastal access would not be impaired. Caltrans has stated that they will avoid significant traffic delays caused by one-way traffic control, and lane closures will not be permitted if traffic delays exceed 15 minutes.

Construction staging areas would be finalized by the contractor but could take place on roadway shoulders, existing pull-out areas and/or at Caltrans owned facilities (e.g., maintenance areas, parking lots) within the project limit. If needed, the contractor may temporarily acquire staging and storage areas through agreements with other entities. Access to project locations would be through existing developed roads, as feasible. Depending on the length of segment, several staging areas may be used to minimize the number of traveled miles to the active construction zone. Work zones would be delineated by cones according to the final traffic management plan.

### Construction Timing

The project footprint is divided into three individual construction segments which range in length from 5.2 to 19 miles. Construction on each segment may be simultaneously and would not necessarily occur in order from north to south. Pursuant to Senate Bill 156, construction must begin by December 2024 and be completed by December 2026. Construction for this project may start as early as April 2024. Each segment would be constructed by Caltrans' contractors as distinct projects and may be phased as needed to complete construction by 2026.

Construction pace would generally be between 500 feet to up to 800 feet per day, depending on construction method and the terrain. Construction for the entire proposed project would occur over approximately 500 workdays with an anticipated start date of September 2024. Construction would be five days per week, mainly during daylight hours. However, night construction may take place for certain segments and is estimated at 50 total night workdays. Multiple crews may be working concurrently along the route to efficiently complete construction by the required deadline.

## **B. Environmental Setting**

The project setting is within San Mateo County, through the cities of Daly City, Pacifica, and Half Moon Bay, and through the unincorporated towns of Montara, Moss Beach, and El Granada along Highways 1, 92, and 35. The project area runs through several different types of development including open space preserves, agricultural fields,

coastal beaches, rural, residential and commercial/urban development. The project footprint is characterized by paved roadway surfaces and tunnels, cut slopes and shoulders with urbanized, non-hydric soils.

Several creeks intersect the proposed project alignment, including Frenchman, San Vicente, Denniston, and San Pedro creeks, as well as various smaller and/or intermittent waterways. Habitat quality along the project area varies, depending on the adjacent land uses. The dominant vegetation adjacent to the highway shoulder includes coastal scrub such as coyote brush with areas of riparian/woodland habitat and small amounts of annual and perennial grasslands. The project area also provides habitat for a variety of special-status species, such as the California red-legged frog, marbled murrelet, western snowy plover, monarch butterfly, steelhead, and salt marsh harvest mouse.

### **C. Standard of Review**

Caltrans District 4 is undertaking this project across its entire district area and crossing multiple governmental jurisdictions. Within the Coastal Zone, the proposed project will occur within areas of the Coastal Commission's retained CDP jurisdiction and within areas of the certified local coastal program (LCP) jurisdictions of San Mateo County and as well as LCP jurisdictions of the cities of Pacifica and Half Moon Bay. Under Coastal Act section 30601.3, when a project requires a CDP from both a local government with a certified LCP and the Commission, the Commission may process a consolidated CDP application for the proposed development when the applicant, the local government and the Commission's Executive Director agree to process the CDP as a consolidated CDP.

In this case, the applicant requested a consolidated CDP and San Mateo County and the cities of Pacifica and Half Moon Bay have all agreed to a consolidated CDP. Each LCP jurisdiction received a letter from Coastal Commission staff confirming that the Commission's Executive Director agreed to process and act upon a consolidated CDP application for this project. Given that the Commission will hold a public hearing which can also be viewed and attended virtually and is accessible to all, public participation is not substantially impaired by CDP review consolidation. Pursuant to section 30601.3, when a CDP is consolidated, the standard of review is the Coastal Act, and the certified LCPs may be used as guidance.

### **D. Other Agency Approvals**

#### **U.S. Army Corps of Engineers (Corps)**

The Corps has regulatory authority over the proposed project under Section 404 of the Clean Water Act, which regulates the discharge of dredge or fill material in waters of the United States and Section 10 of the Rivers and Harbors Act of 1899 for structures or work in or affecting navigable waters of the United States. USACE issued a statewide Regional General Permit 23 for the project which became effective July 13, 2023

#### **State Water Resource Control Board (State Water Board)**

Section 401 of the Clean Water Act requires Caltrans to obtain a water quality certification from the State Water Board for projects involving dredging and/or filling

activities into waters of the state. A Water Quality Order (2023-0068-DWQ) has been issued with the same effective date as the Regional General Permit 23, July 23, 2023. This Order provides Clean Water Act Section 401 Water Quality Certification for projects that require authorization from the Corps under Regional General Permit 23.

The project may require additional permits from the California Department of Fish and Wildlife (CDFW) and the United States Fish and Wildlife Service, among potential others. To ensure that Caltrans obtains all necessary agency approvals, and that these approvals are consistent with the project authorized herein, the Commission attaches **Special Condition 8**, which requires the permittee to submit to the Executive Director evidence of all other agency approvals of the project prior to the commencement of construction activities.

### **E. Property Rights**

Construction work, including staging for the project, will be conducted entirely within existing Caltrans' right-of-way, which is owned by the State of California. Therefore, Caltrans has the legal authority to undertake construction of the project. In this case, CDT is the project applicant, with Caltrans as the agent. Both are state agencies undertaking a project on state land. Caltrans has confirmed in writing that CDT has the legal right to construct, own, and maintain the MMBN in the state right-of-way and does not require an encroachment permit from Caltrans for this project.

### **F. Environmentally Sensitive Habitat Areas**

Section 30240 of the Coastal Act states as follows:

*(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*

*(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas and shall be compatible with the continuance of those habitat and recreation areas.*

The Coastal Act defines environmentally sensitive habitat areas (ESHAs) as areas in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments (section 30107.5).

Additionally, although not the standard of review, San Mateo County certified LCP and the cities of Daly City, Pacifica and Half Moon Bay LCPs have policies regarding ESHA resources that may be considered as guidance. These LCP policies are summarized in the ESA report ([Exhibit 6](#)) and in an ESA Report Appendix excerpted in [Appendix B](#).

Overall, the proposed project would be constructed along disturbed roadside within six feet of the paved roadway shoulder, the paved shoulder of the road, or in some cases,

within roadway pavement itself, and no project development work is expected to occur in ESHA.

Various types of vegetation exist adjacent to the project area that are potentially ESHA; these include coastal scrub (predominately *Baccharis pilularis* Alliance), riparian/woodland (predominately *Salix lasiolepis* Alliance) and Californian Annual & Perennial Grasslands, all of which are environmentally sensitive nesting habitat for rare, threatened, and endangered species of birds, and rare plant habitat areas.

In general, the proposed project has the potential to unintentionally disturb ESHA through the installation of vaults, placement of HDD entry/exit pits in areas immediately adjacent to ESHA, and a frac-out or spill that release sediments, drilling fluids, or other hazardous materials that could impact ESHA. As described above under **Finding A**, the proposed project will have roughly 150 excavation pits (HDD entry/exit pits) located approximately every 800 feet along the conduit path. These pits will vary in size between 16 square feet to 25 square feet, depending on the size of the machinery used. The project will install approximately 90 vaults along the public roadway. Each lid is three feet by four feet and would be installed at ground surface resulting in permanent ground disturbance of roughly 1,100 square feet for the entire project. Disturbance areas include existing paved areas and non-ESHA previously disturbed grassy roadside shoulders. Various types of heavy equipment will be operated during construction and staged either in the travel lane of the roadway or along the shoulder in a "rolling" temporary construction corridor, and no more than two to three pieces of equipment would be operating at once at each work site. Work along a 1-mile corridor is not expected to last more than eight days. Approximately 50 days of night work are anticipated for the proposed project which could potentially impact sensitive wildlife. Because night work would be limited in time (work zone moves approximately 800 feet daily) and location (mainly within the Tom Lantos Tunnel), night lighting would not significantly degrade any ESHA adjacent to the project area.

In partnership with Caltrans and CDT, through a consultant contract, ESA has prepared an initial overview of potential ESHA and wetland resources along the project corridor. The ESA report provides a preliminary but detailed assessment of potential ESHA within the project area ([Exhibit 6](#)). Caltrans has reviewed this data and incorporated it into its design process for initial MMBN design and construction plans. These ESHA have been mapped on preliminary construction plans submitted to staff and vault locations have been sited outside of all mapped ESHA.

Additionally, Caltrans has conducted its own environmental clearance and prepared Biological Resource Evaluation Memos for construction segments along Highway 1 (EA 1Y960) and Highway 92 (EA 1Y930) which included a list of 30 special status species with possible occurrence in or near the project area. Specifically, two species (California red-legged frog (*Rana draytonii*) and CCC steelhead) are known to occur in the project area. Critical habitat for the California red-legged frog exists over the Tom Lantos Tunnel as well as areas along Highway 92 between PM 1.9 and PM 7.5. Frenchman Creek, below the intersection with Highway 1, is a seasonal passage for steelhead. The proposed work at all locations is limited to paved roadways, shoulder, and tunnel

easements. Caltrans determined that the proposed project will have “no effect” on listed species, their habitats, or protected communities, and no adverse modification to any species’ Critical Habitat will occur as a result of project activities. Both evaluation memos note that any work done on grassy lands outside the paved areas will require notification to be sent to Fish and Wildlife Services. Otherwise, Caltrans concluded that no suitable habitat is present for any listed species.

The MMBN infrastructure will be designed to avoid all ESHA through siting of vaults and entry/exit pits outside of ESHA. In some areas vaults may be installed within the paved roadway. Disturbance would mainly occur in non-ESHA grassy roadside areas and limited to entry/exit pits and vault locations. Construction moves along the highway corridor at approximately 800 feet per day, therefore the active work zone is temporary. Potential ESHA have been mapped on construction plans and project infrastructure will be located outside of these identified areas. **Special Condition 2** requires the submittal of final construction plans that confirm no development will occur in ESHA. The project will utilize HDD, a trenchless construction method used to avoid above ground disturbance. Potential impacts resulting from the HDD activities include a small risk of release of drilling fluid (water and bentonite) into the environment. To avoid potential impacts of an inadvertent release, **Special Condition 7** requires the contractor to submit an HDD that includes measures for prevention, containment, cleanup, and disposal in the event of any accidentally released drilling fluids or drilling mud.

In addition to avoiding ESHA impacts, the project must ensure consistency with section 30240(b), which requires that development adjacent to ESHA be sited and designed to prevent impacts which would significantly degrade adjacent ESHA and that the development be compatible with the continuance of the ESHA. In this regard, Caltrans has proposed various BMPs and **Special Condition 3** requires adherence to these BMPs and other various BMPs, including, but not limited to: (1) flagging off the boundaries of work areas and sensitive areas to avoid encroachment into sensitive areas prior to commencement of construction, (2) having a biological monitor onsite during construction to ensure that activities avoid encroachment into ESHA, and (3) conducting a pre-construction environmental awareness training by the biological monitor to inform construction personnel of the nearby sensitive resources and restrictions on encroachment into sensitive areas, and (4) cleaning of construction equipment prior to bringing the equipment to the work site to minimize the transport of non-native vegetation, seeds and plant material. Additionally, to address potential impacts to sensitive bird species within the project area, Caltrans proposes that any vegetation removal or trimming taking place between February 1 and September 30 will require a Caltrans biologist to conduct a nesting bird survey within 72 hours prior to construction. **Special Condition 3.N** requires a buffer of at least 300 feet from active nests (500 for active raptor nests) to be maintained if active nests are found. To protect wildlife from possible entrapment, **Special Condition 3.M** required trenches more than one foot deep shall be covered at the close of each working day by plywood or similar materials. To minimize the potential impacts to sensitive species within the project area from artificial lighting during the proposed 50 days of nightwork, **Special Condition 3.L** requires that night lighting be directed downward and away from any adjacent sensitive areas.

Erosion control measures would be applied to all disturbed soil areas, including entry and exit pits and vault locations. To further protect coastal resources, **Special Condition 3.K**, requires that any disturbed areas be appropriately stabilized and revegetated following construction with regionally appropriate or locally grown or collected native plant seeds that do not include any species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or the State of California. **Special Condition 5** requires the submittal and implementation of a Stormwater Pollution Prevention Plan and that all work comply with that plan, including with some expansions as described therein.

## Conclusion

The Commission finds that with the various measures proposed by the applicant and the required special conditions discussed above, the project will be sited and designed to prevent impacts that would significantly degrade environmentally sensitive habitat areas and will be compatible with the continuance of those habitat areas, consistent with Coastal Act section 30240.

## G. Public Access

Coastal Act section 30210 states:

*In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

Coastal Act section 30211 states:

*Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

Coastal Act section 30212(a) states, in part:

*Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely affected.*

Coastal Act section 30213 states, in part:

*Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided.*

Coastal Act section 30214 states in part:

*(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public*

*access depending on the facts and circumstances in each case including, but not limited to, the following:*

- (1) Topographic and geologic site characteristics.*
- (2) The capacity of the site to sustain use and at what level of intensity.*
- (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.*
- (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.*

Additionally, although not the standard of review, the certified LCP policies regarding recreation and public services for San Mateo County and the cities of Pacifica and Half Moon Bay may be considered as guidance. These LCP policies are summarized in the ESA report ([Exhibit 6](#)) and in an ESA Report Appendix excerpted in [Appendix B](#).

Overall, the MMBN project would be installed on the east side of the roadway and does not involve the closure of any public access sites or trails or have any permanent impacts to public access.

#### Temporary Traffic Impacts

The proposed project could result in temporary public access impacts during installation of the MMBN by delaying travel along the coast within the active work zone. The affected roads span from a conventional freeway at the northmost segment to a two-lane conventional highway with four-foot to six-foot shoulders. Parts of Highway 1 in the northern segment of San Mateo County are urban and congested. More urban areas would experience greater traffic impacts from possible lane closures. Although roads will remain open, they may be subject at times to one-way reverse traffic control through the construction areas that have smaller shoulders and a tight right-of-way (less than six feet wide). Sections of the highway that have wider shoulders with disturbed right-of-ways may be able to accommodate a drill rig without the need for a full lane closure. The duration of construction for the combined project segments (23 miles) will be approximately 500 workdays, with progress of roughly 500 hundred to 1,000 feet per day depending on site terrain and construction method utilized. Construction operations will be performed five days per week up to ten hours per day. In general, the active work zone will be contained within an approximate 1,000-foot-long construction zone that moves along the project corridor daily. On average, installation within a one-mile corridor can last up to eight days. This temporary construction corridor may result in some localized traffic delays.

Caltrans has stated that substantial traffic back-ups will be avoided and one-way lane closure will only occur when traffic delays do not exceed 15 minutes. **Special Condition 4** requires that a Traffic Management Plan (TMP) be submitted for the Executive Director's review and approval prior to construction. Under the condition, the



TMP will require avoidance of substantial traffic delays, and that lane closures will not be allowed during weekends from Memorial Day to Labor Day or on holidays, as well as during significant area community events, unless a demonstration is made to the Executive Director that no significant traffic impacts are anticipated. The condition also requires that emergency vehicles would continue to be accommodated during one-way controlled traffic, and access for cyclists and pedestrians be maintained. Given the extensive and potentially overlapping construction work, cumulative impacts from construction are possible. **Special Condition 4** therefore also requires Caltrans to consider the cumulative impacts of overlapping, nearby construction zone, and incorporate those delays into the development of the TMP.

### Construction and Staging

Construction is not anticipated to result in any closures to public access areas. Staging for each construction segment will take place along the paved roadway shoulder and paved pullouts within the daily active construction corridor. The ESA report documents known public access locations along Highway 1 ([Exhibit 6](#)). Project construction will not require closure of any parking lots but may require usage of pullouts for staging purposes during construction activities along the active construction corridor. Caltrans will avoid staging in coastal access serving areas when feasible or avoid substantially impacting such areas by limiting the amount of construction equipment needed. As proposed by Caltrans and as required under **Special Condition 2.A**, no coastal access parking areas will be fully closed or significantly impacted. Coastal access will be maintained along the construction corridor for the duration of the project.

The HDD construction method will be utilized for a majority of the BBM installation with San Mateo County, aboveground disturbance would be minimal, thus avoiding disruption at public access locations that intersect the highway. Because the project would move along the linear construction corridor daily as it is being constructed, staging within the active work zone at roadway shoulders and pull-outs would be short-term. Active construction along a half-mile segment may last up to four days and would be restricted to the roadway shoulder and disturbed right-of-way. The project would minimize impacts to parking at road pull-outs to the greatest extent feasible, and spaces at nearby roadway shoulder, would be maintained. Final construction plans indicating exact locations of staging areas that limit impacts to coastal access will be required through **Special Condition 2.B**. These plans will be reviewed to ensure consistency with this CDP, including that there are no substantial closures to public access recreational or parking areas through staging or construction activities.

Overall, the project may have temporary impacts to public access through traffic delays however, the use of HDD construction method, careful siting staging areas and the conduit pathway on the eastside of the roadway, as well as timing of construction, will help avoid or minimize these impacts. Therefore, the Commission finds that the proposed project, as conditioned, will not have a significant adverse effect on public access and is consistent with the Coastal Act's public access and recreation provisions.

## **H. Coastal Hazards**

Section 30253 of the Coastal Act states, in applicable part, as follows:

*New development shall do all of the following:*

*(a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*

*(b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. ...*

Section 30270 of the Coastal Act states as follows:

*The commission shall take into account the effects of sea level rise in coastal resources planning and management policies and activities in order to identify, assess, and, to the extent feasible, avoid and mitigate the adverse effects of sea level rise.*

In addition, Coastal Act section 30001.5 states, in applicable part, as follows:

*The Legislature further finds and declares that the basic goals of the state for the coastal zone are to:*

*...*

*(f) Anticipate, assess, plan for, and, to the extent feasible, avoid, minimize, and mitigate the adverse environmental and economic effects of sea level rise.*

Additionally, although not the standard of review, San Mateo County and the cities of Pacifica and Half Moon Bay certified LCPs have policies regarding hazards that may be considered as guidance. These LCP policies are summarized in the ESA report ([Exhibit 6](#)) and in an ESA Report Appendix excerpted in [Appendix B](#).

The proposed project is located in an area subject to seismic hazards, tsunami inundation, and flooding, which is expected to worsen with projected sea-level rise (SLR). Caltrans states, and the ESA consulting report gives, an estimated design life for the MMBN fiber optic cable of 30 to 50 years-years. Given the pace of change in digital technology, the MMBN likely will need to be replaced sooner than 50 years.

In general, the project is installing a 2-inch high-density conduit with cable below ground surface along an existing highway. The conduit and cable do not contribute to erosion or geological instability of the highway. Although the coastal highway itself, by its nature, is subject to geological instability, erosion, and flooding risks, the addition of a small conduit would not increase those risks and will not by itself require constructed protective devices.

### Seismic and Tsunami Hazards

The project is situated on the coast of California and is therefore located in a seismically active region. Highway 1 traverses an active fault zone in Pacifica. Design and siting of the infrastructure was done so to withstand earthquakes and tsunami hazards by placing the majority of the project elements below ground. The fiber optic conduit and cables would be installed with enough slack to accommodate pulls and bends on the line which minimizes damage from earthquakes. Additionally, per the Caltrans Design Guidelines, all broadband installations on bridges shall be designed to accommodate thermal and/or seismic movements at bridge joints located at abutments, bents and hinges ([Exhibit 4](#)). The project elements, including fiber optic conduit, cables, and vaults do not contribute to increased geological instability of the highway.

### Flooding Hazards

The majority of the project infrastructure will be located underground, therefore structural damage from wave uprush is not anticipated. The proposed project crosses several mapped flood zones within San Mateo County. Highway 1 crosses 100-year flood zones at San Pedro, San Vicente, Denniston and Frenchman creeks which may experience creek flooding during 100-year storm events. Hwy 92 crosses the 100-year zone at Pilarcitos Creek. Additionally, GIS mapping provided by ESA showed flood zone crossings along Highway 1 at Point Montara, north of 16<sup>th</sup> Street and at Montara State Beach, just north of 1<sup>st</sup> Street on. The fiber optic conduit is designed to accommodate a wet environment and be resistant to occasional flooding, were that to occur. Additionally, vaults are also designed to act as drainage points along the conduit path and can withstand groundwater and saltwater intrusion were it to occur. Drain rock is placed at the bottom of each vault to allow for drainage of any accumulated water.

### Coastal Bluff Erosion

The MMBN is sited along the highway right-of-way and coastal erosion could be a concern along the bluffs in Pacifica and Montara. The proposed project does not include any drainage improvements or grading of slopes that could increase erosion. Because the conduit path will be sited below ground mostly along the east side of the roadway, including specifically the bluff areas along Pacifica and Montara, the effects of potential erosion will be limited.

The placement of conduit will intersect several highway culverts. In these cases, Caltrans will place conduit either below or above the culvert to not interfere with drainage or cause erosion impacts. HDD construction method would be utilized to install conduit under culverts and pull vaults will not be necessary at these locations.

There are a few active landslides in the project area and highway areas that are potentially subject to bluff erosion. Similar to above, the highway itself may be subject to coastal erosion and that may require adaptation, including potentially the placement of emergency shoreline armoring to protect the transportation corridor. However, any such adaptation or emergency measures would be intended to protect the transportation, and the presence of the fiberoptic cable network would not increase the need for bluff stabilization measures.

### Sea Level Rise

The majority of the infrastructure will be installed roughly four feet below ground surface along the existing State Highway System right-of-way and placed on the east side of the highway. Fiber optic cables and conduit have an expected design life of approximately 30 years and vaults have an expected design life of up to 50 years and are able to withstand wet conditions. Current SLR projections in the Coastal Commission SLR Guidance (2018), utilizing the nearest tidal gauge of San Francisco, show a medium-high risk aversion scenario of 1.8 feet by 2050, 2.5 feet in 2060, and 3.3 feet in 2070.<sup>1</sup> The medium-high risk scenario would be appropriate in this case, given that there are multiple existing overlapping internet networks, potential cellular networks, this project is not considered “critical infrastructure” in this case.

According to the GIS Mapping provided with the ESA report, small sections of the highway along Pacifica State Beach, and slightly south of Montara State Beach would experience coastal flooding and wave run up as a result of 6.6 feet of SLR, which is outside current projections for the design life of this project.<sup>2</sup> Highway 1 near Surfer’s Beach is currently protected by an existing rock revetment obtained under a Coastal Development Permit that has since expired. Highway 1 here already experiences some flooding during extreme winter storms and is projected to suffer from erosion with as little as 3.3 feet of SLR. Caltrans is also already required under the CDP to prepare a SLR adaptation plan for this stretch of Highway 1 and is at this time engaged in that adaptation planning effort, so the construction of broadband cables here does not increase the threat of SLR to the Highway here.

In general, the placement of broadband cable will not affect future adaptation plans for stretches of Highway 1 that may become vulnerable to SLR, if that were to occur within the life span of the project or future replacement versions of the project. The highway typically already has a number of underground utilities, and in any adaptation scenario all such utilities will be relocated as required by the adaptation plan for the highway. Caltrans frequently replaces or relocates utility connections in its projects, including realignments, bridge replacements, or other significant highway changes. The relocated stretch of utilities would be reconnected to the other stretches of MMBN at the splice boxes such that stretches could be adapted while the overall network maintained. Thus, the presence of another utility cable alongside the highway will not substantially increase the possible need for shoreline armoring of a roadway.

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<sup>1</sup> As of the time of publication of this staff report, OPC was working on finalizing new projections for SLR, and the Commission will soon update its SLR guidance. Drafts of the OPC guidance show slightly reduced SLR projections. Caltrans generally designs for the medium-high risk scenario, and the more extreme scenario SLR projections in the draft OPC guidance are more in line with the 2018 medium-high risk scenario. Therefore, use of the medium-high risk scenario seems most appropriate for this analysis. Extreme Risk Aversion Scenarios in the 2018 Commission guidance are: 2.6 feet by 2050, 3.7 feet by 2060, and 5 feet by 2070.

<sup>2</sup> See also County of San Mateo, Sea Level Rise Vulnerability Assessment (March 2018), available at [https://www.smcsustainability.org/wp-content/uploads/2018-03-12\\_SLR\\_VA\\_Report\\_2.2018\\_WEB\\_FINAL.pdf](https://www.smcsustainability.org/wp-content/uploads/2018-03-12_SLR_VA_Report_2.2018_WEB_FINAL.pdf).

Thus, overall, the infrastructure as proposed will appropriately minimize risk from flooding and other hazards due to its design and siting. It will be able to withstand periodic flooding that could occur with storms or projected SLR over its lifetime, and it will not be at risk of structural instability from those events. The project development also will not require construction of any coastal armoring, and the presence of the MMBN would not increase the need for shoreline armoring. It will also not preclude future adaptation of Highway 1, as sections of broadband could be moved to align with a realigned or elevated highway along with other utilities, were that to occur in the future.

### Assumption of Risk

Although Caltrans has designed the proposed project to minimize risk to coastal hazards, it is not possible to remove all risk associated with the uncertainties of natural hazards. Regardless of the avoidance and minimization measures and best practices utilized, because the applicant is electing to undertake new development in an inherently hazardous area, **Special Condition 10 (Assumption of Risk, Waiver of Liability, and Indemnity Agreement)** requires CDT's assumption of risk, waiver of liability, and indemnification of the Commission.

For all the above reasons, the Commission finds that the proposed project, as conditioned, will minimize risks to life and property from geologic and flood hazards and assure stability and structural integrity, consistent with Coastal Act section 30253. The Commission further finds that Caltrans, in conjunction with the ESA report, has appropriately identified and assessed the impacts of sea level rise, and that the proposed project avoids and minimizes the impacts of sea level rise to the extent feasible, consistent with Coastal Act section 30270.

## **I. Visual Resources**

Section 30251 of the Coastal Act states as follows:

*The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

Section 30254 of the Coastal Act states in part:

*... it is the intent of the Legislature that State Highway Route 1 in rural areas of the coastal zone remain a scenic two-lane road ....*

Additionally, although not the standard of review, San Mateo County and the cities of Pacifica and Half Moon Bay certified LCPs have policies regarding visual resources that may be considered as guidance. These LCP policies are summarized in the ESA report ([Exhibit 6](#)) and in an ESA Report Appendix excerpted in [Appendix B](#).

The project area within San Mateo County runs largely through developed communities with views of the ocean along sections of Highway 1 from Pacifica to Moss Beach and El Granda south to Half Moon Bay. Highway 92 is lined with dense mature vegetation and is an eligible State Scenic Highway within the coastal zone.

### Project Elements

The placement of the high-density conduit and associated vaults along the roadways will be entirely below ground or, in the case of the vaults, vault lids/tops will be at surface level. These elements of the MMBN will not have any permanent impacts to visual resources or affect a change to Highways 1 or 92 scenic character. Temporary visual impacts will occur during construction because of the presence of various construction equipment and materials required within the active construction zone. Given that construction would move along the project corridor at approximately 800 feet per day, visual impacts as a result of the project construction would be temporary.

### Bridges

A few small bridges exist along the project area in San Mateo County. Mostly, conduit would be attached to bridges for the project. Conduit would be placed in utility openings at new bridges such as the Devil Slide Bridge. In a few cases, Caltrans may use HDD to install conduit well under the waterbed of the waterways below the bridges. Conduit will not be visible to highway drivers but may be somewhat visible from pull-out areas or areas with pedestrian access. Under **Special Condition 2.C**, conduit would be painted or covered with an approved coating to match the color of the structure, if necessary, to blend in with the environment and avoid visual impacts.

### Tree and Vegetation Removal

The project may require minimal removal of existing vegetation along certain segments of the highway right-of-way. Although some trees may be trimmed, tree removal is not anticipated for the project. Because the location of vaults can be moved along the conduit corridor, all vaults will be sited within pre-disturbed areas along the right-of-way outside of ESHA. Additionally, HDD construction method will be used to install conduit, which limits ground disturbance to entry/exit points. Under **Special Condition 3.K** all visible disturbed areas will be restored and replanted with native vegetation, with efforts to control invasive species after construction is complete. The road shoulder will look the same after revegetation and restoration. Therefore, visual impacts from any vegetation removal will be relatively minor and mostly temporary and will not affect the overall natural setting of the area.

### Scenic Corridors

Coastal Act Section 30251 requires that new development in “highly scenic areas” be “subordinate to the character of its setting.” In this case, the state designated highly scenic areas include Highway 1, but south of the town of Half Moon Bay and are not affected by this project. Highway 1 north of Half Moon Bay is a county designated scenic corridor. In either case, because the utility cable and vault/pull boxes will be placed underground and there are no above-ground elements, and the project does not alter landforms, the project is subordinate to the character of its setting and complies with the county LCP policies related to the protection of views for county and state designated scenic roads and corridors.

## **Conclusion**

Overall, the proposed project will maintain existing scenic views along the project area, as a majority of the network will be installed below ground surface. Public views of the coastline will not be affected. Conduit attached to bridges will be sited such that visual quality of the structure and area will be maintained. Overall, the proposed installation of the MMBN will maintain the scenic nature of Highways 1 and 92, protect and enhance coastal views, and minimize the alteration of natural landforms. In the few areas where conduit or project development will be visible above ground, such as on bridges and the vaults alongside the road, that development will be subordinate to the character of the setting because it will be at ground level adjacent to an existing roadway or would blend in with existing manmade structures (bridges). Therefore, the Commission finds that the proposed development, as conditioned, is consistent with sections 30251 and 30254.

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## **J. Development**

Section 30254 of the Coastal Act states in part:

*New or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted consistent with the provisions of this division;*

Section 30250(a) of the Coastal Act states in part:

*New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.*

Additionally, although not the standard of review, San Mateo County and the cities of Pacifica and Half Moon Bay certified LCPs have policies regarding development and urban growth that may be considered as guidance. These LCP policies are summarized in the ESA report ([Exhibit 6](#)) and in an ESA Report Appendix excerpted in [Appendix B](#).

The MMBN project proposed here is new development and a new public works facility. The MMBN network is located contiguous with existing highway development, and indeed sited to avoid coastal resource impacts by being located within an existing highway right-of-way. Thus, the project meets Section 30250(a)'s mandate to be contiguous with existing development.

Coastal Act Section 30254 requires that public works facilities only be constructed or expanded if they have been designed and intended to serve existing development or uses permitted consistent with the Coastal Act and are thus not growth inducing. Here the MMBN is intended to serve existing development, especially existing rural or underserved communities that do not have adequate high-speed internet access. Although future development may be able to tie into this network as well, the MMBN will not remove a barrier to such development or induce it to occur. More importantly, and unlike traditional utilities such as water and sewer, it cannot be sized or designed to only accommodate a certain amount of development. Broadband internet service is an ever-expanding need even for existing development, as our communities become increasingly reliant on high-speed internet for work, school, recreation, long-distance communication, and emergency response. Thus, the MMBN does not provide an expanded public works facility that would induce new development inconsistent with the Coastal Act. Nor could any special conditions attempt to reduce or limit the amount of internet service provided, given the ever-expanding need, especially among rural and under-served communities, for increased bandwidth to support emergency communication, streaming services, videoconferencing, and other uses. Coastal Act and LCP policies will continue to concentrate development along existing areas of urban development.

Therefore, the MMBN meets Coastal Act policies requiring the concentration of development and that new public works facilities not induce new development inconsistent with the Coastal Act.

#### **K. Environmental Justice**

Coastal Act Section 30604(h) states:



*When acting on a coastal development permit, the issuing agency, or the Commission on appeal, may consider environmental justice, or the equitable distribution of environmental benefits throughout the state.*

Section 30604(h) allows the Commission to evaluate environmental justice considerations when making permit decisions. As defined in Section 30107.3(a) of the Coastal Act, “environmental justice” means “the fair treatment and meaningful involvement of people of all races, cultures, incomes and national origins, with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.” Section 30107.3(b)(4) states that environmental justice includes, “[a]t a minimum, the meaningful consideration of recommendations from populations and communities most impacted by pollution into environmental and land use decisions.” The Commission additionally adopted an [Environmental Justice Policy](#) In March 2019.

Overall, this project facilitates more equitable digital access and therefore is consistent with and supports the environmental justice policies of the Coastal Commission and the state. The project is explicitly intended to address the digital divide by creating an open-access, middle-mile network to bring high-speed broadband service to unserved and underserved communities, hopefully providing internet access on equal economic and service terms. (See <https://middle-mile-broadband-initiative.cdt.ca.gov/>.) The project will increase high-speed internet access for diverse populations of Californians, and increase equitable access to high-speed internet, consistent with the Commission’s Environmental Justice Policy. This effort is consistent with and supports Coastal Act goals to maximize access to the coast, including by making it more feasible for people living in rural and underserved coastal communities to obtain adequate internet service that will allow them to access educational, employment, medical, and other opportunities without having to move out of their rural coastal communities. This type of project also carries out the Legislative intent to provide development that is “essential to the economic and social well-being of the people of this state and especially to working persons employed within the coastal zone. (Coastal Act Section 30001(d).) At the same time, the project does not disrupt equitable public access or otherwise counter any of the Commission’s Environmental Justice Policies or create coastal resource impacts that have disproportionate impacts on environmental justice communities.

## **L. Archaeological Resources and Tribal Consultation**

Section 30244 of the Coastal Act states as follows:

*Where development would adversely impact archeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.*

Certified LCPs have similar policies and procedures for protecting archeological or paleontological resources. These LCP policies are summarized in the ESA report ([Exhibit 6](#)) and in an ESA Report Appendix excerpted in [Appendix B](#).

Along with Section 30244, in 2018 the Commission adopted a Tribal Consultation Policy to guide consultation with tribal entities in permitting and other matters. The policy seeks to ensure that meaningful tribal consultation takes place before development occurs. In the case of Caltrans projects, because under existing state and federal laws, Caltrans already follows a robust process of surveys for tribal resources and tribal consultation, conducted by specialized staff for all projects, the Commission typically builds on Caltrans' existing process in its own consultation with Tribes.

Caltrans contacted the Native American Heritage Commission (NAHC) on January 19, 2023 requesting a review of their Sacred Lands File to determine if there were known cultural resources within or near the project area along Highway 1. The results of the Sacred Lands File were positive and NAHC provided a list of Native American groups and individuals with interest in the project area. Caltrans sent consultation initiation letters via email regarding the project on January 23, 2023 to the Muwekma Ohlone Indian Tribe of the SF Bay Area, Costanoan Rumsen Carmel Tribe, The Ohlone Indian Tribe, Indian Canyon Mutsan Band of Costanoan, Wuksache Indian Tribe/Eschom Valley Band, and Amah Mutsun Tribal Band of Mission San Juan Bautista. In November, Caltrans sent letters via email requesting communication about concerns or identification of cultural resources within the project area along Highway 92. No responses have been received to date.

Consistent with the Commission's Tribal Consultation Policy, Commission staff reviewed the tribal consultation undertaken by Caltrans and discussed the tribal consultation process and findings with Caltrans Cultural Resources staff. In December, 2023, Commission staff wrote to the tribal representatives and individuals identified by the NAHC as relevant for the project location to inform them of the project's CDP application and the Commission's upcoming hearing on the project, to offer the opportunity for consultation, and to advise them of the opportunity to provide comments for the CDP hearing. Commission staff did not receive any responses.

Coastal Act section 30244 requires that reasonable mitigation measures be employed where development could adversely impact archaeological or paleontological resources. As discussed above, Caltrans has designed this project to avoid all known areas of sensitive cultural resources. Construction activities could still potentially impact unknown archaeological resources. **Special Condition 6** sets parameters for the discovery of any previously unidentified cultural resources, including halting the work, providing notice, and determining if revised construction methods/designs require an amendment to this CDP.

In conclusion, based on the findings of cultural research by Caltrans, the tribal consultation and outreach performed by CDT, Caltrans, and the Commission, as well as the cultural resource protection protocols that will be implemented by the applicant as part of the project, the Commission finds that the proposed project, as conditioned, includes reasonable mitigation measures to protect archaeological resources consistent with Coastal Act section 30244.

## M. Water Quality and Wetlands

Section 30230 of the Coastal Act states as follows:

*Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

Section 30231 of the Coastal Act states as follows:

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Section 30232 of the Coastal Act states as follows:

*Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.*

Although not the standard of review, certified LCP policies regarding the protection of marine resources and water quality may be considered as guidance. These LCP policies are summarized in the ESA report ([Exhibit 6](#)) and in an ESA Report Appendix excerpted in [Appendix B](#).

The project area, which runs along Highways 1 and 92, crosses several creeks and drainages containing freshwater/forested shrub wetland habitat and approximately 0.24 acres of freshwater emergent wetland run adjacent to the project footprint. While the project proposes to avoid direct impacts to these waters and wetlands by strategically locating all excavation points and staging areas outside of such features, and by drilling beneath rather than within these sensitive areas, the project has the potential to indirectly impact water quality, aquatic and wetland habitats. The primary water quality issues raised by the proposed project relate to the accidental discharge of excavated materials, drilling muds, and other materials from construction activities, as well as the risk of hydraulic fracturing (frac-out) from HDD construction method. Therefore, it is necessary to ensure that construction activities would be carried out in a manner that would not adversely affect water quality or marine resources.

As described above, the project consists of installing fiber optic conduit via the HDD construction method. This trenchless construction method minimizes disturbance by limiting surface disturbance to bore entry/exit pits and vault locations. The project will involve excavation of approximately 150 excavation pits (total number of bore entry/exit pits and vault excavation areas). No work will be performed within any waterbody and all bore pits will be identified on construction plans and be placed outside of wetland areas. Therefore, direct impacts to water quality are not anticipated.

To avoid the discharge to coastal waters of pollutants from construction activities, Caltrans has proposed various best management practices (BMPs) and avoidance and minimization measures (AMMs) related to soil stabilization and sediment control which are included in the *MMBN Design Guideline* ([Exhibit 4](#)). **Special Condition 3 (Construction Responsibilities)** requires the applicant to undertake development in compliance with the various AMMs and BMPs proposed in the CDP application to protect and maintain water quality and surrounding sensitive habitats. **Special Condition 3D (Water Pollution Prevention)** requires the applicant to ensure all temporary erosion, runoff, and sediment control BMPs are in place in accordance with the approved final Stormwater Pollution Prevention Plan. To ensure that potential indirect impacts to the marine environment are minimized, **Special Condition 5** requires the submittal and implementation of a Stormwater Pollution Prevention Plan and that all work comply with that plan, including with some expansions as described therein. **Special Condition 4E (Spill Prevention)** requires that hazardous materials management equipment and spill kit be available immediately on-site. Further, **Special Condition 4G (Trash/Debris)** requires that all trash be properly contained, removed from the work site, and disposed of on a regular basis to avoid contamination of habitat during construction activities. Any debris inadvertently discharged into coastal waters or surrounding habitats shall be recovered immediately and disposed of properly.

Several temporary erosion and sediment control products with netting used at excavation areas are commonly left in place permanently. Although netting can remain intact for many years, it eventually degrades overtime. Therefore, **Special Condition 4H (Plastic Netting Prohibition)** prohibits the use of temporary erosion and sediment control products (such as fiber rolls, erosion control blankets, mulch control netting, and silt fences) that incorporate plastic netting (such as polypropylene, nylon, polyethylene, polyester, or other synthetic fibers).

#### Frac-Out

HDD is often utilized to avoid impacts to ESHA and waterways by limiting surface disturbance to bore entry/exit pits. This construction method allows for minimal ground disturbance and avoids disruption in cities and towns. The HDD construction method uses a clay/water mixture (drilling mud) that is pumped down the drill stem to lubricate the drill head and drill pipe, maintain the bore hole opening, and remove bore cuttings. Frac-outs may occur when the pressure of the clay water mixture is greater than the pressure of the surrounding ground/rock, or when a pathway or crack opens in the ground that allows the mixture to seep out of the bore hole. In most cases, if fluid loss occurs, the fluid fills the formation voids and fractures and does not reach the ground

surface. However, a surface release of sediment and drilling fluids could adversely affect water quality and/or sensitive habitat types if not quickly contained.

Although the risk of a frac-out is low, drilling problems may occur, and the applicant must be prepared to respond to an accidental release of drilling fluids. To address this issue, **Special Condition 7** requires Caltrans to submit prior to construction an HDD contingency plan for the review and approval of the Executive Director, which will include measures for prevention, containment, cleanup, and disposal in the event of any accidentally released drilling fluids or drilling mud. The applicant must implement the project consistent with the HDD contingency plan.

### **Conclusion**

Therefore, the Commission finds that the project as conditioned, protects marine resources and water quality consistent with sections 30230, 30231, and 30232 of the Coastal Act.

### **N. Reimbursement of Costs and Fees**

Coastal Act section 30620(c)(1) authorizes the Commission to require applicants to reimburse the Commission for expenses incurred in processing CDP applications. See also 14 C.C.R. § 13055(g). Thus, the Commission is authorized to require reimbursement for expenses incurred in defending its action on the pending CDP application. Therefore, consistent with section 30620(c), the Commission imposes **Special Condition 11 (Liability for Costs and Attorneys' Fees)** requiring reimbursement of specified costs and attorneys' fees the Commission incurs in connection with the defense of any action brought by a party other than the applicant/Permittee challenging the approval or issuance of this permit.

### **O. California Environmental Quality Act (CEQA)**

Section 13096 of Title 14 of the Commission's regulations requires Commission approval of CDP applications to be supported by a finding showing the application, as modified by any conditions of approval, to be consistent with any applicable requirement of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits approval of a proposed development if there are any feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect the proposed development may have on the environment.

Caltrans, acting as the lead CEQA agency, determined that the proposed project was exempt from CEQA review because, under the legislation authorizing the MMBN, Senate Bill 156 (2021), a statutory CEQA exemption was adopted (Pub. Res. Code, § 21080.51). This provision exempts from CEQA review work related to the MMBN that occurs in or adjacent to a public road right-of-way, if certain conditions are met, such as that Caltrans must adopt measures to avoid or address impacts to cultural and biological resources. Because the CEQA exemption applies in this case, the Coastal Commission's usual CEQA obligations do not apply. But even if the exemption did not cover the entire project, the Coastal Commission's review and analysis of CDP

applications like this has been certified by the Secretary of the Natural Resources Agency as being the functional equivalent of environmental review under CEQA. The preceding findings in this report have discussed the relevant coastal resource issues with the proposal, and the CDP terms and conditions identify appropriate mitigations to avoid and/or lessen any potential for adverse impacts to said resources.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. As conditioned, there are no other feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impacts which the project may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative. It also finds that the project is not expected to have any significant environmental effects, but that in the event that final project design results in unavoidable disturbance to ESHA, that the project's benefits (e.g., to underserved communities, the rural economies of the areas served, concentration of broadband network within road rights-of-way where impacts are minimized) outweigh those effects and will be minimized and mitigated to the extent feasible. Thus, the project complies with any requirements of CEQA to analyze and mitigate impacts, even if they were to apply here.