



## United States Department of the Interior

### U.S. FISH AND WILDLIFE SERVICE

Ecological Services  
Ventura Fish and Wildlife Office  
2493 Portola Road, Suite B  
Ventura, California 93003



IN REPLY REFER TO:  
08EVEN00-2020-F-0063

November 18, 2019

Barrett Holland  
California Department of Transportation, District 5  
50 Higuera Street  
San Luis Obispo, California 93401

Subject: Biological Opinion on Dover Canyon Road at Jack Creek Bridge Replacement Project, San Luis Obispo County, California (Federal Aid No. BRLO-5949 (152))

Dear Mr. Holland:

This document transmits the U.S. Fish and Wildlife Service's (Service) biological opinion based on our review of your request and its effects on the federally threatened California red-legged frog (*Rana draytonii*), in accordance with section 7 of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 et seq.). You also requested informal consultation on the federally endangered least Bell's vireo (*Vireo bellii pusillus*) and southwestern willow flycatcher (*Empidonax traillii extimus*). We received your October 28, 2019, request for consultation on October 29, 2019, via electronic mail. Your request is in regards to replacing the existing bridge on Dover Canyon Road at Jack Creek in San Luis Obispo County, California. You have determined that the bridge replacement project meets the criteria for inclusion under the Programmatic Biological Opinion for Projects Funded or Approved Under the Federal Highway Administration's Federal Aid Program (PBO; 8-8-10-F-58) (Service 2011).

You have determined that the bridge replacement may affect, but is not likely to adversely affect the least Bell's vireo and southwestern willow flycatcher. Potential habitat for these two avian species are present in close proximity to the bridge on Dover Canyon Road at Jack Creek. Based on the biological assessment (BA) (Caltrans 2019), the last confirmed breeding pair of least Bell's vireo in San Luis Obispo County is from 1983, while there are no known occurrences of the southwestern willow flycatcher in the County. However, due to their dispersal capabilities, both species could potentially occur in the action area of the above mentioned project during construction. To avoid potential effects to these species, Caltrans has proposed to conduct nesting bird surveys if construction activities occur during the typical nesting season (February 1 to September 1). If a federally listed bird species is observed during surveys, work that could adversely affect the species would cease, and the Service contacted immediately. Based on this information, we concur with your determination that the proposed project may affect, but is unlikely to adversely affect the least Bell's vireo and southwestern willow flycatcher.

Under the administration of the PBO (Service 2011), Caltrans is required to notify us of project activities that may adversely affect the California red-legged frog and its designated critical habitat. Caltrans has assumed the Federal Highway Administration's (FHWA) responsibilities under the Act for this action in accordance with Section 1313, Surface Transportation Project Delivery Program, of the Moving Ahead for Progress in the 21st Century Act (MAP-21) of 2012, as described in the National Environmental Policy Act assignment Memorandum of Understanding between FHWA and Caltrans (effective October 1, 2012) and codified in 23 U.S.C. 327. Caltrans has determined that the proposed project may affect, and is likely to adversely affect, the

California red-legged frog, and requests these effects be addressed using the PBO. Caltrans determined that the project area does not overlap with designated critical habitat for the species. Caltrans commits to the implementation of all applicable minimization measures as described on pages 7 through 12 of the PBO.

Caltrans proposes to replace the 63 foot long and 16 feet wide one lane steel, wood, and concrete bridge on Dover Canyon Road at Jack Creek (Bridge No. 49C-0037) with a two-lane precast prestressed concrete slab unit bridge that would be 79 feet long and 26 feet wide. The proposed bridge replacement project is being conducted to improve safe access for residents of Dover Canyon Road and to accommodate emergency vehicles, such as fully loaded fire trucks. Proposed activities include: temporary dewatering of Jack Creek temporarily impacting 0.12 acre of stream channel, constructing a temporary detour bridge over Jack Creek, creating a detour road north of the bridge site, impacting 2.07 acres of annual brome grassland, impacting 0.25 acre of Arroyo willow thicket, impacting 0.35 acre of Valley Oak Woodland, removing up to 33 trees, removing the existing bridge, constructing a new cement bridge, re-contouring and revegetating the impacted stream bank and surrounding area, installing rock slope protection, removing water diversion system components, and restoring stream channel to preexisting conditions.

A protocol survey for the California red-legged frog was not conducted at the proposed project location; rather, potential presence of the species was inferred based on one or more of the following factors including: the presence of suitable habitat, the presence of designated critical habitat, and the distance from recorded observations of the species. Project activities would temporarily or permanently affect approximately 2.72 acres or 0.07 acre, respectively, of a combination of upland, dispersal, and aquatic habitat.

You have determined that replacing the bridge on Dover Canyon Road at Jack Creek, as described in the BA (Caltrans 2019), satisfies the four criteria outlined in the PBO for projects that are likely to result in adverse effects to the California red-legged frog, but would not affect the long-term viability of those populations. Project effects of this nature were analyzed in the PBO under the Effects of the Action section (Service 2011, pp. 29-34). You also propose to implement the measures outlined in the PBO for avoiding and minimizing effects to the California red-legged frog. We concur with your determination that the proposed project may affect, and is likely to adversely affect the California red-legged frog. Furthermore, based on the information you have provided, the proposed project is consistent with, and appropriate for, inclusion under the PBO. With this approval, the project may proceed without further consultation. If the proposed action changes in any manner that may affect a listed species, you must contact us immediately to determine whether additional consultation is required.

If you have any questions regarding this matter, please contact Deb Kirkland of our staff at (805) 677-3304, or by electronic mail at [debora\\_kirkland@fws.gov](mailto:debora_kirkland@fws.gov).

Sincerely,



Leilani Takano  
Assistant Field Supervisor

## LITERATURE CITED

- [Caltrans] California Department of Transportation. 2019. Biological Assessment. Dover Canyon Road at Jack Creek, Paso Robles, San Luis Obispo County, Bridge Replacement Project, County of San Luis Obispo, California.
- [Service] U.S. Fish and Wildlife Service. 2011. Programmatic Biological Opinion for Projects Funded or Approved under the Federal Highway Administration's Federal Aid Program (8-8-10-F-58). Ventura Fish and Wildlife Office, Ventura, California.

