



# United States Department of the Interior



In Reply Refer to:  
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FISH AND WILDLIFE SERVICE  
Sacramento Fish and Wildlife Office  
2800 Cottage Way, Suite W-2605  
Sacramento, California 95825-1846

Mr. Tom Holstein  
Attn: Donna Meyer  
Department of Transportation  
District 4  
111 Grand Avenue  
P.O. Box 23600  
Oakland, California 94623-0660

DEC 17 2015

Subject: Formal Consultation on the Proposed Uvas Road at Little Uvas Creek Bridge Replacement Project near the City of Morgan Hill, Santa Clara County, California (California Department of Transportation (Caltrans) Federal Project Number BRLO-5937(124))

Dear Mr. Holstein:

This letter is in response to Caltrans' September 24, 2015, request for initiation of formal consultation with the U.S. Fish and Wildlife Service (Service) on the proposed Uvas Road at Little Uvas Creek Bridge Replacement Project (proposed project) near the City of Morgan Hill, Santa Clara County, California (Caltrans Federal Project Number BRLO-5937(124)). Your request was received by the Service on October 2, 2015. The Service provided comments on the Biological Assessment for the proposed project on October 21, 2015. The Service received from Caltrans the revised Biological Assessment for the proposed project on November 10, 2015. At issue are the proposed project's effects on the federally threatened California red-legged frog (*Rana draytonii*) and threatened Central Distinct Population Segment of the California tiger salamander (Central California tiger salamander) (*Ambystoma californiense*). Critical habitat has been designated for the California red-legged frog and Central California tiger salamander but does not occur within the action area for the proposed project. This biological opinion is issued under the authority of the Endangered Species Act, as amended (16 U.S.C. 1531 *et seq.*) (Act), and in accordance with the implementing regulations pertaining to interagency cooperation (50 CFR 402).

The Federal action on which we are consulting is Caltrans providing funding to the County of Santa Clara Roads and Airports Department (County Roads) to replace the existing, narrow Uvas Road bridge over Little Uvas Creek with a new, wider bridge that can accommodate two lanes of traffic with shoulders, realign the Uvas Road approaches to the new bridge, and install retaining walls (or other slope protection measures) at the new bridge abutments. Pursuant to 50 CFR 402.12(j), you submitted a biological assessment for our review and requested concurrence with the findings presented therein. These findings conclude that the proposed project may affect, and is likely to adversely affect the California red-legged frog and Central California tiger salamander.

In considering your request, we based our evaluation on the following: (1) the November 2015 *Biological Assessment Uvas Road over Little Uvas Creek Bridge Replacement Project (37C-0095/37C-0601 [new]) Near Morgan Hill, Santa Clara County, California: 04-SCL-0-CR, Federal Project Number BRLO-5937 (124)* (Biological Assessment) prepared by H.T. Harvey & Associates; (2) the August 2012 *Final Santa Clara Valley Habitat Plan (SCVHP)* (<http://scv-habitatagency.org/178/Final-Habitat-Plan>); (3) various discussions and correspondence among the Service, County Roads, Caltrans, H.T. Harvey & Associates, and the Santa Clara Valley Habitat Agency; and (4) other information available to the Service.

### **Description of the Proposed Project**

The Uvas Road Bridge crosses Little Uvas Creek approximately 200 feet north of the Uvas Road and Little Uvas Road intersection and about four miles west of the City of Morgan Hill, Santa Clara County. The functionally obsolete bridge (37C-0095) does not meet current design standards and traffic demands and is an impediment to flood flows in Little Uvas Creek for both the 50-year and 100-year storms. The proposed project will replace the existing bridge with a new, wider bridge that can accommodate two lanes of traffic with shoulders, realign the Uvas Road approaches to the new bridge, and install retaining walls (or other slope protection measures) at the new bridge abutments. The new bridge will be approximately 90 feet in length and approximately 43 feet in width, including two 12-foot lanes and two 8-foot shoulders. Excavation for the new bridge abutments will be to a depth of approximately 10 feet. The replacement bridge will be realigned by approximately 20 feet, angled east and west (upstream and downstream) of the current alignment of the existing bridge. The new bridge will be a single span pre-cast/pre-stressed I-girders and cast-in-place concrete deck structure, supported on seat type abutments with standard wingwalls, and will include concrete barrier rails and tubular hand railing. Construction is anticipated to occur in two construction seasons, during the dry season of each year between April 15 and October 15.

The proposed project will disturb the following habitats within the action area: seasonal wetlands (0.12 acre); aquatic riverine (0.22 acre, 531 linear feet); California annual grassland (1.54 acres); grain, row-crop, hay and pasture, disked/short-term fallowed (1.16 acres); mixed riparian woodland and forest (1.75 acres); mixed oak woodland (0.23 acre); and rural-residential/roadway/bare ground (1.62 acres). The proposed project will result in the disturbance of a total of about 5.02 acres of suitable habitat. However, approximately 1.24 acres of existing asphalt along Uvas Road will be removed by the proposed project, and these areas will be restored to grassland dispersal and upland refugia habitat. The SCVHP defines “temporary impacts” as effects to habitat lasting for less than one year with the habitat restored to pre-project conditions or better by the following year. Since the proposed project will be constructed over two construction seasons (and thus more than one year of impact), the SCVHP considers all of the proposed project impacts to be permanent.

### Conservation Measures

The proposed project is a “covered project” under the SCVHP and will implement the following conditions from the SCVHP:

1. Condition 1. Avoid Direct Impacts on Legally Protected Plant and Wildlife Species
2. Condition 3. Maintain Hydrologic Conditions and Protect Water Quality

3. Condition 4. Stream Avoidance and Minimization for In-Stream Projects
4. Condition 5. Avoidance and Minimization Measures for In-Stream Operations and Maintenance
5. Conditions 6. Design and Construction Requirements for Covered Transportation Projects
6. Condition 12. Wetland and Pond Avoidance and Minimization
7. Condition 13. Serpentine and Associated Covered Species Avoidance and Minimization
8. Condition 14. Valley Oak and Blue Oak Woodland Avoidance and Minimization
9. Condition 16. Least Bell's Vireo (a site-specific assessment undertaken by wildlife biologists determined suitable breeding habitat for the least Bell's vireo is absent from the action area, therefore, pre-construction nesting surveys and the 250-foot buffer are not required).
10. Condition 17. Tricolored Blackbird (a site-specific assessment undertaken by wildlife biologists determined suitable breeding habitat for the tricolored blackbird is absent from the action area, therefore, pre-construction nesting surveys and the 250-foot buffer are not required).
11. Condition 20. Avoid and Minimize Impacts to Covered Plant Occurrences
12. County Roads will pay all applicable development fees to the Santa Clara Valley Habitat Agency prior to initiation of construction of the proposed project. The total estimated land cover fees are \$90,380.08 based on permanent impacts to 5.02 acres of Zone A lands. The total estimated wetland fees are \$636,831.09 based on the following: permanent impacts to 1.75 acres of mixed riparian forest (\$258,914.25), permanent impacts to 0.12 acre of seasonal wetland (\$47,634.84), and permanent impacts to 531 linear feet of stream (\$330,282.00). County Roads, with approval from the Santa Clara Valley Habitat Agency, may utilize the land in lieu option instead of paying the \$90,380.08 in land cover fees; however, County Roads is still required to pay the \$636,831.09 in wetland fees.

If the provisions listed above are met, take of the California red-legged frog and Central California tiger salamander resulting from the proposed project will be authorized through the SCVHP's incidental take permit (Fish and Wildlife Permit No.: TE-94345A-0). The effects to listed species that would result from the issuance of this incidental take permit were analyzed in the Service's April 2013 *Intra-Service Biological Opinion on Issuance of a Section 10(a)(1)(B) Incidental Take Permit for the Santa Clara Valley Habitat Conservation Plan/Natural Community Conservation Plan*.

The SCVHP requires specific avoidance and minimization measures for covered activities that have the potential to affect SCVHP covered species, sensitive habitats, natural communities, and

jurisdictional wetlands and other waters in Santa Clara County. Therefore, County Roads will implement all protection measures for the affected species as set forth in the SCVHP.

In addition to avoidance and minimization measures, the SCVHP utilizes a variety of development-based fees to fund mitigation that will offset losses of land cover types, covered species habitat, and other biological values. County Roads will pay all applicable development fees to the Santa Clara Valley Habitat Agency identified in the Development Fee Table (Table 9-6) and described in Chapter 9.4.1 of the SCVHP (updated fee schedules are available at <http://scv-habitatagency.org/DocumentCenter/View/504>). County Roads is considering offsetting some or all of the land cover fees through land-in lieu with approval from the Santa Clara Valley Habitat Agency; however, County Roads will still be responsible for paying the wetland fees.

The proposed project, if implemented as described in this letter, complies with all applicable conditions required by the SCVHP. This concludes consultation on the proposed Uvas Road at Little Uvas Creek Bridge Replacement Project near the City of Morgan Hill, Santa Clara County, California. As provided in 50 CFR §402.16, reinitiation of formal consultation is required where discretionary Federal agency involvement or control over the action has been maintained (or is authorized by law) and if: (1) the amount or extent of incidental take is exceeded; (2) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not considered in this opinion; (3) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in this opinion; or (4) a new species is listed or critical habitat designated that may be affected by the action. In instances where the amount or extent of incidental take is exceeded, any additional take will not be exempt from the prohibitions of section 9 of the Act, pending reinitiation.

If you have questions concerning this determination on the Uvas Road at Little Uvas Creek Bridge Replacement Project near the City of Morgan Hill, Santa Clara County, California, please contact Joseph Terry, Senior Biologist, or Ryan Olah, Coast/Bay Division Chief, at the letterhead address, at telephone number (916) 943-6721, or email [joseph\\_terry@fws.gov](mailto:joseph_terry@fws.gov) or [ryan\\_olah@fws.gov](mailto:ryan_olah@fws.gov).

Sincerely,



*for*  
Jennifer M. Norris  
Field Supervisor

cc:

David Johnston, California Department of Fish and Wildlife, Napa, California  
Edmund Sullivan, Santa Clara Valley Habitat Agency, Morgan Hill, California