

Appendix K UNITED STATES FISH AND WILDLIFE SERVICE (USFWS) COORDINATION

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United States Department of the Interior

FISH AND WILDLIFE SERVICE
Ventura Fish And Wildlife Office
2493 Portola Road, Suite B
Ventura, CA 93003-7726
Phone: (805) 644-1766 Fax: (805) 644-3938



In Reply Refer To:
Consultation Code: 08EVEN00-2017-SLI-0415
Event Code: 08EVEN00-2017-E-00846
Project Name: 138 Northwest Widening

May 18, 2017

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The enclosed list identifies species listed as threatened and endangered, species proposed for listing as threatened or endangered, designated and proposed critical habitat, and species that are candidates for listing that may occur within the boundary of the area you have indicated using the U.S. Fish and Wildlife Service's (Service) Information Planning and Conservation System (IPaC). The species list fulfills the requirements under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 et seq.). Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the species list should be verified after 90 days. We recommend that verification be completed by visiting the IPaC website at regular intervals during project planning and implementation for updates to species lists following the same process you used to receive the enclosed list. Please include the Consultation Tracking Number in the header of this letter with any correspondence about the species list.

Due to staff shortages and excessive workload, we are unable to provide an official list more specific to your area. Numerous other sources of information are available for you to narrow the list to the habitats and conditions of the site in which you are interested. For example, we recommend conducting a biological site assessment or surveys for plants and animals that could help refine the list.

If a Federal agency is involved in the project, that agency has the responsibility to review its proposed activities and determine whether any listed species may be affected. If the project is a major construction project*, the Federal agency has the responsibility to prepare a biological assessment to make a determination of the effects of the action on the listed species or critical habitat. If the Federal agency determines that a listed species or critical habitat is likely to be adversely affected, it should request, in writing through our office, formal consultation pursuant to section 7 of the Act. Informal consultation may be used to exchange information and resolve conflicts with respect to threatened or endangered species or their critical habitat prior to a

written request for formal consultation. During this review process, the Federal agency may engage in planning efforts but may not make any irreversible commitment of resources. Such a commitment could constitute a violation of section 7(d) of the Act.

Federal agencies are required to confer with the Service, pursuant to section 7(a)(4) of the Act, when an agency action is likely to jeopardize the continued existence of any proposed species or result in the destruction or adverse modification of proposed critical habitat (50 CFR 402.10(a)). A request for formal conference must be in writing and should include the same information that would be provided for a request for formal consultation. Conferences can also include discussions between the Service and the Federal agency to identify and resolve potential conflicts between an action and proposed species or proposed critical habitat early in the decision-making process. The Service recommends ways to minimize or avoid adverse effects of the action. These recommendations are advisory because the jeopardy prohibition of section 7(a)(2) of the Act does not apply until the species is listed or the proposed critical habitat is designated. The conference process fulfills the need to inform Federal agencies of possible steps that an agency might take at an early stage to adjust its actions to avoid jeopardizing a proposed species.

When a proposed species or proposed critical habitat may be affected by an action, the lead Federal agency may elect to enter into formal conference with the Service even if the action is not likely to jeopardize or result in the destruction or adverse modification of proposed critical habitat. If the proposed species is listed or the proposed critical habitat is designated after completion of the conference, the Federal agency may ask the Service, in writing, to confirm the conference as a formal consultation. If the Service reviews the proposed action and finds that no significant changes in the action as planned or in the information used during the conference have occurred, the Service will confirm the conference as a formal consultation on the project and no further section 7 consultation will be necessary. Use of the formal conference process in this manner can prevent delays in the event the proposed species is listed or the proposed critical habitat is designated during project development or implementation.

Candidate species are those species presently under review by the Service for consideration for Federal listing. Candidate species should be considered in the planning process because they may become listed or proposed for listing prior to project completion. Preparation of a biological assessment, as described in section 7(c) of the Act, is not required for candidate species. If early evaluation of your project indicates that it is likely to affect a candidate species, you may wish to request technical assistance from this office.

Only listed species receive protection under the Act. However, sensitive species should be considered in the planning process in the event they become listed or proposed for listing prior to project completion. We recommend that you review information in the California Department of Fish and Wildlife's Natural Diversity Data Base. You can contact the California Department of Fish and Wildlife at (916) 324-3812 for information on other sensitive species that may occur in this area.

[*A Biological Assessment is required for construction projects (or other undertakings having

similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.]

Attachment(s):

- Official Species List

Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Ventura Fish And Wildlife Office

2493 Portola Road, Suite B
Ventura, CA 93003-7726
(805) 644-1766

This project's location is within the jurisdiction of multiple offices. Expect additional species list documents from the following office:

Carlsbad Fish And Wildlife Office

2177 Salk Avenue - Suite 250
Carlsbad, CA 92008-7385
(760) 431-9440

Project Summary

Consultation Code: 08EVEN00-2017-SLI-0415

Event Code: 08EVEN00-2017-E-00846

Project Name: 138 Northwest Widening

Project Type: TRANSPORTATION

Project Description: This project aims to widen the 138 to areas with four and six lanes between I-5 and SR-14. Timing of this project is currently unknown, as there are no funds for the Plans Specifications and Estimates phase.

Project Location:

Approximate location of the project can be viewed in Google Maps:

<https://www.google.com/maps/place/34.769252268079455N118.3810831999597W>



Counties: Los Angeles, CA

Endangered Species Act Species

There is a total of 11 threatened, endangered, or candidate species on your species list. Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area. Please contact the designated FWS office if you have questions.

Birds

NAME	STATUS
<p>California Condor (<i>Gymnogyps californianus</i>) Population: U.S.A. only, except where listed as an experimental population There is a final critical habitat designated for this species. Your location is outside the designated critical habitat. Species profile: https://ecos.fws.gov/ecp/species/8193</p>	Endangered
<p>Coastal California Gnatcatcher (<i>Polioptila californica californica</i>) There is a final critical habitat designated for this species. Your location is outside the designated critical habitat. Species profile: https://ecos.fws.gov/ecp/species/8178</p>	Threatened
<p>Least Bell's Vireo (<i>Vireo bellii pusillus</i>) There is a final critical habitat designated for this species. Your location is outside the designated critical habitat. Species profile: https://ecos.fws.gov/ecp/species/5945</p>	Endangered
<p>Southwestern Willow Flycatcher (<i>Empidonax traillii extimus</i>) There is a final critical habitat designated for this species. Your location is outside the designated critical habitat. Species profile: https://ecos.fws.gov/ecp/species/6749</p>	Endangered

Amphibians

NAME	STATUS
<p>Arroyo (=arroyo Southwestern) Toad (<i>Anaxyrus californicus</i>) There is a final critical habitat designated for this species. Your location is outside the designated critical habitat. Species profile: https://ecos.fws.gov/ecp/species/3762</p>	Endangered
<p>California Red-legged Frog (<i>Rana draytonii</i>) There is a final critical habitat designated for this species. Your location is outside the designated critical habitat. Species profile: https://ecos.fws.gov/ecp/species/2891</p>	Threatened

Crustaceans

NAME	STATUS
<p>Riverside Fairy Shrimp (<i>Streptocephalus woottoni</i>)</p> <p>There is a final critical habitat designated for this species. Your location is outside the designated critical habitat.</p> <p>Species profile: https://ecos.fws.gov/ecp/species/8148</p>	Endangered
<p>Vernal Pool Fairy Shrimp (<i>Branchinecta lynchi</i>)</p> <p>There is a final critical habitat designated for this species. Your location is outside the designated critical habitat.</p> <p>Species profile: https://ecos.fws.gov/ecp/species/498</p>	Threatened

Flowering Plants

NAME	STATUS
<p>California Orcutt Grass (<i>Orcuttia californica</i>)</p> <p>No critical habitat has been designated for this species.</p> <p>Species profile: https://ecos.fws.gov/ecp/species/4923</p>	Endangered
<p>San Fernando Valley Spineflower (<i>Chorizanthe parryi</i> var. <i>fernandina</i>)</p> <p>No critical habitat has been designated for this species.</p> <p>Species profile: https://ecos.fws.gov/ecp/species/8215</p>	Proposed Threatened
<p>Spreading Navarretia (<i>Navarretia fossalis</i>)</p> <p>There is a final critical habitat designated for this species. Your location is outside the designated critical habitat.</p> <p>Species profile: https://ecos.fws.gov/ecp/species/1334</p>	Threatened

Critical habitats

There are no critical habitats within your project area.



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Carlsbad Fish And Wildlife Office
2177 Salk Avenue - Suite 250
Carlsbad, CA 92008-7385
Phone: (760) 431-9440 Fax: (760) 431-5901
<http://www.fws.gov/carlsbad/>



In Reply Refer To:

May 18, 2017

Consultation Code: 08ECAR00-2017-SLI-0874

Event Code: 08ECAR00-2017-E-01864

Project Name: 138 Northwest Widening

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, and proposed species, designated critical habitat, and candidate species that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the

human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

Please be aware that bald and golden eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*), and projects affecting these species may require development of an eagle conservation plan (http://www.fws.gov/windenergy/eagle_guidance.html). Additionally, wind energy projects should follow the wind energy guidelines (<http://www.fws.gov/windenergy/>) for minimizing impacts to migratory birds and bats.

Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g., cellular, digital television, radio, and emergency broadcast) can be found at: <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/towers.htm>; <http://www.towerkill.com>; and <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List

Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Carlsbad Fish And Wildlife Office

2177 Salk Avenue - Suite 250

Carlsbad, CA 92008-7385

(760) 431-9440

This project's location is within the jurisdiction of multiple offices. Expect additional species list documents from the following office:

Ventura Fish And Wildlife Office

2493 Portola Road, Suite B

Ventura, CA 93003-7726

(805) 644-1766

Project Summary

Consultation Code: 08ECAR00-2017-SLI-0874

Event Code: 08ECAR00-2017-E-01864

Project Name: 138 Northwest Widening

Project Type: TRANSPORTATION

Project Description: This project aims to widen the 138 to areas with four and six lanes between I-5 and SR-14. Timing of this project is currently unknown, as there are no funds for the Plans Specifications and Estimates phase.

Project Location:

Approximate location of the project can be viewed in Google Maps:

<https://www.google.com/maps/place/34.769252268079455N118.3810831999597W>



Counties: Los Angeles, CA

Endangered Species Act Species

There is a total of 3 threatened, endangered, or candidate species on your species list. Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area. Please contact the designated FWS office if you have questions.

Birds

NAME	STATUS
<p>California Condor (<i>Gymnogyps californianus</i>) Population: U.S.A. only, except where listed as an experimental population There is a final critical habitat designated for this species. Your location is outside the designated critical habitat. Species profile: https://ecos.fws.gov/ecp/species/8193</p>	Endangered
<p>Western Snowy Plover (<i>Charadrius alexandrinus nivosus</i>) Population: Pacific Coast population DPS-U.S.A. (CA, OR, WA), Mexico (within 50 miles of Pacific coast) There is a final critical habitat designated for this species. Your location is outside the designated critical habitat. Species profile: https://ecos.fws.gov/ecp/species/8035</p>	Threatened

Reptiles

NAME	STATUS
<p>Desert Tortoise (<i>Gopherus agassizii</i>) Population: Wherever found, except AZ south and east of Colorado R., and Mexico There is a final critical habitat designated for this species. Your location is outside the designated critical habitat. Species profile: https://ecos.fws.gov/ecp/species/4481</p>	Threatened

Critical habitats

There are no critical habitats within your project area.



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
Carlsbad Fish and Wildlife Office
6010 Hidden Valley Road, Suite 101
Carlsbad, California 92011



In Reply Refer To:
FWS-LA-14B0274-1710261

Paul Caron
Senior District Biologist
District 8
Department of Transportation
100 South Main Street, Suite 100
Los Angeles, California 90012

Subject: State Route 138 Northwest Corridor Improvement Project, Los Angeles County,
California

Dear Mr. Caron:

This letter is in response to your correspondence, dated October 17, 2016, requesting our concurrence with your determination that the proposed State Route 138 Northwest Corridor Improvement Project is not likely to adversely affect the federally endangered southwestern willow flycatcher (*Empidonax traillii extimus*), least Bell's vireo (*Vireo bellii pusillus*), or California condor (*Gymnogyps californianus*). The proposed project may receive Federal funding through the Federal Highway Administration (Asef 2016). Because the Federal Highway Administration has delegated its responsibilities under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) to the California Department of Transportation (Caltrans), your request and our response are made pursuant to section 7(a)(2) of the Endangered Species Act.

Caltrans proposes to improve State Route 138 between Interstate 5 and State Route 14. Caltrans would upgrade State Route 138 from a 2-lane road to a 4- and 6-lane expressway or conventional highway and install overcrossings at various intersections. The project would cover approximately 36 miles and 2,043 acres.

Ray Bransfield of my staff has discussed the proposed action with Tania Asef of your staff and Chris Dellith of the Ventura Fish and Wildlife Office. A small portion of the western end of the project lies within the area administered by the Ventura Fish and Wildlife Office. We also reviewed information in survey reports that Caltrans had prepared for the proposed action (ECORP Consulting 2014, 2016)

Southwestern Willow Flycatcher

The project area supports approximately 15.9 acres of riparian habitat along Interstate 5 and adjacent to Quail Lake. During surveys in 2014 and 2016, biologists from ECORP Consulting observed willow flycatchers within this riparian habitat and elsewhere along the western end of

the right-of-way. In both years, the biologists saw more birds during the first survey than the second and did not observe any willow flycatchers in later surveys. Based on this information, Caltrans has concluded that these individuals were migrating through the project area and did not remain to breed.

The proposed action would result in the loss of approximately 3.84 acres of riparian habitat along the creek near Interstate 5; it would also temporarily disturb approximately 0.59 acres of suitable habitat along this drainage. Caltrans will fence work areas, assign qualified biologists to monitor construction, and educate work crews to ensure that the disturbance of habitat does not affect additional habitat. Caltrans will also employ standard best management practices, including stormwater management, to protect ecologically important resources in the construction zone and downstream. It will install sound barriers along the perimeters of riparian habitat adjacent to the proposed construction zone to limit noise effects to a maximum of 60 dBA Leq.

The U.S. Fish and Wildlife Service (Service) concurs with Caltrans' determination that the proposed action is not likely to adversely affect the southwestern willow flycatcher. We have reached this conclusion because the individuals present within the project area are migrants and are not breeding. The loss and disturbance of approximately 4.43 acres of riparian habitat will not have a measurable effect upon the southwestern willow flycatcher's ability to use this area for resting and foraging during migration. Finally, the protective measures proposed by Caltrans will ensure that the project effects remain insignificant in terms of disturbance to southwestern willow flycatchers.

Least Bell's Vireo

ECORP Consulting did not detect any least Bell's vireos during its surveys. A limited potential exists that least Bell's vireos may also use this area as resting and foraging habitat in the future. In that event, the measures proposed by Caltrans to protect riparian habitat and the birds that use it would also be effective in avoiding adverse effects to least Bell's vireos. Therefore, the Service concurs with Caltrans' determination that the proposed action is not likely to adversely affect the least Bell's vireo.

California Condor

Caltrans has calculated that approximately 1,032 acres of suitable foraging habitat for the California condor occurs within the western portion of the proposed right-of-way. Potential impacts to the California condor include the loss of this foraging habitat, the attraction of trash during construction, and vehicles striking birds as they attempt to scavenge road-killed animals.

To the best of our knowledge, California condors rarely use this portion of the range to forage. We expect they are more likely to forage at the western edge of the project area than to the east, where the terrain is flatter. Consequently, the loss of this potential foraging habitat for the California condor is insignificant.

Caltrans will implement a trash abatement program during construction and educate all workers regarding California condors. These measures will reduce the likelihood that California condors visit the project site during construction to forage or to seek out microtrash.

To address the issue of California condors scavenging on the improved road, Caltrans will install fencing to prevent wildlife from accessing the expressway and implement a 24-hour road-kill removal protocol during the operational phase of the road. These measures should reduce the frequency that animals die on the road and thereby reduce the attractiveness of the road to California condors. For these reasons, we concur with Caltrans' determination that the proposed action is not likely to adversely affect the California condor.

We note that Caltrans has also determined that the proposed action would have no effect on several other listed species. If new information reveals your proposed action may affect listed species in a manner or to an extent not previously considered or if you subsequently modify the action in a manner that was not considered during this consultation, please contact us immediately to determine whether further consultation, pursuant to section 7(a)(2) of the Endangered Species Act, is required.

If you have any questions regarding this letter, please contact Ray Bransfield of my staff at (805) 644-1766, extension 317.

Sincerely,

BRIAN CROFT

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CROFT
Date: 2017.01.05 09:29:01
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Kennon A. Corey
Assistant Field Supervisor

Cc:
Chris Dellith, Ventura Fish and Wildlife Office, Ventura, California

References Cited

- Asef, T.S. 2016. Personal communication regarding Federal funding of the proposed action and riparian habitat in the project area. Conversations with Ray Bransfield, Senior Biologist, Palm Springs Fish and Wildlife Office. Dated December and 22 and 23. District Biologist, District 7, California Department of transportation. Los Angeles, California.
- ECORP Consulting, Inc. 2016. 2016 Addendum to the southwestern willow flycatcher and least Bell's vireo survey report for the State Route 138 Northwest Corridor Improvement Project Interstate 5 to State Route 14, Los Angeles County, California. Submitted to Environmental Planning, District 7, California Department of Transportation, Los Angeles, California. Redlands, California.
- ECORP Consulting, Inc. 2014. 2014 Southwestern willow flycatcher and least Bell's vireo surveys. State Route 138 Northwest Corridor Improvement Project Interstate 5 to State Route 14, Los Angeles County, California. Submitted to Environmental Planning, District 7, California Department of Transportation, Los Angeles, California. Redlands, California.