

Project Name: SR-241/SR-1 Tolled Express Lanes Connector Project
District/County/Route/Postmiles:
12-ORA-241 PM 36.1/39.1, 12-ORA-91 PM 14.7/18.9, 08-RIV-91 PM 0.0/1.5
EA: 12-0K9700
EFIS ID: 1200020097

CALIFORNIA DEPARTMENT OF TRANSPORTATION FINDINGS
FOR THE
SR-241/SR-91 TOLLED EXPRESS LANES CONNECTOR PROJECT
FINAL SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT
(STATE CLEARINGHOUSE # 1989010410)

The purpose of the Proposed Project is to implement the build out of the Eastern Transportation Corridor (ETC), for which the Final Environmental Impact Report/Environmental Impact Statement was approved in 1994. The overall objective of the ETC project was to accommodate traffic growth associated with planned and approved development in Orange County. In addition to the originally intended objectives of the ETC, changed circumstances at the SR-241/SR-91 interchange have led to the following objectives for the Proposed Project: implement the build out of the ETC, as approved in 1994; attain compatibility with the SR-91 mainline and SR-91 Express Lanes; improve traffic flow and operations by reducing weaving across multiple general purpose lanes between the SR-91 Express Lanes and the SR-241 general lane connectors; and enhance the efficiency of the tolled system, thereby reducing congestion on the non-tolled system on SR-91. The need for the Proposed Project is to address roadway deficiencies including: peak-hour demand exceeding capacity between the SR-241 and SR-91 connectors, lack of connectivity between tolled/managed facilities, and weaving between general purpose connectors and median lanes reducing traffic flow. Caltrans, in cooperation with the Foothill/Eastern Transportation Corridor Agency (F/ETCA), proposes to construct a tolled direct connector between SR-241 and the *91 Express Lanes*. Currently, there is no direct connection between the SR-241 toll road and the *91 Express Lanes*.

Section 21081 of the PRC and Section 15091 of the CEQA Guidelines provide that no public agency shall approve or carry out a project for which an Environmental Impact Report (EIR) has been certified that identifies one or more significant environmental effect of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding.

The possible findings are:

1. Changes or alteration have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effects as identifies in the final EIR.
2. Such changes or alterations are within the responsibility and jurisdiction of another public agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
3. Specific economic, legal, social, technological, or other considerations, including provisions of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identifies in the Final EIR.

The following information is presented to comply with State CEQA Guidelines (Title 14 California Code of Regulations, Chapter 3, Section 15901) and the Department of Transportation and California Transportation Commission Environmental Regulations (Title 21, California Code of Regulations, Chapter 11, Section 1501). Reference is made to the Final Supplemental Environmental Impact Report (Final Supplemental EIR) for the Proposed Project, which is the basic source for the information.

The following effects have been identified in the Final Supplemental EIR as resulting from the Proposed Project. Effects found not to be significant have not been included. The Build Alternative would not result in any unavoidable significant adverse impacts under CEQA that would require overriding considerations.

Biological Resources

Adverse Environmental Effects:

- IV(a) Would the project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or the U.S. Fish and Wildlife Service?

The Orange County Central and Coastal Subregion Natural Communities Conservation Plan and Habitat Conservation Plan (NCCP/HCP) approved in 1996 serves as a comprehensive, multijurisdictional habitat based conservation program pursuant to Section 10(a)(1)(B) of the Federal Endangered Species Act (FESA) of 1973 and the Natural Communities Conservation Planning Act of 1991. A majority of the BSA and much of the overall Project Area are in the NCCP/HCP Plan Area. Direct temporary and permanent impacts to California gnatcatcher occupied habitat and designated critical habitat would occur within and outside the NCCP/HCP Plan Area. As discussed in detail in Section 3.15, Natural Communities, of the Final Supplemental EIR, mitigation for the segment of the Build Alternative within the NCCP/HCP Plan Area was

conducted as part of the NCCP Implementation Agreement (1996). Therefore, no further mitigation would be required for the Proposed Project impacts to critical designated habitat within the NCCP/HCP Plan Area.

Most of the Project Area may have prior take authorization for impacts to gnatcatcher and designated critical habitat through the Biological Opinion issued in 1994 for the ETC and parts of the Build Alternative are considered a development activity addressed by the NCCP/HCP. However, the Proposed Project may still result in adverse impacts to threatened and endangered species as take of coastal California gnatcatcher designated critical habitat outside the NCCP/HCP Plan Area and outside the 1994 Biological Opinion Impact Area is expected to occur as a result of permanent impacts to 1.18 ac of critical habitat within Caltrans right-of-way. As part of the Supplemental EIR, formal Section 7 consultation with the United States Fish and Wildlife Service (USFWS) was conducted to ensure the proposed improvements covered by these previous documents are consistent with the 1994 Biological Opinion and the 1996 NCCP/HCP. This consultation was also conducted to ensure that take authorization for potentially significant additional impacts not authorized by the NCCP/HCP, would be covered.

Findings:

Changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the Final Supplemental EIR.

Statement of Facts:

As discussed in Section 3.19, Threatened and Endangered Species, Caltrans made a determination of “May affect, likely to adversely affect” for the California gnatcatcher and “May affect, not likely to adversely affect” for designated critical habitat for California gnatcatcher for purposes of Section 7 consultation. As a result of this consultation, USFWS determined that “the proposed action is not likely to jeopardize the continued existence of the gnatcatcher or adversely modify its designated critical habitat.” This determination is provided in the 2019 Biological Opinion (Appendix K). The requirements from the 2019 Biological Opinion have been specified in **Mitigation Measure TE-7** in Section 3.19.5 of the Final Supplemental EIR.

For coastal sage scrub impacts to coastal California gnatcatcher occupied habitat or designated critical habitat discussed in Section 3.19, Threatened and Endangered Species, and shown in Table 3.19.1 and Table 3.19.2, the mitigation ratio is 1:1 for temporary impacts and 2:1 for permanent impacts. With implementation of **Mitigation Measure TE-7**, the potentially significant impacts to coastal California gnatcatcher would be reduced to a less than significant level. (Final Supplemental EIR Sections 3.19; Final Supplemental EIR Section 4.2.3.1).

Mitigation Measure TE-7 includes the following requirements: acres of restoration required to offset impacts to CAGN designated critical habitat; project-specific

conservation measures to be implemented during design, vegetation clearing, and construction; and measures to offset impacts to CAGN and its habitat.

Cultural Resources

Adverse Environmental Effects:

V(c) Would the project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

As discussed in Section 3.10, Paleontology, the Build Alternative is anticipated to disturb sediments within the Area of Potential Disturbance (APD), which have a high potential to contain significant, nonrenewable paleontological resources. While the APD is partially located within the Irvine Ranch National Natural Landmark (NNL), no special paleontological situation would be anticipated in the APD within the Irvine Ranch NNL. There are no known unique paleontological resources from the geologic units in the portion of the NNL in the APD that helped to contribute to the NNL listing.

Findings:

Changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the Final Supplemental EIR.

Statement of Facts:

Mitigation Measure PAL-1, provided in Section 3.10 and summarized below, requires preparation and implementation of a PMP, which would provide the specific procedures to mitigate impacts to paleontological resources during construction of the Proposed Project. Therefore, potential significant impacts to paleontological resources would be reduced to a less than significant level with implementation of **Mitigation Measure PAL-1**. (Final Supplemental EIR Sections 3.10; Final Supplemental EIR Section 4.2.3.2).

As specified in **Mitigation Measure PAL-1**, preparation of a Caltrans Paleontological Mitigation Plan (PMP) would be required prior to completion of final design to develop the strategy for monitoring of construction activities, collection of samples, the treatment and curation of fossils encountered during excavation, and documentation of plan implementation in a Paleontological Mitigation Report.

Mandatory Findings of Significance

Adverse Environmental Effects:

XVIII(a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species,

cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

As discussed above, the Proposed Project would result in take of coastal California gnatcatcher designated critical habitat outside the NCCP/HCP Plan Area and outside the 1994 Biological Opinion Impact Area is expected to occur as a result of permanent impacts to 1.18 ac of critical habitat within Caltrans right-of-way. This potentially significant impact to coastal California gnatcatcher designated critical habitat would require compensatory mitigation through Mitigation Measure TE-7.

In addition, the Build Alternative is anticipated to disturb sediments within the Area of Potential Disturbance (APD), which have a high potential to contain significant, nonrenewable paleontological resources. This potentially significant impact to paleontological resources would require mitigation through Mitigation Measure PAL-1, which provides for the treatment and curation of fossils encountered during excavation.

Findings:

Changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the Final Supplemental EIR.

Statement of Facts:

As discussed above under Biological Resources and Cultural Resources, the project-related adverse impacts to cultural (paleontological) and biological resources can be reduced and/or mitigated to below a level of significance based on implementation of the **Mitigation Measures TE-7** and **PAL-1** identified for the Proposed Project. Therefore, with implementation of avoidance, minimization, and/or mitigation measures, the Build Alternative does not have the potential to directly or indirectly impact cultural or biological resources in a way that would eliminate examples of California history or prehistory, or jeopardize the health of wildlife populations.

Mitigation Measures TE-7 and **PAL-1**, would reduce potentially significant impacts to biological and cultural resources to a less than significant level.

Cumulative Environmental Effects:

XVIII(b) Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

As discussed above, the Proposed Project would result in take of coastal California gnatcatcher designated critical habitat. However, as stated in Section 3.19, Threatened and Endangered Species, of the Final Supplemental EIR, the loss of a few acres of coastal California gnatcatcher designated critical habitat along SR-91 would not adversely affect the survival and recovery of this species since there are thousands of acres of conserved suitable and occupied gnatcatcher habitat in the vicinity of the Project Area. Furthermore, with implementation of Mitigation Measure TE-7, temporary and permanent impacts to critical habitat would be offset with compensatory mitigation for on-site restoration and off-site mitigation.

In addition, the Build Alternative is anticipated to disturb sediments within the Area of Potential Disturbance (APO), which have a high potential to contain significant, nonrenewable paleontological resources. This potentially significant impact to paleontological resources would require mitigation through Mitigation Measure PAL-1, which provides for the treatment and curation of fossils encountered during excavation.

Findings:

Changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the Final Supplemental EIR.

Statement of Facts

The Build Alternative does not have impacts that are individually limited but cumulatively considerable. The Proposed Project would result in impacts that require mitigation related to biological and paleontological resources; however, no measures beyond TE-7 and PAL-1 *are* required to address the Proposed Project's potentially significant impacts. With the compensatory mitigation required in **Mitigation Measure TE-7** for on-site restoration and off-site mitigation, the Proposed Project would not result in a considerable contribution to cumulative impacts on critical habitat. In addition, as **Mitigation Measure PAL-1** would establish strategies for monitoring during construction as well as the treatment and curation of fossils encountered during construction, the Proposed Project would not result in a considerable contribution to cumulative impacts on paleontological resources. Therefore, impacts would be reduced to a less than significant level through compliance with regulatory requirements and project-specific mitigation measures coordinated with Caltrans and the applicable natural resource permitting agencies and would not contribute to significant cumulatively considerable impacts to these resources.

District Director:
(or designee)

Ryan Chamberlain
Print name

[Signature]
Signature

1/7/2020
Date