



COUNTY OF SANTA CRUZ

FISH AND WILDLIFE ADVISORY COMMISSION

701 OCEAN STREET, ROOM 312, SANTA CRUZ, CA 95060
(831) 454-3154 FAX: (831) 454-3128

AGENDA

December 6, 2018

7:00 PM

Fifth Floor Conference Room, Room 520, 701 Ocean Street

PLEASE NOTE: Outside doors will be open 6:45-7:30 and then locked for security.

Please arrive during this time.

Staff can be contacted at 831-227-7404, but may not be available to answer the call during the meeting.

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF MINUTES
4. PUBLIC COMMENTS
5. PRESENTATIONS:
 - A. Edward Browne, District Attorney – Report on code enforcement and Fish and Game fines and settlements (15 minutes)
 - B. 20 Years of Habitat Conservation Planning for the City of Santa Cruz Water Department, Chris Berry Watershed Compliance Manager (40 minutes)
6. BUSINESS MATTERS
 - A. Discuss and approve meeting schedule for 2019 (5 minutes)
 - B. Discuss future meeting topics and discussion of commissioners following and reporting on specific topics (10 minutes)
 - C. Discuss and approve Annual Report (5 minutes)
 - D. Update and discussion PG & E's Community Wildfire Safety Program (15 minutes)
 - E. Update on low-flow fishing letter (5 minutes)
7. PRESENTATIONS AND ANNOUNCEMENTS BY COMMISSIONERS (10 minutes) – *start 8:45 pm*
8. STAFF REPORTS/ANNOUNCEMENTS (5 minutes)
 - A. New policy on public comment and written correspondence
9. CORRESPONDENCE
 - A. Public Comment submitted by David Kossack
 - B. Notice of Receipt of Petition to list northern California summer steelhead as endangered under state ESA
 - C. Notice of Receipt of Petition to list Crotch bumble bee, Franklin's bumble bee, Suckley cuckoo bumble bee and western bumble bee as endangered under the state ESA
 - D. Notice of proposed regulatory action relation to purple sea urchin on northern California coast
 - E. Notice of proposed regulatory action relation to filleting of fish on vessels
10. ADJOURNMENT

The County of Santa Cruz does not discriminate on the basis of disability, and no person shall, by reason of a disability, be denied the benefits of its services, programs, or activities. The Planning Department Conference Room is located in an accessible facility. If you are a person with a disability and require special assistance in order to participate in the meeting, please contact Kristen Kittleson at (831)454-3154 or TDD number (454-2123) at least 72 hours in advance of the meeting in order to make arrangements. Persons with disabilities may request a copy of the agenda in an alternative format. As a courtesy to those affected, please attend the meeting smoke and scent free.



COUNTY OF SANTA CRUZ

FISH AND WILDLIFE ADVISORY COMMISSION

701 OCEAN STREET, ROOM 312, SANTA CRUZ, CA 95060
(831) 454-3154 FAX: (831) 454-3128 TDD: (831) 454-2123

Fish and Wildlife Advisory Commission

MINUTES

Santa Cruz County Governmental Center
Board of Supervisors Chambers, Fifth Floor
Santa Cruz, California

October 4, 2018

1. CALL TO ORDER. The meeting was called to order at 7:00 PM
2. ROLL CALL.

Present: Commissioners Berry, Robin, Baron, Wise, Freeman, Parmenter
Excused: Frediani, Cooley
Absent: Johnson, Lee

3. APPROVAL OF MINUTES. Commissioner Baron made a motion to approve the June minutes; Commissioner Wise seconded the motion. All aye except Commissioner Freeman abstained; the motion passed.
4. PUBLIC COMMENT. There were no general public comments.
5. BUSINESS MATTERS

A. Discuss commission policy on public comments and written correspondence.

Commissioner Robin made a motion to support the policy for public comments and written correspondence; Commissioner Freeman seconded the motion. All aye, the motion passed. Staff will distribute the final policy with the next meeting materials.

B. Discuss idea of commissioners following and reporting on specific topics. Staff introduced idea of having commissioners identify topics or issues that they would be interested in and willing to research, follow and provide updates to the commission. There was general support for the idea, which can be discussed further. Initial ideas are:

Commissioner Robin – Pajaro River

Commissioner Wise – land use and public access

Commissioner Baron – invasive and native plants; land conservation

Commissioner Freeman – habitat conservation, open space, climate resilience and landscape connectivity, grant program.

Commissioner Parmenter – San Lorenzo River, public use of open space

Commissioner Berry – coho recovery, San Lorenzo, open space management and balancing people and habitat conservation

C. **Discuss Public Grants Program for 2018-19.** Environmental Health requested that the Fish and Wildlife Advisory Commission postpone the Public Grants Program for one year until Fall 2019. This one -year break will provide time to:

- Replace the Water Resources staff person that provided additional support for the public grants program
- Allow the Fish and Game Propagation Fund to accumulate funds PRIOR to allocating them to the Public Grants Program for spending
- Eliminate the need to spend reserves in 2018-19
- Evaluate ways to streamline the administration and fiscal process of the Public Grants Program
- Allow FWAC to evaluate the program and make any desired changes

In the discussion, Lt. Schindler pointed out that limited hunting opportunities in Santa Cruz County limit fines from F & G code violations. For example, poaching a buck involves 5 different misdemeanors. Commissioners agreed to postpone the public grants program for this year.

D. **Discuss possible involvement or action about PG & E's new tree clearing policy.** PG & E has started to implement a new Community Wildfire Safety Program that complies with a State Public Utility Commission directive to clear at least 4' on either side of a power line and up to 12' to minimize the risk of wildlife from trees or tree limbs dropping onto the lines. Commissioner Berry and Kristen Kittleson both attended a Santa Cruz Fire Safe Council meeting where PG & E provided information about this new program and a discussion of local concerns including the fire risk of flammable grass and shrubs that could grow under cleared lines, habitat conversion and invasive plants, and the threat to aquatic habitats from increased erosion and reduced shading along streams. PG & E staff assumed that the company would use herbicides to control this new growth. Commissioner Freeman made a motion to empower the chair to complete a draft letter to the Board of Supervisors documenting concerns, supporting the County's actions to provide oversight through an encroachment permit and other efforts to provide information to the public; Commissioner Parmenter seconded the motion. All aye; the motion passed. Chair Berry, Commissioner Robin and staff will complete the letter.

E. **Update on County's Cannabis Cultivation (CC) Office.** Staff provided a short update on the CC office. The current manager, Robin Bolster-Grant is leaving at the end of October; the County has already started recruitment for a replacement. Two sheriffs have started working with the Cannabis Licensing Office on enforcement.

F. **Update on Letter to Board in support of Scott Creek Highway 1 Bridge Replacement and Lagoon Restoration.** At the June meeting, the FWAC voted to send a letter to the Board of Supervisors requesting them to send a letter to Caltrans in support of the Scott Creek Bridge Replacement and Lagoon Restoration Project. That letter has been completed.

G. **Update on Juvenile Steelhead and Stream Habitat Monitoring Program.** Kristen Kittleson reported that the City of Santa Cruz is managing the contract with DW ALLEY & Associates for the annual steelhead monitoring and stream habitat data collection. The basic database and website have been completed. The website StoryMap, that introduces the monitoring program, won third place in an international competition through ESRI, the primary GIS mapping software company.

H. Discuss future meeting topics. Commissioners proposed the following topics:

- Public Grants Program – funding and process
- PG & E Community Wildfire Safety Program
- CDFW's Low-flow fishing closure study
- Woodrat population status and distribution
- Impact of crab traps on whales
- Status of code compliance with District Attorney's office
- Fires
- 40 years of San Lorenzo Watershed Management
- Resource management at City and County parks

David Kossack provided a public comment requesting a presentation on the City's HCP and the impacts of more students at UCSC.

6. PRESENTATIONS AND ANNOUNCEMENTS BY COMMISSIONERS.

7. STAFF REPORTS/ANNOUNCEMENTS

8. ADJOURNMENT – 8:58 PM.

NOTE: The next meeting is scheduled for December 6, 2018

Submitted by K. Kittleson; Water Resources/Fish and Wildlife/2018 FWAC Meetings



County of Santa Cruz

BOARD OF SUPERVISORS

701 OCEAN STREET, SUITE 500, SANTA CRUZ, CA 95060-4069
(831) 454-2200 • FAX: (831) 454-3262 TDD/TTY - Call 711

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FIRST DISTRICT

ZACH FRIEND
SECOND DISTRICT

RYAN COONERTY
THIRD DISTRICT

GREG CAPUT
FOURTH DISTRICT

BRUCE MCPHERSON
FIFTH DISTRICT

November 2, 2018

Chris Berry

Chair, County of Santa Cruz Fish and Wildlife Advisory Commission
701 Ocean Street, Room 312
Santa Cruz, CA 95060

Dear Chair Berry,

Thank you for your letter of October 17 to the Board of Supervisors from the Fish and Wildlife Advisory Commission regarding Pacific Gas & Electric's Wildfire Safety Program. I share many of the concerns raised in your letter, and I appreciate your acknowledgement of the efforts made to date by staff at the Board of Supervisors, County Counsel and other County departments to protect our local environment and inform members of our community in the face of PG&E's enhanced vegetation removal program.

As you know, PG&E has been given the authority by its regulator, the California Public Utilities Commission (CPUC), to conduct enhanced vegetation removal beyond the standard four feet on either side of infrastructure to reduce the risk of wildfire posed by trees or limbs contacting power poles and lines. The CPUC has authorized PG&E to clear up to 12 feet in either direction around its infrastructure, and in extreme cases, up to 15 feet. My office understands PG&E needs to keep its infrastructure clear from direct contact with vegetation, but I am equally concerned about the fire risk posed by the lack of repair and replacement of that very infrastructure.

In an October 18 letter co-signed by me and Assemblymember Mark Stone to PG&E's Chief Executive Officer and President Geisha Williams and Vice President Gregg Lemler, we wrote: "It is regrettable that PG&E hasn't provided greater specifics about its infrastructure replacement plans and does not appear to be working on insulating power

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November 2, 2018

lines and replacing wooden power poles simultaneously – or certainly at the same volume or speed – as it is conducting vegetation removal.”

Despite sagging power lines being determined by the state investigators as the cause of 2017 wild fires that killed four people, PG&E has not identified specific plans for improving its infrastructure. By comparison, Southern California Edison, a large power supplier in Central and Southern California, has announced plans to spend \$582 million on making its grid safer and replacing nearly 600 miles of overhead power lines by the end of 2020.

I agree with the Fish & Wildlife Advisory Commission’s assessment that PG&E implementing utility infrastructure upgrades could reduce or eliminate the need for vegetation removal, which, as you rightly point out, can lead to erosion, loss of critical habitat for species, watershed alteration and other environmental concerns. In an effort to minimize the potential for such harm, the County continues to discuss with PG&E environmental conditions associated with a future permit for conducting enhanced vegetation removal in the County’s right-of-way. As of this writing, the permit has not been issued.

The County has no jurisdiction over PG&E’s enhanced vegetation removal on private property. However, my office has repeatedly urged PG&E to conduct a transparent public outreach program that explains the rights and responsibilities of property owners relative to enhanced vegetation removal. Thank you for your letter of encouragement and for the work of the Commission to advocate on behalf of the health of our environment.

Sincerely,



BRUCE MCPHERSON, Supervisor
Fifth District

BAM:jfr

The following was submitted by David Kossack on October 5, 2018

Hi Kristen -

Attached is a copy of the Sen. Natural Resources and Water Committee's letter to CalTrans asking how they are addressing Cumulative Barriers to Fish Passage under SB 857 (Kuehl) Fish Passage. SB 857 is important because it makes Fish Passage a Project Cost. As mentioned below we feel that CalTrans has their own ideas about what kind of bridge they intend to build and the concerns of other agencies and enviros are of little concern. We ask that the County not give away Fish Passage thinking that CalTrans is going to pull a rabbit out of the hat, especially when giving away Cumulative Barriers to Fish Passage means that it is lost forever...

I am passing this information along to the Sups as well since there is such a long lead time between agendas and minutes going to the Board.

Thank you

David Kossack
On behalf of
San Andreas Land Conservancy

Kristen Kittleson contacted Caltrans and received the following response:

Following the passage of SB857, the Scott Creek bridge was evaluated for barrier status, per the CDFW guidance manual, and despite the road/stream crossing being a real or perceived influence on lagoon function, it was determined to be a non-barrier per CDFW guidance manual and therefore not a SB 857 barrier. That determination is recorded with the California Department of Fish and Wildlife's Passage Assessment Database (PAD), where Scott Creek bridge is not listed as a barrier (PAD ID 732371).

Caltrans has been an active member of a multi-agency collaborative process to develop a project for lagoon enhancement and bridge replacement at the Scott Creek lagoon. Over the course of the last year and a half, the Resource Conservation District of Santa Cruz County received a grant to further analyze conceptual restoration plans at this location. The team is currently exploring ways to get this project into future Caltrans programming, including looking for various sources of funds for a restoration project design, environmental process and construction. This effort is largely being led by our partners agencies with Caltrans playing an active role.

Caltrans also has an active regional process (called FishPAC) that is currently prioritizing and addressing fish passage barriers throughout California and here in the Central Coast. This process is in direct response to SB857 and while Scott Creek is not included in the set of potential locations for fish passage improvement, this process has already resulted in many successful projects to improve fish passage throughout California.

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California Legislature
Senate Committee
on
Natural Resources and Water

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STATE CAPITOL
ROOM 4035
SACRAMENTO, CA 95814
TEL (916) 651-4116
FAX (916) 323-2232

May 23, 2007

Mr. Will Kempton, Director
California Department of Transportation
1120 N. St
P.O. Box 942873
Sacramento, CA 94273-0001

Re: Cumulative Barriers to Fish Passage

Dear Director Kempton:

In 2005, the Legislature passed Senate Bill 857 (Kuehl) as part of an ongoing effort to reduce barriers to fish passage. This bill specifically directs the Director of Transportation to locate, assess, and remediate barriers to fish passage; to perform an assessment of potential barriers prior to commencing project design; and construct projects so that they do not present a barrier to fish passage. Furthermore, as you are aware, CalTrans is to develop a programmatic environmental review process with appropriate state and federal regulatory agencies to remediate barriers to fish passage that will streamline the permitting process for projects.

According to the department's August 2006 progress report, CalTrans has incorporated some improvements in the criteria for determining fish passage, notably the requirement that juvenile, not just adult, salmonids need to be able to pass through culverts and other devices. However, we remain concerned that CalTrans is currently interpreting the term "fish passage" too narrowly. We believe that when assessing a project for fish passage, CalTrans should not only consider obvious physical barriers to fish passage upstream, but also impacts that have, and have had, a cumulative effect on the ability of fish to access necessary habitat throughout its life cycle as has been observed at stream crossings through coastal lagoons and estuaries.

In response to these concerns, we would like to be supplied with additional information and would appreciate your assistance with the following questions:

- How is CalTrans working with appropriate state and federal agencies who have expertise in fish passage, specifically the Department of Fish and Game and the National Marine Fisheries Service, in developing the criteria necessary to assess fish passage using an ecosystem approach;

RECEIVED

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DIRECTOR'S OFFICE

- How is CalTrans assessing cumulative impacts to fish passage and access to necessary habitat in its fish passage criteria. Please include how monitoring protocols are being implemented to track cumulative effects at CalTrans stream crossings;
- How is CalTrans working with state and federal agencies in assessing specific projects for fish passage barriers; and
- How is CalTrans assuring that replacement projects receive a programming priority capable of remediating cumulative barriers to fish passage in a timely manner.

We believe that under SB 857, it is CalTrans' responsibility to demonstrate that any proposed project will not limit fish passage. Furthermore, we believe that fish passage should be incorporated into the design of new and replacement projects and that existing structures should be remediated for fish passage in a timely matter.

Thank you for your attention to this issue. If you have any questions, please do not hesitate to call Bill Craven of the Committee staff at 916-651-4116.

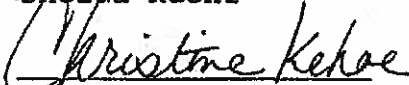
Sincerely,



Darrell Steinberg



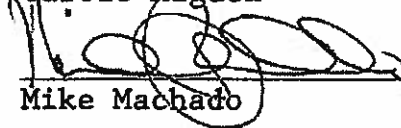
Sheila Kuehl



Christine Kehoe



Carole Migden



Mike Machado

BILL NUMBER: SB 857 ENROLLED
BILL TEXT

PASSED THE ASSEMBLY AUGUST 30, 2005
PASSED THE SENATE MAY 26, 2005
AMENDED IN SENATE MAY 10, 2005
AMENDED IN SENATE MAY 2, 2005
AMENDED IN SENATE MARCH 29, 2005

INTRODUCED BY Senator Kuehl
(Coauthors: Senators Chesbro and Kehoe)
(Coauthor: Assembly Member Berg)

FEBRUARY 22, 2005

An act to amend Section 5901 of the Fish and Game Code, and to add Article 3.5 (commencing with Section 156) to Chapter 1 of Division 1 of, the Streets and Highways Code, relating to fish passages.

LEGISLATIVE COUNSEL'S DIGEST

SB 857, Kuehl Fish passages.

Existing law provides that the Department of Transportation has full possession and control of all state highways.

This bill would require the department to prepare an annual report to the Legislature describing the status of the department's progress in locating, assessing, and remediating barriers to fish passage, as defined. The bill would require the department also to complete assessments of potential barriers to anadromous fish prior to commencing any project using state or federal transportation funds. The bill would require the department to submit these assessments to the Department of Fish and Game to be added to the CALFISH database. The bill would also require projects to be constructed without presenting barriers to fish passage.

Existing law prohibits the construction or maintenance, in certain fish and game districts, of any device or contrivance that prevents, impedes, or tends to prevent or impede, the passing of fish up and down stream.

This bill would revise the fish and game districts in which this prohibition applies.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) The decline of naturally spawning salmon and steelhead trout is primarily a result of the loss of appropriate stream habitat and the inability of fish to get access to habitat, according to recent reports to the Fish and Game Commission and by the Department of Fish and Game.

(b) Increasing the naturally spawning salmon and steelhead trout populations in California would provide a valuable public resource, employment opportunities, and substantial economic benefits to the

state.

(c) Federal, state and local governments and nonprofit organizations are spending hundreds of millions of public dollars in California protecting and restoring habitat for salmon and steelhead trout through watershed and fishery restoration programs, with the state alone spending over two hundred million dollars (\$200,000,000) for these purposes in the past five years.

(d) The California Department of Transportation has maintenance, construction, and oversight responsibility for the state's roads, including approximately 5,000 stream crossings on coastal streams.

(e) Stream crossings on roads frequently present barriers to the migration of fish, and there is an extensive lack of information regarding the number and extent of existing barriers to fish migration at state road stream crossings.

(f) Having this information would enable the department to better predict the time and funding required to complete transportation projects.

(g) Substantial savings to the state would result from improved ability to deliver transportation projects within their budgets and on time, and substantial benefit to the state's salmon and steelhead trout populations would result from remediation of barriers to fish passage at stream crossings

SEC. 2. Section 5901 of the Fish and Game Code is amended to read:

5901. Except as otherwise provided in this code, it is unlawful to construct or maintain in any stream in Districts 1, 13/8, 11/2, 17/8, 2, 21/4, 21/2, 23/4, 3, 31/2, 4, 41/8, 41/2, 43/4, 11, 12, 13, 23, and 25, any device or contrivance that prevents, impedes, or tends to prevent or impede, the passing of fish up and down stream.

SEC. 3. Article 3.5 (commencing with Section 156) is added to Chapter 1 of Division 1 of the Streets and Highways Code, to read:

Article 3.5. Barriers to Fish Passage

156. For purposes of this article, the following definitions shall apply:

(a) "Fish passage" means the ability of an anadromous fish to access appropriate habitat at all points in its life cycle, including spawning and rearing.

(b) "Department" means the Department of Transportation.

156.1. The Director of Transportation shall prepare an annual report describing the status of the department's progress in locating, assessing, and remediating barriers to fish passage. This report shall be given to the Legislature by October 31 of each year through the year 2020.

156.2. The department shall pursue development of a programmatic environmental review process with appropriate state and federal regulatory agencies for remediating barriers to fish passage that will streamline the permitting process for projects. The department shall include a description of its progress on this review process in the report specified in Section 156.1.

156.3. For any project using state or federal transportation funds programmed after January 1, 2006, the department shall insure that, if the project affects a stream crossing on a stream where anadromous fish are, or historically were, found, an assessment of potential barriers to fish passage is done prior to commencing

project design. The department shall submit the assessment to the Department of Fish and Game and add it to the CALFISH database. If any structural barrier to passage exists, remediation of the problem shall be designed into the project by the implementing agency. New projects shall be constructed so that they do not present a barrier to fish passage. When barriers to fish passage are being addressed, plans and projects shall be developed in consultation with the Department of Fish and Game.

156.4. For any repair or construction project using state or federal transportation funds that affects a stream crossing on a stream where anadromous fish are, or historically were, found, the department shall perform an assessment of the site for potential barriers to fish passage and submit the assessment to the Department of Fish and Game.

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California Legislature

Senate Committee

on

Natural Resources and Water

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Fax Cover Sheet

Date: 2-23-09

To: David Kossack

Fax Number: 831-427-3733

From: **Senate Committee on Natural Resources and Water**

- Bill Craven
- Dennis O'Connor
- Marie Liu
- Patty Hanson

Fax number: 323-2232 Phone number: 651-4116

RE: _____

Number of pages (including this one): 7

Comments:

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An act to amend Sections 156, 156.1, 156.2, and 156.3 of, and to add
Section 156.5 to, the Streets and Highways Code, relating to fish passages.



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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 156 of the Streets and Highways Code is amended to read:

156. For purposes of this article, the following definitions shall apply:

(a) "Fish passage" means the ability of an anadromous fish to access appropriate habitat at all points in its life cycle, including spawning and rearing.

(b) "Department" means the Department of Transportation.

(c) "Cumulative barriers" means changes in hydrology or geomorphology as a result of anthropogenic activity, though possibly insignificant on their own, which through number, time, or synergistic interaction reduce the area or productivity of habitat that supports, or previously supported, anadromous fish populations.

(d) "Project" means a project, as defined in Section 21065 of the Public Resources Code, for transportation purposes that affects a stream crossing on a stream where anadromous fish are, or historically were, found.

(e) "Responsible agency" has the meaning set forth in Section 21069 of the Public Resources Code.

(f) "Trustee agency" has the meaning set forth in Section 21070 of the Public Resources Code.

SEC. 2. Section 156.1 of the Streets and Highways Code is amended to read:

156.1. The Director of Transportation shall prepare an annual report describing the status of the department's progress in locating, assessing, and remediating barriers and cumulative barriers to fish passage. This report shall be given to the Legislature



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by October 31 of each year through the year 2020. The data in the report shall be entered into the CALFISH database.

SEC. 3. Section 156.2 of the Streets and Highways Code is amended to read:

156.2. (a) The department shall pursue development of a programmatic environmental review process with appropriate state and federal regulatory agencies for remediating barriers to fish passage that will streamline the permitting process for projects. The department shall include a description of its progress on this review process in the report specified in Section 156.1.

(b) The department shall pursue development of a programmatic environmental review process with appropriate state and federal regulatory agencies for remediating cumulative barriers to fish passage. The environmental document shall provide the following:

(1) A description of preanthropogenic conditions.

(2) Existing conditions, including both direct and cumulative barriers to fish passage within the watershed.

(3) The identification of anthropogenic impacts by land use.

(c) The department may consolidate the environmental reviews required under subdivisions (a) and (b) and shall include a description of its progress on these reviews in the report specified in Section 156.1.

SEC. 4. Section 156.3 of the Streets and Highways Code is amended to read:

156.3. For the Regardless of whether the department is the lead agency for purposes of a proposed expenditure of state or federal transportation funds, for any project using state or federal transportation funds programmed after January 1, 2006,



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the department shall ensure that, if the project affects a stream crossing on a stream where anadromous fish are, or historically were, found, an assessment of potential barriers, including an assessment of cumulative barriers, to fish passage is done prior to commencing project design. The department shall submit the assessment to the Department of Fish and Game and add it to the CALFISH database. If any structural barrier to passage exists, remediation of the problem shall be designed into the project by the implementing agency. New and replacement projects shall be constructed so that they do not present a barrier to fish passage. When barriers to fish passage are being addressed, plans and projects shall be developed in consultation with the Department of Fish and Game. The department or the project applicant shall be responsible for the consultation costs incurred by other state agencies.



SEC. 5. Section 156.5 is added to the Streets and Highways Code, to read:

156.5. Any responsible or trustee agency of public trust resources, or any affected individual, may bring an action to require the assessments specified in Section 156.3 and to enjoin any project for which an adequate assessment has not been prepared. All costs for a successful action under this section shall be paid by the department or the project proponent.

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LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, _____.

General Subject: Fish passages.

Existing law provides that the Department of Transportation has full possession and control of all state highways. Existing law requires the department to prepare an annual report to the Legislature describing the status of the department's progress in locating, assessing, and remediating barriers to fish passage, as defined. Existing law requires the department to complete assessments of potential barriers to the passage of anadromous fish prior to commencing any project using state or federal transportation funds. Existing law requires the department to submit the assessment to the Department of Fish and Game to be added to the CALFISH database. Existing law requires projects to be constructed without presenting barriers to fish passage.

This bill would define the term "project" for purposes of these provisions and would require the annual report submitted to the Legislature by the department to describe its progress in locating, assessing, and remediating cumulative barriers, as



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defined, to anadromous fish passage, and would require the data in the report to be entered into the CALFISH database. The bill would require the department to pursue development of a programmatic environmental review process to remediate cumulative barriers to fish passage. The bill would require the department, regardless of whether it is the lead agency for a proposed expenditure of state or federal transportation funds, to complete an assessment of potential barriers, including cumulative barriers, to fish passage prior to commencing any project using state or federal transportation funds, as specified, and would require replacement projects as well as new projects, to be constructed without presenting barriers to fish passage. The bill would make the department, or a project applicant, responsible for the consultation costs incurred by other state agencies in developing project plans to avoid barriers to fish passage. The bill would authorize legal action to require the assessments for projects that may result in barriers, or cumulative barriers, to fish passage. The bill would authorize legal action to enjoin any project for which an adequate assessment has not been prepared.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.



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COMMITTEES
CHAIR, BUDGET
JUDICIARY
LABOR & EMPLOYMENT
NATURAL RESOURCES

Assembly
California Legislature

JOHN LAIRD
ASSEMBLYMEMBER, TWENTY-SEVENTH DISTRICT

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SANTA CRUZ, CA 95060
(831) 425-1503
FAX: (831) 425-2570
MONTEREY AND SANTA CLARA COUNTIES
99 PACIFIC STREET, SUITE 555-D
MONTEREY, CA 93940
(831) 649-2832
(408) 782-0647
FAX: (831) 649-2935

June 25, 2007

Mr. Rich Krumholz
District Director
California Department of Transportation, District 5
50 Higuera Street
San Luis Obispo, CA 93401-5415

Dear Mr. Krumholz,

I am writing regarding the scoping process that is underway for replacement of the Scott and Waddell Bridges on the North Coast of Santa Cruz County. I understand CalTrans is in the process of determining what options will be included in the CEQA and NEPA studies. I recognize the importance of these studies in defining a decision of this magnitude and I urge you to include a full span bridge among the options to be thoroughly studied and considered.

I am hearing from numerous stakeholders that it is likely that replacing the bridges with like structures will not meet the environmental needs of the estuaries. As you know, this area is home to populations of listed Central California Coast (CCC) Evolutionarily Significant Unit of steelhead and CCC Evolutionarily Significant Unit of coho salmon, as well as tidewater gobies, California red-legged frogs, snowy plovers and San Francisco Garter snakes. There appears to be a general agreement among the stakeholders I have heard from that these populations and the estuaries have been adversely impacted by the existing bridges and their approaches.

The pending bridge replacement projects provide an opportunity to reduce anthropogenic impacts to estuary function and fish passage presently associated with the existing short bridges at these locations. Because of this, it is important to include and truly consider the full range of replacement options in the evaluations. I understand that CalTrans cannot make a determination on a replacement prior to completion of the required environmental studies. However, inclusion of the full span bridge option in these studies will allow assessment of its benefits. Again, I strongly urge that full span bridges be studied and fully considered. Thank you.

Sincerely,



JOHN LAIRD
Assemblymember, 27th District

cc: ✓ David Kossack, San Andreas Land Conservancy
Supervisor Neal Coonerty

JL:ae