



## **The California Department of Fish and Wildlife Report on Caltrans Advance Mitigation Program**

**July 1, 2018**

A Report to the Legislature  
in compliance with Streets and Highways Code Section 800,  
as amended by SB 103  
(Committee on Budget and Fiscal Review, Transportation, 2017)

which states in part:

*"800(a) The Advance Mitigation Program is hereby created in the department [of Transportation] to enhance communications between the department and stakeholders to protect natural resources through project mitigation, to meet or exceed applicable environmental requirements, to accelerate project delivery, and to mitigate, to the maximum extent required by law, environmental impacts from transportation infrastructure projects. The department shall consult on all activities pursuant to this article with the Department of Fish and Wildlife, including activities pursuant to Chapter 9 (commencing with Section 1850) of Division 2 of the Fish and Game Code.*

*800.6 (g) By July 1, 2018, or one year after the initial Advance Mitigation Program investments have begun, whichever is earlier, and biennially thereafter, the Department of Fish and Wildlife shall, pursuant to Section 9795 of the Government Code, and notwithstanding Section 10231.5 of the Government Code, submit a report to the Legislature that describes the extent to which the Advance Mitigation Program has improved the quality and effectiveness of habitat mitigation provided by the department [of Transportation] for transportation projects and makes related recommendations on how to maximize these attributes. The report shall also include recommendations on how to maximize the quality and effectiveness of habitat mitigation developed pursuant to the Advance Mitigation Program."*

## **EXECUTIVE SUMMARY**

Streets and Highways Code Section 800, as amended by Senate Bill 103 (Committee on Budget and Fiscal Review, Transportation, 2017), directs the California Department of Fish and Wildlife (CDFW) to prepare and submit to the Legislature a report that describes the extent to which the Advance Mitigation Program has improved the quality and effectiveness of habitat mitigation provided by the California Department of Transportation (Caltrans) for transportation projects. Specifically, Streets and Highways Code Section 800.6 requires CDFW to make recommendations on how to maximize these attributes and on how to maximize the quality and effectiveness of habitat mitigation pursuant to the Advance Mitigation Program.

This represents the first biennial report prepared pursuant to the requirements of Streets and Highways Code Section 800, as amended by Senate Bill 103 on July 21, 2017.

Prior to the July 21, 2017 creation of the formal Advance Mitigation Program, CDFW provided Caltrans with guidance on conservation goals, objectives, and tools for assessing mitigation conservation values. These activities have continued since the creation of the Advance Mitigation Program. CDFW is also a signatory to the Statewide Advance Mitigation Initiative Memorandum of Understanding (2009; renewed in 2016), the purpose of which is “to establish a mutual framework for coordinated review concerning development of the Initiative for advance mitigation and conservation planning for planned transportation projects at a landscape scale.”

At this point, no habitat mitigation specific to the Advance Mitigation Program has been completed, however the Department and Caltrans have discussed both conceptual and specific advance mitigation proposals. The Department will continue to provide guidance to Caltrans, and will be better positioned to provide recommendations pursuant to Code Section 800.6 after Caltrans completes projects under the SB 103 framework.

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## **Caltrans Advance Mitigation Program**

### **1. Program Background and Purpose**

The Caltrans Advance Mitigation Program (AMP) was formed to meet the requirements of the Road Repair and Accountability Act of 2017 (SB 1 Beall, Ch. 5, Statutes of 2017). The program was amended by SB 103 (Committee on Budget and Fiscal Review), Ch. 95, Statutes of 2017). The Act directs:

- Caltrans to set up a new program for planning and implementing advance mitigation projects<sup>1</sup>;
- The Director of Finance to direct the State Controller to deposit no less than \$30 million annually into an Advance Mitigation Account (AMA), for implementing advance mitigation projects, commencing with the 2017–18 fiscal year, and for a period of four years;
- Caltrans to operate the AMA as a self-sustaining revolving account, to manage the total of no less than \$120 million, set aside; and
- Caltrans to protect natural resources through transportation project mitigation and to mitigate, to the maximum extent required by law, environmental impacts from transportation infrastructure projects.

The Act also directs Caltrans to consult with the California Department of Fish and Wildlife (CDFW) on all AMP activities (Streets and Highways Code (SCH) 800(a)) and for CDFW and Caltrans to regularly report to the Legislature on the improved quality and effectiveness of Caltrans' AMP habitat mitigation and transportation project acceleration, respectively.

### **2. CDFW - Current Role**

Prior to the July 21, 2017 creation of the formal AMP program through SB 103, CDFW provided Caltrans with guidance on conservation goals, objectives, and tools for assessing mitigation conservation values. CDFW is also a signatory to the Statewide Advance Mitigation Initiative (SAMI) Memorandum of Understanding (SAMI MOU 2009; renewed in 2016), the purpose of which is "to establish a mutual framework for coordinated review concerning development of the Initiative for advance mitigation and conservation planning for planned transportation projects at a landscape scale."

Previous Caltrans advance mitigation efforts were operated out of the State Highway Operations and Protection Program (SHOPP). In 2013, Caltrans entered into a reimbursable agreement with CDFW to fund a liaison to assist with efforts such as developing advance mitigation science and policy; enhancing interagency coordination;

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<sup>1</sup> The Act defines "advance mitigation" as "mitigation implemented before, and in anticipation of, environmental effects of planned transportation improvements (SHC 800.5(c))."

and integrating CDFW conservation tools and programs into advance mitigation planning.

At the time of this report, there are currently 12 advance mitigation projects underway and funded through the SHOPP that were instigated prior to the passage of SB1. These projects include bulk credit purchases from mitigation and conservation banks, payment to a HCP/NCCP, and various requests for proposals to create species or habitat credits. Most of these projects are in early development, but one bulk credit purchase at a CDFW conservation bank has been completed. These SHOPP projects have provided opportunities for dialogue between CDFW and Caltrans that are informing policy and guidance in both agencies.

Since formalization of the AMP, CDFW has continued assisting Caltrans with the activities identified above, examples of which are provided below.

- CDFW provided comments on the SAMI “Master Agreement for Planning and Developing Advance Mitigation throughout California for the California Department of Transportation Advance Mitigation Program” (Master Agreement) and is an anticipated signatory. The Master Agreement creates a formalized and mutually agreeable process for implementing advance mitigation projects that will meet the needs of Caltrans as well as the conservation priorities and regulatory missions of other participating agencies. This serves to satisfy, in part, the consultation requirements of SB 103.
- CDFW provided a detailed technical document, “CDFW Information Sources on Developing Conservation Goals and Objectives for the Caltrans Advance Mitigation Program,” to Caltrans to assist in meeting and potentially maximizing CDFW conservation goals and objectives. This document included detailed information on the use of several CDFW tools: the California Essential Habitat Connectivity Project (CEHC) and associated regional linkage designs, Areas of Conservation Emphasis III (ACE III), numerous conservation datasets on the CDFW Biogeographic Information and Observation System (BIOS), the 2015 Statewide Wildlife Action Plan update, and CDFW climate change and resiliency data sources. CDFW presented this document to Caltrans headquarters staff and Caltrans disseminated it to its Districts.

### **3. Quality and Effectiveness of Habitat Mitigation**

Currently, no habitat mitigation specific to the AMP has been completed; however, CDFW and Caltrans have discussed both conceptual and specific advance mitigation proposals. At the request of Caltrans, CDFW has provided guidance and information on several tools for determining regional conservation goals and objectives to improve the

quality and effectiveness of future AMP mitigation projects. This information helps to inform Caltrans AMP planning activities and funding decisions.

#### **4. Recommendations**

CDFW continues to work closely with Caltrans and provides guidance on CDFW conservation goals and objectives, as well as several tools that will help Caltrans maximize conservation in addition to meeting their regulatory mitigation requirements.

At this point in the AMP process, CDFW does not have specific recommendations to provide. CDFW will continue to provide guidance to Caltrans, and will be better positioned to provide recommendations after Caltrans completes projects under the SB 103 framework. CDFW looks forward to continuing work with Caltrans as these projects are assessed, proposed, and completed.

While there are no specific recommendations pursuant to SHC 800.6, CDFW supports Caltrans' current efforts and encourages the use of CDFW conservation tools and programs. CDFW believes that Caltrans' interest, support, and use of the new Regional Conservation Investment Strategies (RCIS) Program will be important for the success of the RCIS Program and the AMP. Additionally, it should be recognized that Caltrans recently completed its Statewide Advance Mitigation Needs Assessment (SAMNA) and is in the process of developing Regional Advance Mitigation Needs Assessments (RAMNAs) internally with Caltrans Districts. Once finalized, the Master Agreement would create a formalized process for agency review of RAMNAs. CDFW looks forward to assisting with and reviewing the RAMNAs after Caltrans' internal review. The document, CDFW Information Sources on Developing Conservation Goals and Objectives for the Caltrans Advance Mitigation Program, was tailored to assist both Caltrans Headquarters and District staff in the development of RAMNAs and the eventual candidate advance mitigation projects. CDFW believes continuation of these types of efforts will go a long way in enhancing and maximizing mitigation outcomes compared to current project-by-project permit-driven mitigation.