

I-15 MOJAVE WILDLIFE CROSSINGS PROJECT STATUS REPORT



**Report to the Legislature
2024**



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Table of Contents

Executive	2
Background.....	3
Statutory Reference & Purpose.....	3
Program Background.....	3
Program Status and Accomplishments	4
Science and Data:.....	4
Partnership and Engagement:.....	6
Engineering	7
Funding.....	7
Conclusion.....	8
Appendix A. Statutory Reporting Reference	9

Executive Summary

As mandated by Streets and Highways Code Section 143.2, this report provides the status of efforts to implement the Interstate 15 Mojave wildlife crossings.

The California Department of Transportation (Caltrans) has been actively engaged with the California Department of Fish and Wildlife, Brightline West (the rail operator), and interested stakeholders to complete the preliminary project development process for the Interstate 15 Mojave wildlife crossings.

Any agreement entered between Caltrans and Brightline West must provide documented, ongoing, positive, and quantifiable benefits to the environment and environmental quality, including to wildlife. Caltrans must also consult with the California Department of Fish and Wildlife and with entities with expertise in the development, design, and construction of wildlife crossing structures as part of the development process. The purpose of this first legislative report is to provide a status from Caltrans on these activities.

The Project Initiation Report was completed on June 5, 2023, which enabled Caltrans to request programming of State Highway Operation and Protection Program funds at the June 2023 California Transportation Committee meeting. The California Transportation Commission approved the funding request at the June meeting.

Caltrans initiated the National Environmental Policy Act and California Environmental Quality Act environmental compliance process in January 2023 and completed a Categorical Exclusion for the National Environmental Policy Act, and a Statutory Exemption for the California Environmental Quality Act for Restoration Projects in October 2023.

Caltrans is presently negotiating a project specific agreement with Brightline West to develop, design, procure, and construct these crossings. Caltrans is currently working with both the California Department of Fish and Wildlife and Brightline West to detail the design criteria for these crossings so the identified criteria can be documented in the agreement currently under negotiation.

Caltrans has allocated suitable project match funding from the Infrastructure Investment and Jobs Act Bridge Program as the department's portion of the agreed funding commitment. Caltrans has evaluated opportunities for competitive federal grants, however the Interstate 15 Mojave Wildlife Crossings has not been eligible or competitive for the grants evaluated, primarily due to lacking the required 20-percent non-federal funding match, which is required criteria to compete for the Wildlife Connectivity Pilot Program Grant.

Background

Statutory Reference & Purpose

Senate Bill (SB) 145 (Newman, Chapter 57, Statutes of 2023) was signed into law on July 10, 2023, is codified in Streets and Highways Code, Section 143.2, and which requires Caltrans to ensure the construction of three wildlife crossings over Interstate 15. It further authorizes Caltrans to take several actions related to environmental mitigation or advanced environmental mitigation, including:

- (1) Negotiate for, and enter into, an authorized agreement with Brightline West to develop, design, procure, and construct these crossings.
- (2) Determine and appropriate any lawful source of funding or financing for the development or construction of these crossings.
- (3) Apply for a competitive grant from federal grant programs to fund activities associated with construction of these crossings.

Program Background

Brightline West proposes to construct a privately owned and operated electrified high-speed passenger railroad between Southern California and Las Vegas, Nevada. The fully grade-separated line will be constructed primarily in the Interstate 15 right-of-way on an alignment that will largely run in the median of the freeway. The high-speed railroad will be constructed as two projects, one between Las Vegas and Apple Valley, California, and the other between Apple Valley and Rancho Cucamonga, California. Together, the two projects will form a single system that will provide high-speed rail service between Rancho Cucamonga and Las Vegas.

Since 2002, Caltrans, the California Department of Fish and Wildlife, and Brightline West have worked cooperatively to develop a coordinated path to implement the three Wildlife Overcrossings. SB 145 provides efficiencies in the form of partnerships, design, funding, and construction that will improve the efficiency and feasibility of constructing the Interstate 15 Mojave Wildlife Overcrossings, if constructed concurrently with the construction implementation schedule for the Brightline West System.

In June 2023, the California Transportation Commission allocated a total \$99,445,000 for construction support and construction capital, for project match from Caltrans' Infrastructure Investment and Jobs Act, State Highway Operation and Protection Program fund. Brightline West will provide design and permitting support for the Interstate 15 Mojave Wildlife Overcrossings, support federal and state grant applications, and provide design-build project management and implementation.

Dedicated overcrossings would provide a sustainable and safe path for wildlife connectivity over the existing northbound and southbound highway lanes and the future high speed rail corridor to be built in the median. The California Department of Fish and Wildlife has studied and identified three priority locations (Cady Mountain at postmile R116.70, Zzyzx Road at postmile R129.75, and Clark Mountain at postmile 168.05) where the construction of overcrossings across the entire width of the Interstate 15 corridor for use as dedicated wildlife crossings will protect wildlife, enhance wildlife movement (especially for bighorn sheep), and connect and enhance wildlife habitats. The California Department of Fish and Wildlife is a National Environmental Policy Act Cooperating agency and California Environmental Quality Act Responsible Agency, and will lead coalition building, support federal and state grant applications and Bureau of Land Management right-of-way transfer, and support of operation and maintenance.

Caltrans is the public sponsor for the Interstate 15 Wildlife Overcrossing project and is responsible for project funding, federal and state grant applications, leading the Bureau of Land Management right-of-way transfer process, and is the National Environmental Policy Act and California Environmental Quality Act Lead Agency.

Program Status and Accomplishments

As the public sponsor, Caltrans prepared and completed the Project Initiation Report in June 2023. The Project Initiation Report was used to request funding at the June 2023 California Transportation Commission meeting. The National Environmental Policy Act Categorical Exclusion and the California Environmental Quality Act Statutory Exemption for Restoration Projects were completed by Caltrans in October 2023.

Caltrans is presently negotiating a project specific agreement with Brightline West to develop, design, procure, and construct these crossings. Caltrans is currently working with both the California Department of Fish and Wildlife and Brightline West to inform the design criteria for these crossings so the criteria can be documented in the agreement currently under negotiation. Caltrans is evaluating the availability of competitive federal grants for funding, but to date the Interstate 15 Mojave Wildlife Crossings have not been eligible or competitive for the grants evaluated.

Science and Data:

The project will assist in restoring and enhancing wildlife connectivity for desert bighorn sheep and facilitate passage for other terrestrial species in the Mojave Desert. Construction of Interstate 15 created a linear barrier that isolates desert bighorn sheep populations by bisecting suitable and historical habitats. The project will construct a wildlife overcrossing with directional wildlife fencing on

both sides of Interstate 15 at each of the three locations (Cady Mountain, Zzyzx Road, and Clark Mountain). Locations for the three overcrossings have been determined in partnership with Oregon State University and the California Department of Fish and Wildlife at key sites where desert bighorn sheep are most likely to cross based on tracking data. The directional wildlife fencing will serve to guide desert bighorn sheep to the wildlife overcrossings and stop them from attempting to cross the highway where they could be struck by vehicles. The fencing will further guide desert tortoise to available undercrossings.

The need for the project is based on desert bighorn sheep tracking and genetic data, which demonstrates that Interstate 15 is a movement barrier for sheep that have historically traveled between the northern mountain ranges and southern mountain ranges of the Mojave Desert. A multi-year research project was led by Oregon State University, in collaboration with the California Department of Fish and Wildlife, which used Global Positioning Systems for tracking, as well as wildlife cameras to evaluate the movements of 94 desert bighorn sheep from 2013 to 2020. Despite the presence of desert bighorn sheep at all three overcrossing locations, seven years of monitoring by Oregon State University indicated that successful Interstate 15 crossings are rare. While there are several undercrossings, which include desert washes and large box culverts present throughout the corridor in the Mojave Desert, desert bighorn sheep strongly prefer overcrossings or significantly larger undercrossings, which are not a feasible alternative within the study area. Interstate 15 divides the previously connected mountain ranges into isolated habitat fragments, which decreases the desert bighorn sheep genetic diversity, increases inbreeding, and increases territorial disputes amongst males. Furthermore, habitat fragmentation currently forces desert bighorn sheep to cross over Interstate 15, increasing risk of animal/vehicle accidents and desert bighorn sheep fatalities.

By constructing three wildlife overcrossings with directional wildlife fencing, the project will benefit desert bighorn sheep as well as other listed and sensitive California native species currently impacted by climate change, habitat fragmentation, and animal/vehicle collisions. By providing desert bighorn sheep with overcrossings at known movement corridors, sheep will be able to freely migrate across the landscape to access core habitats, and to further distribute genetic diversity of desert bighorn sheep, thus assisting in the long-term recovery and conservation of wildlife across a large portion of the Mojave Desert region. Furthermore, the directional wildlife fencing will help to channel wildlife to the proposed overcrossing and existing undercrossing locations.

The California Department of Fish and Wildlife's Restoring California's Wildlife Connectivity 2022 report lists desert bighorn sheep as a target species for priority connectivity projects and identifies Cave Mountain (also known as

Cady Mountain), Soda Mountain (Zzyzx Road), and Clark Mountain segments as priorities for reestablishing connectivity. This project will further support the conservation of ecosystem resilience. By restoring the ability for desert bighorn sheep and other wildlife to cross Interstate 15, the barrier effects will be significantly diminished. With implementation of the project, wildlife will be allowed to move freely to find food and to mate.

Partnership and Engagement:

Native American Consultation

Caltrans conducted National Historic Preservation Act Section 106 consultation with seven Native American Tribes and Tribal organizations between March and July 2023. Among the seven, the Chemehuevi and Yuhaaviatam/San Manuel have indicated a desire to be involved in the Section 106 consultation process for the project. Caltrans will continue discussing the project with Tribes on an ongoing basis and will continue the Section 106 consultation process with the Chemehuevi and Yuhaaviatam/San Manuel Tribes.

Stakeholder Coordination

Since 2021, Caltrans has been actively engaging with the California Department of Fish and Wildlife, Oregon State University, local conservation groups to coordinate and share data, and to gain expert feedback and guidance on the best feasible locations to design and construct the overcrossings.

Further coordination has taken place with the Bureau of Land Management, the U.S. Fish and Wildlife Service, and local conservation groups including but not limited to The Nature Conservancy, the Society for the Conservation of Bighorn Sheep, and the Mojave Desert Land Trust.

Caltrans, the California Department of Fish and Wildlife, and Brightline West have facilitated regular stakeholder outreach meetings and email communication since April 2023 with partners and interested parties. Participants include the National Parks Conservation Association, California Chapter of the Wild Sheep Foundation, Defenders of Wildlife, Mountain Lion Foundation, Mojave National Preserve Conservancy, National Park Service, and the Bureau of Land Management. Outreach meetings are expected to continue throughout the life of the project. Additionally, Caltrans developed a project website to further engage and provide updates to agencies, the public, and other interested parties.¹

Several letters supporting the project have been submitted by nonprofits,

¹ See <https://dot.ca.gov/news-releases/news-release-2023-005>.

public agencies, and elected officials. In addition, representatives from the National Park Service, Mojave National Preserve, and the Bureau of Land Management, Needles and Barstow field offices have voice support for the project.

Engineering

The three wildlife overcrossings require 100-feet of width and are proposed near Cady Mountain (post mile R116.70), at Soda Mountain near Zzyzx Road (post mile R129.75) and at Clark Mountain (post mile 168.05). The span length of each of the three overcrossings vary depending on the location which is approximately 198 feet long at Cady and Clark Mountains, and 186 feet long at Soda Mountain. Railings and fences will be installed at the edge of the bridges, as well as directional fencing to guide wildlife to the overcrossings and undercrossings within the project area. The length of the proposed direction fences is based on study data and recommendation from the California Department of Fish and Wildlife. The deck of the overcrossing bridges will be covered with native substrate to match the characteristics of the surrounding areas. Brightline West, who is responsible to develop preliminary design, advanced design, and overseeing construction of the wildlife crossings, has proposed a three-span precast arch type structure with openings for the existing northbound and southbound of Interstate 15 and the future Brightline West rail line in the median. The precast arch type structures are subject to Caltrans' review and approval to meet Caltrans' seismic requirements for California.

Although the precast arch type structures proposed by Brightline West have been constructed in the states of Washington and Nevada, those states do not have the same seismicity design requirements as California. Caltrans must determine if the proposed arch type structure meets California seismicity requirements to approve the proposed design before further negotiations can advance a final design agreement between parties. Caltrans and Brightline West engineers continue to work collaboratively on final design criteria which is anticipated to be complete by in 2024. When the design is approved, the parties will be able to update project cost estimates and define design criteria necessary to complete a final agreement for the design, development, and construction of the overcrossings.

Funding

In January 2023, the California Department of Fish and Wildlife, Brightline West, and Caltrans entered into an agreement to implement the wildlife overcrossings over Interstate 15. Per the agreement, Brightline West is to provide design services and over-see the construction of the three wildlife crossings.

In June 2023, the California Transportation Commission approved a total of \$99,445,000 for construction support and construction capital for the wildlife crossings project from Caltrans' Infrastructure Investment and Jobs Act, State Highway Operation and Protection Program fund. Of this amount, \$71,583,000 was approved for construction capital. It is anticipated any additional funds needed will come from Brightline West and the California Department of Fish and Wildlife in the form of in-kind contributions or capital. The approved funding will be evaluated once Brightline West has updated the cost estimate which is anticipated to occur in 2024.

Caltrans is evaluating the availability of competitive federal grants for funding, but to date the Interstate 15 Mojave Wildlife Crossings have not been eligible or competitive for the grants evaluated, primarily due to the lack of non-federal funding.

Conclusion

Caltrans, in conjunction with Brightline West, the California Department of Fish and Wildlife, and other stakeholders, has completed the preliminary project development process. A Project Initiation Report has been completed, initial funding has been approved by the California Transportation Commission, and foundational environmental documentation has been completed. The arch type design review process will be completed in 2024. This should allow final negotiations for the agreement to be completed. If the agreement is not executed by July 1, 2024, Caltrans will notify the Joint Legislative Budget Committee and submit a progress report upon entering into an authorized agreement. The tentative schedule to begin construction for the overcrossings in August 2024, with completion scheduled to occur in approximately July 2025. Caltrans will submit the next status report by January 2025.

Appendix A. Statutory Reporting Reference

STREETS AND HIGHWAYS CODE - SHC

DIVISION 1. STATE HIGHWAYS

CHAPTER 1. Administration

ARTICLE 3. The Department of Transportation

143.2. (a) For the purposes of this section, the following definitions apply:

- (1) "Authorized agreement" means either of the following types of agreements:
 - (A) An agreement whereby the rail entity assists the department in defining a feasible project and negotiates fair and reasonable terms for implementing the project.
 - (B) An agreement whereby the rail entity assumes responsibility for designing, procuring, delivering, improving, or constructing an eligible facility in accordance with established specifications and payment terms.
- (2) "Eligible facility" means any wildlife crossing and appurtenance thereto developed, operated, or held in accordance with this section, and includes the wildlife crossings and appurtenances described in paragraph (1) of subdivision (b).
- (3) "Quantifiable environmental benefits" means documented, ongoing, positive, and quantifiable benefits to the environment and environmental quality, including to wildlife.
- (4) "Rail entity" means a person, entity, or organization that is not the federal government or any other public agency and that is undertaking an intercity passenger rail construction project within the Interstate 15 right-of-way.
- (5) "State-Rail agreement" means the "Agreement to Implement Wildlife Overcrossings Over Interstate 15" executed on January 11, 2023, by and among DesertXpress Enterprises, LLC, the department, and the Department of Fish and Wildlife.

(b) (1) If an intercity passenger rail project is constructed within the segment of the Interstate 15 right-of-way at the segment described in Recital B of the State-Rail agreement, the department shall ensure the construction of three wildlife crossings and appurtenances at three priority locations.

(2) The department may use an authorized agreement to comply with paragraph (1).

(3) The department shall consult with the Department of Fish and Wildlife and with entities with expertise in the development, design, and construction of wildlife crossing structures as part of the development, design, and construction of the three wildlife crossing structures described in paragraph (1).

(4) After construction, the department shall own the wildlife overcrossings, and the department, in consultation with, and the support of, the Department of Fish and Wildlife, shall maintain and operate the wildlife overcrossings, including the maintenance of habitat, consistent with Section 2.2.6 and 2.3.6 of the State-Rail agreement.

(5) The department may enter into an agreement, which shall provide permanent funding as necessary, for the purpose of maintaining habitat on an eligible facility.

(c) Notwithstanding any other law, but subject to this section, the department may solicit proposals for, accept unsolicited proposals for, negotiate, or enter into, an authorized agreement with a rail entity to develop and construct concurrently with the rail entity's project an eligible facility that is described in paragraph (1) of subdivision (b).

(d) The department may enter into an authorized agreement for purposes of paragraph (2) of subdivision (b) if the authorized agreement will provide quantifiable environmental benefits for the region and for wildlife and if the department deems the authorized agreement to be in the best interest of the state.

(e) (1) The department may include in an authorized agreement to develop, design, and construct an eligible facility for purposes of paragraph (2) of subdivision (b), any provision the department determines necessary or appropriate, including, but not limited to, the following:

(A) Provisions addressing how the department and rail entity will share development costs and allocate and manage project risks.

(B) Provisions allowing the department to grant or otherwise disburse state or federal funds to the rail entity for the costs to develop and construct an eligible facility, excluding any costs associated with the design of an eligible facility.

(C) Provisions addressing the acquisition of rights-of-way and other property interests that may be required, including for the granting of necessary easements and for the issuance of permits or other authorizations.

(D) Provisions identifying any technical specifications concerning the eligible facility that must be satisfied by the rail entity.

(E) Provisions specifying events of default, remedies available to the rail entity and department, and dispute resolution procedures, including arbitration and other alternative dispute resolution procedures.

(F) Provisions regarding the maintenance and auditing of the rail entity's books and records.

(G) Provisions specifying that the rail entity will comply with all applicable legal requirements related to the use of state or federal funds.

(H) Provisions specifying that the rail entity will obtain errors and omissions insurance coverage for the design elements of the project.

(I) Provisions specifying that the rail entity will require payment and performance bonding, liability insurance, and errors and omissions insurance of its contractors and consultants.

(2) An authorized agreement shall include indemnity, defense, and hold harmless provisions agreed to by the department and the rail entity, including provisions for indemnifying the State of California from any claims or losses resulting or accruing from the performance of the rail entity.

(f) (1) The department may use any lawful source of funding or financing, either previously appropriated or upon appropriation, for the development or construction of an eligible facility under this section, including funding described in paragraph (2).

(2) The department may accept from the United States or any of its agencies any funds or credit assistance as are available to it for carrying out the purposes of this section, whether the funds are made available by grant, loan, or other financing arrangement.

(g) The department shall apply for a competitive grant from federal grant programs to fund activities associated with construction of the wildlife crossing structures described in paragraph (1) of subdivision (b).

(h) (1) Before executing an authorized agreement pursuant to this section, the department shall submit a draft of the agreement to the Department of Finance for review.

(2) An authorized agreement may only be executed under this section before January 1, 2025.

(3) If the department has not executed an authorized agreement pursuant to this section on or before July 1, 2024, the department shall notify the Joint Legislative Budget Committee and submit a progress report on entering into an authorized agreement to the budget committees of the Legislature.

(i) The department shall exercise the authority under this section in consultation with the Department of Fish and Wildlife.

(j) Nothing in this section affects, expands, alters, or limits any other rights or remedies otherwise available at law.

(k) On or before January 1, 2024, and at least annually thereafter, the department shall submit a written status report to the relevant policy committee and budget committee of the Legislature on the implementation of this section.