
From: Boyd, Ian@Wildlife <Ian.Boyd@Wildlife.ca.gov>
Sent: Tuesday, April 23, 2019 11:41 AM
To: Kent Johanns
Cc: Wildlife R2 CEQA; OPR State Clearinghouse; Coulon, Diane@Wildlife; Purdy, Colin@Wildlife; McReynolds, Tracy@Wildlife; Sheya, Tanya@Wildlife
Subject: CDFW Comments on the Draft Initial Study and Mitigated Negative Declaration (SCH# 2019039140) for the Sacramento River Salmonid Stranding Reduction and Floodplain Habitat Restoration Project at the Willow Bend Preserve
Attachments: Attachement A Willow Bend Site grading Plan.pdf

Governor's Office of Planning & Research

APR 23 2019

STATE CLEARINGHOUSE

Hello Mr. Johanns,

The California Department of Fish and Wildlife (CDFW) received and reviewed the Notice of Intent to Adopt an MND from Colusa County for the Sacramento River Salmonid Stranding Reduction and Floodplain Habitat Restoration Project at the Willow Bend Preserve (Project) pursuant the California Environmental Quality Act (CEQA) statute and guidelines.^[1]

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish, wildlife, native plants, and their habitat. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may need to exercise its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources, and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly, for purposes of CEQA, CDFW provides, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code. CDFW also administers the Native Plant Protection Act, Natural Community Conservation Act, and other provisions of the Fish and Game Code that afford protection to California's fish and wildlife resources.

PROJECT DESCRIPTION SUMMARY

The Project site is located near the community of Princeton in Northern Colusa County, California. It is on the east side of the Sacramento River between River Mile 158.4 and 159.2 and encompasses 122.5 acres.

The Project consists of planting native vegetation, manipulating the existing topography, re-contouring a swale, modifying existing rock revetment, and installing a surface water control structure within an existing levee with the intention of restoring floodplain and fish habitat adjacent to the Sacramento River.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist Colusa County in adequately identifying and, where appropriate, mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

In general, CDFW has identified areas where additional, clarified, or modified analysis is necessary to allow for a complete analysis and disclosure of the potential impacts for the Project, and where the draft IS/MND requires improved, enforceable mitigation measures. The document's disclosure and analysis of impacts to aquatic species is of particular concern to CDFW, including insufficient analysis of the impacts of a controlled water structure used to create an artificial floodplain on juvenile salmonid behavior and the lack of analysis of potential entrainment of Chinook salmon (*Oncorhynchus tshawytscha*) and green sturgeon (*Acipenser medirostris*). CDFW does not consider the proposed construction window and methodology in the draft IS/MND to sufficiently minimize or offset the Project's potential impacts to be less than significant for special-status fish species.

Project Description

The project description states that project activities are anticipated to occur over a three-year period. Those project activities are summarized as being site grading and preparation including installation of drainage structure, planting, seeding, irrigation, control of invasive weeds, and monitoring performance of vegetation establishment. CDFW is concerned that the project description does not include maintenance of the water control structure or monitoring for fish stranding reduction, which appears to be the primary component of this project. A variety of circumstances can occur where an artificial structure may impede or obstruct the volitional passage of fish causing them to be entrained on the floodplain. Circumstances may include malfunction, sediment deposition and/or organic and man-made debris buildup at the bi-fold gate and culvert, and blockages due to beaver activity. The project description should include maintenance and monitoring of the water control structure so that it complies with Fish and Game Code sections 5901 and 5935.

The site grading and water control structure figure (Figure 5) shows the proposed grading plan for the seasonal wetland and swale with an outer elevation of 70 feet that gradually tapers towards the seasonal wetland swale and Sacramento River. The southwest corner of the existing field appears to be 1-2 feet lower than the proposed elevation of the proposed grading boundary and could cause fish stranding if not properly graded to create positive drainage towards the proposed water control structure/levee breach location. CDFW recommends evaluating all adjacent grades to the proposed grading boundary and ensuring there is positive drainage towards the seasonal wetland swale and Sacramento River. Attachment A identifies several locations on Figure 5 where grades should be re-evaluated during the final design process.

Maintenance described in the project description focuses on drip irrigation for planted vegetation and the control of invasive weed species for three years following the installation. The maintenance section within the project description does not include maintenance and monitoring of the seasonal wetland and swale vegetation, hydrology, water quality (e.g. dissolved oxygen, temperature), proposed water control structure operation, or fish and wildlife utilization (e.g. floodplain connectivity, predation, stranding improvements, species presence, and improved habitat values). CDFW discourages the incorporation of artificial structures that control water elevations within fish habitat due to the potential to adversely affect fish and wildlife species and believe that the draft IS/MND should include a discussion on the maintenance and monitoring of these project components.

Anticipated Permits and Regulatory Approvals

Table 2 of the draft IS/MND identifies anticipated permits or approvals from various state and federal agencies including California Endangered Species Act (CESA) compliance for the potential impacts on state-listed species. However, nowhere else in the document is it proposed to apply for a permit to demonstrate compliance with CESA. The type of CESA permit that is anticipated and associated mitigation measures related to reducing significant impacts to listed species should be identified in Table 2 and the Mitigation Monitoring Reporting Program (MMRP), respectively. If a

project has the potential to result in "take", as defined in Section 86 of the Fish and Game Code, of a state-listed species, the draft IS/MND shall disclose that an Incidental Take Permit (ITP), Consistency Determination (CD), or a Memorandum of Understanding (MOU) (Fish & G. Code, §§ 2080.1 & 2081) may be required prior to starting construction activities. If CDFW issues a take permit under Fish and Game Code 2081, CDFW must rely on the CEQA document to prepare and issue its own findings regarding the project (CEQA Guidelines §§15096 and 15381). CDFW will only use the CEQA document if it adequately addresses the effects of those project activities, including all avoidance, minimization, and the mitigation required for the take authorization.

Biological Resources

Section a) of the discussion of impacts references a biological resources assessment and a biological assessment/essential fish habitat assessment, which were prepared to describe the existing site conditions and identify potentially occurring sensitive biological resources in the project area. However, the two documents were not included as attachments to the draft IS/MND. Each of the assessments should be included with the draft IS/MND for further review and analysis so that the public, trustee, and responsible agencies are able to fully understand the methodologies used to evaluate biological resources within the project area.

Potentially Occurring Special-Status Species

Section a) of the biological resources section provides a list of special-status wildlife that are determined to potentially occur within the project area. A review of the California Natural Diversity Database (CNDDDB) and Biogeographic Information and Observation System (BIOS) shows that other special-status species not listed or discussed within the draft IS/MND occur within proximity to the site. CDFW recommends that the draft IS/MND include an analysis of bank swallow's (*Riparia riparia*) potential to occur within the project area, the potential impacts to this species, and mitigation measures to avoid, minimize, and/or reduce the significance of the impacts to this species.

The biological resources section provides a discussion of special-status plants and identifies woolly rose-mallow to be the only special-status plant species determined to have potential habitat in the project area. A botanical survey for the project area was performed on February 27, 2018, though this species typically blooms from July to September. CDFW recommends protocol-level surveys to determine whether the project has the potential to impact sensitive plant communities, rare or listed plant species. The protocol can be found on our website: <https://www.wildlife.ca.gov/Conservation/Survey-Protocols>. The protocol recommends that multiple site visits are made and that they are spaced throughout the growing season to accurately determine what plants exist on site. Many times, this may involve multiple visits to the same site (e.g. in early, mid, and late-season for flowering plants) to capture the floristic diversity at a level necessary to determine if special status plants are present.

Anadromous Fish

The draft IS/MND identifies that the proposed water control structure could have the potential to impact listed fish species but is designed to meet NOAA-Fisheries Fish Passage and Bypass criteria and includes both design modifications to eliminate pooling that could strand juvenile fishes and guidelines for minimizing increased predation. The document should provide more detail about the water control structure's functionality and explain how the design incorporates volitional passage for fish. The document should also identify the structure's life expectancy, whether the structure functions without human intervention, and how it will alleviate stranding. Generally, CDFW recommends that floodplain restoration or enhancement projects optimize volitional passage conditions for adult and juvenile fish to the maximum extent practical. Projects should not require the capture, transport or human facilitation of fish on to or off floodplain habitat. Stranding of fish should be limited by maintaining connection between main river channel and floodplain. Stranding events on floodplain habitat typically occur following a sudden drop in river stage and are often correlated with the presence of artificial structures, depressions or other low elevation locations, that retain water following a sudden flow drop. The primary way to prevent stranding is to ensure that an open plain or a series of interconnected channels is graded towards the main river channel. Furthermore, artificial structures and project designs which require operable elements such as weirs, screw or bi-fold gates, or stop logs should be avoided as they can obstruct passage and facilitate stranding. Projects should ensure that suitable cover and habitat diversity is provided to minimize exposure to

predators, avoid the use of hard structures (including gates and canals) and ensure that juvenile fish do not leave the floodplain to re-enter a perennial waterway by way of a constricted channel, both of which may be exploited by predators. Restoration actions applied to riverine settings should focus on reestablishing natural processes. For this project, developing a more natural site drainage design with multiple levee breaches or exit channels would be preferred over the single exit through a water control structure. CDFW recommends that the draft IS/MND include a discussion and analysis on an alternative approach and design to restore floodplain rearing habitat for special-status fish.

The draft IS/MND describes maintenance activities for a three-year period to include irrigation operation for planted vegetation and its subsequent removal, as well as, mowing and herbicide applications for invasive weed species. CDFW is concerned that the maintenance section of the document does not include a description of maintenance and monitoring for the proposed water control structure which is intended to provide state-listed fish species volitional passage from the floodplain to the Sacramento River. As mentioned above, the utilization of an artificial structure which requires operable elements may have the potential to obstruct passage and facilitate stranding. Man-made structures have the potential to malfunction due to design flaws, inadequate construction, or wear on operable elements. Other issues related to the water control structure functionality that the draft IS/MND does not address include the potential for vandalism, natural and man-made debris buildup, and sediment deposition, all of which can render the water control structure inoperable or obstruct the volitional passage of fish. If the water control structure is deemed inoperable or obstructs volitional passage at any time that state-listed fish species are present on the floodplain, the project would create a significant environmental effect. CDFW recommends that the draft IS/MND include an analysis of maintenance and monitoring of the water control structure due to the variety of circumstances that may impede volitional fish passage. The discussion of maintenance and monitoring for the water control structure should include frequency, duration, and nature of inspections, a reporting and monitoring methodology, and avoidance and minimization procedures for performing maintenance and monitoring on the structure if state-listed fish species are present. The document should also address procedures for situations if fish are found stranded within the project area.

Mitigation Measures

Mitigation Measure #5 is the only mitigation measure that specifically addresses special-status fish species and includes a seasonal work window and sensitivity techniques for the installation and construction of project elements that are located within and immediately adjacent to the Sacramento River. Measures presented in in Mitigation Measure #5 do not address avoidance, minimization, or mitigation for special-status fish beyond construction activities. CDFW believes that this measure should be expanded to include mitigation measures beyond the construction phase. CDFW recommends additional mitigation measures should at least include a discussion on maintenance and monitoring of the water control structure and measures that address the potential for take of special-status fish species.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNNDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be submitted online or mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov.

FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

Pursuant to Public Resources Code §21092 and §21092.2, CDFW requests written notification of proposed actions and pending decisions regarding the proposed project. Written notifications shall be directed to: California Department of Fish and Wildlife North Central Region, 1701 Nimbus Road, Rancho Cordova, CA 95670 or emailed to r2CEQA@wildlife.ca.gov.

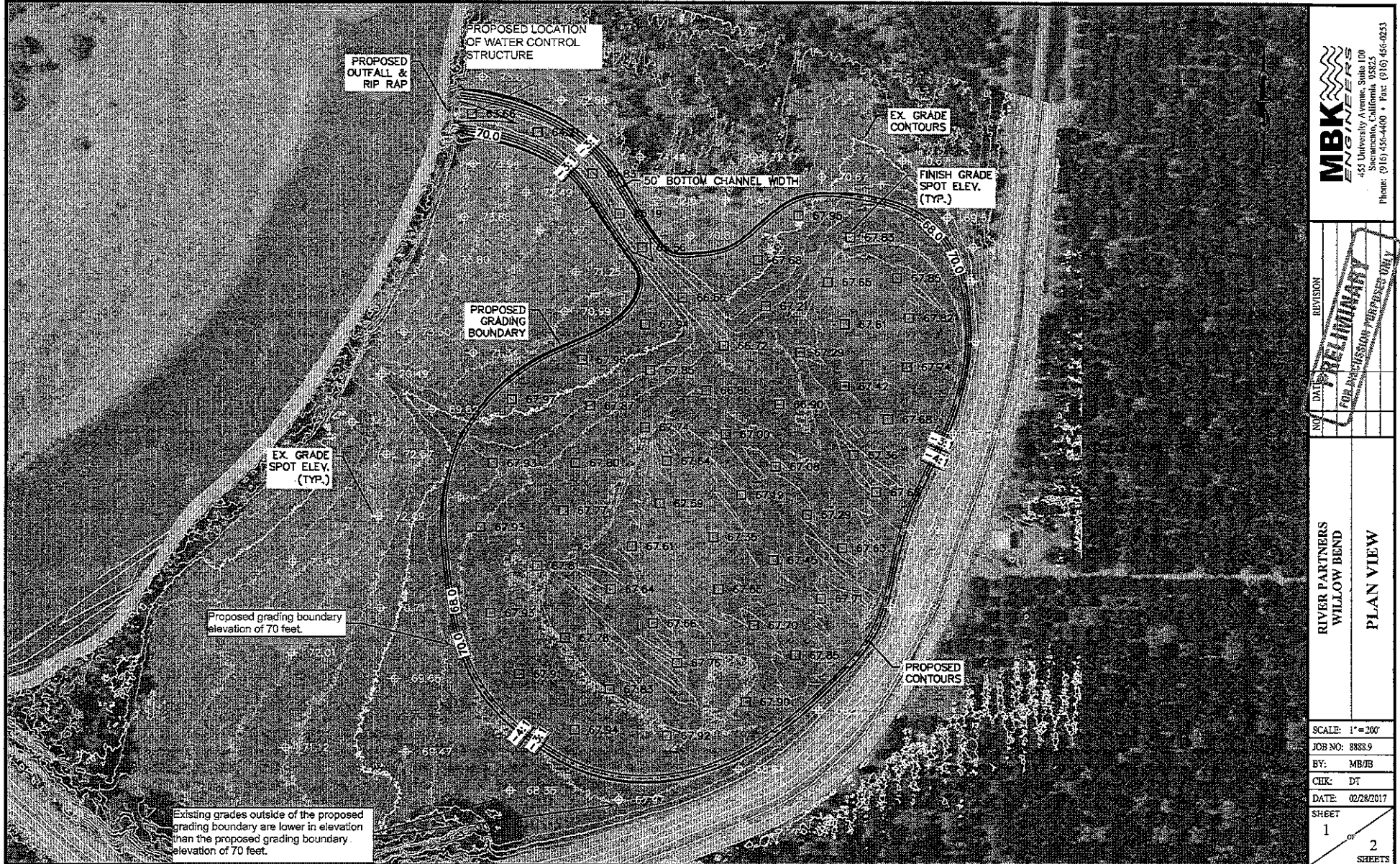
CDFW appreciates the opportunity to comment on the draft IS/ MND to assist in identifying and mitigating Project impacts on biological resources. CDFW personnel are available for consultation regarding biological resources and strategies to minimize and/or mitigate impacts. Questions regarding this letter or further coordination should be directed to Ian Boyd, Environmental Scientist at (916) 358-1134 or ian.boyd@wildlife.ca.gov.

Thank you,

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**CALIFORNIA DEPARTMENT OF
FISH and WILDLIFE** 

¹⁴ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.



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NO.	DATE	REVISION
		PRELIMINARY
		FOR APPROVAL - PERMITS ONLY

RIVER PARTNERS
 WILLOW BEND
 PLAN VIEW

SCALE:	1"=300'
JOB NO:	8888.9
BY:	MB/JB
CHEK:	DT
DATE:	02/28/2017
SHEET	1 OF 2
	SHEETS

Figure 5
 Site Grading and Water Control Structure