



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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July 2, 2019

Governor's Office of Planning & Research

JULY 03 2019

STATE CLEARINGHOUSE

Ms. Laura Cremin
Environmental Analyst I
Contra Costa County Public Works Department
255 Glacier Drive
Martinez, CA 94553

Subject: Fred Jackson Way First Mile/Last Mile Connection Project, Mitigated Negative Declaration, SCH #2019069019, Contra Costa County

Dear Ms. Cremin:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) from Contra Costa County Department of Conservation and Development (County) for the Fred Jackson Way First Mile/Last Mile Connection Project (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is a Trustee Agency with responsibility under CEQA §15386 for commenting on projects that could impact fish, plant or wildlife resources. CDFW is also considered a Responsible Agency if a project requires discretionary approval, such permits issued under the California Endangered Species Act (CESA) and the Native Plant Protection Act, Lake and Streambed Alteration (LSA) Agreements, and other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources.

PROJECT DESCRIPTION SUMMARY

Proponent: Contra Costa County Public Works Department

Objective: The purpose of the Project is to improve roadway and sidewalk facilities along Fred Jackson Way for pedestrians and bicyclists.

Location: The Project is located along Fred Jackson Way between Grove Avenue and Brookside Drive, North Richmond, West Contra Costa County.

¹ 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.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations below to assist the County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document.

Tree Removal

The Project description states that "potential tree removal includes but is not limited to two eucalyptus trees and is not to exceed 16 trees" (page 2). Removal of vegetation may pose a significant impact to native and special-status wildlife species as a loss of cover, nesting habitat, and/or foraging habitat. CDFW recommends addressing these impacts in a mitigation measure that clearly indicates methods of vegetation removal, measures to minimize impacts, compensatory actions (e.g. revegetation ratios), and compensatory mitigation success criteria.

Drainage Modifications

The Project description in the MND states that both segments of the Project "will include drainage modifications;" however, it is unclear what these modifications are or where they will occur. CDFW recommends clarifying the Project description to clearly identify drainage modifications and all associated impacts and mitigation measures. Please note that any Project activities which may substantially divert or obstruct the flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake, or deposit or dispose of debris, waste, or other material containing crumbled, flaked or ground pavement where it may pass into any river, stream, or lake, require notification pursuant Fish and Game Code 1602 et. seq. CDFW recommends submitting formal notification through the LSA Program for activities that will modify the earthen drainage ditches as described in pages 15 and 19 of the MND, and/or are likely to impact Wildcat and San Pablo creeks either through riparian tree modification or new storm drain discharge points.

Nesting Bird Buffers

Mitigation measure *BIO-1b*, 2 (page 16) indicates nesting bird surveys will be conducted no more than 14 days prior to the initiation of construction activities. For many birds, 14 days is more than enough time to establish a nest and begin rearing young. Therefore, CDFW recommends that nesting bird surveys are also conducted no more than **5 days** prior to the initiation of construction. If construction activities lapse for a period of 7 days or more during the nesting bird season, another nesting bird survey should be conducted no more than 5 days prior to the re-initiation of construction activities.

Mitigation measure *BIO-1b*, 3 (page 16) suggests a 50-foot non-disturbance buffer for migratory birds and a 500-foot non-disturbance buffer for raptors, to be determined by a qualified biologist. Depending on the species, nest stage, and site conditions, 50 to 500 feet may be insufficient to prevent disturbance-related nest failure. If nests are found on or near the Project area, CDFW staff is available to provide guidance on establishing appropriate buffers to minimize the

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potential for take and to reduce potential impacts to less-than-significant. As such, CDFW recommends *BIO-1b, 3* be revised to require nest buffer approval from the State's trustee for fish and wildlife (CDFW) prior to Project construction and when any nest is discovered.

Erosion Control Measures

Mitigation measure *BIO-2a* (page 17) indicates that "temporarily disturbed areas will be properly protected from washout and erosion using appropriate erosion control devices." CDFW recommends revising this measure to explicitly exclude the use of erosion control materials containing plastic monofilament netting (erosion control matting) or similar material containing netting within the project area. Such materials pose substantial risk entanglement, injury, and/or mortality to amphibians and reptiles.

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 CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data#44524420-pdf-field-survey-form>. The completed form can be mailed electronically to CNDDDB at the following email address: cnddb@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

CONCLUSION

CDFW appreciates the opportunity to comment on the MND to assist the County in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Ms. Jennifer Rippert, Environmental Scientist, at (707) 428-2069 or Jennifer.Rippert@wildlife.ca.gov; or Ms. Melissa Farinha, Senior Environmental Scientist (Supervisory), at (707) 944-5579 or Melissa.Farinha@wildlife.ca.gov.

Sincerely,



Gregg Erickson
Regional Manager
Bay Delta Region

cc: State Clearinghouse (SCH# 2019069019)