

JULY 17 2019

**Christine Asiata****STATE CLEARINGHOUSE**

**From:** OPR State Clearinghouse  
**Sent:** Wednesday, July 17, 2019 4:52 PM  
**To:** Christine Asiata  
**Subject:** FW: CDFW's Comments on the Notice of Preparation for the Tahoe Keys Lagoons Aquatic Weed Control Methods Test

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**From:** Quillman, Gabriele@Wildlife <Gabriele.Quillman@wildlife.ca.gov>  
**Sent:** Wednesday, July 17, 2019 4:34 PM  
**To:** Norman, Russell@Waterboards <Russell.Norman@waterboards.ca.gov>; dzabaglo@trpa.org  
**Cc:** OPR State Clearinghouse <State.Clearinghouse@opr.ca.gov>; Wildlife R2 CEQA <R2CEQA@wildlife.ca.gov>  
**Subject:** CDFW's Comments on the Notice of Preparation for the Tahoe Keys Lagoons Aquatic Weed Control Methods Test

Dear Mr. Norman:

The Department of Fish and Wildlife (Department) appreciates the opportunity to comment on the Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR) for the Tahoe Keys Lagoons Aquatic Weed Control Methods Test (project) [State Clearinghouse No. 2019060152]. The Department is responding to the NOP as a Trustee Agency for fish and wildlife resources (California Fish and Game Code Sections 711.7 and 1802, and the California Environmental Quality Act [CEQA] Guidelines Section 15386), and as a Responsible Agency regarding any discretionary actions (CEQA Guidelines Section 15381), such as the issuance of a Lake or Streambed Alteration Agreement (California Fish and Game Code Sections 1600 *et seq.*) and/or a California Endangered Species Act (CESA) Permit for Incidental Take of Endangered, Threatened, and/or Candidate species (California Fish and Game Code Sections 2080 and 2080.1).

The project proposes to test a variety of aquatic weed control methods, including aquatic herbicides, ultraviolet light, bottom barriers, diver-assisted suction, and diver hand pulling, over a two-year period within the lagoons of the Tahoe Keys. The test is intended to determine the combination methods that will be most effective in the control of Eurasian watermilfoil (*Myriophyllum spicatum*), curlyleaf pondweed (*Potamogeton crispus*), and coontail (*Ceratophyllum demersum*).

## COMMENTS AND RECOMMENDATIONS

The Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and the habitat necessary for biologically sustainable populations of those species (i.e., biological resources); and administers the Natural Community Conservation Planning Program (NCCP Program). The Department offers the comments and recommendations presented below to assist the Lahontan Regional Water Quality Control Board (LRWQCB; the CEQA lead agency) in adequately identifying and/or mitigating the project's significant, or potentially significant, impacts on biological resources. The comments and recommendations are also offered to enable the Department to adequately review and comment on the proposed project with respect to impacts on biological resources. The Department recommends that the forthcoming DEIR address the following:

### Assessment of Biological Resources

Section 15125(c) of the CEQA Guidelines states that knowledge of the regional setting of a project is critical to the assessment of environmental impacts and that special emphasis should be placed on environmental resources that are rare or unique to the region. To enable Department staff to adequately review and comment on the project, the DEIR

should include a complete assessment of the flora and fauna within and adjacent to the project footprint, with particular emphasis on identifying rare, threatened, endangered, and other sensitive species and their associated habitats. The Department recommends that the DEIR specifically include:

1. An assessment of the various habitat types located within the project footprint, and a map that identifies the location of each habitat type. Adjoining habitat areas should also be included in this assessment where site activities could lead to direct or indirect impacts offsite. Habitat mapping at the alliance level will help establish baseline vegetation conditions.
2. A general biological inventory of the fish, amphibian, reptile, bird, and mammal species that are present or have the potential to be present within each habitat type onsite and within adjacent areas that could be affected by the project. The Department's California Natural Diversity Database (CNDDDB) provides information on previously reported sensitive species and habitat and may be accessed at <https://www.wildlife.ca.gov/Data/CNDDDB/Maps-and-Data#43018408-cnddb-in-bios>.

Please note that the CNDDDB is not exhaustive in terms of the data it houses, nor is it an absence database. The Department recommends that it be used as a starting point in gathering information about the *potential presence* of species within the general area of the project site.

3. An inventory of rare, threatened, endangered, and other sensitive species located within the project footprint and within offsite areas with the potential to be affected, including California Species of Special Concern (CSSC) and California Fully Protected Species (Fish and Game Code § 3511). Species to be addressed should include all those which meet the CEQA definition (CEQA Guidelines § 15380). The inventory should address seasonal variations in use of the project area and should not be limited to resident species.
4. Information on the regional setting that is critical to an assessment of environmental impacts, with special emphasis on resources that are rare or unique to the region (CEQA Guidelines § 15125[c]).

### **Analysis of Direct, Indirect, and Cumulative Impacts to Biological Resources**

The DEIR should provide a thorough discussion of the direct, indirect, and cumulative impacts expected to adversely affect biological resources as a result of the project. To ensure that project impacts to biological resources are fully analyzed, the following information should be included in the DEIR:

1. A discussion of potential impacts to biological resources resulting from use of aquatic herbicides, changes in the amount and type of aquatic plants present, changes in the nature of the benthic habitat, and potential changes to benthic macroinvertebrate communities.
2. A cumulative effects analysis developed as described under CEQA Guidelines § 15130. Please include all potential direct and indirect project related impacts to lakeshore habitats, aquatic habitats, sensitive species and other sensitive habitats, and adjacent natural habitats in the cumulative effects analysis. General and specific plans, as well as past, present, and anticipated future projects, should be analyzed relative to their impacts on similar plant communities and wildlife habitats.

### **Mitigation Measures for Project Impacts to Biological Resources**

The DEIR should include appropriate and adequate avoidance, minimization, and/or mitigation measures for all direct, indirect, and cumulative impacts that are expected to occur as a result of the construction and long-term operation and maintenance of the project. When proposing measures to avoid, minimize, or mitigate impacts, the Department recommends consideration of the following:

1. *Fully Protected Species*: Fully protected species (Fish and Game Code § 3511) may not be taken or possessed at any time. Project activities described in the DEIR should be designed to completely avoid any fully protected species that

have the potential to be present within or adjacent to the project area. The Department also recommends that the DEIR fully analyze potential adverse impacts to fully protected species due to habitat modification, loss of foraging habitat, and/or interruption of migratory and breeding behaviors. The Department recommends that the Lead Agency include in the analysis how appropriate avoidance, minimization and mitigation measures will reduce indirect impacts to fully protected species.

2. *Mitigation:* The Department considers adverse project-related impacts to sensitive species and habitats to be significant to both local and regional ecosystems, and the DEIR should include mitigation measures for adverse project-related impacts to these resources. Mitigation measures should emphasize avoidance and reduction of project impacts. For unavoidable significant impacts, onsite habitat restoration and/or enhancement should be evaluated and discussed in detail. If onsite mitigation is not feasible or would not be biologically viable and therefore not adequately mitigate the loss of biological functions and values, offsite mitigation through habitat creation, restoration, enhancement, and/or acquisition and preservation in perpetuity should be addressed.

### **California Endangered Species Act**

The Department is responsible for ensuring appropriate conservation of fish and wildlife resources including threatened, endangered, and/or candidate plant and animal species, pursuant to the California Endangered Species Act (CESA). The Department recommends that a CESA ITP be obtained if the project has the potential to result in “take” (California Fish and Game Code Section 86 defines “take” as “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill”) of State-listed CESA species, either through construction or over the life of the project. CESA ITPs are issued to conserve, protect, enhance, and restore State-listed CESA species and their habitats.

The Department encourages early consultation, as significant modification to the proposed project and avoidance, minimization, and mitigation measures may be necessary to obtain a CESA ITP. Please note that the proposed avoidance, minimization, and mitigation measures must be sufficient for the Department to conclude that the project’s impacts are fully mitigated and the measures, when taken in aggregate, must meet the full mitigation standard. Revisions to the California Fish and Game Code, effective January 1998, require that the Department issue a separate CEQA document for the issuance of a CESA ITP unless the Project CEQA document addresses all Project impacts to listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of a CESA permit.

### **Lake and Streambed Alteration Program**

Fish and Game Code section 1602 requires an entity to notify the Department prior to commencing any activity that may do one or more of the following: Substantially divert or obstruct the natural flow of any river, stream or lake; Substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or Deposit debris, waste or other materials that could pass into any river, stream or lake. The use of bottom barriers and aquatic herbicides and mechanical removal of aquatic vegetation may be subject to Fish and Game Code section 1602, and the Department recommends that the project proponent submit a notification of lake or streambed alteration.

Upon receipt of a complete notification, the Department determines if the proposed project activities may substantially adversely affect existing fish and wildlife resources and whether a Lake and Streambed Alteration (LSA) Agreement is required. An LSA Agreement includes measures necessary to protect existing fish and wildlife resources. CDFW may suggest ways to modify your project that would eliminate or reduce harmful impacts to fish and wildlife resources.

The Department’s issuance of an LSA Agreement is a “project” subject to CEQA (see Pub. Resources Code 21065). To facilitate issuance of an LSA Agreement, if necessary, the DEIR should fully identify the potential impacts to the lake, stream, or riparian resources, and provide adequate avoidance, mitigation, and monitoring and reporting commitments. Early consultation with the Department is recommended, since modification of the proposed project may be required to avoid or reduce impacts to fish and wildlife resources. To obtain a Lake or Streambed Alteration notification package, please go to <https://www.wildlife.ca.gov/Conservation/LSA/Notify-CDFW>.

## Further Coordination

The Department appreciates the opportunity to comment on the NOP of a DEIR for the Tahoe Keys Lagoons Aquatic Weed Control Methods Test Project (SCH No. 2019060152) and recommends that LRWQCB address the Department's comments and concerns in the forthcoming DEIR.

If you have any questions or wish to schedule a meeting and/or site visit, please contact me at (916) 358-2955 or at [gabriele.quillman@wildlife.ca.gov](mailto:gabriele.quillman@wildlife.ca.gov).

Sincerely,

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