
From: OPR State Clearinghouse
Sent: Wednesday, July 24, 2019 11:55 AM
To: Charissa Martinez
Subject: FW: CDFW's comments on the IS/MND for the Caples Lake and Silver Lake East Campground Improvements Project (SCH No. 2019069119)

Follow Up Flag: Follow up
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Governor's Office of Planning & Research

JULY 24 2019

STATE CLEARINGHOUSE

From: Quillman, Gabriele@Wildlife <Gabriele.Quillman@wildlife.ca.gov>
Sent: Wednesday, July 24, 2019 11:46 AM
To: dvenable@eid.org
Cc: Wildlife R2 CEQA <R2CEQA@wildlife.ca.gov>; OPR State Clearinghouse <State.Clearinghouse@opr.ca.gov>
Subject: CDFW's comments on the IS/MND for the Caples Lake and Silver Lake East Campground Improvements Project (SCH No. 2019069119)

Dear Mr. Venable:

The California Department of Fish and Wildlife (Department) appreciates the opportunity to comment on the Initial Study and Mitigated Negative Declaration (IS/MND) for the Caples Lake and Silver Lake East Campground Improvements Project (project) [SCH No. 2019069119]. The Department is responding to the IS/MND as a Trustee Agency for fish and wildlife resources (California Fish and Game Code [Fish & G. Code] sections 711.7 and 1802, and the California Environmental Quality Act [CEQA] Guidelines section 15386), and as a potential Responsible Agency regarding any discretionary actions (CEQA Guidelines section 15381), such as the issuance of a Lake or Streambed Alteration Agreement (Fish & G. Code sections 1600 et seq.) and/or a California Endangered Species Act (CESA) Permit for Incidental Take of Endangered, Threatened, and/or Candidate species (Fish & G. Code sections 2080 and 2080.1).

Project Location and Description

The project is located in the Caples Lake and Silver Lake East campgrounds, in Alpine and Amador Counties, respectively. A segment of the new water supply pipeline and offsite well serving the Silver Lake East Campground is located in El Dorado County, California. The project site locations are adjacent to State Route 88, near Caples and Silver lakes.

The project involves improvements to camping units, infrastructure, and restrooms, to meet the most current U.S. Forest Service (USFS) design and accessibility standards of the Architectural Barriers Act at the Caples Lake and Silver Lake East campgrounds.

Comments and Recommendations

The Department offers the comments and recommendations presented below to assist the El Dorado Irrigation District (EID; the CEQA Lead Agency) in adequately identifying and mitigating the project's significant, or potentially significant, impacts on biological resources.

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 if the project has potential to cause incidental take of a CESA-listed species, 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.

The IS/MND notes that the Silver Lake East Campground contains habitat that is potentially suitable for Sierra Nevada yellow-legged frog (*Rana sierrae*), a state-listed Threatened species, and proposes a series of avoidance measures to prevent impacts to the species. The proposed avoidance measures include conducting an environmental awareness training for construction personnel before activities start, installing high-visibility fencing around sensitive biological habitat, conducting a preconstruction survey, avoiding certain types of netting, and contacting the US Fish and Wildlife Service for further guidance if Sierra Nevada yellow-legged frogs are observed during construction activities. The Department requests to be contacted as well if Sierra Nevada yellow-legged frogs are observed.

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. Please note that "any river, stream or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a body of water.

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. Lake or Streambed Alteration notification package forms and instructions may be found at www.wildlife.ca.gov/Conservation/LSA/Notify-CDFW.

Nesting Bird Surveys

Migratory non-game native bird species are protected under the federal Migratory Bird Treaty Act (MBTA) of 1918, as amended (16 U.S.C. 703 et seq.). In addition, sections 3503, 3503.5, and 3513 of the Fish & G. Code also afford protective measures as follows: section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish & G. Code or any regulation made pursuant thereto; section

3503.5 states that it is unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish & G. Code or any regulation adopted pursuant thereto; and section 3513 states that it is unlawful to take or possess any migratory nongame bird as designated in the MBTA or any part of such migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the MBTA.

In order to avoid impacts to nesting and migratory birds, the Department recommends that a preconstruction nesting bird survey be scheduled no more than three (3) days prior to starting construction if construction is scheduled to begin between February 1 and August 31. Because construction noise and vibrations may disturb nearby nesting birds to the point of causing nest failure, the Department recommends that a buffer of at least 500 feet around the construction area be included in the survey. Please note that the MBTA and Fish & G. Code apply regardless of the time of year. If an active nest is discovered outside of the typical nesting season, it should be avoided using the same avoidance measures that would be applied during the typical nesting season until such time as the young have fully fledged and are foraging independently of their parents.

Further Coordination

The Department appreciates the opportunity to comment on the IS/MND for the Caples Lake and Silver Lake East Campground Improvements Project (SCH No. 2019069119), and requests that EID address the Department's comments prior to adopting the MND. If you have any questions pertaining to these comments, please contact me at (916) 358-2955 or gabriele.quillman@wildlife.ca.gov.

Sincerely,

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