



State of California – Natural Resources Agency
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Governor's Office of Planning & Research

August 8, 2019

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STATE CLEARINGHOUSE

Mr. Luke Serna
California Department of Parks and Recreation
2797 Truxtun Road
San Diego, CA 92106
Lucas.Serna@parks.ca.gov

Subject: Mitigated Negative Declaration for the Malibu Creek State Park Stokes Creek Bridge Project, City of Calabasas, Los Angeles County

Dear Mr. Serna:

The California Department of Fish and Wildlife (CDFW) has reviewed the above-referenced Mitigated Negative Declaration (MND) for the Malibu Creek State Park Stokes Creek Bridge Project (Project) provided by California Department of Parks and Recreation (CDPR). 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's 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 & Game Code, §§ 711.7, subdivision (a) & 1802; Public Resources Code, § 21070; California Environmental Quality Act (CEQA) Guidelines, § 15386, subdivision (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 is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect state fish and wildlife resources.

CDFW is also submitting comments as a Responsible Agency under CEQA (Public Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code, including lake and streambed alteration regulatory authority (Fish & Game 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 & Game Code, § 2050 et seq.), or State-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & Game Code, § 1900 et seq.) authorization as provided by the applicable Fish and Game Code will be required.

Project Description and Summary

Objective: The Project includes removal of an existing culvert along Stokes Creek, creek debris removal, grading of the creek banks above and below the bridge, and installation of a new pre-fabricated bridge. The proposed Project area would encompass an area of approximately 0.20 acres.

Location: The Project site is located in Malibu Creek State Park (Park) in the center of Santa Monica Mountains. The Park is located on the west side of Las Virgenes Road about 0.6 miles south of Mulholland Drive. To the north is the City of Calabasas, to the east is Las Virgenes Road and areas of unincorporated Los Angeles County, to the south is unincorporated Los Angeles County and the city of Malibu, and to the west of the Park is a portion of the Santa Monica Mountains National Recreation Area.

Comments and Recommendations

CDFW offers the comments and recommendations below to assist CDPR in adequately identifying, avoiding, and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. CDFW recommends the measures or revisions below be included in a science-based monitoring program that contains adaptive management strategies as part of the Project's CEQA mitigation, monitoring, and reporting program (Public Resources Code, § 21081.6 and CEQA Guidelines, § 15097).

Project Description and Related Impact Shortcoming

Comment #1: Impacts to Streams

Issue: Mitigation Measure BIO-6 indicates that CDPR will "[r]estore temporary impacts to 0.20 acre of jurisdictional waters and valley oak woodland understory and mitigate for impacts to native tree protection zones." While the tree mitigation is discussed adequately, the need for notification for a Lake and Streambed Alteration Agreement is omitted.

Specific impacts: The Project may result in the loss of streams and associated watershed function and biological diversity. Grading and construction activities will likely alter the topography, and thus the hydrology, of the Project site.

Why impacts would occur: Ground-disturbing activities from grading and filling, water diversions, and dewatering would physically remove or otherwise alter existing streams or their function and associated riparian habitat on the Project site. Downstream streams and associated biological resources beyond the Project development footprint may also be impacted by Project-related releases of sediment and altered watershed effects resulting from Project activities.

Evidence impacts would be significant: The Project may substantially adversely affect the existing stream pattern of the Project site through the alteration or diversion of a stream, which absent specific mitigation, could result in substantial erosion or siltation on site or off site of the Project.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: For any such activities, the Project applicant (or "entity") must provide written notification to CDFW pursuant to section 1600 *et seq.* of the Fish and Game Code. Based on this notification and other information, CDFW shall determine whether a Lake and Streambed Alteration (LSA) Agreement is required prior to conducting the proposed activities. A notification package for a LSA may be obtained by accessing CDFW's web site at <https://www.wildlife.ca.gov/conservation/lisa>.

CDFW's issuance of an LSA Agreement for a Project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document of the Lead Agency for the Project. To minimize additional requirements by CDFW pursuant to section 1600 *et seq.* and/or under CEQA, the CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement.

Mitigation measure #2: Any LSA Agreement issued for the Project by CDFW may include additional measures protective of streambeds on and downstream of the Project such as additional erosion and pollution control measures. To compensate for any on-site and off-site impacts to riparian resources, additional mitigation conditioned in any LSA Agreement may include the following: avoidance of resources, on-site or off-site creation, enhancement or restoration, and/or protection and management of mitigation lands in perpetuity.

Filing Fees

The project, as proposed, could 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 & Game Code, § 711.4; Pub. Resources Code, § 21089).

Conclusion

We appreciate the opportunity to comment on the project to assist California Department of Parks and Recreation in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that CDPR has to our comments and to receive notification of any forthcoming hearing date(s) for the project. If you have any questions or comments regarding this letter, please contact Andrew Valand, Environmental Scientist, at Andrew.Valand@wildlife.ca.gov or (562) 342-2142.

Sincerely,



Erinn Wilson
Environmental Program Manager I

Mr. Luke Serna
California Department of Parks and Recreation
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ec: CDFW

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Kelly Schmoker – Glendora
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