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October 14, 2019

Governor's Office of Planning & Research

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STATE CLEARINGHOUSE

Subject: Comments on the Notice of Intent to Adopt a Mitigated Negative Declaration for the Saddle Club Site Use Plan Implementation Project (SCH #2019099042)

Dear Mr. Feremenga:

The California Department of Fish and Wildlife (Department) has reviewed the above-referenced Notice of Intent to adopt a Mitigated Negative Declaration (MND) for the Saddle Club Preservation Property Site Use Plan Implementation Project (Project). The following statements and comments have been prepared pursuant to the Department's authority as a Trustee Agency with jurisdiction over natural resources affected by the project (California Environmental Quality Act [CEQA] Guidelines § 15386), pursuant to our authority as a Responsible Agency under CEQA Guidelines section 15381 over those aspects of the proposed project that come under the purview of the California Endangered Species Act (Fish and Game Code § 2050 *et seq.*), and pursuant to Fish and Game Code section 1600 *et seq.* regarding potential aspects affecting rivers or stream courses. The Department also administers the Natural Community Conservation Planning (NCCP) program. The Transportation Corridor Agencies, which includes the Foothill/Eastern Transportation Corridor Agency (F/ETCA), are Participating Landowners under the County of Orange Central and Coastal Subregion Natural Community Conservation Plan/Habitat Conservation Plan (Central-Coastal NCCP/HCP) and are signatory to the July 1996 Plan Implementation Agreement.

The 33-acre Saddle Club property is located at 31101 Live Oak Canyon Road, Trabuco Canyon area in unincorporated Orange County, California, and is outside the boundaries of the NCCP/HCP. It is bordered by Live Oak Canyon Road, Trabuco Canyon Road, and O'Neill Regional Park to the west and south, and the Orange County Transportation Authority's (OCTA's) Wren's View Preserve to the north and east. The Saddle Club property was purchased by F/ETCA in December 2017 to meet anticipated mitigation needs for existing and future capital improvement projects. The property was previously used as an equestrian center and various structures related to this use are still present. Vegetation communities on site include southern coast live oak riparian forest, coast live oak woodland, coastal sage scrub, coastal sage scrub/chaparral mix, mule fat scrub, ornamental vegetation, and disturbed habitat. The entire 33-acre property is within U.S. Fish and Wildlife Service (USFWS)-designated critical habitat for the federally threatened coastal California gnatcatcher (*Poliioptila californica californica*; gnatcatcher), and southern portions of the property are mapped as USFWS-designated Critical Habitat for arroyo toad (*Anaxyrus californicus*). During preliminary biological surveys conducted in 2017, no special-status wildlife species were detected on site.

The Project proposes to demolish and remove some of the existing equestrian facilities and ornamental vegetation from the property, restore and/or enhance habitats on site including but not limited to riparian, wetland, scrub, and oak woodland habitats, and provide public access to a multi-use trail. Following the demolition of the equestrian facilities, open, self-guided public access would be allowed along an existing one-half mile long trail that connects to adjoining open space properties. Public use is proposed seven days a week from dawn to dusk and would be adaptively managed as necessary to minimize conflicts with habitat conservation and wildlife use. To the northeast, the proposed access trail links to the OCTA Wren's View Preserve (Preserve), which was conserved to help offset project related impacts to threatened and endangered species permitted by the OCTA M2 NCCP/HCP. Current public access at Wren's View Preserve is limited to designated docent-led hiking and riding days, along specific routes that minimize impacts to sensitive biological resources (OCTA 2017). Demolition of the existing structures and implementation of the multi-use trail at the Project site is proposed to be completed by Fiscal Year 2020. A Resource Management Plan (RMP) and restoration activities would be completed by Fiscal Year 2022.

The Department offers the following comments and recommendations to assist F/ETCA in avoiding, minimizing, and adequately mitigating Project-related impacts to biological resources. Our comments and recommendations are based on our knowledge of sensitive and declining vegetation communities and our participation in regional conservation planning efforts.

1. Because the Saddle Club property is intended to be used as mitigation for existing and future capital projects, and given the current managed public use on the adjacent Preserve, the Department does not consider open self-guided public access an appropriate use of the Saddle Club property. Unmanaged public access at the Saddle Club property has the potential to facilitate unauthorized recreational use on the adjoining Preserve and lead to impacts to biological resources that are not addressed in the MND. As the additional recreational use was not evaluated during the development of the Wren's View Preserve RMP, resources to monitor and manage this added level of use may not be available and the increased public access could potentially threaten its conservation values. In addition, the northeast trail connection discussed in the Saddle Club Preservation Property Draft Site Use Plan (Site Use Plan) and the MND is not currently used for public access due to the presence of sensitive species and the trail is primarily maintained for management access. Any potential public use of this trail, including docent-led events, would require extensive evaluation by OCTA, the Department, and the U.S. Fish and Wildlife Service to determine whether any level of recreational use in this portion of the Preserve could be compatible with the biological resource goals and objectives of the Preserve RMP and the OCTA M2 NCCP/HCP. Finally, the Department does not typically consider public access to be a compatible use within mitigation sites that satisfy Department issued permit requirements outside of an NCCP/HCP or other regional conservation framework (i.e. Resource Conservation Investment Strategy). Given the reasons above, we recommend F/ETCA wait to determine whether public access is compatible with the conservation purposes of the property until after an RMP is completed and approved (see Comment 2 and 3) by the applicable resource agencies. At this point in time, the Department recommends that at most, public access only be allowed on a limited and managed basis, in coordination with staff or docent-led events on adjoining properties.

2. Prior to removing the existing structures and allowing public access to the site, we recommend F/ETCA prepare an RMP, as referenced in Table 1 of the Site Use Plan. Preparation of an RMP requires focused biological surveys to be conducted throughout the property that will assist F/ETCA in identifying important habitat areas and sensitive biological resource locations to conserve and avoid during demolition activities and future public use. In addition, RMPs typically include specific trail standards (e.g. tread width and surface type), which would provide a baseline for assessing and monitoring impacts associated with the proposed recreational use and allow F/ETCA to adequately assess whether the proposed use conflicts with the conservation purposes of the Saddle Club property. Other necessary components of RMPs include but are not limited to: biological management and monitoring goals and objectives, non-native species control plans, identification of restoration and enhancement opportunities, and anticipated funding requirements. These elements should be included in the RMP.
3. If F/ETCA intends to utilize this property as future mitigation, the Department recommends submitting the above referenced RMP to the applicable resource agencies for review and approval prior to initiating proposed activities, including demolition of structures or allowing public access. The Department withholds any decision to allow use of the Saddle Club property to satisfy Department issued permit or agreement requirements (i.e. an Incidental Take Permit pursuant to the California Endangered Species Act or a Lake and Streambed Agreement pursuant to Fish and Game Code § 1602) until the Department has reviewed and approved the RMP and, if necessary, provided formal confirmation that any required restoration has met its agreed upon success criteria.
4. In order to perpetually protect the conservation values of the property, the Department recommends F/ETCA place all mitigation areas within a Conservation Easement (CE) to be held by an entity whose mission is focused on biological resource protection and conservation, and to provide perpetual management for the property. For mitigation areas that fulfill Department issued Incidental Take Permit requirements, the CE holder must be approved by the Department to hold CEs and/or manage and steward mitigation land. More information can be found at <https://www.wildlife.ca.gov/Conservation/Planning/Endowments>.
5. Mitigation Measure BIO-2 requires surveys to identify active raptor and other migratory nongame bird nests to be conducted by a qualified biologist at least two weeks before the start of construction from February 1st through August 31st. While the Department agrees that the peak avian nesting season for migratory nongame birds generally runs from February through August, for some raptors, this period can start as early as January 1. We recommend updating the nesting season in BIO-2 to incorporate the January 1 start date in portions of the Project area that may support raptor nesting.

Mr. Doug Feremenga, Manager
Foothill/Eastern Transportation Corridor Agency
October 14, 2019
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The Department appreciates the opportunity to comment on this MND. If you have questions or comments regarding this letter, please contact Kyle Rice at (858) 467-4250 or kyle.rice@wildlife.ca.gov.

Sincerely,



FOIA
Gail K. Sevens
Environmental Program Manager
South Coast Region

ec: Will Miller (U.S. Fish and Wildlife Service)
Scott Morgan (State Clearinghouse)

References

Orange County Transportation Authority (OCTA). 2017. O'Neill Oaks Preserve Resource Management Plan. Final. Orange, CA. Prepared with support from ICF, San Diego, CA.