

MAY 14 2020

From: Wood, Dylan@Wildlife <Dylan.A.Wood@wildlife.ca.gov> **STATE CLEARINGHOUSE**
Sent: Wednesday, May 13, 2020 4:15 PM
To: ceqa@saccounty.net
Cc: Wildlife R2 CEQA; OPR State Clearinghouse
Subject: Comments on the MND for the 8171 Excelsior Road Tentative Parcel Map (SCH: 2020049037)

Dear Ms. Patten:

The California Department of Fish and Wildlife (CDFW) received the Mitigated Negative Declaration (MND) for the 8171 Excelsior Road Tentative Parcel Map (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines¹.

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the project that may affect California fish and wildlife.

CDFW 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 & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (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 fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. 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 & G. Code, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

¹CEQA 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.

²Section 86 of the Fish and Game Code defines "take" as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill"

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the lead agency in adequately identifying and/or mitigating the project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

Comment 1: The IS/MND does not analyze all Covered Species under the South Sacramento Habitat Conservation Plan (SSHCP).

CDFW has identified the following species, covered under the SSHCP, that are not analyzed in the IS/MND or included in Table IS-4 or Table IS-5:

- Sanford's arrowhead (*Sagittaria sanfordii*)

- California tiger salamander (*Ambystoma californiense*)
- Western pond turtle (*Actinemys marmorata*)
- Giant gartersnake (*Thamnophis gigas*)
- Western red bat (*Lasiurus blossevillii*)
- American badger (*Taxidea taxus*)
- Greater sandhill crane (*Grus canadensis*)

To address this comment, CDFW recommends revising the IS/MND and the corresponding tables to address these species and ensure overall consistency with the SSHCP.

Comment 2: The Project is subject to Notification under Section 1602 of the Fish and Game Code (Lake or Streambed Alteration Agreement).

Notification to CDFW is required, pursuant to Section 1602 of the Fish and Game Code if a project proposes activities that will substantially divert or obstruct the natural flow of water; 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. The Project description includes construction of an access road and placement of a 42-inch culvert, which is an activity subject to Notification. Other Project activities such as grading may also be subject to Notification. The IS/MND does not disclose the regulatory authority provided by Section 1602 of the Fish and Game Code when discussing *Wetlands and Other Surface Waters* (Page IS-31 thru IS-32) nor does it explain the applicability of said regulation for Project activities.

To address this issue, CDFW recommends the IS/MND be revised to disclose the regulatory context and require that the Project proponent submit a Notification to CDFW and consult with CDFW regarding obtaining a Streambed Alteration Agreement. Please note, this process is currently independent of the SSHCP.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental documents 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 types of information reported to CNDDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>. The completed form can be sent electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov.

CONCLUSION

CDFW appreciates the opportunity to comment and assist the lead agency in identifying and mitigating project impacts on biological resources.

Please contact me at 916-358-2384 or dylan.a.wood@wildlife.ca.gov if you have any questions.

Sincerely,

G | @q#Z rrg#
 California Department of Fish and Wildlife
 Environmental Scientist
 (916) 358-2384

