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July 21, 2020

Governor's Office of Planning & Research

Jul 21 2020

STATE CLEARINGHOUSE

Ms. Stephanie Hansen, AICP
Principal Planner
Santa Cruz County Planning Department
701 Ocean Street, 4th Floor
Santa Cruz, CA 95060
CEQA-NEPA@santacruzcounty.us

Subject: Sustainability Policy and Regulatory Update, Notice of Preparation,
SCH No. 2020079005, Santa Cruz County

Dear Ms. Hansen:

The California Department of Fish and Wildlife (CDFW) has reviewed the Notice of Preparation (NOP) prepared by the County of Santa Cruz (County) for the Sustainability Policy and Regulatory Update (Project) located in Santa Cruz County. CDFW is submitting comments on the NOP regarding potentially significant impacts to biological resources associated with the Project.

CDFW ROLE

CDFW is a Trustee Agency with responsibility under the California Environmental Quality Act (CEQA; Pub. Resources Code, § 21000 et seq.) pursuant to CEQA Guidelines section 15386 for commenting on projects that could impact fish, plant, and wildlife resources (e.g., biological resources). CDFW is also considered a Responsible Agency if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA), the Native Plant Protection Act, the Lake and Streambed Alteration (LSA) Program, and other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources.

PROJECT DESCRIPTION

The Project will update the County of Santa Cruz's 1994 Sustainability Policy and Regulatory Update of the County's General Plan/Local Coastal Program (LCP) and County Code to define a more sustainable growth pattern for the future. The Project will update goals, objectives, policies, and implementation strategies, as well as update County Code.

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COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist the County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on biological resources.

COMMENT 1: Artificial Lighting

Issue: The Project could increase artificial lighting. Artificial lighting often results in light pollution, which has the potential to significantly and adversely affect biological resources.

Evidence the impact would be significant: Night lighting can disrupt the circadian rhythms of many wildlife species. Many species use photoperiod cues for communication (e.g., bird song; Miller 2006, determining when to begin foraging (Stone et al. 2009), behavior thermoregulation (Beiswenger 1977), and migration (Longcore and Rich 2004). Aquatic species can also be affected, for example, salmonids migration can be slowed or stopped by the presence of artificial lighting (Tabor et al. 2004. Nightingale et al. 2006).

Recommendations to minimize significant impacts: CDFW recommends eliminating all non-essential artificial lighting. If artificial lighting is necessary, CDFW recommends avoiding or limiting the use of artificial lights during the hours of dawn and dusk, when many wildlife species are most active. CDFW also recommends that outdoor lighting be shielded, cast downward, and does not spill over onto other properties or upwards into the night sky (see the International Dark-Sky Association standards at <http://darksky.org/>).

COMMENT 2: Exterior Windows

Issue: The glass used for exterior building windows could result in bird collisions, which can cause bird injury and mortality.

Evidence the impact would be significant: Birds, typically, do not see clear or reflective glass, and can collide with glass (e.g., windows) that reflect surrounding landscape and/or habitat features (Klem and Saenger 2013, Sheppard 2019). When birds collide with glass, they can be injured or killed. In the United States, the estimated annual bird mortality is between 365-988 million birds (Loss et al. 2014).

Recommendations to minimize significant impacts: CDFW recommends incorporating visual signals or cues to exterior windows to prevent bird collisions. Visual signals or cues include, but are not limited to, patterns to break up reflective areas, external window films and coverings, ultraviolet patterned glass, and screens. For best practices on how to reduce bird collisions with windows, please go to the United States

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Fish and Wildlife Service's website for Buildings and Glass
(<https://www.fws.gov/birds/bird-enthusiasts/threats-to-birds/collisions/buildings-and-glass.php>).

COMMENT 3: Stream Hydromodification

Issue: The Project could increase impervious surfaces within the Project area. Impervious surfaces, stormwater systems, and storm drain outfalls have the potential to significantly affect fish and wildlife resources by altering runoff hydrograph and natural streamflow patterns.

Evidence the impact would be significant: Urbanization (e.g., impervious surfaces, stormwater systems, storm drain outfalls) can modify natural streamflow patterns by increasing the magnitude and frequency of high flow events and storm flows (Hollis 1975, Konrad and Booth 2005).

Recommendations to minimize significant impacts: CDFW recommends that storm runoff be dispersed as sheet flow through the property rather than funneled to stormwater outfalls. CDFW also recommends incorporating permeable surfaces throughout the Project area to allow stormwater to percolate in the ground and prevent stream hydromodification.

COMMENT 4: Santa Cruz Long-toed Salamander

Issue: Occurrences of State fully protected species, Santa Cruz long-toed salamander (SCLTS), are located within the Project area. CDFW is unable to issue permits for take of fully protected species, which includes take during species-specific surveys, unless they are conducted for scientific purposes pursuant to Fish and Game Code Section 2081(a) or a project has an approved Natural Communities Conservation Plan pursuant to Fish and Game Code Section 2800. Take, as defined by Fish and Game Code § 86 is to "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill." Without appropriate mitigation measures, the project has the potential to significantly impact SCLTS.

Evidence impact would be significant: The Project has the potential to develop, construct, and impact areas within and adjacent to SCLTS habitat. The Project may result in take of SCLTS by collapse of small mammal burrows, inadvertent entrapment, loss of habitat, water quality impacts to breeding sites, reduced reproductive success, reduction in health and vigor of eggs and/or young, and direct mortality of individuals.

Recommended Potentially Feasible Mitigation Measure: To avoid potential impacts to SCLTS, CDFW recommends incorporating the following mitigation measures into the Project's EIR, and that these measures be made conditions of approval for the Project.

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Recommended Mitigation Measure 1: SCLTS Full Avoidance

CDFW recommends that the Project fully avoid impacts to SCLTS. For assistance with avoiding SCLTS, please contact CDFW.

COMMENT 5: Special-Status Species Surveys

Issue: Special-status species are known to occur within the Project Area.

Evidence the impact would be significant: The Project has the potential to develop, construct, and impact areas within and adjacent to special-status species habitat. The Project may impact special-status species by collapsing small mammal burrows, inadvertent entrapment, loss of habitat, water quality impacts to breeding sites, reduced reproductive success, reduction in health and vigor of eggs and/or young, and direct mortality of individuals.

Recommended Potentially Feasible Mitigation Measures: To evaluate and avoid potential impacts to special-status species, CDFW recommends incorporating the following mitigation measures into the EIR prepared for this Project, and that these measures be made conditions of approval for the Project.

Recommended Mitigation Measure 2: Special-Status Species Surveys

CDFW recommends that before Project implementation, special-status species surveys be conducted for species that have the potential to occur or will be impacted by Project implementation. CDFW recommends, if available, using established species survey protocols. Survey and monitoring protocols and guidelines are available at: <https://wildlife.ca.gov/Conservation/Survey-Protocols>.

Recommended Mitigation Measure 3: Special-Status Species Avoidance

CDFW recommends special-status species be avoided whenever possible. For special-status plants, CDFW recommends delineation and observing a no-disturbance buffer of at least 50 feet from the outer edge of the plant population(s) or specific habitat type(s) required by special-status plant species. For wildlife species, CDFW recommends that a qualified wildlife biologist be on-site during Project implementation to ensure that special-status species are not impacted by the Project.

Recommended Mitigation Measure 4: State-listed Species Take Authorization

If a State-listed species or State rare plant are identified during special-status species surveys, and the Project cannot avoid take of the species, acquisition of an Incidental Take Permit (ITP) or a Native Plant Protection Act ITP issued by CDFW Pursuant to Fish and Game Code Sections 2081(b) and/or Section 1900 et seq is necessary to comply with CESA and the Native Plant Protection Act.

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COMMENT 6: Nesting Birds

Issue: Project implementation could result in disturbance of nesting birds.

Evidence the impact would be significant: Noise can impact bird behavior by masking signals used for bird communication, mating, and hunting (Bottalico et al. 2015). Birds hearing can also be damaged from noise and impair the ability of birds to find or attract a mate and prevent parents from hearing calling young (Ortega 2012).

Recommendations to minimize significant impacts: If ground-disturbing or vegetation-disturbing activities occur during the bird breeding season (February through early-September), the Project applicant is responsible for ensuring that implementation of the Project does not result in violation of Fish and Game Codes.

Recommended Potentially Feasible Mitigation Measures: To evaluate and avoid potential impacts to nesting birds, CDFW recommends incorporating the following mitigation measures into the EIR prepared for this Project, and that these measures be made conditions of approval for the Project.

Recommended Mitigation Measure 5: Nesting Bird Surveys

CDFW recommends that a qualified avian biologist conduct pre-Project activity nesting bird surveys no more than seven (7) days prior to the start of ground or vegetation disturbance, and every 14 days during Project activities to maximize the probability that nests are detected. CDFW recommends that nesting bird surveys cover a sufficient area around the Project area to identify nests and determine their status. A sufficient area means any area potentially affected by the Project.

During nesting bird surveys, CDFW recommends that a qualified avian biologist establish behavioral baseline of all identified nests. During Project activities, CDFW recommends having the qualified avian biologist continuously monitor nests to detect behavioral changes resulting from Project activities. If behavioral changes occur, CDFW recommends stopping the activity, that is causing the behavioral change, and consulting with a qualified avian biologist on additional avoidance and minimization measures.

Recommended Mitigation Measure 6: Nesting Bird Buffers

During Project activities, if continuous monitoring of nests by a qualified avian biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 1,000-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified avian biologist has determined that the birds have fledged and are no longer reliant upon the nest or on-site parental care for survival. Variance from these no-disturbance buffers is possible when there is compelling biological or ecological

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reason to do so, such as when the Project area would be concealed from a nest site by topography. CDFW recommends that a qualified avian biologist advise and support any variance from these buffers.

REGULATORY REQUIREMENTS

California Endangered Species Act

Please be advised that a CESA Permit must be obtained if the Project has the potential to result in “take” of plants or animals listed under CESA, either during construction or over the life of the Project. Issuance of a CESA Permit is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA Permit.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially impact threatened or endangered species (CEQA section 21001(c), 21083, and CEQA Guidelines section 15380, 15064, 15065). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency’s FOC does not eliminate the Project proponent’s obligation to comply with Fish and Game Code section 2080.

Lake and Streambed Alteration (LSA) Program

Notification is required, pursuant to CDFW’s LSA Program (Fish and Game Code section 1600 et. seq.) for any Project-related activities that will substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland resources; or deposit or dispose of material where it may pass into a river, lake or stream. Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. CDFW, as a Responsible Agency under CEQA, will consider the CEQA document for the Project. CDFW may not execute the final LSA Agreement until it has complied with CEQA (Public Resources Code section 21000 et seq.) as the responsible agency.

FILING FEES

CDFW anticipates that the Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish and Game Code section 711.4; Pub. Resources Code, section 21089). 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.

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Thank you for the opportunity to comment on the Project's NOP. If you have any questions regarding this letter or for further coordination with CDFW, please contact Ms. Monica Oey, Environmental Scientist, at (707) 428-2088 or Monica.Oey@wildlife.ca.gov; or Ms. Randi Adair, Senior Environmental Scientist (Supervisory), at Randi.Adair@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Gregg Erickson
Regional Manager
Bay Delta Region

ec: State Clearinghouse

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