



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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GAVIN NEWSOM, Governor
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Governor's Office of Planning & Research

October 12, 2020

Oct 12 2020

STATE CLEARINGHOUSE

Ms. Christina Love
City of Vacaville
650 Merchant Street
Vacaville, CA 95688
christina.love@cityofvacaville.com

Subject: General Plan Transportation Element Update and Energy and Conservation Action Strategy Update, Notice of Preparation of a Draft Supplemental Environmental Impact Report, SCH No. 2020090526, City of Vacaville, Solano County

Dear Ms. Love:

The California Department of Fish and Wildlife (CDFW) reviewed the Notice of Preparation (NOP) of a draft Supplemental Environmental Impact Report (EIR) provided for the General Plan Transportation Element Update and Energy and Conservation Action Strategy Update (Project) located in the City of Vacaville, Solano County.

CDFW is a Trustee Agency with responsibility under the California Environmental Quality Act (CEQA) §15386 for commenting on projects that could impact fish, plant and wildlife resources. CDFW is also considered a Responsible Agency if a project would require discretionary approval, such as a California Endangered Species Act (CESA) Incidental Take Permit (ITP), a Lake and Streambed Alteration (LSA) Agreement, or other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources. Pursuant to our jurisdiction, CDFW has the following concerns, comments, and recommendations regarding the Project.

PROJECT DESCRIPTION AND LOCATION

The Project includes an update to the City of Vacaville's (City) 2015 General Plan Transportation Element and Energy and Conservation Action Strategy. The City will incorporate vehicle miles traveled as the appropriate metric to assess a future project's transportation impacts and will update the Energy and Conservation Action Strategy to align with the statewide greenhouse gas emissions reduction goals of 40% below 1990 levels by 2030. The Project takes place throughout the City of Vacaville.

The CEQA Guidelines (§§15124 and 15378) require that the draft EIR incorporate a full project description, including reasonably foreseeable future phases of the Project, and that contains sufficient information to evaluate and review the Project's environmental impact. Please include a complete description of the following Project components in the Project description:

Ms. Christina Love
City of Vacaville
October 12, 2020
Page 2 of 6

- Footprints of permanent Project features and temporarily impacted areas, such as staging areas and access routes.
- Encroachments into riparian habitats, wetlands or other sensitive areas.
- Area and plans for any proposed buildings/structures, ground disturbing activities, fencing, paving, stationary machinery, landscaping, and stormwater systems.
- Operational features of the Project, including level of anticipated human presence (describe seasonal or daily peaks in activity, if relevant), artificial lighting/light reflection, noise and greenhouse gas generation, traffic generation, and other features.
- Construction schedule, activities, equipment, and crew sizes.

ENVIRONMENTAL SETTING

Sufficient information regarding the environmental setting is necessary to understand the Project's, and its alternative's (if applicable), significant impacts on the environment (CEQA Guidelines, §§15125 and 15360). CDFW recommends that the CEQA document prepared for the Project provide baseline habitat assessments for special-status plant, fish and wildlife species located and potentially located within the Project area and surrounding lands, including all rare, threatened, or endangered species (CEQA Guidelines, §15380). Fully protected, threatened or endangered, candidate, and other special-status species that are known to occur, or have the potential to occur in or near the Project site, include, but are not limited to:

- Swainson's hawk (*Buteo swainsoni*), state listed as threatened
- Contra Costa goldfields (*Lasthenia conjugens*), federally listed as endangered, California Rare Plant Rank (CRPR) 1B.1
- Two-fork clover (*Trifolium amoenum*), federally listed as endangered, CRPR 1B.1
- Vernal pool tadpole shrimp (*Lepidurus packardii*), federally listed as endangered
- Vernal pool fairy shrimp (*Branchinecta lynchi*), federally listed as threatened
- Valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), federally listed as threatened
- Burrowing owl (*Athene cunicularia*), California Species of Special Concern (SSC)

Ms. Christina Love
City of Vacaville
October 12, 2020
Page 3 of 6

- Western pond turtle (*Emys marmorata*), SSC
- Foothill yellow-legged frog (*Rana boylei*), SSC
- Townsend's big-eared bat (*Corynorhinus townsendii*), SSC
- Baker's navarretia (*Navarretia leucocephala ssp. bakeri*), CRPR 1B.1
- Lengenere (*Lengenere limosa*), CRPR 1B.1
- Adobe-lily (*Fritillaria pluriflora*), CRPR 1B.2
- Alkali milk-vetch (*Astragalus tener var. tener*), CRPR 1B.2
- Heartscale (*Atriplex cordulata var. cordulata*) CRPR 1B.2
- Recurved larkspur (*Delphinium recurvatum*), CRPR 1B.2
- Saline clover (*Trifolium hydrophilum*), CRPR 1B.2
- San Joaquin pearlscale (*Extriplex joaquinana*), CRPR 1B.2
- Dwarf downingia (*Downingia pusilla*), CRPR 2B.2
- White-tailed kite (*Elanus leucurus*), Fully Protected Species

Habitat descriptions and species profiles should include information from multiple sources: aerial imagery, historical and recent survey data, field reconnaissance, scientific literature and reports, and findings from "positive occurrence" databases such as California Natural Diversity Database (CNDDDB). Based on the data and information from the habitat assessment, the CEQA document can then adequately assess which special-status species are likely to occur in the Project vicinity.

CDFW recommends that prior to Project implementation, surveys be conducted for special-status species with potential to occur, following recommended survey protocols if available. Survey and monitoring protocols and guidelines are available at: <https://wildlife.ca.gov/Conservation/Survey-Protocols>.

Botanical surveys for special-status plant species, including those with a California Rare Plant Rank (<http://www.cnps.org/cnps/rareplants/inventory/>), must be conducted during the blooming period for all sensitive plant species potentially occurring within the Project area and require the identification of reference populations. Please refer to CDFW protocols for surveying and evaluating impacts to rare plants available at: <https://wildlife.ca.gov/Conservation/Plants>.

Ms. Christina Love
City of Vacaville
October 12, 2020
Page 4 of 6

IMPACT ANALYSIS AND MITIGATION MEASURES

The CEQA Guidelines (§15126.2) necessitate that the draft EIR discuss all direct and indirect impacts (temporary and permanent) that may occur with implementation of the Project. This includes evaluating and describing impacts such as:

- Potential for “take” of special-status species;
- Loss or modification of breeding, nesting, dispersal and foraging habitat, including vegetation removal, alternation of soils and hydrology, and removal of habitat structural features (e.g. snags, roosts, overhanging banks);
- Permanent and temporary habitat disturbances associated with ground disturbance, noise, lighting, reflection, air pollution, traffic or human presence; and
- Obstruction of movement corridors, fish passage, or access to water sources and other core habitat features.

The CEQA document also should identify reasonably foreseeable future projects in the Project vicinity, disclose any cumulative impacts associated with these projects, determine the significance of each cumulative impact, and assess the significance of the Project’s contribution to the impact (CEQA Guidelines, §15355). Although a project’s impacts may be insignificant individually, its contributions to a cumulative impact may be considerable; a contribution to a significant cumulative impact, e.g., reduction of available habitat for a listed species, should be considered cumulatively considerable without mitigation to minimize or avoid the impact.

Based on the comprehensive analysis of the direct, indirect, and cumulative impacts of the Project, the CEQA Guidelines (§§ 15021, 15063, 15071, 15126.2, 15126.4 and 15370) direct the lead agency to consider and describe all feasible mitigation measures to avoid potentially significant impacts in the draft EIR, and/or mitigate significant impacts of the Project on the environment. This includes a discussion of take avoidance and minimization measures for special-status species, which are recommended to be developed in early consultation with the U.S. Fish and Wildlife Service, the National Marine Fisheries Service and CDFW. These measures can then be incorporated as enforceable Project conditions to reduce potential impacts to biological resources to less-than-significant levels. Fully protected species such as white-tailed kite may not be taken or possessed at any time (Fish and Game Code § 3511). Therefore, the draft EIR is advised to include measures to ensure complete take avoidance of this fully protected species.

CDFW is available to provide biological Mitigation Measures for special-status species, including fully protected species and those species listed above.

Ms. Christina Love
City of Vacaville
October 12, 2020
Page 5 of 6

REGULATORY REQUIREMENTS

California Endangered Species Act

Please be advised that a CESA ITP must be obtained if the Project has the potential to result in take¹ 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 ITP.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially restrict the range or reduce the population of a threatened or endangered species. (Pub. Resources Code, §§ 21001, subd. (c), 21083; CEQA Guidelines, §§ 15380, 15064, and 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 CESA.

Lake and Streambed Alteration Agreement

CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et. seq., for project activities affecting lakes or streams and associated riparian habitat. Notification is required for any activity that may 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 will consider the CEQA document for the Project and may issue an LSA Agreement. CDFW may not execute the final LSA Agreement until it has complied with CEQA as a Responsible Agency.

Migratory Birds and Raptors

CDFW also has authority over actions that may disturb or destroy active nest sites or take birds without authorization. Fish and Game Code sections protecting birds, their eggs, and nests include sections 3503, 3503.5, and 3513. Fully protected species may not be taken or possessed at any time (Fish and Game Code, § 3511). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

¹ Take is defined in Fish and Game Code section 86 as hunt, pursue, catch, capture, or kill, or attempt any of those activities.

Ms. Christina Love
City of Vacaville
October 12, 2020
Page 6 of 6

ENVIRONMENTAL DATA

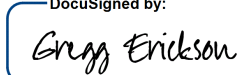
CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. [Pub. Resources Code, § 21003, subd. (e)]. Accordingly, please report any special-status species and natural communities detected during Project surveys to CNDDDB. The CNDDDB field survey form, online field survey form, and contact information for CNDDDB staff can be found at the following link: <https://wildlife.ca.gov/data/CNDDDB/submitting-data>.

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, § 711.4; Pub. Resources Code, § 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.

If you have any questions, please contact Ms. Amanda Culpepper, Environmental Scientist, at amanda.culpepper@wildlife.ca.gov, or Ms. Karen Weiss, Senior Environmental Scientist (Supervisory), at karen.weiss@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Gregg Erickson
Regional Manager
Bay Delta Region

cc: State Clearinghouse