



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
(707) 428-2002
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



November 24, 2020

Governor's Office of Planning & Research

Mr. Dustin Robbins
Federal Highways Administration – CFLHD
12300 W Dakota Avenue
Lakewood, CO 80228
dustin.robbins@dot.gov

Nov 24 2020

STATE CLEARINGHOUSE

Dear Mr. Robbins:

Subject: North Coast Rail Trail, Environmental Assessment, California State Clearinghouse No. 2020100478, Santa Cruz County

The California Department of Fish and Wildlife (CDFW) has reviewed the Environmental Assessment (EA) prepared by the United States Department of Transportation, Federal Highway Administration (Federal Highway Administration) for the proposed North Coast Rail Trail (Project) located in the County of Santa Cruz in the State of California. CDFW is submitting comments on the EA regarding potential impacts to biological resources associated with the proposed Project.

PROJECT DESCRIPTION AND LOCATION

The proposed Project includes the construction of a 7.5-mile multi-use bicycle and pedestrian trail along a railroad corridor from Wilder Ranch State Park (the trail's southern end) to Davenport (the trail's northern end) in unincorporated Santa Cruz County in the State of California. The trail will be composed of paved path with stripping, parallel unpaved path and shoulder, restrooms, fencing, and parking improvements with trail connections at three locations along the alignment.

COMMENTS AND RECOMMENDATIONS

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

COMMENT 1: Fencing

Issue: The Project proposes to install 4.5 feet high permanent fencing, with 5 to 7 strands of smooth galvanized fence wire, throughout the trail alignment to prevent pedestrians from entering agriculture sites and the railroad tracks.

Evidence the impact would be significant: Fencing can be a hazard to wildlife causing entanglement and mortality (van der Ree 1999, Stuart et al. 2001, Harrington and Conover 2006).

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Recommendations to minimize significant impacts: To decrease wildlife entanglement and mortality, CDFW recommends that the fence design is built to be wildlife friendly (see for example, A Landowner’s Guide to Wildlife Friendly Fences: How to Build Fence with Wildlife in Mind found online at https://www.nrcs.usda.gov/wps/PA_NRCSConsumption/download/?cid=nrcseprd1080608&ext=pdf).

COMMENT 2: State Fully Protected Species within the Project Area

Issue: The EA has identified that fully protected species have the potential to occur within and in the vicinity the Project area. CDFW has jurisdiction over fully protected species of birds, mammals, amphibians, reptiles, and fish pursuant to Fish and Game Code §§ 3511, 4700, 5050, and 5515, and is unable to issue permits for take¹ of fully protected species, unless it is for scientific or recovery purposes. The Project will involve noise, groundwork, use of heavy machinery, movement of workers, and recreational activities (e.g. biking) that may occur within or fully protected species habitat, and have the potential to significantly impact and/or cause take of fully protected species.

Recommendation to minimize significant impacts: CDFW recommends that the Project completely avoid impacts to fully protected species.

COMMENT 3: California Endangered Species Act Listed Species

Issue: The EA has identified a potential for California Endangered Species Act (CESA) listed species to occur within and in the vicinity of the Project area. CDFW has jurisdiction over CESA-listed species pursuant to Fish and Game Code §§ 2081. The Project will involve noise, groundwork, use of heavy machinery, movement of workers, and recreational activities (e.g. biking) that may occur within CESA-listed species habitat, and have the potential to significantly impact and/or cause take to CESA listed species.

Recommendations: CDFW recommends that the Project completely avoid impacts to CESA-listed species. If take of CESA-listed species cannot be avoided, take authorization through acquisition of an Incidental Take Permit issued by CDFW pursuant to Fish and Game Code Section 2081(b) is necessary for the Project to comply with CESA.

COMMENT 4: Trail Usage

Issue: The proposed Project includes the development of a multi-use bicycle and pedestrian trail that could impact the state species of special concern California red-legged frog. California red-legged frog have the potential to move across trail. If bicyclists do not observe California red-legged frog on the trail, they have the potential

¹ Take is defined by Fish and Game Code § 86 as to “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.

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to disturb, injure, and/or kill California red-legged frogs.

Evidence of impacts: Amphibian mortality associated with bicycle and vehicle traffic is common on trails where such uses are allowed (Garcês et al. 2020).

Recommendation to minimize significant impacts: CDFW recommends that the trail be limited to pedestrian use to minimize potential Project impacts to California red-legged frog.

COMMENT 5: San Francisco Garter Snake Status

Issue: The EA identifies San Francisco garter snake (*Thamnophis sirtalis tetrataenia*) as federally endangered and California state endangered. However, per Fish and Game Code 5050, San Francisco garter snake is also a fully protected species.

Recommendation: CDFW recommends that the EA revise the San Francisco garter snake status to federally endangered, California state endangered, and fully protected under Fish and Game Code 5050.

COMMENT 6: Tricolored Blackbird Status

Issue: The EA identifies tricolored blackbird (*Agelaius tricolor*) as a California state candidate and a CDFW species of special concern. However, on April 19, 2018, the California Fish and Game Commission listed tricolored blackbird as a threatened species under CESA.

Recommendation: CDFW recommends that the EA revise the tricolored blackbird status to California state threatened.

COMMENT 7: Townsend's Big-eared Bat Status

Issue: The EA identifies Townsend's big-eared bat (*Corynorhinus townsendii*) as a California state candidate threatened and a CDFW Species of special concern. However, Townsend's big-eared bat is no longer a state candidate threatened species.

Recommendation: CDFW recommends that the EA revise the Townsend's big-eared bat status to a CDFW species of special concern.

COMMENT 8: Foothill Yellow-legged Frog Status

Issue: The EA identifies foothill yellow-legged frog (*Rana boylei*) as a CDFW species of special concern. However, on March 10, 2020 the California Fish and Game Commission listed the Southwest/South Coast, West/Central Coast, and East/Southern Sierra foothill yellow-legged frog clades as endangered and the Northeast/Northern Sierra and Feather River foothill yellow-legged frog clades as threatened species under

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CESA.

Recommendation: CDFW recommends that the EA revise the foothill yellow-legged frog status to Southwest/South Coast, West/Central Coast, and East/Southern Sierra foothill yellow-legged frog clades as California state endangered and the Northeast/Northern Sierra and Feather River foothill yellow-legged frog clades as California state threatened.

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 §§ 21001(c), 21083, and CEQA Guidelines §§ 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 § 2080.

Lake and Streambed Alteration Agreement

CDFW will require a Lake and Streambed Alteration (LSA) Agreement, pursuant to Fish and Game Code §§ 1600 et. seq. for Project-related activities within any 1600-jurisdictional waters within the proposed Project area. Notification is required for any activity 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 § 21000 et seq.) as the responsible agency.

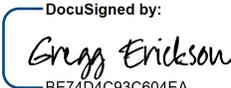
FILING FEES

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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.

Thank you for the opportunity to comment on the Project's EA. If you have any questions, please contact Ms. Monica Oey, Environmental Scientist, at (707) 428-2088 or Monica.Oey@wildlife.ca.gov; or Mr. Wesley Stokes, Senior Environmental Scientist (Supervisory), at Wesley.Stokes@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Gregg Erickson
Regional Manager
Bay Delta Region

cc: California State Clearinghouse #2020100478

Chad Mitcham
US Fish and Wildlife Service
chad_mitcham@fws.gov

Ryan Moroney
CA Coastal Commission
Ryan.Moroney@coastal.ca.gov

Kim Sanders
Central Coast Regional Water Quality Control Board
Kim.Sanders@waterboards.ca.gov

REFERENCES

Garcês, A, F. Queiroga, J. Prada, and I. Pires. 2020. A review of the mortality of wild fauna in Europe in the last century: the consequences of human activity. *Journal of Wildlife and Biodiversity* 4(2): 34-55.

Harrington, J. L., and M. R. Conover. 2006. Characteristics of ungulate behavior and mortality associated with fences. *Wildlife Society Bulletin* 34:1295–1305.

Stuart, J. N., M. L. Watson, T. L. Brown, and C. Eustice. 2001. Plastic netting: An entanglement hazard to snakes and other wildlife. *Herpetological Review* 32:162–164.

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van der Ree, R. 1999. Barbed wire fencing as a hazard for wildlife. *The Victorian Naturalist* 116:210–217.