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Mar 09 2021

March 9, 2021

STATE CLEARINGHOUSE

Chris Haskell
SCORE Deputy Program Manager
Southern California Regional Rail Authority
900 Wilshire Boulevard, Suite 1500
Los Angeles, CA 90017
SerraSiding@octa.net

Subject: Serra Siding Extension Project (PROJECT), Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR) SCH #2021020118

Dear Mr. Haskell:

The California Department of Fish and Wildlife (CDFW) received a NOP of a DEIR from Southern California Regional Rail Authority (SCRRA) for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

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.

PROJECT DESCRIPTION SUMMARY

Proponent: Southern California Regional Rail Authority (SCRRA)

Objective: The objective of the Project is to expand railroad infrastructure in the City of Dana Point (City). Primary Project activities include replacement of an existing single track, extension of 1.2 miles of siding track, demolition of the existing single-track single-span bridge over the Pacific Coast Highway (PCH), and construction of two new single-track single-span bridge structures. Associated utilities and drainage facilities within the railroad corridor will be relocated or extended and new retaining walls will be constructed.

¹ CEQA 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.

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Location: The Project alignment follows an existing railroad right-of-way and runs in a northeast to southwest direction within the City in Orange County. The northeastern terminus is located near Victoria Boulevard and runs west-southwest before passing under the PCH and then continuing south for another 0.11 mile before passing over the PCH via a single-span bridge. The alignment curves east for an additional 0.9 mile and ends at the Doheny control point.

Biological Setting: The San Juan Creek (also referred to as the San Juan River) runs parallel to a portion of the Project alignment, 500 feet from the western boundary. The Pacific Ocean is approximately 300 feet south of the Project alignment. Special status species with the potential to occur along the adjacent portion of the San Juan Creek and surrounding region identified using the California Natural Diversity Database (CNDDB) include: least Bell's vireo (*Vireo bellii pusillus*; California Endangered Species Act (CESA) and federal Endangered Species Act (ESA) listed endangered), coastal California gnatcatcher (*Polioptila californica californica*; ESA listed threatened; California Species of Special Concern), and Southern California steelhead (steelhead; *Oncorhynchus mykiss*; ESA listed endangered).

Timeframe: The Project is expected to span 24 months, beginning in 2024.

COMMENTS AND RECOMMENDATIONS

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

I. Project Proximity to San Juan Creek

COMMENT #1:

Issue: The Project alignment is adjacent to the San Juan Creek, a historic steelhead stream. Indirect impacts to special status species along the San Juan Creek corridor may occur as a result of construction-related noise, dust, vibration, and increased human presence at the adjacent Project site. Additionally, ground-disturbing activities could impact storm water quality, thus impacting surrounding hydrology.

To minimize significant impacts:

1. To provide a thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources, with specific measures to offset such impacts, the following should be addressed in the DEIR:
 - a. A discussion of potential adverse impacts from lighting, noise, human activity, exotic species, and drainage should also be included. The latter subject should address: project-related changes on drainage patterns on and downstream of the project site; the volume, velocity, and frequency of existing and post-project surface flows; polluted runoff; soil erosion and/or sedimentation in streams and water bodies; and post-project fate of runoff from the project site. The discussions should also address the proximity of the extraction activities to the water table, whether dewatering would be necessary, and the potential resulting impacts on the habitat, if any, supported by the groundwater. Mitigation measures proposed to alleviate such impacts should be included.

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- b. Discussions regarding indirect project impacts on biological resources, including resources in nearby public lands, open space, adjacent natural habitats, riparian ecosystems, and any designated and/or proposed or existing reserve lands (e.g., preserve lands associated with a NCCP). Impacts on, and maintenance of, wildlife corridor/movement areas, including access to undisturbed habitats in adjacent areas, should be fully evaluated in the DEIR.
 - c. The zoning of areas for development projects or other uses that are nearby or adjacent to natural areas may inadvertently contribute to wildlife-human interactions. A discussion of possible conflicts and mitigation measures to reduce these conflicts should be included in the environmental document.
 - d. A cumulative effects analysis should be developed as described under CEQA Guidelines, section 15130. General and specific plans, as well as past, present, and anticipated future projects, should be analyzed relative to their impacts on similar plant communities and wildlife habitats.
2. CDFW considers adverse impacts to a species protected by the California Endangered Species Act (CESA), for the purposes of CEQA, to be significant without mitigation. As to CESA, take of any endangered, threatened, or candidate species that results from the project is prohibited, except as authorized by state law (Fish & G. Code, §§ 2080, 2085). Consequently, if the Project, Project construction, or any Project-related activity during the life of the Project will result in take of a species designated as endangered or threatened, or a candidate for listing under CESA, CDFW recommends that the project proponent seek appropriate take authorization under CESA prior to implementing the project. Appropriate authorization from CDFW may include an incidental take permit (ITP) or a consistency determination in certain circumstances, among other options (Fish and G. Code §§ 2080.1, 2081, subds. (b),(c)). Early consultation is encouraged, as significant modification to a project and mitigation measures may be required in order to obtain a CESA Permit. Revisions to the Fish and Game Code, effective January 1998, may require that CDFW issue a separate CEQA document for the issuance of an ITP unless the project CEQA document addresses all project impacts to CESA-listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of an ITP. For these reasons, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for a CESA ITP.

II. Mitigation for the Project-related Biological Impacts

3. The DEIR should include mitigation measures for adverse project-related impacts to sensitive plants, animals, and habitats. Mitigation measures should emphasize avoidance and reduction of project impacts. For unavoidable impacts, on-site habitat restoration or enhancement should be discussed in detail. If on-site mitigation is not feasible or would not be biologically viable and therefore not adequately mitigate the loss of biological functions and values, off-site mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed.
4. In order to avoid impacts to nesting birds, the DEIR should require that clearing of vegetation, and when biologically warranted construction, occur outside of the peak avian breeding season which generally runs from February 1 through September 1 (as early as January 1 for some raptors). If project construction is necessary during the bird breeding season a qualified biologist with experience in conducting bird breeding surveys should conduct weekly bird surveys for nesting birds, within three days prior to the work in the area, and ensure no nesting birds in the project area would be impacted by the project. If an active nest is identified, a buffer shall be established between the construction activities and the nest so that nesting activities are not

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interrupted. The buffer should be a minimum width of 300 feet (500 feet for raptors), be delineated by temporary fencing, and remain in effect as long as construction is occurring or until the nest is no longer active. No project construction should occur within the fenced nest zone until the young have fledged, are no longer being fed by the parents, have left the nest, and will no longer be impacted by the project. Reductions in the nest buffer distance may be appropriate depending on the avian species involved, ambient levels of human activity, screening vegetation, or possibly other factors.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a data base 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 CNDDDB field survey form can be found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB_FieldSurveyForm.pdf. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/plants_and_animals.asp.

FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. 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. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

CDFW appreciates the opportunity to comment on the NOP to assist SCRRRA in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Jessie Lane, Environmental Scientist at Jessie.Lane@wildlife.ca.gov.

Sincerely,

DocuSigned by:


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