

State of California  
Department of Fish and Wildlife



## Memorandum

Date: July 30, 2021

To: Ms. Sarah Collamer  
VMP Coordinator, Forester I  
California Department of Forestry and Fire Protection  
CZU Resource Management  
6059 Highway 9  
Felton, CA 95018  
[Sarah.Collamer@fire.ca.gov](mailto:Sarah.Collamer@fire.ca.gov)  
[sacramento-publiccomment@fire.ca.gov](mailto:sacramento-publiccomment@fire.ca.gov)

Governor's Office of Planning & Research

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STATE CLEARINGHOUSE

DocuSigned by:

*Stacy Sherman*

From: Ms. Stacy Sherman, Acting Regional Manager  
California Department of Fish and Wildlife-Bay Delta Region, 2825 Cordelia Road, Suite 100, Fairfield, CA 94534

Subject: SFPUC Prescribed Burn Project, Initial Study/Mitigated Negative Declaration,  
SCH No. 2021020321, San Mateo County

California Department of Fish and Wildlife (CDFW) personnel has reviewed the Initial Study/Mitigated Negative Declaration (IS/MND) for the San Francisco Public Utilities Commission (SFPUC) Prescribed Burn Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

CDFW is submitting comments on the IS/MND to inform the California Department of Forestry and Fire Protection (CAL FIRE), as the Lead Agency, of our concerns regarding potentially significant impacts to sensitive resources associated with the Project.

### CDFW ROLE

CDFW is a Trustee Agency with responsibility under 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. 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) or Native Plant Protection Act, the Lake and Streambed Alteration (LSA) Program, or other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources.

### PROJECT DESCRIPTION SUMMARY

**Project Proponent:** California Department of Forestry and Fire Protection.

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<sup>1</sup> 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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**Project Location:** The Project is located entirely on SFPUC property, in San Mateo County, California. The area is managed as watershed water storage and distribution to the City of San Francisco and other water agencies. The Project area consists of six burn units (Units 3 – 8) that cover 775 acres of the approximately 23,000-acre SFPUC property, near communities including Woodside, Emerald Hills, Devonshire, Highlands, San Mateo, San Bruno, Belmont, San Carlos, Hillsborough, and Redwood City.

**Project Description:** The primary goal of the Project is to create and maintain areas of reduced vegetation with the goal to reduce fuel loading and woody fuel continuity. By creating and maintaining areas of reduced vegetation, the Project intends to protect the SFPUC water supply by limiting the spread of wildfire. The Project would reduce the amount and continuity of woody vegetation within the six burn units (Units 3 – 8) through manual and mechanical site preparation and broadcast burning. Broadcast burning would occur on approximately 775 acres of grass, shrubs, and some tree understory. Burning would be limited to 200 acres per year, where burning in a single day would likely be no more than 40-50 acres. Burn units are located adjacent to roads, trails, and existing disk lines. Control lines would be established using wet lines, disk lines, mowing, hand crews and bulldozers.

**Timeframe:** The Project would begin during the fall of 2021 and would continue over subsequent years.

## ENVIRONMENTAL SETTING

The SFPUC Watershed property is approximately 23,000 acres of oak woodland, coniferous forest, grassland, chaparral, and coastal scrub. Most of the property is fenced and gated to protect the water supply. Recreational activities on the property include the Crystal Springs Regional Trail, the Crystal Springs Cross Country Course, and the Fifield-Cahill Ridge Trail. The property includes SFPUC-owned residences and buildings, water supply infrastructure, Pacific Gas and Electric Company (PG&E) gas and electric transmission lines, other water agencies' facilities, and various cell phone towers. Three large reservoirs and a lake exist within the SFPUC property, and several small intermittent and ephemeral drainages occur in the Project area.

Special-status species with the potential to occur in or near the Project area include, but are not limited to:

- California red-legged frog (*Rana draytonii*), federally threatened and California Species of Special Concern
- San Francisco garter snake (*Thamnophis sirtalis tetrataenia*), federally endangered, State endangered, California Fully Protected Species
- Mission blue butterfly (*Icaricia icarioides missionensis*), federally endangered
- San Francisco dusky-footed woodrat (*Neotoma fuscipes annectens*), California Species of Special Concern

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- pallid bat (*Antrozous pallidus*), California Species of Special Concern
- white-tailed kite (*Elanus leucurus*), California Fully Protected Species
- olive-sided flycatcher (*Contopus cooperi*), California Species of Special Concern
- northern harrier (*Circus hudsonius*), California Species of Special Concern
- grasshopper sparrow (*Ammodramus savannarum*), California Species of Special Concern
- Marin western flax (*Hesperolinon congestum*), federally threatened, State threatened, California Rare Plant Rank 1B.1
- western leatherwood (*Dirca occidentalis*), California Rare Plant Rank 1B.2
- Crystal Springs lessingia (*Lessingia arachnoidea*), California Rare Plant Rank 1B.2
- bent-flowered fiddleneck (*Amsinckia lunaris*), California Rare Plant Rank 1B.2

## **REGULATORY REQUIREMENTS**

### **California Endangered Species Act**

Please be advised that a CESA Incidental Take Permit (ITP) 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 an ITP is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting plan. 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 an 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, & 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 of 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 subsurface flow, and floodplains are subject to notification requirements. In those cases, CDFW will consider the CEQA document for the project

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and may issue an LSA Agreement. CDFW may not execute the final LSA Agreement until it has complied with CEQA as a Responsible Agency.

### **Raptors and Other Nesting Birds**

CDFW has jurisdiction over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include section 3503 (regarding unlawful take, possession or needless destruction of the nests or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

### **Fully Protected Species**

Fully Protected species, such as the San Francisco garter snake and white-tailed kite, may not be taken or possessed at any time (Fish and Game Code, §§ 3511, 4700, 5050, & 5515).

### **COMMENTS AND RECOMMENDATIONS**

CDFW provides the comments and recommendations below to assist CAL FIRE in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts to fish, wildlife, and other biological resources.

The IS/MND includes several avoidance and minimization measures for impacts to special-status plant and wildlife species that cannot be avoided (Mitigation Measures #1-12). CDFW has the following recommendations to include in the IS/MND:

#### **Special-Status Wildlife**

The IS/MND states that ten special-status wildlife species have the potential to occur in the Project area, including the Mission blue butterfly (*Icaricia icarioides missionensis*), San Francisco garter snake (*Thamnophis sirtalis tetrataenia*) and the California red-legged frog (*Rana draytonii*).

**CDFW Comment #1:** Other than the three identified listed species shown above, the IS/MND does not disclose the remaining seven special-status wildlife species that may occur within the Project area. To evaluate and avoid potential impacts to special-status wildlife species, CDFW recommends the IS/MND include a table identifying all special-status wildlife with potential to occur in the Project area. The table should include the scientific name, common name, listing status, and identify the potential burn unit(s) that the special-status species may occur in.

**CDFW Comment #2:** Due to the abundance of biological diversity within the SFPUC property, the IS/MND Project has the potential to directly impact individual wildlife

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species from broadcast burn activities. To further reduce impacts to wildlife to less-than-significant, CDFW recommends the following mitigation measure be incorporated into the IS/MND:

***Recommended Mitigation:*** If Project employees, crew, or contractors, injure or kill a special-status species, or finds any such animal injured or dead, all activities in the work area shall immediately cease, and CDFW and the U.S. Fish and Wildlife Service (USFWS) should be notified at the time of discovery. A detail of the time, location, and general circumstances under which the dead or injured individual animal was found should be submitted to CDFW and USFWS no later than five (5) business days following the incident. Any injured special-status species should be immediately transported to an approved wildlife rehabilitation facility.

<https://wildlife.ca.gov/Conservation/Laboratories/Wildlife-Health/Rehab/Facilities>

### **San Francisco Garter Snake**

According to the IS/MND, burn units 3, 5, and 8 are connected to and within dispersal distance of occupied breeding habitat for the San Francisco garter snake. *Mitigation Measure #9: Pre-activity Surveys for San Francisco Garter Snake and California Red-legged frog* attempts to address potential impacts to this species as follows:

*“Any San Francisco garter snake or California red-legged frog found in a location where it may be at risk will be captured and released (if proper permits are obtained from USFWS and CDFW) in a safe area or allowed to leave the area on its own accord.”*

*“Only biologists specifically approved by the USFWS and CDFW shall be allowed to capture, handle, and relocate species individuals. If necessary, during the burn, individual San Francisco garter snakes (but not red-legged frogs) may be held in captivity in a pillowcase for less than 24 hours and may later be released in a vegetated area near the point of capture after the burn has been completed.”*

**CDFW Comment #3:** The San Francisco garter snake is fully protected under Fish and Game Code § 5050 and, as such, may not be taken or possessed at any time. Take<sup>2</sup> of the species cannot be authorized by CDFW except for necessary scientific research, including efforts to recover the species. The Project as proposed does not meet the requirements as stated in Fish and Game Code § 5050 (scientific research or recovery). While *Minimization Measure #9* included in the IS/MND would reduce the likelihood of “take”, CDFW recommends that the measure be revised to completely avoid take of San Francisco garter snake during prescribed burn activities, including no handling or relocating of San Francisco garter snake. Any San Francisco garter snake encountered

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<sup>2</sup> Take is defined in § 86 of the Fish and Game Code, as “to hunt, pursue, catch, capture, or kill, or to attempt to hunt, pursue, catch, capture, or kill.”

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in the Project area should not be handled and should be left alone and allowed to leave the area unharmed and on their own volition.

**CDFW Comment #4:** To further reduce impacts to San Francisco garter snake to less-than-significant, CDFW recommends the following mitigation measure be incorporated into the IS/MND:

***Recommended Mitigation:*** Any vehicle or heavy equipment parked on-site within burn units 3, 5, and 8 for more than 30 minutes will be inspected by the qualified biologist or biological monitor before it is moved to ensure that San Francisco garter snake have not moved under the vehicle. Prior to being used, access roads, parking and staging areas must be checked for San Francisco garter snake by the qualified biologist or biological monitor.

## 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 the California Natural Diversity Database (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

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 for the underlying Project approval to be operative, vested, and final (Cal. Code Regs, tit. 14, § 753.5; Fish and Game Code, § 711.4; Pub. Resources Code, § 21089).

## CONCLUSION

CDFW appreciates the opportunity to comment on the IS/MND to assist CAL FIRE in identifying and mitigating Project impacts on biological resources. Questions regarding this letter or further coordination should be directed to Ms. Robynn Swan, Senior Environmental Scientist (Specialist), at [Robynn.Swan@wildlife.ca.gov](mailto:Robynn.Swan@wildlife.ca.gov); or Ms. Julie Coombes, Senior Environmental Scientist (Supervisory), at [Julie.Coombes@wildlife.ca.gov](mailto:Julie.Coombes@wildlife.ca.gov).

ec: Office of Planning and Research, State Clearinghouse (SCH No. 2021020321)  
Will Kanz, CDFW Bay Delta Region – [Will.Kanz@wildlife.ca.gov](mailto:Will.Kanz@wildlife.ca.gov)