



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Northern Region  
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Redding, CA 96001  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



June 21, 2024

Central Valley Regional Water Quality Control Board  
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Redding, CA 96002  
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**SUBJECT: WASTE DISCHARGE REQUIREMENTS FOR NONPOINT SOURCE DISCHARGE RELATED TO CERTAIN ACTIVITIES CONDUCTED BY THE UNITED STATES FOREST SERVICE AND THE BUREAU OF LAND MANAGEMENT, STATE CLEARING HOUSE NUMBER 2021030313, VARIOUS COUNTIES.**

To Whom It May Concern:

The California Department of Fish and Wildlife (CDFW) has reviewed the Central Valley Regional Water Quality Control Board (Lead Agency) Draft Environmental Impact Report (DEIR), for the above-referenced project (Project). CDFW appreciates this opportunity to provide comments on the Project, pursuant to the California Environmental Quality Act (CEQA) Guidelines<sup>1</sup>.

### **CDFW's 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 and G. Code, §§ 711.7, subd. (a) & 1802; Public Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its Trustee Agency 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.

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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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CDFW is also submitting comments as a Responsible Agency under CEQA (Public Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. Likewise, to the extent implementation of the Project as proposed may result in “take”, as defined by State law, of any species protected under the California Endangered Species Act (CESA) (Fish and G. Code, § 2050 et seq.), or State listed rare plants pursuant to the Native Plant Protection Act (NPPA; Fish and G. Code § 1900 et seq.), authorization as provided by the applicable Fish and Game Code will be required.

The Project area encompasses a significant portion of the State of California, including many counties and CDFW regions 1-4. The analysis conducted and recommendations included in this letter are specific to the biological resources of [CDFW region 1](#)<sup>2</sup>.

## **PROJECT DESCRIPTION SUMMARY**

**Proponent:** U.S. Forest Service (USFS) and the Bureau of Land Management (BLM)

### **Project Description**

The Project summary, as described in the DEIR, is as follows:

*“The proposed Waste Discharge Requirements (WDRs) for NPS Discharges Related to Certain Activities Conducted by the USFS and BLM on Federal Lands...would establish a permit regulating NPS discharges from activities conducted by the USFS and BLM on federal lands. The proposed Federal NPS Permit would include requirements for implementation and effectiveness monitoring; actively addressing Controllable Sediment Discharge Sources (CSDS), and conditions for pesticide application. The proposed Federal NPS Permit would cover the following types of activities conducted by the USFS and BLM on federal lands: vegetation management, transportation management, recreation facilities management, post-emergency recovery, restoration activities, and emergency response activities.”*

### **Specific Comments and Recommendations**

CDFW finds that most of the proposed Avoidance and Minimization Measures (AMM's) included in the DEIR are adequate for avoiding and minimizing potentially significant impacts to biological resources. CDFW offers the following

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<sup>2</sup> <https://wildlife.ca.gov/Regions/1>

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comments and recommendations to assist the Lead Agency in further minimizing and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife.

#### California Special-status Species

Based on species occurrence records from the California Natural Diversity Database (CNDDDB), the Project area occurring within CDFW Region 1 is known to and/or has the potential to support several state special-status species. CDFW recommends that potentially occurring special-status species and their habitats are identified, evaluated, and addressed, with specific regard to potentially significant direct and indirect impacts.

Special-status species known to occur within the CDFW Region 1 section of the Project area include, but are not limited to, bald eagle (*Haliaeetus leucocephalus*, CESA Endangered, State Rank [SR] S3: Vulnerable), willow flycatcher (*Empidonax traillii*, CESA Endangered, SR S3: Vulnerable), foothill yellow-legged frog - Feather River DPS (*Rana boylei* pop. 2, CESA Threatened, Species of Special Concern [SSC], SR S2: Imperiled), southern long-toed salamander (*Ambystoma macrodactylum sigillatum*, SSC, SR S2: Imperiled), Sierra Nevada yellow-legged frog (*Rana sierrae*, CESA Threatened, SR S2: Imperiled), pallid bat (*Antrozous pallidus*, SR S3: Vulnerable), slender Orcutt grass (*Orcuttia tenuis*, CESA Endangered, Rare Plant Rank 1B.1, SR S2: Imperiled), western bumble bee (*Bombus occidentalis*, CESA Candidate Endangered, SR S1: Critically Imperiled), greater sandhill crane (*Antigone canadensis tabida*, CESA Threatened, SR S2: Imperiled), Sierra Nevada red fox - southern Cascades DPS (*Vulpes vulpes necator* pop. 1, CESA Threatened, SR S1: Critically Imperiled).

CDFW recommends the Lead Agency include applicable avoidance, minimization, and mitigation strategies to reduce impacts to these species and their associated habitats, to less than significant.

#### Nesting Birds

The Project area contains suitable habitat for nesting birds. Nesting migratory birds, if present, could be directly or indirectly impacted by future activities resulting from the Project, including but not limited to construction, land modification, and vegetation removal activities. Direct effects could include mortality resulting from vegetation removal and/or construction equipment operating in an area containing an active nest with eggs or chicks. Indirect effects could include nest abandonment by adults in response to loud noise levels, human encroachment, or a reduction in the amount of food available to young birds due to changes in feeding behavior by adults. Implementation of nest season surveys, outlined below, would ensure that impacts to nesting birds are less than significant.

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CDFW supports the inclusion of nesting bird surveys included in Mitigation Measure BIO-1, which states, "If installing/constructing management measures during the nesting season (generally February 1 to August 31), the qualified biologist shall inspect the surrounding trees, vegetation, and ground to ensure that nesting birds are not present within or adjacent to areas where such management measures will occur." CDFW recommends Mitigation Measure BIO-1 be revised to include the following additional survey protocols:

Surveys should begin prior to sunrise and continue until vegetation and nests have been sufficiently observed. The survey should consider acoustic impacts and line-of-sight Project disturbances to determine a sufficient survey radius to maximize observations of nesting birds. A nesting bird survey report should be prepared and, at a minimum, the report should include a description of the area surveyed, date and time of the survey, ambient conditions, bird species observed, a description of any active nests observed, any evidence of breeding behaviors (e.g., courtship, carrying nest materials or food, etc.), and a description of any outstanding conditions that may have impacted the survey results (e.g., weather conditions, excess noise, presence of predators).

Nesting bird surveys should be conducted no more than one week prior to the initiation of construction. If construction activities are delayed or suspended for more than one week after the pre-construction nesting bird survey, the site should be resurveyed.

Mitigation Measure BIO-1 also states, "If nests or young are identified in such areas, construct/install the management measures outside of the nesting season." CDFW supports prioritization of construction and installation activities outside of the nesting season.

### Bats

Bats are considered non-game mammals and are afforded protection by state law from "taking" (Fish & G. Code, §86), or possession. Construction activities, including ground disturbance, vegetation removal, and any activities leading to increased noise levels, may have direct and/or indirect impacts on bats and bat roosts. The DEIR states that multiple land use types occurring in the project area have the potential to provide roosting habitat for special-status bats.

Trees that contain cavities, crevices, or exfoliated bark have high potential to be used by various bat species. The Project includes land alteration and removal of trees with the above-referenced characteristics. CDFW recommends including an AMM that contains the following protocols for the protection of special-status bats:

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A thorough survey should be conducted by a qualified biologist to determine if bat roosting opportunities are present prior to tree removal. Two-step removal of trees containing occupied bat roosts or providing suitable bat habitat, must only be conducted during seasonal periods of bat activity and may not be conducted in summer months (May 1 to August 14). Trees with 12 inch diameter at breast height (DBH) or greater with potentially suitable roosting features should be clearly marked by a qualified biologist and may be removed as follows:

1. To avoid impacts to roosting bats, removal of trees should occur only during the following time frames and subject to the following weather conditions, or as otherwise approved/recommended by a qualified biologist:
  - Between March 15 and April 30, and between August 15 and October 1; and
  - Between October 2 and March 14 when evening temperatures are above 45°F, and no more than ½ inch of rainfall within a 24-hour period prior to tree removal.
2. Trees shall be removed using a two-step process to allow bats the opportunity to abandon the roost prior to removal. The two-step removal process is as follows:
  - Day 1: Remove small-diameter trees, brush, and non-habitat features of large trees (branches without cavities, crevices, or exfoliating bark) to create noise and vibration disturbance on the tree and to alter the air flow and temperature around the roost feature thus encouraging bats to vacate roost features on their own. The tree shall then be left for 24 hours to allow the bats to move to another roost site. No excavators, grinders, or other heavy equipment should be used for first day trimming of bat habitat trees.
  - Day 2: If bats may be in branches that can be removed from the tree and set aside, cut the branches off intact and set them upright against trees away from the Project area to allow any bats present to passively escape. Then, remove the remainder of the tree.

This two-step process may change the microhabitat of the area, causing bats to vacate under their own volition, therefore minimizing direct and indirect impacts to bat species.

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Western Bumble Bee

On September 30, 2022, the California Fish and Game Commission accepted a petition to list western bumble bee (WBB; *Bombus occidentalis*) as endangered under CESA, advancing the species to the candidacy stage of the CESA listing process. Candidate species are granted full protection under CESA during this period. Take of any endangered, threatened, or candidate species that results from the Project is prohibited, except as authorized by State law (Fish & G. Code, §§ 86, 2062, 2067, 2068, 2080, 2085; Cal. Code Regs., tit. 14, § 786.9). Additionally, WBB has a state ranking of S1/S2, of which are imperiled/critically imperiled and extremely rare (often five or fewer populations) and is listed as an invertebrate of conservation priority under the [Terrestrial and Vernal Pool Invertebrates of Conservation Priority](#)<sup>3</sup>.

Suitable WBB habitat includes areas of woodlands, grasslands, and upland scrub that contain requisite habitat elements, such as small mammal burrows. WBB primarily nest in late February through late November in abandoned underground small mammal burrows but may also nest under perennial bunch grasses or thatched annual grasses, underbrush piles, in old bird nests, and in dead trees or hollow logs<sup>4,5</sup>. Overwintering sites utilized by WBB mated queens include soft, disturbed soil<sup>6</sup> or under leaf litter or other debris. Post forest-fire environments have been linked to increases in bumble bee probability<sup>7</sup> therefore, ground disturbance and vegetation removal associated with Project implementation has the potential to significantly impact local WBB populations.

Without appropriate AMM's for WBB, direct mortality and potentially significant indirect impacts associated with ground- and vegetation-disturbing activities may occur as a result of the Project. Indirect impacts may include loss of foraging plants, changes in foraging behavior, burrow collapse, nest

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<sup>3</sup> <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149499&inline>

<sup>4</sup> Williams, P. H., R. W. Thorp, L. L. Richardson, and S.R. Colla. 2014. Bumble bees of North America: An Identification guide. Princeton University Press, Princeton, New Jersey. 208pp.

<sup>5</sup> Hatfield, R., Jepsen, S., Thorp, R., Richardson, L., Colla, S. & Foltz Jordan, S. 2015. *Bombus occidentalis*. The IUCN Red List of Threatened Species 2015: e.T44937492A46440201. <https://dx.doi.org/10.2305/IUCN.UK.2015-2.RLTS.T44937492A46440201.en>.

<sup>6</sup> Goulson, D. 2010. Bumblebees: behaviour, ecology, and conservation. Oxford University Press, New York. 317pp.

<sup>7</sup> Johnson, S. A., Jackson, H. M., Noth, H., & M'Gonigle, L. K. (2023). Positive impact of postfire environment on bumble bees not explained by habitat variables in a remote forested ecosystem. *Ecology and Evolution*, 13, e9743

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abandonment, reduced nest success, and a reduction in health and vigor of eggs, young and/or queens.

Due to potentially suitable habitat throughout the Project area and the potential for significant impacts to WBB, CDFW recommends including AMM's for WBB in the DEIR and aligning the measures with survey considerations outlined in the [June 2023 Survey Considerations for California Endangered Species Act \(CESA\) Candidate Bumble Bee Species](#)<sup>8</sup>.

### California Endangered Species Act

Please be advised that a [CESA Incidental Take Permit](#)<sup>9</sup> must be obtained if activities permitted by the Project have the potential to result in "take" (hunt, pursue, catch, capture, kill, or attempt thereof) 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 activities permitted by the Project have the potential to result in take of a CESA-listed species, early consultation is encouraged, as significant modification may be necessary to minimize and fully mitigate impacts as required by Fish and Game Code Section 2081 (b)(2).

### Pesticide Use

The DEIR indicates activities permitted by the Project may include authorized use of pesticides for wildfire suppression repair, and to control competing vegetation, noxious weeds, or other pests. While pesticide use is sometimes the most efficient tool, CDFW discourages its use, especially in areas that provide habitat for CESA-listed bumble bees. If CESA-listed bumble bees occur on the Project area, CDFW recommends implementing alternatives to pesticide use.

If pesticides are used, the DEIR should specify specific methods for use to avoid or minimize direct and indirect impacts to bumble bees (i.e. applying pesticides outside of the blooming season). CDFW strongly encourages the preparation and implementation of a weed prevention and control plan. When applying pesticides, CDFW recommends:

- Following the best management practices described by the [Guidance to Protect Habitat from Pesticide Contamination](#)<sup>10</sup>.

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<sup>8</sup> <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150&inline>

<sup>9</sup> <https://wildlife.ca.gov/Conservation/CESA/Permitting>

<sup>10</sup> [https://xerces.org/sites/default/files/2019-10/16-024\\_01\\_XercesSoc\\_Guidance-to-Protect-Habitat-from-Pesticides\\_web.pdf](https://xerces.org/sites/default/files/2019-10/16-024_01_XercesSoc_Guidance-to-Protect-Habitat-from-Pesticides_web.pdf)



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- Avoid using pesticides marked with the US Environmental Protection Agency's bee hazard icon.
- Avoid spraying pesticides onto any flowering plant.
- Use pesticides with a short residual toxicity to bees; bee pesticide toxicity can be checked via UC ANR's [Bee Precaution Database](#)<sup>11</sup>.
- Use targeted application instead of broadcast spraying whenever possible.
- Avoid mixtures of pesticides as they are only evaluated in scenarios in which they are not mixed; thus, potentially harmful synergies are unknown.
- All pesticide application must be conducted by a Licensed and Certified Pesticide Applicator and should be used as directed by the manufacturer.

Additional guidance on this topic is provided by the [United States Environmental Protection Agency](#)<sup>12</sup> and the [California Department of Pesticide Regulation](#)<sup>13</sup>.

### Submitting Data

CEQA requires that information in environmental documents is incorporated into a database that may be used to make subsequent or supplemental environmental determinations. (Public Resources Code, § 21003, subd. (e).) Accordingly, please report any observation of special-status species to the CNDDDB. Use this link to access the [CNDDDB field survey form](#)<sup>14</sup> and this link for additional information on the type of [information reported to CNDDDB](#)<sup>15</sup>.

### **Future CEQA Consultation**

CDFW would like to emphasize that our staff remain available for consultation at every stage of the project development process. CDFW strongly encourages the Lead Agency to continue to consult with CDFW before and during the development of future projects and their equivalent CEQA documents, specifically regarding the analyses of biological resources and the formulation of avoidance, minimization, and mitigation measures for such resources.

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<sup>11</sup> <https://ipm.ucanr.edu/bee-precaution-pesticide-ratings/>

<sup>12</sup> <https://www.epa.gov/pollinator-protection/epa-actions-protect-pollinators>

<sup>13</sup> <https://www.cdpr.ca.gov/docs/enforce/pollinators/>

<sup>14</sup> <https://nrm.dfg.ca.gov/fieldSurvey/default.aspx>

<sup>15</sup> <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>



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Engaging with CDFW early-on plays a critical role in allowing our agency to fulfill our mandate to conserve California's valuable fish and wildlife resources and will simultaneously aid the Lead Agency in an efficient and comprehensive CEQA review.

## Conclusion

CDFW appreciates the opportunity to comment on the Project to assist the Lead Agency in adequately analyzing and minimizing impacts to biological resources. If you have any questions regarding the information above, or for future CEQA consultation requests, please contact Colton Trent, Environmental Scientist, by email at [R1CEQARedding@wildlife.ca.gov](mailto:R1CEQARedding@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
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