



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
1234 East Shaw Ave
Fresno, California 93710
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



July 19, 2021

Governor's Office of Planning & Research

July 19 2021

STATE CLEARINGHOUSE

Fred Aegerter
Community Development Director
City of Marina—Community Development Department
209 Cypress Avenue
Marina, California 93933

**Subject: Marina Downtown Vitalization Specific Plan (Project)
Notice of Preparation (NOP) of an Environmental Impact Report (EIR)
SCH No. 2021050568**

Dear Mr. Aegerter:

The California Department of Fish and Wildlife (CDFW) received a NOP of an EIR from City of Marina 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.

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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CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). 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 & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code may be required.

PROJECT DESCRIPTION SUMMARY

Proponent: City of Marina

Objective: The objective of the Project is to establish a development framework for land use, circulation, utilities and services, resource protections, design, and implementation through a cogent vision for the future, clearly articulated land uses and development regulations, appropriate design standards and guidelines. This plan is to be use for the next 20 years for development of downtown Marina.

Location: Center of Marina, a total of 322-acres.

The Plan Area is generally bounded:

- On the northeast by parcels along the north side of Reservation Road
- On the south by Reindollar Avenue and various residential north-south secondary roads, such as Sunset Avenue, Carmel Avenue, and Crescent Avenue
- On the east by Salinas Avenue
- On the northwest by Del Monte Boulevard, approximately 0.5 mile east of State Route 1

Timeframe: Unspecified.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City of Marina in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document.

There are many special-status resources present within and adjacent to the Project area, due to the large area of the plan. These resources may need to be evaluated and addressed prior to any approvals that would allow ground-disturbing activities or land use changes. The NOP and Initial Study (IS) indicates there is potential for significant impacts unless mitigation measures are implemented. These measures are well-defined in the IS for special-status plant species, legless lizard (*Anniella pulchra*), coast horned lizard (*Phrynosoma blainvillii*), burrowing owl (*Athene cunicularia*), Smith's blue butterfly (*Euphilotes enoptes smithi*), and

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nesting birds. However, CDFW is concerned regarding potential impacts to special-status species including, but not limited to: the State threatened tricolored blackbird (*Agelaius tricolor*), the State species of special concern western pond turtle (*Emys marmorata*), Monterey shrew (*Sorex ornatus salarius*), and special-status bat species.

In order to adequately assess any potential impacts to biological resources, CDFW recommends that focused, protocol-level surveys be conducted by a qualified wildlife biologist/botanist during the appropriate survey period(s) in order to determine whether any special-status species and/or suitable habitat features are present within the Project area. Properly conducted biological surveys, and the information assembled from them, are essential to identify any mitigation, minimization, and avoidance measures and/or the need for additional or protocol-level surveys, especially in the areas not in irrigated agriculture, and to identify any Project-related impacts under CESA and other species of concern.

Additionally, when an EIR is prepared, mitigation measures must be specific and clearly defined and cannot be deferred to a future time. The specifics of mitigation measures may be deferred, provided the lead agency commits to mitigation and establishes performance standards for implementation, when an EIR is prepared. The CEQA document must provide quantifiable and enforceable measures as needed that will reduce impacts to less than significant levels.

CDFW recommends that a qualified biologist conduct a habitat assessment, well in advance of Project implementation at individual sites, to determine if individual project areas or their immediate vicinity contain habitat suitable to support special-status plant or animal species, including, but not limited to, those mentioned above. If suitable habitat is present, CDFW recommends assessing presence/absence of special-status species by conducting surveys following recommended protocols or protocol-equivalent surveys. Recommended protocols vary by species and more information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>).

If State-listed species are detected at a Project site, consultation with CDFW is warranted to discuss how to avoid take, or if avoidance is not feasible, to acquire an Incidental Take Permit (ITP) prior to ground-disturbing activities, pursuant to Fish and Game Code section 2081 subdivision (b). CDFW also recommends consulting with the USFWS on potential impacts to federally listed species including, but not limited to, Smith's blue butterfly host plants (seacliff and seaside buckwheat). Take under FESA is more broadly defined than CESA; take under FESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS in order to comply with FESA is advised well in advance of any ground-disturbing activities.

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).)

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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: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. 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: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

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 City of Marina – Community Development Department in identifying and mitigating Project impacts on biological resources.

More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>). Please see the enclosed Mitigation Monitoring and Reporting Program (MMRP) table which corresponds with recommended mitigation measures in this comment letter. Questions regarding this letter or further coordination should be directed to Aimee Braddock, Environmental Scientist at (559) 243-4014 extension 243 or aimee.braddock@wildlife.ca.gov.

Sincerely,

DocuSigned by:

Bob Stafford

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Julie A. Vance
Regional Manager

cc: Office of Planning and Research, State Clearinghouse, Sacramento

ec: Jeff Cann, CDFW