



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Northern Region
601 Locust Street
Redding, CA 96001
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



January 7, 2022

Jon Barrett
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SUBJECT: Review of the Mitigated Negative Declaration for the Restoring the Deer Creek Headwaters at Childs Meadows Project, State Clearinghouse Number 2021120196, Community of Mill Creek, Tehama County

Dear Jon Barrett:

The California Department of Fish and Wildlife (Department) has reviewed the Mitigated Negative Declaration (MND) for the above-referenced project (Project). As a trustee for the State's fish and wildlife resources, the Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and their habitat. As a responsible agency, the Department administers the California Endangered Species Act (CESA) and other provisions of the Fish and Game Code (FGC) that conserve the State's fish and wildlife public trust resources. The Department offers the following comments and recommendations on this Project in our role as a trustee and responsible agency pursuant to the California Environmental Quality Act (CEQA), California Public Resources Code section 21000 et seq.

Project Description

The Project as described in the MND is to “*restore hydrologic, geomorphic and biological conditions within the Childs Meadows complex.*” The Project will utilize the following methodologies: beaver dam analogs, post-assisted log structures, mechanical fill treatments, hand fill of ditches and small channels, and revegetation of the riparian meadow.

Comments and Recommendations

The Department has reviewed the MND and concurs with the assertion that this Project should have less-than-significant impacts to biological resources if the proposed mitigation measures are performed. The Project should prove highly beneficial to multiple species and for increasing wet-meadow and fen habitats. For several species

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this Project has over a decade of population monitoring, lending to strong validations of species accounts and locations. It is unknown whether the fire season of 2021 and the surrounding forest loss will change the species composition in Childs Meadows relative to historical conditions. It can reasonably be assumed that many animal species will move to areas less impacted by fire and with more available forage and prey. Wildlife survey data from previous seasons should be considered predictive, but not conclusive for the aforementioned reason. The following recommendations are issued for all implementation projects and may afford additional levels of protection for plants and animals. It is incumbent on the restoration practitioners to follow the guidance and protocols that afford the highest levels of protection to all plant and animal species.

Wildlife Surveys

Cascade frog (*Rana cascadae*)

Mitigation Measure BIO 1 states the following:

Mitigation Measure BIO 1: Survey and Protection Requirements for the Cascades Frog

“Suitable Cascades frog habitat in areas identified for restoration activities shall be surveyed immediately prior to commencement of impactful Project work. Suitable Cascades frog habitat as related to protection measures include saturated soils or wetter. If the restoration area is not suitable Cascades frog habitat, Project work may commence. If frogs are observed during these surveys, all operations within 23 meters of the observation shall halt, and CDFW shall be contacted for site-specific protection measures. If Cascades frogs are not observed, but the area where suitable habitat exists within or immediately adjacent to Project impact areas, a qualified and permitted biologist shall survey such habitat for frogs in the morning prior to each day’s restoration/implementation activities. If frog(s) are present, observed individuals shall be captured and held in an appropriate manner until potentially impactful activities occurring within 23 meters of the capture site have been ceased for the day. Appropriate containment of frogs shall include placing individuals in clear plastic bins that have been tilted on angle and partway filled with cold stream water so the frog can choose to be in or out of the water. Bins shall also be placed in a shaded location. Exact protection measures shall be refined in consultation with CDFW personnel. The timing of restoration activities shall occur after tadpoles have metamorphosed. In the southern Cascades, larvae usually hatch in June and metamorphose in late August.”

All take associated with handling, relocation, and temporary confinement of CESA-listed and candidate species must be authorized by the Department. The Project may qualify for the Department’s new restoration permitting tools as part of the Cutting the Green Tape initiative. Please contact the Department’s Cutting the Green Tape Program at restorationpermitting@wildlife.ca.gov for more information.

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Willow flycatcher (*Empidonax traillii*)

Mitigation Measure BIO 7 states the following:

Mitigation Measure BIO 7: Work Restrictions During Willow Flycatcher Nesting Season

'Impacts to willow flycatchers from disturbance shall be avoided by prohibiting within-meadow restoration activities within its nesting period of June 1 through August 15. This restriction may be lifted if it is determined through intensive searches or other appropriate surveys that the suitable habitat is not occupied. Meadow restoration is expected to improve habitat for willow flycatcher by rewetting the meadow, increasing frequency of floodplain inundation, and increased riparian shrub cover, factors known to improve habitat for these species.'

The Department recommends surveys for willow flycatcher be conducted as outlined by *HL Bombay et al., 5/2003*, and is accessible at:

<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=84019&inline>

Additional Special Status Species Surveys

Appendix D discusses the following special-status species surveys and states the following:

Appendix D: Evaluation of Impacts to Terrestrial and Aquatic Wildlife Resources

"Call back surveys for northern goshawks occurred in forested areas of the project area determined to be suitable goshawk breeding habitat in 2018 and 2019 by CAF staff biologists and technicians. Call back surveys for great gray owl occurred in 2019 and 2020, per survey requirements outlined in the Collins pending great gray owl Safe Harbor Agreement. California spotted owl call back and nesting status surveys are performed annually around the project area by the Lassen National Forest CSO Demographic Study. To date, there are no nesting spotted owls in or adjacent to Childs Meadow. Point Blue performed willow flycatcher and sandhill crane surveys in June of 2017, 2018, and 2020. Point Blue also surveyed birds using point count surveys along Gurnsey Creek in June of 2010-2020, except 2018. Camera surveys for mammals were completed by CAF staff in winter 2017-2018 and 2018-2019 (baited) and summer of 2018 and 2019 (unbaited) in and adjacent to the project area."

These wildlife surveys provide an excellent snapshot of species known to occur in the Childs Meadows area. As was previously mentioned, it is unknown whether the surrounding forest loss due to wildfire will lead to a concentration of wildlife in biological hotspots such as Childs Meadows. The Department seeks to gain further understanding of species shifts in a post-fire environment and encourages the restoration practitioners to repeat surveys for special-status wildlife, especially those that are deemed *not known to occur, but suitable habitat is present* in Appendix D of the MND.

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Nesting Birds

If the Project has the potential to directly impact nesting bird habitat or indirectly disturb nesting birds through audio or visual disturbance, the Department recommends the following measures be implemented to protect nesting birds and raptors protected under FGC sections 3503 and 3503.5 and the Migratory Bird Treaty Act:

- a) Conduct vegetation removal and other ground-disturbance activities associated with construction from September 1 through January 31, when birds are not nesting; or
- b) Conduct pre-construction surveys for nesting birds if vegetation removal or ground disturbing activities are to take place during the nesting season (February 1 through August 31). These surveys shall be conducted by a qualified biologist no more than one week prior to vegetation removal or construction activities during the nesting season. If an active nest is located during the pre-construction surveys, a non-disturbance buffer shall be established around the nest by a qualified biologist in consultation with the Department and U.S. Fish and Wildlife Service. No vegetation removal or construction activities shall occur within this non-disturbance buffer until the young have fledged, as determined through additional monitoring by the qualified biologist. The results of the pre-construction surveys shall be sent electronically to the Department at R1CEQARedding@wildlife.ca.gov.

Bats

Trees that contain cavities, crevices and/or exfoliated bark have high potential to be used by various bat species. If the Project will impact trees with the above-referenced characteristics, a thorough survey of the large trees should be conducted by a qualified biologist or arborist familiar with these features to determine if tree features and habitat elements are present. Trees with features potentially suitable for bat roosting should be clearly marked prior to removal.

If removal or disturbance of trees identified to have roost structure will occur during the bat maternity season, when young are non-volant (March 1 – Aug 31), or during the bat hibernacula (November 1 – March 1), when bats have limited ability to safely relocate roosts, it could cause a significant impact to bats through direct mortality during the roost removal. Impacts to roosts are usually accompanied by high mortality of bats, which may be a significant impact because a single colony could consist of the entire local population of a species. The availability of suitable roosting habitat is considered a limiting factor in almost all bat species. Roost site suitability is often based on a narrow range of suitable temperatures, relative humidity, physical dimensions, etc., and many species exhibit high roost site fidelity. Depending on the impact, if any, to the roosting habitat, additional mitigation may be necessary and could include providing replacement or alternate roost habitat. If necessary, humane evictions should be conducted during seasonal periods of bat activity, which may vary by year, location, or species and must

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be conducted by or under the supervision of a biologist with specific experience conducting exclusions. Humane exclusions could consist of a two-day tree removal process whereby the non-habitat trees and brush are removed along with certain tree limbs on the first day and the remainder of the tree on the second day. This two-step process changes the microhabitat of the area causing the bats to vacate the area under their own volition, therefore minimizing mortality and other impacts to bat species.

Botanical Surveys

Mitigation Measures BIO 10 and 11 state the following:

Mitigation Measure BIO 10: Pre-Implementation Surveys

“Conduct surveys for sensitive plants in the appropriate phenological time period, at least 30 days prior to Project implementation activities.”

Mitigation Measure BIO 11: Protection of Previously Unidentified Listed Plants:

*“If during the implementation of Project work, any previously unidentified plants shown in **Table BIO- 2: Scoping List of Plants** or **Table BIO-3: List of Special Status Plants, Their Habitat Preferences and Results from Botanical Surveys of the Restoring the Deer Creek Headwaters Project at Childs Meadows Project Area** are detected by the **RCBTC Project Manager**, other RCBTC representative or any Project personnel, all Project related activities shall immediately stop and a 25’ “No Treatment Area” shall be established and flagged around the perimeter of any occurrence by these species individuals.”*

Pre-construction surveys for special-status plant species should cover the entire Project site and be conducted during the appropriate blooming period, prior to ground disturbing activities. If drought conditions exist at the time of surveys, additional pre-construction surveys for special status plant species may be warranted. Botanical surveys should follow the Department’s March 20, 2018, *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities*, available here: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959>.

Lake or Streambed Alteration Agreement

For any activity that will divert or obstruct the natural flow, or change the bed, channel, or bank (which includes associated riparian resources) of a river or stream, or use material from a streambed, the Department will require a Lake and Streambed Alteration (LSA) Notification, pursuant to section 1600 et seq. of the FGC, from the applicant. Project activities, which would be subject to LSA Notification requirements, include construction of stormwater features that discharge on or over the streambank and modification of associated riparian resources growing on the bank. Work within ephemeral streams, washes, and watercourses with subsurface flow are also subject to notification requirements.

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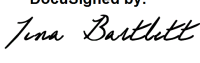
Issuance of an LSA Agreement is subject to CEQA. The Department, as a responsible agency under CEQA, will consider the CEQA document for the Project when issuing an LSA Agreement. The CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for completion of the agreement. To obtain information about the LSA notification process, please access our website at <https://www.wildlife.ca.gov/Conservation/LSA>.

Survey Results

Survey results shall be emailed to the Department at R1CEQARedding@wildlife.ca.gov. If any special status species are found during surveys, the Department requests that California Natural Diversity Database (CNDDDB) forms be filled out and submitted to CNDDDB and a copy of the form be sent to the Northern Region office at R1CEQARedding@wildlife.ca.gov. Instructions for providing data to the CNDDDB can be found at: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>.

If you have any questions, please contact Philip Cramer, Environmental Scientist, at (530) 225-2322, or by e-mail at R1CEQARedding@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Tina Bartlett, Regional Manager
Northern Region

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