



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



February 2, 2022

Andrew Barnsdale, Senior Analyst
 California Public Utilities Commission
 Energy Division, Infrastructure Permitting and CEQA
 505 Van Ness Avenue
 San Francisco, CA 94102-3298
andrew.barnsdale@cpuc.ca.gov



SUBJECT: Review of the Environmental Assessment/Mitigated Negative Declaration for the Digital 299 Broadband Project, State Clearinghouse Number 2022010017, Shasta, Trinity, and Humboldt Counties

Dear Andrew Barnsdale:

The California Department of Fish and Wildlife (Department) has reviewed the Environmental Assessment/Mitigated Negative Declaration (EA/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. The Department participates in the regulatory process in its roles as Trustee and Responsible Agency to minimize Project impacts and avoid potential significant environmental impacts by recommending avoidance and minimization measures. These comments are intended to reduce the Projects impacts on public trust resources.

Project Description

The Project as described in the EA/MND is as follows:

Vero Fiber Networks, LLC proposes to install approximately 300 miles of new conduit and fiber optic cables to provide internet to unserved or underserved communities in northern California. The Project route generally follows the State Route 299 corridor through Trinity, Shasta, and Humboldt counties. Conduit would be installed within pre-disturbed road shoulders. The Project also includes the construction of up to five small

Conserving California's Wildlife Since 1870

Andrew Barnsdale, Senior Analyst
California Public Utilities Commission
February 2, 2022
Page 2

regeneration buildings (ILA buildings) placed along the route. Some last-mile connections would be attached to utility poles during a second phase of the Project. State and federal agencies have collaborated to leverage a joint Environmental Assessment/Initial Study Mitigated Negative Declaration (EA/ISMND) and associated technical studies to support their separate decisions and permits.

CDFW Consultation History

The Digital 299 Project Team initiated consultation with the Department in May of 2019, and staff have since participated in meetings, document review, and development of minimization and avoidance measures for special-status species. The Department appreciates the level of coordination organized by Transcon Environmental amongst participating state and federal agencies and the incorporation of agency feedback throughout the planning process.

The Department has the following recommendations and comments as they pertain to biological resources:

Restoration Plan

The restoration plan (Appendix J of the EA/MND) has not been finalized according to avoidance, minimization, and mitigation measure BIO-3 (AMM BIO-3). The restoration plan reiterates AMM-BIO-3 at the beginning of the document in which it is clearly stated that seeding will be done with locally sourced native species. However, the project schedule on page 3 of the plan states in the late summer of 2022, "*species lists for seed mixes are drafted and sent to agencies for approval, and seeds are ordered from nurseries or California native seed companies.*". The Department prefers seed to be locally sourced from where the restoration will take place and not purchased from nurseries or native seed companies unless it can be shown that the seeds were collected in the same vicinity as the project impact. The Department recommends inquiring with the various United States Forest Service districts to see if they have any locally collected seed and/or container stock that could be used for this project.

On page 5 of the restoration plan, a description of seeding methods is provided. The Department recommends adding in a sentence stating if invasive species are present at the site, they will be removed prior to manual seeding or hydroseeding. As currently described, it appears that seeding and/or hydroseeding will occur without hand pulling or reducing the amount of invasives first.

Andrew Barnsdale, Senior Analyst
California Public Utilities Commission
February 2, 2022
Page 3

Mitigation Measures

AMM BIO-8 Special-Status Plants

Avoidance, Minimization, and Mitigation measure AMM BIO-8 states that if a special-status species is found during pre-construction surveys, and cannot be avoided by a minor re-route, the Project biologist will contact the appropriate agency to discuss potentially salvaging the affected plants. The Department generally considers salvage and relocation (translocation) to be an ineffective way to compensate for permanent impacts to rare, threatened, endangered, and sensitive native plants (rare plants)¹. Rare plant translocations for mitigation have a low success rate (less than ten percent)² and the Department considers such efforts experimental, unless they have been demonstrated to be effective through long-term experimentation. Successful rare plant translocations require many years of habitat surveys, habitat modeling, site selection, seed collection, plant propagation, site preparation, monitoring, and remedial actions such as management of competing plants, supplemental watering, and supplemental planting. Success is not guaranteed, and even translocations that are initially successful may fail to persist over the long term.

Furthermore, transplantation efforts do not replace intact ecosystems or maintain the entire range of genetic diversity at the impact site. The presence of rare plants often signifies the presence of biogeographically important sites with unusual soil, microclimate, or other conditions that are not easy to identify and difficult or impossible to duplicate. Loss of genetic material from rare plant translocation may also hinder introduced populations from withstanding changing environmental conditions over time. Conservation translocation of plants requires consideration of a number of factors that might not be considered for animal species, such as microclimate, soil, pollinators, herbivory, weed management, mycorrhizal associations, and adequate monitoring that could reasonably span many years. These factors considerably increase the complexity and risk of failure of plant translocations. The most effective way to mitigate for permanent loss of rare plant habitat is therefore to protect and manage existing populations in their natural habitat. If protection of the population is not possible, mitigation may be required to reduce significant impacts to less than significant.

AMM BIO-9 Invasive Species Prevention

AMM BIO-9 states, “*Contractor vehicles, equipment, tools, boots, and clothing will be cleaned inside and out prior to mobilization of Project segments on federal lands or California Department of Transportation ROW to limit the introduction on non-native species and pathogens (e.g., Port Orford cedar root fungus) on the Project*

¹ Department of Fish and Wildlife. November 16, 2017. *Policy and Procedures for Conservation Translocations of Animals and Plants*. Bulletin Number 2017-05.

² Fiedler, Peggy L. 1991. Final Report Mitigation-Related Transplantation, Relocation and Reintroduction Projects Involving Endangered and Threatened, and Rare Plant Species in California.

Andrew Barnsdale, Senior Analyst
California Public Utilities Commission
February 2, 2022
Page 4

corridor, including in areas potentially affected by recent wildfire.” The cleaning of vehicles, equipment, tools, boots, and clothing should occur project wide and not only on federal lands or Caltrans rights-of-way. Linear projects that include ground disturbance may facilitate infestations of invasive species over a great distance. It is vitally important that impacts from this Project do not increase the amount of invasive species or introduce new species. The Department suggests the beginning of AMM-BIO-9 read as such:

Contractor vehicles, equipment, tools, boots, and clothing will be cleaned inside and out to limit the introduction on non-native species and pathogens (e.g., Port Orford cedar root fungus) on the Project corridor, including in areas potentially affected by recent wildfire.

AMM BIO-13 Nesting Birds

The Department typically recommends February 1 – August 31 for the nesting bird season to capture early nesters such as great horned owl or bald eagle and late nesters or second broods. The Department suggests replacing February 15 with February 1 or adding “other early nesting raptors” to the first sentence so it reads as follows (changes in bold):

If work will occur during the nesting bird season (February 15 until August 31 OR January 1 until August 31 where there is potential for nesting eagles **and other early nesting raptors**), nesting bird surveys will be conducted within 7 days prior to the onset of construction by a Project biologist or biological monitor familiar with the species that may nest in the Action Area with standard nest-locating techniques.

AMM BIO-14 Aquatic Resources/Fisheries

Federally listed, state listed, and dually listed species occur on this Project. The first sentence measure AMM BIO-14 should read (changes in bold):

To avoid and minimize adverse effects to federally **and state**-listed and special-status fish and wildlife, the following measures shall be implemented:

AMM BIO-15 Special-Status Amphibians

The measure should read (changes in bold):

When ground-disturbing work is occurring within **100** ~~25 to 50~~ feet of waterways that have water present and that are suitable habitat for

Andrew Barnsdale, Senior Analyst
California Public Utilities Commission
February 2, 2022
Page 5

special-status amphibians, a qualified biologist will conduct a pre-disturbance survey for special-status amphibians (adults, subadults, tadpoles, or egg masses). The survey area will include suitable habitat within **100 50** feet of perennial and intermittent waterways, within 25 feet of ephemeral drainages, and at least **100 50** feet upstream and downstream of the work area. The biologist will conduct surveys for special-status amphibians prior to the start of ground-disturbing activities. If no special-status amphibians are detected, work may resume for 3 to 5 days before new surveys need to be conducted.

AMM BIO-17 Special-Status Mammals


AMM-BIO-17 states pre-disturbance denning mammal surveys at den sites within the construction corridor will be conducted in suitable denning habitat. Please provide more description on exactly how these surveys will be conducted and what methods will be used to identify denning areas.

Survey Results

If any special-status species are found during surveys, the Department requests that CNDDDB forms be filled out and sent to Sacramento and a copy of the form be sent to the Regional office at the above address. Instructions for providing data to the CNDDDB can be found at: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The results of all pre-construction surveys shall be sent electronically to the Department at R1CEQARedding@wildlife.ca.gov.

If you have any questions, please contact Amy Henderson, Senior Environmental Scientist (Specialist), at (530) 598-7194, or by e-mail at R1CEQARedding@wildlife.ca.gov.

Sincerely,

DocuSigned by:

1D82ADE7303A474...

Tina Bartlett, Regional Manager
Northern Region

ec: State Clearinghouse
state.clearinghouse@opr.ca.gov

Ec's continued on page 6

Andrew Barnsdale, Senior Analyst
California Public Utilities Commission
February 2, 2022
Page 6

Tommy Alexander, Project Manager
Transcon Environmental
talexander@transcon.com

Michael van Hattem, Adam McKannay, Amy Henderson and Greg O'Connell
California Department of Fish and Wildlife
R1CEQARedding@wildlife.ca.gov, ceqareferrals@wildlife.ca.gov