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Governor's Office of Planning & Research

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Mar 25 2022

STATE CLEARINGHOUSE

Dear Mr. Nicholas:

Escondido Creek Trail Expansion and Renovation Project (PROJECT)
 MITIGATED NEGATIVE DECLARATION (MND)
 SCH#: 2022020438

The California Department of Fish and Wildlife (CDFW) has reviewed the above-referenced MND, dated February 18, 2022, 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.

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

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.

Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

CDFW also administers the Natural Community Conservation Planning (NCCP) program, a California regional habitat conservation planning program. The City participated in the NCCP program by preparing a draft Escondido Subarea Plan (SAP) under the subregional North County Multiple Habitat Conservation Program (MHCP). However, the City's SAP has not been finalized and has not been adopted by the City or issued permits from the Wildlife Agencies (jointly, CDFW and the U.S. Fish and Wildlife Service (USFWS)).

PROJECT DESCRIPTION SUMMARY

Proponent: City of Escondido

Objective: The Project proposes to expand and renovate the Escondido Creek Trail in the City of Escondido. The existing trail is paved, open to pedestrians and cyclists, and requires improvements in terms of connectivity, safety, and aesthetics. The proposed trail would be double-sided, accommodating Class 1 bicycles on the existing paved trail and pedestrian uses on a new decomposed granite (DG) trail. The DG trail would be added further away from the Escondido Creek, with the existing paved trail closer to the creek bank. Along the trail in urban areas, the Project proposes to update trail fencing from a 6-foot chain link fence to a four-foot cable link fence, include landscaping with native plants, and add pedestrian features (e.g., water filling stations and outdoor fitness stations).

Currently, the existing multi-use trail extends from Harmony Grove Road to N. Midway Drive along Escondido Creek. Along the existing trail, the Project proposes landscaping by adding a decomposed granite path, native plants, and recreation services (e.g., water filling stations, fitness stations). In addition, the Project proposes to extend the western end of the trail south to Citracado Parkway by opening an existing utility road (0.4 mile). This new segment of the road is intended as a public bicycle path, which will require slurry seal and restriping of the existing roadway during construction. The new extension segment will not include landscaping activities (e.g., decomposed granite, planting, fencing, or lighting features).

Location: The Project site is an approximately 4.5-mile corridor along the banks of Escondido Creek in the City of Escondido. The western terminus of the corridor is near Citracado Parkway and the eastern terminus is N. Midway Drive. The western portion of the corridor (Citracado Parkway to N. Broadway) is surrounded by a mixture of industrial uses, residential development, institutional uses, and parkland. To the east of N. Broadway, surrounding land uses are predominantly residential and commercial.

Biological Setting: Per the MND, page 36, the Project corridor consists primarily of existing disturbed areas that run along the Escondido Creek channel. Between Harmony Grove Road and N. Midway Drive (4.2 miles), Escondido Creek is channelized with concrete and vegetation is primarily ruderal or ornamental. Native habitat within the Project corridor is limited to the downstream terminus (Citracado Parkway to Harmony Grove) including southern coast live oak riparian forest with adjacent upland areas comprised of open coast live oak woodland. Per Rincon Consultant's reconnaissance survey conducted in February 2021, no special-status plants or wildlife were detected within the Project corridor; however, the native habitat on the southwestern end is suitable for least Bell's vireo (*Vireo bellii pusillus*; Endangered Species Act (ESA)-listed Endangered, CESA-listed Endangered), western yellow bat (*Lasiurus xanthinus*; CDFW Species of Special Concern (SSC)), and coastal whiptail (*Aspidoscelis tigris stejnegeri*; CDFW SSC). In

addition, this segment of the corridor was mapped as Focused Planning Area (FPA) under the draft Escondido SAP and overarching MHCP.

Timeframe: The Project is expected to span approximately 6 months, from Fall 2022 through Spring 2024.

CDFW received additional information via email from the City regarding the trail extension segment between Citracado Parkway and Harmony Grove Road. Per the City's March 6, 2022, email, "There are no lights, DG or fencing proposed on the west end of the Project. There are no improvements outside the existing paved maintenance road/trail edge on the west end between the proposed Citracado Bridge and Harmony Grove Road. There will be existing fence and gates replaced adjacent to the maintenance entrance on the north side of Harmony Grove, but no improvements beyond Harmony Grove Road right-of-way. In summary, the west end improvements for the Escondido Creek Trail Project is limited to existing gate replacement at Harmony Grove and striping the existing maintenance road which will also serve as the trail."

In addition, CDFW received additional information via email from Rincon Consultants regarding the status of least Bell's vireo and onsite habitat quality for this species, as well as Mexican fan palms proposed for removal.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist the City in adequately avoiding, minimizing, and identifying and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources. The MND should provide complete disclosure of the Project's potential impacts on biological resources. [Pub. Resources Code, § 21061; CEQA Guidelines, §§ 15003(i), 15151]. In addition, the MND should follow the conservation guidelines and mitigation ratios outlined in the MHCP and draft SAP.

COMMENT #1: Bats

Per the MND, page 35, western yellow bat, a CDFW SSC, has potential to roost in the four Mexican fan palms that will be removed as part of the proposed Project. Per Rincon Consultants' March 15, 2022, email, "The Mexican fan palms are located further upstream in the concrete developed portion of the trail. No fan palms were detected along the natural portion of the trail alignment." Although the Mexican fan palms occur in the developed portion of the trail, if there were a maternity roost present in the trees, impacts to that roost site would be significant. Clearing of vegetation occupied by bats would result in direct take of the species. Modifications to roost sites can have significant impacts on bat usability of a roost and can impact bat fitness and survivability (Johnston et al. 2004). Extra noise and vibration can lead to the disturbance of roosting bats which may have a negative impact on the animals. Human disturbance can also lead to a change in humidity, temperatures, or the approach to a roost that could force the animals to change their mode of egress and/or ingress to a roost. Although temporary, such disturbance can lead to the abandonment of a maternity roost (Johnston et al. 2004). Bats are considered non-game mammals and are afforded protection by State law from take and/or harassment (Fish & G. Code, § 4150; Cal. Code of Regs, § 251.1). Western yellow bat is a California SSC and meets the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines § 15065). Take of SSC could require a mandatory finding of significance by the Lead Agency (CEQA Guidelines § 15065).

Mitigation Measure #1: BIO-2 Pre-Construction Bat Acoustic Survey

To reduce impacts to less than significant: Because western yellow bat is an SSC, CDFW recommends that the Project proponent conduct two sets of bat surveys prior to the initiation of the Project. The first survey should occur during the bat roosting season within all suitable habitat to determine presence/absence of bat species and analyze the potential significance of tree removal. The second (pre-construction) survey should be conducted no less than 30 days prior to tree removal, to ensure no bats are roosting (e.g., day, night, maternity roosts) within the trees at the time of removal.

CDFW recommends the following amended language to BIO-2 to adequately survey and avoid Project impacts to western yellow bat and other bat species that may occur within the Project corridor:

~~"No less than 30 days prior to vegetation removal,~~ A qualified biologist with expertise and experience conducting bat surveys, shall be retained by the City as a Designated Bat Biologist.

CDFW recommends the Designated Bat Biologist conduct a bat survey within the Project corridor (plus a 100-foot buffer as access allows) to identify potential habitat that could provide daytime and/or nighttime roost sites, and any maternity roosts, especially within trees surrounding Escondido Creek. The survey shall occur during the roosting season (approximately March-September), using acoustic technology and emergency counts to maximize detection of bats on-site. Night roosts are typically utilized from the approach of sunset until sunrise. Maternity colonies, composed of adult females and their young, typically occur from spring through fall.

No less than 30 days prior to vegetation removal, the Designated Bat Biologist will conduct a pre-construction ~~reconnaissance~~ bat survey to identify within all trees or structures that provide suitable bat roosting habitat. If a maternity roost is determined present, a 300-foot no work buffer shall be placed around the roost and no work shall occur within the buffer until after the roosting season is over. Work may proceed after a qualified biologist is able to verify that the roost is no longer active."

COMMENT # 2. Light Pollution Impacts During and Post-Project Activities

The MND states that new lighting fixtures will be installed on the eastern end of the Project. In addition, construction and post-construction activities may increase noise and/or night-time lighting pollution impacts in a wildlife linkage area to levels likely to affect the behavior of the animal species identified in the Project corridor. Artificial light installed along the trail, in addition to lighting resulting from construction activities and post-construction, may negatively impact nesting-bird success by altering their timing of laying eggs. Streetlamps and other artificial lighting may cause birds to perceive days as longer than they are and cue nesting timing that is not consistent with their natural history and behavior. Typical nesting behaviors are timed to meet peak conditions for food availability; therefore, disruption of this process could result in nest abandonment and/or reduced reproductive success for nesting species within the Project corridor.

Avian species, including least Bell's vireo, and other wildlife species were identified as species likely to occur and/or nest in the Project corridor. Although mitigation measures are proposed to avoid the breeding and nesting bird season, artificial light used prior to, during, or after the breeding season can still negatively impact nesting birds by altering their nesting behavior. Lighting can also affect wildlife species utilizing the wildlife corridor.

Mitigation Measure #2: Avoidance and minimization measures for Project associated artificial lighting.

To reduce impacts to less than significant: All Project-related artificial lighting installed on the trail should be anti-glare, shielded, and directed downward facing the trail and away from the adjacent habitat areas. Although no artificial lighting is proposed west of Harmony Grove Road, CDFW recommends any artificial lighting used during and post-construction should follow the same protocols (Citracado Parkway to Harmony Grove). Implementation of these measures will minimize artificial light effects on avian species, as well as other species that inhabit the area or utilize the riparian wildlife corridor area.

COMMENT # 3. Trail Landscaping

The MND states that the Project will plant 150 trees and create pollinator gardens along the Project corridor. CDFW recommends that the MND require that no invasive plant material be used for landscaping. A list of invasive/exotic plants that should be avoided can be found online at [Cal-IPC Invasive Plant Inventory](#).

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).) 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://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

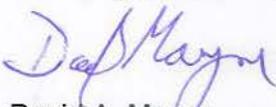
The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order 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 MND to assist the City in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Alison Kalinowski, Environmental Scientist, at Alison.Kalinowski@wildlife.ca.gov.

Sincerely,



David A. Mayer
Environmental Program Manager
South Coast Region

Attachments

A. CDFW Comments and Recommendations

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Jonathan Snyder, USFWS, [Jonathan D Snyder@fws.gov](mailto:Jonathan_D_Snyder@fws.gov)

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