



From: [Oswalt, Caitlyn@Wildlife](mailto:Oswalt,Caitlyn@Wildlife)
Sent: Friday, October 7, 2022 4:37 PM
To: [Melissa McConnell](mailto:Melissa.McConnell)
Cc: [Wildlife R2 CEQA](mailto:Wildlife.R2.CEQA); [Wilson, Billie@Wildlife](mailto:Wilson,Billie@Wildlife)
Subject: Placerville Drive at Hangtown Creek Bridge Replacement Project; IS-MND; SCH# 2022090163

Dear Ms. Melissa McConnell,

The California Department of Fish and Wildlife (CDFW) received and reviewed the Notice of Intent to Adopt an MND from City of Placerville for the Placerville Drive at Hangtown Creek Bridge Replacement Project (Project) pursuant the California Environmental Quality Act (CEQA) statute and guidelines.

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish, wildlife, native plants, and their habitat. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may need to exercise 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. (Fish & G. Code., § 1802.) Similarly for purposes of CEQA, CDFW provides, 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 Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code will be required. CDFW also administers the Native Plant Protection Act, Natural Community Conservation Act, and other provisions of the Fish and Game Code that afford protection to California's fish and wildlife resources.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist City of Placerville in adequately identifying and, where appropriate, mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

COMMENTS

1. On page 40, the Foothill Yellow-Legged Frog (FYLF) pre-construction survey and avoidance and minimization measures as laid out in mitigation measure BIO-1, should detail how Visual Encounter Surveys (VES) will be conducted. CDFW recommends survey methodologies identified in, CDFW's Considerations for Conserving the Foothill Yellow-Legged Frog (2018), be incorporated into the MND. The document is available here: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=157562&inline>. To best help with identifying the appropriate survey window, please consider the following:
 - a. As described in the CDFW's Considerations for Conserving the Foothill Yellow-Legged Frog (2018) document, VES conducted during the late summer are often the easiest method for determining presence; subadults and occasionally adults are often observed along river margins, and subadult and adult frogs will likely also be observed in tributary streams (Crump and Scott 1994).
 - b. FYLF are ectothermic, so ambient temperature affects the likelihood of detection. Whether the life form is larval or subadult, both stages will shelter in place under substrate and emerge and become active with warmth (i.e., detection probability increases with temperature).

The Northeast/Northern Sierra clade of FYLF is listed as threatened under the CESA. Thus, CDFW recommends an ITP be obtained if the Project has the potential to result in take of FYLF, either through construction or over the life of the Project. Please note that mitigation measures that are adequate to reduce impacts to a less-than significant level to meet CEQA requirements may not be enough for the issuance of an ITP. To issue an ITP, CDFW must determine the impacts of the authorized take will be minimized and fully mitigated (Fish & G. Code §2081 (b)). To facilitate the issuance of an ITP, CDFW recommends the IS/MND include species specific measures to minimize and fully mitigate the impacts to any state-listed species the Project has potential to take.

2. Mitigation Measure BIO-2 on pages 40 and 41 detail what actions are proposed if western pond turtles (*Actinemys marmorata*) are found on site. The western pond turtle is a species of special concern. Movement out of harm's way must be authorized by CDFW under a scientific collecting permit or a Lake and Streambed Alteration Agreement. The IS/MND should state that the Qualified Biologist should have all required permits before commencing species specific surveys. CDFW should be notified before any western pond turtles are moved upstream.
3. Mitigation Measures BIO-3 and BIO-4 on pages 41 and 42 describe how the size of no-work buffers would be determined in consultation with CDFW. The size of the no-work buffer should be determined by the Qualified Biologist and submitted to CDFW. Consider changing the wording in both BIO-3 and BIO-4 to "The size of the no-work buffer zone would be determined by the qualified biologist and submitted to CDFW."
4. The proposed avoidance and minimization measures for bridge-nesting birds designates that the contractor would immediately remove birds if found trapped in an exclusion device, and that all listed structures for nesting birds will be inspected at a minimum of three days per week. CDFW recommends this be changed to the Qualified Biologist will immediately remove birds if found

trapped in an exclusion device and inspect for bridge-nesting birds at the beginning of each workday.

5. Mitigation Measure BIO-5 describes a 3-year monitoring plan to restore native riparian habitat in the Project vicinity. Habitat Revegetation/Restoration plans should be prepared by persons with expertise in the regional ecosystems and native plant restoration techniques. Plans should identify the assumptions used to develop the proposed restoration strategy. Each plan should include, at a minimum: (a) the location of restoration sites and assessment of appropriate reference sites; (b) the plant species to be used, sources of local propagules, container sizes, and seeding rates; (c) a schematic depicting the mitigation area; (d) a local seed and cuttings and planting schedule; (e) a description of the irrigation methodology; (f) measures to control exotic vegetation on site; (g) specific success criteria; (h) a detailed monitoring program; (i) contingency measures should the success criteria not be met; and (j) identification of the party responsible for meeting the success criteria and providing for conservation of the mitigation site in perpetuity. Monitoring of restoration areas should extend across a sufficient time frame to ensure that the new habitat is established, self-sustaining, and capable of surviving drought. CDFW recommends a 5-year monitoring plan would be more appropriate for assurance restoration goals are achieved.
6. Please clarify the locations mentioned in Mitigation Measure BIO-6 on page 44 that will be used as compensation for the permanent removal of riparian vegetation associated with implementation of the proposed project. These locations should have Habitat Revegetation/Restoration plans associated with them.
7. The IS/MND has identified Project activities that will require notification to CDFW pursuant to Section 1602 of the Fish and Game Code. Notification is required for any activity that may do one or more of the following:
 - a. Substantially divert or obstruct the natural flow of any river, stream, or lake;
 - b. Substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or
 - c. Deposit debris, waste, or other materials where it may pass into any river, stream, or lake.

Please note that "any river, stream or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a body of water. Upon receipt of a complete notification, CDFW will determine if the Project activities may substantially adversely affect existing fish and wildlife resources and whether a Lake and Streambed Alteration (LSA) Agreement is required. The Project as currently proposed in the IS/MND will require an LSA Agreement. An LSA Agreement will include measures necessary to protect existing fish and wildlife resources.

CDFW's issuance of an LSA Agreement is a "project" subject to CEQA (see Pub. Resources Code 21065). To facilitate issuance of an LSA Agreement, the IS/MND should fully identify the potential impacts to the lake, stream, or riparian resources, and provide adequate avoidance, minimization, mitigation, and monitoring and reporting commitments.

ENVIRONMENTAL DATA

CEQA requires that information developed in mitigated negative declarations be incorporated into a database 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://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be submitted online or mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov.

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

Pursuant to Public Resources Code §21092 and §21092.2, CDFW requests written notification of proposed actions and pending decisions regarding the proposed project. Written notifications shall be directed to: California Department of Fish and Wildlife North Central Region, 1701 Nimbus Road, Rancho Cordova, CA 95670 or emailed to R2CEQA@wildlife.ca.gov.

CDFW appreciates the opportunity to comment on the MND to assist in identifying and mitigating Project impacts on biological resources. CDFW personnel are available for consultation regarding biological resources and strategies to minimize and/or mitigate impacts. Questions regarding this letter or further coordination should be directed to Caitlyn Oswald, Environmental Scientist at (916) 358-4315 or caitlyn.oswalt@wildlife.ca.gov.

Sincerely,

Caitlyn Oswald

(She/Her)

Environmental Scientist | 916.358.4315

North Central Region – Region 2

California Department of Fish and Wildlife