



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



November 18, 2022

Amber Kelley, Environmental Compliance Manager
 City of Redding
 Public Works Engineering Division
 777 Cypress Avenue
 Redding, CA 96001

SUBJECT: Review of the Mitigated Negative Declaration for Flood Damage Repair Project, State Clearing House Number 2022100476, City of Redding, Shasta County

Dear Amber Kelley:

The California Department of Fish and Wildlife (Department) has reviewed the Initial Study Mitigated Negative Declaration (ISMND) dated August 2022, 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 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 §21000 et seq.

Project Description

The Project as described in the IS MND is as follows:

"In January 2017, heavy rains and severe flooding caused water to overtop embankments along the Sacramento River and local streams, damaging various parks and trails. The purpose of the project is to repair flood damaged areas within City park and trail areas so that pre-flood design, function, and capacity (in-kind) is achieved. The project is needed so that pedestrians and bicyclists can continue to use the park and trail areas for recreation purposes. The project is led by the City and has received funding assistance from the Federal Emergency Management Agency (FEMA No. PA-09-CA-4301-PW-00936) to complete the project.

The project consists of twelve work sites, located in four recreational areas: Turtle Bay East, Parkview Park, Blue Gravel Mine Trail, and Enterprise Park. The project will repair seating and viewing areas; as well as trail surfaces, trail embankments, and culverts. Work will include vegetation removal, demolition, excavation, grading,

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sediment removal, culvert cleaning, erosion repair, culvert installation, and placement of rock slope protection. Work will occur on City property or within easements. Construction is anticipated to take one season and will be completed in the fall of 2023.”

Comments and Recommendations

The Department recognizes that the City of Redding has taken the appropriate steps to identify and assess biological resources and state special status species that have potential to occur within or in proximity to the Project area, including the preparation of a Biological Resources and Habitat Assessment, and Biological Assessment. The Department acknowledges many of the mitigation measures listed in the ISMND are adequate in minimizing potential effects to biological resources including: MM 1 – 4, minimizing potential impacts to the valley elderberry longhorn beetle; MM-4, minimizing potential impacts to federal and state listed anadromous fish species; MM-5, minimizing potential impacts to foothill yellow-legged frog and Western pond turtle; MM-8, minimizing potential impacts to migratory nesting birds and raptors; and MM-9, minimizing potential impacts to tree-roosting bats. The Department has the following comments and recommendations pertaining to some of these and other mitigation measures and certain other biological resources:

Pre-construction Surveys

Mitigation Measure 6 (MM-6) states “*Prior to the onset of construction activities, a qualified biologist will conduct preconstruction surveys for western pond turtle, turtle nests, and foothill yellow-legged frog. If these species or turtle nests are observed during the preconstruction survey or during construction, CDFW will be contacted, and work within that area will be avoided until an appropriate course of action is established. If western pond turtle, turtle nests, or foothill yellow-legged frog are not observed during the preconstruction survey, then construction activities may begin. If construction is delayed or halted for more than 7 days, another preconstruction survey will be conducted.*”

MM-6 does not specify a time frame prior to the onset of construction when surveys will be performed. Western pond turtles have high site fidelity therefore, if they are found and relocated several days prior to construction, turtles have the potential to be back to the Project site prior to start of construction. For this reason, the Department recommends that MM-6 be modified to include language that requires the qualified biologist to perform pre-construction surveys on the first day of construction. This would also be an appropriate environmental awareness training exercise for construction personnel, as noted in MM-5.

Additionally, the Department recommends that MM-6 be modified with language that

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requires the qualified biologist to flag potential habitat, any known occurrence sites, and nest locations during the pre-construction survey, and perform secondary surveys immediately prior to the start of construction each day that Project activities occur in or near these areas. Then, if turtles are found on the day of construction, relocation can occur to designated areas that are determined and documented to be free from predators, non-native turtles, and conspecifics which may compete for resources.

Parkview Park- Linden Ditch

The IS MND states:

“The site consists of a pedestrian bridge that crosses over Linden Ditch, a tributary to the Sacramento River. Streamflow appears to be perennial and subject to backwater flooding from the Sacramento River.”

“Linden Ditch is unlikely to support spawning of salmonids, but non-natal rearing of Chinook salmon and steelhead is possible because the site is subject to backwater flooding from the Sacramento River.”

“Although the project is not anticipated to effect anadromous fish species, MM-4 will be implemented to ensure work would occur in dry conditions and water would not be present. With implementation of this measure, the project would have a less than significant impact on anadromous fish species.”

Mitigation Measure 4 (MM-4) states *“Activities that involve work within the stream channel and activities within 165 feet of the elderberry shrub will be conducted during the lowest flow period and outside of the flight season of VELB. The work period for the Parkview Park is July 1 to October 31.”*

The statements above are not congruent. The ISMND states streamflow within Linden Ditch is perennial. Therefore, Linden Ditch is unlikely to be dry in a normal low flow season. The Department concurs that work within Linden Ditch, and all drainage features included in the proposed Project, should be performed in the low flow season, between July and October. However, MM-4 does not assure work will be performed in dry conditions, with *“no water present”*. The Department recommends MM-4 include language that clearly states how work will be performed if water is flowing throughout Linden Ditch during the low flow season. Additional measures, beyond utilizing the low flow season, appear to be warranted to ensure potential impacts to anadromous fish are avoided and/or minimized. Additionally, if water is present and in-water work is proposed, a CESA Incidental Take Permit may be required as winter-run and/or spring-run chinook salmon may be present.

Nesting Birds

The ISMND identifies the Project area and adjacent habitat as suitable for nesting

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birds and raptors. Mitigation Measure 7 (MM-7) states:

“If vegetation removal or construction activities will occur during the nesting season for birds or raptors (February 1 through August 31 for birds and November 1 through July 1 for raptors), a qualified biologist will conduct a preconstruction survey seven (7) days before construction activities begin. If nesting birds or raptors are found, CDFW will be notified and consulted. An appropriate buffer, as determined by CDFW and the qualified biologist, will be placed around the nest until the young have fledged. If construction activities cease for a period greater than 7 days, additional preconstruction surveys will be required.”

The Department recommends MM-7 be revised as follows:

To avoid impacts to nesting birds and/or raptors protected under Fish and Game Code (FGC) sections 3503 and 3503.5 and the federal Migratory Bird Treaty Act, one of the following shall be implemented:

- a. Vegetation removal and other ground disturbance activities associated with construction shall occur between September 1 and January 31, when birds are not nesting; or
- b. If vegetation removal or ground disturbance activities occur during the nesting season, a pre-construction nesting bird survey shall be conducted by a qualified biologist to identify active nests in and adjacent to the Project area.

Surveys shall begin prior to sunrise and continue until vegetation and nests have been sufficiently observed. The survey shall consider acoustic impacts and line-of sight disturbances occurring as a result of the Project to determine a sufficient survey radius to maximize observations of nesting birds. A nesting bird survey report should be prepared and at a minimum, the report should include a description of the area surveyed, date and time of the survey, ambient conditions, bird species observed, a description of any active nests observed, any evidence of breeding behaviors (e.g., courtship, carrying nest materials or food, etc.), and a description of any outstanding conditions that may have impacted the survey results (e.g., weather conditions, excess noise, the presence of predators, etc.).

If an active nest is located during the preconstruction 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 to comply with FGC sections 3503 and 3503.5 and the Migratory Bird Treaty Act. Compliance measures may include, but are not limited to, exclusion buffers, sound-attenuation measures, seasonal work closures based on the known biology and life history of the species identified in the survey, as well as ongoing monitoring by biologists.

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The nesting bird survey report shall be submitted to the Department upon completion via email to R1CEQARedding@wildlife.ca.gov. The survey shall be conducted no more than one week prior to the initiation of construction. If construction activities are delayed or suspended for more than one week after the pre-construction nesting bird survey, the site shall be resurveyed.

Lake and Streambed Alteration Agreement

The ISMND identifies permanent and temporary impacts to riverine habitat. Notification pursuant to Section 1602 et seq. of the Fish and Game Code is likely to be required. Project activities which appear to be subject to 1602 Notification requirements include modification of bed, bank or channel and modification of associated riparian resources growing on the bank. To obtain information about the 1600 Notification process, please access our website at:

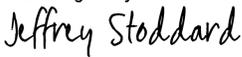
<https://www.wildlife.ca.gov/Conservation/LSA>.

California Endangered Species Act

The California Endangered Species Act (CESA), section 2080, prohibits “take” of state listed endangered, threatened, and fully protected species. Pursuant to section 2081(b), incidental take authorization must be obtained if the Project has the potential to result in take of plants or animals listed under CESA, either during construction or over the life of the Project. Issuance of a CESA permit is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA permit.

Thank you for consideration of our comments and recommendations. If you have any questions, please contact Erika Iacona, Environmental Scientist by email at: R1CEQARedding@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Jeffrey Stoddard for
Tina Bartlett, Regional Manager
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ec: State Clearinghouse
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