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Sent: Monday, December 5, 2022 1:22 PM
To: marie.maniscalco@nevadacountyca.gov
Cc: [Wildlife R2 CEQA](#); [Wilson, Billie@Wildlife](mailto:Wilson,Billie@Wildlife)
Subject: Euer Valley Restoration Project; IS-MND; SCH# 2022090416

Dear Ms. Marie Maniscalco,

The California Department of Fish and Wildlife (CDFW) received and reviewed the Notice of Completion of an IS/MND from the County of Nevada for the Euer Valley Restoration Project (Project) pursuant to 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.

PROJECT DESCRIPTION SUMMARY

The Project site is located along the South Fork of Prosser Creek in Euer Valley, northwest of the Town of Truckee in eastern Nevada County.

The Project consists of replacing the existing earthen trail (Coyote Trail) through the wet meadow with an elevated boardwalk, relocating the existing Coyote Hut, installing a permanent bridge feature where the existing trail crosses the South Fork of Prosser Creek (Coyote Crossing), stabilizing the existing equestrian crossing over the creek, repairing rutting, erosion, and drainage crossings along South Euer Valley Road, and restoring hydrologic functions and riparian features along ½ mile of South Fork Prosser Creek downstream of Coyote Crossing.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the County of Nevada 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. The proposed improved south side trail will be moved east of the existing trail. This proposed improvement would go directly into a tree stand that is currently just east of the existing trail. Will these trees be accounted for in the replanting plan for this project? Please detail if any other trail routes were proposed and why the proposed improved south side trail is the most appropriate to meet project objectives. CDFW recommends the proposed trail be moved west in order to decrease impacts to trees that provide foraging and nesting habitat for birds and raptors.
2. On page 19 of the IS/MND, it states that the relocated Coyote Hut will be placed on an appropriate support system to minimize impacts to the meadow. Will this support system be similar to the existing Coyote Hut? If not, please clarify what type of support system will be implemented on the relocated Coyote Hut.
3. On page 19 of the IS/MND, it states that during winter snow conditions the boardwalk is anticipated to be buried by snow for use of grooming equipment, but that the boardwalk will not be designed to support or accommodate groomers. Therefore, please clarify if groomers are planned to be used on the boardwalk after snow fall. If so, describe how it will be ensured the boardwalk will not be structurally compromised, as the use of heavy equipment resulting in damaged boardwalk segments leading to the deposit of debris, waste, or other materials into the creek may be deleterious to aquatic and terrestrial life and meadow habitat.
4. Mitigation Measure BIO.1 and BIO.4, CDFW recommends if project-related activities are scheduled between February 1 to August 31, a focused survey for nests should be conducted by a Designated Biologist prior to the beginning of Project-related activities. The Designated Biologist should survey a minimum radius of 500-feet (for migratory birds) and 1/2-mile (for raptors) around the Project area that can be accessed by the Project proponent. If an active nest is found, active nests should be avoided, and a no disturbance or destruction buffer should be determined and established by a Designated Biologist. The buffer should be kept in place until after the breeding nesting season or the Designated Biologist confirms the young have

fledged, are foraging independently, and the nest is no longer active for the season. The extent of these buffers should be determined by the Designated Biologist and will depend on the species present, the level of noise or construction disturbance, line of sight between the nest and the disturbance, ambient levels of noise and other disturbances, and other topographical or artificial barriers.

If any special-status species are encountered during project activities, work should be suspended, CDFW notified, and conservation measures should be developed in agreement with CDFW prior to re-initiating the activity. Conversely, if during project activities, any species listed pursuant to the CESA are encountered, work shall be suspended, and CDFW notified. Work may not re-initiate until the Project proponent has consulted with CDFW and can demonstrate compliance with CESA.

5. Mitigation Measure BIO.2, CDFW recommends prior to the start of on-site construction activities, a qualified biologist should conduct a survey of the project area for Southern Long-Toed Salamanders. If Southern Long-Toed Salamanders are encountered during surveys or project activities, work shall be suspended in the immediate area and a no disturbance or destruction buffer shall be determined and established by a Designated Biologist. The buffer should be kept in place until after the Designated Biologist has deemed all Southern Long-Toed Salamanders are no longer present.
6. Mitigation Measure BIO.3, CDFW recommends if evidence of occurrence of snowshoe hare and mountain beaver are found, a no disturbance or destruction buffer shall be determined and established by a Designated Biologist around nest and burrow sites.
7. Mitigation Measure BIO.5, CDFW recommends if work in the flowing portion of the stream is unavoidable, the entire stream flow should be diverted around or through the work area during the excavation and/or construction operations. Stream flow should be diverted using gravity flow through temporary culverts/pipes/k-rails or pumped around the work site with the use of hoses. When a temporary dam or other artificial obstruction is being constructed, maintained, or placed in operation, sufficient water should at all times be allowed to pass downstream to maintain aquatic life below the dam pursuant to Section 5937 of the Fish and Game Code. Any temporary dam or other artificial obstruction constructed should only be built from clean materials such as, gravel bags, water dams, or clean/washed gravel which will cause little or no siltation.

The Project proponent should divert flow in a manner that prevents turbidity, siltation, or pollution and provides flows downstream. Flows downstream should be provided during all times that the natural flow would have supported aquatic life. Said flows should be sufficient quality and quantity, and of appropriate temperature to support fish and other aquatic life both above and below the diversion.

8. Mitigation Measure BIO.6, CDFW recommends if habitat exists within the Project area for Sierra Nevada yellow-legged frog that a Pre-Construction Survey Plan should be developed and submitted to CDFW for review prior to ground-disturbing activities. The Plan should include what life-stage(s) shall be surveyed for, survey method(s), and timing of survey(s). The Plan

should provide justification for timing and methodology of survey design (e.g., watershed characteristics, regional snowpack, timing and rate of spring runoff, day length, average ambient air and water temperatures, local and seasonal conditions). For sites with suitable breeding habitat, two consecutive seasons of negative egg mass/larval surveys are recommended to support a negative finding. If during project activities, Sierra Nevada yellow-legged frog are encountered, all work shall be suspended, CDFW notified, and work may not re-initiate until the Project proponent can demonstrate compliance with CESA.

9. Mitigation Measure BIO.10, CDFW recommends personnel also perform inspections of all tools, equipment, and vehicles before leaving the Project site. Prior to construction, the Project area should be surveyed by a qualified botanist familiar with the area for any species listed in the California Invasive Plant Council (Cal-IPC) inventory.
10. The design of the proposed bridge would span 150 feet with a minimum of three, 50-foot spans to transmit bridge loads into the soil. Underneath the proposed bridge on the south side of the creek channel, an area roughly 50 feet by 60 feet would be lowered about one to one and a half feet in elevation to increase flood flow capacity under the bridge. Lowering the bank of the creek channel could destabilize the channel and impact the functional capacity of the meadow downstream. Within section 2.3.2 Creek Restoration, it describes the need for armoring under the bridge with a mix of salvaged sod, gravel, and cobble. Alternatively, if the bridge height was increased instead armoring under the bridge would not be necessary. CDFW recommends raising the height of the bridge to avoid impacts to the bed of the creek channel.

The proposed bridge will use pile caps/helical anchors. These are shallow and may cause scour or redirection of flows. Because of this, CDFW recommends foundations should not be in the active channel. The Project proponent should analyze foundation alternatives with the ability to hold greater design loads and to allow for longer bridge spans. Please provide the hydraulic analysis for the proposed bridge construction and how the impacts to the channel are less than significant.

11. In section 2.3.1.4 Equestrian Branch Trail and Creek Access, please provide clarification and justification for the proposed approximately 5-foot-wide pathway composed of 4-inch to 6-inch natural embedded cobble lined with 8-inch to 12-inch rock edging Equestrian crossing through the creek channel. The justification should include reasoning for why the proposed bridge cannot be used for equestrian purposes.
12. The creek bed restoration techniques described in section 2.3.2 consist of components that would reduce future erosion but wouldn't improve the functions of the wet meadow or the root causes of the incision. The hardened grade control near the relic beaver dam could potentially impede a naturally meandering stream by locking it into place and lead to flanking. CDFW recommends multiple low-tech structures such as beaver dam analogs and pole-assisted log structures be added to the hardened structure to reduce neck cutoff- remnant channel, both upstream and downstream.
13. CDFW is responsible for ensuring appropriate conservation of fish and wildlife resources including threatened, endangered, and/or candidate plant and animal species, pursuant to

CESA. CDFW recommends that an Incidental Take Permit (ITP) be obtained where the Project has the potential to result in take of a species listed as candidate, threatened, or endangered under CESA, 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 demonstrate that 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.

14. 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 IS/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 Oswalt, Environmental Scientist at (916) 358-4315 or caitlyn.oswalt@wildlife.ca.gov.

Sincerely,

Caitlyn Oswalt

(She/Her)

Environmental Scientist | 916.358.4315

North Central Region – Region 2

California Department of Fish and Wildlife