

Haggerty, Nicole@Wildlife



From: Kearns, Zachary@Wildlife
Sent: Wednesday, May 3, 2023 4:43 PM
To: Amador County Planning Department
Cc: Boyd, Ian@Wildlife; Wilson, Billie@Wildlife; Sheya, Tanya@Wildlife; Thomas, Kevin@Wildlife; Haggerty, Nicole@Wildlife; Wildlife R2 CEQA
Subject: [CDFW Comments] Hoover Hideout Planned Development - Mitigated Negative Declaration (IS/MND)

Hi Ms. Ruesel,

The California Department of Fish and Wildlife (CDFW) appreciates the opportunity to comment on the Mitigated Negative Declaration (IS/MND) for the Hoover Hideout Planned Development (project). CDFW is responding to the IS/MND as a Trustee Agency for fish and wildlife resources (Fish & G. Code, §§ 711.7 & 1802, and CEQA Guidelines, §§ 15386), and as a Responsible Agency regarding any discretionary actions (CEQA Guidelines Section 15381), such as the issuance of a Lake or Streambed Alteration Agreement (California Fish and Game Code Sections 1600 et seq.) and/or a California Endangered Species Act (CESA) Permit for incidental take of endangered, threatened, and/or candidate species (California Fish and Game Code Sections 2080 and 2080.1).

The project is located at approximately Latitude: 38.613622, Longitude: -120.196096, in Amador County. The project consists of a rezoning request from Single Family Residential and Agricultural District to Planned Development District for APN 026-060-018 (ZC-20;10-1), and a Use Permit for an event venue and vacation rental. Events will take place from June to October with 220 attendees and up to 35 events annually.

CDFW recommends the following items be addressed in the future planning of the project:

1. **Nesting Bird Survey Radius:** The IS/MND recommends nesting bird surveys if ground disturbing activities are to take place within the nesting season, typically February 1 through August 31. CDFW typically recommends a minimum of a 500-foot radius for migrating birds and a ½ mile radius for nesting raptors. The IS/MND also indicates “Nesting bird surveys are not required for ground disturbing activities occurring between September 2 and January 31. Please note, it is the project proponent’s responsibility to comply with Fish and Game Code Sections 3503, 3503.5, and 3513, regardless of the time of year.
2. **Moving out of Harm’s Way:** The proposed project is anticipated to result in disturbances to natural habitats that support native species. To avoid direct mortality, a qualified biologist who is approved by CDFW to handle Southern long-toed salamander (*Ambystoma macrodactylum sigillatum*, SSC), or other special status species, may be retained to be onsite prior to and during all project-related activities to move out of harm’s way special status species or other wildlife of low or limited mobility, that would otherwise be injured or killed from project-related activities. Movement of wildlife out of harm’s way should be limited to only those individuals that would otherwise be injured or killed, and individuals should be moved only as far a necessary to ensure their safety.
3. **Sierra Nevada yellow-legged frog:** The project takes place in confirmed habitat for the Sierra Nevada yellow-legged frog (*Rana sierrae*, SNYLF, Threatened), included sixteen (16) occurrences on CNDDDB. SNYLF are likely present throughout the wetted portions of the channels and post-metamorphic frogs may occasionally be found at the pond on the property. CDFW encourages early consultation to help properly fully avoid the species, and requests inclusion in upcoming surveys and monitoring for SNYLF.

Please note, if it is determined the Project may have the potential to result in "take," as defined in the Fish and Game Code, section 86, of a CESA-listed species, then Amador County Planning Department (County) should disclose that an incidental take permit (ITP) or a consistency determination (Fish & G. Code, §§ 2080.1 & 2081) may be needed prior to starting construction activities. The IS/MND should include all avoidance and minimization to reduce the impacts to a less than significant level. If impacts to listed species are expected to occur even with the implementation of these measures, mitigation measures should be proposed to fully mitigate the impacts to CESA-listed species (Cal. Code Regs., tit. 14, § 783.2, subd. (a)(8)). If the County does not pursue CESA authorization and encounters any CESA-listed species during project activities, work should be suspended, and CDFW notified. Work should not re-initiate until the County has consulted with CDFW and can demonstrate compliance with CESA.

4. **Wetland and Riparian Habitat (BIO-5):** The demarcated boundary should be placed after consultation with CDFW to ensure that SNYLF are fully avoided, or fully mitigated to maintain CESA compliance. Additionally, the IS/MND states that, "The pond shall be maintained to prevent adverse impacts to species..." If maintenance work is scheduled to occur in or around the pond, the projects may require notification with CDFW, as further described in **Comment 8** of this email.
5. **On-site Pond Stocking:** The IS/MND makes no mention of fish in the on-site pond. CDFW does not support the intentional stocking of fish in the pond. CDFW also emphasizes that live fin fish may not be transported from the water where taken (Cal. Code Regs., tit. 14, § 1.63). Any movement of fish within Tragedy Creek to or from the pond is not currently authorized. CDFW encourages the County to take all precautions possible to prevent further introduction of fish into the pond and to consult with CDFW to manage the existing population. While rainbow trout (*Oncorhynchus mykiss*) are present in parts of Tragedy Creek, their initial introduction is unknown. Recent samples of trout from along Tragedy Creek have been confirmed as not originating from recent populations of CDFW hatchery stock, but their original population source is still unknown. Trout movement further upstream could be detrimental to SNYLF populations and should be prevented.
6. **Tree Roosting Bats:** The IS/MND does not state if trees will be trimmed or removed over the course of the project. If roost trees are removed during the colder months, bats may be in hibernation and unable to escape. To avoid potential impacts to both maternity colonies and hibernating bats, CDFW recommends that tree removal be scheduled either in the spring between approximately March 1 (or when evening temperatures are above 45°F) and April 15, or in fall between approximately September 1 and October 15 (or prior to evening temperatures dropping below 45°F and the onset of rainfall greater than one-half inch in 24 hours). If bats must be captured or relocated, a qualified biologist should capture injured bats by hand-capture or other methods approved by CDFW. CDFW does not authorize the use of mist nets or harp traps as capture techniques.
7. **Passive Relocation and Entrapment Prevention:** During the course of ground disturbing activities, at the end of each workday, an escape ramp should be placed at each end of any open excavation to allow wildlife that may become trapped to climb out overnight. The ramp may be constructed of either dirt fill or wood planking or other suitable material that is placed at an angle no greater than thirty (30) degrees. A qualified biologist or construction monitor should survey the project area to ensure wildlife incidentally trapped due to project activities are allowed to escape prior to project commencement.
8. **Lake and Streambed Alteration:** The property has hydrologically connected features. Section 1602 of the Fish and Game Code requires an entity to notify CDFW prior to commencing 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.

If upon review of an entity's notification, CDFW determines that the project activities may substantially adversely affect an existing fish or wildlife resource, a Lake and Streambed Alteration (LSA) Agreement will be issued which will include reasonable measures necessary to protect the resource. 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, if one is necessary, the environmental document should fully identify the potential impacts to the lake, stream, or riparian resources, and provide adequate avoidance, mitigation, and monitoring and reporting commitments. Early consultation with CDFW is recommended, since modification of the project may avoid or reduce impacts to fish and wildlife resources. Notifications for projects involving (1) sand, gravel or rock extraction, or (2) timber harvesting operations must be submitted using paper notification forms. All other LSA Notification types must be submitted online through CDFW's Environmental Permit Information Management System (EPIMS). For more information about EPIMS, please visit <https://wildlife.ca.gov/Conservation/Environmental-Review/EPIMS>. More information about LSA Notifications, paper forms and fees may be found at <https://www.wildlife.ca.gov/Conservation/Environmental-Review/LSA>.

9. **Required and Proposed Project Improvements:** As stated in CEQA Section 15378(a): "' Project" means the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment...' The IS/MND states that the **Required and Proposed Project Improvements** will include "...bringing the buildings, roads and turnouts, and access up to code, as well as ensuring adequate water supply, sewage disposal, and services to support the current level of uses employed on the property." Please describe which improvements will be made to bring the listed services up to code. For example, the water supply source and the methods that will be used to increase the water supply should also be detailed and evaluated. The current project description detail is not sufficient to fully evaluate potential effects from use or expansion of use.

Pursuant to Public Resources Code sections 21092 and 21092.2, CDFW requests written notification of proposed actions and pending decisions regarding the project. Written notifications may be directed to: California Department of Fish and Wildlife North Central Region, 1701 Nimbus Road, Rancho Cordova, CA 95670.

CDFW appreciates the opportunity to comment on the project and recommends that the County address CDFW's comments and concerns in the forthcoming CEQA document. CDFW personnel are available for consultation regarding biological resources and strategies to minimize impacts.

If you have any questions regarding the comments provided in this letter or wish to schedule a meeting and/or site visit, please contact Zach Kearns, Environmental Scientist at (916) 358-1134 or zachary.kearns@wildlife.ca.gov.

Sincerely,

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