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From: Oswalt, Caitlyn@Wildlife
Sent: Monday, May 15, 2023 5:22 PM
To: Ciotti, Shannon@SNC
Cc: Wildlife R2 CEQA; Wilson, Billie@Wildlife
Subject: CEQA Comments: Lost Sierra Route: EZ Verdi Ridge Segment Project - Mitigated Negative Declaration (MND); SCH# 2023040430



Dear Ms. Ciotti,

The California Department of Fish and Wildlife (CDFW) received and reviewed the Notice of Completion of a Mitigated Negative Declaration (MND) from Sierra Nevada Conservancy for the Lost Sierra Route: EZ Verdi Ridge Segment Project (Project) in Nevada and Sierra 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, plants and their habitats. 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 (Fish & G. 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.) 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 approximately 2.5 miles east of Boca and Stampede Reservoirs, and approximately 10 miles northeast of downtown Truckee.

The Project consists of a proposed 15-mile-long trail that would be a single-track (18-36 inch wide) motorized multi-use trail. This would include a vegetation clearing area of 10-feet wide across the trail. The proposed 15-mile-long trail is part of the East Zone Connectivity and Restoration Project and will connect the proposed segments of the Lost Sierra Route to the north that will connect Sierraville and Loyalton.

COMMENTS AND RECOMMENDATIONS

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

CDFW is primarily concerned with the Project impacts to existing fish and wildlife resources including the California spotted owl (*Strix occidentalis occidentalis*), Northern goshawk (*Accipiter gentilis*), Yellow warbler (*Setophaga petechia*)

Plumas ivesia (*Ivesia sericoleuca*), Sierra Nevada yellow-legged frog (*Rana sierrae*), Pacific marten (*Martes caurina*), and special-status bats.

CDFW provides the following comments for the Sierra Nevada Conservancy's consideration:

COMMENTS

1. The MND should provide a thorough discussion of the Project's potential direct, indirect, and cumulative impacts on biological resources. To ensure that Project impacts on biological resources are fully analyzed, the following information should be included in the MND:
 - a. A discussion of potential impacts from light on motorized vehicles, noise, human activity, and wildlife-human interactions created by Project activities especially those adjacent to natural areas, exotic and/or invasive species occurrences, and drainages. The MND should address Project-related changes to drainage patterns and water quality within, upstream, and downstream of the Project site, including: volume, velocity, and frequency of existing and post-Project surface flows; polluted runoff; soil erosion and/or sedimentation in ephemeral/intermittent streams and wetlands.
 - b. A discussion of potential indirect Project impacts on biological resources, including resources in areas adjacent to the Project footprint, such as nearby public lands (e.g., National Forests, State Parks, etc.), open space, adjacent natural habitats, riparian ecosystems, and wildlife corridors.

2. On Page 3-13, it states:

"The project would cross several intermittent drainages that are potential waters of the United States and waters of the state. Project management requirements (Table 2-2) require that all shallow stream fords would be designed to even out the water flow through the ford, so the gravel-sized material is not washed away. In addition, trail approaches to watercourse crossings would be designed to prevent sediment from being channeled into streams." Please describe approximately how many stream fords will be needed for this Project. Detail where the gravel-sized material be sourced, and approximately how often the fords will need to be maintained.

On page 2-6, under 2.4 Construction Activities, it states *"some puncheon (wooden walkways used to elevate the level of the trail tread) or turnpikes (elevation of tread with native material) may be necessary for wet areas."* Please describe approximately how many puncheons and turnpikes may be used in this Project and what are the factors being considered as to if a stream ford, puncheon, or a turnpike will be used.

3. *Sensitive Plant Communities*: CDFW considers sensitive plant communities to be imperiled habitats having both local and regional significance. Plant communities, alliances, and associations with a statewide ranking of S-1, S-2, S-3, and S-4 should be considered sensitive and declining at the local and regional level. These ranks can be obtained by querying the CNDDDB and are included in *The Manual of California Vegetation* (Sawyer 2009). The MND should include measures to fully avoid and otherwise protect sensitive plant communities from Project-related direct and indirect impacts.
4. *Mitigation*: CDFW considers adverse Project-related impacts to sensitive species and habitats to be significant to both local and regional ecosystems, and the MND should include mitigation measures for adverse Project-related impacts to these resources. Mitigation measures should emphasize avoidance and reduction of Project impacts. For unavoidable impacts, onsite habitat restoration, enhancement, or permanent protection should be evaluated and discussed in detail. If onsite mitigation is not feasible or would not be biologically viable and therefore not adequately mitigate the loss of biological functions and values, offsite mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed.

The MND should include measures to perpetually protect the targeted habitat values within mitigation areas from direct and indirect adverse impacts in order to meet mitigation objectives to offset Project-induced qualitative and quantitative losses of biological values. Specific issues that should be addressed include the

increase in human trail access, long-term monitoring and management programs, control of illegal dumping, water pollution, etc.

5. *Habitat Revegetation/Restoration Plans*: The MND describes decommissioning unauthorized and problematic trails. Please describe how these trails will be decommissioned and brought to previous conditions. Plans for restoration and revegetation 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.
6. The IS/MND's mitigation measure BIO-1 requires a pre-construction nesting bird survey prior to initiating construction activities. 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.

7. *Moving out of Harm's Way*: The Project is anticipated to result in the clearing of natural habitats that support native species. To avoid direct mortality, the Sierra Nevada Conservancy should state in the MND a requirement for a Designated Biologist with the proper handling permits, will be retained to be onsite prior to and during all ground- and habitat-disturbing activities. Furthermore, the MND should describe that the Designated Biologist with the proper permits may 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, as needed. The MND should also describe Designated Biologist qualifications and authorities to stop work to prevent direct mortality of special-status species. CDFW recommends fish and wildlife species be allowed to move out of harm's way on their own volition, if possible, and to assist their relocation as a last resort. It should be noted that the temporary relocation of onsite wildlife does not constitute effective mitigation for habitat loss.
8. 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 environmental impact reports and 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 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 effect on fish and wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Sierra Nevada Conservancy 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