

Haggerty, Nicole@Wildlife

From: Kearns, Zachary@Wildlife
Sent: Monday, June 5, 2023 1:12 PM
To: CRedd@Dewberry.com
Cc: Wildlife R2 CEQA; Wilson, Billie@Wildlife; Sheya, Tanya@Wildlife; Haggerty, Nicole@Wildlife; Purdy, Colin@Wildlife
Subject: CDFW Comments - Angels Creek Trail and Transit Hub Facility Project
Categories: Green Category



Hello Christa Redd,

The California Department of Fish and Wildlife (CDFW) appreciates the opportunity to comment on the Initial Study/Mitigated Negative Declaration (IS/MND) for the Angels Creek Trail and Transit Hub Facility Project (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: 38.0682, Longitude: -120.539011, in Calaveras County. The project consists of the construction of a new, Class I bicycle and pedestrian path adjacent to Angels Creek, starting at Kurt Drive and ending at Main Street, a Class III bicycle facility along Finnegan Lane from Main Street south to Angel Oaks and Greenhorn Creek Road, a new connection Class I trail along the Angel Oaks and Greenhorn Creek Road alignment to connect Greenhorn Creek subdivision to Finnegan Lane, and a transit hub on Vallecito Road.

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

1. **Nesting Birds.** Sections 3503, 3503.5, and 3513 of the Fish and Game Code protect nesting and migratory birds and birds of prey. Section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by the Fish and Game Code or any regulation made pursuant thereto. Section 3503.5 states that it is unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by the Fish and Game Code or any regulation adopted pursuant thereto. Section 3513 states that it is unlawful to take or possess any migratory nongame bird as designated in the federal Migratory Bird Treaty Act.

CDFW recommends that nesting bird surveys be conducted if project activities are scheduled to occur between February 1 and August 31, to fully encapsulate the potential nesting season. The survey should take place no more than 15 calendar days prior to ground disturbing activities. CDFW typically recommends a minimum of a 500-foot radius for migrating birds, and a ½ mile radius for nesting raptors.

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 Townsend's big-eared bat (*Corynorhinus townsendii*, 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. **Tricolored Blackbird.** Please note, the California Natural Diversity Database (CNDDDB) has records of at least three (3) previous occurrences of Tricolored Blackbirds within three (3) miles of the project location. 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 the City of Angels 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 City of Angels does not pursue CESA authorization and encounters any CESA-listed species during project activities, work should be immediately suspended and CDFW notified. Work should not re-initiate until the City of Angels has consulted with CDFW and can demonstrate compliance with CESA.
4. **Tree Roosting Bats:** The document states that project activities will occur in likely habitat of tree roosting bats. 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.
5. **Passive Relocation and Entrapment Prevention:** At the end of each workday, any structures where wildlife may become trapped (e.g. open pipes, pits, trenches, etc.) should be tightly covered with hard material to prevent wildlife from entering, or 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.
6. **Lake and Streambed Alteration:** The project location occurs along stretches of Angels Creek. The IS/MND indicates that a Lake and Streambed Alteration Agreement will be obtained prior to project initiation. CDFW encourages the City of Angels to Notify CDFW at least three (3) months prior to planned project start dates to try and avoid project delays due to permitting review timelines.

All Standard LSA Notifications 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>.

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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