

Haggerty, Nicole@Wildlife

From: Kennedy, Amy@Wildlife
Sent: Thursday, June 1, 2023 4:41 PM
To: wolfy@bcrd.org
Cc: Wildlife R2 CEQA
Subject: Concow Pyrodiversity Project

Governor's Office of Planning & Research

JUNE 2 2023

STATE CLEARINGHOUSE

Hello Wolfy

I am writing in regards to the Initial Study/Mitigated Negative Declaration for the Concow Pyrodiversity Project. The project is a 1,174-acre fuels reduction and ecological enhancement effort situated within the Flea Valley (North Fork Feather River) and Concow Creek (West Branch Feather River) watersheds. Project activities would consist of pile burning, broadcast burning, manual fuels reduction, some incidental roads maintenance, mechanical fuels reduction, and prescribed grazing.

The California Department of Fish and Wildlife (CDFW) previously commented on the Vegetation Treatment Program Project EIR submitted back in June of 2021. CDFW comments were mentioned in the IS/MND on Page 16 and the first paragraph states "**CDFW** required no permits as long as no culverts or new stream crossings would be installed". I would like to request a reiteration of this statement. Fish and

Fish and Game Code 1602 requires any person, state or local governmental agency, or public utility to notify CDFW prior to beginning any activity that may do one or more of the following:

- Divert or obstruct the natural flow of any river, stream, or lake;
- Change the bed, channel, or bank of any river, stream, or lake;
- Use material from any river, stream, or lake; or
- Deposit or dispose of material into any river, stream, or lake.

Please note that "any river, stream, or lake" includes those that are dry for periods of time as well as those that flow year round. If you are not certain a particular activity requires notification, CDFW recommends you notify. CDFW requires a Lake and Streambed Alteration (LSA) Agreement when a project activity may substantially adversely affect fish and wildlife resources.

More information can be found at <https://wildlife.ca.gov/Conservation/Environmental-Review/LSA>

- On Page 38 of the IS/MND, we suggest clarity in the following sentence in the last paragraph under the heading of **Special Status Bumble Bees**:

"If consultation determines that mortality, injury, or disturbance of listed bumble bees (in the event the Candidate listing is confirmed)..."

The Candidate listing provides protection the same as the listing so please consider removing **(in the event the candidate listing is confirmed)** and restating that:

According to Fish & G. Code §2068. A native species or subspecies of bird, mammal, fish, amphibian, reptile, or plant that the commission has formally noticed as being under review by the CDFW for listing. Candidates are given full CESA protection". Therefore, if *surveys* determine that mortality, injury, or disturbance of listed bumble bees may occur, additional consultation with CDFW and possibly an Incidental Take Permit will be obtained (Fish & G. Code § 2081 (b); Cal. Code Regs., tit. 14, §§ 783.2-783.8).

- On Page 22 of the MMRP under SPR- BIO-12 Continued, the statement which states:

Actions that are feasible will be taken by the project proponent to avoid loss of common

native bird nests. Whether or not an action is deemed feasible can depend on considerations of burn windows (e.g. environmental and atmospheric conditions necessary to execute treatment prescriptions in a way that meets objectives). **If it is infeasible to avoid loss of common bird nests (not including raptor nests), the project proponent will document the reasons implementation of the avoidance strategies was infeasible.**

Fish and Game code 3503 prohibits the take of nests. Infeasibility of an action cannot over-ride the Fish and Game Code 3503, or the Migratory Bird Treaty Act, therefore the statement **“If it is infeasible to avoid loss of common bird nests (not including raptor nests), the project proponent will document the reasons implementation of the avoidance strategies was infeasible”** should be rewritten to explain this prohibition and take should be avoided by pre-construction surveys and biological monitoring.

Thank you for the opportunity to comment on this document. Please contact me if you have any questions about these comments.

Amy Kennedy

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