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Governor's Office of Planning & Research

Nov 16 2023

STATE CLEARINGHOUSE

November 15, 2023

Fionna Jensen, Associate Planner
Monterey County Housing and Community Development (HCD)
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Subject: (CON) PLN220106 Big Sur Campgrounds Monterey County (419-201-023)
SCH No: 2023110363

Dear Fionna Jensen:

The California Department of Fish and Wildlife (CDFW) received a Request for Comments from the County of Monterey County Housing and Community Development (HCD) for the above referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under Fish and Game Code. While the requested comment period may have ended, CDFW requests that Monterey County still consider our comments.

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, Section 711.7, subd. (a) & 1802; Pub. Resources Code, Section 21070; CEQA Guidelines Section 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

Conserving California's Wildlife Since 1870

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habitat necessary for biologically sustainable populations of those species (*Id.*, Section 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, 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, Section 21069; CEQA Guidelines, Section 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, Section 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, Section 2050 et seq.), related authorization as provided by the Fish and Game Code will be required.

Nesting Birds: CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include, Section 3503 (regarding unlawful take, possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

PROJECT DESCRIPTION SUMMARY

Proponent: Monterey County

Objective: The County of Monterey is preparing an Initial Study to analyze a Combined Development Permit to allow campground improvements including a replacement septic system, relocation of RV/campsites, demolition of approximately 12,840 square feet of existing campground common spaces, and construction of a 70 square foot gatehouse, 1,020 square foot campground general store, 2,131 square foot registration and office, 4,987 square foot campground café, 1,578 square foot recreational room, and 705 square foot guest services building. Development is proposed within 100 feet of Environmentally Sensitive Habitat Areas, on slopes exceeding 30 percent, and within 750 feet of a known archaeological resource. The Project, as designed and mitigated, includes 33,540 square feet of riparian restoration along the Big Sur River, 40,407 square feet of Redwood Forest understory restoration, 76,661 square feet of redwood forest understory preservation, and 59,357 square feet of native land auction.

Location: The property is located at 47000 Highway 1, Big Sur (Assessor's Parcel Number 419-201-023-000), Big Sur Coast Land Use Plan, Coastal Zone.

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Timeframe: N/A.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist the Monterey County Housing and Community Development (HCD) in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document for this Project.

CDFW is concerned regarding potential impacts to special-status species, including but not limited to, the State listed endangered and federally listed endangered Foothill yellow-legged frog - south coast DPS (*Rana boylei* - pop. 6), the State candidate listed endangered Western bumble bee (*Bombus occidentalis*) and Crotch's bumble bee (*Bombus crotchii*), the State species of special concern black swift (*Cypseloides niger*), and the federally listed Steelhead (*Oncorhynchus mykiss irideus* - pop. 9).

CDFW agrees with the protocol measures presented in the early consultation documents for the California red legged frog (*Rana draytonii*) and encourages the County to ensure the proposed measures are included in the subsequent CEQA document for this Project.

Foothill yellow-legged Frog (*Rana boylei* - pop. 6)

Foothill yellow-legged frog (FYLF) have been documented 0.04 miles from the Project area (CDFW 2023a). FYLF primarily live in streams and require shallow, flowing water in streams and rivers with at least some cobble-sized substrate (Thomson et al. 2016). FYLF populations throughout the State have experienced ongoing and drastic declines and many have been extirpated; historically, FYLF occurred in mountain streams from the San Gabriel River in Los Angeles County to southern Oregon west of the Sierra-Cascade crest (Thomson et al. 2016). Habitat loss from growth of cities and suburbs, invasion of nonnative plants, stream impoundments, water diversions, stream maintenance for flood control, degraded water quality, and introduced predators, such as bullfrogs, are the primary threats to FYLF (Thomson et al. 2016).

If appropriate avoidance and minimization measures are not addressed in the subsequent environmental document for this Project, there may be potentially significant impacts to FYLF that include burrow collapse, inadvertent entrapment, reduced reproductive success, reduction in health and vigor of eggs, larvae and/or young, and direct mortality of individuals. CDFW advises that protocol surveys for FYLF be performed during the biological technical studies completed in support of the CEQA document for this Project and avoidance and minimization measures developed to offset and reduce potential impacts to this species. CDFW advises to follow the survey methods described in pages 16–22 of "A Standardized Protocol for Surveying Aquatic

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Amphibians” (Fellers and Freel 1995). However, please note that dip-netting would constitute take as defined by Fish and Game Code section 86, and so it is recommended this survey technique be avoided. If any life stage of the FYLF (adult, metamorph, larvae, or egg mass) is found, CDFW recommends consulting with CDFW to develop avoidance measures and evaluate permitting needs.

If take cannot be avoided, CDFW recommends acquiring an Incidental Take Permit (ITP) pursuant to Fish and Game Code Section 2081(b), prior to initiating ground-disturbing activities.

Crotch’s Bumble Bee (*Bombus crotchii*)

The early consultation document provided did not include any evaluation for Crotch’s bumblebee (CBB). CBB are known to inhabit areas of grasslands and scrub that contain requisite habitat elements for nesting, such as small mammal burrows and bunch/thatched grasses (Williams et al. 2014, Hatfield et al. 2015). CBB was once common throughout most of central and southern California. However, it now appears to be absent from most of their range (Hatfield et al. 2015). Analyses by the Xerces Society et al. (2018) suggest there have been sharp declines in relative abundance by 98% and persistence by 80% over the last ten years.

CDFW recommends a qualified biologist conduct a habitat assessment to determine if the Project area and the immediate surrounding vicinity contain habitat suitable to support CBB. Potential nesting sites, which include all small mammal burrows, perennial bunch grasses, thatched annual grasses, brush piles, old bird nests, dead trees, and hollow logs would need to be documented as part of the assessment. If potentially suitable habitat is identified, CDFW recommends that a qualified biologist conduct focused surveys for CBB, and their requisite habitat features, following the methodology outlined in the Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species (CDFW 2023b). If CBB needs to be captured or handled as part of the survey effort, please note that a 2081(a) Memorandum of Understanding (MOU) with CDFW will be needed (CDFW 2023b).

If CBB is detected, then CDFW recommends that all small mammal burrows and thatched/bunch grasses be avoided by a minimum buffer of 50 feet to avoid take and potentially significant impacts. If ground-disturbing activities will occur during the overwintering period (October through February), consultation with CDFW is warranted to discuss how to implement Project activities and avoid take. Any detection of CBB prior to or during Project construction warrants consultation with CDFW to discuss how to avoid take.

If take cannot be avoided, CDFW recommends acquiring an ITP pursuant to Fish and Game Code Section 2081(b), prior to initiating ground-disturbing activities.

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Western Bumble Bee (*Bombus occidentalis*)

The early consultation document provided did not include any evaluation for Western bumblebee (WBB). WBB was once commonly found in the western United States, Canada, North Dakota, and throughout Alaska, however, it now appears to be absent from most of these areas as there has been a 93% decline in occupancy in the last two decades. WBB primarily nest in late February through late October underground in abandoned small mammal burrows but may be found under brush piles, in old bird nests, and in dead trees or hollow logs (Williams et al. 2014, Hatfield et al. 2015). Overwintering sites utilized by WBB mated queens include soft, disturbed soil (Goulson 2010), or under leaf litter or other debris (Williams et al. 2014). Therefore, potential ground disturbance and vegetation removal associated with project construction may significantly impact local WBB populations.

CDFW recommends that a qualified biologist conduct focused surveys for WBB and their requisite habitat features using the CDFW survey protocol during their colony active period (highest detection probability) from April to September (CDFW 2023b) as part of the biological technical studies conducted in support of the CEQA document. CDFW recommends that the CEQA document then evaluate impacts resulting from potential ground and vegetation disturbing activities that may result from the Project. If WBB needs to be captured or handled as part of the survey effort, please note that a 2081(a) Memorandum of Understanding (MOU) with CDFW will be needed (CDFW 2023b).

Botanical Surveys

The early consultation documents state that spring flowering surveys were conducted nine times from November 19, 2021, through September 27, 2022. CDFW appreciates the effort to capture a full botanical inventory during a full flowering season. However, the surveys were conducted in a below than average precipitation year, therefore CDFW recommends conducting general plant surveys during an average or higher than average precipitation to ensure the botanical inventory is complete and to maximize the detection of any special status plant species.

State Species of Special Concern

Black swifts (*Cypseloides niger*) have the potential to occur in the Project area. This species has been documented to occur within and surrounding the Project area (CDFW 2023a).

CDFW recommends that the Project have a qualified biologist conduct focused surveys for the applicable species and their requisite habitat features as part of the biological technical studies conducted in support of the tiered CEQA document to evaluate potential impacts resulting from ground and vegetation disturbance.

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Nesting birds

The early consultation documents state that “protective buffer areas around an active bird nest ranges from 75-250 feet, determined at the discretion of the qualified biologist”, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. Due to various factors, such as the location of the nests, the construction activity, and species of bird a varying buffer could affect the active nests. It is recommended to consult CDFW regarding any change to buffers around active nests as changes may impact them and to receive written approval of any proposed reduced buffer distances. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or on-site parental care for survival.

Federally Listed Species

CDFW recommends consulting with the USFWS on potential impacts to federally listed species including, but not limited to Steelhead (*Oncorhynchus mykiss irideus pop. 9*). Take under the Federal Endangered Species Act (FESA) is more broadly defined than CESA; take under FESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS in order to comply with FESA is advised well in advance of any ground disturbing activities.

CNDDDB Limitations

Please note that the CNDDDB is populated by and records voluntary submissions of species detections. As a result, species may be present in locations not depicted in the CNDDDB but where there is suitable habitat and features capable of supporting species. A lack of an occurrence record in the CNDDDB does not mean a species is not present. In order to adequately assess any potential Project-related impacts to biological resources, surveys conducted by a qualified wildlife biologist/botanist during the appropriate survey period(s) and using the appropriate protocol survey methodology are warranted in order to determine whether or not any special status species are present at or near the Project area.

Cumulative Impacts

CDFW recommends that a cumulative impact analysis be conducted for all biological resources that will either be significantly or potentially significantly impacted by implementation of the Project, including those whose impacts are determined to be less than significant with the incorporation of mitigation measures. The analysis should also

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be conducted for those resources that are rare or in poor or declining health and will be impacted by the project, even if those impacts are relatively small (i.e. less than significant). CDFW recommends cumulative impacts be analyzed using an acceptable methodology to evaluate the impacts of past, present, and reasonably foreseeable future projects on resources and be focused specifically on the resource, not the Project. An appropriate resource study area identified and utilized for this analysis is advised. CDFW staff is available for consultation in support of cumulative impacts analyses as a trustee and responsible agency under CEQA.

Lake and Streambed Alteration

The Project may be subject to CDFW's regulatory authority pursuant to Fish and Game Code section 1600 et seq. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake; or (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral or intermittent, as well as those that are perennial in nature.

For additional information on notification requirements, please contact our staff in the Lake and Streambed Alteration Program at (559) 243-4593 or R4LSA@wildlife.ca.gov. It is important to note, CDFW is required to comply with CEQA, as a Responsible Agency, when issuing a Lake or Streambed Alteration Agreement (LSA Agreement). If inadequate or no environmental review has occurred for Project activities that are subject to notification under Fish and Game Code 1602, CDFW will not be able to issue the Final LSA Agreement until CEQA analysis for the Project is complete. This may lead to considerable Project delays.

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, Section 21003, subd. (e)). Accordingly, please report any special status species and natural communities detected during Project surveys to the 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 mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

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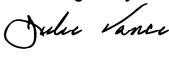
FILING FEES

If it is determined that the Project has the potential to impact biological resources, an assessment of filing fees will be 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, Section 753.5; Fish & G. Code, Section 711.4; Pub. Resources Code, Section 21089).

CDFW appreciates the opportunity to comment on the Project to assist Monterey County Housing and Community Development (HCD) in identifying and mitigating the Project's impacts on biological resources.

More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>). If you have any questions, please contact Evelyn Barajas- Perez, Environmental Scientist, at the address provided on this letterhead, by telephone at (805) 503-5738, or by electronic mail at evelyn.barajas-perez@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Julie A. Vance
Regional Manager

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