

Jan 17 2024

Haggerty, Nicole@Wildlife**STATE CLEARINGHOUSE**

From: Tran, Harvey@Wildlife
Sent: Wednesday, January 17, 2024 11:24 AM
To: CEQA@saccounty.gov
Cc: Wildlife R2 CEQA; Wood, Dylan@Wildlife; Sheya, Tanya@Wildlife; Kilgour, Morgan@Wildlife
Subject: SCH# 2023120700 Upper Dry Creek Interceptor Relief Project PLER2021-00104 MND - CDFW CEQA comments 2023-0474-0000

To Whom It May Concern:

The California Department of Fish and Wildlife (CDFW) received and reviewed the Initial Study/Mitigated Negative Declaration (ISMND) from the County of Sacramento, Sacramento Area Sewer District for the Upper Dry Creek Interceptor Relief Project (Project) pursuant the California Environmental Quality Act (CEQA) statute and guidelines.

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 may also act 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 agreement (LSAA) regulatory authority. (Fish & G. Code, § 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, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

This proposed Project is located in the Antelope/North Highlands area of northwestern Sacramento County. The Project would involve the installation of a relief sewer that would address capacity issues of the existing Dry Creek Interceptor. The proposed relief sewer alignment would begin on Scotland Drive approximately 200 feet north of Angus Way and terminate near the intersection of Elkhorn Boulevard and 28th Street. The proposed relief sewer alignment would follow Scotland Drive south to Tartan Drive, continue south on Tartan Drive, turn west on U Street and then south on 28th Street to Elkhorn Boulevard. The proposed relief sewer alignment would cross Elkhorn Boulevard and discharge into the Upper Northwest Interceptor (UNWI) 5/6, which travels east-west on McClellan Airport property south of Elkhorn Boulevard. Trenchless construction activities, known as tunneling, would be used to install the pipeline beneath the Goat Creek channel at the northern end of the alignment and beneath the intersection of Elkhorn Boulevard and 28th Street at the southern end of the alignment to avoid impacting traffic along this arterial roadway. Open cut trench construction would be used in the other areas within the County's right of way and across an unnamed creek along existing paved road rights-of-way.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the Sacramento Area Sewer District 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 recommends the following items be addressed in the draft CEQA document:

Comment 1: Swainson's Hawk, page 35

The draft MND states that Swainson's hawk (*Buteo swainsoni*) is a candidate for federal listing as threatened or endangered. This statement is not true as Swainson's hawk is not currently a candidate for federal listing.

To address this comment, CDFW recommends the draft ISMND modify the sentence by removing the incorrect portion as shown below:

~~"The Swainson's hawk (*Buteo swainsoni*) is listed as a threatened species by the State of California and is a candidate for federal listing as threatened or endangered."~~

Comment 2: Aquatic resources, page 43

The draft MND states that a Streambed Alteration Agreement would be needed for the work at the Unnamed Creek Drainage Crossing. However, there is no mention of the work at Goat Creek Crossing also needing a Streambed Alteration Agreement. The work at Goat Creek is stated to include tunneling under the channel using auger boring. The entry and exit hole areas are located within the existing paved road rights-of-way. While there is no direct impact to the Goat Creek, there is still the risk of streambed disruption resulting from the tunneling such as tunnel collapse and water seepage, that could obstruct the natural flow of the stream and/or impact the material from the bed, channel or bank of Goat Creek. Due to the associated risk of tunneling underneath an active perennial channel, CDFW recommends that the Project proponent also includes the activity at Goat Creek in their notification for a Streambed Alteration Agreement.

Further information on CDFW's Notification and our online permitting portal can be found at <https://wildlife.ca.gov/Conservation/Environmental-Review/LSA>.

If CDFW determines that the Project activities may substantially adversely affect an existing fish or wildlife resource based on a Project notification under Fish and Game Codes Section 1602, a Lake and Streambed Alteration (LSA) Agreement will be issued which will include reasonable measures necessary to protect the resource. Early consultation with CDFW is recommended, since modification of the Project may avoid or reduce impacts to fish and wildlife resources.

To address this comment, CDFW recommends the draft ISMND modify the sentence by adding Goat Creek Crossing into the relevant paragraph as shown below:

"Section 1600 Lake and Streambed Alteration Agreement for the Goat Creek Crossing and Unnamed Creek Drainage Crossing with approval from the CDFW. CDFW would determine if the project would substantially adversely affect existing fish or wildlife resources and provide measures to protect such resources."

Comment 3: Goat Creek, pages 4 and 43

The draft MND states that both Goat Creek and the Unnamed Creek are dry most of the year which will allow for construction to occur when there is no active flow and the potential for polluted runoff is reduced. However, the draft MND also classifies Goat Creek on pages 9 and 37 as perennial which means that the stream typically has water flowing in it year-round. This is a contradiction, and it brings doubt into the earlier statement that there is reduced runoff at the Goat Creek location because of it being dry most of the year and not having an active flow.

To address this comment, CDFW recommends that relevant sections of draft ISMND be changed to clearly state whether Goat Creek is a perennial creek or is not consistently flowing. When the document states that a creek is dry most of the year, that most likely means the creek has intermittent flows and is not perennial.

Comment 4: MITIGATION MEASURE BIO-1: WESTERN POND TURTLE, page 56

The draft MND has avoidance and minimization measures on western pond turtles which include possible relocation of the turtle. However, the relocation measure lacks details on the methodology (capture and handle methods, predetermined relocations spots, how to handle injured and dead individuals, any data collected on captured/relocated individuals, etc.).

To address this comment, CDFW recommends that the draft ISMND includes a more detailed relocation measure for the western pond turtle which include specific procedures to relocate them if necessary. The additional measure should be incorporated into the appropriate ISMND section(s). An example measure is provided below:

“Western Pond Turtle Relocation Plan. If Project proponent would like to relocate western pond turtle away from the Project area, Project proponent shall prepare a Relocation Plan. The Plan shall include, but not be limited to: (1) a discussion of the species and habitat features; (2) a schedule for survey and monitoring species presence; (3) methods to capture, handle, and relocate individuals or habitat features out of the Project area; (4) names and qualifications of biologists who will handle the species, including the appropriate handling authorizations; (5) specifications for Wildlife Exclusion fencing, if appropriate, which may be installed to exclude the wildlife species from the Project area; (6) details regarding the use of coverboards which will be employed accessory to the exclusion fencing; (7) description and maps of where the salvaged individuals or habitat features will be relocated to; and (8) identification of a wildlife rehabilitation center or veterinary facility where injured individuals of the will be taken. The Plan should also provide Project proponent’s plan to respond to an atypical detection of individual(s), such as being detected under construction vehicles, being detected inside construction materials (pipes), being detected in an uncovered pit, etc. Project proponent shall move wildlife to the nearest suitable habitat outside of the Project area. Project proponent shall maintain a Wildlife Relocation Record that includes, at a minimum: the date of capture and of relocation; the method of capture, location of relocation in relation to the Project area; and the number, age-class and species captured and relocated. The Wildlife Relocation Record shall also quantify the number and species of Project- and relocation-related mortality.”

Comment 5: MITIGATION MEASURE BIO-3: PRE-CONSTRUCTION NESTING RAPTOR AND BIRD SURVEYS, page 58

The draft MND has a mitigation measure for nesting birds that states that a preconstruction survey will be conducted migratory birds no sooner than seven (7) days prior to any ground disturbance or other construction activities. However, no other details on how the survey will be conducted are provided, like how far the qualified biologist would survey around the Project area. CDFW recommends that the Project proponent survey within 500 feet for the Project area for migratory birds and 1/2 mile for raptors.

To address this comment, CDFW recommends the draft ISMND modify the Mitigation Measure BIO-3 measure to include more details on the survey methodology. An example measure is provided below:

“Nesting Bird Survey. If Project-related activities are scheduled between February 1 to August 31 (the typical nesting season), a focused survey for nests shall be conducted by a qualified biologist no greater than seven (7) calendar days prior to the beginning of Project-related activities. The qualified biologist shall survey a minimum radius of 500-foot (for migratory birds) and 1/2-mile (for raptors) around the Project area that can be accessed by Project proponent. If no active nests are found, Project activities may proceed as scheduled.

Active Nests. If an active nest is found, active nests should be avoided, and a no disturbance or destruction buffer shall be determined and established by a qualified biologist. The buffer shall be kept in place until after the breeding nesting season or the qualified confirms the young have fledged, are foraging independently, and the nest is no longer active for the season. The extent of these buffers shall be determined by the qualified 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.

Project Delay. If a lapse in Project-related work of seven (7) calendar days or longer occurs, the qualified biologist shall complete another focused survey before Project work can be reinitiated.

Project Proponent Responsibility. 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.”

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 the California Natural Diversity Database (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 impact on fish and/or wildlife, and assessment of filing fees is 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, § 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 ISMND for the Upper Dry Creek Interceptor Relief Project to assist the Sacramento Area Sewer District 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 email or further coordination should be directed to Harvey Tran, Senior Environmental Scientist (Specialist) at (916) 358-4035 or harvey.tran@wildlife.ca.gov.

Thank you.

Harvey Tran

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