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From: Tran, Harvey@Wildlife
Sent: Tuesday, February 6, 2024 1:09 PM
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Cc: Wildlife R2 CEQA; Wood, Dylan@Wildlife; Sheya, Tanya@Wildlife; Kilgour, Morgan@Wildlife
Subject: SCH# 2024010313 - PLER2020-00110 Dry Creek Trail Phase II MND - CDFW CEQA comments 2024-0014-0000

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 County Regional Parks Department for the Dry Creek Trail Phase II (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 along Dry Creek in Rio Linda, Elverta, and Antelope areas of northern Sacramento County near the border with Placer County. The Project would involve the installation of two new trail segments, at the north and south ends, respectively, of the existing Dry Creek Parkway Trail. The northern segment would include construction of approximately 2.6 miles of paved Class I multi-use trail, stretching from the Cherry Island Sports Complex at 28th and U streets northward to the Placer County line in Gibson Ranch Park. The southern segment would include construction of 0.7 mile of paved Class I multi-use trail connecting the Sacramento Northern Bikeway Trail to the existing Dry Creek Bikeway Trail along Dry Creek Road. An equestrian trail runs parallel for the entirety of the segments. The proposed Project also includes crossing signals and roadway striping, signage, along with construction of bridges over Dry Creek and one over an unnamed tributary.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the Sacramento County Regional Parks Department 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: Stream, Wetlands, and Other Waters – Project Impacts, page IS-62

The draft MND states that a Streambed Alteration Agreement would be needed for “impacts on the banks of Dry Creek and the Dry Creek overflow channel caused by installation of pedestrian bridge crossings”. However, there is no mention of the culvert installations also needing a Streambed Alteration Agreement. Culverts were stated in the Project description to be installed in Dry Creek tributaries, such as Goat Creek and the unnamed tributary north of Northbrook Park. The culvert work could obstruct the natural flow of the stream, impact the material from the bed, channel or bank, and/or fill entering the tributaries. CDFW recommends that the Project proponent also includes the various culvert installation activities at the tributaries 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 culvert installations in the tributaries into the relevant paragraph as shown below:

“Compliance with this code would reduce impacts on the banks of Dry Creek, ~~and the Dry Creek overflow channel, and their tributaries~~ caused by installation of pedestrian bridge crossings and culverts.”

Comment 2: Mitigation Measure F: Sanford’s Arrowhead, page IS-120

The draft ISMND includes a mitigation measure to conduct a botanical survey for Sanford's arrowhead/valley arrowhead (*Sagittaria sanfordii*) which is California Native Plant Society ranked 1B.2 and has high potential to occur in the Project area due to being present nearby the Project area in Goat Creek. Besides stating that the survey will be done one year prior to construction, the measure lacks details on how survey will be done and what protective actions will be taken to protect the plant species.

To address this comment, CDFW recommends that the draft ISMND includes a plant survey measure in the Mitigation Measures to survey the Project area before construction commences to confirm the presence and absence of valley arrowhead. The additional measure should be incorporated into the appropriate ISMND section(s). An example measure is provided below:

“Rare Plant Survey. If suitable habitat is present, a one-time pre-construction plant survey for Sanford’s arrowhead (*Sagittaria sanfordii*) or other special-status plant species with the potential to be impacted by Project activities shall be conducted in accordance with “Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW, March 20, 2018).” If any special-status plant species are present and will be affected by the Project, adequate avoidance measures shall be incorporated into the Project. If special-status plant species cannot be avoided, suitable species-specific mitigation must be developed in consultation with CDFW, which may include a combination of on-site and off-site plant preservation and compensation measures.”

Comment 3: Mitigation Measure G: Western Pond Turtle, pages IS-120 and 121

The draft MND has avoidance and minimization measures on western pond turtles but does not include possible relocation of the turtle as an option. CDFW recommends the relocation of the western pond turtles as one of the avoidance and minimization measures if the other measures failed to prompt western pond turtle to leave the Project area safely under its own volition. The relocation method should include 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 4: Mitigation Measure L: White-tailed Kite, page IS-124

The draft MND states that preconstruction surveys for the white-tailed kite (WTKI) will be conducted on potential nesting trees within 1000 feet of the Project area. However, no other details were provided. CDFW deems the survey information insufficient because the survey buffer is too small, it does not state exactly when the survey will be conducted, and the no disturbance buffer distance is not defined and up to the discretion of the contractors.

To address this comment, CDFW recommends that the draft ISMND includes a more detailed measure for the WTKI which include a larger survey range, a stated date when the survey will be conducted before construction commences, and a defined no disturbance buffer distance suitable for its status as a state Fully Protected Species. The additional measure should be incorporated into the appropriate ISMND section(s). An example measure is provided below:

“White-tailed Kite (WTKI) Survey and Buffer. If suitable nesting habitat or wintering habitat features are present for WTKI on or within 1/4-mile of the Project area, a qualified biologist des shall conduct surveys within 1/4-mile of the Project area no more than seven (7) calendar days prior to the start of Project activities during the nesting season (February 1 – August 31). Surveys shall be done during the appropriate time of day to maximize detectability and shall concentrate on suitable nesting structures for the species. If an active nest is discovered during the survey or during construction, Permittee shall establish a minimum 1/4-mile no disturbance buffer around active nests until the nesting season has ended or until the qualified Biologist determines that all young have fledged and are no longer reliant upon the nest or parental care for survival. Permittee shall halt any Project activities that could affect the foraging or feeding behavior of WTKI.”

Comment 5: Mitigation Measure M: Nesting Birds, page IS-124

The draft MND has a mitigation measure for nesting birds that states that a preconstruction survey will be conducted for migratory birds no sooner than seven (7) days prior to any ground disturbance or other construction activities within 300 feet of the project area. No disturbance buffers around active nests will be set at 100 feet and potentially reduced depending on field conditions. CDFW believes that survey range distance of 300 feet is insufficient to adequately detect many raptors who have larger nesting and foraging ranges. CDFW recommends that the Project proponent survey within 500 feet for the Project area for migratory birds and 1/2 mile for raptors. In addition, CDFW recommends that a qualified biologist also be permitted to increase the no disturbance buffers if

construction activities are found to be too disrupting to the nesting birds, and not just allowed to decrease the buffers.

To address this comment, CDFW recommends the draft ISMND modify the Mitigation Measure M 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.”

Comment 6: Mitigation Measure O: Special Status Fish Rescue Plan, page IS-125

The draft ISMND includes a mitigation measure to rescue fish trapped by cofferdams during construction. However, the 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 rescue measure for the fish before construction commences to confirm procedures to rescue them if necessary. The additional measure should be incorporated into the appropriate ISMND section(s). An example measure is provided below:

“Fish Rescue Plan. If Project proponent would like to relocate fish species trapped in the cofferdams away from the Project area, Project proponent shall prepare a Rescue 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; and (5) description and maps of where the salvaged individuals or habitat features will be relocated to. The Plan should also provide Project proponent’s plan to respond to an atypical detection of individual(s), such as being detected inside construction materials (pipes), being detected in an uncovered pit, etc. Project proponent shall move fish to the nearest appropriate site 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 7: Mitigation Measure P: Riparian Habitat Restoration, page IS-126

The draft MND states that riparian habitat restoration used as mitigation (tree plantings) “shall be monitored, cared for, and maintained for the three-year establishment period from the date of planting.” CDFW recommends that the Project proponent increase the monitoring and maintenance period to five years three years is often not sufficient to ensure that the mitigation plantings will survive after monitoring and maintenance activities have ceased. CDFW generally recommends at least five years of monitoring and maintenance, and three years of supplemental irrigation to ensure that the mitigation plantings can survive independently.

To address this comment, CDFW recommends that the draft ISMND change the monitoring and maintenance period from three years to five years into the relevant paragraph as shown below:

“Tree plantings shall be monitored, cared for, and maintained for the ~~three~~ five-year establishment period from the date of planting.”

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 Dry Creek Trail Phase II Project to assist the Sacramento County Regional Parks Department 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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