

May 13 2024

Haggerty, Nicole@Wildlife

STATE CLEARINGHOUSE

From: Tran, Harvey@Wildlife
Sent: Friday, May 10, 2024 5:04 PM
To: msadiq@elkgrovecity.org
Cc: Wildlife R2 CEQA; Wood, Dylan@Wildlife; Sheya, Tanya@Wildlife; Kilgour, Morgan@Wildlife
Subject: SCH #2024040605 - Laguna Creek Trail and Bruceville Road Sidewalk Improvements Project - 2024-0119-0000

Hi Mohammad Sadiq:

The California Department of Fish and Wildlife (CDFW) received and reviewed the draft Initial Study/Mitigated Negative Declaration (ISMND) from the City of Elk Grove for the Laguna Creek Trail and Bruceville Road Sidewalk Improvements 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 approximately 0.5 mile west of State Route 99 (SR-99) and approximately 3 miles east of Interstate 5 in the area of Bruceville Road and Big Horn Boulevard in Elk Grove, California. The Project would involve two segments (0.94 mile) of new asphalt trail (Class I Bikeway) with decomposed granite shoulders, new sidewalks, signs, striping, and pavement markings. The primary trail extension is proposed from Bruceville Road adjacent and parallel to Big Horn Boulevard (approximately 0.16 mile). This trail segment would cross at-grade with Bruceville Road at an existing signal-controlled crosswalk. Additional trail gap closures between Bruceville Road, Mannington Street, and Center Parkway would complete connections to existing trails that extend further north and west into the City of Sacramento, thereby linking thousands of residents to an interconnected trail system between two cities and multiple neighborhoods alike. Sidewalk improvements would be constructed along Bruceville Road between Big Horn Boulevard and Center Parkway (approximately 0.3 mile) and between Laguna Boulevard and Di Lusso Drive (approximately 0.04 mile). Due to high vehicular right-turn volumes, the proposed Project would also include a 300-foot-long vehicular right-turn lane from southbound Bruceville Road to westbound Big Horn Boulevard for added bicycle safety.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the city of Elk Grove 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: BIOL-24 White-tailed Kite, pages 53-54

The draft MND states that preconstruction surveys for the white-tailed kite (WTKI) will be conducted in Project site 14 days and 3 days prior to the start of Project activities. The draft MND further states that if any active white-tailed kite nests are identified during the pre-construction survey within the Project site, then a qualified biologist shall establish 250-foot buffer zone around the nests. However, no other details were provided. CDFW deems the survey information insufficient because no survey distance from the Project site was provided and the no disturbance buffer distance will likely not be sufficient for avoiding take of WTKI, a California Fully Protected Species.

To address this comment, CDFW recommends that the City revises the draft MND to include a more detailed measure for the WTKI which includes a survey range and a larger defined no disturbance buffer distance that will ensure full avoidance of take of the 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 site, a qualified biologist shall conduct surveys within 1/4-mile of the Project area within 14 days and again within 3 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 to start 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. The nest buffer should be assessed for effectiveness and may require increase (or decrease) in size depending on the birds' tolerance level to the disturbance. It is the Project proponent's responsibility to confirm the buffer is sufficient to avoid take/nest failure.”

Comment 2: BIOL-27 Nesting Bird and Raptor Survey and Buffer, page 54

The draft MND states that avoidance and minimization measures for both non-listed migratory birds and raptors with fourteen (14) days survey windows before construction, 300 feet no disturbance buffer for raptors, and 75 feet no disturbance buffer for migratory birds. No survey distance from the Project site was provided. CDFW recommends more robust measures for migratory birds and raptors to ensure impacts can be mitigated to a level of less than significant. CDFW recommends larger survey buffers of 500 feet for migratory birds and 0.5 mile for raptors to fully capture all potential nesting activity. CDFW also recommends no more than seven (7) days before construction commences due to some bird species being able to build a nest within that time window. In addition, CDFW recommends that the no disturbance buffers for the migratory birds and raptors are determined in consultation with a qualified biologist and such buffers shall be of sufficient to avoid take. The nest buffer should be assessed for effectiveness and may require increase (or decrease) in size depending on the birds' tolerance level to the disturbance.

To address this comment, CDFW recommends Project proponent modify the avoidance and minimization measures in the Mitigation Measures section. Project-specific avoidance and minimization measures may include, but not be limited to: Project phasing and timing, monitoring of Project-related noise (where applicable), sound walls, visual barriers, and buffers, where appropriate. The draft MND should also include appropriate preconstruction surveys for non-listed migratory birds at a minimum radius of 500-feet (for migratory birds) and 1/2-mile (for raptors) around the Project site that can be accessed by Project proponent during the nesting season (February 1 – August 31). The draft MND should also include specific avoidance and minimization measures that

will be implemented should a nest be located within the Project site. One example is nest buffer radius which can be determined by monitoring the active nests and determining the distance that activities will disturb the nesting birds. CDFW recommends all measures to protect non-listed nesting birds should be performance-based. While some birds may tolerate disturbance within 500 feet of construction activities, other birds may have a different disturbance threshold and “take” could occur if the temporary disturbance buffers are not designed to reduce stress to that individual pair. CDFW recommends including performance-based protection measures for avoiding all nests protected under the Migratory Bird Treaty Act and Fish & G. Code. A 500-foot exclusion buffer may be sufficient; however, that buffer may need to be increased based on the birds’ tolerance level to the disturbance. It is the Project proponent's responsibility to confirm the buffer is sufficient to avoid take/nest failure. CDFW recommends a final preconstruction survey be required no more than seven (7) calendar days prior to the start of vegetation clearing or ground disturbance activities, as instances of nesting could be missed in earlier surveys. Monitoring of potential nesting activities in the Project site should continue, at a minimum, until the end of the avian nesting season (September 1). 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 activities can be reinitiated. 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 Laguna Creek Trail and Bruceville Road Sidewalk Improvements Project to assist the City of Elk Grove 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

Senior Environmental Scientist (Specialist)
California Department of Fish and Wildlife
Region 2 - North Central Region
Habitat Conservation Program

(916) 358-4035