

## Haggerty, Nicole@Wildlife

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**From:** Oswalt, Caitlyn@Wildlife  
**Sent:** Wednesday, June 26, 2024 3:47 PM  
**To:** tyler.barrington@nevadacountyca.gov  
**Cc:** Wildlife R2 CEQA; Wilson, Billie@Wildlife; Sheya, Tanya@Wildlife; Kilgour, Morgan@Wildlife  
**Subject:** CEQA Comments for PLN23-0085 Wolf Craft Collective IS/MND SCH# 2024051366

Dear Tyler Barrington,

The California Department of Fish and Wildlife (CDFW) received and reviewed the Initial Study/Mitigated Negative Declaration (IS/MND) from Nevada County Planning Department for the Wolf Craft Collective (Project) in Nevada County pursuant to the California Environmental Quality Act (CEQA) statute and guidelines.

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish, wildlife, plants and their habitats. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may need to exercise its own regulatory authority under the Fish and Game Code (Fish & G. Code).

### **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 is also submitting comments 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 regulatory authority. (Fish & G. Code, § 1600 et seq.) CDFW also administers the Native Plant Protection Act, Natural Community Conservation Act, and other provisions of the Fish and Game Code that afford protection to California's fish and wildlife resources.

### **PROJECT DESCRIPTION SUMMARY**

The Project site is located at 10734 Wolf Road, Grass Valley, CA in southern Nevada County, approximately ½ mile west of Highway 49 and Combie Road APN: 057-030-011.

The project consists of the construction of a low-intensity camp and community meeting and social event facility. The objectives of the project are to provide workshops on craft skills such as woodworking, metalsmithing, fiber crafts, and ceramics along with overnight accommodations, food services, administrative space and retail to serve participants of the workshops for up to 40 guests. Additionally, the project seeks to act as a venue for community meetings and social events such as weddings up to twice per month for up to 150 guests. The project site also includes residential and agricultural uses.

### **COMMENTS AND RECOMMENDATIONS**

CDFW offers the comments and recommendations below to assist the Nevada County Planning 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.

## COMMENTS

### COMMENT 1: Impacts to Western Pond Turtle (*Emys Marmorata*)

**Issue:** The Project Site is located near Wolf Creek which has known occurrences of western pond turtle. The IS/MND does not fully evaluate project impacts for western pond turtle. The IS/MND states there is no suitable habitat onsite. However, the ponds located east of the proposed cabins and driveway as indicated in Figure 2, on page 206, show connectivity to Wolf Creek.

Per CDFW's recommendations below, a Qualified Biologist is defined as a person who is knowledgeable and experienced in the biology, life stages, natural history, and identification of local fish and wildlife resources present at the Project Site.

**Recommendation:** CDFW recommends the following language be added as a mitigation measure to the IS/MND to clarify survey details and minimize impacts to western pond turtle. Prior to ground-disturbing activities near the NID spillway or adjacent ponds, a Qualified Biologist should survey the Project Site where suitable habitat (including nest sites) occurs for western pond turtle. Surveys shall be performed within 30 days prior to starting Project activities and should be performed within a minimum of 500 feet upstream and downstream of the Project activity where accessible. If detected during surveys, a site-specific avoidance, minimization, and/or relocation plan should be prepared and implemented by a Qualified Biologist. The plan should include daily construction monitoring. The plan shall be submitted to CDFW.

### Comment 2: Nesting Birds

#### *Mitigation Measure 4C: Bird Survey*

**Issue:** The proposed Project involves grading, vegetation trimming, and clearing. Trimming or removal of trees and riparian understory associated with Project activities could result in significant habitat loss for a variety of bird species. The significance of the impact of habitat clearing is not reduced by virtue of the abundance of similar or equivalent adjacent habitat to the Project Site; vegetation trimming and clearing may reduce available habitat for wildlife and, potentially, for special-status species which may use these forest stands. Sections 3503, 3503.5, and 3513 of the Fish and Game Code protect nesting and migratory birds and birds of prey. Section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by the Fish and Game Code or any regulation made pursuant thereto. Section 3503.5 states that it is unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by the Fish and Game Code or any regulation adopted pursuant thereto. Section 3513 states that it is unlawful to take or possess any migratory nongame bird as designated in the federal Migratory Bird Treaty Act.

**Recommendation:** CDFW recommends that nesting bird surveys be conducted if project activities are scheduled to occur between *February 1 and August 31*, to fully encapsulate the potential nesting season. The survey should take place no more than 15 calendar days prior to ground disturbing activities. CDFW typically recommends a minimum of a 500-foot radius for migrating birds, and a ½ mile radius for nesting raptors. If any special-status species are encountered during project activities, work should be suspended, CDFW notified, and conservation measures should be developed in agreement with CDFW prior to re-initiating the activity. Conversely, if during project activities, any species listed pursuant to the CESA are encountered, work shall be suspended, and CDFW notified. Work may not re-initiate until the Project proponent has consulted with CDFW and can demonstrate compliance with CESA.

Please note that the MBTA and Fish & G. Code apply regardless of the time of year. Therefore, if an active nest is discovered outside of the typical nesting season, it should be avoided using the same avoidance measures that would be applied during the typical nesting season until such time as the young have fully fledged and are foraging independently of their parents.

### **Comment 3: Moving out of Harm's Way.**

**Issue:** The proposed Project activities could result in both direct or indirect mortality of wildlife.

**Recommendation:** To avoid direct mortality, the Nevada County Planning Department should state in the IS/MND a requirement for a Designated Biologist be retained to be onsite prior to and during all ground- and habitat-disturbing activities that have the possibility to cause harm to wildlife species. Furthermore, the IS/MND should describe that the Designated Biologist with the proper permits may move out of harm's way special-status species or other wildlife of low or limited mobility that would otherwise be injured or killed from Project-related activities, as needed. The IS/MND should also describe Designated Biologist qualifications and authorities to stop work to prevent direct mortality of special-status species. CDFW recommends fish and wildlife species be allowed to move out of harm's way on their own volition, if possible, and to assist their relocation as a last resort. It should be noted that the temporary relocation of onsite wildlife does not constitute effective mitigation for habitat loss.

### **COMMENT 4: Notification for Lake and Streambed Alteration Agreement**

*Mitigation Measure 4A: Watercourse and Riparian Area Best Management Practices*

**Issue:** The NID spillway passes directly through the project area, as well as, there is proposed disturbance adjacent to the existing pond within the southern section of the parcel, proposed stream crossings, and potential impacts to riparian zones adjacent to drainages. This includes grading throughout the project site and bridge crossing footings to be on located along the pond's edge. Please note, pursuant to Section 1602 of the Fish and Game Code, Notification is required for any activity that may do one or more of the following:

- a. Substantially divert or obstruct the natural flow of any river, stream, or lake;
- b. Substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or
- c. Deposit debris, waste, or other materials where it may pass into any river, stream, or lake.

Please note that "any river, stream or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a body of water. Upon receipt of a complete notification, CDFW will determine if the Project activities may substantially adversely affect existing fish and wildlife resources and whether a Lake and Streambed Alteration (LSA) Agreement is required. An LSA Agreement will include measures necessary to protect existing fish and wildlife resources. CDFW's issuance of an LSA Agreement is a "project" subject to CEQA (see Pub. Resources Code 21065). To facilitate issuance of an LSA Agreement, the Initial Study should fully identify the potential impacts to the lake, stream, or riparian resources, and provide adequate avoidance, minimization, mitigation, and monitoring and reporting commitments.

**Recommendation:** CDFW recommends that the Proponent notify pursuant to Section 1602 of the Fish and Game Code as early as possible.

## **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 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](mailto:CNDDDB@wildlife.ca.gov).

## **FILING FEES**

The Project, as proposed, would have an effect on fish and wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Nevada County Planning Department 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 emailed to: California Department of Fish and Wildlife North Central Region, [R2CEQA@wildlife.ca.gov](mailto:R2CEQA@wildlife.ca.gov).

CDFW appreciates the opportunity to comment on the Initial Consultation to assist 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 letter or further coordination should be directed to Caitlyn Oswald, Environmental Scientist at (916) 358-4315 or [caitlyn.oswalt@wildlife.ca.gov](mailto:caitlyn.oswalt@wildlife.ca.gov).

Thanks,

***Caitlyn Oswald***

(She/Her)

Environmental Scientist | 916.358.4315

North Central Region – Region 2

1701 Nimbus Road, Rancho Cordova

California Department of Fish and Wildlife