



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Northern Region
601 Locust Street
Redding, CA 96001
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



October 24, 2024

Patrick Flynn
Environmental Compliance Specialist
Trinity County Community Development Department
530 Main Street P.O. Box 2819
Weaverville, CA 96093
pflynn@trinitycounty.org

**SUBJECT: REVIEW OF BURNT RANCH ESTATES COMMUNITY WATER SYSTEM
IMPROVEMENT PROJECT, TRINITY COUNTY, STATE CLEARINGHOUSE
NUMBER: 2024091161**

Dear Patrick Flynn:

The California Department of Fish and Wildlife (CDFW) has reviewed the Initial Study and Mitigated Negative Declaration (ISMND), dated April 2024, for the above-referenced project (Project). CDFW appreciates this opportunity to comment on the Project, pursuant to the California Environmental Quality Act (CEQA) Guidelines¹.

CDFW's 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 and G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its Trustee Agency capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (Id., § 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, § 21069; CEQA Guidelines, § 15381). CDFW expects that it

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.

Patrick Flynn, Environmental Compliance Specialist
Trinity County Community Development Department
October 24, 2024
Page 2

may need to exercise regulatory authority as provided by the Fish and Game Code. 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 and G. Code, § 2050 et seq.) or state listed rare plants pursuant to the Native Plant Protection Act (NPPA; Fish and G. Code § 1900 et seq.), authorization as provided by the applicable Fish and Game Code may be required.

Project Description:

The Project, as described in the ISMND, is as follows:

The proposed Burnt Ranch Estates Community Water System Improvement Project includes the replacement of existing water tanks with new 80,000-gallon and 40,000-gallon steel water tanks at two locations, replacement of all water distribution lines, replacement of all wharf hydrants, replacement of all water meters, replacement of a slow-sand filtration tank and replacement of plastic water tanks on Pony Express Way in Trinity County. Initial construction of the Project is anticipated to last approximately twelve months, beginning in 2024 or early 2025, and ending late 2025 or early 2026, depending on approval timelines.

Comments and Recommendations

CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (i.e., biological resources). CDFW offers the comments and recommendations below to assist the Lead Agency 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. The MND has not adequately identified and disclosed the Project's impacts (i.e., direct, indirect, and cumulative) to biological resources and whether those impacts are less than significant.

Nesting Birds

Conditions within and adjacent to the Project area are suitable for nesting birds. The ISMND does not discuss potentially significant impacts to nesting birds or ensure that impacts are reduced to a level less than significant through the implementation of avoidance, minimization or mitigation measures. Page 29 of the ISMND states that "*The Action Area will remove up to 10 large trees in order to establish a defensible space against wildfire*", and based on the discussion

Patrick Flynn, Environmental Compliance Specialist
Trinity County Community Development Department
October 24, 2024
Page 3

of Project activities, noise and/or visual disturbances may exceed ambient conditions, which has the potential to impact nesting birds. It is the Project proponent's responsibility to comply with all applicable laws related to nesting birds and birds of prey. Fish and Game Code sections 3503, 3503.5, and 3513 afford protective measures as follows: 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 Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3503.5 makes it 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 Fish and Game Code or any regulation adopted pursuant thereto. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.).

CDFW recommends including the following measures into the ISMND to adequately reduce potentially significant impacts to nesting birds:

To avoid impacts on all nesting birds and/or raptors protected under Fish & Game Code Sections 3503 and 3503.5 and the federal Migratory Bird Treaty Act, one of the following should be implemented:

- a) Vegetation removal and other ground-disturbing activities should occur between September 1 and January 31, when birds are not anticipated to be nesting; or
- b) If vegetation removal or ground disturbing activities occur during the nesting season, a pre-construction nesting bird survey should be conducted by a qualified biologist to identify active nests in and adjacent to the Project area.

Surveys should begin prior to sunrise and continue until vegetation and nests have been sufficiently observed. The survey should consider acoustic impacts and line of sight Project disturbances to determine a sufficient survey radius to maximize observations of nesting birds. A nesting bird survey report should be prepared and, at a minimum, the report should include a description of the area surveyed, date and time of the survey, ambient conditions, bird species observed, a description of any active nests observed, any evidence of breeding behaviors (e.g., courtship, carrying nest materials or food, etc.), and

Patrick Flynn, Environmental Compliance Specialist
Trinity County Community Development Department
October 24, 2024
Page 4

a description of any outstanding conditions that may have impacted the survey results (e.g., weather conditions, excess noise, presence of predators).

If an active nest is located during pre-construction surveys, a non-disturbance buffer should be established around the nest by a qualified biologist in consultation with CDFW and U.S. Fish and Wildlife Service to comply with Fish & Game Code Sections 3503 and 3503.5 and the Migratory Bird Treaty Act. Compliance measures may include, but are not limited to, exclusion buffers, sound-attenuation measures, seasonal work closures based on the known biology and life history of the species identified during the survey, as well as ongoing monitoring by biologists.

Nesting bird surveys should be conducted no more than one week prior to the initiation of construction. If construction activities are delayed or suspended for more than one week after the pre-construction nesting bird survey, the site should be resurveyed.

Treated Water

Municipal water supplies often treat drinking water with chlorine to kill pathogens, but this chemical can be toxic to fish and wildlife, even in low residual concentrations. Emptying existing storage tanks, water mains, and laterals poses a risk of contamination to nearby natural streams and wetlands. To mitigate the risk of treated water entering state waters during the replacement of the water system, it is essential for the Lead Agency to condition measures that safeguard against this potential impact. CDFW recommends the formulation of a comprehensive plan that includes a thorough assessment of potential entry points for treated water, a detailed contingency plan for safely managing the emptying process, the use of temporary storage solutions to hold treated water until it can be safely disposed of, and/or the use of dechlorination agents before discharge. This plan should be included in the ISMND and highlight how the methods employed will avoid and minimize this Projects impacts to fish, wildlife, and waters of the state.

Submitting Data

CEQA requires that information developed in environmental documents be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Public Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural

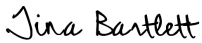
Patrick Flynn, Environmental Compliance Specialist
Trinity County Community Development Department
October 24, 2024
Page 5

communities detected during this Project's surveys to the CNDDDB. For additional information about submitting data, please see [Submitting Data to the CNDDDB²](#).

Conclusion

CDFW staff appreciate the opportunity to comment on the ISMND to assist the Lead Agency in identifying and mitigating Project impacts on biological resources. If you have any questions, please contact Erika Iacona, Senior Environmental Scientist (Specialist) by email at R1CEQARedding@wildlife.ca.gov.

Sincerely,

DocuSigned by:

1D82ADE7303A474...

Tina Bartlett, Regional Manager
Northern Region

cc: State Clearing House
State.Clearinghouse@opr.ca.gov

Erika Iacona
California Department of Fish and Wildlife
R1CEQARedding@wildlife.ca.gov

² <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>