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From: Hosea, Robert@Wildlife
Sent: Wednesday, October 9, 2024 10:15 AM
To: Evenson, Cassandra@DWR
Cc: Wildlife R2 CEQA; Boyd, Ian@Wildlife; Sheya, Tanya@Wildlife; Kilgour, Morgan@Wildlife
Subject: Comments for IS-MND for DWR-Oroville Facilities Enterprise Recreation Area Upgrades-SCH-20240916

Dear Cassandra Evenson:

The California Department of Fish and Wildlife (CDFW) received and reviewed the Notice of Intent to Adopt an MND from California Department of Water Resources (DWR) for the Oroville Facilities Enterprise Recreation Area Upgrades (Project) pursuant the California Environmental Quality Act (CEQA) statute and guidelines.^[1]

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish, wildlife, native plants, and their habitat. 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.

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 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

The Project site is located at Lake Oroville, in the County of Butte, State of California; Latitude 39.540935° North, Longitude 121.358377° West.

The Project consists of carrying out "cut and fill" operations within the project footprint followed by pouring a concrete extension to the existing public boat launch ramp, construction of an ancillary

access road, construction of a secondary, concrete, “low water”, vehicle and boat trailer parking lot and construction of a new concrete “low water” boat launch ramp. In addition, the Project will include upgrades and installation of ancillary features above the Ordinary High-Water Mark (OHWM) at the existing boat launch area. These include installation of a new parking kiosk, upgraded restroom facilities, a new walking and picnic area, restriping of the existing parking lot and installation of parking signposts.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist DWR in adequately identifying and, where appropriate, mitigating the Project’s significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Based on the Project's avoidance of significant impacts on biological resources with implementation of mitigation measures, CDFW concludes that a Mitigated Negative Declaration is appropriate for the Project.

COMMENT 1: Anticipated Regulatory Permits and Approvals, Section 2.4, page 2-2

Issue: The proposed project will involve work that will significantly impact the bed of Lake Oroville through the proposed cut and fill activities as well as the extension of the existing boat launch ramp and the creation of a low-water boat launch ramp and vehicle parking lot.

Recommendation: CDFW recommends that DWR submit a Notification of Lake Alteration for the Project to CDFW as identified in section 1602 of the Fish and Game Code.

COMMENT 2: Potential Impacts to Special-Status Plant Species, Section 3.4 Biological Resources, page 3-12

Issue: The proposed project will involve significant ground disturbance activities that could result in the crushing or removal of special-status plant species that may be present within the project area in the event that that lake water levels remain below the OHWM for multiple years due to a return of drought conditions.

Recommendation: **CDFW recommends that a CDFW approved Designated Biologist conduct protocol level special-status plant surveys prior to the start of ground disturbance activities.** CDFW recommends assessments and surveys for rare plants and sensitive natural communities follow CDFW's 2018 *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities*. **If special-status plant species are detected during surveys within the work area or could be affected by Project activities, CDFW recommends the Designated Biologist establish an appropriate “no disturbance” buffer area around the population until the plant(s) have completed their annual life cycle and undergone seed dispersal.** If special-status plants have the potential to be directly impacted from Project activities and avoidance is not feasible, the MND should include the development of a conservation/relocation plan for the plant species that can be reviewed and coordinated with CNPS and CDFW.

COMMENT 3: Potential Impacts to Nesting Neo-Tropical Migratory Songbirds, Section 3.4 Biological Resources, page 3-13

Issue: Potential impacts to ground nesting species of Neo-tropical migratory songbirds as a result of initiating construction activities during the typical nesting season (February 15th – August 31st).

Recommendation: CDFW recommends that a CDFW approved Designated Biologist conduct appropriate nesting bird surveys no more than five (5) calendar days prior to the start of ground disturbance activities within the project area. Appropriate “no disturbance” buffer areas should be established around any identified nests by the Designated Biologist in coordination with CDFW and remain in place until the young have fledged from the nest and it is no longer active.

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 MND for the Oroville Facilities Enterprise Recreation Area Upgrades to assist DWR 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 Robert Hosea, Environmental Scientist at (530) 708-1199 or robert.hosea@wildlife.ca.gov.

^[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.