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From: Morford, Samantha@Wildlife
Sent: Monday, October 28, 2024 3:00 PM
To: Cook, Laura@DOT
Cc: Stanfield, Melissa@Wildlife; Sheya, Tanya@Wildlife; Kilgour, Morgan@Wildlife; Wildlife R2 CEQA
Subject: CDFW Comments on the MND for the Alpine County State Route 4 Drainage System Restoration Project (SCH No. 2024091083)

Dear Laura Cook:

The California Department of Fish and Wildlife (CDFW) received and reviewed the Notice of Intent to Adopt a Mitigated Negative Declaration (MND) from the California Department of Transportation (Caltrans) for the Alpine County State Route (SR) 4 Drainage System Restoration Project (Project) 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, 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 in Alpine County at 30 culvert locations on SR 4 between post mile (PM) 2.12 and 30.37 and on SR 207 between PM 0.38 and 1.19. The northernmost culvert location (PM 30.37) is approximately 6 miles southeast of Markleeville, California.

The Project consists of the rehabilitation of existing drainage systems at 30 locations on SR 4 and 207. Existing drainage systems at proposed locations have exceeded their design life and have deteriorated or failed. The proposed Project work includes replacing or upgrading existing culverts, end treatments and headwalls as needed. The culverts will be replaced by the same size or larger culverts determined by hydraulics requirements. The culverts will be replaced using the cut and cover method or the jack and bore method. The Project will include the installation of rock slope protection (RSP) at twelve (12) culvert locations. A temporary clear water diversion system is expected to be required at four (4) of the culvert locations. Tree and brush removal may be required for work access.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist Caltrans in adequately identifying and, where appropriate, mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

COMMENT 1: *Chapter 2.14 Biological Resources, Pages 19 - 27*

Issue: The MND does not disclose or adequately analyze potentially significant Project impacts to fisher (*Pekania pennanti*) that may occur from the Project including the removal, limbing or trimming of habitat.

Fisher is a CDFW species of special concern (SSC). Potentially suitable denning and foraging habitat for fisher occurs within the Project. In addition, there are four California Natural Diversity Database (CNDDDB) occurrences of fisher within five miles of the Project.

During construction, suitable fisher habitat may be exposed to elevated noise levels, which can disrupt animal activities including denning, foraging, and resting. Project impacts may be considered potentially significant unless appropriate and enforceable mitigation is incorporated.

Recommendation: The MND should analyze and disclose potential Project impacts to fisher. If the Project has the potential to impact fisher, appropriate and enforceable avoidance and minimization measures should be added to the MND to mitigate impacts to a less than significant level. CDFW recommends, at a minimum, the following measure be incorporated into the MND:

Pre-construction Survey for Fisher. Within 5 days prior to the start of construction, a CDFW approved Designated Biologist shall conduct a survey for fisher and their potential den sites. The survey area shall include the Project footprint plus a 500-foot buffer. If a potential den is identified, an appropriately sized no disturbance buffer shall be established until the Designated Biologist can determine whether the den is occupied. If occupied dens are identified, no work shall occur within a 250-foot no disturbance buffer around the den. Caltrans shall not resume work within 250-feet of the den until they have received written concurrence from CDFW. No suitable fisher denning habitat, as identified by the Designated Biologist, shall be removed or altered during the denning season (i.e., March 1 through September 15).

COMMENT 2: *Chapter 2.14 Biological Resources, Pages 19 – 27*

Issue: The MND does not disclose or adequately analyze potentially significant Project impacts to southern long-toed salamander (*Ambystoma macrodactylum sigillatum*).

The southern long-toed salamander is a CDFW SSC. There are over 60 CNDDDB occurrence of southern long-toed salamander in a five-mile radius of the Project, 14 of those occurrences are within one mile of the Project.

The Project has the potential to significantly impact southern long-toed salamanders and their habitat, which includes wetland and damp terrestrial forested habitat. Significant impacts may occur from Project related activities including but not limited to equipment ingress and egress, vegetation removal, culvert replacement, ground disturbing activities, staging, and access.

Recommendation: The MND should analyze and disclose potential Project impacts to southern long-toed salamander and their habitat. If the Project has the potential to impact southern long-toed salamander or their habitat, appropriate and enforceable avoidance and minimization measures should be added to the MND to mitigate impacts to a less than significant level.

COMMENT 3: *Chapter 2.14 Biological Resources, Page 19, 21, and 25; Appendix B, Avoidance, Minimization, and Mitigation Measures, BIO-8 Pre-Construction Surveys- Special-Status Plants, Page 53*

Issue: Special-status species include but are not limited to those considered either rare or regionally unique throughout their range (CEQA Guidelines § 15125[c]), identified as threatened, endangered, rare, or candidate by CDFW or U.S. Fish and Wildlife Service (USFWS) (CEQA Guidelines § 15380.), or plants that have a California Native Plant Society (CNPS) California Rare Plant Rank (CRPR) of 1A, 1B, 2A, 2B, 3 and 4 (CEQA Guidelines § 15125[c]). Impacts to these species or their habitat must be analyzed during preparation of environmental documents relating to CEQA. As currently proposed in the MND, the Project has the potential to have a significant impact on special-status plant species as it does not include accurate survey results or adequate avoidance, minimization, and mitigation measures for Project related impacts to special-status plant species.

1a) In accordance with CDFW's, *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (March 2018)*, to determine the presence or absence of special-status species that may be directly or indirectly impacted by Project activities, botanical field surveys should be conducted in a manner which maximizes the likelihood of locating special-status plants and sensitive natural communities that may be present. For accurate results, botanical field surveys need to be conducted at the times of year when plants will be both evident and identifiable (i.e. blooming period). Additionally, botanical field survey visits should be spaced throughout the growing season to accurately determine what plants exist in the project area. This usually involves multiple visits to the project area (e.g., in early, mid, and late season) to capture the floristic diversity at a level necessary to determine.

The special-status plant sections in Chapter 2.4 of the MND include the results of botanical surveys. These surveys were conducted on August 24, 2023, September 7 and 28, 2023, according to the Natural Environment Study (NES). The survey conducted on August 24, 2023, occurred at the end of the blooming period for the three special-status plant species the MND and NES conclude have potential to occur within the vicinity of the Project site (Davy's sedge, subalpine cryptantha, and three-bracted onion). Unknown adverse conditions may mean that some plant taxa will not be evident or identifiable towards the end of their bloom period or at all in a given year.

1b) *BIO-8 Pre-Construction Surveys- Special-Status Plant* measure does not mitigate to a less-than-significant level potential impacts to Davy's sedge, subalpine cryptantha, and three-bracted onion. The MND states that the pre-construction survey would be conducted no more than 24 hours prior to any ground disturbance at a given location. This is only beneficial if that time period overlaps with the identification (blooming) period for Davy's sedge, subalpine cryptantha, and three-bracted onion.

Recommendation: It is recommended that BIO-8 be revised with the following language to ensure the measure is effective, feasible and mitigates potential impacts to special-status plant species to a less-than-significant level.

"Protocol-level surveys in accordance with CDFW's, *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (March 2018)* and conducted during the appropriate blooming period shall be performed by a qualified botanist for the following species:

- Davy's sedge (*Carex davyi*) (Bloom Period: April through August)
- Subalpine cryptantha (*Oreocarya crymophila*) (Bloom Period: May through August)
- Three-bracted onion (*Allium tribracteatum*) (Bloom Period: July through August)

A survey report which at a minimum includes the methods, results, and a map that shows the survey boundary and location of special-status plant species observations shall be prepared and submitted to CDFW no later than 10 days prior to the start of Project activities. The report shall include proposed plans for full avoidance and/or a plan to minimize and mitigate impacts to special-status plants. New sightings of sensitive plant species should be reported to the CNDDDB."

COMMENT 5: *Chapter 2.14 Biological Resources, Environmental Consequences, Monarch Butterfly, Page 21*

Issue: The MND states that there are milkweed plants (monarch butterfly larvae's sole host plant) present along the SR 4 corridor. However, the MND does not adequately analyze the Project's potential impacts to monarch butterfly larvae. If milkweed is present within the Project footprint, there is potential for larvae to be crushed or other means of mortality during vegetation removal or equipment staging.

Recommendation: It is recommended that this paragraph in MND be revised to include an analysis on the Project's potential impact on monarch butterfly larvae, and appropriate mitigation measures be incorporated into the MND to minimize impacts to monarch butterfly to a less-than-significant level. Appropriate mitigation measures may include:

Milkweed Protection: Within 7 days prior to the commencement of Project activities, a CDFW-approved Designated Biologist shall conduct a survey for milkweed plants (monarch butterfly larvae's sole host plant) within the Project footprint.

- If no milkweed is observed within the Project footprint, Project activities may proceed as planned.
- If milkweed plants are identified within the Project footprint and can be avoided, Temporary High Visibility Fencing (THVF) shall be installed around the plants, and the area identified as an environmentally sensitive area (ESA) that will be avoided throughout the course of the Project activities.

- If the milkweed is identified in the Project footprint and impacts to the plant(s) are unavoidable, the Designated Biologist shall survey the plant for monarch butterfly larvae individuals immediately prior to start of Project activities. To offset Project related impacts to monarch butterfly, plants shall be transplanted outside of the Project footprint and the re-seeding mix proposed in BIO-7 should include milkweed species.

COMMENT 6: *Chapter 2.14 Biological Resources, Environmental Consequences, Common Wildlife and Fish Passage, Page 24*

Issue: The MND does not adequately analyze wildlife connectivity or wildlife vehicle collision mortality for deer, black bear, fox, bobcats, or other common wildlife species that migrate in the vicinity of the Project area. CDFW expects cumulative impacts to their populations to continue if the wildlife connectivity issue is not addressed. Lack of wildlife connectivity continues to make it difficult for the wildlife to cross for seasonal or daily use.

Species occurrence data, road mortality data, linkage designs, and adjacent suitable habitat should inform the CEQA analysis regarding potential for impacts and the development of mitigation measures to improve or enhance wildlife movement as a result of the Project. In weighing the impacts of the Project on wildlife movement, beyond regional wildlife “corridors”, analysis should address other common movement patterns. Food sources, water sources, migration routes, and breeding and sheltering areas that may be disconnected should be included in the impact analysis and considered when developing mitigation concepts. CDFW recommends incorporating survey data from sources such as the California Roadkill Observation System to establish scientific reasoning for crossing locations and improvements for wildlife crossings as appropriate. CDFW also recommends surveys are done before, during, and after construction to identify key areas where wildlife is crossing, observe how wildlife migration is affected by the Project, and assess the effectiveness of any newly constructed wildlife crossings along SR 4 and 207.

In addition, CDFW recognizes the value of wildlife crossing structures being incorporated into the design plans to mitigate for the disturbance (permanent and temporary stream and riparian impacts, impediment to migration, etc.) or offset the impacts of the Project. As appropriate, CDFW may consider crossings that protect and/or improve wildlife connectivity as a form of Project mitigation.

Recommendation: CDFW recommends that Caltrans identify suitable locations and incorporate wildlife crossing structures/features into their design plans. CDFW recommends upsizing and adding wildlife shelving for small mammals wherever it is feasible. Culverts that can be feasibly modified to increase headroom and conveyance capacity should also be identified and incorporated into the design plans.

COMMENT 7: *Appendix B, Avoidance, Minimization, and Mitigation Measures, BIO-1 Environmentally Sensitive Area (ESA) Designation, Page 51*

Issue: BIO-1 does not require a physical barrier or sign to delineate the ESA boundary. This would make it difficult for the Project personnel to identify areas they are permitted to work in and may lead to unnecessary or unforeseen impacts to ESAs.

Recommendation: It is recommended that BIO-1 be revised to include some language on the installation of THVF and/or flagging to delineate the ESA boundary.

COMMENT 8: *Appendix B, Avoidance, Minimization, and Mitigation Measures, BIO-19 Nesting Bird Avoidance – Pre-Construction Surveys, Page 57-58*

Issue: BIO-19 does not mitigate potential Project impacts to nesting migratory birds and raptors to a less-than-significant level. The MND states that nesting bird surveys would be conducted by a qualified biologist within 15 days prior to the beginning of Project-related activities. The window between surveying for active nests and the commencement of Project activities is too large to adequately protect nesting birds. Bird nests can be established and become active in a couple of days, especially during peak nesting season. Additionally, the MND does not provide the parameters for the survey area or qualifications the qualified biologist should have.

Recommendation: It is recommended that measure BIO-19 be revised to require that surveys be conducted three days or less prior to the commencement of Project-related activities at each culvert location rather than overall Project activities. It is recommended that a survey area of 500-feet for migratory birds and 1/2-mile for raptors around the Project site be defined in the measure. It is recommended that “qualified biologist” be changed to CDFW approved Designated Biologist.

COMMENT 9: *Appendix B Avoidance, Minimization, and Mitigation Measures, BIO-21 Compensatory Mitigation, Page 58*

Issue: CDFW does not participate in in-lieu-fee programs and cannot accept payments to in-lieu-fee programs as a form of compensatory mitigation.

Recommendation: It is recommended that a form of CDFW-approved compensatory mitigation for impacts to areas subject to section 1602 of the California Fish and Game Code be identified and included in the MND. This may include mitigating at CDFW-approved mitigation or conservation bank, or through other methods, as approved by CDFW.

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 Alpine County SR 4 Drainage System Restoration Project to assist Caltrans 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 Sammi Morford, Environmental Scientist, at (916) 880-8324 or Samantha.Morford@wildlife.ca.gov.

Sincerely,

Sammi Morford

Environmental Scientist (Caltrans Liaison)

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