

Justin Le

From: Wood, Dylan@Wildlife <Dylan.A.Wood@wildlife.ca.gov>
Sent: Friday, October 30, 2020 3:15 PM
To: ceqa@saccounty.net
Cc: Wildlife R2 CEQA; OPR State Clearinghouse
Subject: Comments on the DEIR for the OE3 Training Center (SCH: 2019029097)

Attn: Todd Smith, Interim Environmental Coordinator

Dear Mr. Smith:

The California Department of Fish and Wildlife (CDFW) received and reviewed the Notice of Availability of a draft Environmental Impact Report (DEIR) from Sacramento County for the Operating Engineers Local 3 (OE3) Training Center (Project) pursuant to the California Environmental Quality Act (CEQA) statute and guidelines.^[1] CDFW previously submitted comments in response to the Notice of Preparation of the DEIR.

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 (*Id.*, § 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 the Cosumnes community of unincorporated Sacramento County. The Project site is located 13800 Meiss Road in the town of Sloughouse.

The new OE3 Training Center will be located on approximately 450 acres within the 1500-acre project site. Approximately 25 of the 450 acres will be used for the campus and associated facilities. The campus uses will be the same as those that currently occur at the Rancho Murieta Training Center. The campus will include administrative offices, classrooms, parking areas, and landscaping. The campus population will not exceed approximately 20 administrative personnel and faculty and 80 students during peak training periods.

The applicant is requesting a new use permit to build and operate a new campus and equipment training activities. This new use permit would replace the existing mining use permit on the subject property. The new campus and training center includes the following: 1) construction and operation of a new campus facility (without dormitory); and 2) allowance for field instruction with construction equipment on the property. The project will include the relocation of existing classrooms and equipment training from the Rancho Murieta Training Center; the dormitory and food preparation will continue to reside at the current campus location in Rancho Murieta. The field instruction area will cover 425 acres; however, only 80 acres will be actively disturbed at one time. The applicant proposes a five-year rotation cycle, so that the land can rest and revegetate.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations presented below to assist Sacramento County in adequately identifying and/or mitigating the Project's significant, or potentially significant, impacts on biological resources. The comments and recommendations are also offered to enable CDFW to adequately review and comment on the proposed Project with respect to impacts on biological resources. Where CDFW recommends specific revisions to the DEIR, deletions are marked with a strikethrough (~~example~~) while additions are marked as underlined (example). CDFW recommends that the final EIR address the following:

Comment 1: BR-2 revisions are needed to reduce impacts to Swainson's hawk to less-than-significant.

As Swainson's hawk (*Buteo swainsoni*) is a species listed under CESA, take of this species may constitute a potentially significant impact as identified in the DEIR. CDFW has identified several aspects of the DEIR that should be revised to effectively mitigate to a level of less than significant and comply with the Fish & G. Code. This includes expanding the application of BR-2 to commencement of field instruction activities in a season. While the DEIR anticipates the most impactful disturbances to the species will occur during the campus building construction or opening/reopening of a field instruction area, operation of heavy equipment related to day-to-day instruction may still adversely impact the species as operation of this type of equipment has been known to result in agitation, increased stress, or nest abandonment.

To address this comment, CDFW recommends the following revisions to BR-2:

Initiation of ground disturbance (clearing and grubbing, grading, or construction) for campus building construction ~~or~~ opening of new, or reopening of, 80-acre field instruction area, or commencement of field instruction activities in a season shall be conducted between September 15 and March 1. If new disturbance must be conducted during the nesting season, March 1 to September 15, a focused survey for Swainson's hawk nests on the site and within ½ mile of the site shall be conducted by a qualified biologist in accordance with the Swainson's Hawk Survey Protocol outlined in the Swainson's Hawk Technical Advisory Committee 2000 paper. Note that multiple surveys may be required depending on the timing of the surveys. If active nests are found, ~~the California Department of Fish and Wildlife shall be contacted to determine appropriate protective measures,~~ a qualified biologist shall be retained to prepare a site-specific take avoidance plan that proposes measures to

comply with the California Endangered Species Act and the Fish and Game Code, and these measures shall be implemented prior to the start of any ground-disturbing activities. Measures may include but are not limited to nest-specific no disturbance buffers, biological monitoring, rescheduling project activities around sensitive periods for the species (e.g. nest establishment), or implementation of construction best practice such as staging equipment out of the species' line of sight from the nest tree. In the event take of Swainson's hawk cannot be avoided, the project proponent may seek related take authorization as provided by the Fish and Game Code. If no active nests are found during the focused survey, no further mitigation will be required.

Comment 2: BR-4 revisions are needed to reduce impacts to nesting raptors to less-than-significant.

As the DEIR identifies potential impacts to special-status raptors including white-tailed kite (*Elanus leucurus*), a fully protected species, and Northern harrier (*Circus hudsonius*), a species of special concern, take of potentially present nesting raptors may constitute a potentially significant impact as identified in the DEIR. CDFW has identified several aspects of the DEIR that should be revised to effectively mitigate to a level of less than significant and comply with the Fish & G. Code.

To address this comment, CDFW recommends the following revisions to BR-4:

If construction activity (which includes clearing, grubbing, or grading) is to commence within 500 feet of suitable nesting habitat between ~~March 4~~ February 1 and September 15, a survey for raptor nests shall be conducted by a qualified biologist. The survey shall cover all potential tree, and ground, or manmade (e.g. utility poles) suitable nesting habitat onsite and off-site up to a distance of 500 feet from the project boundary. The survey shall occur within 30 days of the date that construction 15 days of the date that project activities will encroach within 500 feet of suitable habitat. The biologist shall supply a brief written report (including date, time of survey, survey method, name of surveyor and survey results) to the Environmental Coordinator prior to ground disturbing activity. If no active nests are found during the survey, no further mitigation will be required. If any active nests are found, the Environmental Coordinator and California Department of Fish and Wildlife shall be contacted to determine appropriate avoidance/protective measures. and a site-specific take avoidance plan that proposes measures to comply with the Fish and Game Code shall be prepared in consultation with a qualified biologist. The avoidance/protective measures shall be implemented prior to the commencement of construction within 500 feet of an identified nest. Measures may include but are not limited to nest-specific no disturbance buffers, biological monitoring, rescheduling project activities around sensitive periods for the species (e.g. nest establishment), or implementation of construction best practice such as staging equipment out of the species' line of sight from the nest tree. If a lapse in project-related work of 15 days or longer occurs, the qualified biologist shall perform a new focused survey, and if nests are found, perform the tasks described in this measure.

Appropriate avoidance/protective measures may include, but are not limited to the following: Project activities related to campus building construction or opening of new, or the reopening of, 80-acre field instruction area activities (such as vegetation removal, grading, or initial ground-disturbing activities) or commencement of field instruction activities in a season with the potential to adversely affect nesting birds shall be conducted between September 1 and January 31 (outside of the September 15 to January 31 nesting season) to the extent feasible.

Comment 3: DEIR revisions are needed to reduce impacts to western spadefoot toad to less-than-significant.

As western spadefoot toad (*Spea hammondi*) is designated as a species of special concern, impacts to this species may constitute a potentially significant impact as identified in the DEIR. However, the

DEIR does not propose any specific, enforceable mitigation measures to reduce this potentially significant impact to a level of less-than-significant.

To address this comment, CDFW recommends the DEIR incorporate the following measures to assess the site for presence of western spadefoot toad and provide adequate avoidance and minimization measures for the species.

Surveys

Within suitable habitat of proposed project activities, a qualified biologist shall conduct surveys to determine the presence of the western spadefoot toad (*Spea hammondi*). Surveys shall be conducted at the appropriate time of the year (typically February-March when eggs, larvae, or tadpoles can be detected). If western spadefoot toad is encountered during surveys, a site-specific avoidance, minimization, and/or relocation plan shall be prepared and ensure any measures in the approved plan are in place prior to project activities. If relocation (including out of harm's way), western spadefoot toad shall only be relocated by a qualified biologist with the appropriate state and/or federal handling authorizations.

Avoidance and Minimization

Within suitable aquatic or upland western spadefoot habitat, all excavated steep-walled holes and trenches more than 6 inches deep will be covered with plywood (or similar material) or provided with one or more escape ramps constructed of earth fill or wooden planks at the end of each work day or 30 minutes prior to sunset, whichever occurs first. All steep-walled holes and trenches will be inspected each morning to ensure that no wildlife has become entrapped. All construction pipes, culverts, similar structures, construction equipment, and construction debris left overnight within suitable habitat will be inspected for western spadefoot toad.

If erosion control is implemented within suitable aquatic or upland western spadefoot habitat, non-entangling erosion control material will be used to reduce the potential for entrapment. Tightly woven fiber netting (mesh size less than 0.25 inch) or similar material will be used to ensure that western spadefoots are not trapped (no monofilament). Coconut coir matting and fiber rolls containing burlap are examples of acceptable erosion control materials.

Comment 4: BR-7 revisions are needed to reduce impacts to California tiger salamander to less-than-significant.

California tiger salamander (*Ambystoma californiense*) is a species listed under CESA, therefore take of this species may constitute a potentially significant impact as identified in the DEIR. CDFW has identified several aspects of the DEIR that should be revised to effectively reduce impacts to a level of less than significant and comply with the Fish and Game Code. While the DEIR's biological resources assessment may correctly identify that the Project site is several miles north of the known occurrences for the species, the South Sacramento Habitat Conservation Plan (SSHCP) asserts that the modeled habitat for the species extends to the Cosumnes River (i.e. encompassing the project area). CDFW's suggested revisions account for both factors in that it may be unlikely to encounter California tiger salamander, but there is reasonable potential for at least one animal to be found during the life of the project.

To address this comment, CDFW recommends the following revisions to BR-7:

If CTS are found the applicant shall, prior to any project related activity that would impact CTS individuals or CTS habitat or the approval of grading or improvement plans, whichever comes first,

contact the Environmental Coordinator and consult with U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife to develop a conservation program for CTS. In the event take of CTS cannot be avoided, the applicant may seek related take authorization as provided by the Fish and Game Code. At a minimum, any alternative mitigation strategy must result in 1:1 compensation of suitable breeding habitat and 1:1 compensation for all upland habitat within 500 feet 1.3 miles of suitable breeding habitat, and must be approved by both U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife.

To address this comment, CDFW also recommends the following additional components to BR-7:

Prior to the initiation of ground-disturbing project activities (clearing and grubbing, grading, or construction) for campus building construction or, opening of new, or reopening of, 80-acre field instruction area, or commencement of field instruction activities in a season within CTS habitat, a qualified biologist shall establish through flagging or staking, Environmentally Sensitive Areas (ESAs) around any small mammal burrows or other suitable CTS habitat features. Impacts to the ESAs shall be avoided to the maximum extent feasible.

Project activities in CTS habitat will not start until 30 minutes after sunrise and must be complete 30 minutes prior to sunset if there is 50 percent chance of rain or if humidity is greater than 75 percent.

During the breeding and dispersal season of November 1 to July 31, the applicant shall not initiate project activities within 820 of a known CTS breeding pond without prior coordination with CDFW and USFWS.

As a part of road construction, the applicant shall not install curbs or other barriers to CTS movement. To the extent feasible, roads or concrete foundations shall match existing grade or shall not have a vertical grade larger than 3-inches.

The applicant shall limit or eliminate use of rodenticide or other poisons used in the control of burrowing animals in the project area.

South Sacramento Habitat Conservation Plan

As noted in the DEIR, the Project area is within the boundaries of the SSHCP. While CDFW recognizes that the Project is not a Covered Activity under the SSHCP, CEQA Guidelines section 15125(d) states that EIRs must discuss any inconsistencies between projects and applicable plans (including habitat conservation plans/natural community conservation plans). The DEIR does not adequately address this section of the CEQA guidelines as it focuses largely on the statement that the Project is not a Covered Activity but will be subject to the SSHCP Aquatic Resources Permit. Because the SSHCP is being implemented, CDFW recommends that the final EIR include a discussion of each Project alternative's consistency with the SSHCP and how Sacramento County will ensure that implementation of the Project alternatives do not impede the SSHCP's ability to meet its biological goals and objectives. The Project may also incorporate SSHCP conservation strategies or avoidance and minimization measures to ensure consistency. Likewise, the applicant should consider coordinating with the SSHCP's implementing entity on preservation and management of onsite preserved areas.

California Endangered Species Act

CDFW is responsible for ensuring appropriate conservation of fish and wildlife resources including threatened, endangered, and/or candidate plant and animal species, pursuant to CESA. CDFW recommends that a CESA Incidental Take Permit (ITP) be obtained if the Project has the potential to

result in “take” (Fish & G. Code § 86 defines “take” as “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill”) of State-listed species, either through construction or over the life of the Project. CESA ITPs are issued to conserve, protect, enhance, and restore State-listed species and their habitats.

The Project area as described in the DEIR includes habitat for State and/or federally listed species. To issue an ITP, CDFW must demonstrate that the impacts of the authorized take will be minimized and fully mitigated (Fish & G. Code §2081 (b)). To facilitate the issuance of an ITP, if applicable, the EIR should disclose the potential of the Project to take State-listed species and include measures to minimize and fully mitigate the impacts to those species. Please note that mitigation measures that are adequate to reduce impacts to a less-than significant level to meet CEQA requirements may not be enough to minimize and fully mitigate impacts to the extent required for the issuance of an ITP. Therefore, CDFW encourages early consultation with staff to determine appropriate measures to facilitate future permitting processes and to engage with the U.S. Fish and Wildlife Service and/or National Marine Fisheries Service to coordinate specific measures if both State and federally listed species may be present within the Project vicinity.

Native Plant Protection Act

The Native Plant Protection Act (NPPA) (Fish & G. Code §1900 *et seq.*) prohibits the take or possession of State-listed rare and endangered plants, including any part or product thereof, unless authorized by CDFW or in certain limited circumstances. Take of State-listed rare and/or endangered plants due to Project activities may only be permitted through an ITP or other authorization issued by CDFW pursuant to California Code of Regulations, Title 14, section 786.9 subdivision (b). If during further environmental analysis for the Project, it is determined that the Project may have the potential to result in take, the EIR should disclose the potential for take.

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 effect on fish and 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 sections 21092 and 21092.2, CDFW requests written notification of proposed actions and pending decisions regarding the Project. Written notifications shall be directed to: California Department of Fish and Wildlife North Central Region, 1701 Nimbus Road, Rancho Cordova, CA 95670.

CDFW appreciates the opportunity to comment on the DEIR for the Project and recommends that Sacramento County address CDFW's comments and concerns in the final EIR. CDFW personnel are available for consultation regarding biological resources and strategies to minimize impacts.

If you have any questions regarding the comments provided in this letter or wish to schedule a meeting and/or site visit, please contact Dylan Wood, Environmental Scientist, at 916-358-2384 or dylan.a.wood@wildlife.ca.gov.

Sincerely,

G | @q#Z rrg#

California Department of Fish and Wildlife

Environmental Scientist

(916) 358-2384



#

[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.#

^[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.