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To: Fabun, Greg
Cc: [Wildlife R2 CEQA](#); [OPR State Clearinghouse](#); Boertien, Andrea@Wildlife; Wood, Dylan@Wildlife
Subject: CDFW Comments on Southport Sacramento River Early Implementation Project (SCH#2011082069); Supplemental EIR
Date: Wednesday, November 6, 2019 2:16:08 PM
Attachments: [image001.png](#)

STATE CLEARINGHOUSE

Hello Mr. Fabun,

The California Department of Fish and Wildlife (CDFW) received the Supplemental Environmental Impact Report (SEIR) from the City of West Sacramento for the Southport Sacramento River Early Implementation Project (Project).

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.

Project Description

Construction of the Project was substantially completed in 2018 and included excavation of borrow material from sites identified in the 2014 EIR in the City of West Sacramento to supply fill materials. The West Sacramento Area Flood Control Agency (WSAFCA) has identified the need to import 600,00 cubic yards (CY) of material to restore approximately 89.1 acres of borrow sites excavated for the project to desired elevation and contours. WSAFCA has confirmed that stockpiled soil at the Sacramento Regional Wastewater Treatment Plant (SRWTP) is of suitable quality for the proposed project and the quantity of material needed for the proposed project (600,000 CY) is available. Use of the SRWTP Borrow Site (proposed project) was not specifically identified in the Project EIR and is the subject of this Supplemental EIR.

CDFW Role

The California Department of Fish and Wildlife (CDFW) is responding as a Trustee Agency for fish and wildlife resources, which 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 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 may potentially be a Responsible Agency under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) if it may need to make discretionary actions under the Fish and Game Code, such as the issuance of a Lake or Streambed Alteration Agreement (Fish & G. Code, § 1600 et seq.) and/or a California Endangered Species Act (CESA) Incidental Take Permit (Fish & G. Code, § 2080 et seq.).

The Project as it is described in the SEIR will take place in two different CDFW Regions, the Bay Delta Region (Region 3) and the North Central Region (Region 2). The Project site is located in Yolo County, CA and is within the legal delta boundary. CDFW's Bay Delta Region reviews projects in Yolo County, CA that are within the legal delta boundary. However, the use of borrow material from the Sacramento County Wastewater Treatment Plant is an activity that is located in the North Central Region. For future changes or analyses on this Project, CDFW recommends sending the notice of completion to each Region in which the activity is occurring.

Water Quality and Erosion Control

CDFW recommends the City of West Sacramento adhere to standard best management practice (BMP) measures associated with Stormwater Pollution Prevention Plan (SWPPP) procedures administered through the Regional Water Quality Control Board. The use of silt fencing, straw wattles, reuse of topsoil to cover spoils, hydroseeding with a native seed mix, and application of soil binders are some BMP measures that could help prevent the mobilization and discharge of soils and sediments off the Project site after the work has been completed. CDFW also recommends that all BMP materials utilized within the site be free of non-native plant materials and be free of materials that can entangle wildlife, such as, plastic monofilament or cross joint netting. CDFW also recommends that any revegetation efforts associated with the Project, utilize locally sourced native plants.

Lake and Streambed Alteration Agreement Program

Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following: substantially divert or obstruct the natural flow of any river, stream or lake; substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or deposit debris, waste or other materials that could 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 may suggest ways to modify the Project that would eliminate or reduce adverse impacts to 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, if one is necessary, the EIR should fully identify the potential impacts to the lake, stream, or riparian resources, and provide adequate avoidance, mitigation, and monitoring and reporting commitments. Early consultation with CDFW is recommended, since modification of the Project may be required to avoid or reduce impacts to fish and wildlife resources. To obtain an LSA notification package, please go to <https://www.wildlife.ca.gov/Conservation/LSA/Forms>.

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 the California Endangered Species Act (CESA). CDFW recommends that a CESA coverage 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 CESA species, either through construction or over the life of the Project. CESA coverage is issued to conserve, protect, enhance, and restore state-listed CESA species and their habitats. CDFW encourages early consultation, as modification to the Project and avoidance, minimization, and mitigation measures may be necessary to obtain a CESA coverage or otherwise demonstrate compliance with CESA. The regulatory setting under sections 3.3.8 Vegetation and Wetlands and 3.3.9 Wildlife includes a description of the South Sacramento Habitat Conservation Plan (SSHCP). At the time the SEIR was being written the SSHCP was not yet finalized. However, the SSHCP was fully permitted by wildlife agencies in August 2019 and has begun implementation. CDFW recommends that the regulatory setting sections for Vegetation and Wetlands and Wildlife also include a discussion on the Yolo Habitat Conservation Plan/Natural Community Conservation Plan that was fully implemented in January 2019. Both plans provide a method of obtaining CESA coverage or mitigating for impacts to covered special- status species if avoidance is not feasible.

CDFW appreciates the opportunity to provide comments on the SEIR and to assist in identifying and mitigating Project impacts on biological resources. If you have any questions pertaining to these comments, please contact me at (916) 358-1134 or ian.boyd@wildlife.ca.gov.

Thank you,

Ian Boyd

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