



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Northern Region  
601 Locust Street  
Redding, CA 96001  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

GAVIN NEWSOM, Governor  
CHARLTON H. BONHAM, Director



April 2, 2019

Bill Johnson  
Fall River Valley Community Services District  
24850 3<sup>rd</sup> Street  
P.O. Box 427  
Fall River Mills, CA 96028

Governor's Office of Planning & Research

APR 02 2019

STATE CLEARINGHOUSE

**Subject: Review of the Mitigated Negative Declaration for the Fall River Lake Trail Improvement and Ecocultural Enhancement Project, State Clearinghouse Number 2019039017, Fall River Mills, Shasta County**

Dear Mr. Johnson:

The California Department of Fish and Wildlife (Department) has reviewed the Initial Study/Mitigated Negative Declaration (MND) dated March 1, 2019, for the above-referenced project (Project). As a trustee for the State's fish and wildlife resources, the Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and their habitat. As a responsible agency, the Department administers the California Endangered Species Act and other provisions of the Fish and Game Code that conserve the State's fish and wildlife public trust resources. The Department offers the following comments and recommendations on this Project in our role as a trustee and responsible agency pursuant to the California Environmental Quality Act (CEQA), California Public Resources Code section 21000 et seq.

### Project Description

The Project as proposed is to *"transform existing off-highway vehicle roads along the east bank of Fall River Lake in Shasta County, California into 2 miles of pedestrian and other non-motorized use trail, while decommissioning side roads/trails."* The Project also proposes to thin and restore up to 20 acres of mixed pine/oak woodlands on the west side of Fall River Lake. Finally, *"the project will install educational native plant guilds within restored areas that will highlight the cultural importance of grassland and woodland ecosystems."* The Project is located on the east and west sides of Fall River Lake on Assessor Parcel Numbers 023-210-011 and 018-540-057.

### Comments and Recommendations

The Department appreciates the effort of all the entities involved in restoring the existing unauthorized off-highway vehicle roads adjacent to the east bank of Fall River Lake. This, along with the installation of the culturally important native plant guilds within the restored areas, will create habitat for a variety of species and educate the public on the importance of taking care of these ecosystems. The Department has the following comments as they pertain to biological resources.

## Surveys

The wildlife and botanical surveys utilized for the MND are more than two years old and as such are not as up to date as the Department typically requires. Prior to the start of construction, updated surveys, conducted at the appropriate time of year, should be performed before the final trail design is approved. If special status species are observed, additional avoidance and minimization measures should be developed.

### Botanical Surveys

Botanical surveys are especially important to conduct given that certain species do not necessarily come up every year or, depending on rainfall and other climate factors, may not come up in large enough numbers to be detected. Therefore, it is important that Measure 5 of the MND be included as a mitigation measure in the final, approved MND. The Department recommends botanical surveys be conducted at the appropriate time of year following the Department's March 2018 *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities*<sup>1</sup>.

The MND discusses seed collecting for the restoration and enhancement of the Project area. The Department recommends only taking 20 percent of the seed from individual plants.

### Wildlife Surveys

#### Bank swallow (*Riparia riparia*)

Several special status wildlife species are known to occur on or adjacent to the proposed trail area. Bank swallow, a State threatened species, could be impacted by the trail during construction and by individuals utilizing the trail system if present. The CEQA document does not adequately analyze Project impacts to bank swallow. Bank swallows, historically common in California (Grinnell and Miller 1944), have had a range reduction of approximately 50 percent since 1900 (CDFG 1988). The main cause of their decline was channelization and stabilization of river banks used as nesting habitat as well as other disturbance of this habitat (CDFG 1988). The bank swallow continues to be threatened by flood and erosion control programs that stabilize banks eliminating them as breeding habitat for the swallow (CDFG 1995). The proposed Project should disclose all potential activities that may incur a direct or indirect take to bank swallow within the Project footprint and its close vicinity. Appropriate avoidance, minimization, and/or mitigation measures to avoid take must be included in the environmental document. Measures to avoid the impacts should include species specific work windows, biological monitoring, buffers, installation of noise attenuation barriers, etc. Portions of the trail closely parallel known bank swallow colonies. A focused survey for bank swallows should be conducted during the appropriate time of year (mid-April through mid-June) to determine if the colonies are still extant. If the colonies are extant, the Department recommends moving the trail east in all areas where it coincides with bank swallow colonies. If it is not possible or feasible to move the trail, it may be necessary to obtain an Incidental Take Permit for this species. Seasonal work

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<sup>1</sup> Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>

periods will be required if bank swallows are found onsite and typically begin July 1 or as soon as birds have left the area.

#### Western pond turtle (*Emys marmorata*)

Western pond turtle, a California Species of Special Concern, is known to occur on the Project site. Measure 3 of the MND states, "If adult turtles are found in or near project work areas, they will be moved away from the work area into appropriate near-channel habitat." Moving a Species of Special Concern may need a Scientific Collecting Permit (<https://www.wildlife.ca.gov/Licensing/Scientific-Collecting#539512232-wildlife>). Additionally, Measure 3 states if temporary fencing needs to be used to prevent turtles from returning to areas where construction is occurring, it will be inspected weekly. Weekly should be changed to daily.

#### American badger (*Taxidea taxus*)

According to the California Natural Diversity Database (CNDDDB), American badger, a California Species of Special Concern, is known to occur on the Project. Given that there is habitat, and the species is not discussed in the MND, the Department recommends including this species in the pre-construction wildlife surveys. Pre-construction surveys should consist of searching for active dens. If active dens are found, avoidance measures, such as buffers should be used.

#### Nesting Bird Surveys

Although the MND is correct in saying the nesting season for neo-tropical songbirds typically occurs between April 1 and August 31 for the Fall River Lake area, raptors can nest earlier. The Department recommends the following bird measure be incorporated into Measure 4.

To avoid impacts to nesting migratory birds and/or raptors protected under Fish and Game Code sections 3503 and 3503.5, one of the following should be implemented:

- a. Conduct vegetation removal and other ground-disturbance activities associated with construction from September 1 through January 31, when birds are not nesting; or
- b. Conduct preconstruction surveys for nesting birds if vegetation removal or ground disturbing activities are to take place during the nesting season (February 1 through August 31). These surveys shall be conducted by a qualified biologist no more than one week prior to vegetation removal or construction activities during the nesting season. If an active nest is located during the preconstruction surveys, a non-disturbance buffer shall be established around the nest by a qualified biologist in consultation with the Department. No vegetation removal or construction activities shall occur within this non-disturbance buffer until the young have fledged, as determined through additional monitoring by the qualified biologist.

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### Survey Results

All survey results should be sent to the following address: California Department of Fish and Wildlife, ATTN: CEQA, 601 Locust Street, Redding, CA 96001. If any special-status species are found during surveys, the Department requests that CNDDDB forms be filled out and sent to Sacramento and a copy of the form be sent to the Regional office at the above address. Instructions for providing data to the CNDDDB can be found at: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>.

If you have any questions, please contact Amy Henderson, Environmental Scientist, at (530) 225-2779, or by e-mail at [Amy.Henderson@wildlife.ca.gov](mailto:Amy.Henderson@wildlife.ca.gov).

Sincerely,



**Curt Babcock**  
Habitat Conservation Program Manager

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