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Governor's Office of Planning & Research

APR 17 2020

STATE CLEARINGHOUSE

April 17, 2020

Nicholas Bryson
Shingle Springs Band of Miwok Indians
P.O. Box 1340
Shingle Springs, CA 95682

Subject: EVENT CENTER - NOTICE OF PREPARATION OF A TRIBAL ENVIRONMENTAL IMPACT REPORT – SCH# 2020030870

Dear Mr. Bryson:

The California Department of Fish and Wildlife (CDFW) received and reviewed the Notice of Preparation (NOP) of a Tribal Environmental Impact Report (TEIR) from the Shingle Springs Band of Miwok Indians (Tribe) for the Event Center Project (Project) on the Shingle Springs Rancheria in El Dorado County pursuant the Tribal-State Compact between the State of California and the Tribe. Thank you for the opportunity to provide comments and recommendations regarding those Project activities that may result in potentially significant off-Reservation impacts to California fish, wildlife, plants and their habitats. In addition to these comments, and in recognition of the inherent Tribal sovereignty of the Shingle Springs Rancheria, CDFW would welcome direct government-to-government consultation with the Tribe at its request for the Project or any of the issues raised in this letter. CDFW is interested in working collaboratively to resolve any concerns regarding this Project.

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). As a Trustee Agency, CDFW provides 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.

PROJECT DESCRIPTION SUMMARY

The Project consists of the development of an 1,827-seat event center adjoining the existing Red Hawk Casino located on the Shingle Springs Rancheria, which serves as the Tribe's Reservation. The Project is located in El Dorado County at Latitude 38° 41' 46, Longitude -120° 54' 33".

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COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations presented below to assist the Tribe in identifying and/or mitigating the Project's significant or potentially significant off-Reservation impacts on fish and wildlife resources. CDFW recognizes that the TEIR is being developed pursuant to the Tribal-State Compact and any references in this letter to the California Fish and Game Code are provided for context only.

ENVIRONMENTAL SETTING

Knowledge of the regional setting of a project is critical to the assessment of off-Reservation environmental impacts, particularly environmental resources that are rare or unique to the region. To enable CDFW staff to adequately review and comment on the potentially significant off-Reservation impacts of the Project, CDFW recommends that the TEIR include a complete assessment of the flora and fauna in the vicinity of the Project, with particular emphasis on identifying rare, threatened, endangered, and other sensitive species and their associated habitats. CDFW suggests that the TEIR specifically include:

1. An assessment of the various habitat types located within the Project's vicinity, particularly those with the potential to be impacted by the Project's off-Reservation effects, and a map that identifies the location of each habitat type. CDFW recommends that floristic, alliance- and/or association-based mapping and assessment be completed following *The Manual of California Vegetation*, second edition (Sawyer et al. 2009). Habitat mapping at the alliance level will help establish baseline vegetation conditions.
2. A general biological inventory of the fish, amphibian, reptile, bird, and mammal species that are present or have the potential to be present within each habitat type onsite and within adjacent areas that could be affected by the Project. CDFW's California Natural Diversity Database (CNDDDB) in Sacramento may be consulted at <https://wildlife.ca.gov/Data/CNDDDB/Maps-and-Data> and may be contacted at (916) 322-2493 or bdb@wildlife.ca.gov to obtain current information on any previously reported sensitive species and habitat, including Significant Natural Areas identified under Chapter 12 of the Fish and Game Code, in the vicinity of the proposed Project.

Please note that CDFW's CNDDDB is not exhaustive in terms of the data it houses, nor is it an absence database. Records in the CNDDDB exist only where species have been detected and reported. This means there is a bias in the database towards locations that have had more development pressures, and thus more survey work. A lack of records in a certain area does not mean that no special-status species exist in that area, just that no observations have been submitted to the CNDDDB in that area. CDFW recommends using the CNDDDB QuickView tool to generate a list of special-status species in the nine United States Geologic Survey (USGS) 7.5-minute quadrangles surrounding the Project as a starting point in determining what species may be present in the area (see Data Use Guidelines at <https://www.wildlife.ca.gov/Data/CNDDDB/Maps-and-Data>).

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3. A complete inventory of rare, threatened, endangered, and other sensitive species with the potential to occur within the Project's vicinity. The inventory should address seasonal variations in use of the Project area vicinity and should not be limited to resident species. CDFW recommends that the TEIR include the results of focused species-specific surveys, completed by a qualified biologist and conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable. Please note that negative survey results do not guarantee that the species in question will not be impacted by future project activities, as species that are absent from a site at one time may move into the area in the future. Some aspects of the proposed Project may warrant periodic updated surveys for certain sensitive taxa, particularly if the project is proposed to occur over a protracted time frame, or in phases, or if surveys are completed during periods of unusual environmental conditions such as drought.
4. A thorough floristic-based assessment of special status plants and natural communities, following CDFW's *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (see <https://www.wildlife.ca.gov/Conservation/Plants>).
5. Any other information on the regional setting that is critical to an assessment of environmental impacts, with special emphasis on resources that are rare or unique to the region.

IMPACT ANALYSIS

The TEIR should provide a thorough discussion of the Project's potential direct, indirect, and cumulative off-Reservation impacts on biological resources. To ensure that the Project's off-Reservation impacts to biological resources are fully analyzed, CDFW recommends that the following information be included in the TEIR:

1. A discussion of the Project's potential to cause direct take or injury of special-status species via off-Reservation impacts. "Take" is defined in Fish and Game Code section 86 as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill".
2. A discussion of the Project's potential direct impacts to off-Reservation habitats, particularly sensitive habitats such as wetlands, streams, riparian areas, and habitats used by special-status species.
3. A discussion of the Project's potential indirect off-Reservation impacts, including, but not limited to impacts from lighting, noise, human activity, wildlife-human interactions, potential introduction or spread of exotic and/or invasive species, potential impacts on wildlife movement, and impacts on drainage. The latter subject should address Project-related changes in off-Reservation drainage patterns and water quality, including volume, velocity, and frequency of existing and post-Project surface flows; the potential for polluted runoff to enter streams and water bodies;

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and the potential to cause soil erosion and/or sedimentation in streams and water bodies.

4. A cumulative effects analysis that includes all potential direct and indirect Project related off-Reservation impacts to special-status species and their habitats; riparian areas, wetlands, and other sensitive habitats; wildlife corridors or wildlife movement areas; open space; and adjacent natural habitats in the cumulative effects analysis.

MITIGATION

The TEIR should include appropriate and adequate avoidance, minimization, and/or mitigation measures for all direct, indirect, and cumulative impacts that are expected to occur as a result of the construction and long-term operation and maintenance of the Project. When proposing measures to avoid, minimize, or mitigate impacts, CDFW recommends consideration of the following:

1. *Fully Protected Species:* Several fully protected species (Fish & G. Code §3511) have the potential to occur within the vicinity of the Project, including, but not limited to: golden eagle (*Aquila chrysaetos*), bald eagle (*Haliaeetus leucocephalus*), and ringtail (*Bassariscus astutus*). Project activities described in the TEIR should be designed to completely avoid any fully protected species that have the potential to be impacted by the Project's off-Reservation effects. CDFW also recommends that the TEIR fully analyze potential off-Reservation adverse impacts to fully protected species due to habitat modification, loss of foraging habitat, and/or interruption of migratory and breeding behaviors. CDFW recommends that the Tribe include in the analysis a discussion of how appropriate avoidance, minimization and mitigation measures will reduce indirect impacts to fully protected species.
2. *Mitigation for Habitat Impacts:* If the Project will result in unavoidable significant off-Reservation impacts to sensitive habitats, CDFW recommends consideration of habitat restoration and/or enhancement on-site or near the impacted areas as mitigation. If on-site restoration and/or enhancement is not feasible or would not be biologically viable and therefore not adequately mitigate the loss of biological functions and values, off-site mitigation through habitat creation and/or acquisition and preservation in perpetuity should be considered.

CDFW recommends the TEIR include measures to perpetually protect the targeted habitat values within habitat mitigation areas from direct and indirect adverse off-Reservation impacts in order to meet mitigation objectives to offset Project impacts. Specific issues that should be addressed include restrictions on access, proposed land dedications, long-term monitoring and management programs, control of illegal dumping, water pollution, increased human intrusion, etc. If habitat preservation is proposed, CDFW recommends that a conservation easement or transfer in fee title to a conservation entity be used.

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3. *Habitat Revegetation/Restoration Plans*: Plans for restoration and revegetation should be prepared by persons with expertise in California ecosystems and native plant restoration techniques. Plans should identify the assumptions used to develop the proposed restoration strategy. Each plan should include, at a minimum: (a) the location of restoration sites and assessment of appropriate reference sites; (b) the plant species to be used, sources of local propagules, container sizes, and seeding rates; (c) a schematic depicting the restoration sites; (d) a planting schedule; (e) a description of the irrigation methodology; (f) measures to control exotic vegetation on site; (g) specific success criteria; (h) a detailed monitoring program; (i) contingency measures should the success criteria not be met; and (j) identification of the party responsible for meeting the success criteria and providing for conservation of the mitigation site in perpetuity. Monitoring of restoration areas should extend across a sufficient time frame to ensure that the new habitat is established, self-sustaining, and capable of surviving drought. CDFW recommends that planted trees and shrubs be closely monitored for a period of at least five years, including at least two years without supplemental irrigation.

CDFW recommends that local onsite propagules from the Project area and nearby vicinity be collected and used for restoration purposes. On-site seed collection should be initiated as soon as possible in order to accumulate sufficient propagule material for subsequent use in future years. On-site vegetation mapping at the alliance and/or association level should be used to develop appropriate restoration goals and local plant palettes. Reference areas should be identified to help guide restoration efforts. Specific restoration plans should be developed for various project components as appropriate.

Restoration objectives should include protecting off-Reservation special habitat elements or re-creating them in areas affected by the Project; examples could include retention of woody material, logs, snags, rocks, and brush piles.

4. *Nesting and Migratory Birds*: The federal Migratory Bird Treaty Act and provisions in the Fish and Game Code provide protections for migratory birds. If Project activities have the potential to impact nesting and/or migratory birds off-Reservation, CDFW recommends that the TEIR include measures to avoid or minimize impacts. Avoidance and minimization measures may include the use of pre-construction nest surveys, Project phasing and timing, monitoring of Project-related noise, the use of sound walls, and/or buffers around nests. CDFW recommends that pre-construction nesting surveys be conducted no more than three days prior to construction, as instances of nesting may be missed if surveys are conducted sooner.

ENVIRONMENTAL DATA

CDFW requests that the Tribe 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

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submitted online or mailed electronically to CNDDDB at the following email address:
BDB@wildlife.ca.gov.

FURTHER COORDINATION

CDFW appreciates the opportunity to comment on the NOP to assist in identifying and mitigating potential off-Reservation Project impacts on biological resources and would welcome further notifications of proposed actions and pending decisions regarding the Project. CDFW personnel are available to discuss biological resources and strategies to minimize impacts to off-Reservation biological resources. Questions regarding this letter should be directed to Gabriele Quillman, Environmental Scientist at (916) 358-2955 or gabriele.quillman@wildlife.ca.gov.

If the Tribe would like to request a government-to-government consultation with CDFW on this Project, please contact CDFW's Tribal Liaison Nathan Voegeli at (916) 651-7653 or tribal.liason@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Jeff Drongesen
Environmental Program Manager

cc: Kelley Barker, Senior Environmental Scientist Supervisor
Gabriele Quillman, Environmental Scientist
Nathan Voegeli, Attorney and Tribal Liaison
Department of Fish and Wildlife

Office of Planning and Research, State Clearinghouse, Sacramento

LITERATURE CITED

Sawyer, J. O., T. Keeler-Wolf, and J. M. Evens. 2009. A manual of California Vegetation, 2nd ed. California Native Plant Society Press, Sacramento, California.
<http://vegetation.cnps.org/>