State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
(707) 428-2002
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director

May 20, 2020

Coty Sifuentes-Winter
Senior Resource Management Specialist
Midpeninsula Regional Open Space District
330 Distel Circle
Los Altos, CA 94022
csifuentes@openspace.org

Subject: Wildland Fire Resiliency Program, Notice of Preparation of a Draft Environmental Impact Report, SCH #2020049059, San Mateo, Santa Clara, and Santa Cruz Counties

Dear Coty Sifuentes-Winter:

The California Department of Fish and Wildlife (CDFW) has reviewed the Notice of Preparation (NOP) of a draft Program Environmental Impact Report (EIR) prepared by the Midpeninsula Regional Open Space District (MidPen) for the Wildland Fire Resiliency Program (Project) located in San Mateo, Santa Clara, and Santa Cruz counties. CDFW is submitting comments on the NOP regarding potentially significant impacts to biological resources associated with the Project. These comments are provided to assist MidPen in preparation of a draft EIR.

CDFW ROLE

CDFW is a Trustee Agency with responsibility under the California Environmental Quality Act (CEQA) §15386 for commenting on projects that could impact fish, plant and wildlife resources. CDFW is also considered a Responsible Agency if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA), the Native Plant Protection Act, the Lake and Streambed Alteration (LSA) Program and other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources. Pursuant to our jurisdiction, CDFW has the following concerns, comments, and recommendations regarding the Project.

PROJECT LOCATION

The activities under the Project would be applied on all MidPen open space preserves (OSPs) and other areas under MidPen management. This location is within the Santa Cruz Mountain region and includes San Mateo, Santa Clara and Santa Cruz counties. MidPen's boundary extends along the San Francisco Bay from the City of San Carlos to the City of Los Gatos and along the Pacific coast from south of the City of Pacifica to the Santa Cruz County line. MidPen manages nearly 59,000 acres across 26 OSPs and through management agreements with each OSP ranging from 55 to over 18,000 acres.

PROJECT DESCRIPTION SUMMARY

The Project would implement a Wildland Fire Resiliency Program that provides a framework to guide vegetation and fuel management activities to reduce fire intensity and severity, and to direct management prior to, during, and after a wildland fire event. The primary objectives of the Project include managing vegetation to establish healthy, resilient, fire-adapted ecosystems; managing vegetation and infrastructure to reduce wildland fire risks; integrating prescribed fire for vegetation management; and providing an adaptive framework for periodic review and adjustments of the Project based on a changing climate, improved knowledge, and improved technology over time.

The Project's vegetation management activities include fuel load reduction, shaded and non-shaded fuelbreaks, ingress/egress route fuelbreaks, defensible space, invasive plant species removal and prescribed fire activities.

ENVIRONMENTAL SETTING

Fully protected, threatened or endangered, candidate, and other special-status species that are known to occur, or have the potential to occur in or near the Project site, include, but are not limited to:

Common Name	***Scientific Name***	***Listing Status***	***Rare Plant Rank***
American badger	*Taxidea taxus*	SSC	
Arcuate bush-mallow	*Malacothamnus arcuatus*		1B.2
Burrowing owl	*Athene cunicularia*	SSC	
California giant salamander	*Dicamptodon ensatus*	SSC	
California red-legged frog	*Rana draytonii*	FT; SSC	
California Ridgway's rail	*Rallus obsoletus obsoletus*	FE; SE; SFP	
California tiger salamander	*Ambystoma californiense*	FT; ST	
Central California Coast Steelhead	*Oncorhynchus mykiss irideus*	FT; SSC	
Chaparral ragwort	*Senecio aphanactis*		2B.2
Choris' popcornflower	*Plagiobothrys chorisianus var. chorisianus*		1B.2
Congdon's tarplant	*Centromadia parryi ssp. congdonii*		
Foothill yellow-legged frog	*Rana boylii*	SE	1B.1
Franciscan onion	*Allium peninsulare var. franciscanum*		1B.2
Golden eagle	*Aquila chrysaetos*	SFP	
Kings Mountain manzanita	*Arctostaphylos regismontana*		1B.2
Loma Prieta hoita	*Hoita strobilina*		1B.1
Long-eared owl	*Asio otus*	SSC	
Marbled murrelet	*Brachyramphus marmoratus*	FT; SE	
Most beautiful jewelflower	*Streptanthus albidus ssp. peramoenus*		1B.1

Mt. Hamilton fountain thistle	*Cirsium fontinale var. campylon*		1B.2
Mountain lion	*Puma concolor*	SC	
Pallid bat	*Antrozous pallidus*	SSC	
Red-bellied newt	*Taricha rivularis*	SSC	
Ringtail	*Bassariscus astutus*	SFP	
Salt marsh harvest mouse	*Reithrodontomys raviventris*	FE; SE; SFP	
San Francisco dusky footed woodrat	*Neotoma fuscipes annectens*	SSC	
San Francisco garter snake	*Thamnophis sirtalis tetrataenia*	FE; SE; SFP	
San Mateo woolly sunflower	*Eriophyllum latilobum*	FE; SE	1B.1
Santa Clara Valley dudleya	*Dudleya abramsii ssp. setchellii*	FE	1B.1
Santa Cruz black salamander	*Aneides niger*	SSC	
Santa Cruz clover	*Trifolium buckwestiorum*		1B.1
Smooth lessingia	*Lessingia micradenia var. glabrata*		1B.1
Townsend's big-eared bat	*Corynorhinus townsendii*	SSC	
Western bumble bee	*Bombus occidentalis*	SC	
Western leatherwood	*Dirca occidentalis*		1B.2
Western pond turtle	*Actinemys marmorata*	SSC	
Western red bat	*Lasiurus blossevillii*	SSC	
Woodland woollythreads	*Monolopia gracilens*		1B.2

FE = federally listed as endangered under Endangered Species Act (ESA); FT = federally listed as threaten under ESA; SE = state listed as endangered under California Endangered Species Act (CESA); ST = state listed as threatened under CESA; SFP = state fully protected under Fish and Game Code §5050; SSC = state species of special concern; state candidate for listing = SC; California Native Plant Society (CNPS) Rank 1A – Presumed extinct in California; Rank 1B – Rare, threatened, or endangered in California and elsewhere; Rank 2A - Plants presumed extirpated in California, but more common elsewhere; 2B: Rare, threatened, or endangered in California, but more common elsewhere.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist MidPen in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on biological resources.

COMMENT 1: Full Project Description of Project Features

The CEQA Guidelines (§15124 and §15378) require that the draft EIR incorporate a full project description, including reasonably foreseeable future phases of the Project, and require that it contain sufficient information to evaluate and review the Project's environmental impact.

To fully address the Project's impacts to biological resources, please include complete descriptions of the following features within the draft EIR:

- Detailed maps of all OSPs and other areas under management impacted by the Project
- Detailed Vegetation Management Plans (VMPs) and Prescribed Fire Plans (PFPs)
- Wildland Fire Pre-Plans and Resource Advisor Maps
- Monitoring and Mitigation Plans and Best Management Practices (BMPs)
- Encroachments into riparian habitats, wetlands or other sensitive areas
- Areas of significant and sensitive natural and cultural resources

- Footprints of proposed permanent infrastructure such as access roads, fuelbreaks, buildings/structures, water sources, paving, staging areas, etc.

COMMENT 2: Species Baseline
Because of the broad geographic area covered by the Project, it is possible that a very wide range of sensitive species and/or habitats could be encountered while undertaking management activities. CDFW recommends that the Project's draft EIR provide baseline habitat assessments for special-status plant, fish and wildlife species located and potentially located within the Project area and surrounding lands, including all rare, threatened, or endangered species (CEQA Guidelines, §15380).

Habitat assessments and species profiles should include information from multiple sources: aerial imagery, historical and recent survey data, field reconnaissance, scientific literature and reports, and findings from "positive occurrence" databases such as California Natural Diversity Database (CNDDB). Based on the data and information from the habitat assessment, the CEQA document can then adequately assess which special-status species are likely to occur in the Project area.

COMMENT 3: Special-Status Wildlife Species
State threatened, endangered, or candidate wildlife species are known to occur within the Project area. Without appropriate mitigation measures, Project activities conducted within occupied territories or habitats have the potential to significantly impact these species. Impacts to special-status wildlife species include, but are not limited to, inability to reproduce, capture, burrow/den collapse, crushing as a result of burrow collapse, entombment, inadvertent entrapment, reduced reproductive success, reduction in health and vigor of young, nest abandonment, loss of nest trees/breeding habitat, or loss of foraging habitat that would reduce nesting success (loss or reduced health or vigor of eggs or young), and direct mortality. Unauthorized take of species listed as threatened or endangered pursuant to CESA is a violation of Fish and Game Code.

To evaluate and avoid for potential impacts to special status wildlife species, CDFW recommends incorporating the following mitigation measures into the Project's draft EIR, and that these measures be made conditions of approval for the Project:

Recommended Mitigation Measure 1: Special-Status Wildlife Species Surveys
CDFW recommends that the Project area be surveyed for special-status wildlife species by a qualified biologist following species-specific protocol-level surveys, if applicable. Protocol-level surveys contain methods that, when adhered to, are intended to maximize detectability. In the absence of protocol-level surveys being performed or when performed outside of the parameters of the methodology, additional surveys may be necessary.

Recommended Mitigation Measure 2: Special Status Wildlife Species Avoidance
In the event a special-status wildlife species is found within or adjacent to the Project site, implementation of avoidance measures is warranted. CDFW recommends that a qualified biologist be on-site during all Project-related activities and that a no disturbance buffer be

implemented. Fully addressing potential impacts to special-status wildlife species and requiring measurable and enforceable mitigation in the draft EIR is recommended.

Recommended Mitigation Measure 3: Special-Status Wildlife Species Take Authorization
If a special-status wildlife species is identified and detected during surveys or during Project implementation, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided, take authorization through acquisition of an Incidental Take Permit (ITP) issued by CDFW pursuant to Fish and Game Code section 2081(b) is necessary to comply with CESA.

COMMENT 4: Special-Status Plant Species
Rare, threatened or endangered plant species may occur within the Project location. Without appropriate mitigation measures, the Project could potentially have a significant impact on these species. Special-status plants are typically narrowly distributed endemic species. These species are susceptible to habitat loss and habitat fragmentation resulting from development, vehicle and foot traffic, and introduction of non-native plant species. Therefore, there is a potential for the Project have significant impacts to these species and their populations.

To evaluate and avoid for potential impacts to special-status plant species, CDFW recommends incorporating the following mitigation measures into the Project's draft EIR, and that these measures be made conditions of approval for the Project:

Recommended Mitigation Measure 4: Special-Status Plant Surveys
CDFW recommends that the draft EIR include measures that adhere to CDFW's *Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Natural Communities* (2018). Surveys for special-status plant species, including those listed by the California Native Plant Society (https://www.cnps.org/rare-plants), should be performed by a qualified botanist and should be conducted during the blooming period for all sensitive plant species potentially occurring within the Project area and require the identification of reference populations. Results from surveys should follow the reporting requirements contained in these protocols and included in the draft EIR. Please refer to CDFW protocols for surveying and evaluating impacts to rare plants available at: https://wildlife.ca.gov/Conservation/Plants.

Recommended Mitigation Measure 5: Special-Status Plant Impacts Avoidance
CDFW recommends that the draft EIR include a mitigation measure requiring special-status plant species avoidance through delineation and establishment of no-disturbance buffers of at least 50 feet or greater from the outer edge of the plant population or specific habitat type required by special-status plant species. Buffer sizes should be developed by a qualified botanist and based on seed dispersal and other biological characteristics of the plant species being avoided.

Recommended Mitigation Measure 6: Mitigate Special-Status Plants to a Less-Than-Significant Level
CDFW recommends that the draft EIR include compensatory mitigation in the event impacts to special-status plants are not fully avoidable. CDFW recommends the draft EIR include a requirement for compensatory mitigation for impacts to special-status plant species and their habitats at a minimum of a 3:1 mitigation ratio (conserved habitat to impacted habitat) for all permanent habitat loss and impacts related to grading or compaction where the soils may take years to recover to baseline conditions.

Recommended Mitigation Measure 7: Take Authorization for CESA-listed Plants
If CESA-listed plant species are identified during surveys and full avoidance of impacts is not feasible, then the Project may receive take authorization through CDFW issuance of an ITP.

COMMENT 5: Nesting Birds
CDFW encourages Project implementation to occur during the non-nesting season for birds; however, if ground disturbing or vegetation disturbing activities must occur during the bird breeding season (February through September), the Project applicant is responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act of 1918 or Fish and Game Code section 3503.

To evaluate and avoid for potential impacts to nesting bird species, CDFW recommends incorporating the following mitigation measures into the Project's draft EIR, and that these measures be made conditions of approval for the Project:

Recommended Mitigation Measure 8: Nesting Bird Surveys
CDFW recommends that a qualified biologist conduct pre-activity surveys for active nests no more than seven (7) days prior to the start of ground or vegetation disturbance and every 14 days during Project activities to maximize the probability that nests that could potentially be impacted are detected. CDFW also recommends that surveys cover a sufficient area around the Project area to identify nests and determine their status. A sufficient area means any area potentially affected by the Project. Prior to initiation of ground or vegetation disturbance, CDFW recommends that a qualified wildlife biologist conduct a survey to establish a behavioral baseline of all identified nests. Once Project activities begins, CDFW recommends having the qualified wildlife biologist continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends halting the work causing that change and consulting with CDFW for additional avoidance and minimization measures.

Recommended Mitigation Measure 9: Nesting Bird Buffers
If continuous monitoring of identified nests by a qualified wildlife biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or on-site parental care for survival. Variance from these no disturbance buffers is possible when there is compelling biological or ecological reason to

do so, such as when the Project area would be concealed from a nest site by topography. CDFW recommends that a qualified biologist determine any necessary buffer variances, in consultation with CDFW, in order to protect nesting birds based on existing site conditions.

COMMENT 6: State Fully Protected Species
State fully protected species, including California Ridgway's rail, golden eagle, salt marsh harvest mouse, Ringtail and San Francisco garter snake, may occur within the Project area. CDFW has jurisdiction over fully protected species of birds, mammals, amphibians, reptiles, and fish pursuant to Fish and Game Code §§ 3511, 4700, 5050, and 5515. Take, as defined by Fish and Game Code § 86 is to "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill", of any fully protected species is prohibited and CDFW cannot authorize their incidental take.

Without appropriate avoidance and minimization measures for fully protected species, potentially significant impacts associated with Project activities may include, but are not limited to inadvertent entrapment, reduced reproductive success, reduced health and vigor, loss of nesting habitat, and/or loss of foraging habitat that would reduce nesting success (loss or reduced health or vigor of eggs or young), and direct mortality.

To evaluate and avoid for potential impacts to fully protected species, CDFW recommends incorporating the following mitigation measures into the Project's draft EIR, and that these measures be made conditions of approval for the Project:

Recommended Mitigation Measure 10: Fully Protected Species Surveys
CDFW recommends that a qualified biologist conduct species-specific surveys (using standard protocol or methodology, if available) of the Project area before Project implementation. If Project activities will take place when fully protected species are active or are breeding, CDFW recommends that additional pre-activity surveys for active nests or individuals be conducted by a qualified biologist no more than five (5) days prior to the start of Project activities.

Recommended Mitigation Measure 11: Fully Protected Species Avoidance
In the event a fully protected species is found within or adjacent to the Project area, CDFW recommends that a qualified biologist develop an appropriate no-disturbance buffer to be implemented in consultation with CDFW. The qualified wildlife biologist should also be on-site during all Project activities to ensure that the fully protect species is not being disturbed by Project activities.

COMMENT 7: Bats
Suitable habitat for special-status bat species are known to occur within and surrounding the Project area. A wide variety of habitats may be occupied bats, including grasslands, shrublands, woodlands, and forests from sea level up through mixed conifer forests. Bats can be found roosting in rocky areas with crevices, caves, mines, tunnels, buildings, or other human-made structures, tree canopies, and basal hollows. Without appropriate avoidance and minimization measures for bats, potentially significant impacts associated with Project activities may include, but are not limited to inadvertent entrapment, reduced reproductive success, reduced health

and vigor, loss of nesting/roosting habitat, and/or loss of foraging habitat that would reduce nesting success (loss or reduced health or vigor of eggs or young), and direct mortality.

To evaluate and avoid potential impacts to bat species, CDFW recommends incorporating the following mitigation measures into the Project's draft EIR, and that these measures be made conditions of approval for the Project.

Recommended Mitigation Measure 12: Bat Habitat Assessment
To evaluate Project impacts to bats, a qualified biologist should conduct a habitat assessment for bats at Project areas seven (7) days prior to the start of Project activities and every 14 days during Project activities. The habitat assessment shall include a visual inspection of features within 50 feet of the work area for potential roosting features (bats need not be present). Habitat features found during the survey shall be flagged or marked.

Recommended Mitigation Measure 13: Bat Habitat Monitoring
If any habitat features identified in the habitat assessment will be altered or disturbed by Project activities, the qualified biologist should monitor the feature daily to ensure bats are not disturbed, impacted, or fatalities are caused by the Project.

Recommended Mitigation Measure 14: Bat Project Avoidance
If bat colonies are observed within the Project area, at any time, all Project activities should stop until the qualified biologist develops a bat avoidance plan to be implement at the Project site. Once the plan is implemented, Project activities may recommence.

COMMENT 8: Marbled Murrelet (MAMU)
The Project area contains suitable nesting habitat for MAMU. Murrelets use coastal coniferous forests from Del Norte to Santa Cruz counties during the breeding season (March 24 to September 15). MAMU have been documented nesting in mature, old-growth forests as well as younger forest stands with late-seral elements such as large trees with moss-covered limbs >6 inches wide or limb defects (McShane et al. 2004). Mature conifer stands often have a complex tree crown structure with gaps in the canopy that allow access by adult murrelets to and from nest platforms during parental incubation exchanges and chick feeding (Ralph et at. 1995).

Without appropriate avoidance and minimization measures for MAMU, the Project's activities may create elevated sound levels or result in close visual proximity of human activities at sensitive locations (e.g., nest trees), with the potential to significantly impact and disrupt normal murrelet behavior patterns. Such disturbances can cause a murrelet to be flushed from an active nest, an adult murrelet to abandon or delay a feeding attempt of a dependent juvenile, or other essential behaviors necessary for a successful breeding season. Additional potentially significant impacts include loss of suitable nesting habitat and a reduction or loss of adequate canopy and lateral foliar coverage which provides nest protection from inclement weather and predators.

To evaluate and avoid for potential impacts to the MAMU, CDFW recommends incorporating the following mitigation measures into the Project's draft EIR, and that these measures be made conditions of approval for the Project:

Recommended Mitigation Measure 15: MAMU Habitat Assessment and Retention
In areas where MAMU nesting habitat may be present, CDFW recommends a qualified biologist conduct a habitat assessment for MAMU prior to the start of Project activities. The habitat assessment shall include a visual inspection of suitable nesting habitat features within 0.25 miles of the Project area that occur within suitable coniferous forested areas. Habitat features found during the assessment shall be identified and flagged or marked for avoidance and retention as a sensitive area.

Recommended Mitigation Measure 16: MAMU Surveys
If any nesting habitat identified in the habitat assessment will be disturbed by Project activities, CDFW recommends a qualified biologist conduct protocol level audio-visual murrelet surveys following the Pacific Seabird Group *Methods for Surveying Marbled Murrelets in Forests: A Revised Protocol for Land Management and Research* (Evans Mack 2003), which may entail two years of surveys. Protocol level surveys will be utilized to determine the presence of nesting murrelets within the Project area and whether Project activities will have an impact on MAMU.

Recommended Mitigation Measure 17: MAMU Avoidance and Buffers
If conducting two year MAMU surveys is not feasible, or if nesting MAMU are detected during surveys, CDFW recommends that a qualified biologist develop appropriate avoidance disturbance buffers around suitable habitat, in consultation with CDFW, to be implemented during Project activities that occur during the murrelet breeding season (March 24 to September 15). Appropriate buffers shall follow the U.S. Fish and Wildlife Service's (USFWS) *Estimating the Effects of Auditory and Visual Disturbance to Northern Spotted Owls and Marbled Murrelets in Northwestern California* (USFWS 2006).

COMMENT 9: California Red-Legged Frog (CRLF)
The Project area contains suitable habitat for CRLF. CRLFs primarily inhabit ponds but can also be found in other waterways, including marshes, streams, and lagoons, and the species will also breed in ephemeral waters (Thomson et al. 2016). CRLF populations throughout the State have experienced ongoing and drastic declines and many have been extirpated. Avoidance and minimization measures are necessary to reduce impacts to CRLF to a level that is less-than-significant. Without appropriate avoidance and minimization measures for CRLF, potentially significant impacts associated with the Project's activities include loss of upland habitat, loss of instream breeding habitat, degraded water quality, inadvertent entrapment, reduced reproductive success, reduction in health and vigor of eggs, larvae and/or young, and direct mortality of individuals.

To evaluate potential impacts to CRLF, CDFW recommends incorporating the following mitigation measures into the draft EIR prepared for this Project, and that these measures be made conditions of approval for the Project:

Recommended Mitigation Measure 18: CRLF Surveys
CDFW recommends that a qualified biologist conduct surveys for CRLF in accordance with USFWS's "Revised Guidance on Site Assessment and Field Surveys for the California Red-legged Frog" (USFWS 2005) to determine if CRLF are within or adjacent to the Project area.

Recommended Mitigation Measure 19: CRLF Avoidance
CDFW recommends that initial ground-disturbing activities be timed to avoid the period when CRLF are most likely to be moving through upland areas (November 1 and March 31). When ground-disturbing activities must take place between November 1 and March 31, CDFW recommends a qualified biologist monitor construction activity daily for CRLF and ensure that Project activities avoid CRLF.

COMMENT 10: Western Pond Turtle (WPT)
The Project area contains suitable habitat for the WPT. WPTs are known to nest in the spring or early summer within 100 meters of a water body, although nest sites as far away as 500 meters have also been reported. The Project includes activities that may occur near ponds, creeks, lakes and reservoirs. Without appropriate avoidance and minimization measures for WPT, potentially significant impacts associated with Project activities include degraded water quality, nest destruction, inadvertent entrapment, reduced reproductive success, reduction in health or vigor of eggs and/or young, and direct mortality. CDFW recommends incorporating the following measures specific to WPT in the draft EIR for the Project.

Recommended Mitigation Measure 20: WPT Nesting Habitat Surveys and Exclusion
CDFW recommends that the draft EIR include a measure requiring a qualified biologist to conduct focused surveys for potential WPT nesting habitat prior to Project activities that may occur within suitable WPT habitat. If nesting habitat is identified, exclusion fencing should be placed prior to the egg-laying season (March through August) to exclude female WPTs from laying eggs within the Project area. Exclusion fencing should be maintained until Project activities have been completed.

Recommended Mitigation Measure 21: WPT Avoidance and Relocation
CDFW recommends that if any WPT are discovered at the site immediately prior to or during Project activities, they should be allowed to move out of the area of their own accord. If a WPT is unable to independently move out of the Project area, a qualified biologist should relocate WPT out of harm's way to habitat similar to where it was found.

COMMENT 11: Vegetation Removal and Habitat Fragmentation
The Project will conduct various vegetation management activities which will reduce fuels by strategically and selectively thinning and removing vegetation to reduce the risk of wildlife. Vegetation removal may result in the loss of special-status plant species and the loss of habitat that supports numerous wildlife species. Significant vegetation clearing may also cause fragmentation and loss of sensitive habitats and create edge effects that permeate far beyond the Project area (Harris 1988, Murcia 1995). The activities associated with clearing may also disturb associated soil seed banks that sustain local plant populations. Removal of vegetation has also been shown to make communities vulnerable to colonization by invasive plant species and to spread pathogens.

CDFW recommends that the Project draft EIR assess habitat fragmentation and address potential impacts to habitat connectivity from Project activities. Vegetation management activities should be planned and implemented to not exceed the minimum necessary to complete the Project's goals and objectives. Clearing activities should be planned and implemented to

minimize edge habitat and fragmentation to the maximum extent feasible. Project activities should utilize existing disturbed areas whenever possible for site development.

REGULATORY REQUIREMENTS

California Endangered Species Act
Please be advised that a CESA Permit must be obtained if the Project has the potential to result in "take" of plants or animals listed under CESA, either during construction or over the life of the Project. Issuance of a CESA Permit is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA Permit.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially impact threatened or endangered species (CEQA §§ 21001(c), 21083, & CEQA Guidelines §§ 15380, 15064, 15065). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency's FOC does not eliminate the Project proponent's obligation to comply with Fish and Game Code § 2080.

Lake and Streambed Alteration Agreement
CDFW will require an LSA Agreement, pursuant to Fish and Game Code §§ 1600 et. seq. for Project-related activities within any 1600-jurisdictional waters within the proposed Project area. Notification is required for any activity that will substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland resources; or deposit or dispose of material where it may pass into a river, lake or stream. Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. CDFW, as a Responsible Agency under CEQA, will consider the CEQA document for the Project. CDFW may not execute the final LSA Agreement until it has complied with CEQA (Public Resources Code § 21000 et seq.) as the responsible agency.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a data base 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 (CNDDB). The CNNDB field survey form can be found at the following link: https://wildlife.ca.gov/Data/CNDDB/Submitting-Data. The completed form can be mailed electronically to CNDDB at the following email address: CNDDB@wildlife.ca.gov. The types of information reported to CNDDB can be found at the following link: https://wildlife.ca.gov/Data/CNDDB/Plants-and-Animals.

FILING FEES

CDFW anticipates that the Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish and Game Code, § 711.4; Pub. Resources Code, § 21089). 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.

Thank you for the opportunity to comment on the Project's NOP. If you have any questions regarding this letter or for further coordination with CDFW, please contact Ms. Robynn Swan, Senior Environmental Scientist (Specialist), at (707) 576-2898 or robynn.swan@wildlife.ca.gov; or Ms. Randi Adair, Senior Environmental Scientist (Supervisory), at (707) 576-2786 or randi.adair@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Gregg Erickson
BE74D4C93C604EA...

Gregg Erickson
Regional Manager
Bay Delta Region

cc: State Clearinghouse # 2020049059
Joseph Terry, U.S. Fish and Wildlife Service – Joseph_Terry@fws.gov
Leif Goude, U.S. Fish and Wildlife Service – Leif_Goude@fws.gov

REFERENCES

California Department of Fish and Wildlife (CDFW), 2003. Marbled Murrelet Survey Protocol Guidelines, California Department of Fish and Game, to be used in conjunction with the Pacific Seabird Group Survey Protocol. 3 April 2003. California Department of Fish and Wildlife

Evans Mack, D., W. P. Ritchie, S. K. Nelson, E. Kuo-Harrison, P. Harrison, and T. E. Hamer. 2003. Methods for surveying Marbled Murrelets in forests: a revised protocol for land management and research. Pacific Seabird Group Technical Publication Number 2. Available from http://www.pacificseabirdgroup.org.

Harris, L. D. 1988. Edge effects and conservation of biotic diversity. Conservation Biology 2:330–332

Kucera, T. 1997. California Wildlife Habitat Relationships System. California Department of Fish and Wildlife California Interagency Wildlife Task Group. A004 pp.

McShane, C., T. Hamer, H. Carter, G. Swartzman, V. Friesen, D. Ainley, R. Tressler, K. Nelson, A. Burger, L. Spear, T. Mohagen, R. Martin, L. Henkel, K. Prindle, C. Strong, and J. Keany. 2004. Evaluation report for the 5-year status review of the marbled murrelet in

Washington, Oregon, and California. Unpublished report. EDAW, Inc. Seattle, Washington. Prepared for the U. S. Fish and Wildlife Service, Region 1. Portland, Oregon.

Murcia, C. 1995. Edge effects in fragmented forests: Implications for conservation. Trends in Ecology and Evolution 10:58–62.

Ralph, C.J., G.L. Hunt, Jr., M.G. Raphael, and J.F. Piatt. Technical Editors. 1995. Ecology and Conservation of the Marbled Murrelet. U.S. Forest Service, Gen. Tech. Rep. PSW-GTR-152, Pacific Southwest Research Station, Albany, California.

Thomson, R. C., A.N. Wright, and H.B. Shaffer. 2016. California Amphibian and Reptile Species of Special Concern. California Department of Fish and Wildlife and University of California Press.

United States Fish and Wildlife Service (USFWS). 2005. Revised Guidance on Site Assessment and Field Surveys for the California Red-legged Frog. March 2005. 26 pp.

USFWS, 2006. Estimating the Effects of Auditory and Visual Disturbance to Northern Spotted Owls and Marbled Murrelets in Northwestern California. 26 July 2006.

USFWS. 2017. Species Account for California Red-legged frog. March 2017. 1 pp.