



Meyers Stream Environment Zone/Erosion Control Project

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Fri, Apr 22, 2016 at 7:09 AM

Mr. Palaroan;

I wanted to get in touch with you regarding the MND the Department received for the Meyers Stream Environment Zone/Erosion Control Project.

As 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 habitat. As a responsible agency, the Department administers the California Endangered Species Act (CESA), the Native Plant Protection Act (NPPA), and other provisions of the California Fish and Game Code that conserve the State's fish and wildlife public trust resources. These comments are submitted under the Department's authority as Trustee Agency with regard to the fish and wildlife of the State of California, designated rare or endangered native plants, game refuges, ecological reserves, and other areas administered by the Department of Fish and Wildlife (Department) (CEQA Guidelines § 15386, subd. (a)). The Department appreciates the opportunity to provide comments.

The Department has concerns with the following matters;

1. The project description mentions removing trees, vegetation and debris for improved channel efficiency and functionality, and, diversion/check dams to re-wet the meadow, slow flow velocities, pond , spread, promote infiltration, and reduce sediment transport downstream. However it is unclear from this document whether those channels are waters of the state, or whether a Stream Alteration Agreement would be sought by the County. In addition, the impacts to jurisdictional waters are not quantified, and there is no mention of cumulative impacts as a result of vegetation removal.

An entity (any person, state, local government agency, or public utility) should consider and analyze whether implementation of the proposed project will result in reasonably foreseeable potentially significant impacts subject to regulation by the Department under section 1600 et seq. of the Fish and Game Code. In general, such impacts result whenever a proposed project involves work undertaken in or near a river, stream, or lake that flows at least intermittently through a bed or channel, including ephemeral streams and water courses. Impacts triggering regulation by the Department under these provisions of the Fish and Game Code typically result from activities that:

Divert, obstruct, or change the natural flow or the bed, channel, or bank of any river, stream, or lake; Use material from a streambed; or Result in the disposal or deposition of debris, waste, or other material where it may pass into any river, stream, or lake.

It appears that the project involves such activities, and those activities will result in reasonably foreseeable substantial adverse effects on fish or wildlife, a Lake or Streambed Alteration Agreement (LSAA) will be required by the Department.

2. The Department recommends that language be added to the MND that addresses permanent impacts to riparian vegetation. Removal of riparian vegetation adjacent to jurisdictional waters require mitigation to ensure no net loss to riparian habitat, therefore an additional mitigation measure should be added to the MND describing the Counties mitigation proposal.

3. The document has no mention of pre-nesting bird surveys. The Department recommends the following measure be added to the Mitigation Measures to ensure no impacts to nesting birds;

a. If construction, vegetation removal/trimming, or other project-related activities are scheduled during the nesting season of raptors and migratory birds (February 15 to September 1), a

focused survey for active nests of such birds shall be conducted within 15 days prior to the beginning to project-related activities. If active nests are found, the Permittee shall consult with CDFW regarding appropriate action to comply with the Migratory Bird Treaty Act of 1918 and the Fish and Game Code of California, 3503, 3503.5, and 3513. No trees shall be disturbed that contain active bird nests. If a lapse in project-related work of 15 days or longer occurs, another focused survey and if required, consultation with CDFW will be required before project work can be reinitiated. Take of individual birds, their nests, and eggs is prohibited under Fish and Game Code Sections 86, 3503, 3503.5, and 3513.

This Project will have an impact to fish and/or wildlife habitat. Assessment of fees under Public Resources Code Section 21089 and as defined by Fish and Game Code Section 711.4 is necessary. Fees are payable by the project applicant upon filing of the Notice of Determination by the lead agency.

Pursuant to Public Resources Code Sections 21092 and 21092.2, the Department requests written notification of proposed actions and pending decisions regarding this project. Written notifications should be directed to this office.

Thank you.

Amy Kennedy

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