

From: [Shun, Michael@Wildlife](mailto:Shun.Michael@Wildlife)
To: [Victor Fernandez](mailto:Victor.Fernandez)
Cc: [Wood, Dylan@Wildlife](mailto:Wood.Dylan@Wildlife); [Sheya, Tanya@Wildlife](mailto:Sheya.Tanya@Wildlife); [Kilgour, Morgan@Wildlife](mailto:Kilgour.Morgan@Wildlife); [Donaldson, Hailey@Wildlife](mailto:Donaldson.Hailey@Wildlife)
Subject: Disney's Boat Rentals Project (SCH# 2024091171)
Date: Thursday, October 24, 2024 9:40:52 AM

Dear Victor Fernandez:

The California Department of Fish and Wildlife (CDFW) received and reviewed the Notice of Intent to Adopt an MND from City of Lakeport for the Disney's Boat Rentals Project (Project) pursuant the California Environmental Quality Act (CEQA) statute and [\[1\]](#) guidelines.

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.

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.) Similarly for purposes of CEQA, CDFW provides, 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 also act as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

The Project site is located at 2200 Lakeshore Blvd., Lakeport, CA 95453; Assessor Parcel Number [APN] 026-031-290-000.

The Project consists of the subdivision of the current 6.07-acre lot into four separate parcels, the construction of a two-story, 4,778-square-foot rental office and boat storage building, a 12-space parking lot, and two floating docks. Both docks will be accessed via a 40-foot gangway attaching to a 25-foot suspended pier, and a 20-foot gangway to attach the floating docks to the pier.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist City of Lakeport in adequately identifying and, where appropriate, mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Based on the Project's avoidance of significant impacts on biological resources with implementation of mitigation measures, CDFW concludes that a Mitigated Negative Declaration is appropriate for the Project. CDFW is primarily concerned with the project impacts to Clear Lake and Clear Lake hitch.

COMMENT 1: 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 CESA. CDFW recommends that a CESA Incidental Take Permit (ITP) 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.

State-listed species with the potential to occur in the area include, but are not limited to: Clear Lake hitch (*Lavinia exilicauda chi*).

The MND should disclose the potential of the Project to take State-listed species and how the impacts will be avoided, minimized, and mitigated. Please note that mitigation measures that are adequate to reduce impacts to a less-than significant level to meet CEQA requirements may not be enough for the issuance of an ITP. To facilitate the issuance of an ITP, if applicable, CDFW recommends the MND include measures to minimize and fully mitigate the impacts to any State-listed species the Project has potential to take. CDFW encourages early consultation with staff to determine appropriate measures to facilitate future permitting processes and to engage with the U.S. Fish and Wildlife Service and/or National Marine Fisheries Service to coordinate specific measures if both State and federally listed species may be present within the Project vicinity.

COMMENT 2: Riparian Vegetation Removal, Revegetation Plan, pg. 8/91

Issue: The Revegetation Plan mentions approximately 700 feet of shoreline contains tule habitat and approximately 508 square feet of impacts will occur to riparian habitat. However, the MND does not specify the number of plants or plant species being removed during vegetation removal activities. Without understanding the approximate number or types of plants being removed, the current Revegetation Plan does not adequately assess impacts for the loss of riparian habitat.

Recommendation or Recommended Mitigation Measure: CDFW recommends that the Project provide the plant species and the approximate number of plants that will need to be removed during construction activities. In addition, CDFW recommends implementing the following measure during all vegetation removal activities:

1. Vegetation Removal Methods. Hand tools (e.g., trimmer, chain saw, etc.) shall be used to trim vegetation to the extent necessary to gain access to the work site(s); larger equipment shall not be used for vegetation removal unless already described

in the project description.

2. Vegetation Removal. Riparian vegetation removal, including tules and willows, shall be conducted under the supervision of a qualified biologist. Cuttings and removed vegetation shall be incorporated into onsite restoration activities or other restoration projects in the Clear Lake watershed. Tules and willow cuttings shall be made available to tribal and cultural partners within the Clear Lake watershed.

COMMENT 3: Revegetation Plan, Mitigation Measure BIO-1: Protect Clear Lake hitch, pg. 32/91

Issue: Mitigation Measure BIO-1: Protect Clear Lake hitch describes methods to reduce potential impacts to Clear Lake hitch, however, the Revegetation Plan does not provide adequate proposed mitigation to reduce impacts to a less than significant level.

Recommendation or Recommended Mitigation Measure: CDFW recommends adding an additional measure that specifies that the Revegetation 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 mitigation area; (d) a local seed and cuttings and 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.

In addition, CDFW recommends that Mitigation Measure BIO-1 for Clear Lake hitch be revised to the following (**added text is included in bold while removed text is provided in strikethrough**):

1. To avoid impacts to Clear Lake Hitch, any work within the open water of Clear Lake shall occur only in the window of time from October 15 through December 31. In addition, the applicant shall implement the revegetation plan as prescribed below to reduce impacts to the Clear Lake Hitch as the revegetation plan will create habitat for the Clear Lake Hitch:
 - a. To offset the loss of approximately 508 square feet of riparian habitat, new riparian vegetation shall be installed onsite ~~at a ratio of 2:1~~ prior to construction activities or as deemed appropriate by a qualified biologist. The revegetation plan shall consist of the planting of native riparian vegetation in an area of at least **1524** ~~1,016~~ square feet in the boundary identified by the qualified biologist **in consultation with CDFW**. Tule Rhizomes and/or native willow cuttings shall be the primary plants used for revegetation. The planting density shall be 1 propagule per square meter. Mesh cased may be constructed if deer browsing is an issue. **Non-native vegetation weeding** shall be performed by hand or

line trimmer to suppress competition. Supplemental watering shall be employed **when** necessary, **including** in periods of drought or low-lake levels. When mortality occurs, new plantings shall be placed in those failed planting stations. The success rate shall be 80% at the end of **5** 3 years and the revegetation effort shall be supervised by a qualified biologist or restoration ecologist.

- b. Annual reports shall be documented and provided to **CDFW and to the City of Lakeport** for the revegetation plan.
2. Stormwater and sediment controls, including silt containment fence and fiber rolls, shall be installed prior to any ground disturbing work to prevent sedimentation of potential spawning and rearing habitat for Clear Lake hitch.
3. All refueling, maintenance, and staging of equipment and vehicles shall occur at least **150** ~~400~~ feet from riparian habitat or bodies of water and in a location where a potential spill would not drain directly toward aquatic habitat (e.g., on a slope that drains away from the water source). Equipment shall be checked daily for leaks prior to the initiation of construction activities.
4. If it is not possible to schedule construction during work window (October 15 through December 31) a qualified biologist, **in coordination with CDFW's District Fisheries Biologist**, shall determine if work outside this window is feasible. The qualified biologist shall provide written documentation to **CDFW and to the City of Lakeport** providing evidence that no impacts would occur to aquatic, plant, or wildlife species. ~~and the following mitigations shall be incorporated:~~
5. Before construction activities begin, a qualified biologist shall conduct a training session for all construction personnel working within 50 feet of Clear Lake. At a minimum, the training will include a description of Clear Lake hitch and its habitat, the specific measures that are being implemented to protect this species for the Project, and the boundaries within which the Project may be accomplished.
6. Immediately prior to all construction activities within 50 feet of Clear Lake, a qualified biologist, **in coordination with CDFW's District Fisheries Biologist**, shall conduct a visual pre-construction survey for Clear Lake hitch 200 feet north and 200 feet south from the lakebed construction on the shoreline. The qualified biologist shall then monitor all construction activities within 50 feet of Clear Lake to ensure impacts to Clear Lake hitch and its habitat are avoided. The qualified biologist shall stop work if Clear Lake hitch behavior is affected by Project activities. In such cases, work may need to be redirected to other areas or postponed until Clear Lake hitch is no longer present in the reach of Clear Lake potentially affected by Project activities.

COMMENT 4: Invasive Species Mitigation Measure

Issue: Construction activities within Clear Lake have the potential to introduce invasive species without proper precautionary measures in place. The introduction of an invasive

aquatic species has the potential to significantly impact Clear Lake hitch and their associated habitat.

Recommendation or Recommended Mitigation Measure: CDFW recommends incorporating the following measure into the MND:

Invasive Species. Permittee shall conduct project activities in a manner that prevents the introduction, transfer, and spread of aquatic, riparian, and terrestrial invasive species from one work site and/or water body to another. Prior to entering the project area, Permittee shall inspect equipment for invasive species and, if any signs of invasive species are found, the equipment shall be cleaned to remove those species. All visible soil/mud, plant materials, and animal remnants on equipment will be removed prior to entering and exiting the work site and/or between each use in different water bodies. Permittee shall notify CDFW immediately if an invasive species not previously known to occur within the work site is discovered during work activities by contacting CDFW's Invasive Species Program by email at Invasives@wildlife.ca.gov.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database 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 (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 submitted online or mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov.

FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. 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. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

Pursuant to Public Resources Code § 21092 and § 21092.2, CDFW requests written notification of proposed actions and pending decisions regarding the proposed project. Written notifications shall be directed to: California Department of Fish and Wildlife North Central Region, 1701 Nimbus Road, Rancho Cordova, CA 95670 or emailed to R2CEQA@wildlife.ca.gov.

CDFW appreciates the opportunity to comment on the MND for the Disney's Boat Rentals Project to assist City of Lakeport in identifying and mitigating Project impacts on biological resources. CDFW personnel are available for consultation regarding biological resources and strategies to minimize and/or mitigate impacts. Questions regarding this letter or further

coordination should be directed to Michael Shun, Senior Environmental Scientist (Specialist) at (916) 767-8444 or michael.shun@wildlife.ca.gov.

Thank you,

Michael Shun

California Department of Fish and Wildlife
Senior Environmental Scientist (Specialist)
Cell: (916) 767-8444

^[1] CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.