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DEPARTMENT OF FISH AND WILDLIFE
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GAVIN NEWSOM, Governor
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August 8, 2025

Christina Freeman, Senior Environmental Scientist – Specialist
California State Parks – Bay Area District
845 Casa Grande Road
Petaluma, CA 94954
BayAreaNaturalResources@parks.ca.gov

Subject: Bothe-Napa Valley State Park – Day Use Road/Bothe State Park Road-Ritchey Creek Fish Passage Barrier Removal Project, SCH No. 2025060806, Napa County

Dear Ms. Freeman:

The California Department of Fish and Wildlife (CDFW) received an Initial Study/Mitigated Negative Declaration (IS/MND) from the California Department of Parks and Recreation for the Bothe-Napa Valley State Park – Day Use Road/Bothe State Park Road-Ritchey Creek Fish Passage Barrier Removal Project (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines. CDFW appreciates that the Project will improve fish passage in Ritchey Creek.

CDFW is submitting comments on the IS/MND to inform the California Department of Parks and Recreation, as the Lead Agency, of potentially significant impacts to biological resources associated with the Project.

CDFW ROLE

CDFW is a **Trustee Agency** with responsibility under CEQA pursuant to CEQA Guidelines section 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 Lake or Streambed Alteration (LSA) Program, or other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources.

PROJECT DESCRIPTION SUMMARY

Proponent: California Department of Parks and Recreation

Objective: The Project would reconstruct a road and bridge crossing over Ritchey Creek to restore fish passage to approximately three miles of high-quality upstream spawning habitat within the Ritchey Creek watershed at the Bothe-Napa Valley State Park. To accomplish this, the following Project activities would occur:

- Removal of the two 60-inch-diameter culverts, associated footings, and concrete portion of Day Use Road/Bothe State Park Road at the crossing;
- Channel grading at the crossing and in the immediate upstream and downstream vicinity of the crossing (improvements reaching about 60 feet downstream and 415 feet upstream from roadside);
- Construction of two 12-foot-wide by 10-foot-long bridge abutments parallel to the road prism at each side of the crossing;
- Installation of a 50-foot free span bridge topped with a roadway atop the footings;
- Construction of a retaining wall at Campground Road;
- Re-paving of Day Use Road/Bothe State Park Road and Campground Road where improvements occur; and
- Revegetation of the exposed areas post-construction.

Approximately 500 linear feet of Ritchey Creek would be dewatered to allow for Project activities to occur. A coffer dam would be installed approximately 400 feet upstream of the bridge. Dewatering would occur during the low flow season (August through end of October).

Location: The Project is located on Ritchey Creek, approximately 3.5 miles southeast of downtown Calistoga, CA 94515; at the Bothe-Napa Valley State Park; at approximately 38.55171 °N, -122.52116 °W; Napa County (County).

REGULATORY REQUIREMENTS

Lake and Streambed Alteration

An LSA Notification, pursuant to Fish and Game Code section 1600 et. seq. is required for Project activities affecting lakes or streams and associated riparian habitat. 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. **The Project would impact Ritchey Creek, therefore an LSA Notification is required as further described below.** Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to LSA notification requirements. CDFW, as a Responsible Agency under CEQA, would consider the CEQA document for the Project and may issue an LSA Agreement. CDFW may not execute the final LSA Agreement until it has complied with CEQA as a Responsible Agency.

California Endangered Species Act

Please be advised that a CESA Incidental Take Permit (ITP) 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. **The Project has the potential to impact northern spotted owl (NSO, *Strix occidentalis caurina*), State listed as threatened, as further described below. The IS/MND indicates that the Project also has the potential to impact California freshwater shrimp (*Syncaris pacifica*), State listed as endangered. CDFW recommends revising the IS/MND Mitigation Measure BIO-2 to include obtaining an ITP from CDFW if impacts to California freshwater shrimp may occur.** Issuance of an ITP 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 an ITP.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially restrict the range or reduce the population of a threatened or endangered species. (Pub. Resources Code, §§ 21001, subd. (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 CESA.

Raptors and Other Nesting Birds

CDFW has jurisdiction over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nests or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the County in adequately identifying and/or 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, including those CDFW recommends below and included in **Attachment 1** Draft Mitigation Monitoring and Reporting Program, CDFW concludes that an MND is appropriate for the Project.

I. ***MANDATORY FINDING OF SIGNIFICANCE. Does the Project have potential to substantially reduce the number or restrict the range of an endangered, rare, or threatened species?***

And,

Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or U.S. Fish and Wildlife Service (USFWS)?

COMMENT 1: Northern Spotted Owl - Environmental Setting Related Impact Shortcoming

Issue: The IS/MND does not appropriately evaluate potential Project impacts to nesting NSO which could occur and be impacted within 0.25 miles of the Project, the distance at which audio and visual disturbances may occur. Regarding records from the California Natural Diversity Database (CNDDB) for NSO near the Project area, page 4-60 of the Draft Biological Resources Assessment (Appendix B of the IS/MND) states that "There are no mapped CNDDB occurrences for this species within five miles of the BSA." However, NSO records are tracked in the Spotted Owl Observations Database which has not been integrated directly into the CNDDB (see: https://wildlife.ca.gov/Data/CNDDB/Spotted-Owl-Info). According to the Spotted Owl Observations Database, there have been approximately 34 positive records of NSO within 5 miles of the Project area since 2010, including several nest and pair observations. The closest NSO nest site record (MASTEROWL #NAP0001) is approximately 1.4 miles to the southwest and within the boundaries of Bothe-Napa Valley State Park. According to the Napa County Vegetation GIS layer (ds2899), updated in 2016, it appears that the same type of forest used by NAP0001, including coast redwood and Douglas fir, occurs within 0.25 miles of the Project site, which is also suggested by aerial imagery. Therefore, it appears that NSO nesting habitat occurs within 0.25 miles of the Project area.

Specific impacts and why they may occur and be significant: The Project could result in auditory or visual disturbances to nesting NSO, nest abandonment, and loss of eggs; or reduced health and vigor and loss of young. NSO is CESA listed as a threatened species and is also listed under the federal Endangered Species Act (ESA), and therefore is considered to be a threatened species pursuant to CEQA Guidelines section 15380. Therefore, if an active NSO nest is disturbed by the Project, the Project may result in a substantial reduction in the number of a threatened species, which is considered a Mandatory Finding of Significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

Recommended Mitigation Measure: To reduce impacts to NSO to less-than-significant and comply with Fish and Game Code section 3500 et seq. and CESA, CDFW recommends including the below mitigation measure in the IS/MND.

Mitigation Measure BIO-7 Northern Spotted Owl Surveys: A qualified biologist shall provide an assessment of potential NSO nesting habitat within the Project area and a 0.25 mile radius and obtain CDFW's written acceptance of the assessment. Alternatively, if the assessment is not completed, or if it concludes that NSO nesting habitat is present, then no Project activities within 0.25 miles of potential NSO nesting habitat shall occur between March 15 and July 31 unless a qualified biologist approved in writing by CDFW conducts NSO surveys following the U.S. Fish and Wildlife Service (USFWS) *Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls*, dated (revised) January 9, 2012; available at https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83977&inline. Surveys shall be conducted in accordance with Section 9 of the survey protocol, *Surveys for Disturbance-Only Projects*. If breeding NSO are detected during surveys, CDFW shall be immediately notified in writing, and a 0.25 mile no-disturbance buffer zone shall be implemented around the nest until the end of the breeding season, or a qualified biologist determines that the nest is no longer active, unless otherwise approved in writing by CDFW. The Project shall obtain CDFW's written acceptance of the qualified biologist and survey report prior to Project construction occurring between March 15 and July 31 each year.

Alternate buffer zones may be proposed to CDFW after conducting an auditory and visual disturbance analysis following the USFWS guidance, *Estimating the Effects of Auditory and Visual Disturbance to Northern Spotted Owls and Marbled Murrelets in Northwestern California*, dated October 1, 2020. Alternative buffers must be approved in writing by CDFW.

If take of NSO cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP, and also consult with USFWS pursuant to the federal ESA.

II. *Would the Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by CDFW or USFWS?*

COMMENT 2: Stream Alteration – Mitigation Measures Related Impact Shortcoming

Issue: The IS/MND includes protective Mitigation Measures BIO-1 through BIO-6 and BIO-13 to mitigate impacts to Ritchey Creek, however additional mitigation measures are necessary to reduce impacts to Ritchey Creek to less-than-significant.

Specific impacts and why they may occur and be significant: The Project would result in temporary and permanent impacts to Ritchey Creek and associated riparian

habitat including tree removal, the streams receiving its flows, and fish and wildlife using the stream, potentially including central California coast steelhead (*Oncorhynchus mykiss irideus* pop. 8), a federally listed as threatened species and state Species of Special Concern. Impacts could include inputs of deleterious materials, removal and trampling of riparian vegetation, obstructions and diversions of stream, dewatering, and indirect impacts to streams receiving Ritchey Creek flows. Project impacts to sensitive stream and associated riparian habitat would be potentially significant.

Recommended Mitigation Measure: To comply with Fish and Game Code section 1600 et seq. and reduce impacts to stream and associated riparian habitat to less-than-significant, CDFW recommends including the below mitigation measure in the IS/MND.

Mitigation Measure BIO-8 Stream Alteration. The Project shall notify CDFW for Project impacts to Ritchey Creek pursuant to Fish and Game Code section 1600 et seq. More information for the notification process is available at https://wildlife.ca.gov/Conservation/Environmental-Review/LSA.The Project shall comply with all measures of the Streambed Alteration Agreement (SAA), if issued, and shall not commence activities with potential to impact the stream until the SAA process has been completed. Restoration to offset impacts to stream and riparian habitat shall be implemented including restoration of temporary impact areas and on-site or off-site restoration at a minimum 3:1 restoration to impact ratio to offset permanent impacts, unless otherwise approved in writing by CDFW. A qualified biologist shall prepare and implement a restoration plan, including success criteria and a minimum of five years of monitoring and maintenance.

Please be advised that a SAA, if issued for the Project, would likely include the above recommended mitigation measures, as applicable, and may include additional measures to protect fish and wildlife resources.

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 CNDDB. The CNDDB field survey form can be filled out and submitted online at the following link: https://wildlife.ca.gov/Data/CNDDB/Submitting-Data. The types of information reported to CNDDB can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Plants-and-Animals

ENVIRONMENTAL DOCUMENT FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document 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 environmental document filing 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

CDFW appreciates the opportunity to comment on the IS/MND to assist the California Department of Parks and Recreation in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Nicholas Magnuson, Environmental Scientist, at (707) 815-4166 or Nicholas.Magnuson@wildlife.ca.gov, or Melanie Day, Senior Environmental Scientist (Supervisory), at (707) 210-4415 or Melanie.Day@wildlife.ca.gov.

Sincerely,

Erin Chappell
Regional Manager
Bay Delta Region

Attachment 1: Draft Mitigation Monitoring and Reporting Program

ec: Office of Land Use and Climate Innovation (SCH No.2025060806)

ATTACHMENT 1

Draft Mitigation Monitoring and Reporting Program (MMRP)

CDFW provides the following language to be incorporated into the MMRP for the Project.

Biological Resources (BIO)			
Mitigation Measure (MM)	**Description**	**Timing**	**Responsible Party**
MM BIO-7	Northern Spotted Owl Surveys: A qualified biologist shall provide an assessment of potential NSO nesting habitat within the Project area and a 0.25-mile radius and obtain CDFW's written acceptance of the assessment. Alternatively, if the assessment is not completed, or if it concludes that NSO nesting habitat is present, then no Project activities within 0.25 miles of potential NSO nesting habitat shall occur between March 15 and July 31 unless a qualified biologist approved in writing by CDFW conducts NSO surveys following the U.S. Fish and Wildlife Service (USFWS) *Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls*, dated (revised) January 9, 2012; available at https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83977&inline. Surveys shall be conducted in accordance with Section 9 of the survey protocol, *Surveys for Disturbance-Only Projects*. If breeding NSO are detected during surveys, CDFW shall be immediately notified in writing, and a 0.25-mile no-disturbance buffer zone shall be implemented around the nest until the end of the breeding season, or a qualified biologist determines that the nest is no longer active, unless otherwise approved in writing by CDFW. The Project shall obtain CDFW's written acceptance of the qualified biologist and survey report prior to Project construction occurring between March 15 and July 31 each year. Alternate buffer zones may be proposed to CDFW after conducting an auditory and visual disturbance analysis following the	Prior to Ground Disturbance	Project Applicant

	USFWS guidance, *Estimating the Effects of Auditory and Visual Disturbance to Northern Spotted Owls and Marbled Murrelets in Northwestern California*, dated October 1, 2020. Alternative buffers must be approved in writing by CDFW. If take of NSO cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP, and also consult with USFWS pursuant to the federal ESA.		
MM BIO-8	Stream Alteration: The Project shall notify CDFW for Project impacts to Ritchey Creek pursuant to Fish and Game Code section 1600 et seq. More information for the notification process is available at https://wildlife.ca.gov/Conservation/Environmental-Review/LSA.The Project shall comply with all measures of the SAA, if issued, and shall not commence activities with potential to impact the stream until the SAA process has been completed. Restoration to offset impacts to stream and riparian habitat shall be implemented including restoration of temporary impact areas and on-site or off-site restoration at a minimum 3:1 restoration to impact ratio to offset permanent impacts, unless otherwise approved in writing by CDFW. A qualified biologist shall prepare and implement a restoration plan, including success criteria and a minimum of five years of monitoring and maintenance.	Prior to Ground Disturbance	Project Applicant