

# ATTACHMENT D

## Responses to Comments on the Draft IS/MND for the Upper Scott River Mainstem Habitat Enhancement Project Phase II

One letter commenting on the information and analysis in the draft IS/MND was received during the public review period; the comment letter was received from the following party:

- Tina Bartlett, Regional Manager Northern Region, California Department of Fish and Wildlife, 24 November 2025.

The comment letter has been posted to the Governor's Office of Land Use and Climate Innovation's (State Clearinghouse) CEQAnet web portal (<https://uat.ceqanet.lci.ca.gov/>) together with the draft IS/MND. Each comment has been reproduced here verbatim in its entirety. SVRCD's responses to all comments are provided below:

### **Comment 1:**

The California Department of Fish and Wildlife (CDFW) has reviewed the Initial Study/Mitigated Negative Declaration (MND) dated October 2025, for the above-referenced project (Project). CDFW appreciates this opportunity to comment on the Project, pursuant to the California Environmental Quality Act (CEQA) Guidelines<sup>1</sup>.

#### CDFW's 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 Agency capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (Id., § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, 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 is also submitting comments 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. 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.) or state listed rare plants pursuant to the Native Plant Protection Act (NPPA; Fish & G. Code § 1900 et seq.), authorization as provided by the applicable Fish and Game Code may be required.

<sup>1</sup> 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.

### **Response 1:**

This comment provides background information about CDFW’s roles as both a trustee agency and responsible agency, and various applicable regulations (e.g., California Endangered Species Act, California Fish and Game Code). These introductory remarks are acknowledged for the record and will be provided to the decision makers for consideration.

### **Comment 2:**

#### Project Description

The Project as proposed in the MND “is to improve ecological function through implementation of instream and floodplain restoration treatments.” The Project will occur on the Scott River, a tributary to the Klamath River, in Siskiyou County, California. The Project site is located in the Scott Valley and covers an approximately 4-mile-long contiguous stretch of the Scott River, encompassing around 700 acres of the river channel and floodplain. Planned restoration treatments include side channel excavation, channel contouring, installation of instream large woody structures (e.g., engineered log jams), riparian planting, and other enhancements to improve instream and off-channel habitat, enhance floodplain connectivity, improve riparian health, establish drought resiliency, and reduce sediment and erosion affecting aquatic habitats as well as adjacent agricultural lands.

### **Response 2:**

This comment summarizes the project description and location. These introductory remarks are acknowledged for the record and will be provided to the decision makers for consideration.

### **Comment 3:**

#### Comments and Recommendations

CDFW has the following comments and recommendations:

#### Western pond turtle (*Emys marmorata*)

The MND indicates aquatic and terrestrial habitat exists for western pond turtle (WPT) throughout the Project area and proposes pre-construction visual encounter surveys. While CDFW staff agree with implementing pre-construction surveys, WPT exhibits high site fidelity. If found, and relocated, the likelihood of the WPT coming back into the construction zone is

high. Therefore, CDFW recommends that a qualified biological monitor, experienced with the WPT, be present in the construction areas where there is a high probability pond turtle could be present.

**Response 3:**

MM-BIO-1 includes requirements to conduct pre-construction surveys for (north)western pond turtles, avoid pond turtle nests, and allows for relocation of pond turtles outside of construction areas. The Final IS/MND has been revised to acknowledge that pond turtle exhibits high site fidelity and high likelihood of returning to the construction area and to include the recommendation from CDFW to have a qualified biological monitor, experienced with pond turtle, be present in the construction areas where there is a high probability pond turtle could be present. No revision to the impact significance conclusion for pond turtle is warranted; the impact to pond turtle remains less than significant with mitigation. The additional requirement of having a biological monitor present would result in more effective mitigation of potential significant impacts to the species.

SVRCD has determined that these revisions do not require recirculation of the IS/MND. Under CEQA Guidelines section 15073.5(c)(1), recirculation of an IS/MND is not required if mitigation measures are replaced with equal or more effective measures. Also, under CEQA Guidelines section 15073.5(c)(1), recirculation is not required if project revisions are made in response to written or verbal comments on the project's effects identified in the draft IS/MND and do not constitute any new avoidable significant effects.

**Comment 4:**

Fish

MM-BIO-6 Protection of Special-Status Fish

The MND states that protection of special status fish would be done by working with CDFW And National Oceanic and Atmospheric Administration. The measure states “Agency personnel will be granted access (with appropriate prior notice to landowners) to construction sites during construction and following project completion in order to evaluate species presence, condition, and/or habitat conditions.” Waiting for landowner approval if a fish rescue or other action becomes necessary could be detrimental. CDFW would prefer timely access to the work area during construction if assistance is requested. CDFW suggests obtaining permission for the length of the construction period. In the section of the Scott River where the Project is located an in-water construction period of July 15th to October 1st would be more appropriate to reduce impacts to fisheries and the need for fish rescue and relocation.

MM-BIO-6 Protection of Special-Status Fish

The last avoidance measure states “All fish trapped within the exclusion zone will be captured and relocated to suitable habitat outside the work area in consultation with NMFS and CDFW.”

Capturing, handling and relocating state-listed species would require compliance with CESA and other species would require a Scientific Collecting Permit<sup>2</sup>.

<sup>2</sup> [Scientific Collecting Permits](#)

#### **Response 4:**

MM-BIO-6 includes requirements for avoidance, minimization, and mitigation measures to protect special-status fish. The Final IS/MND has been revised following CDFW's comments to require that the project obtain prior landowner permission granting access to agency personnel, to revise the in-water construction period from 15 June to 15 October to 15 to 1 October, and to clarify that the project would acquire the proper permits prior to capturing, handling, or relocating of any state- or federally-listed fish species.

No revision to the impact significance conclusion for special-status fish is warranted; the impact to special-status fish remains less than significant with mitigation. Providing easier access by agency personnel and having a shorter in-channel work window would result in more effective mitigation of potential significant impacts to the species. The project SPRs already require obtaining proper permits; however, the language in MM-BIO-6 was revised to clarify and reiterate the requirement for obtaining proper permits. SVRCD has determined that these revisions do not require recirculation of the IS/MND as the mitigation measures are replaced with equal or more effective measures and the new project revisions are in response to written comments on the project's effects in the draft IS/MND and do not constitute any new avoidable significant effects.

#### **Comment 5:**

Bank Swallows (*Riparia riparia*)

The bank swallow is listed as a Threatened species under CESA. CDFW strongly recommends final Project designs avoid all bank swallow nesting habitat, including both potentially suitable habitat and documented habitat. Vertical streambanks should remain untouched and unaltered, especially those occurring near known nesting colony sites within the Project.

In Scott Valley there are minimal opportunities to create bank swallow habitat, and those areas have not been identified in the MND. Therefore, the proposed mitigation to compensate or offset the loss of habitat by constructing habitat is not adequate. CDFW staff are concerned about bank stability and loss of habitat with the proposed Project activities. Please note that the decline of suitable habitat is the main cause of the bank swallow decline. CDFW strongly recommends conditioning a 250-foot buffer of no disturbance around the bank swallow nesting habitat. Although the Project is to enhance stream conditions that will benefit listed fish species, the Project should similarly be designed to protect all species with potential to occur and known to occur. If bank swallow habitat cannot be avoided and protected the proposed mitigations are not

adequate in mitigating the proposed Projects impacts to less than significant and consultation with CDFW is warranted prior to Project approval.

**Response 5:**

Mitigation measures MM-BIO-4 and MM-BIO-5 include protections for bank swallows. Following CDFW's comments, the IS/MND has been revised so that MM-BIO-4 includes protection of bank swallow by establishing a 250-foot buffer around nests and suitable nesting habitat. MM-BIO-5 has been revised to avoid bank swallow nests and nesting habitat (documented as well as potentially suitable habitat), including that vertical streambanks should remain untouched and unaltered, especially those occurring near known nesting colony sites within the project area. Minimization and compensatory measures were removed from MM-BIO-5 in response to CDFW's comment. Also, the IS/MND was revised to note that the decline of suitable habitat is the main cause of bank swallow population declines.

SVRCD has determined that these revisions do not require recirculation of the IS/MND as the mitigation measures are replaced with equal or more effective measures and the new project revisions are in response to written comments on the project's effects in the draft IS/MND and do not constitute any new avoidable significant effects.

**Comment 6:**

**Riparian Planting**

CDFW recommends including more information on the proposed methods for monitoring the success of the riparian vegetation, and what metrics will be used for measuring that success. CDFW recommends the development of a riparian revegetation plan (plan) as part of Project implementation. The plan should include a plant palette of species to be used in revegetation, success criteria, monitoring & reporting, and corrective actions to be taken when mitigation measures do not meet the proposed success criteria. The MND also identifies that riparian monitoring will occur during the period of the grant. Grant funding typically is for two to three years, which is not sufficient to determine success. CDFW recommends a five-year period for riparian monitoring.

**Response 6:**

MM-BIO-12 includes requirements for riparian planting. The Final IS/MND has been revised following CDFW's comments to require that a riparian vegetation plan be prepared prior to replanting that should include a planting palette, success criteria, monitoring, reporting, and corrective actions to be taken when success criteria are not met. The IS/MND was also revised to include that riparian plantings will be monitored for five years post planting, as feasible.

No revision to the impact significance conclusion for riparian vegetation is warranted; the impact to riparian vegetation remains less than significant with mitigation. Requiring a riparian vegetation plan and improved monitoring would result in more effective mitigation of potential significant impacts to riparian vegetation. SVRCD has determined that these revisions do not require recirculation of the IS/MND as the mitigation measures are replaced with equal or more effective measures and the new project revisions are in response to written comments on the project's effects in the draft IS/MND and do not constitute any new avoidable significant effects.

### **Comment 7:**

#### California Endangered Species Act

Please be advised that a CESA Incidental Take Permit<sup>3</sup> or other CESA coverage must be obtained if the Project has the potential to result in "take" (hunt, pursue, catch, capture, kill, or attempt thereof) 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 has the potential to result in take of a CESA-listed species, early consultation is encouraged, as significant modification to the Project may be necessary to minimize and fully mitigate impacts as required by Fish and Game Code, section 2081, subdivision (b)(2).

#### Lake and Streambed Alteration Agreement

The MND indicates Project activities and improvements will bisect a perennial stream and a hydrologically connected wetland feature. Please note that these actions may be subject to Fish and Game Code section 1602, which requires any person, state or local governmental agency, or public utility to notify CDFW prior to beginning any activity that may do one or more of the following:

- Substantially divert or obstruct the natural flow of the bed, channel, or bank of any river, stream, or lake; or
- Substantially change or use any material from the bed, channel, or bank of any river, stream, or lake; or
- Deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake.

<sup>3</sup> <https://wildlife.ca.gov/Conservation/CESA/Permitting>

### **Response 7:**

This comment provides background information about CDFW's applicable regulations and required permits (e.g., California Endangered Species Act, Incidental Take Permit, California Fish and Game Code, Lake and Streambed Alteration Agreement) and recommends early consultation with CDFW. The IS/MND contains requirements for consulting with CDFW and other regulatory agencies, following state regulations and laws, and obtaining proper permits

prior to project implementation. This was clarified by adding an additional SPR requiring compliance with biological resource requirements. The added SPR was numbered SPR-BIO-1 and subsequent SPRs for biological requirements were renumbered accordingly.

SVRCD has determined that these revisions do not require recirculation of the IS/MND as the addition of this SPR serves only to clarify aspects of the project's standard requirements in response to written comments on the project's effects. This revision does not constitute a new mitigation measure and does not constitute a new avoidable significant effect.

### **Comment 8:**

Lake and Streambed Alteration Program staff are available to assist and can be contacted at [r1lsaredding@wildlife.ca.gov](mailto:r1lsaredding@wildlife.ca.gov). To obtain information about the 1602 Notification process, access the Lake and Streambed Alteration Program<sup>4</sup>. Please note projects such as the one identified in the MND will likely require CDFW conservation engineering review during the Lake and Streambed Alteration Agreement issuance process which may include more design specific comments and recommendations.

#### Permitting Pathways

Many restoration projects qualify for expedited permitting pathways which include CDFW's new Restoration Management Permit that consolidates five of the most common CDFW authorizations typically needed for restoration projects into a single, streamlined approval. CDFW recommends contacting our Cutting the Green Tape Program at [restorationpermitting@wildlife.ca.gov](mailto:restorationpermitting@wildlife.ca.gov) to see if your project qualifies for one of our expedited permitting pathways. CDFW appreciates the opportunity to comment on the MND to assist the Scott River Resource Conservation District in adequately analyzing and minimizing impacts to biological resources. If you have any questions, please contact Stephanie Houtman, Environmental Scientist-Specialist, by email at [Stephanie.Houtman@wildlife.ca.gov](mailto:Stephanie.Houtman@wildlife.ca.gov).

<sup>4</sup> <https://wildlife.ca.gov/Conservation/Environmental-Review/LSA>

### **Response 8:**

These administrative remarks are acknowledged for the record and will be provided to the decision makers for consideration.