



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Northern Region  
601 Locust Street  
Redding, CA 96001  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



March 8, 2021

Ryan Teubert  
Flood Control and Water Resources Manager  
Tehama County Flood Control and Water Conservation District  
9380 San Benito Avenue  
Gerber, CA 96035

**Subject: Review of the Mitigated Negative Declaration for Deer Creek Erosion Repair Project, State Clearinghouse Number 2021020121, Vina, Tehama County**

Dear Ryan Teubert:

The California Department of Fish and Wildlife (Department) has reviewed the Mitigated Negative Declaration (MND) dated December 2020 for the above-referenced project (Project). As a 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 their habitat. As a responsible agency, the Department administers the California Endangered Species Act and other provisions of the Fish and Game Code that conserve the State's fish and wildlife public trust resources. The Department offers the following comments and recommendations on this Project in our role as a trustee and responsible agency pursuant to the California Environmental Quality Act, California Public Resources Code section 21000 et seq.

### **Project Description**

The Project as proposed includes “*conducting erosion damage repairs at the project site. Activities would include constructing levee repairs and storing vehicles, equipment, and imported materials at designated staging areas. The project includes two potential staging areas located just upstream from the erosion site on the water side of the adjacent levee within open grassland. The staging areas are approximately 0.20 and 0.16 acre in size, respectively, from the closest to the erosion site to the farthest upstream. In addition, there is an approximately 2-acre staging and turnaround area located approximately 1,400 linear feet along the levee southwest from the erosion site on disturbed land used for farm equipment storage. Construction activity would occur over an approximately 1-month period.*” The Project is located approximately two miles east of State Route 99 near Golonka Lane, south bank of Deer Creek on Assessor's Parcel Number 079-040-077. The Project is approximately 300 feet in length and totals 0.71 acre.

### **Comments and Recommendations**

The Department has funded development of restoration plans and environmental review for the Stanford Vina Ranch Irrigation Company Fish Passage Improvement Project and the Lower Deer Creek Flood and Ecosystem Improvement Project, which are located near or in the same area as the proposed Project. The proposed Project should be developed in coordination with ongoing restoration design efforts and should not constrain or limit Deer Creek restoration options in any way. The Department will ensure that this coordination takes place during Project permitting.

*Conserving California's Wildlife Since 1870*

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The Department has the following recommendations and comments as they pertain to biological resources:

#### Rip Rap

Rock riprap is an engineering technique used to stabilize streambanks that provides little in the way of fish and wildlife habitat when compared to a natural, vegetated stream bank. Riprap impedes the establishment a naturally functioning riparian zone and the associated ecological benefits of streamside vegetation, which includes shading, habitat diversity, biofiltration, woody debris recruitment, high flow refugia for fish, lower instream water temperatures, sequestration of sediment, and a diversity of habitat for both terrestrial and aquatic species.

To offset the adverse impacts associated with rock riprap, the Department recommends adding woody vegetation to riprap structures through the use of live staking and pole planting during construction. Adding woody vegetation provides a number of benefits including increases to the structure's strength and durability. Vegetation creates hydraulic roughness that reduces stream flow energy adjacent to the rock and protects rock and soil from erosive forces. Roots contribute to the tensile strength of the structure, binding soil and rocks together.

The establishment of vegetation on the rock structure also provides numerous biological benefits including shade and cover for fish where the vegetation overhangs the stream, maintaining stream temperatures and reducing predation, respectively. The vegetation also improves the microclimate along the stream, allowing a diversity of riparian plant and wildlife species to establish themselves within the vegetated rock structures.

In order to ensure the success of vegetation planted in rock structures, the Department recommends the adoption of the following mitigation measure:

**Rock riprap structures shall be planted with a mix of locally collected native vegetation such as willow (*Salix spp.*), boxelder (*Acer negundo*), cottonwood (*Populus fremontii*), walnut (*Juglans spp.*) or sycamore (*Platanus racemosa*). At least two genus shall be planted on the site, and maintained until established. Vegetation planting shall be done in a manner consistent with the guidelines for collection, planting, and propagation of riparian vegetation found in Chapter XI of the California Salmonid Stream Habitat Restoration Manual, CDFW, July, 2009. Project proponent shall monitor and maintain, as necessary, all plants for five (5) years to ensure successful revegetation. All planting shall have a minimum of 85% survival at the end of five (5) years and shall attain 80% cover of the rock structure after five (5) years.**

Chapter XI of the California Salmonid Stream Habitat Restoration Manual, CDFW, July, 2009 is available here: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=3594>

#### Mitigation Measures

Mitigation Measure BIO-4 states, "*If permanent impacts on critical habitat cannot be adequately avoided and minimized, a feasible mitigation plan shall be developed in consultation with NMFS.*" The Department requests that this be rephrased to "*If permanent impacts on critical habitat cannot be adequately avoided and minimized, a feasible mitigation plan shall be developed in consultation with NMFS and the California Department of Fish and Wildlife*". Further, sensitive natural communities impacted from the Project need to be mitigated under the

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CEQA process. The Department recommends a 3:1 ratio for impacts to riparian habitat that will be mitigated onsite and a 5:1 ratio if mitigated offsite. The Department strongly encourages any impacts to the bed, bank, channel, and riparian vegetation be mitigated at the site or elsewhere along Deer Creek.

Mitigation Measure BIO-5 discusses pre-construction surveys for western pond turtle 48 hours prior to the start of construction activities. The Department recommends including surveys the morning of anticipated work. The measure goes on to state, "*If it is determined that the pond turtle would be harmed by continued construction activities, a qualified biologist shall move the western pond turtle to a suitable location outside of the project area.*" The relocation area(s) need to be determined prior to the start of the Project and approved in writing by the Department. Further, the qualified biologist must have a valid Scientific Collecting Permit (SCP) to relocate wildlife to avoid harm or mortality in connection with otherwise lawful activities. The application process for obtaining a SCP can be found here: <https://wildlife.ca.gov/Licensing/Scientific-Collecting#53949678-regulations->. Alternately, a Lake and Streambed Alteration Agreement may be used to authorize the handling of turtles and other non-species.

Mitigation Measure BIO-9 states, "*A qualified biologist shall conduct pre-construction surveys of all trees proposed for removal for western red bat, pallid bat, and maternity roosts within 24 hours prior to the start of construction activities.*" The Department recommends a description of what pre-construction surveys for Pallid and Western Red bats would include (specific equipment to be used, etc.).

#### Special Status Plant Species

Section 3.4.3.1 states, "*No special-status plant species were determined to have the potential to occur within the study area.*" Table 3 lists two species with a low potential to occur within the Project including adobe-lily (*Fritillaria pluriflora*) and Stony Creek spurge (*Euphorbia ocellata* ssp. *rattanii*). Proper botanical surveys using the Department's March 2018 Protocols<sup>1</sup> should be conducted prior to Project approval as biological surveys were conducted on November 5, 2020 by GEI biologists and were outside the appropriate blooming period.

#### California Endangered Species Act

Please be advised that a California Endangered Species Act (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. The Department has identified your project site as being inhabited by State endangered Central Valley Spring-Run Chinook Salmon (*Oncorhynchus tshawytscha*). Information on how to attain a CESA permit is available here: <https://wildlife.ca.gov/Conservation/CESA/Permitting>

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<sup>1</sup> <https://wildlife.ca.gov/conservation/survey-protocols#377281280-plants>


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Lake or Streambed Alteration Agreement

Any activities affecting streams and associated riparian habitat requires a Lake and Streambed Alteration (LSA) Notification pursuant to Fish and Game Code section 1600 et seq. Notification is required for any activity that may 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 subsurface flow, and floodplains are subject to notification requirements. Additional information regarding the LSA notification process can be found at: <https://wildlife.ca.gov/Conservation/LSA>.

If you have any questions, please contact Amy Henderson, Senior Environmental Scientist, at (530) 598-7194, or by e-mail at [Amy.Henderson@wildlife.ca.gov](mailto:Amy.Henderson@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
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**Curt Babcock**  
Habitat Conservation Program Manager

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