



State of California – The Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
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EDMUND G. BROWN JR., Governor
CHRYSTINE H. BONHAM, Director



Attachment 4

July 23, 2013

RECEIVED

JUL 24 2013

CITY OF CALISTOGA

Mr. Erik Lundquist
City of Calistoga
1232 Washington Street
Calistoga, CA 94515

Dear Mr. Lundquist:

Subject: AT&T Foundation Repair/Hillside Support and Pathway Project, Mitigated Negative Declaration, SCH #2013062058, City of Calistoga, Napa County

The California Department of Fish and Wildlife (CDFW) has reviewed the Mitigated Negative Declaration (MND) for the AT&T Foundation Repair/Hillside Support and Pathway Project (Project) received in our office on June 25, 2013. CDFW is identified as a Trustee Agency pursuant to the California Environmental Quality Act (CEQA) Section 15386 and is responsible for the conservation, protection, and management of the State's biological resources. CDFW is submitting comments on the MND as a means to inform the City of Calistoga (City), as the Lead Agency, of our concerns regarding sensitive riparian resources which could potentially be affected by the Project.

The Project is located on the upper north bank of the Napa River at 1316 Lincoln Street in the City of Calistoga. The slab floor of the AT&T building has settled approximately one to two inches along the southern portion of the building, and rain events are known to permeate the building due to roof and wall cracking. Extensive cracking in the soil, asphalt and river bank have been documented up to several inches wide. An existing retaining wall in the southwest corner of the site is partially over turned and cracked and the footings are partially undermined. Several trees in the Project area are documented to have rotated about their base, indicating on-going slope movement in the Project area.

The Project proposes to stabilize the existing AT&T building foundation by injecting compaction grouting, construct a new retaining wall, and construct helical anchors and grade beams as foundation for a new pedestrian pathway. The new five-foot-wide pathway along the top of the bank of the Napa River would supplement existing public access from Lincoln Street to the east side public parking lot. Two fences would be installed along the pathway, a six-foot-high fence along the AT&T building and a second guard rail fence on the riverside of the path.

The MND identifies potential impacts to habitat on-site for several special-status species including Central Coast steelhead (*Oncorhynchus mykiss*), California coastal Chinook salmon (*Oncorhynchus tshawytscha*), foothill yellow-legged frog (*Rana boylei*), western pond turtle (*Actinemys marmorata*), and California freshwater shrimp (*Syncaris pacifica*).

Since the Project would construct a new City pathway and associated infrastructure into an unstable and steep river bank, the Project may result in cumulative long-term impacts to riparian resources, including further slope instability downstream due to concentrated surface flows, loss of existing vegetation due to slope instability, and future engineered slope stabilizations. The Napa County General Plan Policy CON-6 requires conditions on discretionary projects which limit developments in ecologically sensitive areas such as floodplains and geologically active riparian zones adjacent to the Napa River. The City of Calistoga's Conservation Goal OSC-2 outlines the conservation of riparian habitat, and Conservation Regulation 19.08.010(D) requires the preservation of riparian areas and other natural habitat by controlling development near streams and rivers. The MND should include a discussion of alternatives to the proposed Project that would be more consistent with local policies and long-term conservation goals.

Potentially significant impacts on sensitive riparian resources as a result of the Project have not been adequately disclosed. Trails and public access in riparian corridors with sensitive species are known to disrupt wildlife habitat and plant communities. Long-term impacts to sensitive species potentially include prolonged exposure to deleterious debris, increased dispersal of invasive species, and disturbance to reproductive success. To reduce potentially significant impacts to riparian resources to a level that is less-than-significant, CDFW recommends removing the pathway component from the Project. If the pathway is included in the Project, mitigation options should be developed to ensure no net-loss of riparian habitat and natural river bank. Options might include funding for off-site acquisition, restoration and long-term management of riparian habitat. Mitigation lands should be protected in perpetuity against future development. The City should coordinate closely with resource agencies regarding potential pathway alignments, associated impacts to sensitive habitats in the Napa River and appropriate mitigation.

Mitigation Measure BIO-6 of the MND requires a Tree Protection Plan to be submitted to the Public Works Department for review prior to issuance of a building permit. This Measure should also state that all existing trees within the riparian area adjacent to the Project site, except for two native trees (arrow willow and bay tree) and four non-native trees (black locust, tree of heaven and white mulberry) outlined in the MND, shall be protected or preserved. The Tree Protection Plan prepared by a certified arborist should be also submitted to CDFW for review and approval prior to Project activities. It should include measures for tree replacements, protection of existing root structures, trunks and limbs during construction and any additional measures necessary outlining the optimum location and configuration of the site improvements to minimize impacts on the subject trees. In order to minimize impacts to the stream zone, all work activities should also: avoid compaction within the drip line of existing mature trees; be sensitive to the roots of existing riparian trees; and be done under the direction of the certified arborist to ensure that the procedures specified in the preservation plan are followed. A final Project review letter including recommendations for future on-site enhancement opportunities should be submitted to CDFW by the certified arborist, within 30 days of Project completion.

Mitigation Measure BIO-3 requires nesting surveys if activities occur between February and July and if raptors or special-status birds are found nesting within 200 feet of the Project site, a minimum 200-foot non-disturbance buffer is required. CDFW believes that a 200-foot buffer may not be adequate. Different species of birds have different buffer requirements and a predetermined buffer distance may be inadequate to avoid take. If nesting birds are located within the Project area, a biologist shall monitor their behavior to determine an adequate buffer distance that will not impact the birds.

Mr. Erik Lundquist
July 23, 2013
Page 3

Fish and Game Code § 3503.5 states it is unlawful to take, possess, or destroy any birds in the orders of Falconiformes or Strigiformes (birds-of-prey or raptors) or take, possess, or destroy the nest or eggs of any such bird. Fish and Game Code § 3503 states that is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird. In order to avoid the destruction of nesting birds, CDFW recommends surveys should be conducted within 14 days prior to Project activities. If nesting birds are found, the qualified biologist should recommend avoidance measures and obtain approval for nest-protection buffers prior to tree removal and/or ground-breaking activities. The qualified biologist should consult with CDFW regarding established buffers and adequately monitor potential Project impacts until the young have fledged and are foraging on their own.

The Biological Resources section of the MND does not discuss potential impacts to Swainson's hawk (*Buteo swainsoni*), listed as a state threatened species. Swainson's hawks often nest peripheral to or within riparian systems. Recent nesting activity in the Napa River watershed suggests this species may be expanding its nesting range. Surveys for Swainson's hawk should follow the Swainson's Hawk Technical Advisory Committee's *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley* available at http://www.dfg.ca.gov/wildlife/nongame/docs/swain_proto.pdf.

The MND should address potential Swainson's hawk habitat in the Project vicinity and implement mitigation measures to reduce this potentially significant impact to a level that is less-than-significant. Please be advised that a California Endangered Species Act (CESA) Permit would be required from CDFW for any projects that have the potential to result in take of Swainson's hawk, either during construction or over the life of the Project. Issuance of a CESA Permit is subject to CEQA documentation; therefore, 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 modifications to the Project and mitigation measures may be required in order to obtain a CESA Permit.

CDFW appreciates the opportunity to provide comments on the MND for the proposed Project and is available to meet with you to further discuss our concerns. If you have any questions, please contact Ms. Suzanne Gilmore, Environmental Scientist, at (707) 944-5536; or Ms. Karen Weiss, Senior Environmental Scientist, at (707) 944-5525.

Sincerely,



for Scott Wilson
Acting Regional Manager
Bay Delta Region

cc: State Clearinghouse