State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Northern Region
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director

June 17, 2019

Amy Dutschke, Regional Director
Bureau of Indian Affairs
Pacific Region
2800 Cottage Way
Sacramento, CA 95825

2016114004

Subject: Review of the Draft Environmental Impact Statement for the Redding Rancheria Fee-to-Trust and Casino Project, Shasta County

Dear Ms. Dutshcke:

The California Department of Fish and Wildlife (Department) received the Draft Environmental Impact Statement (DEIS) dated April 2019, for the above-referenced project (Project). Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. The Department is the Trustee Agency for the State's fish and wildlife resources and holds those resources in trust by statute for all the people of the State, pursuant to Fish and Game Code sections 711.7(a) and 1802. As such, the Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants and their habitat.

The Department reviewed the DEIS as well as the attached appendices. The Department appreciates the DEIS discussion of many of our comments and recommendations from our Notice of Intent comment letter dated December 29, 2016. In addition to providing these comments, and in recognition of the inherent Tribal sovereignty of the Redding Rancheria, the Department would welcome direct government-to-government consultation with the Redding Rancheria at its request regarding the Project or any of the issues raised in this letter. The Department is interested in working collaboratively to resolve any concerns regarding this Project.

Project Description

The Project as described in the DEIS consists of the following:

- Transfer of seven parcels totaling approximately 232 acres to trust status for gaming purposes
- Subsequent development of the 232 acres into:
  - 69,541-square foot casino
  - 250-room, 119-foot tall nine-story hotel with a gross footprint of approximately 171,287 square feet, building

- 130,000 square foot retail facility
- 52,200 square foot multi-purpose event center
- 10,080 square foot convention center
- 19,800 outdoor amphitheater with 1,500 seats
- 43,820 square feet of administrative/back of house space

General Comments

Mitigation Measure 5.2(A)(6)

The Best Management Practices included under this mitigation measure include re-vegetating disturbed areas following construction activities. A revegetation plan was not provided in the DEIS nor any of the appendices. The Department requests that the revegetation plan be sent out for review to the Department prior to implementation of the Project.

Mitigation Measure 5.5(O)

Mitigation Measure 5.5(O) regarding avoiding nesting birds states in part, "*The surveys shall occur no more than 14 days prior to the scheduled onset of construction. If construction is delayed or halted for more than 14 days, another preconstruction survey for nesting bird species shall be conducted.*" The Department recommends seven (7) days instead of 14 to provide more confidence that additional nests were not built after the survey.

Mitigation Measure 5.5(P)

Mitigation Measure 5.5(P) states in part, "*If nesting bird species are observed within 500 feet of construction areas during the surveys, appropriate "no construction" buffers shall be established. The size and scale of nesting bird buffers shall be determined by a qualified biologist and shall be dependent upon the species observed and the location of the nest.*" The Department recommends the last sentence be changed to read, "*The size and scale of nesting bird buffers shall be determined by a qualified biologist in* ***consultation with the USFWS and CDFW*** *and shall be dependent upon the species observed and the location of the nest.*"

Bank Stabilization

As currently designed, the Department is does not support the bank stabilization project as proposed for the upper portion of the Project, located on the east side of the Sacramento River. This stabilization project will remove a State-Threatened bank swallow colony (see discussion under bank swallow below) as well as

potentially impacting listed salmonid species. As stated in the DEIS, winter-run Chinook Salmon (*Oncorhynchus tshawytscha*) (federally and State listed as Endangered) is known to occur in the Sacramento River. A redd study from 2016 conducted by National Oceanic and Atmospheric Administration (NOAA) found winter-run redds adjacent to the area where rock revetment would occur. The Department is concerned the armoring of the riverbank will prevent the natural recruitment of spawning gravel for this species as well as for fall and late fall-run Chinook Salmon. The Department recommends the bank stabilization be designed using biotechnical treatments that maintain the bank swallow habitat as well as protect the instream habitat.

Biotechnical erosion control and stream bank stabilization projects use live native vegetation, or a combination of vegetative and structural materials (a 'hybrid' solution) to protect streambanks. Biotechnical solutions protect streambanks in three ways: (1) the physical presence of the vegetation cover adds roughness to the bank, reducing near-bank flow velocities and decreasing erosion by fluvial entrainment; (2) the structural strength of the vegetation root wad acts to bind the bank materials together to safeguard against bank failure; and (3) the water uptake of the plant during growth acts to drain the bank and reduce the occurrence of bank saturation, reducing vulnerability to failure. Biotechnical methods are an alternative to conventional erosion control methods (e.g., riprap, gabions) and aim to provide effective streambank stabilization while minimizing damage and disruption to instream and terrestrial habitats. The Department highly recommends the use of biotechnical treatments whenever feasible.

Cumulative Effects Analysis

The DEIS analysis of wildlife corridors was insufficient to determine no significant adverse cumulative effects would occur. The Department recommends analyzing wildlife movement by conducting a simple study which could include setting up trail cameras and tracking stations during five consecutive days during the fall, winter, spring and summer seasons to determine the wildlife use of the Project area. Significance should be determined following the completion of the wildlife study.

Special Status Wildlife Species

Bank swallow (*Riparia riparia*)

The Department appreciates the development of mitigation measures and/or best management practices for the bank swallow, a State-listed Threatened species. However, there was no discussion of impacts to bank swallow and its habitat from the proposed bank stabilization project. The goal of bank stabilization is to eliminate or

severely reduce the natural erosion processes occurring along the Sacramento River. Stabilization projects reduce the amount of available nesting habitat to bank swallows along with altering sediment transport and deposition, vegetation regeneration, and other natural river processes. A bank swallow colony currently exists along the east side of the Sacramento River where the Project is proposed. As proposed, the Department concludes that stabilizing the bank, whether the colony is present or not, is a significant impact because it would eliminate the nesting habitat. This species continues to decline within California and bank stabilization projects are one the primary causes (BANS TAC, 2013[1]). No mitigation measures or compensatory mitigation were developed to offset this significant impact. For the Project to avoid impacts to bank swallow, the bank stabilization project must be eliminated, re-designed, or one of the other Project Alternatives, such as Alternatives E, F, or G, must be selected. The Department recommends mitigation and/or compensatory mitigation be developed to ensure nesting habitat continues to exist

Red Bluff Dwarf Rush (*Juncus leiospermus* var. *leiospermus*)

Mitigation Measure 5.5(H) states, "*A qualified botanist will conduct a preconstruction survey for Red Bluff dwarf rush within the identifiable bloom season (March through June) directly prior to construction. If the species is not identified within the area of impact, no further mitigation is required.*" The Department recommends the following instead: "*A qualified botanist will conduct a preconstruction survey for Red Bluff dwarf rush within the identifiable bloom season (March through June) directly prior to construction.* ***A visit to a known reference site will be done prior to the preconstruction survey to ensure the timing of the field surveys was appropriate.*** *If the species is not identified within the area of impact, no further mitigation is required.*"

The mitigation measures further states, "*Should the species be identified within the area of impact, a 25-foot "no construction" buffer will be established and maintained using fencing.*" The measure does not specify if this fencing will be maintained in perpetuity or only during the construction phase of the Project. The Department recommends clarifying this sentence.

The measure goes on to say,

> "*If avoidance is not possible, impacts to identified populations of Red Bluff dwarf rush shall be offset by preserving remaining populations to the extent feasible and/or replanting at a 1:1 ratio. Transplants shall be planted in suitable areas ecologically similar to the original sites as determined by the qualified biologist. A 25-foot buffer shall be established around preserved populations and replanting sites. The qualified biologist*

[1] Bank Swallow Technical Advisory Committee. 2013. Bank Swallow (*Riparia riparia*) Conservation Strategy for the Sacramento River Watershed, California. Version 1.0. www.sacrametnoriver.org/bans/

> *shall place orange construction fencing around avoided and replanted populations prior to construction activities to ensure populations are protected. Final replanting density shall be consistent with what is impacted."*

The Department generally considers salvage and relocation (translocation) to be an ineffective way to compensate for permanent impacts to rare, threatened, endangered, and sensitive native plants (rare plants)[2]. Rare plant translocations for mitigation have a low success rate (less than ten percent)[3] and the Department considers such efforts experimental, unless they have been demonstrated to be effective through long-term experimentation. Successful rare plant translocations require many years of habitat surveys, habitat modeling, site selection, seed collection, plant propagation, site preparation, monitoring, and remedial actions such as management of competing plants, supplemental watering, and supplemental planting. Success is not guaranteed, and even translocations that are initially successful may fail to persist over the long term.

Furthermore, transplantation efforts do not replace intact ecosystems or maintain the entire range of genetic diversity at the impact site. The presence of rare plants often signifies the presence of biogeographically important sites with unusual soil, microclimate, or other conditions that are not easy to identify and difficult or impossible to duplicate. Loss of genetic material from rare plant translocation may also hinder introduced populations from withstanding changing environmental conditions over time. Conservation translocation of plants requires consideration of a number of factors that might not be considered for animal species, such as microclimate, soil, pollinators, herbivory, weed management, mycorrhizal associations, and adequate monitoring that could reasonably span many years. These factors considerably increase the complexity and risk of failure of plant translocations. The most effective way to mitigate for permanent loss of rare plant habitat is therefore to protect and manage existing populations in their natural habitat.

As currently proposed, Mitigation Measure 5.5(H) would not reduce significant impacts to less than significant. Avoidance of this species, if present, is preferred. However, if that is not possible, purchasing offsite occupied habitat and preserving it in perpetuity at a ratio greater than 1:1 would be the next best option.

Western Spadefoot Toad (*Spea hammondii*)

Western spadefoot toad is a Priority 1 California Species of Special Concern (SSC), which are taxa that are likely to experience severe future declines and/or extirpation

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[2] Department of Fish and Wildlife. November 16, 2017. *Policy and Procedures for Conservation Translocations of Animals and Plants.* Bulletin Number 2017-05.
[3] Fiedler, Peggy L. 1991. Final Report Mitigation-Related Transplantation, Relocation and Reintroduction Projects Involving Endangered and Threatened, and Rare Plant Species in California.

without immediate conservation actions. The Department asserts that this species meets the criteria of a rare, threatened, or endangered species pursuant to CEQA Guidelines section 15380. Therefore, impacts to this species are potentially significant. Surveys for this species by a biologist familiar with its life history were not conducted. This species is known to occur approximately four miles east of the Project and according to the Biological Assessment prepared by Analytical Environmental Services, and dated July 2018, suitable breeding and foraging habitat exists on site for this species.

This species is primarily an upland species and comes out of dormancy to breed in vernal pools, stock ponds, and isolated pools within stream systems during winter rain events. Western spadefoot toads do not necessarily breed every year – both the timing and duration of rainfall events are important cues for the western spadefoot to come out of dormancy. Daytime and nighttime surveys are required to adequately survey for this species and should be conducted beginning in late winter through early May. Nighttime surveys are more likely to observe adult toads while the daytime surveys are easier for tadpole identification. Mitigation Measure 5.5(J) is vague and needs to provide clearer direction for the surveyor. Surveys should be done prior to the final design of the Project.

If western spadefoot is present on the project site and avoidance of breeding ponds and adjacent upland habitat (up to 1,000 feet from breeding ponds) is not feasible, a western spadefoot mitigation plan that includes salvage of western spadefoot and creation of artificial breeding pools with adjacent upland habitat should be produced and submitted to the Department for written approval early within the planning process prior to project initiation. Breeding pools and adjacent appropriate upland habitat should be protected in perpetuity under a conservation easement and managed by a local land conservancy to assure that the pools and uplands are maintained in a manner that maximizes persistence of western spadefoot within these designated mitigation areas for that species.

Bat Surveys

Although not listed in the special status species table in the DEIS, pallid bats (*Antrozous pallidus*), a California SSC, are known to occur in oak woodlands. This species was discussed in the Biological Assessment prepared by Analytical Environmental Services, and dated July 2018. Given the amount of oak woodland habitat available onsite and known nearby water sources, there is a high probability the species could occur onsite at Alternative E. This species may meet the requirement of section 15380 of the CEQA Guidelines, and therefore impacts may be significant. There is not enough information provided in the DEIS to determine potential significant impacts to bat species as no formal or protocol survey was conducted to determine presence. The Department recommends conducting surveys during the appropriate time of year, by a qualified bat biologist. Sunset fly-out surveys as currently proposed in Mitigation Measure 5.5(N), may not be enough. A qualified

bat biologist should develop the appropriate mitigation measures specific to the type of bats present on the site.

Wildlife Movement Corridors

There is not enough information in the DEIS for the Department to determine if there is a significant impact to wildlife movement corridors. It does not appear a wildlife movement study was conducted as requested in the Department's December 29, 2016 comment letter.

As this project will impact a large area of habitat that lies in between other development, the Department recommends completing a Wildlife Movement Study to evaluate potential impacts to wildlife movement from the proposed project. The DEIS, page 4.5-1, states, "*Wildlife movement would not be restricted, as the majority of the Strawberry Fields Site will remain undeveloped.*" This is true; however, a large portion of the grassland area, which is a foraging area for many wildlife species, will be developed. Not only will the foraging area be permanently impacted, there will be noise, lighting, and other human caused issues, which will fragment the remaining undeveloped habitat. The Department is concerned that the DEIS does not address wildlife movement, fragmentation of habitat or cumulative impacts and recommend this be revisited before the Project is finalized.

Lighting

The Department recognizes the effects that artificial lighting has on birds and other nocturnal species. The effects are numerous and include impacts to singing and foraging behavior, reproductive behavior, navigation, and altered migration patterns. Page 12 of the DEIS (Table 1: Summary of Impacts and Mitigation Measures) states, "*Lighting could increase collisions of birds with structures or cause avian disorientation.*" A non-reflective low-glare glass is expected to be used but there are no other details or discussion specifically looking at the different types that could be used. The Department recommends this be more clearly stated in the DEIS.

In addition to the impact of lighting on terrestrial species, lighting may also adversely impact fisheries. The area of the Sacramento River immediately adjacent to the proposed Project has been documented by Department staff to be a spawning and rearing area of critical importance to salmonids. To minimize impacts to adult spawning behavior and juvenile salmonid migration, lighting installed near the river, both temporary and permanent, should be kept to the absolute minimum necessary to provide safe pedestrian and automobile access. Lighting should only be directed at areas intended for illumination. Light reaching the water surface of the Sacramento River immediately below and adjacent to the Project should be kept as close to or lower than 1.0 lux as feasible. Following Project completion, measurements of lighting

intensities should be taken at water level immediately below the lights, and at stations 50 feet, 100 feet, and 200 feet upstream and downstream of any Project lighting that illuminates the river. If 1.0 lux is substantially exceeded at the water surface corrective actions should be made to bridge lighting to achieve the desired illuminance.

If you have any questions regarding this comment letter, please contact Amy Henderson, Environmental Scientist, at (530) 225-2779 or Amy.Henderson@wildlife.ca.gov.

If the Redding Rancheria would like to request government to government consultation with the Department, it may do so by contacting Nathan Voegeli, Attorney and Tribal Liaison, at (916) 651-7653 or Nathan.Voegeli@wildlife.ca.gov.

Sincerely,

Tina Bartlett

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