



State of California - The Resources Agency
DEPARTMENT OF FISH AND GAME
<http://www.dfg.ca.gov>
1416 NINTH STREET
P.O. BOX 944209
SACRAMENTO, CA 94244-2090

ARNOLD SCHWARZENEGGER, Governor



October 20, 2006

Joyce Hunting
Senior Biologist
City of Elk Grove
Development Services
8401 Laguna Palms Way
Elk Grove, California 95758

Dear Ms. Hunting:

The Department of Fish and Game ("DFG") received your request for a determination that U.S. Fish and Wildlife Service Biological Opinion No. 1-1-06-F-0201 is consistent with the California Endangered Species Act ("CESA") regarding the anticipated take of the Giant garter snake (*Thamnophis gigas*).

DFG has determined that the above-referenced biological opinion, which concerns the Sheldon Road/State Route 99 Interchange Improvement project located in a portion of the City of Elk Grove in Sacramento County, California, is consistent with CESA. A copy of that determination is enclosed for your records. If you have any questions, please contact Dan Gifford, Senior Biologist Specialist, at (209) 369-8851 or Kent Smith, Acting Assistant Regional Manager, at (916) 358-2382.

Sincerely,


Sonke Mastrup
Deputy Director

FOL

Enclosure

cc:

Dan Gifford, DFG Sacramento Valley-Central Sierra Region
Kent Smith, DFG Sacramento Valley-Central Sierra Region
Scott Flint, DFG Habitat Conservation Branch

**CALIFORNIA DEPARTMENT OF FISH AND GAME
CONSISTENCY DETERMINATION**

Fish and Game Code Section 2080.1

CESA No. 2080-2006-022-02

PROJECT: Sheldon Road / State Route 99 Interchange Improvement Project
LOCATION: City of Elk Grove, Sacramento County
NOTIFIER: City of Elk Grove

BACKGROUND:

The City of Elk Grove, in cooperation with the Sacramento County Department of Transportation, the City of Sacramento, the California Department of Transportation ("Caltrans"), and the Federal Highway Administration ("FHWA") plan to reconstruct the existing Sheldon Road/ State Route 99 ("SR 99") interchange and associated frontage road alignments and access ramps. The project involves reconstructing the existing hook-ramps and two-lane over-crossing structure into a modified partial cloverleaf interchange with a six-lane over-crossing. East Stockton Boulevard will require minor realignment. The reconstruction and widening of Sheldon Road will extend from the intersection of Lewis Stein Road to the Power Inn Road intersection. The project will result in 0.059 acres of temporary impacts to suitable upland habitat for the Giant garter snake (*Thamnophis gigas*) ("GGS").

Because of the project's potential for take of the federally listed threatened GGS, the Federal Highway Administration consulted with the U.S. Fish and Wildlife Service ("Service"), as required by the Endangered Species Act ("ESA") (16 U.S.C. § 1531 et seq.). On August 17, 2006 the Service issued Biological Opinion No. 1-1-06-F-0201 ("BO") for the Sheldon Road/State Route 99 Interchange Improvement Project. The BO describes the project actions and sets forth measures to mitigate impacts to the GGS and its habitat. The GGS is also listed as a threatened species under the California Endangered Species Act, Fish and Game Code Sections 2050 et seq. ("CESA"). On September 21, 2006, the Director of the Department of Fish and Game ("DFG") received a notice from the City of Elk Grove pursuant to Fish and Game Code Section 2080.1, requesting a determination that the BO is consistent with CESA.

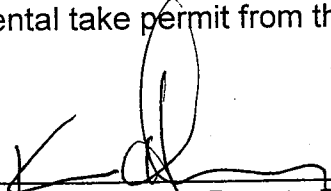
DETERMINATION:

DFG has determined that Biological Opinion No. 1-1-06-F-0201 is consistent with CESA because the mitigation measures contained in the BO meet the conditions set forth in Fish and Game Code Section 2081, subdivisions (b) and (c). Specifically, DFG finds that the measures identified in the BO will minimize and fully mitigate the project's potential impacts on the GGS. These measures include, but are not limited to, the following:

1. The City of Elk Grove shall restore 0.059 acres of temporary disturbed on-site upland GGS habitat as described in the *FHWA Giant Garter Snake Programmatic Biological Opinion Guidelines for Restoration and/or Replacement of Giant Garter Snake Habitat*. The City of Elk Grove shall also adhere to the avoidance and minimization measures described in its June 9, 2006 letter to the Service, the January, 2006, Sheldon Road/State Route 99 Interchange Project-Biological Assessment prepared by Caltrans, the *Standard Avoidance and Minimization Measures During Construction Activities in Giant Garter Snake Habitat*, and the terms and conditions of its January 24, 2005 *Programmatic Biological Opinion on the Effects of Small Highway Projects on the Threatened Giant Garter Snake in Butte, Colusa, Glenn, Sacramento, San Joaquin, Solano, Sutter, Yolo, and Yuba Counties, California* ("Snake Programmatic Consultation"; Service File Number 1-1-03-F-0154).
2. The Service has required that the proposed project comply with other measures defined in the Snake Programmatic Consultation.

Pursuant to Fish and Game Code section 2080.1, incidental take authorization under CESA will not be required for incidental take of GGS for the project, provided that the City of Elk Grove implements the project as described in the BO and complies with the mitigation measures and other conditions described in the BO. If there are any substantive changes to the project, including changes to the mitigation measures, or if the Service amends or replaces the BO, the City of Elk Grove will be required to obtain a new consistency determination or a CESA incidental take permit from the Department.

By:


Sonke Mastrup, Deputy Director
California Department of Fish and Game

Date:

10-20-2000