


## CEQA and CESA Project Review:

### The Screening Process, Permits, and Fully Protected Species Issues



Santa Cruz Long-Toed Salamander Workshop  
 Elkhorn Slough Coastal Training Program  
 April 24, 2009

Linda Connolly, Environmental Scientist  
 California Department of Fish and Game, Central Region



## CDFG Region 4 – Central Region

- 12 Counties
  - Fresno, Kern, Kings, Madera, Mariposa, Merced, Monterey, San Benito, San Luis Obispo, Stanislaus, Tulare, and Tuolumne



## DFG Role in CEQA / CESA

- Trustee Agency
  - One of 4 State agencies holding resources in trust for all Californians.
  - Responsibility under CEQA to comment on projects that could impact plant and wildlife resources.
- Fish and Game Code
  - Jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (Section 1802).
  - Regulatory authority over projects that could result in the "take" of any species listed by the State as threatened or endangered (Section 2081).
  - Also have regulatory authority regarding activities occurring in streams (Section 1600).






## R4 CEQA Project Evaluation: The Beginning

- Receive Consultation Notice or CEQA document
- Log in to CEQA Tracking Database
- Assign to appropriate staff
- Begin Screening and CEQA Comment process



## Project Screening

- Project Description
  - What is the Project?
  - Where is the Project located?
  - How will the Project be executed?
  - What resources could be impacted?
  - What is the surrounding landscape / habitat?
- California Natural Diversity Database - CNDDB
  - Is a tool –what species have historically been found in the Project area or vicinity
- Aerial photographs, Topo maps
- USFWS Critical Habitat

## Survey Recommendations

- For listed and other special status plant and wildlife species:
  - Surveys should be conducted during the appropriate period(s) by a qualified wildlife biologist / botanist (ideally pre-CEQA).
  - Many survey protocols can be accessed on the DFG/USFWS websites
  - Protocols provide insight on what each Agency is looking for
  - In the event that State listed or State candidate species are detected, a State Incidental Take Permit may be needed prior to project implementation

## Avoidance, Minimization, and Mitigation Measures (CEQA)

- Wetland / Waterbody Avoidance Buffers\*
  - 250 feet from vernal pools and swales
  - 200 feet from riparian vegetation
  - 100 feet from each surface water channel that has no riparian vegetation
  - (\* note: not adequate for avoidance of listed species or for large projects)



## Incidental Take Permit Applications

- Under Section 2081(b) of FGC
  - "Take" must be: incidental, minimized, and fully mitigated, and must not result in jeopardy of species
  - Incidental Take Permit (ITP) applications are to be submitted to Regional Manager
  - Required ITP Application contents are found in Section 783.2 of the California Code of Regulations.
  - DFG has 30 days to respond, in writing, to an application. If DFG does not respond, the application is deemed complete.



## ITP Permit Process

- Issuing time is 90 days when DFG is responsible agency and 120 days if DFG is lead agency (60 day extension if necessary)
- Note: time lines are from date of acceptance of complete ITP application or from approval of CEQA document, whichever is later
- Regulatory timeframes are directory – project proponent may not proceed until a permit is issued, even if DFG is past the regulatory deadline
- DFG issues permit by signature of Regional Manager, Permittee must acknowledge and return copy to DFG to have coverage
- DFG must make CESA and CEQA Findings (see Cal Code Regs §783.5 (c)(2))
- Funding must be ensured and adequate to implement measures required to minimize and fully mitigate, including compliance and effectiveness monitoring



## FGC Section 5050 (excerpts)

- Fully protected reptiles and amphibians or parts thereof may not be taken or possessed at any time. No provision of this code or any other law shall be construed to authorize the issuance of permits or licenses to take any fully protected reptiles and amphibians, and no permits or licenses heretofore issued shall have any force or effect for that purpose. However, the department may authorize the taking of those species for necessary scientific research, including efforts to recover fully protected, threatened, or endangered species...
- As used in this subdivision, "scientific research" does not include any actions taken as part of specified mitigation for a project, as defined in Section 21065 of the Public Resources Code.



## Fully Protected Species

- Most are State listed but not all
- No mitigation allowed for Projects
- CEQA document for a Project needs to address FP species issues and propose specific avoidance measures



## Santa Cruz Long-Toed Salamander: Project Consideration

- Monterey County vs Santa Cruz County populations
- Difficulty in prescribing avoidance measures
- Consultation with DFG Regional office is key
- DFG's Project-specific recommendations will evolve as ongoing research provides more information.



## Permitting for FP Species

- Under Section 2081(a) of FGC, DFG can issue a Memorandum of Understanding (MOU) for take of listed species for scientific, educational, or management purposes...
- Title 14, Section 670.7: Permits to Take Fully Protected Animals for Scientific Purposes
  - Applicant must already possess a Scientific Collection Permit, or must apply before FP Permit processed
  - Applicant submits to DFG a research proposal
  - \*\*\* Direct any specific questions about the application process to Sacramento \*\*\*



## FP Permit Processing

- Proposal undergoes internal review process prior to processing to be posted on the California Public Notice Register for 30 days
- Applicant then has 30 days to respond to any comments received
- Note: Per the SCP/FP Permit Application, allow 12 weeks for processing of a SCP and 12 additional weeks for a FP permit
- Reality..?



## Questions?

