

SEP 06 2019

STATE CLEARINGHOUSE

From: [Boyd, Ian@Wildlife](mailto:Boyd.Ian@Wildlife)
To: stephanie.cormier@yolocounty.org
Cc: [OPR State Clearinghouse](#); [Wildlife R2 CEQA](#)
Subject: CDFW comments on the NOP of a DEIR for the Teichert Shifter Mining and Reclamation Project (ZF2018-00780) [SCH# 2019089053]
Date: Friday, September 6, 2019 11:59:57 AM
Attachments: [image001.png](#)

Dear Ms. Cormier:

The California Department of Fish and Wildlife (CDFW) received and reviewed the Notice of Preparation of an Environmental Impact Report (EIR) from the Yolo County Department of Community Services for the Teichert Shifter Mining and Reclamation Project (project) [State Clearinghouse No. 2019089053] in Yolo County pursuant the California Environmental Quality Act (CEQA) statute and guidelines.

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the project that may affect California fish, wildlife, plants and their habitats. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the project that CDFW, by law, may need to exercise its own regulatory authority under the Fish and Game Code (Fish & G. Code).

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources, and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly, for purposes of CEQA, CDFW provides, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW may also act as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) The project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the project as proposed may result in "take" as defined by State law (Fish & G. Code, § 86) of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code will be required. CDFW also administers the Native Plant Protection Act, Natural Community Conservation Program, and other provisions of the Fish and Game Code that afford protection to California's fish and wildlife resources.

PROJECT DESCRIPTION SUMMARY

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The project proposes to the mining of approximately 41.6 million tons of aggregate resources over a 30-year period at an annual rate not to exceed 2.6 million tons mined per year. Mining is proposed

in two phases, whereas, reclamation is proposed in three phases to reclaim 116 acres of agricultural uses and 161 acres of pond and habitat uses. The project also proposes the relocation of the Moore canal to the northerly portion of the project site. The project site consists of 319 acres and is located north of County Road 22 and east of County Road 94B, southwest of Teichert's existing mining operation three miles west of the City of Woodland in Yolo County, California. Mining is proposed on approximately 277 acres.

The project description should include the whole action as defined in the CEQA Guidelines § 15378 and should include appropriate detailed exhibits disclosing the project area including temporary impacted areas such as equipment stage area, spoils areas, adjacent infrastructure development, staging areas and access and haul roads if applicable.

As required by § 15126.6 of the CEQA Guidelines, the EIR should include appropriate range of reasonable and feasible alternatives that would attain most of the basic project objectives and avoid or minimize significant effects of the project.

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ENVIRONMENTAL SETTING

CDFW recommends three progressive steps in project impact evaluations: habitat assessment, detection surveys and impact assessment in evaluating whether projects will have impacts to special-status species. The information gained from these steps will inform any subsequent avoidance, minimization and mitigation measures. The steps for project impact evaluations are: 1) habitat assessment, 2) surveys, and 3) impact assessment. Habitat assessments are conducted to evaluate the likelihood that a site supports wildlife species and their habitats. Detection surveys provide information needed to determine the potential effects of proposed projects and activities on those species and habitats, Impact assessments evaluate the extent to which wildlife species and their habitat may be impacted directly or indirectly, on and within a reasonable distance of proposed CEQA project activities. CDFW recommends that the EIR include a complete environmental assessment of the existing biological conditions within the project area including but not limited to the type, quantity and locations of the habitats, flora and fauna. Maps and information regarding the habitat assessment and survey efforts should be included within the EIR. Any surveys of the biological conditions and related environmental analysis should be completed by qualified personnel with sufficient experience in the wildlife and habitats associated with the project.

To identify a correct environmental baseline, the EIR should include a complete and current analysis of endangered, threatened, candidate, and locally unique species with potential to be impacted by the project. CEQA guidelines § 15125, subdivision (c) requires lead agencies to provide special emphasis to sensitive habitats and any biological resources that are rare or unique to the area. This includes, but is not limited to vernal pools, streambeds, riparian habitats, and open grasslands that are known to be present within the project boundaries or its vicinity. CDFW recommends that the environmental documentation identify natural habitats and provide a discussion of how the proposed project will affect their function and value.

CDFW recommends that the California Natural Diversity Database (CNDDDB), as well as previous studies performed in the area, be consulted to assess the potential presence of sensitive species and

habitats. Although the CNDDDB is one tool that may identify potential sensitive resources in the area, the dataset should not be regarded as complete for the elements or areas with the potential to be impacted. Other sources for identification of species and habitats near or adjacent to the project area should include, but may not be limited to, State and federal resource agency lists, California Wildlife Habitat Relationship (CWHR) System, California Native Plant Society (CNPS) Inventory, agency contacts, environmental documents for other projects in the vicinity, academics, and professional or scientific organizations. In addition, CNDDDB is not a comprehensive database. It is a positive detection database. Records in the database exist only where species were detected and reported. This means there is a bias in the database towards locations that have had more development pressures, and thus more survey work. Places that are empty or have limited information in the database often signify that little survey work has been done there. A nine United States Geologic Survey (USGS) 7.5-minute quadrangle search is recommended to determine what may occur in the region (see Data Use Guidelines on the Department webpage <https://www.wildlife.ca.gov/Data/CNDDDB/Maps-and-Data>).

Recent surveys for the different species that have the potential to be present within the project limits and its vicinity shall be included within the EIR. Additional information regarding survey protocols can be found on our website here <https://www.wildlife.ca.gov/Conservation/Survey-Protocols> or by contacting CDFW.

Species-specific surveys should be conducted in order to ascertain the presence of species with the potential to be directly, indirectly, on or within a reasonable distance of the project activities. CDFW recommends the lead agency rely on survey and monitoring protocols and guidelines available at: <https://www.wildlife.ca.gov/Conservation/Survey-Protocols> and that any assessments for rare plants and rare natural communities follow CDFW's 2018 *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities*. Alternative survey protocols may be warranted; justification should be provided to substantiate why an alternative protocol is necessary.

IMPACT ASSESSMENT AND MITIGATION MEASURES

Based on habitat assessments and survey results, the EIR should clearly identify and describe all short-term, long-term, permanent, or temporary impacts to biological resources, including all direct and foreseeable indirect impacts caused by the proposed project.

The EIR should define the threshold of significance for each impact and describe the criteria used to determine whether the impacts are significant (CEQA Guidelines, § 15064, subd. (f).) The EIR must demonstrate that the significant environmental impacts of the project were adequately investigated and discussed, and it must permit the significant effects of the project to be considered in the full environmental context. CDFW also recommends that the environmental documentation provide scientifically supported discussion regarding adequate avoidance, minimization, and/or mitigation measures to address the project's significant impacts upon fish and wildlife and their habitat. For individual projects, mitigation must be roughly proportional to the level of impacts, including cumulative impacts, in accordance with the provisions of CEQA (Guidelines Section 15126.4(a)(4)(B), 15064, 15065, and 16355). In order for mitigation measures to be effective, they must be specific,

enforceable, and feasible actions that will improve environmental conditions.

The EIR should discuss the project's cumulative impacts to natural resources and determine if that contribution would result in a significant impact. The EIR should include a list of present, past, and probable future projects producing related impacts to resources under CDFW's jurisdiction or shall include a summary of the projections contained in an adopted local, regional, or statewide plan, that consider conditions contributing to a cumulative effect. The cumulative analysis shall include impact analysis of vegetation and habitat reductions within the area and their potential cumulative effects.

The EIR should incorporate mitigation performance standards that would ensure that significant impacts are reduced as expected. Mitigation measures proposed in the EIR should be made a condition of approval of the project. Please note that obtaining a permit from CDFW by itself with no other mitigation proposal may constitute mitigation deferral.

Threatened, Endangered, Candidate Species

The project area as shown in the NOP includes habitat for State and/or federally listed species. If during the environmental analysis for the project, it is determined that the project may have the potential to result in "take", as defined in the Fish & G. Code, section 86, of a State-listed species, the EIR shall disclose an Incidental Take Permit (ITP), consistency determination (Fish & G. Code, §§ 2080.1 & 2081) or coverage under the Yolo HCP/NCCP may be required prior to starting construction activities. In order to receive authorization for "take", the EIR must include all avoidance and minimization measures to reduce the impacts to a less than significant level. If impacts to listed species are expected to occur even with the implementation of these measures, mitigation measures shall be proposed to fully mitigate the impacts to State-listed species (Cal. Code Regs., tit. 14, § 783.2, subd.(a)(8)). CDFW encourages early consultation with staff to determine appropriate measures to offset project impacts, facilitate future permitting processes and to coordinate with the U.S. Fish and Wildlife Service to coordinate specific measures if both State and federally listed species may be present within the project vicinity.

Lake and Streambed Alteration Agreement Program

The EIR shall identify all perennial, intermittent, and ephemeral rivers, streams, lakes, other features, and any associated biological resources/habitats present within the entire project footprint (including access and staging areas). The environmental document should analyze all potential temporary, permanent, direct, indirect and/or cumulative impacts to the above-mentioned features and associated biological resources/habitats that may occur because of the project. If it is determined that the project will result in significant impacts to these resources the EIR shall propose appropriate avoidance, minimization and/or mitigation measures.

Notification to CDFW is required, pursuant to Fish and Game Code section 1602 if the project proposes activities that will substantially divert or obstruct the natural flow of water; substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake. CDFW approval of projects subject to Notification under

Fish and Game Code section 1602, is facilitated when the EIR discloses the impacts to and proposes measures to avoid, minimize, and mitigate impacts to perennial, intermittent, and ephemeral rivers, streams, and lakes, other features, and any associated biological resources/habitats present within the vicinity of the project.

Please note that other agencies may use specific methods and definitions to determine impacts to areas subject to their authorities. These methods and definitions often do not include all needed information for the CDFW to determine the extent of fish and wildlife resources affected by activities subject to Notification under Fish and Game Code section 1602.

CDFW recommends lead agencies to coordinate with us as early as possible, since potential modification of the proposed project may avoid or reduce impacts to fish and wildlife resources and expedite the project approval process.

CDFW relies on the lead agency environmental document analysis when acting as a responsible agency issuing a Lake or Streambed Alteration Agreement. Addressing CDFW's comments ensures that the EIR appropriately addresses project impacts facilitating the issuance of an Agreement.

Migratory Birds and Birds of Prey

Migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) (16 U.S.C., §§ 703-712). CDFW implemented the MBTA by adopting the Fish and Game Code section 3513. Fish and Game Code sections 3503, 3503.5 and 3800 provide additional protection to nongame birds, birds of prey, their nests and eggs. Potential habitat for nesting birds and birds of prey is present within the project area. The proposed project should disclose all potential activities that may incur a direct or indirect take to nongame nesting birds within the project footprint and its close vicinity. Appropriate avoidance, minimization, and/or mitigation measures to avoid take must be included in the EIR. Measures to avoid the impacts should include species specific work windows, biological monitoring, installation of noise attenuation barriers, etc.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be submitted online or mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov.

FILING FEES

The project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees

is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

Pursuant to Public Resources Code §21092 and §21092.2, the Department requests written notification of proposed actions and pending decisions regarding the proposed project. Written notifications shall be directed to: California Department of Fish and Wildlife North Central Region, 1701 Nimbus Road Suite A, Rancho Cordova, CA 95670.

CDFW appreciates the opportunity to comment on the NOP for the EIR to assist in identifying and mitigating project impacts on biological resources. CDFW personnel are available for consultation regarding biological resources and strategies to minimize impacts. Questions regarding this letter or further coordination should be directed to Ian Boyd, Environmental Scientist at (916) 358-1134 or ian.boyd@wildlife.ca.gov.

Sincerely,

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