



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Northern Region
601 Locust Street
Redding, CA 96001
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



October 29, 2019

Governor's Office of Planning & Research

OCT 29 2019

Lio Salazar, Senior Planner
Shasta County Department of Resource Management
Planning Division
1855 Placer Street, Suite 103
Redding, CA 96001

STATE CLEARINGHOUSE

Subject: Review of the Notice of Preparation for the Crystal Creek Aggregates Expansion Project, General Plan Amendment 19-0003, Zoning Plan Amendment 19-0002, Use Permit Amendment 19-0007, and Reclamation Amendment Plan 19-0001, State Clearinghouse Number 2019090702, Shasta County

Dear Mr. Salazar:

The California Department of Fish and Wildlife (Department) has reviewed the Notice of Preparation (NOP) of the Draft Environmental Impact Report (DEIR) for the above-referenced project (Project) dated August 28, 2019. The Department appreciates this opportunity to comment on the Project, relative to impacts to biological resources.

The Department is a Trustee Agency pursuant to the California Environmental Quality Act (CEQA). As the Trustee for the State's fish and wildlife resources, the Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants and their habitat necessary for biologically sustainable populations of those species (Fish & G. Code §§ 1801 and 1802). As the Trustee Agency for fish and wildlife resources, the Department provides requisite biological expertise to review and comment upon CEQA documents and makes recommendations regarding those resources held in trust for the people of California.

The Department may also assume the role of Responsible Agency. A Responsible Agency is an agency other than the Lead Agency that has a legal responsibility for carrying out or approving a project. A Responsible Agency actively participates in the Lead Agency's CEQA process, reviews the Lead Agency's CEQA document and uses that document when making a decision on a project. The Responsible Agency must rely on the Lead Agency's CEQA document to prepare and issue its own findings regarding a project (CEQA Guidelines §§ 15096 and 15381). The Department most often becomes a Responsible Agency when a Lake or Streambed Alteration Agreement (Fish & G. Code § 1600 et. seq.) or a California Endangered Species Act (CESA) Incidental Take Permit (ITP) (Fish & G. Code § 2081(b)) is needed for a project. The Department relies on the CEQA document prepared by the Lead Agency to make a finding and decide whether to issue the permit or agreement. It is important that the Lead Agency's Environmental

Conserving California's Wildlife Since 1870

Impact Report (EIR) considers the Department's Responsible Agency requirements. For example, CEQA requires the Department to include additional feasible alternatives or feasible mitigation measures within its powers that would substantially lessen or avoid any significant effect a project would have on the environment (CEQA Guidelines § 15096(g)(2)).

The Department offers the following comments and recommendations on this Project in our role as a Trustee and Responsible Agency.

Project Description and Location

The Project "proposes to expand their existing aggregate mining operation established at the project site in 1990 and subsequently expanded in 2008, and add an asphalt batch plant. The proposal would expand an approved mining use permit area of 110.24 acres and an approved reclamation plan area of 108.87 acres to 179.97 acres, in conjunction with General Plan and Zoning Plan amendments from Natural Resource Protection – Open Space (N-O) to Mineral Resource (MR) and from Unclassified (U) to Mineral Resource (MR), respectively. The overall Project area within which general plan, zoning plan, use permit and reclamation plan amendment approvals are requested is 179.97 acres."

The Project is located at 10936 Iron Mountain Road, Redding, California on Assessor's Parcel Numbers 065-250-002, -024, -025, -026, and 065-260-010.

Comments and Recommendations

To enable Department staff to adequately review and comment on the proposed Project, we recommend the following information be included in the DEIR, as applicable.

1. A complete assessment of the flora and fauna within and adjacent to the Project area should be conducted, with particular emphasis upon identifying special-status species including rare, threatened, and endangered species as well as fire followers, which can take up to two years to bloom after a fire. This assessment should also address locally unique species, rare natural communities, and wetlands. The assessment area for the Project should be large enough to encompass areas potentially subject to both direct and indirect Project affects. Both the Project footprint and the assessment area (if different) should be clearly defined and mapped in the DEIR. If previous surveys have been conducted, they should be less than two years old and conducted during the appropriate blooming time for plants and when wildlife would be most active. If surveys are prepared outside the appropriate time period, the Department, acting in its roll as a Responsible Agency for the issuance of permits and agreements, may need to request those surveys be repeated during the appropriate time period in order to address permit specific impacts. Botanical surveys should be conducted by a

qualified botanist with experience in local flora and fauna and knowledge of post-fire botanical succession.

- a. The Department's California Natural Diversity Data Base (CNDDDB) should be searched to obtain current information on previously reported sensitive species and habitat, including Significant Natural Areas identified under Chapter 12, Sections 1930-1940 of the Fish and Game Code. In order to provide an adequate assessment of special-status species potentially occurring within the Project vicinity, the search area for CNDDDB occurrences should include all United States Geological Survey 7.5-minute topographic quadrangles with Project activities, and all adjoining 7.5-minute topographic quadrangles. The DEIR should discuss how and when the CNDDDB search was conducted, including the names of each quadrangle queried, or why any areas may have been intentionally excluded from the CNDDDB query. As a reminder, the Department cannot and does not portray the CNDDDB as an exhaustive and comprehensive inventory of all rare species and natural communities statewide. Field verification for the presence or absence of sensitive species will always be an important obligation of its users. Likewise, your contribution of data to the CNDDDB is equally important to the maintenance of the CNDDDB. Whenever possible, we request that data be submitted using our online field survey form along with a map with the rare populations or stands indicated.
- b. In addition to the CNDDDB, other electronic databases such as those maintained by the California Native Plant Society and U.S. Fish and Wildlife Service (USFWS) should be queried.
- c. A complete assessment of rare, threatened, and endangered invertebrate, fish, wildlife, reptile, and amphibian species should be presented in the DEIR. Rare, threatened, and endangered species to be addressed shall include all those that meet the CEQA definition (see CEQA Guidelines § 15380). Seasonal variations in use of the Project area should also be addressed. Focused species-specific surveys, conducted at the appropriate time of year and time of day when the species are active or otherwise identifiable, are recommended. Acceptable species-specific survey procedures should be developed in consultation with the Department and the USFWS. Links to some survey procedures are provided on the Department's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>).
- d. Species of Special Concern (SSC) status applies to animals generally not listed under the federal Endangered Species Act or CESA, but which nonetheless are declining at a rate that could result in listing, or historically

occurred in low numbers and known threats to their persistence currently exist (see CEQA Guidelines § 15380 and CEQA Guidelines Appendix G (IV)(a)). SSC should be considered during the environmental review process. CEQA (California Public Resources Code sections 21000-21177) requires State agencies, local governments, and special districts to evaluate and disclose impacts from "projects" in the State. Section 15380 of the CEQA Guidelines clearly indicates that SSC should be included in an analysis of Project impacts if they can be shown to meet the criteria of sensitivity outlined therein.

Sections 15063 and 15065 of the CEQA Guidelines, which address how an impact is identified as significant, are particularly relevant to SSCs. Project-level impacts to listed (rare, threatened, or endangered species) species are generally considered significant thus requiring lead agencies to prepare an EIR to fully analyze and evaluate the impacts. In assigning "impact significance" to populations of non-listed species, analysts usually consider factors such as population-level effects, proportion of the taxon's range affected by a project, regional effects, and impacts to habitat features.

- e. Fully Protected animals may not be taken or possessed at any time and the Department is not authorized to issue permits or licenses for their incidental take¹. Fully Protected animals should be considered during the environmental review process and all Project-related take must be avoided.
- f. A thorough assessment of rare plants and rare natural communities should be conducted, following the Department's March 2018 *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities*.
- g. A detailed vegetation map should be prepared, preferably overlaid on an aerial photograph. The map should be of sufficient resolution to depict the locations of the Project site's major vegetation communities and show Project impacts relative to each community type. The Department's preferred vegetation classification system should be used to name the polygons; however, the vegetation classification ultimately used should be described in detail. Additional information for vegetation mapping can be found on the Department's website (<https://www.wildlife.ca.gov/Data/VegCAMP>). Special Status natural communities should be specifically noted on the map.

¹ Scientific research, take authorized under an approved NCCP, and certain recovery actions may be allowed under some circumstances; contact the Department for more information.

- h. In order for the Department to determine the adequacy and accuracy of surveys, the DEIR should include survey methods, dates, and results; and should list all plant and animal species (with scientific names) detected within the Project study area. If detailed survey information is not included in the DEIR, the Department will request these during our review of the document. Special emphasis should be directed toward describing the status of rare, threatened, and endangered species in all areas potentially affected by the Project. All necessary biological surveys should be conducted in advance of the DEIR circulation, and should not be deferred until after Project approval.
2. A thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources, with specific measures to offset such impacts, should be included.
 - a. The DEIR should present clear thresholds of significance to be used by the Lead Agency in its determination of environmental effects. A threshold of significance is an identifiable quantitative, qualitative or performance level of a particular environmental effect. (CEQA Guidelines § 15064.7)
 - b. CEQA Guidelines, section 15125 (a-e), direct that knowledge of environmental conditions at both the local and regional levels is critical to an assessment of environmental impacts and that special emphasis shall be placed on resources that are rare or unique to the region. This will be especially important because of the impact the Carr Fire had on the Project area and adjacent area.
 - c. Impacts associated with initial Project implementation as well as long-term operation and maintenance of the Project shall be addressed in the DEIR pursuant to CEQA Guidelines 15126.2 (a).
 - d. In evaluating the significance of the environmental effect of the Project, the Lead Agency should consider direct physical changes in the environment, which may be caused by the Project and reasonably foreseeable indirect physical changes in the environment, which may be caused by the Project. Expected impacts should be quantified (e.g., acres, linear feet, number of individuals taken, volume or rate of water extracted, etc.).
 - e. Project impacts should be analyzed relative to their effects on off-site habitats and species. Specifically, this may include public lands, open space, downstream aquatic habitats, areas of groundwater depletion, or any other natural habitat or species that could be affected by the Project (CEQA Guidelines Appendix G (IV and IX)).

- f. Impacts to and maintenance of wildlife corridor/movement areas and other key seasonal use areas should be fully evaluated and provided (CEQA Guidelines Appendix G (IV), Fish and Game Code section 1930, and <https://www.wildlife.ca.gov/Conservation/Planning/Connectivity>).
- g. A discussion of impacts, including but not limited to the following, should be included in the DEIR: increased lighting, noise, human activity, impacts of free-roaming domestic animals including dogs and cats, changes in drainage patterns, changes in water volume, velocity, quantity and quality, soil erosion, and/or sedimentation in streams and watercourses.

The Department recognizes the effects of artificial lighting 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. To minimize adverse effects of artificial light on wildlife, the Department recommends that lighting fixtures associated with the Project be downward facing, fully-shielded and designed and installed to minimize photo-pollution.

- h. A cumulative effects analysis shall be developed for species and habitats potentially affected by the Project. This analysis shall be conducted as described under CEQA Guidelines section 15130. General and specific plans, as well as past, present, and anticipated future projects, should be analyzed relative to their impacts to species and habitats.
3. A range of Project alternatives shall be analyzed to ensure that the full spectrum of alternatives to the proposed Project are fully considered and evaluated. Alternatives, which avoid or otherwise minimize impacts to sensitive biological resources shall be identified.
- a. If the Project will result in any impacts described under the Mandatory Findings of Significance (CEQA Guidelines § 15065) the impacts must be analyzed in depth in the DEIR, and the Lead Agency is required to make detailed findings on the feasibility of alternatives or mitigation measures to substantially lessen or avoid the significant effects on the environment. When mitigation measures or Project changes are found to be feasible, such measures should be incorporated into the Project to lessen or avoid significant effects.
4. Mitigation measures for adverse Project-related impacts to sensitive plants, animals, and habitats should be developed and thoroughly discussed in the

DEIR. Mitigation measures should first emphasize avoidance and reduction of Project impacts. For unavoidable impacts, the feasibility of on-site habitat restoration or enhancement should be discussed. If on-site mitigation is not feasible, off-site mitigation through habitat creation, enhancement, acquisition and preservation in perpetuity should be addressed.

- a. The Department generally does not support the use of relocation, salvage, and/or transplantation as mitigation for most impacts to rare, threatened, or endangered species. Studies have shown that these efforts are experimental in nature and largely unsuccessful. If considered, the feasibility of these types of mitigation measures must be discussed with the Department prior to release of the DEIR.
 - b. Areas reserved as mitigation for Project impacts must be legally protected from future direct and indirect development impacts. Potential issues to be considered include public access, conservation easements, species monitoring, management programs, water pollution, and fire management.
 - c. Plans for restoration and revegetation should be prepared by persons with expertise in northern California ecosystems and native plant revegetation techniques. Each plan should include, at a minimum: (a) the location of the mitigation site; (b) the plant species to be used, container sizes, and/or seeding rates; (c) a schematic depicting the mitigation area; (d) planting/seeding schedule; (e) a description of the irrigation methodology; (f) measures to control exotic vegetation; (g) specific success criteria; (h) a detailed monitoring program; (i) contingency measures should the success criteria not be met; and (j) identification of the party responsible for meeting the success criteria and providing for long-term conservation of the mitigation site.
5. Please include fuel modification impacts on vegetation in the biological resources section of the DEIR. All impacts, including future maintenance, should be quantified and described.
 6. Take of species of plants or animals listed as endangered or threatened under CESA is unlawful unless authorized by the Department. However, a CESA 2081(b) ITP may authorize incidental take during Project construction or over the life of the Project. The DEIR must state whether the Project could result in any amount of incidental take of any CESA-listed species. Early consultation for incidental take permitting is encouraged, as significant modification to the Project's description and/or mitigation measures may be required in order to obtain a CESA Permit. Information on how to obtain an ITP is available through

the Department's website at:

<https://www.wildlife.ca.gov/Conservation/CESA/Incidental-Take-Permits>.

The Department's issuance of a CESA Permit for a project that is subject to CEQA will require CEQA compliance actions by the Department as a Responsible Agency. The Department as a Responsible Agency under CEQA will consider the Lead Agency's EIR for the Project. The Department may require additional mitigation measures for the issuance of a CESA Permit unless the Project CEQA document addresses all Project impacts to listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of a CESA Permit.

To expedite the CESA permitting process, the Department recommends that the DEIR addresses the following CESA Permit requirements:

- a. The impacts of the authorized take are minimized and fully mitigated;
 - b. The measures required to minimize and fully mitigate the impacts of the authorized take and: (1) are roughly proportional in extent to the impact of the taking on the species; (2) maintain the applicant's objectives to the greatest extent possible, and (3) are capable of successful implementation;
 - c. Adequate funding is provided to implement the required minimization and mitigation measures and to monitor compliance with and the effectiveness of the measures; and
 - d. Issuance of the permit will not jeopardize the continued existence of a State-listed species.
7. The Department has responsibility for wetland and riparian habitats. It is the policy of the Department to strongly discourage development in wetlands or conversion of wetlands to uplands. We oppose any development or conversion, which would result in a reduction of wetland acreage or wetland habitat values, unless, at a minimum, Project mitigation assures there will be "no net loss" of either wetland habitat values or acreage. The DEIR should demonstrate that the Project will not result in a net loss of wetland habitat values or acreage.
- a. The Project location supports aquatic, riparian, or wetland habitat. A delineation of lakes, streams, and associated riparian habitats potentially affected by the Project should be provided for agency and public review. This report should include a preliminary jurisdictional delineation including

wetlands identification pursuant to the USFWS wetland definition² as adopted by the Department³. Please note that some wetland and riparian habitats subject to the Department's authority may extend beyond the jurisdictional limits of the U.S. Army Corps of Engineers. The jurisdictional delineation should also include mapping of ephemeral, intermittent, and perennial stream courses potentially impacted by the Project. The Department considers impacts to any wetlands (as defined by the Department) as potentially significant.

- b. The Project may require notification to the Department for a Lake or Streambed Alteration Agreement (LSAA) pursuant to section 1602 et seq. of the Fish and Game Code, prior to the applicant's commencement of any activity that will substantially divert or obstruct the natural flow or substantially change the bed, channel, or bank (which may include associated riparian resources) of a river, stream or lake, or use material from a streambed. The Department's issuance of a LSAA for a project that is subject to CEQA will require CEQA compliance actions by the Department as a Responsible Agency. The Department as a Responsible Agency under CEQA may consider the local jurisdiction's (Lead Agency) Negative Declaration or EIR for the Project. To minimize additional requirements by the Department pursuant to Fish and Game Code section 1600 et seq. and/or under CEQA, the document should fully identify the potential impacts to the lake, stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for issuance of the agreement. A LSAA notification package may be obtained through the Department's website at <https://www.wildlife.ca.gov/Conservation/LSA>.
8. CEQA requires that information developed in EIRs and negative declarations be incorporated into a database, which may be used to make subsequent or supplemental environmental determinations. (Public Resources Code section 21003(e)). Please report any special status species and natural communities detected during Project surveys to the 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 mailed electronically to CNDDDB at the following email address:

² Cowardin, Lewis M., et al. Classification of Wetlands and Deepwater Habitats of the United States. U.S. Department of the Interior, U.S. Fish and Wildlife Service.

³California Fish and Game Policies: Wetlands and Resource Policy; Wetland Definition, Mitigation Strategies, and Habitat Value Assessment Methodology; Amended 1994.

CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

9. The Reclamation Plan associated with this Project will be updated per the NOP. The vegetation restoration portion of the Reclamation Plan needs to describe in detail how the area should function post mine closure. The planting of a ponderosa pine (*Pinus ponderosa*) plantation with no associated shrubs and/or understory as described during the site visit on October 15, 2019, is not a normal functioning ecosystem. Further, having the Reclamation Plan cover an additional 150 years of mining operation is not practical. It would be prudent to address the vegetation prescription with an adaptive management approach which would add in flexibility to the plant species used and perhaps the success criteria based on the climate at the time the mine closes.

All existing and future Reclamation Plans shall use California native species. The non-native grass and clover species used in the 2008 revised Reclamation Plan for the Upland Bench Groundcover Prescription should not be used in this new Reclamation Plan and should be removed from the 2008 plan. Those specific species include common barley (*Hordeum vulgare*), Italian rye grass (*Festuca perennis*) shown on Table 2 of the 2008 updated Reclamation Plan as annual rye grass (*Lolium multiflorum*), Crimson clover (*Trifolium incarnatum*), and rose clover (*Trifolium hirtum*) which is an invasive species.

10. The DEIR should describe the asphalt batch plant in detail and describe the design and safety features that will be used to keep the asphalt and the asphalt oil away from the ponds and unnamed tributary.
11. A bullfrog management plan will need to be prepared to stop the spread of this invasive species using the onsite ponds. These ponds are located in a watershed directly connected to waters used by anadromous salmonids and invasive species should not be allowed to propagate in these watersheds unchecked.
12. The final design of the expansion is to have a 66.85-acre pond with 40-foot high benches surrounding it. The water will attract wildlife and they will be able to get down to it but may not be able to climb out. The Department recommends putting in wildlife-friendly ramps in various parts of the mine to allow wildlife to escape.
13. The Biological Review, dated July 2019, and prepared by Wildland Resource Managers is a draft document that the Department was told was being updated. The Department looks forward to reviewing the updated report. The day of the site visit (October 15, 2019), which was not at the optimal wildlife viewing time,

Department staff detected five bird species, one butterfly species and one reptile species. The Department hopes the updated report has a list of wildlife species observed and that these observations are gathered over multiple days during seasonally appropriate times. The area seems to be recovering well considering recent fire. In addition, Table 4 of the report suggests that none of the listed anadromous fish could be impacted by the Project. In the DEIR, please provide an analysis of what happens if the settling ponds overflow and the non-native, unpermitted fish in settling pond number 5 are accidentally released during a high flow into the unnamed tributary or if toxic pollutant water is accidentally released into the unnamed tributary. The DEIR should include measures that would prevent such outcomes.

If you have any questions, please contact Amy Henderson, Senior Environmental Scientist, at (530) 225-2779, or by e-mail at Amy.Henderson@wildlife.ca.gov.

Sincerely,



for **Curt Babcock**
Habitat Conservation Program Manager

ec: Lio Salazar, Senior Planner
Shasta County Department of Resource Management
lsalazar@co.shasta.ca.us

Tara Petti
Shasta County Department of Resource Management
tpetti@co.shasta.ca.us

State Clearinghouse
state.clearinghouse@opr.ca.gov