



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



July 24, 2020  
 Sent via email

Governor’s Office of Planning & Research

**Jul 27 2020**

**STATE CLEARINGHOUSE**

Philip Meyer  
 Environmental Scientist  
 State Water Resources Control Board  
 1001 I Street  
 Sacramento, CA 95814

Subject: Pine Creek Mine Hydroelectric Project (PROJECT)  
 NEGATIVE DECLARATION (ND)  
 SCH# 2020069038

Dear Mr. Meyer:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Negative Declaration (ND) from the State Water Resources Control Board (SWRCB, Lead Agency) for the Pine Creek Mine Hydroelectric Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup> CDFW previously submitted comments to the Federal Energy Regulatory Commission (FERC) on the Preliminary License Proposal on August 25, 2015, and on the License Application on September 23, 2016.

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game 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 is charged by law to provide, 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.

**PROJECT DESCRIPTION SUMMARY**

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<sup>1</sup> CEQA is codified in the California Public Resources Code in section 21000 et seq. The “CEQA Guidelines” are found in Title 14 of the California Code of Regulations, commencing with section 15000.

**Proponent:** Pine Creek Mine, LLC

**Objective:** The proposed Project would involve the generation of renewable electricity in the form of hydropower yielding approximately 1.5 megawatts (MW) per hour of operation, for an estimated annual average of 5,600 megawatt-hours (MWh). The power generated would be sold to a local utility or wholesale grid to redistribute to electricity customers. The proposed Project would install a hydroelectric turbine within an existing mine adit. The adit, portals, electrical wiring, and access routes are all existing features at Pine Creek Mine (PCM). The water source for the proposed Project is groundwater draining from the underground mine workings.

**Location:** Pine Creek and Morgan Creek canyons, in northwestern Inyo County, northwest of the town of Bishop, California.

## **COMMENTS AND RECOMMENDATIONS**

As discussed in our 2015 and 2016 comment letters, CDFW has concerns regarding potential impacts of the Project on California's fish and wildlife resources, Morgan and Pine Creeks, and groundwater, but due to workload and staffing constraints CDFW was unable to conduct a thorough review of the ND and supporting documents. As such, CDFW would like to refer to the previous comment letters mentioned above (Attachment A), and recommends that the SWRCB ensures that the comments contained therein are fully addressed.

The Initial Study (IS)/ND prepared for the Project relies on an Environmental Assessment (EA) prepared for the Project by FERC in 2018, which was used to analyze and determine potential significance of environmental effects caused by this Project. The EA was informed by a series of technical reports, surveys, and assessments, including a Biological Resources Report and Baseline Aquatic Habitat Monitoring Survey, both of which were prepared in 2013. These surveys are outdated; please note that CDFW generally considers assessments for plants to be valid for up to three years, and for animals up to one year. All surveys are outdated and should be repeated.

## **ENVIRONMENTAL DATA**

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a data base 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: [http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB\\_FieldSurveyForm.pdf](http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB_FieldSurveyForm.pdf). The completed form can be mailed electronically to CNDDDB at the following email address: [CNDDDB@wildlife.ca.gov](mailto:CNDDDB@wildlife.ca.gov). The types of information reported to CNDDDB can be found at the following link: [http://www.dfg.ca.gov/biogeodata/cnddb/plants\\_and\\_animals.asp](http://www.dfg.ca.gov/biogeodata/cnddb/plants_and_animals.asp).

## FILING FEES

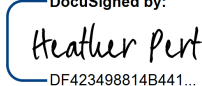
The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order 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

CDFW appreciates the opportunity to comment on the ND to assist the SWRCB in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Rose Banks, Environmental Scientist, at (760) 218-0022 or [Rose.Banks@wildlife.ca.gov](mailto:Rose.Banks@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
DF423498814B441...  
For  
Scott Wilson  
Environmental Program Manager

## Attachments

- A. CDFW Comments and Recommendations to the Federal Energy Regulatory Commission (FERC) on the Preliminary License Proposal, August 25, 2015, and on the License Application, September 23, 2016.

cc: Office of Planning and Research, State Clearinghouse, Sacramento

ec: HCPB CEQA Coordinator [Karen.Carpio@wildlife.ca.gov](mailto:Karen.Carpio@wildlife.ca.gov)  
SCH [State.Clearinghouse@opr.ca.gov](mailto:State.Clearinghouse@opr.ca.gov)  
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