



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
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Governor's Office of Planning & Research

December 22, 2020

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Stefano Richichi, Senior Planner
 County of Lassen
 Department of Planning and Building Services
 707 Nevada Street, Suite 5
 Susanville, CA 96130

STATE CLEARINGHOUSE

SUBJECT: SCH#2020100366 RESPONSE TO DRAFT IS/MND BIOLOGICAL SECTION IS#2020-001 UP#2020004 – HOOPER

Dear Mr. Richichi:

The California Department of Fish and Wildlife (Department) has reviewed the information sent by Sierra Geotech, DBE, Inc. in response to the Department's November 13, 2020, early consultation letter. The Department has the following comments and recommendations:

General Surveys

In our previous letter, the Department requested a basic botanical, wildlife, and habitat assessment conducted at the appropriate time of year. According to the extracted Biological Resources portion of an Initial Study/Mitigated Negative Declaration (IS/MND), Sierra Geotech staff biologist conducted a field survey of the project area on January 7, 2020. The IS/MND stated, "During the field survey, all biological communities were characterized, and the observed plant and wildlife species were recorded." No stand-alone biological report was provided containing these observations.

Initial surveys conducted outside the blooming period for plants or the time of year when most wildlife is active is fine to do in order to determine which, if any, focused surveys will need to be conducted at a later date. However, it appears that Sierra Geotech staff consider this one survey sufficient if pre-construction surveys are completed after Project approval but before construction commences. The Department strongly encourages surveys be conducted at the appropriate time of year prior to project approval and recommends providing a stand-alone biological report that includes a list of plant and wildlife species observed as well as a description of habitats found onsite.

Botanical Surveys

The IS/MND states, "The Following 5 species were documented in the CNDDDB within a 5-mile radius of the proposed project lease areas: (1) American badger (*Taxidea taxus*); (2) prairie falcon (*Falco mexicanus*); (3) Dugway wild buckwheat (*Eriogonum nutans* var. *nutans*); (4) Hillman's cleomella (*Cleomella hillmanii* var. *hillmanii*); and (5) Nelson's evening-primrose (*Eremonthera minor*). None of which are classified as threatened or endangered species at either the federal or state level." The Department submitted an early consultation comment letter with 16 special status plant species queried from the

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California Natural Diversity Database within a 5-mile radius of the Project area (see list below). The fact that these are not state or federally listed species does not preclude them from being analyzed under CEQA. The plants are listed as California Rare Plant Rank 2B.2 or 2B.3. California Rare Plant Ranks 1 or 2 meet the definition of rare or endangered under CEQA Guidelines section 15380, subdivisions (b) and (d). The list of plants and wildlife queried below should not be considered comprehensive as additional special status plant and animal species may occur within the Project vicinity. The CNDDDB is a positive sighting database. It does not predict where something may be found. The Department maps occurrences only where we have documentation that the species was found at the site. There are many areas of the state where no surveys have been conducted and therefore there is nothing on the map. That does not mean that there are no special status species present. The next step is to conduct surveys to document what is present and submit the information on special status species to the Department and CNDDDB.

Conducting surveys ahead of Project approval is critical in that it allows the Department, land use planning agencies, and project proponents to make educated land use decisions. It also allows for the project proponents ample time to redesign their project to avoid and/or minimize significant impacts, if necessary. The special status plants provided in the list below have been shown to occur within a 5-mile radius of the Project area within a similar habitat as the Project area. Conducting botanical surveys two weeks prior to the start of construction does not allow the Department or the Lead Agency time to fully analyze potential significant impacts to special status species; therefore, the Department recommends a thorough assessment of rare plants and rare natural communities be conducted following the Department's March 2018 *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities* (<https://www.wildlife.ca.gov/conservation/survey-protocols#377281280-plants>). As stated in the Protocols, these surveys must be conducted by a qualified botanist during the appropriate time of year to identify species of concern and should include areas with both direct and indirect impacts. Impacts to special status species and sensitive natural communities found during surveys should be analyzed and specific mitigation would be required to reduce any impacts to less than significant.

The list of plants queried from the CNDDDB known to occur within a five-mile radius of the Project including, but not limited to, the following:

Plants

- Lance-leaved scurf-pea (*Ladeania lanceolata*)(California Rare Plant Rank 2B.3)
- Many-flowered thelypodium (*Thelypodium milleflorum*)(California Rare Plant Rank 2B.2)
- Dugway wild buckwheat (*Eriogonum nutans* var. *nutans*)(California Rare Plant Rank 2B.3)
- Kellogg's sand-verbena (*Tripterocalyx crux-maltae*)(California Rare Plant Rank 2B.2)
- Hillman's cleomella (*Cleomella hillmanii* var. *hillmanii*)(California Rare Plant Rank 2B.2)
- Sagebrush loeflingia (*Loeflingia squarrosa* var. *artemisiarum*)(California Rare Plant Rank 2B.2)

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- Geyer's milk-vetch (*Astragalus geyeri* var. *geyeri*)(California Rare Plant Rank 2B.2)
- Western seablite (*Suaeda occidentalis*)(California Rare Plant Rank 2B.3)
- Intermontane lupine (*Lupinus pusillus* var. *intermontanus*)(California Rare Plant Rank 2B.3)
- Currant-leaved desert mallow (*Sphaeralcea grossulariifolia*)(California Rare Plant Rank 2B.3)
- Cruciform evening-primrose (*Chylismia claviformis* ssp. *cruciformis*)(California Rare Plant Rank 2B.3)
- Macdougall's lomatium (*Lomatium foeniculaceum* ssp. *macdougallii*)(California Rare Plant Rank 2B.2)
- Nelson's evening-primrose (*Eremothera minor*)(California Rare Plant Rank 2B.3)
- Winged dock (*Rumex venosus*)(California Rare Plant Rank 2B.3)
- Ochre-flowered buckwheat (*Eriogonum ochrocephalum* var. *ochrocephalum*)(California Rare Plant Rank 2B.2)
- Paiute lomatium (*Lomatium ravenii* var. *paiutense*)(California Rare Plant Rank 2B.3)

Mitigation measure BIO-5 states that special status plant species surveys will be conducted approximately two weeks prior to the start of construction. It goes on to say that if special status plants are found, fencing will be used to delineate and exclude the plant species from disturbance. If avoidance of special status species cannot occur then additional measures would be implemented including preparation and implementation of a rare plant mitigation program, collecting seed of annual special status plant species and redistributing the seed in suitable habitat on the property in the fall following Project completion, and salvaging all perennial special status plant species and replanting in the fall with supplemental irrigation.

The BIO-5 measure is not a feasible mitigation measure for the following reasons. First, the fencing of the special status species needs a buffer to prevent indirect impacts to the plant population and none is proposed. Secondly, if avoidance of special status species cannot occur and the population is removed, a rare plant mitigation program would be prepared and implemented. This is an MND, not an Environmental Impact Report; therefore, the plan should be written and success criteria proposed for this plan prior to Project approval. Stating a plan will be prepared without success criteria is deferring the mitigation to a future date after the Project has been approved. Third, collecting seed of annual species and replanting them in suitable habitat on the property may not be appropriate depending on the species, site, and the level of disturbance. Solar arrays often change the drainage and sunlight patterns of areas making the area unusable for replanting. Therefore, it is important to know if special status species occur on the site, where they occur, how they can be avoided through redesign, and where there is appropriate habitat to mitigate onsite prior to approval of the Project. Finally, the Department generally considers salvage and relocation (translocation) to be an inappropriate way to compensate for permanent impacts to rare, threatened, endangered, and sensitive native plants (rare plants). Rare plant translocations for mitigation have a low success rate and the Department considers such efforts experimental, unless they have been demonstrated to be effective through long-term experimentation. Successful rare plant translocations require many years of habitat surveys, habitat modeling, site selection, seed collection, plant propagation, site preparation, monitoring, and remedial actions such as management of competing plants, supplemental watering, and

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supplemental planting. Success is not guaranteed, and even translocations that are initially successful may fail to persist over the long term.

Additionally, transplantation efforts do not replace intact ecosystems or maintain the entire range of genetic diversity at the impact site. The presence of rare plants often signifies the presence of biogeographically important sites with unusual soil, microclimate, or other conditions that are not easy to identify and difficult or impossible to duplicate. Loss of genetic material from rare plant translocation may also hinder introduced populations from withstanding changing environmental conditions over time. The most effective way to mitigate for permanent loss of rare plant habitat is therefore to protect and manage existing populations in their natural habitat.

Sensitive Natural Communities

The IS/MND states, “*During the field survey, all biological communities were characterized, and the observed plant and wildlife species were recorded.*” The IS/MND does not mention how the habitats were characterized or which vegetation classification was used. The Department strongly encourages the use of a *Manual of California Vegetation*. The IS/MND describes three types of vegetation: big sagebrush, greasewood scrub, and saltgrass flats. The descriptions, however, are generic and do not represent what is physically present on the ground within the Project area. For example, Acton encelia (*Encelia actoni*) occurs within big sagebrush scrub but does not occur in Lassen County. Greasewood (*Sarcobatus vermiculatus*) and salt grass (*Distichlis spicata*) are listed as occurring on site but if they occur together, that association is considered a Sensitive Natural Community. Further, the description of saltgrass flats in the IS/MND could be describing a wetland. The State Water Resources Control Board describes a wetland¹ as the following:

An area is a wetland if: (1) the area has continuous or recurrent saturation of the upper substrate caused by groundwater, or shallow surface water, or both; (2) the duration of such saturation is sufficient to cause anaerobic conditions in the upper substrate; and (3) the area’s vegetation is dominated by hydrophytes or the area lacks vegetation. The Procedures provide the same wetland delineation methods that are used by the Army Corps of Engineers.

Waters of the State include more aquatic features than Waters of the U.S., which are defined by the federal government. The hydrology of some of the sagebrush areas has large swaths of these playas that “fill” with rainwater and are vital for groundwater recharge in an area that receives little water. A wetland delineation can typically determine if these “playa” areas do in fact hold water.

The Department recommends the descriptions of the vegetation communities be revised to reflect what is present onsite using a *Manual of California Vegetation*. Once the vegetation community is defined, Sensitive Natural Communities can be determined.

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https://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/wrapp/dredge_and_fill_draft_procedures_fact_sheet_022519_update.pdf

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Sensitive Natural Communities can be found here:

<https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities#sensitive%20natural%20communities>. Impacts to Sensitive Natural Communities must be analyzed and addressed in the environmental review process (see CEQA Guidelines checklist, item IV-b). Because vegetation mapping was not conducted, neither the Department nor the Lead Agency can ascertain if there are Sensitive Natural Communities present onsite, precluding the Lead Agency from making an informed decision on the level of significance of this CEQA Guidelines checklist item. The IS/MND did not mention how much of each “vegetation type” existed on site and which communities, if any, would be impacted by Project activities. The Department recommends reevaluating the vegetation mapping performed on the site, identifying the natural communities on the project site, determining which, if any, are identified as sensitive, and determining the level of significance and mitigation based off that analysis. Specific mitigation would be required to reduce any impacts to less than significant.

Wildlife

Two special status species were identified in CNDDDB within a 5-mile radius of the project and include, but are not limited to, the following:

- Long-eared owl (*Asio otus*)(California Species of Special Concern)
- American badger (*Taxidea taxus*)(California Species of Special Concern)

Long-eared owl (*Asio otus*)

Based on the breeding habitat of the long-eared owl, the Project does not appear to have adequate habitat. However, the Project does provide foraging habitat. Impacts to foraging habitat should be analyzed in the forthcoming environmental document.

American badger (*Taxidea taxus*)

According to the CNDDDB, the American badger has been observed within and adjacent to this Project. The Department had recommended in its early consultation letter a burrow survey be conducted to determine if habitat is present for the badger and/or other fossorial specialists. The project applicant is proposing to conduct burrow surveys as preconstruction surveys approximately two weeks prior to the start of construction. The Department strongly encourages the burrow survey to be conducted prior to project approval in the event there are badgers and/or other fossorial specialists present, allowing for the redesign of the Project to avoid the dens. Impact significance cannot be determined when there is no data to analyze.

Badgers are sensitive to the effects of habitat fragmentation, they have a low reproductive rate, and a high rate of juvenile mortality. Badgers give birth to young underground in March or April. Litter sizes range from one to five with two being the average. The young are born blind and with little fur. Their eyes open at about four weeks, at which time the mother may move them from the natal den closer to hunting areas. Thereafter, the family can be moved almost nightly. The kits are weaned at about six to eight weeks and begin to emerge above ground on their own. Solid prey is brought back to the den by the

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mother, and eventually, young badgers begin to accompany her on hunts. At about three to four months old, young badgers disperse to live in their own burrows. Dispersal typically occurs between July and August. Therefore, mitigation measure BIO-4 needs additional seasonal restrictions so natal dens are not inadvertently filled in and young can disperse. The Department recommends adding in a sentence such as, "Installation of one-way doors shall only be implemented outside of the natal rearing period, typically March through May."

Nesting Bird Survey – BIO-3

This measure states that a qualified biologist shall conduct a nesting bird survey no more than two weeks prior to construction. The Department recommends two be changed to one (1) week prior to construction.

Survey Results


All surveys should be conducted prior to approval of the Project and survey results should be submitted via email to R1CEQARedding@wildlife.ca.gov. If any special-status species are found during surveys, the Department requests that CNDDDB forms be filled out online or sent to Sacramento and a copy of the form be emailed to the Regional office at the above address. Instructions for providing data to the CNDDDB can be found at: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>.

Mitigation

Avoidance and mitigation measures for impacts to special status species and sensitive habitats, if found, should be proposed in subsequent environmental review to avoid any significant effects the Project would have on the species or its habitat. Examples of mitigation measures for special status species and habitats include, but are not limited to, project modification to avoid the species and its habitat, enhancement of existing onsite habitat, offsite restoration or enhancement of habitat, or onsite/offsite preservation of habitat. Since appropriate botanical surveys were not conducted, it is unknown if those species are present, if they are impacted, or if the impact is significant to warrant mitigation.

If you have any questions, please contact Amy Henderson, Senior Environmental Scientist (Specialist), at (530) 598-7194, or by email at Amy.Henderson@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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