



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 5, 2022

Hailey Lang, Deputy Director of Planning
Siskiyou County Community Development Department
806 South Main Street
Yreka, CA 96097

SUBJECT: Review of the Mitigated Negative Declaration for Goodwin Zone Change (Z-21-02) and Use Permit (UP-21-06), State Clearing House Number 2022090096, Siskiyou County

Dear Hailey Lang:

The California Department of Fish and Wildlife (Department) has reviewed the Initial Study Mitigated Negative Declaration (IS MND) dated September 7, 2022, for the above-referenced project (Project). As a 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. As a responsible agency, the Department administers the California Endangered Species Act (CESA) and other provisions of the Fish and Game Code that conserve the State's fish and wildlife public trust resources. The Department offers the following comments and recommendations on this Project in our role as a trustee agency pursuant to the California Environmental Quality Act (CEQA), California Public Resources Code §21000 et seq.

Project Description

The Project as described in the Mitigated Negative Declaration is as follows:

"The project site is located approximately 2.3 miles east of the City of Yreka along East Oberlin Road. Access to both sites would be from East Oberlin Road, and a secondary entrance with an approved encroachment permit is at the northeastern end of the north parcel from South Phillippe Lane. An encroachment permit was obtained in 2019 from the Siskiyou County Road Department. The southern parcel, APN 013-120-330, is 61 acres in size and the northern parcel, APN 013-120-320, is approximately 16.5 acres in size. The property owner proposes to develop and operate a construction waste recycling facility and expand an existing gravel parking lot.

The concrete and asphalt recycling facility would be located on the southeastern portion of APN 13-120-330 (south parcel).

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The main entrance to the plant (south parcel) is off of East Oberlin Road, approximately 190 feet west of South Phillippe Lane. The maximum size of the recycling plant would be approximately 3 acres. The parking lot expansion of approximately 2 acres would take place on the western portion of APN 13-120-320 (north parcel). This expansion would include installment of a truck scale (75 feet by 10 feet) for company use. This parcel is currently developed on the western side as a gravel parking area with portable buildings and equipment storage. The main entrance to the expansion area is from the existing development on the northern side of East Oberlin Road. A secondary entrance lies to the west of South Phillippe Lane on the eastern side of the property. The entrance from South Phillippe Lane is accessed by a driveway with a culvert protecting the ephemeral drainage.”

Comments and Recommendations

The Department recognizes that Siskiyou County and the project applicant have taken some appropriate steps to identify and assess biological resources and state special status species that have potential to occur within or in-proximity to the Project area. The Department has the following comments and recommendations pertaining to biological resources:

Wetlands and Streams

Mitigation Measure BIO-1 states: “*Wetland Buffer: Any ground-disturbing activities would be restricted to areas outside of a buffer zone around any water course onsite. Typically, ephemeral drainages require a 50-foot setback.*”

The Department concurs with a wetland buffer in lieu of protecting wetland features, as indicated in the IS MND however, because an official wetland delineation was not performed, nor did the biological assessment provide substantive information regarding such wetland features, the Department cannot deem a 50-foot buffer adequate in protecting potentially occurring wetlands. The wetlands referenced in the biological assessment should be mapped by a biologist and included in the IS MND document otherwise, the limits of the wetland and requisite buffer protection area is unknown and the proximity from project activities to buffer is unknown.

It is understood that this parcel has a long-standing history of tilling and grazing practices; however, such land use and land modification does not necessarily equate to altering the overall hydrologic characteristics of the land. The Department has a responsibility in protecting and conserving wetland habitats and the species which utilize these habitats. A desktop review of the parcel indicates that the parcel is mapped to have wetland features including ephemeral swales and ephemeral streams. The Department strongly encourages a wetland delineation be conducted by a qualified biologist to identify wetland features and

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riverine habitats.

The wetland delineation report should include an assessment of jurisdictional waters including all lakes, streams (ephemeral, intermittent, and perennial), and wetlands occurring on the Project site. The jurisdictional delineation report should include a map depicting all jurisdictional waters including those potentially impacted by the Project. Upon acceptance by the Department, the wetlands delineation report may determine the formal Department jurisdictional boundary and may be used in support of obtaining a Lake or Streambed Alteration notification. It is acceptable to prepare a single delineation report with separate jurisdictional results sections for both the U.S. Army Corps of Engineers (Corps) and the Department. Standard methods, such as the 1987 Corps of Engineers Wetlands Delineation Manual and applicable regional supplements may be used to evaluate field indicators of flow, hydrology, limits of hydrophytic vegetation, and soils for assessing Department jurisdiction¹. The delineation report should also include wetlands identification pursuant to the U.S. Fish and Wildlife Service wetland definition² as adopted by the Department³. Please note that some aquatic habitats subject to the Department's authority may extend beyond the jurisdictional limits of the Corps.

The results of future wetland delineations should be sent electronically to the Department at R1CEQARedding@wildlife.ca.gov.

Nesting Birds

Mitigation Measure BIO-2 states:

"a) If vegetation removal will occur or construction will be initiated during the nesting season for birds (February 1 through August 31), a qualified biologist should conduct a preconstruction survey within seven days before activities begin. If nesting birds are found, CDFW will be notified and consulted. An appropriate buffer, as determined by CDFW and the qualified biologist, will be placed around the nest until the young have fledged.

b) If noise-generating activities are initiated at the recycling plant within the nesting season for birds, then a qualified biologist should conduct a preconstruction survey within seven days before activities begin. If activities cease for seven days or longer during the nesting season, then surveys should be completed again prior to re-initiating activities in case bird nests were constructed during the lull in activities. If nesting birds are found, CDFW will be notified and consulted. An appropriate buffer, as

¹ Please contact the Lake and Streambed Alteration program for guidance on preparing jurisdictional delineation reports.

² Cowardin, Lewis M., et al. 1979. Classification of Wetlands and Deepwater Habitats of the United States. U.S. Department of the Interior, Fish and Wildlife Service.

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

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determined by CDFW and the qualified biologist, will be placed around the nest until the young have fledged.

c) If an active raptor nest is found during surveys, no construction activities shall occur within 250 feet of the nest unless a smaller buffer zone is approved by CDFW. Construction may resume once the young have left the nest or as approved by the qualified biologist.”

BIO-2 should be changed to read:

To avoid impacts to nesting birds and/or raptors protected under FGC sections 3503 and 3503.5 and the federal Migratory Bird Treaty Act, one of the following shall be implemented:

a. Vegetation removal and other ground-disturbance activities associated with construction shall occur between September 1 and January 31, when birds are not nesting; or

b. If vegetation removal or ground disturbance activities occur during the nesting season, a pre-construction nesting bird survey shall be conducted by a qualified biologist to identify active nests in and adjacent to the Project area.

Surveys shall begin prior to sunrise and continue until vegetation and nests have been sufficiently observed. The survey shall consider acoustic impacts and line-of sight disturbances occurring as a result of the Project to determine a sufficient survey radius to maximize observations of nesting birds. A nesting bird survey report should be prepared and at a minimum, the report should include a description of the area surveyed, date and time of the survey, ambient conditions, bird species observed, a description of any active nests observed, any evidence of breeding behaviors (e.g., courtship, carrying nest materials or food, etc.), and a description of any outstanding conditions that may have impacted the survey results (e.g., weather conditions, excess noise, the presence of predators, etc.).

If an active nest is located during the preconstruction surveys, a non-disturbance buffer shall be established around the nest by a qualified biologist in consultation with the Department and U.S. Fish and Wildlife Service to comply with FGC sections 3503 and 3503.5 and the Migratory Bird Treaty Act. Compliance measures may include, but are not limited to, exclusion buffers, sound-attenuation measures, seasonal work closures based on the known biology and life history of the species identified in the survey, as well as ongoing monitoring by biologists.

Rare Plants

Mitigation Measure BIO-3 states *“If ground disturbance is proposed within the annual grassland community onsite, a protocol-level pre-construction survey will be completed for the following botanical species:*

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- *Peck's lomatium (Lomatium peckianum)*
- *Woolly balsamroot (Balsamorhiza lanata)*
- *Shasta orthocarpus (Orthocarpus pachystachyus)*
- *Alkali hymenoxys (Hymenoxys lemmonii)*

The Department concurs with BIO-3 however, botanical surveys should be conducted across the entire Project site during the appropriate blooming time prior to the approval of this Project. The Department recommends following the Department's March 20, 2018, *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities*, available here: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959>.

The IS MND indicates that the biological survey was conducted in January, well outside the blooming period for the special-status species identified as potentially occurring onsite. A qualified biologist should conduct botanical field surveys onsite at the times of year when plants will be both evident and identifiable. Usually this is during flowering or fruiting. The biologist should space botanical field survey visits throughout the growing season to accurately determine what plants exist in the project area. This usually involves multiple visits to the project area (e.g., in early, mid, and late-season) to capture the floristic diversity at a level necessary to determine if special status plants are present. The timing and number of visits necessary to determine if special status plants are present is determined by geographic location, the natural communities present, and the weather patterns of the year(s) in which botanical field surveys are conducted.

If no special status plant species are found during the botanical survey, no other measures will be required. However, if drought conditions exist, additional pre-construction surveys for special status plant species may be warranted. If special status plant species are found during the botanical surveys, the plants should be marked and if the area can be avoided, exclusionary fencing should be placed around the plants and no pedestrian or vehicular entry allowed within the exclusion area. Botanical survey results should be emailed to the Department at R1CEQARedding@wildlife.ca.gov.

Bats

Habitat throughout the parcel, as described in the biological assessment, is suitable for bats therefore, bats are likely to be roosting in proximity to project activities. Trees that contain cavities, crevices and/or exfoliated bark have high potential to be used by various bat species. Project activities, as described in the IS MND, have the potential to indirectly impact bats. Construction activities will temporarily increase the disturbance levels as well as human activity in the Project area. Disturbances related to bat habitat may have impacts to not only their roosts but their source of food. For example, "Encroachment of urban development and agriculture into areas of native vegetation likely alters the composition and abundance of insect prey in an area and

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may affect the ability of Townsend's big-eared bat to find adequate prey." (Gruver, J.C., 2006). Development activities may indirectly impact any bat species that could be within the Project boundary or its vicinity. Tree removal and/or limb trimming has the potential to directly impact roosting bats. If the Project will impact trees with the above-referenced characteristics, a thorough survey of such trees should be conducted by a qualified biologist or arborist familiar with these features to determine if tree features and habitat elements are present. Trees with features potentially suitable for bat roosting should be clearly marked prior to removal.

If removal or disturbance of trees identified to have roost structure will occur during the bat maternity season, when young are incapable of flight (March 1 – Aug 31), or during the bat hibernacula (November 1 – March 1), when bats have limited ability to safely relocate roosts, it could cause a significant impact to bats through direct mortality if roost trees are removed. Impacts to roosts are usually accompanied by high mortality of bats, which is a significant impact because a single colony could consist of the entire local population of a species. The availability of suitable roosting habitat is considered a limiting factor in almost all bat species. Roost site suitability is often based on a narrow range of suitable temperatures, relative humidity, physical dimensions, etc., and many species exhibit high roost site fidelity. Depending on the impact, if any, to the roosting habitat, additional mitigation may be necessary and could include providing replacement or alternate roost habitat. If necessary, humane evictions should be conducted during seasonal periods of bat activity, which may vary by year, location, or species and must be conducted by or under the supervision of a biologist with specific experience conducting exclusions. Humane exclusions could consist of a two-day tree removal process whereby the non-habitat trees and brush are removed along with certain tree limbs on the first day and the remainder of the tree on the second day. This two-step process changes the microhabitat of the area causing the bats to vacate the area under their own volition, therefore minimizing mortality and other impacts to bat species.

Lighting


The Department recognizes the adverse effects that artificial lighting has 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 and spillover of light onto adjacent wildlife habitat.

We appreciate the opportunity to comment on the Project to assist the County in adequately analyzing and minimizing/mitigating impacts to biological resources.

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If you have any questions, please contact Erika Iacona, Environmental Scientist,
by email at R1CEQARedding@wildlife.ca.gov.

Sincerely,

DocuSigned by:

1D82ADE7303A474...

Tina Bartlett, Regional Manager
Northern Region

cc: State Clearinghouse
State.Clearinghouse@opr.ca.gov

Erika Iacona
R1CEQARedding@wildlife.ca.gov

References

Gruver, J.C. and D.A. Keinath (2006, October 25). Townsend's Big-eared Bat (*Corynorhinus townsendii*): a technical conservation assessment. [Online]. USDA Forest Service, Rocky Mountain Region.
Available: <http://www.fs.fed.us/r2/projects/scp/assessments/townsendsbigearedbat.pdf> [Accessed September 29, 2022].