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August 11, 2023

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Subject: Ranch 35 Quarry Project (Project)
Notice of Preparation (NOP)
SCH No.: 2023070454

Dear Arielle Goodspeed:

The California Department of Fish and Wildlife (CDFW) received a Notice of Preparation (NOP) from San Benito County Resource Management Agency (San Benito County) for the above-referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.[1]

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, CDFW appreciates 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 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 and 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

[1] 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.

projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, 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 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.

Nesting Birds: CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include, sections 3503 (regarding unlawful take, possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

Water Pollution: Pursuant to Fish and Game Code section 5650, it is unlawful to deposit in, permit to pass into, or place where it can pass into "Waters of the State" any substance or material deleterious to fish, plant life, or bird life, including non-native species. It is possible that without mitigation measures, implementation of the Project could result in pollution of Waters of the State from storm water runoff or construction-related erosion. Potential impacts to streams/lakes include the following: increased sediment input from road or structure runoff; and toxic runoff associated with development activities and implementation. The Regional Water Quality Control Board and United States Army Corps of Engineers also have jurisdiction regarding discharge and pollution to Waters of the State.

In this role, CDFW is responsible for providing, as available, biological expertise during public agency environmental review efforts (e.g., CEQA), focusing specifically on project activities that have the potential to adversely affect fish and wildlife resources. CDFW provides recommendations to identify potential impacts and possible measures to avoid or reduce those impacts.

PROJECT DESCRIPTION SUMMARY

Proponent: Stevens Creek Quarry, Inc.

Objective: Stevens Creek Quarry, Inc. is seeking approval of a use permit and reclamation plan from San Benito County to develop, operate, and ultimately reclaim the Ranch 35 Quarry, a new aggregate mining and processing operation in unincorporated

San Benito County. The Ranch 35 Quarry operation would include mining, processing, and materials recycling operations. Site operations would involve development of the quarry area, installation of processing plant facilities, and gradual development of topsoil, overburden, and long-term material stockpiles on approximately 204 acres of the 271-acre parcel. The primary quarry area would be located within the central, southern, and northern portions of the parcel. Mining operations would involve vegetation removal, stripping and stockpiling of topsoil and overburden, and aggregate removal. Aggregate removal would use mobile equipment to create a working bench, extended laterally, to the proposed mining limit. Successive vertical benches would then be developed as the quarry mines downward. Drilling and blasting to break up aggregate material for excavation is not proposed.

Upon completion of the proposed mining, all mining equipment and ancillary structures would be removed, and the site would be reclaimed as grazing land in accordance with a reclamation plan that would be prepared and approved as part of this Project. The quarry may be partially backfilled with fill materials and revegetated. Revegetation would include reseeding the site using a grazing seed mix consistent with the undisturbed vegetative cover surrounding the site. The primary access road from the southern boundary into the processing plant area, and internal access road from the processing plant area to the quarry, would remain for post-mining land use access.

Location: The Project site is located at 991 San Juan Highway in San Juan Bautista, California. The site is located immediately east of the U.S. 101/Highway 156 interchange and two miles northwest of the City of San Juan Bautista in unincorporated, northwestern San Benito County. The Project site is identified as assessor's parcel number (APN) 012-090-023 and has a general plan designation of Agricultural and zoning designation of Agriculture Productive.

Timeframe: Mining would occur in phases over an anticipated 75-year period.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist San Benito County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the Draft Environmental Impact Report (DEIR) for this Project.

CDFW recommends an evaluation of revegetation proposals closer to when that activity will occur, and to base the plan to do so on current climate conditions, and best available science at that time. CDFW would also like to review any revegetation plans when they are prepared near the close of the anticipated 75 years.

CDFW requests that Stevens Creek Quarry, Inc. adequately identifies and/or mitigates the Project's significant, or potentially significant, direct, indirect, and cumulative impacts on fish and wildlife (biological) resources within the 75 years.

Based on aerial imagery and species occurrence records from the California Natural Diversity Database (CNDDB) (CDFW, 2023), the proposed Project site and/or surrounding area has the potential to support numerous special-status species. These resources should be evaluated, surveyed for, and analyzed as part of the proposed DEIR for the Project and prior to any approvals that would allow ground disturbing activities. CDFW is concerned regarding potential impacts to special-status species including, but not limited to, the federally threatened (FT)/State threatened (ST) California tiger salamander (*Ambystoma californiense*); the FT/State species of special concern (SSC) California red-legged frog (*Rana draytonii*); the State candidate-listed as endangered Crotch's bumble bee (*Bombus crotchii*); the State candidate-listed as threatened mountain lion (*Felis concolor*); and the SSC burrowing owl (*Athene cunicularia*), American badger (*Taxidea taxus*), western pond turtle (*Actinemys marmorata*), and western spadefoot (*Spea hammondii*).

CDFW advises not only protocol species surveys as part of the biological technical studies conducted in support of the DEIR but that additional surveys be conducted over the course of the 75-year timespan as ground disturbance continues within the Project limits, and that a final survey to establish a new baseline for conditions should be completed at the culmination of the 75 years prior to revegetation/restoration of the project site.

Finally, CDFW is particularly concerned with the proposed Project relative to habitat fragmentation and wildlife connectivity between the Santa Cruz mountains and the Gabilan range, which indirectly connects to other critical coast ranges including the Diablo and Santa Lucia ranges. The Project site and greater Project area is a wildlife movement/connectivity chokepoint and critical linkage in the Rocks/Aromas hills area and there is currently a strong focus from multiple agencies, including CDFW, on conserving the remaining habitat in this area to keep the larger mountain ranges connected. The emphasis in this area has been on mountain lion, as an umbrella species, due to recent genetic analyses of mountain lions in the Santa Cruz Mountains showing evidence of recent anthropogenic isolation (Gustafson et al., 2018). There is currently increased momentum in planning for connectivity in this area and CDFW recommends San Benito County consult with CDFW for information relative to the importance of the Project area to connectivity for not only mountain lion but also American badger (*Taxidea taxus*), bobcat (*Lynx rufus*), mule deer (*Odocoileus hemionus*), California tiger salamander, California red-legged frog, and western pond turtle (*Actinemys marmorata*).

I. Environmental Setting and Related Impact

California Tiger Salamander (*Ambystoma californiense*)

California tiger salamanders (CTS) have been observed adjacent to the proposed Project site to the south (CDFW, 2023). Review of aerial imagery indicates the presence of several ponded features within the proposed Project site and adjacent to the northeast, that have the potential to support breeding CTS. In addition, the Project site and its immediate surroundings appear to contain suitable upland refugia habitat containing grasslands interspersed with burrows, a requisite upland habitat feature for CTS. There are additional ponds approximately 0.54 mile to the southwest and 0.60 mile to the south. CTS are physiologically capable of dispersing up to 1.5 miles from seasonally flooded wetlands (Searcy and Shaffer, 2011). CTS may also move onto the Project site during dispersal.

Up to 75% of historic CTS habitat has been lost to urban and agricultural development (Searcy et al., 2013). Loss, degradation, and fragmentation of habitat are the primary threats to CTS within their known range, including San Benito County, an important habitat area for CTS. Contaminants and vehicle strikes are also sources of mortality for the species (CDFW, 2015; USFWS, 2017). Given the presence of potential habitat within and adjacent to the Project site, ground-disturbing activities have the potential to significantly impact local populations of CTS. In addition, the large size of the proposed Project and its location within the greater landscape will result in potentially significant habitat fragmentation for CTS and it is imperative that the DEIR include both a cumulative impacts analysis and a specific habitat fragmentation and connectivity analysis focused on CTS.

CDFW recommends that potential Project-related direct, indirect, and cumulative impacts to CTS in and surrounding the Project footprint be analyzed by a qualified biologist using the *Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander* (USFWS, 2003) as part of the biological technical studies conducted in support of the CEQA document. This methodology requires that protocol surveys be conducted during at least two seasons with sufficient precipitation to be considered complete. It is highly likely that CTS occupy the Project site and surrounding areas and, if, through surveys, it is determined that CTS are occupying or have the potential to occupy the Project site, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided, take authorization would be warranted prior to initiating ground-disturbing activities to comply with CESA. Take authorization would occur through issuance of an Incidental Take Permit (ITP) by CDFW, pursuant to Fish and Game Code section 2081 subdivision (b).

If CTS protocol-level surveys are not conducted, CDFW advises that a minimum 50-foot no-disturbance buffer be delineated around all small mammal burrows in suitable

upland refugia habitat within and/or adjacent to the Project site. Further, CDFW recommends potential or known breeding habitat within and/or adjacent to the Project site be delineated with a minimum 250-foot no-disturbance buffer. Both upland burrow and wetland breeding no-disturbance buffers are intended to minimize impacts to CTS habitat and avoid take of individuals. Regardless of the results of the protocol surveys conducted on and within the Project site, CDFW recommends that these surveys are repeated any time the disturbance area of the Project expands or there is the potential to eliminate small mammal burrows. Alternatively, the applicant can assume presence of CTS within the Project site and obtain an ITP from CDFW in accordance with Fish and Game Code section 2081 subdivision (b).

California Red-Legged Frog (*Rana draytonii*)

Per aerial imagery and a review of existing database information, there is potentially occupied suitable habitat for the California red-legged frog (CRLF) in the form of stream channels, ponded water, and annual grassland habitats with potential upland refugia within the Project site. CRLF were observed approximately 2.1-miles northeast of the Project site (CDFW, 2023).

CDFW recommends that a qualified biologist conduct protocol surveys for CRLF in accordance with the USFWS *Revised Guidance on Site Assessment and Field Surveys for the California Red-legged Frog* (USFWS, 2005) and include an analysis of direct, indirect, and cumulative impacts as part of the biological technical studies conducted in support of the CEQA document. In addition to the protocol surveys and regardless of the results of these initial surveys, CDFW recommends two nights of pre-construction surveys following the USFWS 2005 guidelines immediately prior to construction or as otherwise required by the USFWS. Finally, the DEIR should include the recommended avoidance and minimization measures referenced above and include a commitment that initial ground-disturbing activities be timed to avoid the period when CRLF are most likely to be moving through upland areas (November 1 through March 31). If ground-disturbing activities must take place between November 1 and March 31, CDFW recommends that a qualified biologist monitor construction activity daily.

If any CRLF are found during the initial protocol surveys conducted as part of the biological technical studies, the pre-construction surveys, or at any time during construction, CDFW recommends that CDFW be contacted to discuss a relocation plan for CRLF.

Crotch's Bumble Bee (*Bombus crotchii*)

Crotch's bumble bee (CBB) have the potential to occur within the Project site. Suitable CBB habitat includes areas of grasslands and upland scrub that contain requisite habitat elements, such as small mammal burrows and it appears per Google aerial images that there is suitable habitat within and surrounding the Project site. CBB

primarily nest in late February through late October underground in abandoned small mammal burrows but may also nest under perennial bunch grasses or thatched annual grasses, under brush-piles, in old bird nests, and in dead trees or hollow logs (Williams et al., 2014; Hatfield et al., 2015). Overwintering sites utilized by CBB mated queens include soft, disturbed soil (Goulson, 2010), or under leaf litter or other debris (Williams et al., 2014). Therefore, potential ground disturbance and/or vegetation removal associated with Project implementation may significantly impact local CBB populations.

CBB was once common throughout most of central and southern California; however, it now appears to be absent from most of it, especially in the central portion of its historic range within California's Central Valley (Hatfield et al., 2014). Analyses by the Xerces Society et al. (2018) suggest there have been sharp declines in relative abundance by 98% and persistence by 80% over the last ten years.

CDFW recommends a qualified biologist conduct a habitat assessment as part of the biological technical studies conducted in support of the DEIR to determine if the Project site or its immediate vicinity contain habitat suitable to support CBB. Potential nesting sites, which include all small mammal burrows, perennial bunch grasses, thatched annual grasses, brush piles, old bird nests, dead trees, and hollow logs would need to be documented as part of the assessment. If potentially suitable habitat is identified, CDFW recommends that a qualified biologist conduct focused surveys for CBB, and their requisite habitat features following the methodology outlined in the Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species (CDFW, 2023b), as part of the biological technical studies conducted in support of the CEQA document. Any detection of CBB prior to or during project implementation warrants consultation with CDFW to discuss how to avoid take. If take cannot be avoided, take authorization is required prior to initiating ground-disturbing activities to comply with CESA. Take authorization would occur through issuance of an ITP by CDFW, pursuant to Fish and Game Code section 2081 subdivision (b).

While surveys conducted using these flight seasons/active periods as a guide are considered the most effective and protective to the species, surveys may fail to detect the presence of CBB. Therefore, it is reasonable to assume presence and rely on habitat as an indicator of presence in lieu of, or in addition to, surveys. CBB move nests sites each year; therefore, surveys should be conducted each year that project activities will occur. Even if surveys from a particular annual survey failed to detect CBB, project proponents should perform a full round of surveys each year that project activities will occur for the life of the Project or assume presence and obtain an ITP.

Burrowing Owl (*Athene cunicularia*)

Burrowing owls (BUOW) may use adjacent suitable habitat or use available burrows at the Project site. This is a mobile species that has the potential to move onto the Project site. BUOW inhabit open grassland or adjacent canal banks, right of ways, vacant lots,

etc. containing small mammal burrows, a requisite habitat feature used by BUOW for nesting and cover. Review of aerial imagery indicates that much of the area within and surrounding the Project site contains annual grassland (CDFW, 2023).

BUOW rely on burrow habitat year-round for their survival and reproduction. Habitat loss and degradation are considered the greatest threats to BUOW in California's Central Valley (Gervais et al., 2008). The Project site contains and is bordered mainly by annual grassland. Therefore, subsequent ground-disturbing activities associated with the Project have the potential to significantly impact local BUOW populations. In addition, and as described in CDFW's "Staff Report on Burrowing Owl Mitigation" (CDFG, 2012), excluding and/or evicting BUOW from their burrows is considered a potentially significant impact under CEQA.

Potentially significant direct impacts associated with subsequent quarry activities such as excavation include burrow collapse, inadvertent entrapment, nest abandonment, reduced reproductive success, reduction in health and vigor of eggs and/or young, and direct mortality of individuals.

CDFW recommends that a qualified biologist conduct a habitat assessment as part of the biological technical studies conducted in support of the CEQA document, to determine if the Project site or its vicinity contains suitable habitat for BUOW.

CDFW recommends assessing presence/absence of BUOW by having a qualified biologist conduct surveys following the California Burrowing Owl Consortium's "Burrowing Owl Survey Protocol and Mitigation Guidelines" (CBOC, 1993) and CDFW's "Staff Report on Burrowing Owl Mitigation" (CDFG, 2012). Specifically, CBOC and CDFW's Staff Report suggest three or more surveillance surveys conducted during daylight with each visit occurring at least three weeks apart during the peak breeding season (April 15 to July 15), when BUOW are most detectable.

CDFW also recommends that the DEIR include language that no-disturbance buffers, as outlined in the "Staff Report on Burrowing Owl Mitigation" (CDFG, 2012), be implemented prior to and during any ground-disturbing activities. Specifically, CDFW's Staff Report recommends that impacts to occupied burrows be avoided in accordance with the following table unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.

Location	Time of Year	Level of Disturbance		
		Low	Med	High
Nesting sites	April 1-Aug 15	200 m*	500 m	500 m
Nesting sites	Aug 16-Oct 15	200 m	200 m	500 m
Nesting sites	Oct 16-Mar 31	50 m	100 m	500 m

* meters (m)

If BUOW are found within these recommended buffers and avoidance is not possible, it is important to note that according to the Staff Report (CDFG, 2012), exclusion is not a take avoidance, minimization, or mitigation method and is considered a potentially significant impact under CEQA. However, if necessary, CDFW recommends that burrow exclusion be conducted by qualified biologists and only during the non-breeding season, before breeding behavior is exhibited and after the burrow is confirmed empty through non-invasive methods, such as surveillance. CDFW recommends replacement of occupied burrows with artificial burrows at a ratio of 1 burrow collapsed to 1 artificial burrow constructed (1:1) as mitigation for the potentially significant impact of evicting BUOW. BUOW may attempt to colonize or re-colonize an area that will be impacted; thus, CDFW recommends ongoing surveillance, at a rate that is sufficient to detect BUOW if they return.

American Badger (*Taxidea taxus*)

American badgers (AMBA) could utilize the habitat that occurs on the Project site (CDFW, 2023). Badgers occupy sparsely vegetated land cover with dry, friable soils to excavate dens, which they use for cover, and that support fossorial rodent prey populations (i.e. ground squirrels, pocket gophers, etc.) (Zeiner et al., 1990). The Project site may support these requisite habitat features. Therefore, the Project has the potential to impact AMBA.

Habitat loss is a primary threat to AMBA (Gittleman et al., 2001). The Project will result in a high degree of ground disturbance and potential habitat fragmentation. As a result, ground-disturbing activities have the potential to significantly impact local populations of AMBA. CDFW recommends that a qualified biologist conduct focused surveys for AMBA as part of the biological technical studies conducted in support of the CEQA document, perform an analysis of the Project's direct, indirect, and cumulative impacts to AMBA in this area and that the DEIR include recommended avoidance and minimization measures and mitigation for this species.

In addition to the focused surveys, CDFW recommends that pre-construction surveys for AMBA be performed for each phase of the Projects development at least ten days prior to the beginning of project activities. Avoidance of potential or occupied AMBA dens whenever possible is encouraged via delineation and observation of a 50-foot no-

disturbance buffer around dens until it is determined through non-invasive means that individuals occupying the den have dispersed.

Western Pond Turtle (*Actinemys marmorata*)

A western pond turtle (WPT) was observed on the eastern boundary of the Project site (CDFW, 2023). WPT are known to nest in the spring or early summer within 100 meters (328 feet/0.06 mile) of a water body, although nest sites as far away as 500 meters (1,640 feet/0.31 mile) have also been reported (Thomson et al., 2016). Noise, vegetation removal, movement of workers, and ground disturbance as a result of Project activities have the potential to significantly impact WPT populations.

CDFW recommends that a qualified biologist conduct focused surveys for WPT as part of the biological technical studies conducted in support of the CEQA document, perform an analysis of the Project's direct, indirect, and cumulative impacts to WPT in this area, and that the DEIR include the following avoidance and minimization measures for this species:

CDFW recommends that a qualified biologist conduct focused surveys for nests during the egg-laying season (March through August) and that any nests discovered remain undisturbed until the eggs have hatched. In addition to the focused surveys, CDFW recommends pre-construction surveys for WPT be performed for each phase of the Projects development at least ten days prior to the beginning of project activities. CDFW recommends that if any WPT are discovered at the site immediately prior to or during Project activities, they be allowed to move out of the area on their own.

Western spadefoot (*Spea hammondii*)

Western spadefoot (WESP) inhabit grassland habitats, breed in seasonal wetlands, and seek refuge in upland habitat where they occupy burrows outside of the breeding season (Thomson et al., 2016). Review of aerial imagery indicates that these requisite habitat elements occur within and adjacent to the Project site and habitat features, particularly small mammal burrows, are likely to occur within the Project site.

Without appropriate avoidance and minimization measures for WESP, potentially significant impacts associated with ground disturbance from construction activities at the quarry include collapse of small mammal burrows, inadvertent entrapment, loss of upland refugia, water quality impacts to breeding sites, reduced reproductive success, reduction in health and vigor of eggs and/or young, and direct mortality of individuals.

Habitat loss and fragmentation resulting from agricultural and urban development is the primary threat to WESP (Thomson et al., 2016). The Project site and greater Project area is within the range of WESP, contains suitable upland habitat (i.e., grasslands interspersed with burrows) and adjacent breeding habitat (i.e., vernal pools/ponds). As a

result, ground-disturbing activities associated with the proposed Project have the potential to significantly impact local populations of this species.

CDFW recommends that a qualified biologist conduct focused surveys for WESP and their requisite habitat features to evaluate potential impacts resulting from ground- and vegetation-disturbance and that compensatory mitigation for WESP be included as part of the larger compensatory mitigation that will likely be required for biological resources impacted by the proposed Project.

Avoidance whenever possible is encouraged via delineation and observance of a 50-foot no-disturbance buffer around burrows. If WESP are observed on the Project site, CDFW recommends that Project activities in their immediate vicinity cease and individuals be allowed to leave the Project site on their own accord. Alternatively, a qualified biologist with appropriate take authorization can move them out of harm's way and to a suitable location.

Mountain Lion (*Felis concolor*)

On June 25, 2019 a petition to list the mountain lion, Southern California/Central Coast Evolutionarily Significant Unit (ESU) in Southern and Central California as Threatened or Endangered pursuant to the California Endangered Species Act (California Fish and Game Code §§ 2050 et seq., "CESA") was submitted to the California Fish and Game Commission. Specifically, the petitioners requested listing as a "threatened species" for six Ecologically Significant Units (ESUs) comprised of several recognized mountain lion subpopulations including two that are most relevant to the Project site and greater area: the Central Coast North (Santa Cruz Mountains) and Central Coast Central ESUs. In April 2020, Fish and Game Commission determined that the petitioned action "may be warranted" and established mountain lion within the proposed ESUs as a candidate species under CESA. As a candidate species, mountain lion within the proposed ESUs now have all the protections afforded to an endangered species under CESA.

CDFW advises including and referencing recent linkage studies on mountain lion that includes the relevant subpopulations of mountain lions in California. The Project is proposed within a chokepoint area for movement for mountain lion within and between at least two ESUs and given the substantial focus on this area for conservation and enhanced connectivity, the project's indirect and cumulative impacts to habitat fragmentation is potentially significant. Therefore, CDFW advises analyzing Project impacts to the subpopulations, including issues with connectivity and fragmentation of habitat. CDFW recommends contacting CDFW for assistance with this analysis and for analytical recommendations and datasets that should be utilized and consulted for both and analysis of the Project's direct and indirect impacts to mountain lion habitat and fragmentation as well as a cumulative impacts analysis of mountain lion.

II. Editorial Comments and/or Suggestions

Wildlife Connectivity/Habitat Linkages: The Project site is part of a priority habitat connectivity area identified as one of the top three priority areas of a total of ten areas of focus as identified by CDFW Region 4 in a recent study entitled Restoring California's Wildlife Connectivity 2022 (CDFW, 2022). It is critical that the biological technical studies conducted in support of the Project's DEIR include a detailed analysis of habitat fragmentation for all biological species that may be directly or indirectly impacted as a result of the Project with a particular focus on mountain lion. CDFW also recommends that the analysis of the Project's contribution to habitat fragmentation consider the consistency of this Project relative to other planning documents and efforts currently underway at the federal, State and local (County) level to conserve lands surrounding the proposed Project, provide enhanced habitat connectivity via projects to reduce existing barriers to movement, and the importance of the entirety of this effort to mountain lion both directly and as an umbrella species, or proxy, for other wildlife for which habitat connectivity is essential to dispersal, genetic stability, and movement. CDFW recommends that the full suite of species listed in this letter be included as part of the overall analysis required to understand the potential cumulative impacts that may result from implementation of the proposed Project.

Cumulative Impacts: CDFW recommends that a cumulative impact analysis be conducted for all biological resources that will either be significantly or potentially significantly impacted by the construction of and long-term implementation of the proposed Project, including those whose impacts are determined to be less than significant with mitigation incorporated or for those resources that are rare or in poor or declining health and will be impacted by the project, even if those impacts are relatively small (i.e. less than significant). CDFW recommends that habitat fragmentation and wildlife connectivity be considered as biological resources necessary to include in the cumulative impacts analysis. Cumulative impacts should be analyzed using an acceptable methodology to evaluate the impacts of past, present, and reasonably foreseeable future projects on resources and should be focused specifically on the resource, not the project. An appropriate resource study area should be identified and utilized for this analysis. CDFW staff is available for consultation in support of cumulative impacts analyses as a trustee and responsible agency under CEQA.

Nesting Birds: The Project contains and is adjacent to habitat that provides nesting habitat for birds. CDFW encourages that Project implementation occur during the bird non-nesting season. However, if ground-disturbing or vegetation-disturbing activities must occur during the breeding season (February through mid-September), the Project applicant is responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Codes sections referenced above.

To evaluate Project-related impacts on nesting birds, CDFW recommends that a qualified biologist conduct pre-construction surveys for active nests no more than 10 days prior to the start of ground or vegetation disturbance to maximize the probability that nests that could potentially be impacted are detected. CDFW also recommends that surveys cover a sufficient area around the Project site to identify nests and determine their status. A sufficient area means any area potentially affected by the Project. Prior to initiation of Project activities, CDFW recommends that a qualified biologist conduct a survey to establish a behavioral baseline of all identified nests. Once Project activities begin, CDFW recommends having a qualified biologist continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends halting the work causing that change and consulting with CDFW for additional avoidance and minimization measures.

If continuous monitoring of identified nests by a qualified biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or on-site parental care for survival. Variance from these no-disturbance buffers is possible when there is compelling biological or ecological reason to do so, such as when the Project site would be concealed from a nest site by topography. CDFW recommends that a qualified biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

Federally Listed Species: CDFW recommends consulting with the USFWS on potential impacts to federally listed species including, but not limited to, California tiger salamander and California red-legged frog. Take under the Federal Endangered Species Act (FESA) is more broadly defined than CESA; take under FESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS in order to comply with FESA is advised well in advance of any ground-disturbing activities.

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 CNDDB. The CNDDB field survey form can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Submitting-Data. The completed form can be mailed electronically to CNDDB at the following email

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

FILING FEES

If it is determined that the Project has the potential to impact biological resources, an assessment of filing fees will be 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).

CDFW appreciates the opportunity to comment on the NOP for this Project and to assist San Benito County in identifying and mitigating the Project's impacts on biological resources.

More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (https://www.wildlife.ca.gov/Conservation/Survey-Protocols). If you have any questions, please contact Kelley Nelson, Environmental Scientist, at the address provided on this letterhead, or by electronic mail at Kelley.Nelson@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Julie Vance
FA83F09FE08945A...

Julie A. Vance
Regional Manager

ec: Patricia Cole (patricia_cole@fws.gov)
United States Fish and Wildlife Service

State Clearinghouse
Governor's Office of Planning and Research
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Linda Connolly
California Department of Fish and Wildlife

LITERATURE CITED

California Burrowing Owl Consortium (CBOC). 1993. Burrowing owl survey protocol and mitigation guidelines. April 1993.

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Attachment 1

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

PROJECT: Ranch 35 Quarry Project (NOP)

SCH No.: 2023070454

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
Before Disturbing Soil or Vegetation	
Mitigation Measure 1: Focused CTS Protocol-level Surveys	
Mitigation Measure 4: Focused CRLF Protocol-level Surveys	
Mitigation Measure 6: CRLF Relocation Plan	
Mitigation Measure 7: CBB Habitat Assessment	
Mitigation Measure 8: CBB Surveys	
Mitigation Measure 10: BUOW Habitat Assessment	
Mitigation Measure 11: BUOW Surveys	
Mitigation Measure 12: BUOW Passive Relocation and Mitigation	
Mitigation Measure 14: AMBA Habitat Assessment	
Mitigation Measure 15: AMBA Surveys	
Mitigation Measure 17: WPT Surveys	
Mitigation Measure 18: WPT Relocation	
Mitigation Measure 19: WESP Surveys	
During Construction	
Mitigation Measure 2: CTS Avoidance	
Mitigation Measure 3: CTS Take Authorization	
Mitigation Measure 5: CRLF Avoidance	
Mitigation Measure 9: CBB Avoidance	
Mitigation Measure 13: BUOW Avoidance	
Mitigation Measure 16: AMBA Avoidance	
Mitigation Measure 20: WESP Avoidance	