



Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
 North Central Region
 1701 Nimbus Road, Suite A
 Rancho Cordova, CA 95670-4599
 916-358-2900
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
 CHARLTON H. BONHAM, Director



Governor's Office of Planning & Research

MAY 12 2020

STATE CLEARINGHOUSE

May 12, 2020

Tim Hawkins, Environmental Coordinator
 Sacramento County, Office of Planning and Environmental Review
 827 7th Street, Room 225
 Sacramento, CA 95814

Dear Mr. Hawkins:

CARLI EXPANSION MINING USE PERMIT PROJECT (PROJECT)
 DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR) SCH# 2018112048

The California Department of Fish and Wildlife (CDFW) received a DEIR from Sacramento County (County) for the Project pursuant 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, 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.

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

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.

Project as proposed may result in “take²” as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

The Project site is located at 11509 Florin Road, at Latitude N 38° 30' 7.2” and Longitude W 121° 15' 18”. The Project is on the south side of Jackson Road (Highway 16) between Eagles Nest Road and Sunrise Blvd., in the Vineyard Community of unincorporated Sacramento County.

The Project proposes to expand surface mining on the 160.98-acre Carli expansion site adjacent to the Project proponent’s approximately 394-acre existing Sacramento Aggregates mine and processing plant located at 11501 Florin Road in Sacramento County, California. The Carli expansion site (APN 067-0120-073) is located immediately west of the existing Sacramento Aggregates mine site and currently has a compost facility and cell-tower on-site.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist the County in adequately identifying and/or mitigating the Project’s significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. It should be noted that Comments 2 and 4 are intended to inform the lead agency and do not include recommendations for revisions of the DEIR.

Comment 1: Table BR-2 does not include all Covered Species under the South Sacramento Habitat Conservation Plan (SSHCP).

CDFW has identified the following species, covered under the SSHCP, that are not analyzed in Table BR-2:

- Pincushion navarretia (*Navarretia myersii*)
- Western red bat (*Lasirurs blossevillii*)
- Sandhill crane (*Antigone canadensis*)

To address this comment, CDFW recommends revising Table BR-2 to address these species and ensure consistency with the SSHCP.

Comment 2: The Project is subject to Notification under Section 1602 of the Fish and Game Code.

As noted in CDFW’s comments on the Notice of Preparation of the DEIR, Notification to CDFW is required, pursuant to Section 1602 of the Fish and Game Code section 1602 if a

² Section 86 of the Fish and Game Code defines “take” as “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill”

project proposes activities that will substantially divert or obstruct the natural flow of water; substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake.

The DEIR has provided sufficient information to determine that mining activities at the Project location are subject to the Notification requirement in Section 1602 of the Fish and Game Code. CDFW recommends the Project consult with CDFW regarding obtaining a Streambed Alteration Agreement. Please note, this process is currently independent of the SSHCP.

Comment 3: *Special Status Plants* is not consistent with the SSHCP.

Avoidance and Minimization PLANT-1 of the SSHCP states that if Covered Activities occur within modeled habitat for Covered Plant Species, rare plant surveys should be conducted in accordance with CDFW's most recent rare plant survey protocol. As the Project area includes modeled habitat for Covered Plant Species such as Sanford's arrowhead (*Sagittaria sanfordii*), the Project would be subject to the survey requirement in the SSHCP.

To correct this, CDFW recommends the following mitigation measure to the DEIR:
The applicant will be required to obtain authorization through the SSHCP for potential impacts to Special Status Plants. The Project will comply with the requirements of the SSHCP, including adherence to the Avoidance and Minimization Measures (Appendix BIO) as well as payment of fees to support the overall SSHCP Conservation Strategy.

Comment 4: Project should obtain take coverage through the SSHCP for taking of state-listed species.

The DEIR notes observations of both tricolored blackbird (*Agelaius tricolor*) and Swainson's hawk (*Buteo swainsoni*), two species listed as *threatened* under CESA. Due to the presence of these species on or adjacent to the Project area and the Project's participation in the SSHCP, take coverage may be obtained through the SSHCP to comply with CESA. To address this, the Project will need to work with the appropriate Land Use Authority Plan Permittee (Sacramento County) to submit and obtain CDFW concurrence on a "Covered Activity Authorization Form" (Attachment 1) through the SSHCP. In order to facilitate this process, please ensure that the final approved project can demonstrate that the required SSHCP Avoidance and Minimization Measures have been properly incorporated or will be incorporated into the proposed Covered Activity.

Comment 5: Mitigation Measure BR-3.6 revisions needed to adequately mitigate impacts to white-tailed kite to less-than-significant

White-tailed kite (*Elanus leucurus*) is a fully protected species under the section 3511 of the Fish and Game Code. As such, project activities should avoid impacts to white-tailed kite. As identified in the DEIR, white-tailed kite may occur within 0.5 miles of the Project

area, so Mitigation Measure BIO-3.6 should consider that white-tailed kite may be detected through the course of the Project.

To correct this, CDFW recommends the measure be revised to state:

“If it is determined during surveys or project implementation that project activities may impact white-tailed kite, project personnel shall fully avoid any impacts that may result in take if white-tailed kite is observed to be utilizing the project area or adjacent area.

Comment 6: Mitigation Measure BR-4.1 revisions needed to more effectively mitigate Migratory Birds to less-than-significant

Mitigation Measure BIO-14 of the DEIR describes preconstruction surveys for nesting migratory birds. For clarity during implementation, this measure should more clearly defining the survey methodology.

To address this concern, CDFW recommends defining the survey radii for potentially high disturbance activities as: *The minimum survey radii surrounding the work area shall be the following: i) 250 feet for passerines; ii) 500 feet for small raptors such as accipiters; iii) 1,000 feet for larger raptors such as buteos*

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental documents 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 the California Natural Diversity Database (CNDDDB). The types of information reported to CNDDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>. The completed form can be sent electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov.

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 DEIR and assist the Lead Agency in identifying and mitigating project impacts on biological resources.

Tim Hawkins
Sacramento County
May 12, 2020
Page 5 of 5

Questions regarding this letter or further coordination should be directed to Dylan Wood, Environmental Scientist at 916-358-2384 or dylan.a.wood@wildlife.ca.gov.

Sincerely,

Kevin Thomas
Regional Manager

ec: Jeff Drongesen, jeff.drongesen@wildlife.ca.gov
Kelley Barker, kelley.barker@wildlife.ca.gov
Dylan Wood, dylan.a.wood@wildlife.ca.gov
Department of Fish and Wildlife

Office of Planning and Research, State Clearinghouse, Sacramento