



Plains Exploration & Production Phase V Oil File Expansion EIR Notice of Preparation SCH# 2012121005

Brandon Sanderson to: jdmckenzie

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Cc: Julie Vanderwier, Deborah Hillyard

Mr. McKenzie,

The Department of Fish and Wildlife (Department) is in review of the Plains Exploration & Production Phase V Oil File Expansion EIR Notice of Preparation.

In reviewing the biological resources for the project it appears there is the potential for sensitive species to occur in the area including the State rare and federally endangered Pismo clarkia, State and federally endangered Indian Knob mountainbalm, State fully protected golden eagle, California Species of Special Concern (CSSC) and federally threatened California red-legged frog, CSSC American badger, CSSC Southwestern pond turtle, CSSC tidewater goby, CSSC steelhead , along with nesting birds, and other sensitive rare plants.

Biological Surveys: The Department recommends that appropriately timed surveys be conducted for these species and any other species that have the chance to occur on the site including sensitive plants. Potential impacts to these species must be identified in the EIR along with avoidance, minimization, and mitigation measures to lessen potential impacts. If there is the potential for "take" of Indian Knob mountainbalm to occur as part of the project then a **Incidental Take Permit would need to be acquired from the Department.** *Please note that the Department does not have a mechanism to authorize "take" of Pismo clarkia due to its State listing as "rare", and all potential impacts to this species will have to be avoided. **Please see survey guidelines for native plants:** (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline=1>).

Bird Protection: The Department has jurisdiction over actions that may result in the disturbance or destruction of active nest sites or the unauthorized "take" of birds. Sections of the Fish and Game Code 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).

The Department recommends that construction activities (especially vegetation removal) take place outside of the nesting bird season (typically February through mid-September). The Department also **recommends a minimum no disturbance nest buffer distance of 250 feet** for passerines and 500 feet or greater for raptors 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 parental care for survival. It has been identified that golden eagles nest in and around the project area. *Please note that "take" of the fully protected golden eagle is strictly prohibited. This includes "take" of young through nest failure as a result of project disturbance impacts. It has been shown that golden eagles tend to reuse multiple nest sites over consecutive and non consecutive years; therefore it is important to analyze the nest use of golden eagles in a particular area to avoid long term impacts to the species (Kochert & Steenhof 2012).

Avoidable Wildlife Impacts from Erosion Control Mesh Products: Due to this Project site's extensive wildlife habitat interface, the Department requests that erosion control and landscaping specifications allow only natural-fiber, biodegradable meshes and coir rolls. "Photodegradable" and other plastic mesh products have been found to persist in the environment, ensnaring and killing terrestrial wildlife. Reptile

and amphibian deaths resulting from the use of plastic mesh products are well -documented. Plastic mesh erosion control products would likely cause unanticipated , avoidable impacts including "take" of special status species. We believe requiring the use of biodegradable products would be a feasible mitigation measure to reduce impacts to wildlife species .

Lake and/or Streambed Alteration: In addition, any potential disturbance to wetlands and/or other water features may require a Lake and/or Streambed Alteration Agreement (LSAA) from the Department. We recommend that a Streambed Alteration Notification be submitted to the Department for review and determination. The Department is required to comply with the California Environmental Quality Act (CEQA) in the issuance or the renewal of a Stream Alteration Agreement; therefore, for efficiency in environmental compliance, we recommend that any stream disturbance be described and mitigation for the disturbance be developed as part of the environmental review process. This will reduce the need for the Department to require extensive additional environmental review for an LSAA for this Project in the future. For additional information on notification requirements, please see the following website (<http://www.dfg.ca.gov/habcon/1600/>) or contact our staff for the Lake and Stream Alteration Program in Fresno, at (559) 243 4593.

We also recommend that you consult with the USFWS regarding this project, as it has the potential to impact federally listed species as well.

Thank you for the opportunity to review and comment on this project.

Brandon Sanderson

Please note that as of Jan 1, 2013 our new name is the California Department of Fish and Wildlife (CDFW) and new department web and email addresses took effect .

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