



STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

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February 23, 2026
Sent via email

Cathreen Richards, Planning Director
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Subject: Notice of Preparation of a Draft Environmental Impact Report
Crystal Geyser Roxane Grant Ranch Project
State Clearinghouse No. 2026011104

Dear Cathreen Richards:

The California Department of Fish and Wildlife (CDFW) received a Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR) from Inyo County (County) for the Crystal Geyser Roxane Grant Ranch Project (Project) pursuant to the California Environmental Quality Act (CEQA) and the 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 comment on 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.

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.

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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.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

The Project is located in the unincorporated community of Grant, Inyo County, State of California, on a portion of Assessor's Parcel Number (APN) 033-110-60 and at approximately latitude 36.234892 and longitude -117.986404. The Project proposes to construct a water bottling facility, internal roadways, employee parking and truck staging areas, a fire suppression tank and fire pump building, and other utilities. The Project would require demolition of an existing onsite vacant ranch house. The water bottling facility would be an approximately 124,500-square-foot (sf) steel building that would house two bottling lines, a warehouse, and shipping facilities. A new production well would be drilled approximately 1,200 feet northwest of the proposed water bottling facility, which would be used as the source for all water uses during operation.

The Project requires the County's approval of Conditional Use Permit (CUP) No. 2025-01 to permit the water bottling facility on the Light Industrial (M-2) zoning district and CUP No. 2025-05 for the water transfer pursuant to Chapter 18.77 of the Inyo County Code of Ordinances.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist Inyo County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

CDFW recommends that the forthcoming DEIR address the following:

Assessment of Biological Resources

Section 15125(c) of the CEQA Guidelines states that knowledge of the regional setting of a project is critical to the assessment of environmental impacts and that special emphasis should be placed on environmental resources that are rare or unique to the region. To enable CDFW staff to adequately review and comment on the Project, the DEIR should include a complete assessment of the flora and fauna within and adjacent to the Project footprint, with particular emphasis on identifying rare, threatened, endangered, and other sensitive species and their associated habitats.

CDFW recommends that the DEIR specifically include:

1. An assessment of the various habitat types located within the Project footprint, and a map that identifies the location of each habitat type. CDFW recommends that floristic, alliance- and/or

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association-based mapping and assessment be completed following *The Manual of California Vegetation*, second edition (Sawyer, Keeler-Wolf, & Evens, 2009). Adjoining habitat areas should also be included in this assessment where site activities could lead to direct or indirect impacts offsite. Habitat mapping at the alliance level will help establish baseline vegetation conditions.

2. A general biological inventory of the fish, amphibian, reptile, bird, and mammal species that are present or have the potential to be present within each habitat type onsite and within adjacent areas that could be affected by the Project. CDFW's California Natural Diversity Database (CNDDDB) in Sacramento should be contacted at (916) 322-2493 or CNDDDB@wildlife.ca.gov or <https://wildlife.ca.gov/Data/CNDDDB/Maps-and-Data> to obtain current information on any previously reported sensitive species and habitat, including Significant Natural Areas identified under Chapter 12 of the Fish and Game Code, in the vicinity of the proposed Project.

Please note that CDFW's CNDDDB is not exhaustive in terms of the data it houses, nor is it an absence database. CDFW recommends that it be used as a starting point in gathering information about the *potential presence* of species within the general area of the Project site.

3. A complete, *recent* inventory of rare, threatened, endangered, and other sensitive species located within the Project footprint and within offsite areas with the potential to be affected, including California Species of Special Concern (CSSC) and California Fully Protected Species (Fish & G. Code, § 3511). Species to be addressed should include all those which meet the CEQA definition (CEQA Guidelines § 15380). The inventory should address seasonal variations in use of the Project area and should not be limited to resident species. Focused species-specific surveys, completed by a qualified biologist and conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, are required. Acceptable species-specific survey procedures should be developed in consultation with CDFW and the U.S. Fish and Wildlife Service, where necessary. Special status species that the Project footprint has the potential to support, include but are not limited to: American badger (*Taxidea taxus*), burrowing owl (*Athene cunicularia*), Crotch's bumble bee (*Bombus crotchii*), desert kit fox (*Vulpes macrotis arsipus*), desert tortoise (*Gopherus agassizii*), loggerhead shrike (*Lanius ludovicianus*), Swainson's hawk (*Buteo swainsoni*), Mohave ground squirrel (*Xerospermophilus mohavensis*), Owens Valley vole (*Microtus californicus vallicola*), Panamint kangaroo rat (*Dipodomys panaminitinus panaminitinus*), Wong's springsnail (*Pyrgulopsis wongi*), Townsend's big-eared bat (*Corynorhinus townsendii*), and pallid bat (*Antrozous pallidus*).

Note that CDFW generally considers biological field assessments for wildlife to be valid for a one-year period, and assessments for rare plants may be considered valid for a period of up to three years. Some aspects of the proposed Project may warrant periodic updated surveys for certain sensitive taxa, particularly if the Project is proposed to occur over a protracted time frame, or in phases, or if surveys are completed during periods of drought.

4. A thorough, recent, floristic-based assessment of special status plants and natural communities, following CDFW's *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (California Department of Fish and Wildlife, 2018). Sensitive plant species that the Project footprint has the potential to support, include but are not limited to:

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western Joshua tree (*Yucca brevifolia*), sanicle cymopterus (*Cymopterus ripleyi* var. *saniculoides*), and Booth's evening-primrose (*Eremothera boothii* ssp. *Boothii*).

5. Information on the regional setting that is critical to an assessment of environmental impacts, with special emphasis on resources that are rare or unique to the region (CEQA Guidelines § 15125[c]).
6. A full accounting of all open space and mitigation/conservation lands within and adjacent to the Project.
7. Species-specific surveys for special status species that the Project footprint has the potential to support, including:

Burrowing owl (*Athene cunicularia*)

On October 10, 2024, the Fish and Game Commission designated burrowing owl as a candidate species under CESA. The Project, as described, may result in take of burrowing owl. California Fish and Game Code section 86 defines "take" as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill". CDFW considers the take of burrowing owl and the loss of the species' habitat as a significant impact, unless mitigated to a level of less than significant, which would occur through a CESA Incidental Take Permit (ITP). Further, burrowing owl is protected under Fish and Game Code section 3503.5 and the Migratory Bird Treaty Act.

CDFW recommends that the County follow the recommendations and guidelines provided in the *Staff Report on Burrowing Owl Mitigation* (California Department of Fish and Wildlife, 2012); available for download from CDFW's website. The Staff Report on Burrowing Owl Mitigation, specifies three steps for Project impact evaluations:

- a. A habitat assessment;
- b. Surveys; and
- c. An impact assessment

Habitat assessments are conducted to evaluate the likelihood that a site supports burrowing owl. Burrowing owl surveys provide information needed to determine the potential effects of proposed projects and activities on burrowing owls, and to avoid take in accordance with Fish and Game Code sections 86, 3503, 3503.5, and 2081. Impact assessments evaluate the extent to which burrowing owls and their habitat may be impacted, directly or indirectly. The information gained from these steps should be included in the DEIR and used to identify appropriate avoidance, minimization, and mitigation measures in the DEIR.

Desert tortoise (*Gopherus agassizii*)

The proposed Project occurs within the range of desert tortoise, a federally listed threatened species and a species designated as endangered pursuant to CESA. The Project has the potential to result in permanent and temporary loss, degradation and impacts to desert tortoise and desert

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tortoise habitat. CDFW recommends the County complete protocol level surveys over all areas (i.e., 100 percent coverage) proposed to be directly or indirectly affected by the Project, using qualified biologists and following the U.S. Fish and Wildlife Service 2019 desert tortoise survey methodology (United States Fish and Wildlife Service, 2019). To reduce the likelihood of nonconcurrence with proposed surveys, methodology, and qualifications of biologists, CDFW recommends working with the USFWS and CDFW concurrently to ensure a consistent and adequate approach.

If desert tortoises are found within the Project area during surveys or construction activities, and complete avoidance is not possible, CDFW strongly recommends the County acquire a CESA ITP prior to any vegetation- or ground-disturbing activities. Any take of desert tortoise without take authorization would be a violation of Fish and Game Code section 2080.

Mohave Ground Squirrel (*Xerospermophilus mohavensis*)

The proposed Project occurs within the range of Mohave ground squirrel, a threatened species pursuant to CESA. The Project has the potential to result in permanent and temporary loss, degradation and impacts to Mohave ground squirrel and Mohave ground squirrel habitat. CDFW recommends the County conduct surveys consistent with the 2023 CDFW Mohave Ground Squirrel Survey Guidelines over all areas (i.e., 100 percent coverage) proposed to be directly or indirectly affected by the Project using qualified biologists (California Department of Fish and Wildlife, 2023).

If Mohave ground squirrel is found within the Project area during surveys or construction activities, and complete avoidance is not possible CDFW strongly recommends the County acquire a CESA ITP prior to any vegetation- or ground-disturbing activities. Any take of Mohave ground squirrel without take authorization would be a violation of Fish and Game Code section 2080.

Crotch's bumble bee (*Bombus crotchii*)

The proposed Project occurs within the range of Crotch's bumble bee, a candidate species pursuant to CESA. The Project has the potential to result in permanent and temporary loss, degradation and impacts to Crotch's bumble bee habitat. CDFW recommends the County conduct surveys consistent with the 2023 CDFW Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species over all areas (i.e., 100 percent coverage) proposed to be directly or indirectly affected by the Project using qualified biologists (California Department of Fish and Wildlife, 2023).

If Crotch's bumble bee is found within the Project area during surveys or construction activities, and complete avoidance is not possible CDFW strongly recommends the County acquires a CESA ITP prior to any vegetation- or ground-disturbing activities. Any take of Crotch's bumble bee without authorization would be a violation of Fish and Game Code section 2080.

Western Joshua tree (*Yucca brevifolia*)

The proposed Project occurs within the range of western Joshua tree, a candidate species pursuant to CESA. The Project has the potential to result in permanent and temporary loss, degradation, and impacts to western Joshua tree habitat. If complete avoidance of western Joshua trees during

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construction is not possible and the Project would require onsite western Joshua trees to be relocated, removed, or otherwise taken, the Project Proponent shall obtain an ITP from CDFW under Section §2081b of CESA, or any other appropriate take authorization under CESA or under the Western Joshua Tree Conservation Act (Fish & G. Code, §§ 1927-1927.12), prior to the relocation, removal, or take. Any take of western Joshua trees without take authorization would be a violation of Fish and Game Code section 2080.

Special status bats

The proposed Project occurs within the range of Townsend's big-eared bat (*Corynorhinus townsendii*) and Pallid bat (*Antrozous pallidus*), both of which are CSSC. CDFW recommends the County conduct surveys for bats during the spring for any maternity roosts in the abandoned single-family ranch house. If bats are found, they should be excluded in the fall prior to demolition, and the results of the surveys be included in the DEIR. If any bats or sign thereof is found, or have the potential to occupy the Project site, CDFW recommends the County incorporate species-specific avoidance, minimization, and mitigation measures into the DEIR. Measures should include pre-construction bat surveys (i.e. daytime inspection, roosting habitat assessment, and emergence surveys) prior to Project initiation.

Desert kit fox (*Vulpes macrotis*)

The proposed Project occurs within the range of desert kit fox, a protected species pursuant to Title 14 of the California Code of Regulations section 460, which prohibits take of the species at any time. CDFW recommends the County conduct surveys over all areas proposed to be directly or indirectly affected by the Project to determine presence/absence and numbers of desert kit fox, and that this information be included in the DEIR. If desert kit fox or sign thereof is found, or if desert kit fox has the potential to occupy the Project site, CDFW recommends the County incorporate species-specific avoidance, minimization, and mitigation measures into the DEIR. Measures should include a pre-construction survey for desert kit fox 14 to 21 days prior to Project initiation.

Owens Valley vole (*Microtus californicus*)

The proposed Project occurs within the range of Owens Valley vole, a CSSC. CDFW recommends the County conduct a habitat assessment for Owens Valley vole in areas proposed to be directly or indirectly affected by the Project and that the results of the surveys be included in the DEIR. If Owens Valley vole or sign (burrows, runways, scat, etc.) thereof is found, or have the potential to occupy the Project site, CDFW recommends the County incorporate species-specific avoidance, minimization, and mitigation measures into the DEIR. Measures should include a pre-construction field survey for Owens Valley vole, which can resemble survey protocols for common microtine species such as California voles.

American badger (*Taxidea taxus*)

The proposed Project occurs within the range of American badger, a CSSC. CDFW recommends the County completes surveys for American badger in areas proposed to be directly or indirectly affected by the Project and that the results of the surveys be included in the DEIR. If American badger or sign thereof is found, or have the potential to occupy the Project site, CDFW recommends

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the County incorporate species-specific, avoidance, minimization, and mitigation measures into the DEIR. Measures should include a pre-construction survey for American badger 14 to 21 days prior to Project initiation.

Analysis of Direct, Indirect, and Cumulative Impacts to Biological Resources

The DEIR should provide a thorough discussion of the direct, indirect, and cumulative impacts expected to adversely affect biological resources as a result of the Project. To ensure that Project impacts to biological resources are fully analyzed, the following information should be included in the DEIR:

1. A discussion of potential impacts from lighting, noise, human activity (e.g., recreation), defensible space, and wildlife-human interactions created by zoning of development projects or other Project activities adjacent to natural areas, exotic and/or invasive species, and drainage. The latter subject should address Project-related changes on drainage patterns and water quality within, upstream, and downstream of the Project site, including: volume, velocity, and frequency of existing and post-Project surface flows; polluted runoff; soil erosion and/or sedimentation in streams and water bodies; and post-Project fate of runoff from the Project site.
2. A discussion of potential indirect Project impacts on biological resources, including resources in areas adjacent to the Project footprint, such as nearby public lands (e.g., National Forests, State Parks, etc.), open space, adjacent natural habitats, riparian ecosystems, groundwater dependent ecosystems, wildlife corridors, and any designated and/or proposed reserve or mitigation lands (e.g., preserved lands associated with a Natural Community Conservation Plan, or other conserved lands).
3. A discussion of potential direct and indirect impact to Groundwater Dependent Ecosystems (GDE) and Interconnected Surface Waters (ISW). CDFW considers groundwater dependent ecosystems² and interconnected surface waters to be potentially susceptible to the Project's groundwater extraction demand. GDEs and ISWs can be identified as vegetation or wetland natural communities commonly associated with groundwater or surface waters that originate at springs, which are datasets provided online by the Department of Water Resources (DWR) as starting points that can be used to assess potential impacts (California Department of Water Resources, 2026). Water table drawdowns caused by the new production well may cause a change in vegetation, as historically observed on LADWP-owned lands of Owens Valley, which could impact foraging habitat for prey base with which it is associated.

Impacts from groundwater pumping may extend beyond the project boundaries. Undesirable results from groundwater pumping in the Owens Valley groundwater basin may include lowering of groundwater levels, reduced aquifer storage, and depletion of interconnected surface waters (ISW). Lowering of groundwater levels may have direct impacts in the vicinity of the production well, and

² Groundwater dependent ecosystem refers to ecological communities or species that depend on groundwater emerging from aquifers or on groundwater occurring near the ground surface. (23 Cal. Code Regs. § 351(m))

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cumulative impacts additive to existing groundwater pumping in the basin. The lowering of groundwater levels will change local groundwater gradients which may result in decreased flows from upgradient and downgradient springs and other water bodies. Impacts from groundwater pumping may be seasonal as well as long-term, and undesirable results may be exacerbated in dry years. The NOP states that peak water demand by the project will occur during the summer, which coincides with the typical period that groundwater levels are seasonally decreasing. Due to the potential impacts on groundwater resources and GDE, the DEIR should include an assessment of the impacts that are anticipated to occur as a result of operations of the production well.

To assess these impacts, the DEIR should include a review of the local hydrogeology, including identification of confining, semi-confining, and aquifer layers. This review should extend spatially to areas that contain GDE and ISW that may be impacted by operating the production well. The hydrogeologic review should have sufficient detail to determine the hydrogeologic structure(s) into which the production well will be installed and screened, and sufficient detail to estimate aquifer parameters as necessary to utilize analytical solutions to estimate drawdown and stream depletion extending out to the GDE and ISW that could be impacted by operating the production well. An evaluation of impacts resulting from the groundwater pumping should include both seasonal and long-term considerations. The long-term evaluation period should extend out to the expected life of the production well operations. The evaluation of seasonal impacts should consider the actual anticipated monthly pumping operations rather than a year-round average pumping rate. Both the long-term and seasonal evaluations should factor in the potential for extended periods of drought.

Effective monitoring methods and systems can aid in understanding groundwater extraction impacts to GDEs and ISWs and informing subsequent action. Effective monitoring systems that can be used to evaluate impacts to GDEs and ISW include nested piezometers, geochemical and physical property monitoring, and analytical and numerical modeling (California Department of Fish and Wildlife, 2019). Well logs and monitoring well data should be uploaded to the DWR Sustainable Groundwater Management Act (SGMA) Data Viewer. The DEIR should identify GDEs and ISW that are expected to be impacted as a result of groundwater pumping by the proposed production well's radius of influence and describe how the lead agency will assess groundwater pumping impacts and establish protective thresholds for these GDEs and ISW and associated sensitive resources should impacts occur.

4. A cumulative effects analysis developed as described under CEQA Guidelines section 15130. The DEIR should analyze the cumulative effects of the plan's land use designations, policies, and programs on the environment. Please include all potential direct and indirect Project related impacts to riparian areas, wetlands, vernal pools, alluvial fan habitats, groundwater dependent ecosystems, wildlife corridors or wildlife movement areas, aquatic habitats, sensitive species and other sensitive habitats, open lands, open space, and adjacent natural habitats in the cumulative effects analysis. General and specific plans, as well as past, present, and anticipated future projects, should be analyzed relative to their impacts on similar plant communities and wildlife habitats.

Alternatives Analysis

CDFW recommends the DEIR describe and analyze a range of reasonable alternatives to the Project

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that are potentially feasible, would “feasibly attain most of the basic objectives of the Project,” and would avoid or substantially lessen any of the Project’s significant effects (CEQA Guidelines § 15126.6[a]). The alternatives analysis should also evaluate a “no project” alternative (CEQA Guidelines § 15126.6[e]).

Mitigation Measures for Project Impacts to Biological Resources

The DEIR should identify mitigation measures and alternatives that are appropriate and adequate to avoid or minimize potential impacts, to the extent feasible. The Lead Agency should assess all direct, indirect, and cumulative impacts that are expected to occur as a result of the implementation of the Project and its long-term operation and maintenance. When proposing measures to avoid, minimize, or mitigate impacts, CDFW recommends consideration of the following:

1. *Fully Protected Species*: Fully protected species may not be taken or possessed at any time (with the exception of certain projects set forth in SB 147, which was passed on July 10, 2023). Project activities described in the DEIR should be designed to completely avoid any fully protected species that have the potential to be present within or adjacent to the Project area. CDFW also recommends that the DEIR fully analyze potential adverse impacts to fully protected species due to habitat modification, loss of foraging habitat, and/or interruption of migratory and breeding behaviors. CDFW recommends that the Lead Agency include in the analysis how appropriate avoidance, minimization, and mitigation measures will reduce indirect impacts to fully protected species.

Sensitive Plant Communities: CDFW considers sensitive plant communities to be imperiled habitats having both local and regional significance. Plant communities, alliances, and associations with a statewide ranking of S-1, S-2, S-3, and S-4 should be considered sensitive and declining at the local and regional level. These ranks can be obtained by querying the CNDDB and are included in *The Manual of California Vegetation* (Sawyer et al. 2009). The DEIR should include measures to fully avoid and otherwise protect sensitive plant communities from Project-related direct and indirect impacts.

2. *California Species of Special Concern (CSSC)*: CSSC status applies to animals generally not listed under the federal Endangered Species Act or the CESA, but which nonetheless are declining at a rate that could result in listing, or historically occurred in low numbers and known threats to their persistence currently exist. CSSCs should be considered during the environmental review process. CSSC that have the potential or have been documented to occur within or adjacent to the Project area, including, but not limited to: American badger, loggerhead shrike, Owens Valley Vole, pallid bat, and Townsend’s big-eared bat
3. *Mitigation*: CDFW considers adverse Project-related impacts to sensitive species and habitats to be significant to both local and regional ecosystems, and the DEIR should include mitigation measures for adverse Project-related impacts to these resources. Mitigation measures should emphasize avoidance and reduction of Project impacts. For unavoidable impacts, onsite habitat restoration and/or enhancement, and preservation should be evaluated and discussed in detail. Where habitat preservation is not available onsite, offsite land acquisition, management, and preservation should be evaluated and discussed in detail.

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The DEIR should include measures to perpetually protect the targeted habitat values within mitigation areas from direct and indirect adverse impacts in order to meet mitigation objectives to offset Project-induced qualitative and quantitative losses of biological values. Specific issues that should be addressed include restrictions on access, proposed land dedications, long-term monitoring and management programs, control of illegal dumping, water pollution, increased human intrusion, etc.

If sensitive species and/or their habitat may be impacted from the Project, CDFW recommends the inclusion of specific mitigation in the DEIR. CEQA Guidelines section 15126.4, subdivision (a)(1)(8) states that formulation of feasible mitigation measures should not be deferred until some future date. The Court of Appeal in *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645 struck down mitigation measures which required formulating management plans developed in consultation with State and Federal wildlife agencies after Project approval. Courts have also repeatedly not supported conclusions that impacts are mitigable when essential studies, and therefore impact assessments, are incomplete (*Sundstrom v. County of Mendocino* (1988) 202 Cal. App. 3d. 296; *Gentry v. County of Murrieta* (1995) 36 Cal. App. 4th 1359; *Endangered Habitat League, Inc. v. County of Orange* (2005) 131 Cal. App. 4th 777).

4. *Nesting Birds and Migratory Bird Treaty Act*: Please note that it is the Project proponent's responsibility to comply with all applicable laws related to nesting birds and birds of prey. Fish and Game Code sections 3503, 3503.5, and 3513 afford protective measures as follows: Fish and Game Code section 3503 makes it unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird as designated in the Migratory Bird Treaty Act or any part of such migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Treaty Act, as amended (16 U.S.C. § 703 et seq.).

CDFW recommends that the DEIR include the results of avian surveys, as well as specific avoidance and minimization measures to ensure that impacts to nesting birds do not occur. Project-specific avoidance and minimization measures may include, but not be limited to: Project phasing and timing, monitoring of Project-related noise (where applicable), sound walls, and buffers, where appropriate. The DEIR should also include specific avoidance and minimization measures that will be implemented should a nest be located within the Project site. If pre-construction surveys are proposed in the DEIR, the CDFW recommends that they be required no more than three (3) days prior to vegetation clearing or ground disturbance activities, as instances of nesting could be missed if surveys are conducted sooner.

5. *Moving out of Harm's Way*: To avoid direct mortality, CDFW recommends that the lead agency condition the DEIR to require that a CDFW-approved qualified biologist be retained to be onsite prior to and during all ground- and habitat-disturbing activities to move out of harm's way special status species or other wildlife of low or limited mobility that would otherwise be injured or killed

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from Project-related activities. Movement of wildlife out of harm's way should be limited to only those individuals that would otherwise be injured or killed, and individuals should be moved only as far as necessary to ensure their safety (i.e., CDFW does not recommend relocation to other areas). Furthermore, it should be noted that the temporary relocation of onsite wildlife does not constitute effective mitigation for the purposes of offsetting Project impacts associated with habitat loss.

6. *Translocation of Species*: CDFW generally does not support the use of relocation, salvage, and/or transplantation as mitigation for impacts to rare, threatened, or endangered species as studies have shown that these efforts are experimental in nature and largely unsuccessful.

California Endangered Species Act

CDFW is responsible for ensuring appropriate conservation of fish and wildlife resources including threatened, endangered, and/or candidate plant and animal species, pursuant to CESA. CDFW recommends that a CESA Incidental Take Permit (ITP) be obtained if the Project has the potential to result in "take" (California Fish and Game Code Section 86 defines "take" as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill") of State-listed CESA species, either through construction or over the life of the Project. It is the policy of CESA to conserve, protect, enhance, and restore State-listed CESA species and their habitats.

CDFW encourages early consultation, as significant modification to the proposed Project and avoidance, minimization, and mitigation measures may be necessary to obtain a CESA ITP. The California Fish and Game Code requires that CDFW comply with CEQA for issuance of a CESA ITP. CDFW therefore recommends that the DEIR addresses all Project impacts to listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of CESA.

Lake and Streambed Alteration Program

Based on review of material submitted with the NOP and review of aerial photography, several ephemeral streams traverse through the Project area. Depending on how the Project is designed and constructed, it is likely that the Project applicant will need to notify CDFW per Fish and Game Code section 1602. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following: substantially divert or obstruct the natural flow of any river, stream, or lake; substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or deposit debris, waste or other materials that could pass into any river, stream, or lake. Please note that "any river, stream or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow.

Upon receipt of a complete notification, CDFW determines if the proposed Project activities may substantially adversely affect existing fish and wildlife resources and whether a Lake and Streambed Alteration (LSA) Agreement is required. An LSA Agreement includes measures necessary to protect existing fish and wildlife resources. CDFW may suggest ways to modify your Project that would eliminate or reduce harmful impacts to fish and wildlife resources.

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CDFW's issuance of an LSA Agreement is a "project" subject to CEQA (see Pub. Resources Code § 21065). To facilitate issuance of an LSA Agreement, if necessary, the DEIR should fully identify the potential impacts to the lake, stream, or riparian resources, and provide adequate avoidance, mitigation, and monitoring and reporting commitments. Early consultation with CDFW is recommended, since modification of the proposed Project may be required to avoid or reduce impacts to fish and wildlife resources. To submit a Lake or Streambed Alteration notification, please go to <https://wildlife.ca.gov/Conservation/Environmental-Review/EPIMS>.

ADDITIONAL COMMENTS AND RECOMMENDATIONS

Native Landscaping

To ameliorate the water demands of this Project, CDFW recommends incorporation of water-wise concepts in Project landscape design plans. In particular, CDFW recommends xeriscaping with locally native California tree and shrub species for hydroseed erosion control planting and screening along the western boundary of the water bottling facility; and installing water-efficient and targeted irrigation systems (such as drip irrigation). Native plants support butterflies, birds, reptiles, amphibians, small mammals, bees, and other pollinators that evolved with those plants, more information on native plants suitable for the Project location and nearby nurseries is available at CALSCAPE: <https://calscape.org/>. Local water agencies/districts and resource conservation districts in your area may be able to provide information on plant nurseries that carry locally native species, and some facilities display drought-tolerant locally native species demonstration gardens. Information on drought-tolerant landscaping and water-efficient irrigation systems is available on California's Save our Water website: <https://saveourwater.com/>.

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 the California Natural Diversity Database (CNDDDB). Information can be submitted online or via completion of the CNDDDB field survey form at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

ENVIRONMENTAL DOCUMENT 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.)

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CONCLUSION

CDFW appreciates the opportunity to comment on the NOP of a DEIR for the Crystal Geyser Roxane Grant Ranch Project (SCH No. 2026011104) and recommends that the Inyo County address the CDFW's comments and concerns in the forthcoming DEIR. Questions regarding this letter or further coordination should be directed to Bryant Luu, Environmental Scientist, by email at Bryant.Luu@wildlife.ca.gov or by phone at (760) 923-8666.

Sincerely,

DocuSigned by:

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