



Oregon

Tina Kotek, Governor

Department of Fish and Wildlife

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January 25, 2024

Malheur County Planning Department
251 B Street West #12
Vale, Oregon 97918
Electronically submitted to: Tatiana.Burgess@MalheurCo.org

RE: Malheur County Department File No. 2023-12-010

Dear Ms. Burgess:

The Oregon Department of Fish and Wildlife (ODFW) appreciates the opportunity to provide comments regarding File No. 2023-12-010. According to the Staff Report, the application is for conditional use approval for aggregate mining and other uses in the C-A2 zone and a post-acknowledgement plan amendment to designate 180 acres as a Goal 5 significant aggregate resource for property located in T16S 47E Tax Lot 3200. It is policy of the state of Oregon to manage fish and wildlife to prevent serious depletion of indigenous species and to provide the optimum recreational and aesthetic benefits for present and future generations of the citizens of this state¹. In accordance with this mission, ODFW provides the following preliminary comments and recommendations to be included in the record for the January 25, 2024 Planning Commission hearing:

The Staff Report (page 10) states the Applicant did not identify any conflicts with Goal 5 resources, and there is no protected wildlife within 1,500 feet of the project area. While this site is not identified as an acknowledged significant wildlife habitat per the Malheur County Goal 5 Program, much of the project site is located within ODFW mapped biological winter range for mule deer². This habitat is identified as essential and limited Habitat Category 2 per ODFW's Fish and Wildlife Habitat Mitigation Policy³. The mitigation goal for Habitat Category 2 is no net loss of habitat quality or quantity and to provide a net benefit of habitat quantity or quality. The project includes mining activity that results in the direct loss of suitable wildlife habitat, which include direct and indirect impacts to wildlife, such as noise disturbance and displacement

¹ ORS 496.012

²

https://nrimp.dfw.state.or.us/DataClearinghouse/default.aspx?pn=ViewFile&att=ODFW/ODFW_885_3_Final%20013%20ODFW%20Big%20Game%20Winter%20Habitat%20Map%20Rationale%20%2009_6_13.pdf

³ OAR 635-415

of wildlife during mining operations. ODFW is concerned that the conflicts to mule deer habitat due to the direct loss of habitat and indirect impacts associated with the mining operations have not been adequately evaluated.

Generally, big game species need habitat which provides a combination of food, water, and security to survive and reproduce. Abundance, distribution, and connectivity of these habitats are crucial to species survival and may vary seasonally depending on a specific species' reliance on migratory or non-migratory behavior to fulfill life history requirements. Winter range habitat is one of the most crucial factors influencing the overall population of ungulates. Not only does it provide the critical nutritional benefits needed during winter months when energetic needs are at a premium, but it also provides good escapement opportunities from predators. In addition, with adequate amounts of winter range, ungulates can spread out amongst the landscape, reducing the risk of disease transmission which can be detrimental to a population.

In addition to being identified as biological winter range, ODFW also considers this area significant under the Oregon Conservation Strategy (OCS). The goals of the Oregon Conservation Strategy are to maintain healthy fish and wildlife populations by maintaining and restoring functioning habitats, preventing declines of at-risk species, and reversing declines in these resources where possible. This area has also been identified by the Oregon Connectivity Assessment and Mapping Project (OCAMP) as a Priority Wildlife Connectivity Area (PWCA)⁴. The OCAMP effort focused on identifying current wildlife habitat connectivity throughout the state for a wide diversity of species. These species' connectivity models were compiled to highlight PWCAs – an interconnected network representing the parts of the landscape with the highest overall value for facilitating wildlife movement in Oregon. The proposed re-zoning of this application will occur within the boundaries of PWCA NBR-R5, which has been identified with a primary conservation action of restore and a secondary conservation action of protect.

While reclamation will be required by the Department of Geology and Mineral Industries (DOGAMI), reclamation does not always provide benefits to wildlife habitat and is not a replacement for mitigation actions to achieve no net loss. ODFW acknowledges reclamation is an important step in partially restoring habitat impacted by mining activities if it is targeted specifically toward wildlife habitat objectives, as opposed to other reclamation activities such as restoring the area for an industrial use. However, reclamation should not be considered adequate mitigation due to the temporal loss that the habitat will experience during the multi-decade long disturbance from the mining operations.

As stated above, ODFW recommends the site is adequately evaluated for the potential impacts to wildlife habitat, including providing appropriate avoidance, minimization, and compensatory mitigation for impacts:

Recommendation # 1: ODFW recommends the applicant further evaluate avoidance and minimization measures, such as alternative footprints for mining operations.

Recommendation #2: ODFW recommends weed control measures be implemented at the site at a frequency necessary to control annual and recurring invasive vegetation infestations. This

⁴ <https://oregonconservationstrategy.org/success-story/priority-wildlife-connectivity-areas-pwcas/>

includes noxious weeds and invasive grasses such as cheatgrass and medusahead. Soil disturbance and prolonged exposure increases the risk of invasive species establishment. If not routinely treated, roadsides, parking, dump, and excavation sites with long-term lifespans described in the Staff Report can become sources of weeds spread to adjacent areas.

Recommendation #3: Implement timing and seasonal minimization measures. While timing and seasonal restrictions can be beneficial to wildlife, they should be used in conjunction with other measures as it is not compensatory mitigation to offset direct habitat loss, but rather minimization measures for indirect impacts, such as noise associated with mining operations. ODFW recommends a seasonal closure of the mine and any crushing or grinding activities from November 1st through March 31st and that operations occur outside of crepuscular hours (e.g., dawn and dusk when wildlife are most sensitive to disturbance).

Recommendation #4: ODFW has identified habitat in this location as mule deer winter range, which is essential and limited Habitat Category 2 per ODFW's Fish and Wildlife Habitat Mitigation Policy. The mitigation goal for Habitat Category 2 is no net loss of habitat quality or quantity and to provide a net benefit of habitat quantity or quality through in-kind and in-proximity mitigation. ODFW recommends mitigation actions identified in a mitigation plan demonstrating no net loss and a net benefit through in-kind, in-proximity mitigation to mule deer winter range prior to or concurrent with the development action.

Thank you for the opportunity to provide recommendations to address concerns related to wildlife habitat. ODFW is committed to providing technical assistance to the County and applicant to avoid, minimize and mitigate impacts to wildlife habitat. Please contact me with any questions (541-889-6975 ext. 222 or tucker.e.freeman@odfw.oregon.gov).

Sincerely,



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