From: Niva, Liisa M <Liisa\_Niva@fws.gov>
Sent: Friday, September 10, 2021 9:57 AM
To: Erin Kunkel <Erin.Kunkel@martinmarietta.com>
Cc: Salamack, Kristin A <kristin\_salamack@fws.gov>; Kritz, Kevin <kevin\_kritz@fws.gov>
Subject: Martin Marietta - Parsons Pit Eagle Restrictions Revision

## EXTERNAL EMAIL

## Hello Erin Kunkel,

We received an email on May 14, 2021 from you regarding a bald eagle nest in proximity to the existing Parsons Pit sand and gravel mine north of the Cache la Poudre River in Weld County northwest of Greeley, Colorado. The mine is operated by Matin Marietta under a permit and reclamation plan approved by the Colorado Department of Reclamation, Mining and Safety (CO DRMS) in 2009. This permit includes conditions imposed on Martin Marietta for mining activities allowed within the ½- and ¼-mile buffers for bald eagle nests, based on U.S. Fish and Wildlife Service (Service) and Colorado Parks and Wildlife recommendations. Martin Marietta would like to revise these recommendations per the current understanding of nesting bald eagles' tolerance for disturbance along the Front Range of Colorado.

The current permit does not allow mining activity between November 15 and July 31 within a  $\frac{1}{2}$ -mile buffer of the eagle nest. Martin Marietta would like to remove this restriction. There is no blasting associated with sand and gravel mining; the primary source of disturbance is the removal of overburden with heavy machinery. Currently, all material is conveyed for crushing and washing just outside of the  $\frac{1}{2}$ -mile buffer; however, Martin Marietta would like to move the crusher operation 250 feet south just within the  $\frac{1}{2}$ -mile buffer of the eagle nest. The capacity and frequency of use of the plant will not increase and movement of the plant would take one day. Martin Marietta would add noise mitigation measures including burying the plant 10 to 20 feet and adding sand and gravel piles around the plant to further reduce and attenuate project-related noise.

In addition, the current permit restricts mining activity throughout the year within the ¼-mile buffer of the eagle nest except for development of an 18-acre pond over a two-year period with activity limited to August 15 to October 15. The pond has been developed and Martin Marietta would like to adjust this time period to allow for maintenance of the existing reclaimed pond between August 1 and December 1. No mining would occur within the ¼-mile buffer, activities would include weed control and reseeding. The pond and associated activities are shielded from view of the eagle nest with a dense growth of trees along the Cache la Poudre River.

No mining or reclamation activities would occur within the 660-foot buffer of the eagle nest; the land within this buffer is owned by the Central Colorado Water Conservancy District (CCW) and as such, Martin Marietta does not have direct access to the property. Martin Marietta confirmed on June 3, 2021 that the bald eagle nest is in-use and one juvenile was observed on the nest. CCW has indicated that bald eagles have been observed on and around the nest over the past several years; however, they have not conducted formal monitoring.

Given that Martin Marietta will not conduct mining activities within the  $\frac{1}{2}$ -mile eagle nest buffer and will commit to restrict maintenance of the exiting pond to between August 1 and

December 1 when this bald eagle nest is in alternate nest status <sup>[1]</sup>[1], the Service does not think that disturbance take of bald eagles is likely to occur in response to continued operation of the Parsons Pit mine. Also, we do not think that moving the crusher operation a short distance south so that it is within the  $\frac{1}{2}$  mile buffer is likely to result in disturbance take of nesting bald eagles. Hence, we do not recommend that Martin Marietta apply for an eagle incidental take permit for their Parsons Pit mining operation. The Service supports the proposed changes to the existing permit conditions, regarding nesting bald eagles, in their current permit from CO DRMS for operation of the Parsons Pit mine. We recommend that Martin Marietta work with CO DRMS to revise the existing permit conditions for bald eagles in the existing permit Martin Marietta holds from CO DRMS to incorporate the proposed changes to these conditions as noted in this letter.

<sup>[2]</sup>[1] The Service defines an alternate nest as "one of potentially several nests within a nesting territory that is not an in-use nest at the current time." An in-use nest is defined as "a bald or golden eagle nest characterized by the presence of one or more eggs, dependent young or adult eagles on the nest in the past 10 days during the breeding season" (81 Federal Register 91494).

Also, in the event that mining activities or the use of heavy equipment are proposed within the ¼-mile eagle nest buffer in the future, we recommend that Martin Marietta conduct monthly ground-based monitoring of the eagle nest starting in December in advance of any new activities to determine if the nest is in-use and to contact the Service with information about changes to the nest status and/or changes to activities conducted within the ¼-mile buffer of the eagle nest.

Thank you for the opportunity to comment on this Project,

Liisa

Liisa M. Hernández Niva (she/her/hers - <u>what's this?</u>) Eastern Colorado Supervisor U.S. Fish & Wildlife Service || Colorado Ecological Services Field Office Mobile (calls & texts): 303/905-4543

I live and work in the ancestral lands of the Ute, Arapaho, Cheyenne, and Očhéthi Šakówiŋ (Lakota, Dakota, and Nakota) Tribes.