

## ENVIRONMENTAL INSPECTION REPORT City of Oakland – Leona Quarry

<b>Date:</b>	July 16, 2004; 12:00 p.m. – 2:00 p.m.
<b>Inspector:</b>	Kevin Kilpatrick
<b>Weather:</b>	Partly cloudy, approximately 70 to 75 degrees Fahrenheit, and approximately 5 to 10 mph wind.
<b>Compliance Status:</b>	NON-COMPLIANCE WITH THE SPECIAL-STATUS SPECIES MITIGATION AND MONITORING PLAN

**ACTIVITY:** North Slope Repair Area/Whipsnake Fence Inspection

**COMMENTS:** The contractor (DeSilva Gates) conducted ground clearing and earthmoving activities during the week at the North Slope repair area. Ground disturbance occurred in an area approximately 100 feet long by approximately 20 feet high in potential habitat for Alameda whipsnake. The work was conducted in a manner that is inconsistent with Mitigation Measure 1.B. in the Special-Status Species Mitigation and Monitoring Plan (Plan) for the protection of Alameda whipsnakes.

The Plan generally requires the following steps:

1. A qualified wildlife biologist/biological monitor examine any mapped potential habitat, carefully probing and hand-excavating all burrows and rock outcrops in the construction footprint/Restored Slope Area.
2. Crews remove vegetation from the work area by hand or with equipment that can pull out vegetation from above (such as a clamshell bucket). The vegetation should be removed down to its base. The biologist should then reinspect the area for whipsnakes, burrows, and outcrops that may have been hidden by the thick brush.
3. The contractor should then install a barrier fence that is a minimum of 24 inches tall with support stakes placed on the inside of the fence to eliminate potential areas where the snakes may climb over the fence. The fence should be buried approximately 6-8 inches below the ground surface and the fence should be angled outward, away from the construction zone.

I spoke with biological monitor Eric Vance (Wetlands Research Associates) regarding the work. He told me that he did step 1 (a thorough search in the vegetation prior to the earthwork) but that the vegetation was removed along with the soil by an excavator that would essentially scrape away the soil and vegetation in two-foot-long passes. Although Eric is monitoring the excavation, there is no second examination to find and excavate existing burrows. Additionally, the whipsnake fence that was in place is at the bottom of the slope was removed to allow equipment conduct the work, and was then replaced in a temporary manner that does not meet

the protection specifications. At the end of the day, the fence was stretched across a road and weighted down with rocks spaced every few feet. It would be possible for a whipsnake to climb either under or over the temporary fence and into the general construction area.

The measures that are being taken are not in compliance with the mitigation plan, and to our knowledge, no alternate plan has been approved by the City of Oakland to prevent take of whipsnakes in this area. I talked with Dana Riggs of Wetlands Research Associates and strongly recommended that they and/or the contractor discuss this issue with the City of Oakland. The mitigation measures either need to be followed as outlined in the Plan, or alternate mitigation plans need to be approved by the City.

#### **OUTSTANDING ITEMS:**

1. The contractor needs to either build a whipsnake exclusion fence or submit plans for approval to the City of Oakland for an alternative protection measure for Alameda whipsnake in the area of the slope repair in the lower quarry. The plans must be submitted prior to the initiation of construction activity on the North Slope in potential whipsnake habitat (refer to Environmental Inspection Report of June 9, 2003).
2. The City of Oakland and the contractor need to determine if the Alameda whipsnake fence should be reconstructed to provide an outward lean, per the Special Status Species Plan and Conditions of Approval (refer to Environmental Inspection Report of June 24, 2003).