



State of California – Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
 Region 1 – Northern
 601 Locust Street
 Redding, CA 96001
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



August 26, 2020

Governor's Office of Planning & Research

Stefano Richichi, Senior Planner
 County of Lassen
 Department of Planning and Building Services
 707 Nevada Street, Suite 5
 Susanville, CA 96130

Aug 27 2020

STATE CLEARINGHOUSE

Subject: Review of the Initial Study and Mitigated Negative Declaration for Parcel Map #2019-001, Initial Study #2019-006 (Aboussleman, Stringer), Assessor Parcel Numbers 013-070-41, State Clearinghouse Number 2019100508, Near the Communities of Pittville and McArthur, Lassen County

Dear Mr. Richichi:

The California Department of Fish and Wildlife (Department) has reviewed the Initial Study/Mitigated Negative Declaration (MND) dated July 24, 2020, for the above-referenced project (Project). As a trustee for the State's fish and wildlife resources, the Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants and their habitat. As a responsible agency, the Department administers the California Endangered Species Act and other provisions of the Fish and Game Code (FGC) that conserve the State's fish and wildlife public trust resources. The Department offers the following comments and recommendations on this Project in our role as a trustee and responsible agency pursuant to the California Environmental Quality Act (CEQA), California Public Resources Code §21000 et seq.

Project Description

The Project as proposed is *"to divide a 111-acre parcel into four parcels: Proposed Parcel 1 would be 20.22 acres in size, Proposed Parcel 2 would be 21.11 acres in size, Proposed Parcel 3 would be 21.37 acres in size and Proposed Parcel 4 would be 48.08 acres in size."*

The Project is located approximately 3.5 miles south of the intersection of Highway 299 and Old Highway Road at 545-100 Kaufenberg Road.

Comments and Recommendations

The Department commented on this Project on November 6, 2019 and January 27, 2020. The Department has the following recommendations and comments as they pertain to biological resources.

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Biological Resources

Botanical/Wildlife Surveys and Vegetation Mapping

According to the Pittville Area Plan, as part of the condition of approval for any parcel or subdivision map in areas identified as having sensitive habitat where rare and/or endangered plant wildlife species may exist, botanical and wildlife surveys are required. The Pittville Area Plan also states that applicants are to satisfactorily mitigate potential impacts to sensitive habitat as a condition of approval of parcel and subdivision maps. In both of the Department's previous letters to the County, the Department recommended a thorough assessment of rare plants and rare natural communities following the Department's March 2018 *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities* (Protocol). The botanical survey performed for the Project did not follow this Protocol and in some cases varied so substantially from the guidance provided in the Protocol that the conclusions drawn in the Project's botanical survey must be questioned unless additional clarification is provided.

As stated in the Protocol, "*The purpose of these protocols is to facilitate a consistent and systematic approach to botanical field surveys and assessments of special status plants and sensitive natural communities so that reliable information is produced and the potential for locating special status plants and sensitive natural communities is maximized.*" It should be noted that the Protocol was specifically developed, "*to help people meet CEQA requirements for adequate disclosure of potential impacts to plants and sensitive natural communities.*" Failure to use a consistent systematic approach to botanical surveys may lead public agencies charged with approving projects, as well as project proponents seeking permits, to draw incorrect conclusions on the presence of botanical resources protected under the California Endangered Species Act (CESA) and Native Plant Protection Act (NPPA), both of which provide protections for such species, including take prohibitions (Fish & G. Code, § 2050 et seq.; Fish & G. Code, §1908). As a responsible agency, the Department has the authority to issue permits for the take of species listed under CESA and NPPA if the take is incidental to an otherwise lawful activity; the Department has determined that the impacts of the take have been minimized and fully mitigated; and the take would not jeopardize the continued existence of the species (Fish & G. Code, § 2081, subd. (b); Cal. Code Regs., tit. 14 § 786.9, subd. (b)). Therefore, consistently maximizing the detection probability of CESA- and NPPA-listed species during botanical surveys is essential to the protection of these species.

The Department has noted several fundamental and important inconsistencies between the Protocol and the botanical survey prepared for the Project:

- Only one site visit was conducted as part of the botanical survey, on March 6,

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2020. Both the limited survey effort and date of this sole site visit are problematic. To maximize detection probability the Protocol recommends surveys being conducted during times of year when plants are evident and identifiable, which is usually during flowering or fruiting displays. March in this Project area is still characterized by low nighttime temperatures, including hard frosts, limited both flowering and fruiting activity, and therefore detection. In addition, the protocol recommends multiple visits to the project area (e.g. in early, mid, and late-season) to capture the floristic diversity at a level necessary to determine if special status plants are present. Given the highly variable late-winter/early-spring weather in the Pitville area, the Department would recommend additional survey efforts in late-spring/early-summer in order to maximize detection of special status species during their peak floristic activity. The Department recommends additional survey efforts during this time period or that a site-specific reasoning be provided for why they are unnecessary at this location.

- The elevation of the site does not range from 715-785 feet above sea level as stated in section 4.1 of the biology report but is instead at an approximate elevation of 3600 feet above sea level. This elevation discrepancy could be an issue if the biologist thought they were at 700-foot elevation instead of 3600-foot elevation. Certain species of plants only occur within a narrow elevational range such as *Thelypodium howellii* ssp. *howellii*, a California Rare Plant Rank 1B.2, which has an approximate range of 3,280 – 5,249 feet elevation. The Department recommends a reevaluation of this elevation data and any conclusion drawn from the use of this data. If incorrect conclusions were drawn, the Department recommends correcting these with additional survey efforts based on correct elevation profiles.
- Howell's thelypody (*Thelypodium howellii* ssp. *howellii*) is said not to be present because there is a lack of alkaline soils. This species of *Thelypodium* does not only grow in alkaline meadows, but according to the Jepson Manual¹, it is also found in flats and sagebrush scrub. Since sagebrush scrub is a vegetation community found on the site, focused surveys for this species should be conducted.
- Vegetation mapping was not conducted using *A Manual of California Vegetation* but instead used the *California Wildlife Habitat Relationships* (CWHR). CWHR is a predictive model for wildlife, not plants, and cannot be used to map vegetation communities or conduct botanical surveys. The modeling of habitat is a very broad overview of the landscape and does not provide the level of detail needed to ascertain Sensitive Natural

Citation for this treatment: Ihsan A. Al-Shehbaz 2012, *Thelypodium howellii* subsp. *howellii*, in Jepson Flora Project (eds.) *Jepson eFlora*, /eflora/eflora_display.php?tid=53180, accessed on August 20, 2020.

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Communities. Sensitive Natural Communities with State Ranks of S1 to S3 must be addressed in the environmental review process (see CEQA Guidelines checklist, item IV-b). Because vegetation mapping was not conducted, neither the Department nor the Lead Agency can ascertain if there are Sensitive Natural Communities present onsite, precluding the Lead Agency from making an informed decision on the level of significance of this CEQA Guidelines checklist item. The biological report did not mention how much of each “vegetation type” existed on site and which communities, if any, would be impacted by Project activities. The Department recommends reevaluating the vegetation mapping performed on the site, identifying the Natural Communities on the project site, determining which, if any, are identified as Sensitive, and determining the level of significance and mitigation based off that analysis.

- The Department sent an enclosure in our January 27, 2020 letter that listed special status species found within a nine-quad search of the area. Many of the plant species included on the table were not addressed in the biological report. The biological report states that a nine-quad search for special status plant species was conducted; however, not all the species appearing in that report are listed in Table 1. The nine-quad search would also include special status wildlife species, but again, not all of them are listed in Table 1. The rationale behind the omission of these species from the report is unclear. If there is no habitat for the species present, or it is outside its range, a short explanation, or listing it in Table 1, stating the species was identified in the nine-quad search but omitted from further analysis due to range or habitat limitations would clarify this issue in future reports.
- The Department reiterates that a lack of observations on the California Natural Diversity Database (CNDDDB) for this specific area does not mean there are not special status species present. The CNDDDB is a positive sighting database. The Department maps occurrences only where we have documentation that the species was found at the site. There are many areas of the state where no surveys have been conducted and therefore there is nothing on the map. A nine-quad search using CNDDDB data can provide a basis for which species should be the focus of future field surveys. The Department’s Protocol should then be used to consistently identify species presence, or lack thereof.

Critical Wintering Deer Range

The proposed Project is in critical deer winter range. The Department recommends any new construction occur along the road frontage, clustered near one another allowing the larger portions of the parcels to remain open for the deer, or other design configurations as appropriate. The parcel map attached to the MND did not have

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building envelopes and only one condition protecting wintering range, the use of wildlife friendly fencing. The Department appreciates the incorporation of wildlife friendly fencing into the MND, but requests that a condition of approval be added to also include clustering of homes and outbuildings. If another design is proposed to be used, the Department should have ample time to review and provide written concurrence on measures used to protect winter range.

Mitigation

Avoidance and mitigation measures for impacts to special-status species and sensitive habitats, if found, should be proposed in subsequent environmental review to avoid any significant effects the Project would have on the species or its habitat. Examples of mitigation measures for special-status species and habitat include, but are not limited to, project modification to avoid the species and its habitat, enhancement of existing onsite habitat, offsite restoration or enhancement of habitat, or onsite/offsite preservation of habitat. Since appropriately botanical surveys were not conducted, it is unknown if those species are present, if they are impacted, or if the impact is significant to warrant mitigation. Due to the outstanding possibility that CESA- and NPPA-listed plant species may occur on the project site, along with the need to minimize and fully mitigate impacts to species listed under these acts, the Department recommends the inclusion of potential mitigation language in the MND should the Department need to act as a responsible agency in issuance of a permit during Project development.

Survey Results

All surveys should be conducted prior to approval of the Project and survey results should be sent to the Department at the following address: Department of Fish and Wildlife, Attn: CEQA, 601 Locust Street, Redding, CA 96001 or submitted via email to R1CEQARedding@wildlife.ca.gov. The Department reiterates that a thorough assessment of rare plants and rare natural communities using the Department's March 2018 *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities* (<https://www.wildlife.ca.gov/conservation/survey-protocols#377281280-plants>) is necessary for consistent identification of special status plants and Sensitive Natural Communities. If any special-status species or communities are found during surveys, the Department requests that CNDDDB forms be filled out and sent to Sacramento and a copy of the form be sent to the Regional office at the above address. Instructions for providing data to the CNDDDB can be found at: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>.

If you have any questions, please contact Amy Henderson, Senior Environmental Scientist, at (530) 598-7194, or by email at Amy.Henderson@wildlife.ca.gov.

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Sincerely,

DocuSigned by:

Curt Babcock

9740273FEE784E2
Curt Babcock

Habitat Conservation Program Manager

cc: Stefano Richichi, Associate Planner
County of Lassen
srichichi@co.lassen.ca.us

State Clearinghouse
State.clearinghouse@opr.ca.gov

Amy Henderson
California Department of Fish and Wildlife
Amy.Henderson@wildlife.ca.gov

Chron