



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Northern Region  
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**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



August 17, 2020

Governor's Office of Planning & Research

**Aug 18 2020**

Meghan Ryan, Senior Planner  
Humboldt County Planning and Building Department  
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**STATE CLEARINGHOUSE**

**Subject: Rolling Meadows (SCH# 2020070339) Conditional Use Permits Initial Study and Draft Mitigated Negative Declaration**

Dear Meghan Ryan:

The California Department of Fish and Wildlife (CDFW) received from the County of Humboldt (Lead Agency) the Initial Study/Draft Mitigated Negative Declaration (IS/MND) for the Rolling Meadows (Project), in McCann, Humboldt County, California. CDFW understands the Lead Agency will accept comments on the Project through August 17, 2020.

CDFW recently received a Lake or Streambed Alteration (LSA) Notification to rebuild a bridge on Larabee Creek that will serve as an alternate access to the Project from Alderpoint Road. CDFW staff conducted a site visit of Facilities #1-16 of the Project area on Thursday, August 13, 2020.

The Project proposes 306,648 square feet (7.04 acres) of new cannabis facility space, including 251,451 square feet (5.77 acres) of new mixed-light cannabis cultivation. The Project also proposes use of three wells for irrigation in addition to 80,000 gallons of proposed rainwater catchment. The mixed-light cultivation is proposed to be powered by Pacific Gas and Electric, however new connection lines and associated infrastructure will be needed. The Project is proposed to operate on one legal parcel consisting of two Assessor's parcel numbers totaling 1,632 acres. The subject parcel was previously a part of the "Wheat/Whitlow Ranch" that was historically used for livestock and timber.

As the Trustee for the State's fish and wildlife resources, CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants and the habitat necessary to sustain their populations. As a Responsible Agency, CDFW 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. CDFW offers the following comments and recommendations in our role as a Trustee and Responsible Agency pursuant to the California Environmental Quality Act (CEQA; California Public Resource Code §21000 *et seq.*). CDFW participates in the regulatory process in its roles as Responsible and Trustee agency to address potential substantial environmental impacts by recommending avoidance and minimization measures. These

comments are intended to reduce the Projects impacts on public trust resources.

### **Incomplete Scoping for Special Status Species**

The IS/MND list 27 special status botanical taxa (species) reported within a nine-quad search, however CDFW's Natural Diversity Database reports 39 botanical species in the current nine quad search. Additionally, the IS/MND list 22 special status animal species reported within a nine-quad search, however CDFW reports 44 animal species in the current nine quad search, including the western bumblebee (*Bombus occidentalis*) that is now a candidate for listing under the California Endangered Species Act. The IS/MND does not address potential occurrences or impacts to 34 special status species. A complete scoping list is needed for the IS/MND to consider if the Project will have a substantial adverse effect, either directly or through habitat modifications, on any species or habitats identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or U.S. Fish and Wildlife Service. Potential impacts to additional species and habitats identified in the Humboldt County General Plan, such as Roosevelt elk (*Cervus canadensis roosevelti*), should be addressed in the IS/MND.

The IS/MND should be revised to include an analysis of potential Project impacts on all special status species and habitats identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or U.S. Fish and Wildlife Service as occurring within the region and propose avoidance/mitigation where appropriate (**Recommendation 1**).

### **Incomplete Botanical Surveys and Impact Analysis**

The IS/MND states botanical surveys for rare plants and sensitive natural communities did not encompass the entire Project area due to changes in the Project footprint occurring after the 2018 botanical field work season. The entire Project area should include the "whole of the action", including all proposed buildings, new powerlines, borrow pits, access roads, and other areas of new ground disturbance. The IS/MND proposes completing botanical surveys as a preconstruction mitigation measure. CDFW understands that additional botanical surveys occurred in 2020 but results were not included in the IS/MND. Furthermore, CDFW is aware that an additional rare plant species, Pacific gilia (*Gilia capitata* ssp. *pacifica*) and stands of native grasslands (California oat grass prairie [*Danthonia californica*]; blue wildrye prairie [*Elymus glaucus*]) were detected within the Project site in 2020. Based on CDFW's August 13, 2020 site visit, it appears the 2020 additional botanical surveys have not yet covered the entire Project area.

The IS/MND should be revised to include the results of complete botanical surveys for the entire Project area. Surveys and reporting should be in accordance with CDFW's *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities* and propose avoidance/mitigation

where appropriate (**Recommendation 2**).

### **Mitigations for Loss of Sensitive Natural Communities**

Vegetation types, also known as natural communities, are categorized and classified by the Manual of California Vegetation (MCV) Online. Using the best available data on the abundance, distribution, and threat to these natural communities, CDFW's VegCamp, then assigns natural communities a global (G) and state (S) rarity rank.

Rarity ranks range from 1 (very rare and threatened) to 5 (demonstrably secure). Natural Communities with State ranks of S1-S3 are considered Sensitive Natural Communities to be addressed in the environmental review processes of CEQA and its equivalents. A question mark (?) denotes an inexact numeric rank because of insufficient samples over the full expected range of the type, but existing information points to this rank.

The IS/MND identifies stands of native grassland prairies dominated by *Danthonia californica* and *Elymus glaucus*. These perennial bunchgrasses typically dominate in areas where native prairie soils, which takes centuries to develop, are undisturbed by plowing and have had limited or no cattle grazing. These native grasslands were assessed by CDFW during the August 13, 2020 site visit, and as indicated in the IS/MND, CDFW concurs they meet the MCV definition of California oat grass prairie (S3) and blue wild rye montane meadows (S3?), respectively, though the dominance of the two species varies among stands and Project sites. Consequently, as described in the IS/MND they are both considered Sensitive Natural Communities. To off-set the loss of these Sensitive Natural Communities, the IS/MND's proposes as mitigation collecting seed from these species in grassland prairies that will be lost to Project infrastructure, and using the seed to re-vegetate fill slopes and other disturbed areas once Project construction is completed.

CDFW finds this mitigation has a very low likelihood of success due to 1) the lack of undisturbed prairie soils in areas proposed for mitigation, 2) the highly unlikely possibility of creating or recreating new prairie soils, and 3) the high likelihood of re-seeded native grasses being out-competed by invasive European annual grasses. Consequently, CDFW finds the proposed mitigation for the loss of these Sensitive Natural Communities to remain significant unless avoidance or other effective mitigations are developed and approved by CDFW.

CDFW recommends the IS/MND should be revised to include Project layout changes to avoid impacts to these Sensitive Natural Communities or other effective mitigations are developed and approved by CDFW (**Recommendation 3**).

### **Lack of Wetland Delineation Results**

The IS/MND discusses "potential wetland areas" identified in the 2018 Botanical Survey Report and mentions results of a 2020 wetland delineation, however a formal wetland delineation of the entire Project area using accepted methods and procedures was not included in the IS/MND. CDFW is also concerned that the wetland delineation has not yet covered the entire Project area.

The IS/MND should be revised to include the results of complete Project area wetland delineation results done in accordance with the Army Corp's *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region* and propose avoidance/mitigation where appropriate (**Recommendation 4**).

### **Wetland Fill and Development Setbacks**

The IS/MND indicates development of cultivation sites (e.g. Facilities #3 and #10) will result in nearly one acre of wetland fill and additional encroachments on wetland setback requirements identified in the County General Plan and the State Waterboard's Cannabis Cultivation Policy. Approximately 90 percent of California's historical wetlands have been filled or converted to other uses, with a consequent reduction in the functions and values wetlands provide.

CDFW recommends the IS/MND be revised to include Project layout changes to avoid wetland fill and associated development setbacks. CDFW recommends the Project avoid wetland fill and adhere to Humboldt County wetland setbacks. CDFW also recommends the Project proponent consult with the North Coast Regional Water Quality Control Board regarding the State Waterboard's Cannabis Cultivation Policy and its mandate to "protect springs, wetlands, and aquatic habitats from negative impacts of cannabis cultivation." (**Recommendation 5**).

### **Stream Crossings**

The IS/MND lacks sufficient information, impact analysis, and avoidance/minimization measures for upgrades to stream crossings. The IS/MND states the condition of all stream crossings will be assessed after Project approval, including one bridge and 20 culverts occurring on five miles of access roads. CDFW recently received an LSA Notification for improvements to the bridge on Larabee Creek as part of the alternative access to Alderpoint Road, but no other stream crossing improvements were proposed in the Notification. Based on CDFW interpretation of aerial imagery and topography, it appears over 40 stream crossings may occur along Project access roads (including approximately 10 miles to the Alderpoint Road alternative access) and will need to be assessed for upgrades. The Alderpoint Road alternative access should be included in IS/MND analyses as part of the whole of the action, particularly due to 1) the age and condition of the existing Eel River seasonal low water crossing at McCann, 2) uncertain timeline of the County building a permanent year-round bridge at McCann, and 3) potential the Alderpoint Road may be the Project's primary access point. Additionally, CDFW will need to rely on the IS/MND to comply with CEQA when issuing a final LSA Agreement, including any authorizations needed for upgrades to the Alderpoint Road access.

The IS/MND should be revised to include analysis of potentially significant impacts associated with all stream crossing related work within the entire Project. (**Recommendation 6**).

**Development within the 100-year Flood Zone**

The Project proposes locating three greenhouses (Facilities #1, #2 and #3) and a processing building within the 100-year flood zone of the Eel River. Floodplains, by their nature, are likely to be inundated by high flow events. They also connect streams and rivers to upland habitat and provide an important ecological transition zone (CDFW 2014). Grading within the floodplain and placement of complex, automated mixed-light greenhouses, and ancillary facilities, would likely result in pollution and debris during a 100-year flood event.

The IS/MND should be revised to include Project layout changes to avoid non-essential development in Eel River 100-year floodplain. (**Recommendation 7**).

**Electric Infrastructure Expansion**

The IS/MND indicates approximately four miles of new electrical lines will be installed to connect existing powerlines to proposed cannabis cultivation sites. Based on the IS/MND, it appears the new electrical lines will be installed, primarily buried within the road prism except for one section across a sloped meadow area north of Facility #3.

The IS/MND should be revised to include analysis of potentially significant biological impacts (e.g. rare plants, wetlands, raptors, etc.) associated with new electric utility lines in the sloped meadow area (**Recommendation 8**). Additionally, the IS/MND should be revised to include further analysis on potential additional development or growth inducing impacts within the local region that may be facilitated by the creation of four miles of new electrical utilities (**Recommendation 9**).

**Mixed-light Cultivation**

CDFW and others have observed light pollution originating from greenhouses throughout the County. This is inconstant with the County General Plan and International Dark Sky Standards. The IS/MND suggests International Dark Sky Standards will be upheld by the Project. CDFW questions the Lead Agency's ability to effectively regulate potential light pollution impacts. Please explain how the Lead Agency will monitor and ensure light pollution avoidance will be accomplished (**Recommendation 10**).

**Invasive Species**

The IS/MND does not address potential significant effects from introduction or spread of invasive plant and animal species. Invasive species are known to result in habitat loss and other impacts to native species and may result in an overall loss of biodiversity.

CDFW recommends a mitigation measure or condition of approval to require an invasive species management plan that would manage any existing invasive species and prohibit planting, seeding or otherwise introducing invasive species on Project

parcels, including all access roads (**Recommendation 11**).

### **Rodenticides and Similar Harmful Substances**

This Project has potential high use areas for birds of prey including, Cooper's hawk (*Accipiter cooperii*), sharp-shinned hawk (*Accipiter striatus*), golden eagle (*Aquila chrysaetos*), and other species. New agricultural development has the potential to increase rodent populations, which are sometimes treated with rodenticides. Rodents killed by rodenticide have the potential to be consumed by raptors, other birds of prey, and wildlife species, resulting in harm or mortality. CDFW recommends a condition of approval that will prohibit the use of rodenticides and similar harmful substances on Project parcels (**Recommendation 12**).


### **Revise and Recirculate IS/MND**

One of the main purposes of CEQA is to disclose to the public and resource agencies the potential significant environmental effects of a Project, including the whole of the action. CDFW, the Planning Commission, other decision makers, and the public cannot assess the adequacy of biological surveys or potentially significant environmental impacts if a CEQA document does not contain necessary biological surveys completed prior to public circulation or if the results are not included in the public document. Additionally, the feasibility and adequacy of proposed mitigations cannot be sufficiently evaluated in a CEQA document unless all potentially significant environmental impacts have been assessed in the CEQA document.

Consequently, this ISMND may need to be recirculated after revisions to analyze all potentially significant environmental impacts within the entire Project area. The entire Project area should include the whole of the action, including all proposed buildings, new powerlines, borrow pits, access roads, and other areas of new ground disturbance. Once the entire Project area has been determined, an updated and complete scoping list for special status species should be created. The results of complete botanical surveys, assessment of sensitive wildlife habitats, and wetland delineations should be included in the revised IS/MND. These complete surveys should then be used as the basis for creating avoidance and feasible mitigation measures for potentially significant impacts (**Recommendation 13**).

We appreciate the opportunity to comment on this IS/MND. If you have any questions please contact Environmental Scientist Greg O'Connell by email at [Gregory.OConnell@Wildlife.ca.gov](mailto:Gregory.OConnell@Wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
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**Curt Babcock**

Northern Region Habitat Conservation Program Manager

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Citation

CDFW. 2014. Development, land use, and climate change impacts on wetland and riparian habitats—A summary of scientifically supported conservation strategies, mitigation measures, and best management practices. Technical Memorandum. California Department of Fish and Wildlife, Northern Region. Redding, CA.

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