



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

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Governor's Office of Planning & Research

August 20 2021

STATE CLEARING HOUSE

August 19, 2021

Heidi Kunstal, Director
Del Norte County Community Development Department
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SUBJECT: Dr. Joseph Meyers Minor Subdivision - MS2103 (SCH# [2021070426](#))

Dear Heidi Kunstal:

On July 22, 2021, the California Department of Fish and Wildlife (CDFW) received Del Norte County's (Lead Agency) Negative Declaration (ND) for the Meyers Minor Subdivision (Project) via the State Clearing House. CDFW understands the Lead Agency will accept comments on the Project through August 23, 2021.

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 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 Trustee and Responsible Agency to minimize Project impacts and avoid potential significant environmental impacts by recommending avoidance and minimization measures. These comments are intended to reduce the Projects impacts on public trust resources.

Project Description

The Project is located at 6012 South Bank Road, Crescent City, CA, on Assessor Parcel Numbers (APN) 105-130-005 and 105-130-027. As described in the ND, the Project proposes a minor subdivision of APN 105-130-005 into three parcels, approximately 2-acres each in size, and an additional parcel boundary adjustment for APN 105-130-027. Previously, the applicant received Lead Agency approval to adjust the eastern 12 acres of APN 105-130-005 to the adjoining timberland property owner. Future development of the three new parcels will be served by on-site wastewater treatment systems and individual wells.

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CDFW Consultation History

After receiving the Project referral via the State Clearinghouse, CDFW contacted the Lead Agency on August 02, 2021, requesting a site visit. On August 05, 2021, CDFW Environmental Scientist Greg O'Connell visited the Project site.

CDFW Comments on the ND:

Revise and Recirculate CEQA Document

The ND circulated by the County for this Project does not contain an evaluation of all of the potentially significant environmental impacts from the Project. One of the main purposes of CEQA is to disclose to the public and resource agencies the potential significant environmental effects of a Project. 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.

Consequently, a new CEQA document, such as a Mitigated Negative Declaration, should be recirculated after revisions to analyze all potentially significant environmental impacts within the entire Project area (CEQA Guidelines §15073.5) (**Recommendation 1**). The results of complete wetland delineations, botanical surveys, and assessments of sensitive wildlife habitats should be included in the revised CEQA document. These complete surveys should then be used as the basis for creating avoidance (i.e., setbacks or buffers) and feasible mitigation measures for potentially significant impacts.

Wetlands

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 2014). As such, Federal and State wetland no-net-loss-policies were established in 1988 and 1993, respectively.

The ND states no wetlands were observed within 100-ft of the project site and a search of the U.S Fish and Wildlife Service's (USFWS) National Wetland Inventory (NWI) did not result in wetlands located on the subject parcel. However, on August 05, 2021, CDFW staff observed a mosaic of Palustrine Forested Wetlands and Palustrine Scrub-Shrub Wetlands (Federal Geographic Data Committee [FGDC] 2013) with perennial and seasonally intermittent wetland hydrology in the western portions of the proposed parcels. These locations contained varying degrees of coast redwood (*Sequoia sempervirens*) overstory; a shrub layer containing salmonberry (*Rubus spectabilis*),

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California blackberry (*Rubus ursinus*); and an herbaceous layer including obligate wetland plant species, such as slough sedge (*Carex obnupta*), water parsley (*Oenanthe sarmentosa*), American brooklime (*Veronica americana*), and skunk cabbage (*Lysichiton americanus*), in addition to saturated soils and areas of standing water.

Although NWI may be useful for broad, landscape-scale characterization of some aquatic habitats, NWI wetland maps do not attempt to define the jurisdictional limits of any Federal, State, or local government, or to establish the geographical scope of the regulatory programs of government agencies (USFWS 2021). NWI maps are based on vegetation, visible hydrology, and geography from analysis of high-altitude aerial imagery. Given the wide margin of error inherent in NWI's use of aerial imagery to map aquatic habitat at fine scales, NWI maps are not sufficient for the purpose of project planning, permitting, or regulatory requirements.

A formal wetland delineation should have been conducted in the planning phase of this project and incorporated into the CEQA document, and protective buffers should have been prescribed in order to conserve wetland resources and their habitat value. To identify the locations of development setbacks from wetlands, the Project should provide a wetland delineation, prepared by a qualified wetland scientist, that satisfies the requirements of the 1987 Army Corps of Engineers Wetland Delineation Manual (ACOE 1987) and the associated Western Mountains, Valleys, and Coast Regional Supplement (ACOE 2012) (**Recommendation 2**). CDFW recommends 100-ft development setbacks from perennial wetlands and 50-ft setbacks from seasonal wetlands (**Recommendation 3**).

Botanical Survey

The ND relies on biological reports from the project vicinity but does not contain results of botanical surveys for the project parcels. It is unknown if special status plant species or Sensitive Natural Communities (SNCs) occur in the project area. CDFW has established *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities* (CDFW 2018). Potential suitable habitat exists within the project area for Henderson's fawn lily (*Erythronium hendersonii*, California Rare Plant Rank [CRPR] 2B.3), ghost-pipe (*Monotropa uniflora*, CRPR 2B.2), western white bog violet (*Viola primulifolia* ssp. *occidentalis*; CRPR 1B.2), Howell's sandwort (*Sabulina howellii*, CRPR 1B.3), and other special status plant species. SNC's such as red alder forest, slough sedge swards, coastal brambles, salmonberry-wax myrtle scrub, and others may also be present within wetlands or uplands and should receive consideration in the CEQA document, see Appendix G Biological Resources (IV) subsection b.

CDFW recommends a botanical survey occur in accordance with the *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and*

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Sensitive Natural Communities (**Recommendation 4**). Potentially significant impacts should be avoided and minimized to the greatest extent feasible. Please consult with CDFW staff regarding mitigation plans if impacts cannot be avoided.

Water Sources

The ND states the three new parcels will be served by individual wells. During the site visit, CDFW staff observed an existing surface water diversion from a perennial spring with wetland habitat, located at approximately 41.8524, -124.1246. Pursuant to Fish and Game Code (FGC) §1602, any existing or proposed surface water diversion(s) shall submit a Lake and Streambed Alteration Notification to CDFW (**Recommendation 5**). More information and instruction for submitting a Notification can be found at <https://wildlife.ca.gov/Conservation/Environmental-Review/LSA>. Additionally, the Lead Agency should ensure that proposed wells are sited at sufficient distance from aquatic habitats and with adequate depths and screening intervals (or other design features based on site-specific geology, etc.) to avoid dewatering of wetland habitat (**Recommendation 6**).

Nesting Birds

Take of birds and their nests is prohibited by FGC §§2000, 3503, 3503.5. CDFW recommends that vegetation removal associated with Project development occur outside the bird nesting season (generally March 15 – August 15 for most species) (**Recommendation 7**). If vegetation removal or other project-related activities that could impact nesting birds are scheduled during the nesting season, a qualified biologist should survey for active bird nests within seven days prior to the beginning of project-related activities. Surveys should begin prior to sunrise and continue until vegetation and nests have been sufficiently observed. A report of the surveys should be submitted to CDFW by email within three business days of completion. The report should include a description of the area surveyed, time and date of surveys, ambient conditions, species observed, active nests observed, evidence of breeding behaviors (e.g., courtship, carrying nesting material or food, etc.), and a description of any outstanding conditions that may have impacted survey results (e.g., weather conditions, excess noise, predators present, etc.). If an active nest is found, Permittee should implement avoidance measures in consultation with CDFW. If a lapse in project-related work of seven days or longer occurs, the qualified biologist should repeat surveys before project work can resume.

Retention of Large Trees

The parcels proposed for development contain several large trees such as California bay (*Umbellularia californica*) and coast redwood. Larger trees often provide complex habitat structure that is utilized by wildlife species such as fisher (*Pekania pennanti*); a

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Species of Special Concern [SSC]), Townsend's big-eared bat (*Corynorhinus townsendii*; SSC), and other species. CDFW recommends retention of trees (particularly ones with hollows or cavities) greater than 36-inches in diameter (**Recommendation 8**).

Wildlife Conflict Avoidance

California is home to the most natural diversity of any state and our human population here is expected to grow to 50 million by 2050. Most human-wildlife interactions do not escalate to conflict, but measures can be taken to avoid the potential for conflict. On August 05, 2021, CDFW staff observed several locations where it appears black bears (*Ursus americanus*) or other animals have dragged trash bags into the forest from an existing residence on the Project parcels. Bears acclimated to human contact and food can become “problem bears,” which can become dangerous to humans and are often destroyed.

CDFW recommends a condition of approval that household trash and other potential wildlife attractants are adequately contained and disposed of (**Recommendation 9**). More information and suggestions on this topic can be found at CDFW’s Human-Wildlife Conflicts Program (<https://wildlife.ca.gov/Conservation/Laboratories/Wildlife-Health/HWC-Program>) and Keep Me Wild (<https://wildlife.ca.gov/Keep-Me-Wild>) websites.

Summary of Recommendations

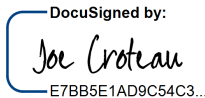
1. A new CEQA document should be recirculated after revisions are included based on site specific data and findings that analyze all potentially significant environmental impacts based on the whole of the Project.
2. The CEQA document should provide a wetland delineation prepared by a qualified wetland scientist that satisfies the requirements of the 1987 Army Corps of Engineers Wetland Delineation Manual and the associated Western Mountains, Valleys, and Coast Regional Supplement.
3. Perennial wetlands should receive 100-ft development setbacks and seasonal wetlands 50-ft setbacks.
4. The CEQA document should provide botanical survey results in accordance with the *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities*. The project should consult with CDFW prior to recirculation of the CEQA document if impacts cannot be avoided.
5. Existing or proposed surface water diversion(s) shall submit a Lake and Streambed Alteration Notification to CDFW.
6. The Lead Agency should ensure proposed wells are sited and constructed to avoid dewatering of wetland habitat.
7. Vegetation removal associated with Project development should occur outside the bird nesting season (generally March 15 – August 15 for most species).

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8. The project should retain trees greater than 36-inches in diameter, particularly trees with hollows or cavities.
9. Household trash other potential wildlife attractants should be adequately contained and disposed of.

We appreciate the opportunity to comment on this ND. If you have any questions or concerns, please contact Environmental Scientist Greg O'Connell by email at gregory.oconnell@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Citations

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- FGDC. (2013). Classification of wetlands and deepwater habitats of the United States. FGDC-STD-004-2013. Second Edition. Wetlands Subcommittee, Federal Geographic Data Committee and U.S. Fish and Wildlife Service, Washington, DC. Accessed August 13, 2021, at <https://www.fws.gov/wetlands/documents/Classification-of-Wetlands-and-Deepwater-Habitats-of-the-United-States-2013.pdf>.
- USFWS. (2021). National Wetland Inventory, Data Limitations. Bailey's Crossroads, VA. Accessed August 13, 2021, at <https://www.fws.gov/wetlands/index.html>.