



State of California – Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
 Northern Region
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 Redding, CA 96001
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Governor's Office of Planning & Research

May 19, 2023

May 22 2023

Juliana Lucchesi, Planning Director
 City of Yreka
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STATE CLEARING HOUSE

SUBJECT: REVIEW OF YREKA TRAVEL CENTER AND HOTEL PLANNED UNIT DEVELOPMENT AMENDMENT AND CONDITIONAL USE PERMIT AMENDMENT, STATE CLEARINGHOUSE NUMBER 2022070047, SISKIYOU COUNTY

Dear Juliana Lucchesi:

The California Department of Fish and Wildlife (CDFW) has reviewed the draft Environmental Impact Report (DEIR) dated February 2023 for the above-referenced project (Project). CDFW appreciates this opportunity to comment on the Project, pursuant to the California Environmental Quality Act (CEQA) Guidelines¹.

CDFW's Role

CDFW is California's Trustee Agency for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. [a]). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (Id., § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW may also act as a Responsible Agency under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. Likewise, "take" authorization, as outlined by the applicable Fish and Game code, may be required if the Project as proposed may result in "take", as defined by state law, of any species protected under the California Endangered Species Act (CESA; Fish & G. Code, § 2050 et seq.), or state-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish and G. Code § 1900 et seq.), authorization as provided by the applicable Fish and Game Code will be required.

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

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Project Description

The Project, as described in the DEIR, is as follows:

“Development of the Project would require the approval by the City Council of an amendment to PUD 5-98 and associated Use Permit No. 2883. The Project is proposed to be completed in two phases and includes the following: Phase I - a 12,300 square-foot building consisting of a convenience store, a food hall, and retail shop open 7 days a week, 24 hours a day; a fuel center, with eight dispensers for automobiles and RVs, a separate fuel center with four diesel dispensers for semi-trucks, and a 99-space parking lot; Phase II - a 70-room, three-story hotel, and parking. Section 2.0 of this DEIR contains a detailed description of the Proposed Project.”

Comments and Recommendations

CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (i.e., biological resources). The DEIR has not adequately identified and disclosed the Project’s impacts (i.e., direct, indirect, and cumulative) on biological resources and whether those impacts are reduced to less than significant. Therefore, CDFW offers comments and recommendations to assist the City of Yreka in adequately identifying and/or mitigating the Project’s significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

Special-Status Plants

Although the DEIR has identified species with potential to occur, the City of Yreka has not sufficiently identified and analyzed the possible impacts to California androsace (*Androsace elongata* ssp. *acuta*, California Rare Plant Rank [CRPR] 4.2), Ashland thistle (*Cirsium ciliolatum*, CRPR 2B.1), and Shasta orthocarpus (*Orthocarpus pachystachyus*, CRPR 1B.1), nor the ways in which any related potentially significant effects might be avoided, substantially lessened, or mitigated.

Preconstruction surveys alone may not detect rare plants, especially if surveys are performed in the previous fall or winter. Moreover, many rare plants vary annually depending on the timing, duration, and amount of seasonal rainfall. Because of this variation, preconstruction surveys conducted during years of low rainfall inadequate to germinate the species may result in missed detections. Project construction and activities that proceed after a false-negative preconstruction survey may result in irrevocable damage to a rare plant seed bank. If rare plants are present, the Project may have direct impacts on rare or special status plant species and seed banks. Indirect impacts may occur from habitat modification or loss, which may cause

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population declines or local extirpation of a sensitive or special status plant.

Reliance on future surveys is considered deferred mitigation under CEQA. Public Resources Code section 21061 states that a DEIR needs to provide detailed information about the effect that a proposed project is likely to have on the environment. To analyze if a project may have a significant effect on the environment, the Project-related impacts, including protocol survey results for rare, California Species of Special Concern (SSC), or CESA-listed species that could occur in the Project footprint need to be disclosed. This disclosure is necessary to allow CDFW to comment on alternatives to avoid impacts, as well as to assess the significance of the specific impact relative to the species (e.g., current range, distribution, population trends, and connectivity).

Plants with a CRPR of 1A, 1B, 2A, and 2B are rare throughout their range, endemic to California, and are seriously or moderately threatened in California. All plants constituting CRPR 1A, 1B, 2A, and 2B may meet the criteria for State listing². Impacts to these species or their habitat must be analyzed during preparation of environmental documents relating to CEQA (CEQA Guidelines, § 15380). Some CRPR 3 and 4 species may meet the definitions of CESA. California Native Plant Society's (CNPS) Rare Plant Ranks page includes additional rank definitions. Impacts to special status plants should be analyzed and mitigated below a level of significance.

CDFW recommends the City of Yreka remove the first bullet point of BIO-1 from the final EIR, which would rely on preconstruction surveys to avoid or mitigate potential impacts to rare plants. Instead, CDFW recommends the City of Yreka consider the methods described below prior to finalizing the environmental document and beginning any Project activities.

CDFW strongly recommends the inclusion of a protocol rare plant survey performed by a qualified biologist at the appropriate time of year prior to Project approval. Rare plant surveys should follow the Department's March 20, 2018, Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities, available here:

<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959>.

CDFW recommends providing survey methods and results in the final EIR as updates to the Biological Resources chapter of the final EIR and as an appendix in the form of a survey report. The survey report should provide the following information:

- a) A description and map of the survey area. CDFW recommends the map show surveyor(s) track lines to document that the entire site was covered during field

² California Native Plant Society. 2020. CNPS Rare Plant Ranks. Accessed at: <https://www.cnps.org/rare-plants/cnps-rare-plant-ranks>

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surveys.

b) Field survey conditions that should include name(s) of qualified botanists(s) and brief qualifications, date and time of survey, survey duration, general weather conditions, survey goals, and species searched.

c) If rare plants are detected, provide a map(s) showing the location of individual plants or populations and number of plants or density of plants per square foot occurring at each location. Use appropriate symbology, text boxes, and other map elements to show and distinguish between species found, and which plants/populations will be avoided versus impacted by Project construction and activities that would require mitigation.

d) A description of physical (e.g., soil, moisture, slope) and biological (e.g., plant composition) conditions where each rare plant or population is found. A sufficient description of biological conditions, primarily impacted habitat, should include native plant composition (e.g., density, cover, and abundance) within impacted habitat (e.g., species list separated by vegetation class, density, cover, and abundance of each species).

e) If rare plants are detected, the report/final environmental document should provide species-specific measures to fully avoid impacts to rare plants (see Mitigation Measure #1 and #2 below). Avoidance measures should be effective, specific, enforceable, and feasible actions. For unavoidable Project impacts, provide species specific measures to mitigate impacts to rare plants and habitat.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: Consistent with the DEIR's Mitigation Measure BIO-1, if CRPR 1, 2, 3, or 4 and/or CESA- or ESA-listed plants are detected, the final environmental document should provide species-specific measures to fully avoid impacts to those plants, as mentioned above. Avoidance measures should be effective, specific, enforceable, and feasible actions. At a minimum, CDFW recommends the City coordinate with a qualified biologist or botanist to establish robust and enforceable protected areas or exclusion zones. An adequate protected area should be established around rare plants and habitats. The perimeter of all protected areas should be adequately demarcated with temporary fencing. Project construction and activities, equipment and material staging, vegetation clearing, equipment refueling, and worker entry should be avoided in the protected area. Fencing should be installed in a manner that is not harmful to wildlife. Fences should not have any slack that may cause wildlife entanglement. Fencing materials that are not recommended include, but are not limited to, spikes, glass, razor, or barbed wire. Signage should be posted near the fencing to inform workers of the sensitivity of the protected areas. The City of Yreka should be responsible for ensuring all perimeter controls are in place prior to

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commencing any construction, including all equipment staging and import of material. The protection measures should be in place at the end of each working day and maintained for the duration of the Project.

Mitigation Measure #2: Similar to the DEIR's Mitigation Measure BIO-1, if CRPR 1, 2, 3, or 4 and/or CESA- or ESA-listed plants are detected, and the Project cannot feasibly avoid impacting those plants, regardless of the level of impact, CDFW recommends that the City of Yreka notify CDFW. For impacts to CESA-listed, ESA-listed, CRPR 1, or CRPR 2 plant species, the City of Yreka should prepare a species-specific mitigation plan. A mitigation plan should be fully developed and executed prior to finalizing the environmental document and prior to any Project construction and activities. The City of Yreka should develop a plan in consultation with CDFW.

Bumble Bees

On September 30, 2022, the candidacy of four California bumble bee species was reinstated under CESA. As such, the Crotch's (*Bombus crotchii*), Franklin's (*Bombus franklini*), Suckley's cuckoo (*Bombus suckleyi*), and western (*Bombus occidentalis occidentalis*) bumble bee species receive the same legal protection afforded to an endangered or threatened species (Fish & G. Code, §§ 2074.2 & 2085). It is illegal to import, export, take (hunt, pursue, catch, capture, or kill, or attempt engage in any of these activities), possess, purchase, or sell CESA-listed species, or any part or product thereof (Fish & G. Code, §§ 86, 2080, 2085). All four species were once common throughout most of California. However, research and analysis by the Xerces Society³ suggests there have been sharp declines in their relative abundance within California.

The Project area may contain potentially suitable habitat for CESA-listed bumble bees and ground disturbance associated with Project implementation may have the potential to significantly impact local bumble bee populations. CDFW recommends a bumble bee habitat assessment be conducted by a qualified biologist and an analysis of potential impacts to bumble bees be included in the final EIR.

Without appropriate avoidance and minimization measures, potentially significant impacts associated with Project ground- and vegetation-disturbing activities include loss of foraging plants, changes in foraging behavior, burrow collapse, nest abandonment, reduced nest success, reduced health and vigor of eggs, young, and/or queens, in addition to direct mortality. CDFW recommends the final EIR analysis include analysis of all potentially suitable habitat including small mammal burrows and thatched/bunch grasses be avoided by a minimum of 50 feet to avoid take and potentially significant impacts. If potentially suitable habitat is identified, and ground disturbing activities occur during the overwintering periods, consultation with CDFW is

³ Xerces Society for Invertebrate Conservation, Defenders of Wildlife, and Center for Food Safety. 2018. A petition to the state of California fish and game commission to list the Crotch bumble bee (*Bombus crotchii*), Franklin's bumble bee (*Bombus franklini*), Suckley cuckoo bumble bee (*Bombus suckleyi*), and western bumblebee (*Bombus occidentalis occidentalis*) as Endangered under the California Endangered Species Act.

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warranted to discuss how to implement Project activities and avoid take. Any detection of CESA-listed bumble bees prior to or during Project implementation warrants consultation with CDFW to discuss how to avoid take.

Additionally, CDFW believes this Project is suitable for the incorporation of native vegetation landscaping that promotes California's native pollinators. CDFW encourages revegetation efforts to use locally occurring native trees, shrubs, and flowering plants to benefit native wildlife, and specifically, California's insect pollinators. CDFW strongly encourages the incorporation of native flowering species over non-native species.

Benefits of utilizing native vegetation in landscaping are numerous and include providing vital resources for native wildlife, conserving water, reduction of pesticide use, and reduction in landscaping maintenance. The CNPS website (<https://www.cnps.org>) includes a variety of useful information and tools to help determine which native species occur in a particular area, information on care and maintenance of native species, and contacts for purchasing native plants or seeds. The CNPS tool Calscape (<https://calscape.org/>) generates a list of native plants that grow in an area based on a specific address, and can be used to develop a planting palette for landscaping plans. For more information regarding the importance of using native species in landscaping, please see the CNPS Guidelines for Landscaping to Protect Native Vegetation from Genetic Degradation at: <https://www.cnps.org/wpcontent/uploads/2018/04/landscaping.pdf>.

We appreciate your time to review CDFW's comments on the final EIR. CDFW requests an opportunity to review and comment on any response that the City has to our comments and to receive notification of any forthcoming hearing date(s) for the Project (CEQA Guidelines, § 15073[e]). If you have any questions, please contact Erika Iacona, Environmental Scientist, by email at R1CEQARedding@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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