



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



December 1, 2022

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Lakeport, CA, 95453  
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Subject: J-LODGE- INITIAL STUDY/ MITIGATED NEGATIVE DECLARATION  
(IS/MND)  
SCH# 2022100669

Dear Ms. Hall:

The California Department of Fish and Wildlife (CDFW) received and reviewed the Initial Study/Mitigated Negative Declaration (IS/MND) from Lake County for the J-Lodge Project (project) in the county of Lake pursuant the California Environmental Quality Act (CEQA) statute and guidelines.<sup>1</sup>

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the project that may affect California fish, wildlife, plants and their habitats. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the project that CDFW, by law, may need to exercise its own regulatory authority under the Fish and Game Code (Fish & G. Code).

## **CDFW 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 provides, 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.

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<sup>1</sup> 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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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. As proposed, for example, the project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of 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.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

### **PROJECT DESCRIPTION SUMMARY**

The project site is located at 12395 Highway 175, Middletown, CA, in the county of Lake.

The project consists of the construction of a 2100 square foot lodge for community gatherings and special events, two dwellings for use as overnight lodging and a parking lot with 18 regular spaces and two Americans with Disabilities Act spaces.

### **COMMENTS AND RECOMMENDATIONS**

CDFW offers the comments and recommendations presented below to assist the Lake County Planning Department in adequately identifying and/or mitigating the project's significant, or potentially significant, impacts on biological resources. The comments and recommendations are also offered to enable CDFW to adequately review and comment on the proposed project with respect to impacts on biological resources. CDFW recommends that the IS/MND address the following:

#### **Comment 1: Sensitive and Listed Plant Populations**

As identified in the Biological Resource Study prepared to support the IS/MND, California Natural Diversity Database (CNDDDB) records indicate the potential presence of two California and federal endangered plant species within the project site: Loch Lomond button-celery (LLBC) (*Eryngium constancei*) and Many-flowered navarretia (MN) (*Navarretia leucocephala ssp. plieanthaless*). Occurrences of both species are located less than 1 mile from the project site, on the Loch Lomond Vernal Pool Ecological Reserve (Ecological Reserve) and are likely to be present at the project site as well, both as a living plant during the growing season and as living seeds in the soil during the dormant season.

CNDDDB records indicate that additional sensitive plants species may also be present within the project site, however, no plant surveys were conducted. Nor does the IS/MND include any specific avoidance, minimization or mitigation measures to reduce project impacts to a less-than-significant level if occurrences are found.

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CDFW recommends that plant surveys are completed during the appropriate season to more accurately identify all plants occurring on the project site. To establish a full botanical inventory, multiple visits throughout the year and multiple years of surveys may be necessary. CDFW recommends plant surveys are conducted following the *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (CDFW, March 2018).

The IS/MND should also include an impact analysis and propose adequate avoidance, minimization, and/or mitigation measures to reduce impacts to a less than significant level. If the IS/MND determines that implementation of the project as proposed will result in take of LLBC or MN, CDFW recommends an Incidental Take Permit (ITP) is obtained prior starting construction activities.

**Comment 2: Western Bumble Bee (*Bombus occidentalis*)**

Western Bumble Bee (WBB) is currently a candidate species under the CESA. As candidate species, they receive the same legal protections afforded to endangered or threatened species. Based on review of the project site and aerial photography, the site contains potential habitat for WBB. The IS/MND and its supporting documentation does not include any discussion about this species. The IS/MND should include an analysis of the potential presence of this species within the project site and any potential significant impacts from the proposed project. Without appropriate avoidance and minimization measures for WBB and its habitat, project-related activities involving ground and vegetation-disturbance could result in significant impacts, including loss of foraging resources, changes in foraging behavior, burrow collapse, nest abandonment, reduced nest success, reduced health and vigor of eggs, young and/or queens, and direct mortality.

CDFW recommends WBB specific surveys are conducted to determine if this species is present within the project site. If present, the IS/MND should analyze the potential significant impacts and propose additional avoidance, minimizations and mitigation measures to reduce impacts to a less-than-significant level. Measures may include but are not limited to: avoidance of nesting sites, timing of grading, or planting of pollinator plant species. If during surveys, it is determined that the proposed project will result in take, CDFW recommends an ITP is obtained before starting construction activities.

**Comment 3: Bat Surveys**

CDFW recommends the IS/MND and its supporting documentation fully analyze potential adverse impacts to native wildlife nursery sites, including but not limited to bat maternity roosts. Based on review of the project site and aerial photography, and observation of the site from public roadways, the project site contains potential nursery site habitat for structure and tree roosting bats and is near potential foraging habitat. Bats are considered non-game mammals and are afforded protection by state law from take and/or harassment, (Fish & G. Code, § 4150; Cal. Code of Regs, § 251.1). CDFW recommends that the IS/MND fully identifies the project's potential impacts to native

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wildlife nursery sites, and include appropriate avoidance, minimization and mitigation measures to reduce impacts or mitigate any potential significant impacts to bat nursery sites. Measures may include but are not limited to pre-construction surveys for special status bats and exclusion plans developed by a qualified biologist. Additionally, any removal of trees should only occur after a qualified biologist confirms day roosting bats are not present and between September 1 and October 15 of each calendar year. Tree removal should be phased; where selected limbs and branches not containing cavities are removed using chainsaws on the first day, with the remainder of the tree is removed using chainsaws or other equipment the second day. Trees and structures supporting day roosting bats should not be removed until surveyed by a qualified biologist and confirmation is given that project activities will not impact roosting bats. Roost removal and the installation of exclusion devices should not be performed between October 15-March 1 or April 1-August 31 as these are critical life stages.

**Comment 4: Northern Spotted Owl (*Strix occidentalis caurina*)**

Northern Spotted Owl (NSO), a California and federally listed threatened species, has been identified near the project site. The IS/MND and its supporting documentation identifies NSO in the Whispering Pines quadrangle but does not include it as one of the listed species with potential to occur within the project site. The IS/MND does not establish if potential NSO habitat is present within the project site or its immediate vicinity. CDFW recommends conducting NSO surveys to determine if the species is present within the project site. If NSO is determined to be present within the project site or its immediate vicinity, the IS/MND should analyze the potential project impacts to NSO and include appropriate avoidance, minimization, and/or mitigation measures to reduce impacts to a less-than-significant level. Measures may include but are not limited to pre-construction surveys, and buffer zones during the critical period of February 1 through August 31. If it is determined that take of NSO cannot be avoided, CDFW recommends an ITP is obtained before starting any construction activities.

**Comment 5: Hydrological Study and Water Quality**

The proposed project is located next to a large vernal pool system within the Ecological Reserve. Also note, that the vernal pool appears visually to extend outside of the wooden post fence and onto the project site. (CDFW Staff personal communications, Google Earth March 17, 2016 imagery). The IS/MND reports there are no potential hydrological impacts that would occur as a result of this project, however it does not include any site-specific hydrological studies to support this determination. Hard-scaping and development could reduce the filtering function of the project site and introduce chemicals and groundwater that is deleterious to the sensitive plant species in the vernal pool. CDFW recommends a hydrological study conducted to analyze any potential impacts to the local hydrology and the sensitive resources that are present near the project site. The study should be conducted by a California licensed hydrologic engineer and assess project-related hydrologic changes to adjacent occupied listed species habitat. The study should include development of accurate rainfall runoff models that compare existing (i.e., pre-construction) hydrologic conditions in the

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adjacent vernal pool and drainage in the project footprint with future conditions once the project is completed. The study should include the project site, which encapsulates all proposed construction activities, and a 250-foot buffer around the project site. The study should utilize existing detailed topography for existing conditions, construction-level grading, and final design plans for the future conditions. The grading and design plans should include detailed graded topography, final stormwater plans, BMPs, and pervious and impervious landscaped features. The study shall address and discuss hydrological changes to the small drainage channel and adjacent vernal pool within the project site taking into consideration any features that are occupied by LLBC and MN. If new previously undisclosed impacts are discovered in the hydrological study, Lake County should assess any needed project changes and implementation of appropriate avoidance, minimization, and or mitigation measures to reduce project impacts to a less-than-significant level.

### **Comment 6: Impacts to streams and vernal pools**

No maps or biological data is included in the IS/MND or its supporting documentation to analyze potential impacts to water features and its associated habitats. Supporting documentation includes a brief note that an ephemeral stream may be present within the project site, but no impact analysis or habitat impact map were prepared to analyze the project impacts to these features. The IS/MND should disclose all the potential project impacts to water features including ephemeral and intermittent streams and vernal pools. All potential temporary, permanent, direct, indirect and/or cumulative impacts to the above-mentioned features and associated biological resources and habitats caused by the construction of the project should be included in the IS/MND, as well as appropriate avoidance, minimization, and or mitigation measures that will reduce impacts to a less-than-significant level.

### **ENVIRONMENTAL DATA**

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database, which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be submitted online or mailed electronically to CNDDDB at the following email address: [CNDDDB@wildlife.ca.gov](mailto:CNDDDB@wildlife.ca.gov).

### **FILING FEES**

The project, as proposed, would have an effect on fish and wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be

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operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code § 711.4; Pub. Resources Code, § 21089.)

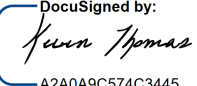
## CONCLUSION

Pursuant to Public Resources Code sections 21092 and 21092.2, CDFW requests written notification of proposed actions and pending decisions regarding the Project. Written notifications shall be directed to: California Department of Fish and Wildlife North Central Region, 1701 Nimbus Road, Rancho Cordova, CA 95670.

CDFW appreciates the opportunity to comment on the IS/MND for the J-Lodge Project and recommends that the Lake County Planning Department address CDFW's comments and concerns. CDFW personnel are available for consultation regarding biological resources and strategies to minimize impacts.

If you have any questions regarding the comments provided in this letter, or wish to schedule a meeting and/or site visit, please contact Benjamin Huffer, Environmental Scientist at (916) 216-6253 or [benjamin.huffer@wildlife.ca.gov](mailto:benjamin.huffer@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
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Kevin Thomas  
Regional Manager  
North Central Region

ec: Tanya Sheya, Environmental Program Manager  
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Office of Planning and Research, State Clearinghouse, Sacramento

### Literature Cited

Sawyer, J. O., T. Keeler-Wolf, and J. M. Evens. 2009. A Manual of California Vegetation, 2<sup>nd</sup> ed. California Native Plant Society Press, Sacramento, California.  
<http://vegetation.cnps.org/>