State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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September 19, 2019

Rachel Jereb
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Community Development - Planning
806 South Main Street
Yreka, CA 96097

Subject: Review of the Draft Environmental Impact Report for the Kidder Creek Orchard Camp Project, State Clearinghouse Number 2016092016, Siskiyou County, California

Dear Ms. Jereb:

The California Department of Fish and Wildlife (Department) has reviewed the Draft Environmental Impact Report (DEIR) for the Kidder Creek Orchard Camp project (Project), dated August 2019. 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 section 21000 et seq.

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 necessary for biologically sustainable populations of those species (Fish & G. Code § 1801 and 1802). As the Trustee Agency for fish and wildlife resources, the Department provides requisite biological expertise to review and comment upon CEQA documents and makes recommendations regarding those resources held in trust for the people of California.

The Department may also assume the role of Responsible Agency. A Responsible Agency is an agency other than the Lead Agency that has a legal responsibility for carrying out or approving a project. A Responsible Agency actively participates in the Lead Agency's CEQA process, reviews the Lead Agency's CEQA document and uses that document when making a decision on a project. The Responsible Agency must rely on the Lead Agency's CEQA document to prepare and issue its own findings regarding a project (CEQA Guidelines, sections 15096 and 15381). The Department most often becomes a Responsible Agency when a Lake or Streambed Alteration (LSA) Agreement (Fish & G. Code § 1600 et. seq.) or a California Endangered Species Act (CESA) Incidental Take Permit (Fish & G. Code § 2081(b)) is needed for a project. The Department relies on the CEQA document prepared by the Lead Agency to make a finding and decide whether to issue the

permit or agreement. It is important that the Lead Agency's Environmental Impact Report (EIR) considers the Department's Responsible Agency requirements. For example, CEQA requires the Department to include additional feasible alternatives or feasible mitigation measures within its powers that would substantially lessen or avoid any significant effect a project would have on the environment (CEQA Guidelines, § 15096 (g) (2)). Under certain conditions, the Department may be required to assume the role of the Lead Agency (see CEQA Guidelines, § 15052) during the course of issuing a permit or agreement.

Project Description and Location

The Proposed Project includes a request to expand the use of the Kidder Creek Orchard Camp, which requires a new use permit (UP-11-15). The use permit application requests approval to increase the allowable occupancy at the camp from 165 guests (310 including staff and volunteers) to a total occupancy of 844 (guests, staff, and volunteers), increase the physical size of the camp from 333 acres to 580 acres, and add a number of structures and recreation features. The proposed expansion is expected to occur over a twenty-year period.

The Project includes four major facilities to be constructed including the following:

- Welcome Center and Dining – this building would create new office space, dining hall, and restroom.
- Equestrian Center – existing equestrian area will move to a new location with expanded facilities.
- Cabins for Pines/Ranch Camp – these are new winterized buildings.
- Staff housing/ Adult Retreat Centers – these are new winterized buildings.

Additional proposed facilities and ancillary structures include:

- New seven-acre large pond and recreation area.
- Additional RV areas, Base Camps, and High Adventure Camps.
- Expansion of the existing small pond and recreation area to include a new snack shack, restroom, and recreation area.
- Perimeter road designed to allow all traffic to be on the perimeter of camp activities, separating pedestrian and vehicle traffic.
- Worship Pavilion.
- Recreational areas, picnic area/park, and greenbelt.
- New Maintenance Facility to include a maintenance shop with equipment and storage facilities.
- Amphitheaters.
- Relocated Sawmill/Storage Area.
- Enlargement of existing and addition of a second water storage tank.

The Project also includes a request for a zone change (Z-14-01) to rezone approximately 170 acres from Timber Production Zone (TPZ) to Rural Residential Agricultural, 40-acre minimum parcel size (R-R-B-40).

The Project site is located at the west end of South Kidder Creek Road, approximately 2 miles west of State Highway 3, south of the community of Greenview, in Siskiyou County.

Consultation History

The Department provided comments during early consultation and during the circulation of the Draft Initial Study/Mitigated Negative Declaration (IS/MND) and Notice of Preparation in letters dated August 29, 2014; October 5, 2016; and September 25, 2018; respectively. Additionally, Department staff visited the Project site on February 9, 2015; March 24, 2015; May 23, 2018; and August 2, 2018. The Department has also reviewed and commented on the biological surveys conducted for this Project and the placement of proposed facilities.

Comments and Recommendations

The DEIR analyzes impacts to specific impact areas including agriculture, hazards, noise, traffic, and water. All other impact analysis areas defined in Appendix G of the CEQA Guidelines were analyzed in the Draft IS/MND and all previously identified mitigation measures are incorporated as mitigation in the DEIR and Mitigation Monitoring and Reporting Program.

Comments provided by the Department on the previously circulated IS/MND, including comments pertaining specifically to mitigation measures proposed for biological resources, were ***not*** taken into consideration in the development of the DEIR. The Department reiterates and expands upon those comments here and provides additional comments pertaining to biological resources.

Coho Salmon

The federal Endangered Species Act and CESA threatened southern Oregon northern California Coast (SONCC) Coho Salmon (*Oncorhynchus kisutch*) have been documented in Kidder Creek in the Project vicinity. The SONCC Coho Salmon is one of three salmonids found in the Kidder Creek; all having similar habitat needs within the greater Scott River watershed and all diminishing in population numbers. The Final SONCC Coho Recovery Plan in 2014 describes the Scott River population as a functionally independent population with a moderate extinction risk. It further describes the key limiting stresses are "*altered hydrologic function*" and "*degraded riparian forest conditions*." The highest priority recovery actions include but are not limited to: "*restoring natural channel form and function; increase instream flows; improve irrigation practices; and construct off-channel-ponds, alcoves, backwater habitat, and old stream oxbows*." Project activities requiring increased water usage (i.e., the creation of

additional wells and water storage) and development within the Kidder Creek floodplain may impact water volume and temperature in Kidder Creek, which would cause significant impacts to SONCC Coho Salmon, especially during drought years. The Department recommends an analysis of impacts of the proposed Project on listed salmonid species.

New Pond

The Department understands that engineering has not been completed on the currently proposed seven acre-pond design and that engineering designs will be completed upon Project approval. However, it is known that the pond will have an average depth of six feet, impound approximately 36 acre-feet of water, require the construction of a new canal to supply water to the pond and return water to the Barker Ditch, and hold water for a maximum of 30 days. Multiple considerations should go into the design including: ensuring measures are in place to decrease the likelihood of invasive bullfrog habitation; ensuring the pond is situated well outside of the 100-year flood zone and the 150-foot riparian no-disturbance buffer that was discussed during the February 9, 2015 site visit; and including measures in the design to prevent the trapping of native fish and ensure increased water temperatures from holding water in the pond do not reach Kidder Creek and impact SONCC Coho Salmon. The Department recommends further consultation during the design process.

Consistent with our previous letters, the Department recommends consultation with the State Water Resources Control Board (SWRCB) regarding water rights that are proposed to fill the new pond. The SWRCB Division of Water Rights may require permits or an amendment of the existing decree to allow for the proposed use of upstream water to fill the new pond. The Department requests to be copied on water right applications for new permits and amendments as well as final authorizations.

Kidder Creek Floodplain

The updated Project description for Kidder Creek Orchard Camps, Inc., dated October 24, 2016, states that the new seven-acre pond is within the floodplain of Kidder Creek and that the pond will be engineered to return any flood water back to Kidder Creek. However, the DEIR states that the Project site is outside of a designated floodplain. These conflicting statements make it difficult to fully analyze potential impacts of the Project on sensitive resources within Kidder Creek.

Floodplains are an important physical and biological part of riverine ecosystems. All rivers flood, and flooding is a natural and recurring event in natural river systems such as Kidder Creek. The Department strongly supports the conservation and restoration of floodplain habitats. The Department is especially concerned with maintaining, if not enhancing, the floodplain and riparian habitat along Kidder Creek because of the significant biological values Kidder Creek has for numerous fish species, including State and federally listed species.

Riverine floodplains provide many ecological services, including:

- Trees and vegetation that anchor riverbanks, preventing bank erosion.
- Sustaining commercial fisheries and listed anadromous salmonid populations by providing river habitat such as shade, over-hanging banks, habitat complexity, large woody debris, insect and foliage drop contributing to the aquatic food chain, and high-flow refugia for fish during flood events.
- Vitally important habitat to numerous riparian-dependent wildlife species, such as reptiles, amphibians, bats, and migratory song birds.
- Natural filters absorbing nutrients and other pollutants from water, maintaining and improving water quality for supporting fish and wildlife species, as well as drinking and recreational activities.

Development in flood-prone areas disconnects rivers from their natural floodplains and displaces, fragments, and degrades important riparian habitat. Development in floodplains often eliminates benefits of natural flooding regimes such as deposition of river silts on valley floor soils and recharging wetlands. In addition, braided channel structure, off-channel fish habitat, and backwaters are eliminated, resulting in higher velocity flows. These changes lower habitat suitability for salmon, which need low-flow refugia to escape flood flows. Kidder Creek was identified in the Final SONCC Coho Recovery Plan, and the State of California Recovery Strategy for California Coho Salmon (2004), as having importance for the recovery of the population due to the low gradient reaches providing refugia and spawning and rearing habitat.

Structures in floodplains are vulnerable to erosion and flood damage. Once structures are built and threatened by river flooding, property owners often seek to armor riverbanks or build or raise levees to prevent future property damage. Thus, not only does development displace riparian and floodplain habitat when it is built, it also often results in further riparian habitat and floodplain loss through rock armoring and levee construction.

Floodplains also provide vital water storage capacity during flood events. Development in floodplains and levees cuts off floodplains or displaces floodplain volume and flood storage capacity, often resulting in higher flood stages and more or greater flooding downstream. Flood-damaged properties also have a high potential to result in contaminant releases into river systems.

The Department recommends that local agencies permit only vital public infrastructure in floodplains. To best protect California's riverine and riparian habitats, the Department believes it is wise to maintain and restore floodplain functions and to prevent, whenever practicable, development in areas that are not already protected by existing levee systems.

Allowing development and habitat conversion in floodplains results in degradation of riverine and riparian habitats and negatively impacts the fish and wildlife species that depend on them. The Department believes this Project, if the new pond is developed in

the floodplain, will result in the degradation of both aquatic and riparian habitat of Kidder Creek. For this reason, the Department recommends the Project be redesigned to keep the new pond out of Kidder Creek's 100-year floodplain.

Wetland and Riparian Resources

Mitigation measure MM 4.5 includes the requirement of a Stormwater Pollution Protection Plan (SWPPP) prior to land disturbance activities within 50 feet of a waterway or water body. In addition to this requirement, the Department recommends adding a no-disturbance buffer around all onsite waterways and wetlands to protect these sensitive habitats from potential significant impacts. Because SONCC Coho Salmon, a federally and State-threatened species, reside in Kidder Creek, the Department recommends the placement of a no-disturbance buffer of at least 150 feet from the edge of bank, edge of floodplain, or outer edge of the riparian dripline whichever is greater. During the February 9, 2015, site visit, the Project applicants agreed that 150-foot no-disturbance buffers would be acceptable surrounding all waterways.

The requirement of a SWPPP within 50 feet of wetland habitat may not mitigate potential impacts to wetlands to less than significant. The Department maintains responsibility for wetland and riparian habitats. It is the policy of the Department to strongly discourage development in wetlands or conversion of wetlands to uplands. The Department opposes any development or conversion which would result in a reduction of wetland acreage or wetland habitat values, unless, at a minimum, Project mitigation assures there will be "*no net loss*" of either wetland habitat values or acreage. The EIR should demonstrate that the Project will not result in a net loss of wetland habitat values or acreage. Additionally, requiring an application for a section 404 permit may not reduce impacts to wetlands that extend beyond the jurisdictional limits of the U.S. Army Corps of Engineers as proposed in mitigation measure MM 4.6. Potential future impacts to wetlands should be mitigated at a ratio of no less than 3:1.

Lake or Streambed Alteration Agreement

The updated Project description for Kidder Creek Orchard Camps, Inc., dated October 24, 2016, states that the new seven-acre pond is within the floodplain of Kidder Creek, as discussed above. For any activity that will divert or obstruct the natural flow, or change the bed, channel, or bank (which includes associated riparian resources) of a river or stream, or use material from a streambed, the Department will require an LSA Notification, pursuant to section 1600 et seq. of the Fish and Game Code, from the applicant. Issuance of an LSA Agreement is subject to CEQA. The Department, as a responsible agency under CEQA, will consider the CEQA document for the project. The CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for completion of the agreement. To obtain information about the LSA Notification process, please access our

website at: https://www.wildlife.ca.gov/Conservation/LSA or to request a notification package, contact the Lake and Streambed Alteration Program at (530) 225-2367.

Fisher

The IS/MND recognized potential impacts to the Northern California Evolutionarily Significant Unit of fisher (*Pekania pennanti*), a California Species of Special Concern, and the IS/MND and DEIR include mitigation measure MM 4.2 to reduce impacts to less than significant. This mitigation measure proposes that no vegetation removal or land disturbance activities occur within 50 feet of an active den. As stated previously, the Department recommends increasing this distance to ¼ of a mile around a natal den or 375 feet around a maternal den, consistent with Department of Forestry and Fire Protection recommendations[1].

Due to the status of Species of Special Concern, impacts to or loss of fisher due to direct or indirect effects of this Project would be considered significant by the Department. Species of Special Concern status applies to animals generally not listed under the federal Endangered Species Act or CESA, but which nonetheless are declining at a rate that could result in listing, or historically occurred in low numbers and known threats to their persistence currently exist.

Native Vegetation

Mitigation measures MM 3.1 and 6.1 require revegetation efforts to reduce impacts to air quality and soil erosion. The Department recommends that the vegetation utilized for these measures and for landscaping be native to the local area.

In addition, the Department recommends utilizing vegetation native to the local area in landscaping whenever possible. Benefits of utilizing native vegetation in landscaping include providing resources for native wildlife such as hummingbirds and beneficial pollinators, conserving water, reducing pesticide use, and reducing landscaping maintenance. The California Native Plant Society website (https://www.cnps.org/gardening/why-natives) includes a variety of useful information and tools to help determine native species for a particular area, information on care and maintenance of native species, and contacts for purchasing native plants or seeds. 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/wp-content/uploads/2018/04/landscaping.pdf.

[1] Take Avoidance and CEQA Considerations for Plan Submitters within the Current Historic Range of Pacific Fisher, Department of Forestry and Fire Protection, March 8, 2013.

Dust Suppression Agent

Mitigation measure MM 3.1 includes the spraying of a dust suppression agent on haul roads as a dust control measure. Because Kidder Creek supports the federally and State-threatened SONCC Coho Salmon, the Department recommends against spraying dust suppression agents in any location where transmission to a waterway could occur. Many dust suppression agents are toxic to fish and wildlife and have adverse effects on the environment. If dust suppression agents will be utilized, impacts to fish, wildlife, and plant communities should be addressed and measures proposed to reduce impacts to less than significant.

Environmental Data

CEQA requires that information developed in EIRs and negative declarations be incorporated into a database that 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 (CNDDB). The CNNDB field survey form can be found at the following link: https://www.wildlife.ca.gov/data/cnddb/submitting-data. The completed form can be mailed electronically to CNDDB at the following e-mail address: CNDDB@wildlife.ca.gov.

Previous biological surveys on the Kidder Creek Orchard Camp property have detected special status-species, including Shasta chaenactis (*Chaenactis suffrutescens*), fisher, and an active osprey (*Pandion haliaetus*) nest. Please ensure that these detections are submitted to the CNDDB. Please also submit these detections to the Department's Northern Region office, Attn: CEQA Program, with copies of the CNDDB forms and survey maps.

The Department appreciates the opportunity to comment on this DEIR to assist the Lead Agency in identifying and mitigating potentially significant impacts of the Project on biological resources. If you have any questions, please contact Kristin Hubbard, Environmental Scientist, at (530) 225-2138, or by e-mail at Kristin.Hubbard@wildlife.ca.gov.

Sincerely,

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