

May 20, 2025

RE: Poverty Flats Major Use Permit UP 23-09

Dear County of Lake Planning Commissioners,

Thank you for considering my comments.

I firmly believe it is in the best interest of the County of Lake to pause all cannabis permitting until the Cannabis Ordinance is presented and accepted.

Please deny the permit for this project as presented. In developing comments for the Poverty Flats project, examining all documents was confusing as they contradicted each other with so many deficiencies in the submission.

- A 2025 Biological Survey should be completed to accurately document the flora, fauna and wetlands on the parcels.
- A wetland delineation should be made for the parcels. The National Wetland database clearly defines the wetlands.

Graening & Associates report states: “No wetlands, wet areas, springs, vernal pools, ponds, or other water bodies are present onsite.” This is not true. This is in the Schindler Creek Watershed and is very important to Clear Lake. Within the Schindler Creek Watershed there are 9 sub watersheds and there are wetlands on the parcel.

It should be noted that there were three companies reports presented over the years for the Poverty Flat project: Northpoint, Natural Investigations and Graening & Associates.

Graening & Associated LLC was not filed until 8/14/2022 so at the time the first field study was done it could not have been done by Graening & Associates as a reviewer might be led to believe.

Consulting biologist, Tim Nosal’s fall 2020 and spring 2024 lists were not detailed so it is hard to determine what species were seen during which field study. The document wording is “inventory was detected and words “and/or” seen during both field studies. This should not be accepted and the actual observations presented.

The Northpoint Consulting Group document of 2023 is not referenced in the current documents presented.

In NorthPoint’s Biological Resources Assessment it mentions: Several Class III (ephemeral) drainages are present onsite, all which are tributary to Schindler Creek, within the High Valley Basin (watershed HUC12-180201160308). The Project area generally drains to the southeast into High Valley, eventually flowing to Clear Lake. The parcel contains one (1)

stream crossing – which is not mentioned anywhere in the Graening nor Natural Investigations reports.

NorthPoint's report mentions "Only the Southwestern cultivation garden will be accessed over a previously established 18" pipe culvert high-density polyethylene". This is not mentioned in the Graening nor Natural Investigations reports.

Initial Studies Biological Reports has errors.

Whereas we appreciate the more recent field studies date being included (the first report was done in 2020, a drought year and the second last year) the Graening report doesn't properly address the extensive wetlands on APN: 006-004-22 which is in the Schindler Watershed.

Schindler Watershed and its importance was not mentioned in Graening's documents. Please note historically hitch had spawned upstream ten miles and this was in High Valley by Fish and Wildlife.

Natural Investigations Co. conducted a Biological Resources Regulatory Constraints Analysis, a reconnaissance-level field survey, and the result was nine (9) ephemeral Class III channels were cited but the next sentence was "No wetlands were detected"

How Wetlands are Defined and Identified under Clean Water Act Section 404. "Wetlands are areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, ephemerals, and similar areas." - Definition of wetlands as used by the U.S. Army Corps of Engineers (Corps) and the U.S. Environmental Protection Agency (EPA) since the 1970s for regulatory purposes.

The Graening & Associates "Recommended Mitigation Measures" were: No impacts were identified, and therefore no mitigation measures are proposed. It is recommended that a formal delineation of jurisdictional waters be performed before construction work, or ground disturbance, is performed within 50 feet of any wetland or channel. Aquatic permits are required to alter or disturb any wetland or channel."

Environmental Setting descriptions differ between reports. Graening's states 2018 the Ranch Fire burned a significant portion of the Property. But the Draft IS/ Mitigated Neg. Declaration states "Within the SRA, the Project is designated as a Very High Fire Hazard Severity Zone. The property was fully engulfed by the Ranch Fire in 2018, and a significant amount of onsite vegetation burned." In Northpoint's document the Fire Severity Zone was "moderate risk, very high risk."

The County's Draft IS stated High Valley Road is an existing County-maintained Road, comprised of gravel and natural material. The driveway measures 16 feet in width with an existing 15-foot-wide gate, per Google Earth (2024). The well-established onsite road network is comprised of natural material and gravel. This is incorrect: High Valley Road is dirt and gets graded every couple of years – not gravel.

“Per discussions with the Lake County Environmental Health Division, the onsite system will need to be repaired or decommissioned and reconstructed in order to be used again for domestic or cannabis activities.” This is omitted in the Graening report.

The current documents do not include the Site Management Plan and Nitrogen Management Plans, which must be submitted to the SWRCB before starting cultivation activities.

The County document Attachment 3 April 25, 2025, stated “The site is 196.7 acres and is **approximately 3.8 miles northwest of Clearlake Oaks** (Figure 1).” This is incorrect.

The County document also states the missing information regarding approx. 7,450 cubic yards of earth disturbance as well as sufficient details about the road culvert used to access one of the gardens. This is not mentioned in the Graening submission.

Google Earth shows the grading done in 2021 on the historic timeline.

The Complex grading permit GR 25-01 was redlined out on the county's revised Jan 6, 2025, document and not mentioned in the Graening report.

Another contradiction was found: “Therefore, Project implementation would not directly impact any channels or wetlands. Soil disturbance from Project implementation could potentially increase erosion and sedimentation and indirectly impact the wetland.” They had reported there were no wetlands.

Also, it is especially important to note is 4.3.2. Listed Species or Special-status Species Observed During Field Survey: rareplantfiles.cnps.scc/leptosiphonAcicularis Life History: *Leptosiphon acicularis* is an annual that blooms from May through July (CNPS 2018). A recent field study would have provided clarity on whether the Bristly *Leptosiphon* bloomed this year.

“During the field survey, no listed species were detected within the Project Areas or the surrounding Property. During the field survey, no special-status species was observed within the Project Areas, but one special-status plant was detected within the surrounding Property: bristly *Leptosiphon* (*Leptosiphon acicularis*). The location is about 100 feet away from the western-most cultivation area, and across a dirt road from the cultivation area “ .Yet on the map the plant location appears to be on the owners' parcels.

Reviewing all documents is essential to accurately understand the facts. The purpose of doing an updated biological study report is the collection of new data and we do not feel the materials presented reflect this.

Please deny this project as presented.

Sincerely,

Donna Mackiewicz