

Comment from Donna Mackiewicz for PL – 25- 198 Poverty Flats

Honorable Chair and Members of the Board,

Thank you for the opportunity to speak today.

The Mitigated Negative Declaration cannot be legally adopted because the CEQA baseline is incomplete, the surveys are insufficient, and key biological and hydrologic impacts remain unrecognized and unstudied. I would like to briefly explain why.

First, regarding the Bald Eagle sighting.

As you know, Bald Eagles are fully protected under California law (Fish & Game Code § 3511). On June 4th, while leading a bird count on High Valley Road, I confirmed the presence of an adult Bald Eagle—previously video-documented by Randy Wilk—perched on the Barthel property actively being mobbed by two adult Red-tailed Hawks.

My bird observations were made from High Valley Road across from the Barthels' gate 10535 High Valley Road and were submitted to Cornell Lab's eBird, consistent with my long-standing practice as an experienced birder. This checklist represents one of more than 2,300 complete surveys I have conducted, documenting 225 species in the region.

During that single visit, I recorded thirty-five (35) species—including a Peregrine Falcon—and ninety-nine (99) individual birds in under an hour at the Poverty Flats entrance alone. The count would have been higher had site access been provided; my offer to conduct a full on-site bird survey received no response. The eBird checklist is included at the end of these comments.

High Valley Ridge is one of Lake County's designated Important Bird Areas and is well known for supporting Bald Eagles. Despite this, the MND contains no eagle-specific analysis of noise, lighting, human activity, or timing. CEQA requires the County to consider all credible evidence in the record, including qualified public observations. Courts have repeatedly held that missing surveys cannot be cured by generic mitigation such as "conduct a preconstruction survey." This type of deferral is legally insufficient.

Second, the site contains multiple Class III drainages, a stream crossing, natural springs, and direct hydrologic connectivity to Schindler Creek. Yet no formal wetland or stream delineation was conducted.

Without delineation, the County cannot determine jurisdictional boundaries, assess whether setbacks are adequate, or evaluate sediment and runoff pathways into a watershed where the State of California is currently investing millions of dollars in restoration. CEQA does not permit a "wait until after approval" approach. A delineation is not optional, but it is required before making significant findings.

The MND also lacks cumulative hydrologic analysis. It does not consider how grading, lighting, fencing, or expanded activity at Poverty Flats could interact with watershed-scale restoration

underway in the High Valley–Schindler Creek system. CEQA requires cumulative impact evaluation, especially when the State Water Board and Blue Ribbon Committee are funding a \$3.2 million restoration effort in this same drainage. That evaluation is not present in the record.

Third, the biological baseline covers only about six acres of a nearly 200-acre parcel, so much of which had been graded prior to survey work.

It would have been so respectful had a tribal elder been on site for the grading. Are you aware tribes like the Elem, (High Valley was not Patwin lands as mentioned in the Natural Investigation report) buried possessions when leaving areas? They would leave pots, tools, etc. in High Valley for their return from the Clear Lake shoreline or trips. I learned this at the Kno'Qoti Native Wellness Cultural Awareness Training this month.

CEQA requires an accurate description of existing conditions across the entire project area—not a limited snapshot of already disturbed ground. Courts have made clear that an incomplete baseline undermines the impact analysis and cannot support adoption of an MND.

Finally, I want to emphasize that this is not about denying projects. It is about ensuring the County has a legally defensible, scientifically sound environmental review.

The applicant's consultants may be qualified, but qualifications cannot substitute for missing data. CEQA requires that findings be supported by substantial evidence—not assumptions, not deferrals, and not post-approval correction.

As County Code Enforcement Manager Marcus Beltramo stated at the EARTH meeting last week, it is up to each one of us to report when things are known...what gets dumped above the lake flows down not just into the lake but into our drinking water which affects our quality of life.

For these reasons, I respectfully request that the Board require either a revised Initial Study or an Environmental Impact Report that fully evaluates:

- biological resources,
- wetlands and streams,
- cumulative watershed impacts, and
- special-status wildlife, including Bald Eagles.

Thank you very much for your time and for ensuring CEQA is applied correctly for the benefit of the County, its residents, and its natural resources.

Donna Mackiewicz AKA okmom on eBird

CHECKLIST S246664977 ebird.org

35 Species – 99 individuals

Observations Wed June 4, 2025, 8:31 AM 3 Observers at the gate – High Valley Road
Time: 57 minutes 10535 High Valley Road, Clearlake Oak, Ca

1. **Mountain Quail** *Oreortyx pictus*
2. **California Quail** *Callipepla californica*
3. **Wild Turkey** *Meleagris gallopavo*
4. **Mourning Dove** *Zenaida macroura*
5. **Anna's Hummingbird** *Calypte anna*
6. **Great Blue Heron** *Ardea herodias*
7. **Turkey Vulture** *Cathartes aura*
8. **Bald Eagle** *Haliaeetus leucocephalus*
9. **Red-tailed Hawk** *Buteo jamaicensis*
10. **Acorn Woodpecker** *Melanerpes formicivorus*
11. **Nuttall's Woodpecker** *Dryobates nuttallii*
12. **Hairy Woodpecker** *Leuconotopicus villosus*
13. **Peregrine Falcon** *Falco peregrinus*
14. **Western Wood-Pewee** *Contopus sordidulus*
15. **Ash-throated Flycatcher** *Myiarchus cinerascens*
16. **Western Kingbird** *Tyrannus verticalis*
17. **California Scrub-Jay** *Aphelocoma californica*
18. **American Crow** *Corvus brachyrhynchos*
19. **Common Raven** *Corvus corax*
20. **Oak Titmouse** *Baeolophus inornatus*
21. **Tree Swallow** *Tachycineta bicolor*
22. **Barn Swallow** *Hirundo rustica*
23. **Wrentit** *Chamaea fasciata*
24. **White-breasted Nuthatch** *Sitta carolinensis*
25. **Bewick's Wren** *Thryomanes bewickii*
26. **European Starling** *Sturnus vulgaris*
27. **Western Bluebird** *Sialia mexicana*
28. **House Finch** *Haemorhous mexicanus*
29. **Lesser Goldfinch** *Spinus psaltria*
30. **Lark Sparrow** *Chondestes grammacus*
31. **Song Sparrow** *Melospiza melodia*
32. **California Towhee** *Melospiza crissalis*
33. **Spotted Towhee** *Pipilo maculatus*
34. **Red-winged Blackbird** *Agelaius phoeniceus*
35. **Black-headed Grosbeak** *Pheucticus melanocephalus*