



**June 25, 2024**

**Redbud Audubon Society fully supports the action appeal of UP 20-96 Highland Farms.**

**The project reports are incomplete and inaccurately presented. Our analysis focuses on four insufficient areas: (1) wetlands and watercourses subject to the Federal Clean Water Act, (2) foothill yellow-legged frog subject to the California Environmental Quality Act [CEQA], (3) special-status plants including Konocti manzanita and scrub oak subject to CEQA and County of Lake Municipal Code, and (4) revisions needed to the Biological Assessments (BA) to bring the BA to CEQA standards in light of the above-referenced insufficiencies.**

**1) Wetlands: The original consultants, Pinecrest Environmental Consulting (PEC), documented numerous potential wetlands interspersed among and immediately adjacent to cultivation areas. To date no protocol-level wetland delineation to US Army Corps of Engineers (ACOE) standards has been performed. The preliminary maps of potential wetlands in the BA are not sufficient to map the extent of wetlands, they just indicate where jurisdictional wetlands might be. The presence of wetlands onsite was not disputed by the applicant or subsequent consultants, yet still no wetland delineation was performed. The construction plans show cultivation occurring all over the site, and is interspersed with potential wetlands and watercourses, and in fact it shows cultivation on top of areas the PEC study identified as potential wetlands in BA Figures 4 and 5.**

**As presented, there is no way to determine the actual extent of wetlands onsite or whether project activities may impact wetlands subject to ACOE and the Federal Clean Water Act (CWA) jurisdiction. To comply with the CWA, a protocol-level wetland delineation would need to be performed in any areas where there are potential wetlands to document the precise extent of wetlands onsite, and this delineation subsequently verified by ACOE. The project plans would then need to be analyzed to determine whether there is any chance that project implementation could have adverse impacts on wetlands and propose measures to ensure that no impacts to wetlands occur.**

**It is not possible to argue that no impacts to watercourses or wetlands will occur when the extent of actual wetlands onsite is still unknown. The only way to determine whether there are wetlands onsite subject to ACOE jurisdiction is to perform a wetland delineation that conforms to the protocols established in the 1987 ACOE wetland delineation manual and subsequent regional supplements.**

**2) CEQA & Foothill yellow-legged frog: The BA performed by PEC clearly states that the wetlands, watercourses, and upland habitats onsite are potential habitat for Foothill yellow-legged frog (FYLF). Numerous watercourse crossings are proposed for accessing the area in between wetlands and watercourses that FYLF may use for breeding, and**

development of adjacent upland habitat is proposed that FYLF may use for estivation (over-summering). The proposed activities will negatively impact both the channel habitat as well as upland habitat, thus targeted surveys for FYLF during appropriate times of year should be completed to assess whether FYLF are present onsite, and avoidance and mitigation measures developed and implemented to ensure that no impacts to FYLF occur. To-date no targeted surveys for FYLF were ever completed and thus it is not currently possible to determine whether impacts to FYLF will occur.

3) CEQA & special-status plants: Both PEC and AES did not perform required protocol-level surveys of the chaparral area. PEC and AES only performed cursory, reconnaissance-level, surveys of the chaparral area. We know from the PES report that two special-status plants are found in the chaparral areas of the property, scrub oak (*Quercus dumosa*) and Konocti manzanita (*Arctostaphylos manzanita* ssp. *elegans*). Both of these chaparral plants are considered special-status species, thus CEQA and other State laws require quantification of impacts and mitigation for impacts to these species. Scrub oak is a California Native Plant Society (CNPS) List 1B.1 species (<https://www.calflora.org/app/taxon?crn=6991>), and Konocti manzanita is a CNPS List 1B.3 species (<https://www.calflora.org/app/taxon?crn=572>). Since these are both chaparral shrubs, it should be assumed that anywhere there is chaparral these species have a high likelihood of being present.

County of Lake also requires at least two appropriately timed plant surveys to be performed in the project areas. Chaparral is proposed for removal yet no surveys were performed in the chaparral, despite the known presence of two special-status plant species in the chaparral onsite. Surveys in chaparral would be required to adhere to both CEQA and the County of Lake's own Municipal Code relating to special-status plants.

The PEC Biological Resource Assessment explicitly says that no impacts to scrub oak and Konocti manzanita are anticipated because chaparral is not proposed to be removed. Since applicant's plans now call for removal of chaparral, protocol-level surveys of chaparral areas for these species is now required. In order to comply with CEQA, all of the scrub oak and Konocti manzanita in the project area as it is now defined would need to be mapped, the number of individual plants to be removed quantified, and measures to mitigate for the loss of these plants implemented that reduce the impacts to these plants to less than significant levels. There is currently no way a valid CEQA analysis can be performed regarding impacts to special-status chaparral plants since neither PEC or AES performed protocol-level surveys of the chaparral onsite.

4) Biological Assessment (BA): This project needs a CEQA-level BA completed (not reconnaissance level) that assesses impacts to wetlands and watercourses, amphibians including FYLF, as well as plants including Konocti manzanita and scrub oak, based on protocol-level documentation for these species and habitats. The new BA should analyze project impacts based on wetland delineations and FYLF and chaparral surveys that were never performed but that we believe are required under CWA, CEQA, and County of Lake Municipal Code. In addition, sufficient time has passed since the surveys performed by PEC and AES that a new round of plant surveys in the areas previously surveyed is needed. Without appropriate plant, animal, or wetland surveys we believe the project

would be in violation of CWA, CEQA, and County of Lake Municipal Code because impacts to wetlands, plants, and animals are not sufficiently assessed or mitigated for.

In summary, without a protocol-level wetland delineation performed to ACOE standards, protocol-level plant surveys in the chaparral performed to CDFW standards, and surveys for FYLF in the watercourses present onsite, there is simply no way to assess the potential environmental impacts of this project. We believe that approval and implementation of this project with insufficient assessment of impacts to natural resources onsite would result in violations of the Clean Water Act, California Environmental Quality Act, County of Lake Municipal Code, and potentially other Federal, State, and local statutes.

Thank you,

Donna Mackiewicz, President

Redbud Audubon Society PO Box 5780 Clearlake, CA 95422

[www.redbudaudubon.org](http://www.redbudaudubon.org) Email:redbud.audubon@gmail.com