

TO:
Kim Gardner

SUBJECT:
Biological Resources Regulatory Constraints Analysis for Potential Cannabis Cultivation on Property at 10535 High Valley Road, Clearlake Oaks, California

TEXT:
Purpose and Scope of Work

The purpose of this analysis was to inventory biological resources at a reconnaissance-level effort and identify potential biological resources regulatory constraints to development of the 197-acre property at 10535 High Valley Road, Clearlake Oaks. The client identified two areas, approximately 1 acre and 3 acres in size, in the western and southern portions of the Property that are proposed for Cannabis cultivation.

The scope of work was:

- Perform a reconnaissance-level field survey and look for special-status species and sensitive habitats
- Using GIS software, map all general habitat types occurring on the property
- Informally map any and all potential waters of the U.S. on the property (i.e., wetlands and channels)
- Summarize the potential for special-status species or habitats to occur within the study area and identify any potential biological resource regulatory issues that may constrain development

Note that other potential environmental regulatory constraints to development were not analyzed, such as flooding or drainage, cultural resources, geologic hazards, or hazardous materials. A full biological resources assessment was not conducted as part of this analysis.

Methods

Prior to conducting the field survey, the following information sources were reviewed:

- Client's engineering or design drawings (none were available);
- United States Geologic Survey (USGS) 7.5-degree minute topographic quadrangle maps and aerial photography;
- United States Department of Agriculture Natural Resources Conservation Service (NRCS) soil survey maps;
- Spatial query of the latest version of the California Natural Diversity Database (CNDDB)
- United States Fish and Wildlife Service (USFWS) species list (IPaC Trust Resources Report).
- USFWS National Wetland Inventory Maps; and
- Any readily-available studies performed previously (none found).

Tim Nosal, M.S., conducted a field assessment on October 28, 2020. A variable-intensity pedestrian survey was performed of the Study Area, modified to account for differences in terrain, vegetation density, and visibility. The locations of any special-status species sighted were marked on aerial photographs and/or georeferenced with a geographic positioning system (GPS) receiver. Habitat types occurring in the Study Area were mapped on aerial photographs, and information on habitat conditions and the

suitability of the habitats to support special-status species was also recorded. The Study Area was also informally assessed for the presence of potentially-jurisdictional water features, including riparian zones, isolated wetlands and vernal pools, and other biologically-sensitive aquatic habitats. The CNDDDB was queried and any reported occurrences of special-status habitats or species were plotted in relation to the Study Area boundary using GIS software (see Exhibits).

Results

Special-status Habitats

The property contains 2 terrestrial natural communities: chaparral and oak woodland. The CNDDDB reported no special-status habitat occurrences on the property. Small areas of special-status habitats were detected within the Study Area during the field survey: nine ephemeral (Class III) channels. No wetlands were detected.

Special-status Animals

No special-status animal species were detected within the Study Area during the field survey. The CNDDDB reported no special-status animal occurrences on the property. Special-status animals are not considered to be highly likely, or even moderately likely, to occur in the project area.

Special-Status Plants

No special-status plant species were detected within the Study Area during the field survey. The CNDDDB reported no special-status plant occurrences on the property. Special-status plants are considered to be moderately likely on the property because native chaparral and woodland vegetation will be disturbed/removed in order to install this project. Several special status plants are known to occur on similar habitats and rare plants have been reported in the vicinity. No soils derived from volcanic or serpentine parent material are mapped in or adjacent to the project. A rare plant (botanical) survey is recommended during the blooming season.

Protected Water Resources

The informal aquatic resources assessment conducted during the field survey detected nine ephemeral channels (Class III watercourses) but no wetlands.

Nesting Birds

No active nests were detected during the field survey. The property contains suitable nesting habitat for various bird species because of the presence of trees, poles, and dense brush.

Potential Biological Resource Development Constraints, Regulatory Requirements, And Recommendations

Special-Status Habitats

Channels are protected by the Porter Cologne Act and by CDFW under Fish and Game Code Section 1600 *et seq.* Clean Water Act permits and a Streambed Alteration Agreement would need to be finalized before this habitat could be cleared. A buffer of at least 50 feet from ephemeral channels is required by the Water Board; a buffer of 100 feet may be required by Lake County. We recommend that project areas stay at least 100 feet away from all channels.

Lake County does not have a specific ordinance protecting native trees. However, under the Cannabis Ordinance 3084, Section 4, Subsection iii) Prohibited Activities (a) Tree Removal, Lake County restricts tree removal as follows:

"The removal of any commercial tree species as defined by the California Code of Regulations section 895.1, Commercial Species for the Coast Forest District and Northern Forest District, and

the removal of any true oak species (Quercus species) or Tan Oak (Notholithocarpus species) for the purpose of developing a cannabis cultivation site should be avoided and minimized. This shall not include the pruning of any such tree species for the health of the tree or the removal of such trees if necessary for safety or disease concerns."

During the permitting process, Lake County requires mitigation for the removal of protected trees; typical mitigation is tree replacement at a ratio of 2:1 or 3:1.

Forest resources may occur on the property. If construction requires the removal of commercial tree species, a Cal Fire Permit will be necessary, such as a Less than 3 Acre Conversion Exemption, a Public Agency, Public and Private Utility Right of Way Exemption, a Notice of Exemption from Timberland Conversion Permit for Subdivision, or an Application for Timberland Conversion Permit.

Special Status Animal Species

No surveys are needed unless construction will occur in the channels. If any listed species are detected, construction should be delayed, and the appropriate wildlife agency (CDFW and/or USFWS) should be consulted and project impacts and mitigation reassessed.

Special-Status Plant Species

Performance of a botanical survey in the spring blooming period is recommended to ensure that rare plants are not present.

Nesting Birds

The property contains suitable nesting habitat for various bird species because of the presence of trees, poles, and dense brush. California Fish and Game Code protects all nesting birds and their nests, and migratory birds are also protected under the Migratory Bird Treaty Act of 1918. If ground clearing and tree felling is performed in the future during the bird nesting season (February 15 through August 31), a pre-construction nesting bird survey is recommended. If active nests are present in the project area during construction of the project, CDFW should be consulted to develop measures to avoid "take" of active nests prior to the initiation of any construction activities. Avoidance measures may include establishment of a buffer zone using construction fencing or the postponement of vegetation removal until after the nesting season, or until after a qualified biologist has determined the young have fledged and are independent of the nest site.

Protected Water Resources

The State Water Resources Control Board's Order WQ 2019-0001-DWQ General Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities (General Order) has various development restrictions, including but not limited to the following:

- cultivation must comply with the Minimum Riparian Setbacks, as summarized in the following table.

Minimum Riparian Setbacks

Common Name	Watercourse Class	Distance
Perennial watercourses, waterbodies (e.g. lakes, ponds), or springs	I	150 ft.
Intermittent watercourses or wetlands	II	100 ft.
Ephemeral watercourses	III	50 ft.
Man-made irrigation canals, water supply reservoirs, or hydroelectric canals that support native aquatic species	IV	Established riparian zone vegetation

The Class III channels must be avoided with a 50-foot buffer. Lake County may require a 100-foot buffer. As designed, the project area is at least 100 feet away from these features.

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. If the USACE determines that the water features are subject to their jurisdiction, a CWA 404 permit must be obtained and mitigation performed before the ditches and marsh are filled. If waters of the State are present, a Streambed Alteration Agreement may be needed before ground disturbance occurs in riparian habitat, wetlands, or within top of bank of channels. CWA 401 water quality certification will also be necessary.

Other Concerns

Much of the Property has slopes that exceed 30%. Estimated slopes within the cultivation areas range from approximately 15%-30%. If any part of the project areas, or the disturbed areas, are greater than 30%, the project will be classified as Moderate Risk. If any part of the project areas, or the disturbed areas, are greater than 50%, the project will be disallowed by the Water Board.

If construction activities disturb more than 1 acre of soil, the project proponent will need to enroll in the Construction General Stormwater Permit, State Water Board Order No. 2009-0009-DWQ.

If development of the cultivation operation will result in the grading of more than 50 cubic yards of earthen material, a County Grading Permit and Erosion Control Plan may be required.

If natural habitats need to be cleared for the cultivation operation, the Central Valley Regional Water Quality Control Board may require a Biological Resources Assessment and a Cultural Resources Inventory Report.

AUTHORED BY:



G. O. Graening, PhD, MSE

From: Stoner, Kyle@Wildlife

To: Max Stockton

Cc: Wildlife R2 CEQA

Subject: [EXTERNAL] RE: UP 23-09; IS 23-29; GR 25-01 Poverty Flats Ranch

Date: Thursday, February 6, 2025 2:12:45 PM

Attachments: [image001.png](#)

Dear Max Stockton,

The California Department of Fish and Wildlife (CDFW) appreciates the opportunity to comment on the Mitigated Negative Declaration (MND) for the Major Use Permit UP 23-09, Poverty Flats Ranch (project). CDFW is responding to the MND as a Trustee Agency for fish and wildlife resources (Fish & G. Code, §§ 711.7 & 1802, and CEQA Guidelines, §§ 15386), and as a Responsible Agency regarding any discretionary actions (CEQA Guidelines Section 15381), such as the issuance of a Lake or Streambed Alteration Agreement (California Fish and Game Code Sections 1600 et seq.) and/or a California Endangered Species Act (CESA) Permit for incidental take of endangered, threatened, and/or candidate species (California Fish and Game Code Sections 2080 and 2080.1).

The project is located at Assessors Parcel Number (APN) 006-004-220-000, 10535 High Valley Rd, Clearlake Oaks, CA, 95423 in Lake County. The project consists of Major use permit to obtain five (5) A- Type 3 Outdoor cultivation licenses consisting of 5 acres within three separate areas of outdoor cultivation; three (3) A-Type 2 Small Outdoor cultivation licenses consisting of (3) 10,000 sf of outdoor cultivation areas, and one (1) A-Type 13 Self Transportation Only Self Distribution license. Project proposes five greenhouses for immature plants and several small sheds.

The site is 196.7 acres and is approximately 3.8 miles northwest of Clearlake Oaks. The Project property is accessed by a private driveway off High Valley Road. 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. The well-established onsite road network is comprised of natural material and gravel. Existing conditions onsite consist of a primarily undeveloped parcel, historically used for recreation purposes. The site is developed with access roads, an existing well and pump house, domestic water tanks, an 18' x 20' rain catchment structure, a 16' x 24' hunting cabin, two tool sheds, and two shipping containers. CDFW recommends the following item be addressed in the future planning of the project:

1. Lake and Streambed Alteration:

Based on the maps provided, there are multiple potential stream crossings that will be used for Project activities. CDFW recommends that all existing and proposed stream crossings be identified and evaluated for their capacity to convey expected 100-year flood flows plus entrained sediment and floating debris, and to prevent soil erosion and/or sediment deposition. Such evaluations should be completed by a qualified professional licensed to practice in California.

CDFW recommends a supplemental hydrologic analysis be completed that includes detailed watercourse mapping, and an analysis of all existing stream crossings to assess each crossing for stability and the ability to pass the 100-year storm event. CDFW recommends that culverts be sized to accommodate the 100-year storm event along with associated sediment and debris. Cafferata et al., 2017 and Weaver et al., 2014 provide design guidance that support CDFW's recommendation that culverts be sized to pass the 100-year flood flow, including debris and sediment loads through a single pipe, without impounding water.

Impacts to Areas Subject to Fish and Game Code 1602

Fish and Game Code Section 1602 requires an entity to notify CDFW prior to commencing any activity that may: substantially divert or obstruct the natural flow of any river, stream or lake; substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or deposit debris, waste or other materials that could pass into any river, stream or lake.

The MND should identify all the project activities in areas subject to CDFW's Section 1602 of the Fish and Game Code. These areas include all perennial, intermittent, and ephemeral rivers, streams, and lakes in the state and any habitats supported by these features such as wetlands and riparian habitats. If these features are found within the Project site a map delineating those areas should be prepared for the MND to identify any potential significant impacts to these resources. The map should include a delineation of lakes, streams, and associated habitat that will be temporarily and/or permanently impacted by the proposed Project including an estimate of impact to each habitat type. Please note that areas subject to CDFW's Section 1602 of the Fish and Game Code differs from other agencies such the U.S. Army Corps of Engineers or the Regional Water Quality Control Board. The MND should identify the areas present within the Project limits subject to Section 1602 of the Fish and Game Code.

If it is determined that projects developed under the Project would impact areas under areas subject to CDFW, the MND must propose mitigation measures to avoid, minimize, and mitigate impacts to these resources.

Department of Cannabis Control Annual License

To ensure that such activities do not adversely impact fish and wildlife resources, CDFW is engaged in environmental review and permitting, enforcement, and coordination with other agencies developing and implementing regulatory programs for cannabis cultivation. To satisfy the Department of Cannabis Control (DCC) licensing requirement set forth in Business and Professions Code section 26060.1 (b)(3), one of the following must be provided to DCC:

- A final Streambed Alteration Agreement issued by CDFW
- A draft Streambed Alteration Agreement provided by CDFW that has been signed and returned to CDFW

- Written verification from CDFW that a streambed alteration agreement is not needed.

The applicant is responsible for complying with all applicable local, State, and federal laws in completing the Project. A copy of the determination and your Notification with all attachments should be available at all times at the Project site. Please note, any material or changes otherwise made to your Project description in the Notification, will require submittal of a new Notification and corresponding fee to CDFW. To learn more about the California cannabis market, state licenses or laws, visit <https://cannabis.ca.gov/>.

More information regarding the Cannabis Program can be accessed using this link: <https://wildlife.ca.gov/Conservation/Cannabis>

The Environmental Permitting Information Management System can be accessed using this link: <https://epims.wildlife.ca.gov/index.do>.

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 may 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 project and recommends that the Lake County Planning Department address CDFW's comments and concerns in the forthcoming CEQA document. 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 Kyle Stoner, Senior Environmental Scientist (Specialist) at (916) 767-8178 or Kyle.Stoner@wildlife.ca.gov.

Work Cited

Cafferata P, D. Lindsay, T. Spittler, M. Wopat, G. Bundros, S. Flanagan, D. Coe, and W Short. 2017. Designing Watercourse Crossings for Passage of 100-year Flood Flows, Wood, and Sediment. California Forestry Report 1 (revised) California Department of Forestry and Fire Protection, Sacramento, CA. 126 p.

Weaver W, E. Weppner, and D. Hagans. 2015. Handbook for forest, ranch and rural roads: a guide for planning, designing, construction, reconstructing, upgrading, maintaining and closing wildland roads (Rev. 1st ed.). Mendocino County Resource Conservation District, Ukiah, CA. 406 p. <http://mcrd.org/>

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Central Valley Regional Water Quality Control Board

3 September 2024

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COMMENTS TO REQUEST FOR REVIEW FOR THE MITIGATED NEGATIVE DECLARATION, UP 23-09 POVERTY FLATS RANCH PROJECT, SCH#2024080301, LAKE COUNTY

Pursuant to the State Clearinghouse's 7 August 2024 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the *Request for Review for the Mitigated Negative Declaration* for the UP 23-09 Poverty Flats Ranch Project, located in Lake County.

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore our comments will address concerns surrounding those issues.

I. Regulatory Setting

Basin Plan

The Central Valley Water Board is required to formulate and adopt Basin Plans for all areas within the Central Valley region under Section 13240 of the Porter-Cologne Water Quality Control Act. Each Basin Plan must contain water quality objectives to ensure the reasonable protection of beneficial uses, as well as a program of implementation for achieving water quality objectives with the Basin Plans. Federal regulations require each state to adopt water quality standards to protect the public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act. In California, the beneficial uses, water quality objectives, and the Antidegradation Policy are the State's water quality standards. Water quality standards are also contained in the National Toxics Rule, 40 CFR Section 131.36, and the California Toxics Rule, 40 CFR Section 131.38.

The Basin Plan is subject to modification as necessary, considering applicable laws, policies, technologies, water quality conditions and priorities. The original Basin Plans were adopted in 1975, and have been updated and revised periodically as required, using Basin Plan amendments. Once the Central Valley Water Board has

MARK BRADFORD, CHAIR | PATRICK PULUPA, ESQ., EXECUTIVE OFFICER

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adopted a Basin Plan amendment in noticed public hearings, it must be approved by the State Water Resources Control Board (State Water Board), Office of Administrative Law (OAL) and in some cases, the United States Environmental Protection Agency (USEPA). Basin Plan amendments only become effective after they have been approved by the OAL and in some cases, the USEPA. Every three (3) years, a review of the Basin Plan is completed that assesses the appropriateness of existing standards and evaluates and prioritizes Basin Planning issues. For more information on the *Water Quality Control Plan for the Sacramento and San Joaquin River Basins*, please visit our website:

http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/

Antidegradation Considerations

All wastewater discharges must comply with the Antidegradation Policy (State Water Board Resolution 68-16) and the Antidegradation Implementation Policy contained in the Basin Plan. The Antidegradation Implementation Policy is available on page 74 at:

https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsir_2018_05.pdf

In part it states:

Any discharge of waste to high quality waters must apply best practicable treatment or control not only to prevent a condition of pollution or nuisance from occurring, but also to maintain the highest water quality possible consistent with the maximum benefit to the people of the State.

This information must be presented as an analysis of the impacts and potential impacts of the discharge on water quality, as measured by background concentrations and applicable water quality objectives.

The antidegradation analysis is a mandatory element in the National Pollutant Discharge Elimination System and land discharge Waste Discharge Requirements (WDRs) permitting processes. The environmental review document should evaluate potential impacts to both surface and groundwater quality.

II. Permitting Requirements

Cannabis General Order

Cannabis cultivation operations are required to obtain coverage under the State Water Resources Control Board's *General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities Order No. WQ 2017-0023-DWQ* (the Cannabis General Order). Cultivators that divert and store surface water (stream, lake, subterranean stream, etc.) to irrigate cannabis also need a valid water right.

The Water Boards Cannabis Cultivation Programs offer an easy-to-use online Portal for cultivators to apply for both Cannabis General Order coverage and a Cannabis Small Irrigation Use Registration (SIUR) water right, if needed. Visit the Water Boards Cannabis Cultivation Programs Portal at:

<https://public2.waterboards.ca.gov/CGO>

Additional information about the Cannabis General Order, Cannabis SIUR Program, and Portal can be found at:

www.waterboards.ca.gov/cannabishttps://public2.waterboards.ca.gov/CGO

For questions about the Cannabis General Order, please contact the Central Valley Water Board's Cannabis Permitting and Compliance Unit at: centralvalleysacramento@waterboards.ca.gov or (916) 464-3291. For questions about Water Rights (Cannabis SIUR), please contact the State Water Board's Division of Water Rights at: CannabisReg@waterboards.ca.gov or (916) 319-9427.

Construction Storm Water General Permit

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Construction General Permit), Construction General Permit Order No. 2009-0009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP). For more information on the Construction General Permit, visit the State Water Resources Control Board website at: http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml

Clean Water Act Section 404 Permit

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the United States Army Corps of Engineers (USACE). If a Section 404 permit is required by the USACE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements. If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACE at (916) 557-5250.

Clean Water Act Section 401 Permit – Water Quality Certification

If an USACE permit (e.g., Non-Reporting Nationwide Permit, Nationwide Permit, Letter of Permission, Individual Permit, Regional General Permit, Programmatic General Permit), or any other federal permit (e.g., Section 10 of the Rivers and Harbors Act or Section 9 from the United States Coast Guard), is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications. For more information on the Water Quality Certification, visit the Central Valley Water Board website at:

https://www.waterboards.ca.gov/centralvalley/water_issues/water_quality/certification/

Waste Discharge Requirements – Discharges to Waters of the State

If USACE determines that only non-jurisdictional waters of the State (i.e., "non-federal" waters of the State) are present in the proposed project area, the proposed project may require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation. For more information on the Waste Discharges to Surface Water NPDES Program and WDR processes, visit the Central Valley Water Board website at: https://www.waterboards.ca.gov/centralvalley/water_issues/waste_to_surface_water/

Projects involving excavation or fill activities impacting less than 0.2 acre or 400 linear feet of non-jurisdictional waters of the state and projects involving dredging activities impacting less than 50 cubic yards of non-jurisdictional waters of the state may be eligible for coverage under the State Water Resources Control Board Water Quality Order No. 2004-0004-DWQ (General Order 2004-0004). For more information on the General Order 2004-0004, visit the State Water Resources Control Board website at:

https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2004/wqo/wqo2004-0004.pdf

Dewatering Permit

If the proposed project includes construction or groundwater dewatering to be discharged to land, the proponent may apply for coverage under State Water Board General Water Quality Order (Low Threat General Order) 2003-0003 or the Central Valley Water Board's Waiver of Report of Waste Discharge and Waste Discharge Requirements (Low Threat Waiver) R5-2018-0085. Small temporary construction dewatering projects are projects that discharge groundwater to land from excavation activities or dewatering of underground utility vaults. Dischargers seeking coverage under the General Order or Waiver must file a Notice of Intent with the Central Valley Water Board prior to beginning discharge.

For more information regarding the Low Threat General Order and the application process, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0003.pdf

For more information regarding the Low Threat Waiver and the application process, visit the Central Valley Water Board website at:

https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/waivers/r5-2018-0085.pdf

Limited Threat General NPDES Permit

If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will

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require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. Dewatering discharges are typically considered a low or limited threat to water quality and may be covered under the General Order for *Limited Threat Discharges to Surface Water* (Limited Threat General Order). A complete Notice of Intent must be submitted to the Central Valley Water Board to obtain coverage under the Limited Threat General Order. For more information regarding the Limited Threat General Order and the application process, visit the Central Valley Water Board website at:

https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2016-0076-01.pdf

NPDES Permit

If the proposed project discharges waste that could affect the quality of surface waters of the State, other than into a community sewer system, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. A complete Report of Waste Discharge must be submitted with the Central Valley Water Board to obtain a NPDES Permit. For more information regarding the NPDES Permit and the application process, visit the Central Valley Water Board website at: <https://www.waterboards.ca.gov/centralvalley/help/permit/>

If you have questions regarding these comments, please contact me at (916) 464-4684 or Peter.Minkel2@waterboards.ca.gov.



Peter G. Minkel
Engineering Geologist

cc: State Clearinghouse unit, Governor's Office of Planning and Research,
Sacramento

Kevin Ponce, Cannabis Control Comments Agency Comments 5/22/Planning Granicus

Dear Mr. Stockton:

Thank you for providing the California Department of Cannabis Control (DCC) the opportunity to comment on the Initial Study/Mitigated Negative Declaration (IS/MND) prepared by Lake County for the proposed Poverty Flats Farms Cannabis Cultivation Project (Proposed Project).

DCC has jurisdiction over the issuance of licenses to commercial cannabis businesses. DCC may issue a cultivation license to a business that meets all licensing requirements, and where the local jurisdiction authorizes these activities. (Bus. & Prof. Code, § 26012(a).) All commercial cannabis businesses within California require a license from DCC. For more information pertaining to commercial cannabis business license requirements, including DCC regulations, please visit: <https://cannabis.ca.gov/cannabis-laws/dcc-regulations/>.

DCC expects to be a Responsible Agency for this project under the California Environmental Quality Act

(CEQA) because the project will need to obtain one or more annual cultivation licenses from DCC. In order to ensure that the amended IS/MND is sufficient for DCC's needs at that time, DCC requests that a copy of the document, revised to respond to the comments provided in this letter, and a signed Notice of Determination be provided to the applicant, so the applicant can include them with the application package it submits to DCC. This should apply not only to this Project, but to all future CEQA documents related to cannabis business applications in Lake County.

DCC offers the following comments concerning the IS/MND.

General Comments (GCs)

GC 1: Acknowledgement of DCC Regulations

The IS/MND does not acknowledge that the project would require one or more cannabis cultivation licenses from DCC. The document could be improved if it acknowledged that DCC is responsible for licensing, regulation, and enforcement of commercial cannabis business activities, as defined in the Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA) and DCC regulations related to cannabis cultivation and distribution (Bus. & Prof. Code, § 26012(a)). In particular, the analysis could benefit from discussion of the protections for environmental resources provided by DCC's cultivation and distribution regulations. The impact analysis for each of the following resource topics could be further supported by a discussion of the effects of state regulations on reducing the severity of impacts for each applicable topic:

- Aesthetics (See 4 California Code of Regulations §16304(a).)

- Air Quality and Greenhouse Gas Emissions (See §§ 15020(e); 16304(a)(4); 16305; 16306.)
- Biological Resources (See §§ 15006(i); 15011(a)(11); 16304(a).)
- Cultural Resources (See § 16304(a)(3).)
- Energy (See §§ 15006(h)(6); 15011(a)(5); 15020(e); 16305; 16306.)
- Hazards and Hazardous Materials (See §§ 15006(h)(5)(c); 15011(a)(4); 15011(a)(12); 16304(a)(5); 16307; 16310.)
- Hydrology and Water Quality (See §§ 15006(h); 15011(a)(3); 15011(a)(7); 15011(a)(11); 16304(a)(1); 16307; 16311.)
- Noise (See §§ 16304(a)(4); 16306.)
- Public Services (See §§15011(a)(10); 15036; 15042.)
- Utilities and Service Systems (See §§ 16311; 17223.)
- Wildfire (See § 15011(a)(10).)
- Cumulative Impacts (related to the above topics)

GC 2: Site-Specific Reports and Studies

The IS/MND references several project-specific plans, studies, and reports, including a Property Management Plan; Waste Management Plan; Site Management Plan, Nitrogen Management Plan; Biological Resources Assessment; Letter from CDFW; Cultural Resources Evaluation, Erosion and Sediment Control Plan; Preliminary Grading Plan; SWRCB Notice of Applicability; Water Well Documentation and Pump Test Report; Hydrologic Report; Drought Management Plan; and Storm Water Management Plan. To ensure that DCC has supporting documentation for the IS/MND, DCC requests that the County advise applicants to provide copies of all project-specific plans and supporting documentation with their state application package for an annual cultivation license to DCC.

Specific Comments and Recommendations

In addition to the general comments provide above, DCC provides the following specific comments regarding the analysis in the IS/MND.

Comment No.	Section Nos.	Page No(s).	Resource Topic(s)	DCC Comments and Recommendations
1	28	15	Project Description	The IS/MND could be more current if it replaced the California Bureau of Cannabis Control with the California

				Department of Cannabis Control.
2	I. d)	21	Aesthetics	The IS/MND would be improved if it referenced DCC's requirements that all outdoor lighting for security purposes must be shielded and downward facing, and that lights used in mixed-light cultivation activities

				activation activities must be fully shielded from sunset to sunrise to avoid nighttime glare (Cal. Code Regs., tit. 4 §§ 16304 (6) and (7)).
3	III. a)	23-28	Air Quality	The IS/MND would be improved if it provided a description or summary of proposed operation equipment that is anticipated to generate air pollutant emissions, including ROG, NOx, PM10, and PM2.5, and provided estimates of such emissions.
4	III. a-d)	23-28	Air Quality	The analysis of air quality impacts and proposed mitigation measures would be improved if it evaluated the pollutant emissions associated with operation of the Proposed Project, disclosed the relevant air quality

				management plan for the project site, and disclosed the air emissions significance threshold(s), against which the impacts of the project are compared.
5	IV. a-f)	26-33	Biological Resources	The IS/MND could be improved by providing additional detail regarding the environmental setting for biological resources at the project site and impact conclusions regarding individual species and habitats. It appears that this detail may be included in the Biological Assessment prepared for the Proposed Project. To ensure that DCC has supporting documentation for the IS/MND, DCC requests that the City advise the applicant to provide a copy of the Biological

				the IS/MND, DCC requests that the City advise the applicant to provide a copy of the Biological Assessment with its state application package for an annual cultivation license to DCC.
6	IV. a-f)	26-33	Biological Resources	The IS/MND would be improved if it provided an analysis of potential impacts to biological impacts resulting from Proposed Project operations.

				This could include an analysis of impacts resulting from increased light, noise, vehicles, or heavy machinery.
7	V.	33-35	Cultural	The IS/MND could be improved by including the following mitigation:

				“Suspend Cultivation Immediately if Cultural Resources Are Discovered, Evaluate All Identified Cultural Resources for California Register of Historical Resources Eligibility, and Implement Appropriate Mitigation Measures for Eligible Resources.”
8	X.	48-58	Hydrology and Water Quality	The IS/MND could be improved if it noted that applicants are required to provide a final copy of proof of a lake and streambed alteration agreement issued by CDFW or written verification that an agreement is not needed. (Cal. Code Regs., tit. 4 § 15011(a)(8).)
9	X.	48-28	Hydrology and Water Quality	The IS/MND would be improved if it provided an analysis of potential impacts

				document would be improved if it referenced the state's requirements regarding proposed water sources and groundwater use. (Cal. Code Regs., tit. 4 § 16311)
11	XVIII.	66-68	Tribal Cultural Resources	The IS/MND would be more informative by providing details pertaining to tribal consultations that have occurred for the Proposed Project, as required by Assembly Bill 52.
12	XXI.	71-73	Mandatory Findings of Significance	The IS/MND would be more informative if it listed the mitigation measures it refers to in this section. The measures need not be repeated in full, but at a minimum

				they should be listed by number.
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				15011(a)(8).)
9	X.	48-28	Hydrology and Water Quality	The IS/MND would be improved if it provided an analysis of potential impacts resulting from agricultural runoff

				related to cultivation activities. The document should provide information about the volume of agricultural runoff, how runoff would be managed, and whether runoff would result in significant impacts to water quality.
10	X.	48-58	Hydrology and Water Quality	The IS/MND would be improved if it provided a quantified analysis of water availability and test results, either in the text or as an attachment. In addition, the document would be

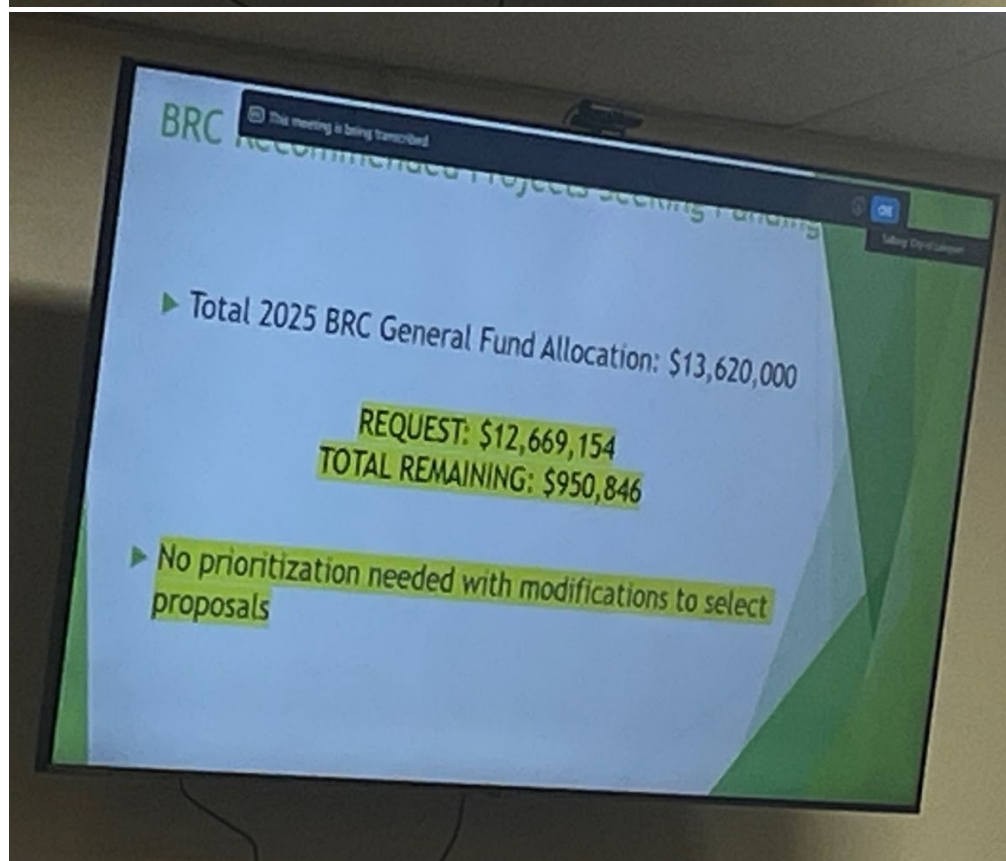
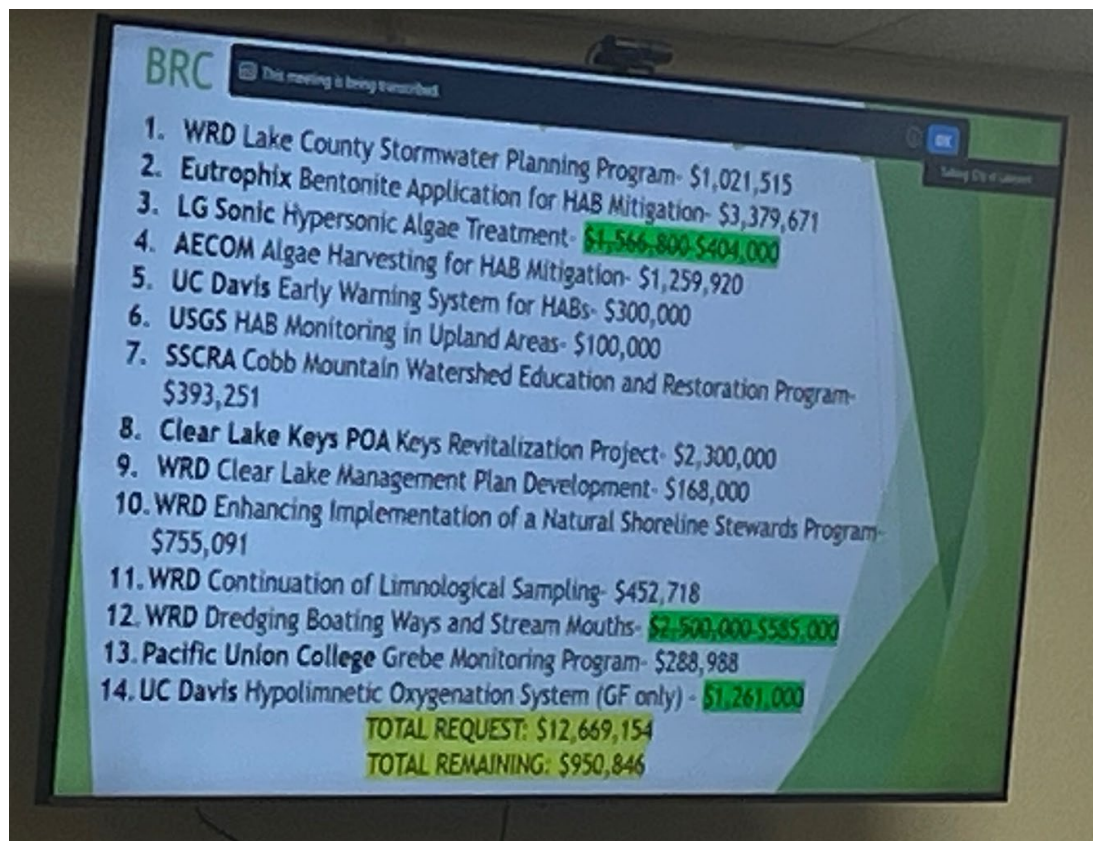
Conclusion

DCC appreciates the opportunity to provide comments on the IS/MND for the Proposed Project. If you have any questions about our comments or wish to discuss them, please contact Kevin Ponce, Senior Environmental Scientist Supervisor, at (916) 247-1659 or via e-mail at Kevin.Ponce@cannabis.ca.gov.

Sincerely,

Kevin Ponce

Licensing Program Manager





Redbud Audubon Society
Protecting Birds, Wildlife & Habitat Since 1974
October 21, 2025

Lake County Board of Supervisors
255 North Forbes Street
Lakeport, CA 95453

Subject: Comments on Poverty Flats Cannabis Project Appeal (UP 23-09 / IS 23-29)

Dear Chair and Members of the Board,

The Redbud Audubon Society, a Lake County-based chapter of the National Audubon Society, respectfully submits these comments in support of the appeal of the Poverty Flats Cannabis Project (10535 High Valley Road, Clearlake Oaks). Our organization has served Lake County for over 50 years, advocating for the protection of birds, wildlife, and natural habitats through science, education, and conservation.

I. Wetlands, Hydrology, and Water Resources

The Initial Study/Mitigated Negative Declaration (IS/MND) fails to accurately identify wetland and riparian resources within the Poverty Flats parcel. The National Wetlands Inventory shows riverine and seasonal wetland features extending toward Schindler Creek, yet no formal wetland delineation was conducted as required under CEQA Guidelines (§15063(d)(2)) and the Clean Water Act (§404). Sediment and nutrient runoff from grading and cultivation threaten downstream habitats and state-funded restoration investments. In 2025, the Blue Ribbon Committee for the Rehabilitation of Clear Lake announced a \$3.2 million award for the Schindler Creek and Clear Lake Oaks Keys Restoration and Rehabilitation Project, which aims to restore hydrologic connectivity, remove barriers, and reduce sediment loads to improve spawning success for the Clear Lake hitch (**Lavinia exilicauda* chi*) (CDFW 2014; Cal. Code Regs. tit. 14 §670.5). Any sedimentation or nutrient discharge would degrade spawning gravels and flows essential to the hitch's survival.

II. Biological Resources Deficiencies

The biological surveys were incomplete, limited to the disturbed area of a ~200-acre parcel, with no multi-season or floristic coverage. CEQA requires analysis of all sensitive habitats and special-status species potentially present (§15063, §15065, §15380). Species observed or expected include Bald Eagle, Peregrine Falcon, Osprey, Wrentit, California Thrasher, California Quail, Gray Fox, and multiple bat species. The IS/MND disregards nesting and foraging raptors documented during March 2025 site observations. Both Bald Eagles (**Haliaeetus leucocephalus**) and Golden Eagles (**Aquila chrysaetos**) were observed within 0.5 miles of the project. These species are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668–668d) and Fish & Game Code §3511. The County must require



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compliance with a Bald and Golden Eagle Conservation Plan (USFWS 2016).

Over 25 mature Live and Blue Oaks (approximately 1.7 acres of canopy) have been removed without mitigation, contrary to Lake County Ordinance 3132 and Resolution 2019-124.

III. Cultural, Tribal, and Historical Resources

The IS/MND contains serious cultural inaccuracies. Reports incorrectly identify the project area as Patwin territory when historical and ethnographic sources, including the Mauldin Papers (Julia Shaul interview, 1949), confirm continuous Elem Pomo occupation. Schindler Creek (Cawb-die) served as a hatch spawning corridor and ceremonial route for thousands of years. The 160-acre Poverty Flats parcel, granted in 1871 by President Ulysses S. Grant to Henry Leopold Wildegube, was one of the earliest High Valley homesteads. Despite this, AB 52 tribal consultation requirements (PRC §§21080.3.1–21084.3) were not fulfilled. Elem Tribe outreach was ignored, and grading occurred after rains without monitors, violating CEQA §15064.5(d)(2). Reliance on 'stop work if finds occur' constitutes unlawful deferral (*Communities for a Better Environment v. SCAQMD*, 2002).

IV. Steep Slopes, Erosion, and Cumulative Effects

Multiple studies, including Graening & Associates (2023), document slopes exceeding 30%—classified as erosive terrain under Lake County Code §27.8.1. These conditions magnify sedimentation risks to Schindler Creek. CEQA §15130 requires cumulative impact analysis, which was not provided. Taken together with habitat, cultural, and hydrological deficiencies, the IS/MND is inadequate under CEQA.

V. Conclusion

The Poverty Flats IS/MND omits or misrepresents substantial evidence concerning wetlands, biological resources, steep slopes, and cultural resources. These deficiencies render the IS/MND legally indefensible. Protection of the Eagle Conservation Plan area and the Clear Lake hatch spawning corridor of Schindler Creek represents not only a CEQA obligation but a moral imperative to safeguard Lake County's irreplaceable natural heritage. Redbud Audubon Society urges the Board to grant the appeal, require a full Environmental Impact Report (EIR), and protect the Schindler Creek watershed and ongoing restoration projects.

Respectfully submitted,

Donna Mackiewicz
President, Redbud Audubon Society



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Exhibit A – Bird & Wildlife Species Table

Species	Status / Notes	Habitat Association
Bald Eagle (<i>Haliaeetus leucocephalus</i>)	State-Listed Threatened	Riparian; nesting near Clear Lake & Schindler Creek
Osprey (<i>Pandion haliaetus</i>)	CDFW Species of Special Concern	Lakeshore, fish-eating raptor
Peregrine Falcon (<i>Falco peregrinus</i>)	State-Listed Endangered	Cliffs, open grassland hunting
Wrentit (<i>Chamaea fasciata</i>)	Indicator species	Dense chaparral understory
California Thrasher (<i>Toxostoma redivivum</i>)	Resident species	Chaparral and oak scrub
California Quail (<i>Callipepla californica</i>)	Common but declining	Oak woodland, grassland
Gray Fox (<i>Urocyon cinereoargenteus</i>)	Native mesopredator	Chaparral, riparian corridors
Townsend's Big-Eared Bat (<i>Corynorhinus townsendii</i>)	CDFW Species of Special Concern	Caves, barns, oak forests
Pallid Bat (<i>Antrozous pallidus</i>)	CDFW Species of Special Concern	Oak woodland, open slopes
<i>Leptosiphon acicularis</i>	CNPS Rank 1B.2 (Rare Plant)	Chaparral & grassland