



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Northern Region
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Redding, CA 96001
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
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Governor's Office of Planning & Research

MAY 10 2019

STATE CLEARINGHOUSE

May 10, 2019

Juliana Lucchesi, City Planner
City of Mt. Shasta
305 North Mt. Shasta Boulevard
Mt. Shasta, CA 96067

**Subject: Mitigated Negative Declaration for Golden Eagle Charter School
Conditional Use Permit and Tentative Parcel Map, Siskiyou County,
State Clearinghouse Number 2019049022**

Dear Ms. Lucchesi:

The California Department of Fish and Wildlife (Department) has reviewed the mitigated negative declaration (MND) for the above-referenced project (Project). The Department is the Trustee Agency for the State's fish and wildlife resources and holds those resources in trust by statute for all the people of the State, pursuant to Fish and Game Code sections 711.7 (a) and 1802; Public Resources Code section 21070, and the California Environmental Quality Act (CEQA) Guidelines section 15386 (a). The Department, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. The Department is also a Responsible Agency pursuant to CEQA. As such, the Department administers the California Endangered Species Act (CESA, Fish & G. Code section 2050 et seq), the Lake or Streambed Alteration program (Fish & G. Code section 1600 et seq) and other provisions of the Fish and Game Code that conserve the State's fish and wildlife public trust resources.

The Department offers the following comments and recommendations on the Project in our role as the State's trustee for fish and wildlife resources and as a Responsible Agency pursuant to CEQA.

Project Description

The Project consists of a Conditional Use Permit and Tentative Parcel Map that would facilitate the construction and operation of a new 35,500 square foot charter school and appurtenant structures. A future gymnasium and play field are proposed for construction as funding becomes available. The Tentative Parcel Map would merge ten existing parcels and establish three parcels, two of which would accommodate the proposed Project, with the northern most parcel which includes wetlands and other waters of the U.S. and State established as an open-space area. As currently proposed, the Project would result in permanent impacts to 0.039 acres of wetland and 0.045 acres of other waters of the U.S. and State, with additional impacts depending on the final site design plan. The Project is located on the west side of Pine Street in the City of Mt. Shasta.

Comments and Recommendations

The Department offers the following comments and recommendations to assist the Lead Agency in adequately identifying and/or mitigating the Project's impacts to biological resources.

Impacts to Wetlands

As currently proposed, the Project would result in the fill of 0.039 acres of wetlands and 0.045 acres of other waters, with an additional 0.068 acres of wetlands potentially impacted by the development of the future play field, and possibly additional impacts depending on the final site design. The MND relies solely on the U.S. Army Corps of Engineers (USACE) to determine whether compensatory mitigation will be required. It is the policy¹ of the Department to strongly discourage development in wetlands or conversion of wetlands to uplands. We oppose any development or conversion which would result in a reduction of wetland or riparian acreage or wetland or riparian habitat values, unless, at a minimum, mitigation assures there will be "*no net loss*" of either wetland or riparian habitat values or acreage. Mitigation ratios should be developed for this Project that will ensure no net loss of wetland or riparian habitat values or acreage will occur as a result of Project implementation.

The Department has adopted the U.S. Fish and Wildlife Service wetland definition, which also utilizes hydric soils, saturation or inundation, and vegetative criteria, but requires the presence of only one of these criteria (rather than all three as required by the USACE) in order to classify an area as a wetland. Mitigation for this Project should take into account the Department's wetland definition, which may extend past that of the USACE.

Proposed Parcel 3 contains the majority of the wetlands and other waters of the U.S. and State on the Project site. This Parcel is being proposed as open space, with no development currently proposed. The Department appreciates that the Project has been designed to avoid the majority of the sensitive habitats on the Project site; however, there is concern regarding the protection of these resources in the open space area from future development or other impacts. The Department recommends the placement of a conservation easement on this parcel to protect these resources in perpetuity.

Impacts to streams

A no development buffer of 50 feet from the perennial creek has been proposed in the MND. This buffer should be measured from the top of bank or outside edge of the riparian dripline, whichever is greater.

¹ Fish and Game Commission policy available at: <http://www.fgc.ca.gov/policy/p4misc.aspx#WETLANDS>

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Direct loss of montane riparian habitat will occur as a result of this Project. Mitigation for impacts to montane riparian habitat should be developed and included in the MND to reduce impacts to less than significant and should not be delayed until the Lake or Streambed Alteration Agreement (LSAA) process as the LSAA process is not intended to replace the CEQA review process in the identification and mitigation of potentially significant impacts to aquatic and riparian resources. If provisions in Fish and Game Code sections 1602(a)(4)(D) or 1603(b) influence whether an agreement is issued at all or if an agreement is issued by an arbitration panel, such an agreement (or no agreement) would not fulfill mitigation requirements for impacts to the onsite resources. The lack of mitigation measures in the MND and the sole reliance on the LSAA process does not ensure that impacts to the stream and riparian habitat will be less than significant. Instead, appropriate and specific migration measures should be developed and included in the MND that will complement existing State and federal permitting requirements.

The Department appreciates the opportunity to comment on the MND 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 kristin.hubbard@wildlife.ca.gov.

Sincerely,



Curt Babcock
Habitat Conservation Program Manager

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