



July 19, 2019

Marie Jones
City of Fort Bragg
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**Subject: Mitigated Negative Declaration for Fort Bragg Housing Element Update
State Clearinghouse Number 2019069079**

Dear Ms. Jones:

On June 24, 2019, the California Department of Fish and Wildlife (CDFW) received a Mitigated Negative Declaration (MND) for the Fort Bragg (City) Housing Element update (Project). As a Trustee for the State's fish and wildlife resources, CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants and the habitat necessary to sustain their populations. As a Responsible Agency, CDFW administers the California Endangered Species Act (CESA) and other provisions of the Fish and Game Code that conserve the State's fish and wildlife public trust resources. CDFW offers the following comments and recommendations in our role as a Trustee and Responsible Agency under the California Environmental Quality Act (CEQA; California Pub. Resource Code § 21000 et seq.).

CDFW's primary Project concerns include: (a) the MND's findings that existing storage facilities will accommodate a substantial increase in water demand is not supported by a water budget description or analysis and (b) ongoing diversion of water from the Noyo River and Newman Gulch without notification pursuant to Fish and Game Code section 1602.

Project Description

Policies that encourage in-fill and high-density residential housing are the primary focus of the Project. By 2020, the City estimates an increase of 256 residential units, 100 lodging rooms, and 163,000 square feet of commercial or industrial development. In the last four years, the City expanded its water storage capacity by constructing Summer's Lane reservoir (15 million gallons) and a new water tank (1.5 million gallons). The MND concludes that the Project will not result in any direct or indirect impacts to biological resources including listed or sensitive species or modifications to their habitat.

Potential Impacts

The Project's housing development programs, if implemented, would increase population growth and water demand. While MND states there may not be enough surface water from its sources to serve demand, it concludes that the City's existing

water storage capacity will accommodate an overall increase in development between 40 percent and 65 percent. The MND does not assess the potential consequences of drought or sea-level rise on the City's water supply sources or disclose any potential need to increase water diversion from the City's sources to meet increased demand during low-flow or drought periods. The MND does not analyze potential impacts to fish and wildlife resources from increased use of those water sources.

The City's water supply is diverted from the Noyo River, Newman Gulch (a tributary to the Noyo River), and Waterfall Gulch (a tributary of Hare Creek). The City's diversions are potentially impacting fish and wildlife resources in the Noyo River and Newman Gulch during low-flow periods. CDFW is concerned that the City is currently diverting up to fifty percent of the stream flow in the Noyo River without appropriate measures to ensure fish are not stranded or otherwise harmed. The flow in these streams is critical for protecting fish and wildlife resources, and without adequate bypass flows, impacts to listed and sensitive species, including take of salmonids, may occur.

Since 2011, CDFW has repeatedly requested the City enter into a Lake and Streambed Alteration Agreement (LSA) for the ongoing Noyo River, Newman Gulch, and Waterfall Gulch water diversions. The City has only entered into an LSA for the Waterfall Gulch water diversion and is not compliant with Fish and Game Code section 1602 for the Noyo River and Newman Gulch diversions. An LSA is required for projects, new and ongoing, that "*substantially divert or obstruct the natural flow*" of any river, stream or lake. In addition, Fish and Game Code sections 5901 and 5937 require operators of a device, contrivance or dam to maintain adequate fish passage and/or allow sufficient water to keep in good condition any fish that may exist downstream. CDFW is available to work collaboratively with the City to identify potential concerns and feasible alternatives.

Recommendations

- 1) To support its determination, the MND should include a water budget that compares current and anticipated demands and provides adequate bypass flows during low-flow and drought periods for species including State-listed endangered and federally-listed threatened Coho Salmon (*Oncorhynchus kisutch*), federally-listed Chinook Salmon (*Oncorhynchus tshawytscha*), and steelhead trout (*Oncorhynchus mykiss*).
- 2) The municipal water supply consists entirely of water diverted from the Noyo River, Newman Gulch, and Waterfall Gulch. The City's diversions are potentially impacting fish and wildlife resources in the Noyo River and Newman Gulch during low-flow periods. Pursuant to Fish and Game Code 1602, the City should notify CDFW for ongoing and future water diversions from all river and stream sources.

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Page 3 of 3

Thank you for the opportunity to comment on this MND. CDFW staff are available to meet with you to consult with or address the contents of this letter in greater depth. If you have questions on this matter or would like to discuss these recommendations, please contact Senior Environmental Scientist Specialist Jennifer Garrison at (707) 964-1476 or by e-mail at Jennifer.Garrison@wildlife.ca.gov.

Sincerely,



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