



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Northern Region
601 Locust Street
Redding, CA 96001
<http://www.wildlife.ca.gov>

REC'D JUL 21 2015
EDMUND G. BROWN, Jr., Governor
CHARLTON H. BONHAM, Director



July 21, 2015

Mr. Mike Sweeney, General Manager
Mendocino Solid Waste Management Authority
3200 Taylor Drive
Ukiah, CA 95482

**Subject: Review of Draft Environmental Impact Report for the Proposed
Central Coast Transfer Station in Fort Bragg, Mendocino County,
California, State Clearinghouse #2014012058**

Dear Mr. Sweeney:

The California Department of Fish and Wildlife (CDFW) has reviewed the Mendocino Solid Waste Management Authority's Response To Comments/Final Environmental Impact Report (FEIR) for the Central Coast Transfer Station (Project). CDFW provided comments on the Notice of Preparation and Draft Environmental Impact Report (DEIR) for the Project. Several of our comments have not been adequately addressed in the DEIR or the FEIR.

The Lead Agency for the Project is the Caspar Joint Powers Authority of the County of Mendocino (County) and City of Fort Bragg (City). CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and their habitat. As a Responsible and Trustee Agency, CDFW administers the California Endangered Species Act and other provisions of the Fish and Game Code (FGC) that conserve the State's fish and wildlife public trust resources. CDFW provides the following comments and recommendations in our role as a Trustee Agency pursuant to the California Environmental Quality Act (CEQA; California Public Resources Code [PRC] §21000 et seq.).

CDFW's primary concerns regarding the FEIR and proposed Project include:

1. Significant impacts to Northern Bishop Pine Forest (NBPF). The FEIR misclassifies this Sensitive Natural Community, does not identify Project impacts as significant, and fails to propose mitigation measures.
2. Inadequate analysis of feasible Project alternatives that would substantially reduce or eliminate most of the significant environmental impacts of the Project.
3. Inadequate analysis of impacts of vegetation clearing for defensible space pursuant to PRC section 4291.

4. Inadequate disclosure and analysis of direct and indirect impacts to wetlands, downstream surface water, and Sensitive Natural Communities.
5. Lack of a detailed mitigation plan.

Project Description

The proposed Project includes three related components:

1. Land transfer and acquisition. The County and City would acquire the Project site, consisting of 17 acres of Jackson Demonstration State Forest (JDSF)¹; JDSF would acquire 12 acres of Russian Gulch State Park, and the California Department of Parks and Recreation (State Parks) would be granted the option of taking ownership of 35 acres of the closed Caspar landfill.
2. Construction of a solid waste transfer facility, including waste transfer facility with a footprint of 4.72 acres, including a 30,000 square foot waste transfer building, outdoor recycling drop-off area, an office, paved driveways, parking areas, two stormwater detention basins, a groundwater well, septic tank, leach field, and perimeter fencing.
3. Operation of a solid waste transfer facility.

Northern Bishop Pine Forest

The FEIR repeats the misclassification of the Northern Bishop Pine Forest (NBPF) Sensitive Natural Community contained in the DEIR. Due to this erroneous classification, permanent removal of NBPF to facilitate Project implementation is a significant environmental impact (as defined in section 3.4.3 of the DEIR) for which no mitigation has been proposed. Pursuant to CEQA section 15126.4 (a)(1), an EIR shall describe feasible measures which could minimize significant adverse impacts of the Project. The FEIR has failed to recognize these impacts and propose mitigation measures for impacts to NBPF.

The DEIR states that imperiled sensitive habitats are defined per CDFW criteria. The vegetation association containing Bishop pine (*Pinus muricata*) on the Project site is NBPF. As stated in CDFW's February 2014 and March 2015 letters, NBPF has a conservation rank of G2 S2.2. This is the association and rank currently recognized by CDFW, as is clearly shown on the September 2010 Hierarchical List of Natural Communities with Holland Types and Full Natural Community Hierarchy lists available on the CDFW website.² Although the FEIR provides quotes from the CDFW website

¹ JDSF is managed by the California Department of Forestry and Fire Protection (CAL FIRE).

² http://www.dfg.ca.gov/biogeodata/vegcamp/natural_comm_list.asp

and purports to state CDFW's position (FEIR page 4-3), Project proponents have not consulted with CDFW regarding the conservation status of NBPF.

CDFW's Vegetation Classification and Mapping Program maintains and updates Natural Communities lists based on quantitative data after it is collected, analyzed, and vetted. Until such information is available, in some cases, Holland types are the best available information and are still used. As is stated on the CDFW website³, we think it imprudent to remove these elements from the CNDDDB before assessing them and reclassifying them in terms of the currently accepted State and national standards for vegetation classification. Until new information is available, NBPF stands from Marin County to Mendocino County will continue to be classified as G2 S2.2, as defined by Holland and CDFW's current Natural Communities list.⁴

The Project proposes to permanently remove 4 acres of NBPF. Threshold criteria in section 3.4.3 of the DEIR define a significant impact to "Imperiled Sensitive Habitats (State Rank S1 and S2 per CDFW criteria)" as removal of more than zero (0) acres of sensitive habitat. Neither the DEIR nor FEIR propose mitigation measures to compensate for this significant impact. We reiterate that this significant environmental impact resulting from the Project would require recirculation of the DEIR pursuant to CEQA section 15088.5.

The FEIR states that 5.76 acres of NBPF would be preserved coincidental to mitigation for impacts to Mendocino Pygmy Cypress Woodland (MPCW). CDFW does not consider this acreage to be adequate mitigation for proposed Project impacts to NBPF.

Feasible Alternative Project Locations

CEQA section 15126.6(f)(2) states that the key question and first step in analysis is whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in another location. Based on the administrative record, it is clear that feasible, less environmentally impactful alternative Project locations are available. CEQA section 15126.6(f)(1) states that an Environmental Impact Report (EIR) must examine alternatives that the lead agency determines could feasibly attain most of the basic objectives of the project. CEQA section 15126.6(c) outlines the factors that may be used to eliminate alternatives from detailed consideration in an EIR as: (1) failure to meet most of the basic project objectives, (2) infeasibility, or (3) inability to avoid significant environmental impacts. Project proponents have not provided substantial evidence to support the conclusion that the additional alternatives in the DEIR should have been eliminated from consideration based on the criteria set forth in CEQA section 15126.6(c). CEQA section 15126.6(b) is explicit in stating that "the

³ http://www.dfg.ca.gov/biogeodata/vegcamp/natural_comm_background.asp

⁴ Todd Keeler-Wolf, Senior Vegetation Ecologist, CDFW Vegetation Classification and Management Program, pers. comm.

discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives or would be more costly."

Although the FEIR asserts that none of the Alternatives are rejected because of excessive cost (FEIR page 4-4), the DEIR states that some sites were rejected at least in part due to cost. For example, DEIR section 4.4.4 states that for the Leisure Time RV Park site, *"The owner has offered to sell the property for \$1.2 million; however, this would significantly increase the capital expense of development of a transfer station."* This site was rejected despite DEIR's finding that this site would have some of the same advantages as the proposed project site, and would have substantially fewer environmental impacts than the Project. According to the DEIR, *"No major streams or waterways are located on the property and approximately 12 acres are flat and useable. A seven-acre portion of the property is already cleared of forest... The proposed project site and this site both lie along the exit route for solid waste transfer on State Route 20. This site would require removal of little or no forest since a substantial area is already cleared."*

The FEIR and DEIR are inconsistent in how they analyze the impacts of various alternatives. For example, the FEIR and DEIR use different criteria for determining proximity to residences for rejected sites than for the proposed Project. For rejected alternatives, the distance from property boundary to nearest residence was used. For the proposed Project, distance from Project footprint to nearest residence was presented. As stated in our March 2015 letter, these inconsistent criteria do not allow for meaningful comparison. For instance, on page 4-5, the FEIR states that the proximity of the Leisure Time RV Park to residences is as close as 20 feet from the site. However, the 2007 Siting Study (Winzler & Kelly 2007) states that this site is 24 acres in size, with enough relatively flat, useable land (12 acres) to allow flexibility in the layout and design of the facility. With a Project footprint of 4.76 acres, it appears highly unlikely that the facility itself would need to be placed within 20 feet of a residence. Google Earth imagery shows that the residence nearest the proposed Project site is also only approximately 20 feet from the property boundary. CEQA section 15126.6(f) states that the range of feasible alternatives shall be selected and discussed in a manner to foster meaningful public participation and informed decision making. Consistent information should be presented to allow for meaningful comparison between sites.

As stated in our March 2015 letter, CDFW believes the conclusions reached regarding feasible alternatives are poorly substantiated and do not meet the substantive mandates of CEQA to avoid or minimize environmental impacts unless doing so is not feasible (CEQA §§15002 and 15021). CDFW does not agree that the Project is the Environmentally Superior Alternative, and finds that further analysis would lead to an

alternative Project site. CDFW supports an alternative that avoids impacts to NBPF and MPCW Sensitive Natural Communities.

Vegetation Clearing for Defensible Space

On page 4-31, the FEIR speculates that *"there would be compelling grounds for CalFire to grant a non-flammability variance for reduced setback ...to allow minimal thinning of adjacent vegetation, or both."* The FEIR does not address CDFW's concern, stated in our March 2015 letter, that the DEIR did not disclose where defensible space vegetation removal or thinning would be required to comply with PRC section 4291, and did not provide analysis of this increased impact. As stated in our March 2015 letter, our conservative estimate of increased impacts, based on 100 feet of clearance as required by State law, is an additional 1.5 acres of vegetation clearing. This impact area would consist of approximately 0.4 acre of MPCW, with the remainder comprised mostly of NBPF.

CDFW staff contacted CAL FIRE for clarification of requirements pursuant to PRC section 4291 and the potential for variance issuance. CAL FIRE Fire Prevention staff indicated that *"The approval or denial of such variances is dependent on why the project proponent is seeking the variances and what type of additional mitigations they are willing to provide to offset the departure from the normal standard. ...Until a site visit is made and the mitigation measure (sic) are made clear, it will be hard to estimate the minimum width of defensible space to be required."*⁵ In addition, the total required width will depend on if there are any other requirements by other agencies and what the proponent is willing to offer as mitigation to maintain fire safety. CAL FIRE indicated that a representative from Fire Prevention staff and the Field Battalion Chief would be able to provide pre-consultation.⁵

In order to quantify impacts of the Project from vegetation clearing, project proponents should complete consultation with CAL FIRE regarding the required width of defensible space and any required mitigations. This new information should be used to analyze additional impacts to MPCW, NBPF, wetlands, and other Sensitive Natural Communities. Alternatively, the analysis of additional impacts should be completed assuming the standard 100 feet of defensible space. Results of this analysis should be included in the recirculated EIR, and appropriate mitigation should be proposed.

Disclosure of Impacts to Wetlands, Downstream Surface Water, and Sensitive Natural Communities

The FEIR does not provide sufficient site-specific detail regarding stormwater management, although the DEIR acknowledged that the Project could cause increased

⁵ Shawn Zimmermaker, Fire Prevention Battalion Chief, California Department of Forestry and Fire Protection, pers. comm.

runoff and identified this as a potentially significant impact. Hydrological and hydraulic analyses, as well as grading and drainage plans should be prepared during the CEQA review process, and not deferred until future permitting processes as proposed (FEIR page 2-7). The FEIR does not contain a detailed erosion control plan, which CDFW has recommended in previous letters.

The DEIR stated that *"the detention basin analysis presented in this report does not consider the outlet structure or the other drainage features (e.g., emergency spill way) that would be necessary for a detention basin"* and that the *"specific locations of these detention basins will be determined during the development of the grading and drainage plans..."* (DEIR section 5.5.1). The FEIR refers to a bioswale of indeterminate width (FEIR page 4-31). Additionally, the FEIR (page 2-8) states stormwater will be discharged through four pipes into an existing drainage located in the Bishop Pine Forest, and that stormwater infiltration will be promoted while not impacting the pygmy forest. Altered hydrology due to discharged stormwater runoff has the potential to impact NBPF and MPCW, which is also a Sensitive Natural Community. This FEIR does not analyze or propose mitigation for this potentially significant impact.

Given the project's proximity to wetlands, and proposed placement within Sensitive Natural Communities, specific information on the exact location and design of all project components (including detention basins and outlet structures) are essential to determine Project impacts, their significance, and potential mitigation if needed.

Detailed Mitigation Plan

In both our February 2014, and March 2015 letters, CDFW emphasized the necessity of preparing a detailed mitigation plan. The FEIR provides little detail regarding available funding and management of the proposed mitigation site. The FEIR (page 2-5) states that access points will be secured, signs will be posted, and quarterly inspections will be made by County personnel along with their routine mandatory inspections of the nearby closed Caspar Landfill. The FEIR further states that remedial activities will be proposed in the event that vandalism, trash dumping or other damage occurs. However, the amount or source of funding that would be available to implement these remedial actions is not identified. In the DEIR, the mitigation site was described as being threatened by encroachment from adjacent uses, but the FEIR does not propose measures to prevent this potential damage in the event the parcel is designated as a preserve to mitigate for Project impacts.

The mitigation plan should include detailed information regarding the conservation easement to be placed on the property or proposed changes in zoning and land use designations, the amount and nature of funding available to monitor and manage the mitigation land, and performance standards to ensure that the preserve's habitat quality is maintained. The FEIR suggests (page 2-5) that preservation may be accomplished by transferring title or an easement to an established conservation organization, but

none is named. The entity that would hold the conservation easement should be identified in the mitigation plan, as well as the size of the endowment necessary for a conservation organization to maintain the conditions of the easement.

Additional Comments

Mendocino Pygmy Cypress Woodland

The FEIR implies that MPCW is not vulnerable to extirpation because the acreage has been permanently protected (FEIR page 4-2), including Jackson Demonstration State Forest in the list of protected sites. However, the proposed Project would itself cause a net loss of MPCW within one of these "permanently protected" areas. In addition, statements in the FEIR contradict this assertion. For instance, the FEIR points out that *"In the past JDSF cleared approximately one acre next to the project site for a helipad, and has previously considered moving the entire JDSF headquarters building and associated facilities to the project site evaluated in the DEIR"* (FEIR page 4-27). The FEIR further states that CDFW's *"assertion that 'the JDSF Management Plan... would likely have protected these MPCW and NBPF Sensitive Natural Communities in perpetuity' is contradicted by history"* (FEIR page 4-34).

There is little or no enforceable protection of MPCW outside of the Coastal Zone and certain public lands. This Sensitive Natural Community is threatened by ministerial permits for residential development, associated clearing and grading, as well as dumping, off-road vehicles, and other impacts. Wherever feasible, alternative locations should be selected when conducting discretionary actions with the potential to impact MPCW. The FEIR acknowledges that the County does not have a mechanism in place for such review under building permits outside of the coastal zone (FEIR page 4-40).

On pages 4-6 and 4-30, the FEIR states that CDFW indicated that preservation would be the preferred method to mitigate for loss of MPCW. In our March 2015 letter, CDFW recommended acquisition and management in perpetuity of high quality MPCW to mitigate for impacts if avoidance is not a feasible alternative. Substantial evidence shows that avoiding impacts to MPCW, NBPF, and other Sensitive Natural Communities would be feasible through selection of an alternative Project site.

Mendocino County General Plan Resource Management Policies, as discussed in our March 2015 letter, also emphasize protection of "pygmy" ecosystems (RM-84), avoiding impacts to the maximum extent feasible (RM-28); avoidance of sensitive resources and environments rather than their removal and replacement (RM-73), no net loss of sensitive resources (RM-74) and the fact that offsite replacement, protection or enhancement is less desirable (RM-75). Selection of a feasible alternative site, which avoids impacts to Sensitive Natural Communities, would allow the City and County to meet all of these codified General Plan goals.

FEIR Page 4-29, Response O-4

"...The characterization of forest quality does not change the habitat status that was applied in the DEIR to generally assess the habitat present (note that it was determined to likely be moderate to high quality at the project site in the DEIR based on the above CDFW criteria, the comment that it was divided into low and high quality categories is not accurate)."

CDFW Comment: In the DEIR section 3.4.3 (page 3.5-38), Evaluation Criteria and Significance Thresholds are defined. Bishop Pine Habitat – High Quality and Bishop Pine Habitat – Low Quality are given different significance thresholds for adverse effects. The DEIR incorrectly states that Bishop Pine Habitat – Low Quality is "Uncertain State Rank per CDFW criteria." To reiterate what was stated in our March 2015 letter, subjective perception of quality does not influence a natural community's global and State rankings. All NBPF is ranked G2 S2.2.

FEIR Page 4-31, Response O-10

"...regarding the Legislative mandate in AB 384..."

CDFW Comment: Assembly Bill 384, referred to above, clearly states that the bill would authorize the various agencies to participate in the land transfer, and does not mandate it. This authorization is contingent on many approvals, including CEQA review, as is detailed in the legislation.

FEIR Page 4-33 - Response O-16

"...The DEIR does not analyze possible impacts to the land transfer site [12.6 acres of Russian Gulch State Park], because it is not known, other than adding the site to experimental watershed study area, what JDSF will do with the site, and therefore any speculation on future activities is hypothetical at this point in time...."

"...State Parks has not indicated any other potential plans for the property [35 acres of the Caspar Landfill site]. While the City and County cannot 'prepare a management plan' to reflect potential future intentions of State Parks, there is no reason to believe that any development, change in use, or other alteration would take place on the 35 acres...."

CDFW Comment: Assembly Bill 384 specifically states that the "entity acquiring title of the property shall be solely responsible for compliance with the California Environmental Quality Act... in connection with the transfer of property ownership and development of the solid waste transfer station." (emphasis added) The fact that this language was specifically included implies the legislature felt it was an important element of the environmental review for the Project.

In our March 2015 letter, CDFW commented that although the three-way land transfer is defined in the DEIR as a part of the Project, potential impacts were not evaluated. We recommend that the potential impacts, including foreseeable changes in land use, should be analyzed. Project proponents should work closely with both CAL FIRE and State Parks to fully describe and analyze potential changes in land use, and other foreseeable potential impacts. For example, as was stated in our March 2015 letter, the 12.6 acres of large second-growth redwood forest under State Parks management does not currently have the potential to be harvested; as part of JDSF, harvest is possible if not probable. Without full disclosure, reviewing agencies and the public do not have enough information to determine potential impacts to these public trust lands.

Summary of Comments

In summary, CDFW has the following substantial concerns regarding the Project and FEIR:

1. As proposed, the Project would have significant direct and indirect impacts to NBPFS Sensitive Natural Community. Because the FEIR misclassifies this natural community, it does not recognize its rarity or State rank, therefore, it did not describe impacts as significant or propose mitigations. Feasible and adequate mitigations should be proposed for significant impacts to the NBPFS Sensitive Natural Community.
2. Despite significant environmental impacts, the FEIR concludes that the proposed Project is the Environmentally Superior Alternative. Other feasible project sites are dismissed without full environmental analysis. Some Project alternatives are at developed and disturbed sites, with only negligible environmental concerns, thus requiring minimal mitigation. Other site alternatives identified in the DEIR, which occur outside of Sensitive Natural Communities, should be given full environmental analysis.
3. Vegetation clearing to comply with PRC section 4291 would exceed the impact acreage analyzed, and would degrade MPCW and NBPFS Sensitive Natural Communities. Consultation with CAL FIRE should be completed, the amount of additional vegetation clearing should be quantified, and appropriate mitigation should be proposed.
4. The FEIR does not disclose the location of stormwater outfall structures, where stormwater will be delivered once it leaves the proposed stormwater detention system, and what effect the stormwater will have on adjacent MPCW and NBPFS Sensitive Natural Communities.
5. The FEIR does not include an effective mitigation plan for the proposed MPCW mitigation lands.

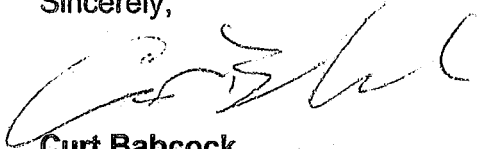
Mr. Mike Sweeney
Mendocino Solid Waste Management Authority
July 21, 2015
Page 10 of 11

6. The three-way land transfer is defined as part of the Project. However, the FEIR is absent any environmental impact analysis on the ultimate disposition of the other two parcels in the land transfer.

In closing, CDFW does not concur with the FEIR's assertion that significant impacts to biological resources and vegetation communities have been fully analyzed and mitigated to a level less than significant. We believe the document does not adequately evaluate all Project impacts to biological resources or the full range of mitigation measures needed to reduce potential impacts to a level less than significant. Mitigation measures are not addressed for at least one significant impact. We continue to urge the project proponents to revise the document to adequately identify and analyze the proposed Project's biological impacts addressed in this and previous comment letters, and to provide appropriate mitigation for the impacts prior to considering certification of the FEIR. Based upon the substantial evidence included in this letter, CDFW finds the FEIR should be revised and recirculated prior to considering certification pursuant to CEQA section 15088.5.

We are available to discuss our concerns. If you have questions, please contact Environmental Scientist Angela Liebenberg at (707) 964-4830 or angela.liebenberg@wildlife.ca.gov, or Senior Environmental Scientist Supervisor Gordon Leppig at (707) 441-2062.

Sincerely,



Curt Babcock
Habitat Conservation Program Manager

Reference: Page 11

ec: Mike Sweeney, General Manager
Mendocino Solid Waste Management Authority
sweeney@pacific.net

Carre Brown, John McCowen, Tom Woodhouse, Dan Gjerde, Dan Hamburg
Mendocino County Board of Supervisors
browncj@co.mendocino.ca.us, mccowen@co.mendocino.ca.us,
woodhouse@co.mendocino.ca.us, gjerde@co.mendocino.ca.us,
hamburgd@co.mendocino.ca.us

Linda Ruffing, City Manager
City of Fort Bragg
lruffing@fortbragg.com

Dave Turner, Lindy Peters, Michael Cimolino, Scott Dietz, Doug Hammerstrom
Fort Bragg City Council
dturner@fortbragg.com, lpeters2@fortbragg.com, mcimolino@fortbragg.com,
sdietz@fortbragg.com, dhammerstrom@fortbragg.com

Chris Browder, Pam Linstedt, Shawn Zimmermaker
California Department of Forestry and Fire Protection
Chris.Browder@fire.ca.gov, Pam.Linstedt@fire.ca.gov,
Shawn.Zimmermaker@fire.ca.gov

Liz McGuirk, Liz Burko, Loren Rex, Renee Pasquinelli, Dan Osanna, Kelly
DiPinto, Jay Chamberlin
California Department of Parks and Recreation
Liz.McGuirk@parks.ca.gov, Liz.Burko@parks.ca.gov, Loren.Rex@parks.ca.gov,
Renee.Pasquinelli@parks.ca.gov, Dan.Osanna@parks.ca.gov
Kelly.DiPinto@parks.ca.gov, Jay.Chamberlin@parks.ca.gov

Mona Dougherty
North Coast Regional Water Quality Control Board
Mona.Dougherty@waterboards.ca.gov

Holly Costa
US Army Corps of Engineers
holly.n.costa@usace.army.mil

Gary Falxa
US Fish and Wildlife Service
Gary_falxa@fws.gov

State Clearinghouse
State.clearinghouse@opr.ca.gov

Curt Babcock, Michael R Harris, Angela Liebenberg, Richard Macedo, Gordon
Leppig, Michael van Hattem, Jennifer Olson and Laurie Harnsberger
California Department of Fish and Wildlife
Curt.Babcock@wildlife.ca.gov, Michael.r.harris@wildlife.ca.gov
Angela.Liebenberg@wildlife.ca.gov, Richard.Macedo@wildlife.ca.gov,
Gordon.Leppig@wildlife.ca.gov, Michael.Vanhattem@wildlife.ca.gov,
Jennifer.Olson@wildlife.ca.gov, Laurie.Harnsberger@wildlife.ca.gov

Reference

Winzler & Kelly. 2007. Mendocino Central Coast Transfer Station Siting Study –
Report of Findings. Prepared for County of Mendocino and City of Fort Bragg.

