

Nielsen, Michelle

From: henderson95524@gmail.com on behalf of Larry Henderson
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Sent: Saturday, May 13, 2017 12:15 PM
To: Nielsen, Michelle
Cc: Werner, Steve
Subject: BLM CUP 16-035

Follow Up Flag: Follow up
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Michelle:

The project description included in the public notice for the upcoming BLM CUP hearing has been brought to my attention. I have the following comments to make regarding three statements made in that description.

The County of Humboldt, the fee owner of the subject parcel, has authorized the applicant, the Bureau of Land Management, to apply for the Conditional Use Permit.

A copy of this authorization has been requested, but not provided. The purpose of the request is to determine what entitlement has been granted, what the terms of that entitlement are, and whether the granting of that entitlement complied with CEQA.

The relevancy of this authorization is a matter for the Planning Commission. But without being informed about the specifics of this authorization, a legitimate complaint can be made that Commission approval of the permit would be wrong.

I ask that the requested copy be included in the record, and referenced in the Staff Report to be forwarded to the Commission.

The maintenance activities undertaken are part of the South Spit Interim (Final) Management Plan of 2002, and are consistent with said plan.

The record of the County's consideration and approval of this Plan has been requested, but not provided. The purpose of the request is twofold.

First, to confirm or deny the suggestion that the Plan is a County affair, and that the County has no choice but permit the planned activity.

Second, to confirm that—if the County did consider and approve the Plan—the action complied with CEQA.

This is a relevant factor for the Planning Commission's consideration. Approval of the permit would be precedence as to County role in the implementation of the Plan. Hence, if the precedence-setting consequences are not considered in compliance with proper decision-making mandates, approval of the permit is exposed to defendable legal challenge.

I ask that the requested record be included in the record, and referenced in the Staff Report to be forwarded to the Commission.

As Lead Agency, the Humboldt County Planning Division has determined that the project is exempt from environmental review pursuant to Sections 15323 Normal Operations of Facilities for Public Gatherings, and 15333(d)(4) Small Habitat Restoration Projects, of the State CEQA Guidelines.

The lead agency is the County, of which the Planning Division is a part. The determination that a project is exempt from CEQA review is one to be made by the decision-maker. In some cases, that may be the Planning Division. But in this case, the decision-maker is the Planning Commission...or could end up being the Board of Supervisors. In either case, the Planning Division cannot dictate what the determination must be on this permit. It can recommend; but not dictate.

The wording set forth in the Project Description suggests that the determination is ministerial and not discretionary...that the Planning Commission does not have a choice in this determination. This is a wrong scenario, and is the subject of the recent letter I submitted for the record. I ask that clarification be put in the Staff Report to be forwarded to the Commission. Thank you for considering my comments.
Larry Henderson
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