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November 22, 2021

Humboldt County Planning Commission  
825 5<sup>th</sup> Street  
Eureka, CA 95501

Re: Marshall Ranch Streamflow Enhancement Project  
Record #: PLN-2019-15661 / AP#: 220-061-011

Dear Humboldt Co. Planning Commissioners Bongio, Levy, Mitchell, Newman,  
McCavour, O'Neill, Mulder and Director John Ford,

I am writing to you to submit my comments and requests on the Marshall Ranch Streamflow Enhancement Project as is being proposed to your Commission for approval with the County Notice of Intent to adopt a Mitigated Negative Declaration for this project. To put this in geographical and historical perspective, my property is the closest to and adjoins the parcel where this project is proposed. The smaller of the two proposed ponds, noted as the eastern pond, will be located on the terrace directly over our property, home and office. The second pond is proposed to be located further to the west, upstream. A map of the proposed plan is included showing the proximity of our home to these proposed ponds.

In this project MND description it was noted that this is the third project revision that was twice previously circulated for public comment. This is the first time this Marshall Ranch Streamflow Enhancement Project has come before the Planning Commission for consideration. I would like to recommend that all the previous submissions of public comments be reviewed so you get a sense of the impact this project was to the immediate neighbors and the overwhelming surrounding community response to this originally threatening proposal.

The plans now being presented to you have been revised and modified and we appreciate that our concerns have been listened to and taken into consideration. We believe these design modifications have minimized, if not eliminated the threat to our home and property.

With these proposed plan changes we are not objecting to this project but taking all what we have been through into consideration. I still have some concerns regarding the design, operational plans and management of this project I would like to address.

This project is changing the natural state and altering a geomorphic structure that will never be able to be restored to its original formation. I believe it is reasonable to question what the short and long-term effects these changes might make and the unknown or unrealized effects this could create.

Redwood Creek has been designated by the State as a critical, priority watershed. It has been noted that the “rearing habitat for juvenile salmonids has been substantially degraded and the current lack of dry season flow is likely the leading factor”. We all know that Redwood Creek is experiencing reduced water levels due to the cannabis operations massive pumping and water consumption throughout the entire watershed. Commercial cannabis cultivation, both legal and illegal, are drawing more water out of the watershed than any single water usage. The County has approved countless numbers of cannabis permits that all require large volumes of water to be captured, stored and utilized for these operations. This is definitely having a detrimental impact on the availability of summer/fall flow water in the creek. Unless there is a comprehensive encompassing curtailment of all cannabis water usage in the watershed, projects like these will be fighting a water war for the fish.

If fish enhancement projects in our watersheds are to be successful, there needs to be a commitment by the County to limit the amount of water being permitted for commercial enterprises. To balance these conflicting water purposes, the County should institute a moratorium on all cannabis permits until a comprehensive, cumulative environmental report can be conducted on the effects commercial cannabis operations has had on all our watersheds.

Another component of this project is the proposed water availability for fire suppression. The new plan is now offering:

- 1.) Five – 100,000 gallon rainwater catchment tanks for flow enhancement, ranch use and fire suppression.
- 2.) Two fire hydrants to allow for a “portion” of the water stored in the tanks to be utilized for domestic, ranch and fire suppression needs.
- 3.) Two off stream ponds, one 3.8 million gallons and a second 5.7 million gallons could potentially provide helicopter drawn water for fire suppression.

There has been no preliminary or formal agreement proposed or offered from the Marshall Ranch allowing our local volunteer fire department unfettered access to the five water tanks proposed nor is there any guarantee that this water would be available when needed as it would be “shared” with domestic and ranch water use. The proposed plan shows the ponds of water would be available for fire suppression but there is a good possibility the tanks and ponds will be drained down or completely dry during the most critical time of year when water is needed for firefighting because they will be using it for their stream enhancement purposes during the dry summer months and at the height of our fire season. So, will there be water available for fire suppression?

Briceland Volunteer Fire Department and the Briceland Fire Protection District encourages landowners to store water for emergency fire response and there are many private residents and small local neighborhoods with designated water storage for emergency fire needs. In the event of a fire, a fire department will take the water closest to or most easily available to an incident. Briceland VFD has taken the lead in promoting public awareness and the steps necessary to address emergency response to fires and other emergency events that may occur. BVFD has long encouraged and promoted water storage for fire suppression purposes.

The Marshall Ranch should be encouraged to establish their own water storage sites for fire suppression throughout their entire private ~3,000-acre ranch.

As public funds are being utilized for the design, engineering and construction of the Marshall Ranch ponds and they are utilizing a “water availability for fire suppression” component in their permit and grant applications, I think it is reasonable to ask:

Is any of the tank water set aside for exclusive fire department use? If so, how much?

Will the department access to this water be open at any time or will arrangements for taking water need to be coordinated with the Marshall Ranch?

Will the tank water source be available for department training or other non-emergency fire department use?

Will the fire department be granted use of the water with a formal written document or agreement?

I think these are reasonable requests and conditions that the County should impose on this application for the permit of this project.

A large part of this project process so far has been in the engineering and producing design plans for this project. My concerns going forward is if the County allows this project to be constructed, how will it be overseen and managed?

Reducing the size of the ponds has placed this under the jurisdiction and oversight to Humboldt County. The County Planning and Building Department is the lead agency and it has the responsibility to assure us of continued public safety and monitoring.

Humboldt County does not have a designated department of Dam Safety and there is nothing in the plans that lays out or proposes how the County will monitor these ponds either short or long term. State grants have already been utilized to conduct preliminary studies and construction proposals and additional private and public funds are proposed to be tapped to finance this project but where are the funds for County oversight and monitoring to come from? Does the County have qualified staff to perform monitoring and safety assessments, or will this need to be contracted out to more qualified or licensed overseers?

This project proposes that:

“After construction has been completed, extensive post-project monitoring and adaptive management will be implemented to ensure that the project is functioning as designed. This will be conducted through continued involvement of the Project’s Technical Advisory Committee (TAC) including representatives from multiple state and federal agencies including Wildlife Conservation Board, California Department of Fish and Wildlife, NOAA Fisheries, State Water Resources Control Board, and North Coast Regional Water Quality Control Board.”

The representatives stated above consists of past, current or potential future governmental funding agencies for this project and some of these agencies are the very same ones granting permits for this project. How can they be objective in overseeing the safe construction and management of this operation when they are all direct funders? Who else is on this TAC and who appoints them? Are they compensated? I believe this is a direct conflict of interest and is not in the best interest of public trust. At a minimum, a local resident of Briceland should have a seat at the table of this TAC committee.

Another aspect of this proposed project that must be addressed is the private benefit that will come to the Marshall Ranch landowners from the use of public funds for this project. In the plans it is proposed that a 501(c)3 tax exempt organization will be formed to be the responsible party for the operation and management of this water storage and delivery facility but the Marshall Ranch, LLC will retain ownership of the property and infrastructure. Again, a local resident of Briceland should be granted a seat on this board of directors. Public grant funding is slated to be utilized from various public fund sources (CA 2014 Proposition 1 and CA 2018 Proposition 68 taxes) for the implementation work and additional project components not initially funded. Some of these other project components consist of piping systems, pumps, solar arrays, road construction, water hydrants and holding tanks for domestic water use to name a few. The plans show projected short- and long-term project costs but they do not provide any solid financial income projections or feasibility analysis for the funding of the operations and management of this facility. The project states they have secured a single foundation commitment for private funding for long-term operations, maintenance and monitoring but they do not offer any proof of this commitment or any alternative funding source if this foundation is unable to meet its promise in the future. The construction of five 100,000-gallon water tanks designated for domestic and ranch water use and noted as available for fire suppression purposes is questionable as designed. There is no restriction or prohibition of the water being sold for commercial purposes. This should be clearly prohibited. There is no discussion in the plans as to the disposition of these costly assets if the project is halted or abandoned. No plans have been included or submitted for the decommissioning of this facility after the end of its useful life or where the funds for this decommissioning will come from and who will be responsible for carrying this out. There is no explanation or justification for the use of public funds to benefit the private landowner and no public funds should be utilized for outright private benefit.

We have now been presented with preliminary management and operational plans. We would like them to include an emergency response plan in the event of pond failure, detailed financial and decommissioning plans. If the Planning Commission approves this project to go forward, we would like to see the project plans expanded to include detailed information and designs with a “birth to death” conceptual approach. I believe it would only be prudent for a project of this magnitude.

This project has the noble and virtuous intentions of helping to enhance and restore the habitat for the fish in the creek. I support this effort and feel these plans are a good start to a successful outcome.

The Planning Commission is entrusted with the task of the protection of public safety and welfare and to protect the public interest within the parameters of reviewing, guiding and approval of the making of sound planning and growth decisions. Each project should be considered within its own context of community and location impacts. You wield the power over how our communities grow and develop.

I appreciate you taking your time and consideration of my comments on this project.

Sincerely,

Joan E. Courtois