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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

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December 30, 2021

To: Humboldt Co. Planning Commission

Re: Marshall Ranch Streamflow Enhancement Project

PLN-2019-15661

Dear Humboldt Co. Planning Commissioners,

These were to be my public comments given at the meeting to be held January 6<sup>th</sup>, 2022 but I was informed that I would only be allowed 3 minutes for my comments and what I have to offer will take longer than three minutes to deliver so I am hereby submitting my full comments in writing with an abbreviated version to be given verbally at the Jan. 6<sup>th</sup> meeting.

This is the first time the Marshall Ranch Streamflow Enhancement Project has come before the Planning Commission for consideration but, as you may now be aware, this project has been proposed and been in the design and planning stages for quite some time.

Hopefully this commission has had a chance to review all the documents and plans submitted for this project and familiarize yourself with the magnitude and impacts of this now redesigned proposed project.

My name is Joan Courtois and my home, my office and property adjoin the property proposed for this project and is the most closely affected property to this project. Because of my location, I have been most concerned and directly involved with the plan proposals submitted over the last three plus years. Originally proposed was an earthen berm 16-million-gallon reservoir to be located approximately 200 feet away and constructed on the geomorphic terrace 80 feet above my property.

This proposal created a threat to my family's lives and great concern for the property damage a catastrophic failure would cause.

Thankfully, many environmental and community members spoke out against this original plan, and it has now been redesigned with a smaller pond on the upper terrace and a secondary larger pond upstream on a lower terrace. We appreciate that our concerns have been heard and that steps have been taken to redesign and address these issues raised.

What I have had to go through over the past three years, in voicing my concerns with this project has been traumatic and upsetting. So now, even though I do support this new design proposal, I still have unanswered questions and concerns regarding the design, and operational and management plans of this project that I would like the Planning Commission to address. Please refer to my previous comments submitted for more in-depth detail.

The County has designated this project as a "Major Project" under its own classifications of projects proposed. I would assume that because the County has given this a special designation, the Commission would take more than just a cursory review and consideration of this project before deciding on how to allow or deny this project to go forward. This *is* a "major project", and it will be forever altering and changing a pristine geologic feature from its natural state. The issues I have raised in my previously submitted public comments are not adequately addressed in the Project Proposal or the Staff Report. I would like the commission to address these specific issues and that you consider adding these as conditions of approval to this project proposal.

➤ **Who in the County will oversee this project, from construction throughout the life of operations and management of this project?**

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 like the State 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?



➤ **Expanded Design Plans showing a “Birth to Death” conceptual rendering of the life of this project.**

This project is changing the natural state and is altering a geomorphic structure aged at approximately between 10,000 to two million years old 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. The proposed plans do not go far enough. Due to the impact and magnitude of this project, the Planning Commission should require that the project plans be expanded to include detailed information and designs with a “birth to death” conceptual approach. From the beginning and implementation of the project throughout its useful life and then to the final plans for decommissioning when it has reached the end of its lifeful purpose.

➤ **Financial Plan, Funding and Proposed Budget**

The plans show some 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 five-year commitment. What is the alternative funding source if this foundation is unable to meet its promise in the future? Where is the revenue coming from to fund this operation after the proposed five-year funding ends? What other forms of revenue will be secured for the longer-term operations and management of this project?

➤ **Water availability for Fire Dept.**

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 fire 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.

- **Marshall Ranch prohibited from selling or transferring the water collected or stored.**

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. It must be clearly stated that they will not be allowed to sell any of the water collected or stored, ever. The water should also be restricted from being transferred outside the Redwood Creek watershed.

- **Technical Advisory Committee consist of at least, one local resident of the town of Briceland**

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.

- **Proposed tax-exempt organization to conduct the operations and management of the plant – grant a seat on the Board of Directors for a local Briceland resident.**

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 to insure local community participation in a publicly funded project.

- **Moratorium on cannabis permits in the Redwood Creek watershed**

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 in Redwood Creek until a comprehensive, cumulative water report can be conducted on the effects commercial cannabis operations has had on the reduction of water flows in Redwood Creek, especially in the late summer and fall.

- **Notification of any changes or alterations to the plans**

There has been numerous design and plan changes discussed and presented during the course of this project development over the past 3.5 years. I must assume there will be more changes if this is allowed to move forward. Because this project has such a direct effect on my property I would like to be notified, in writing, of any further design changes or plan revisions submitted.

I would appreciate the Commission taking the time to thoroughly review this project proposal and adding to this, the conditions I have suggested.

We are all called upon to be stewards of this earth. We need to be mindful of the steps we take and the footprints we leave behind.

Thank you,

Joan E. Courtois