



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Northern Region
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June 13, 2025

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**SUBJECT: TEDSEN REZONE (R2302C) RCA-1 TO RCA-2(W) & (WB) –
APN 112-172-013 & 112-172-014 (SCH# [2025050671](#))**

Dear Jessica Pollard:

On May 15, 2025, the California Department of Fish and Wildlife (CDFW) received Del Norte County's (County; Lead Agency) Initial Study and Draft Mitigated Negative Declaration (IS/MND) for the Tedsen Rezone (R2302C) RCA-1 to RCA-2(w) & (wb) – APN 112-172-013 & 112-172-014 (Project). CDFW appreciates the opportunity to provide feedback and understands the Lead Agency will accept comments through June 13, 2025.

As the Trustee Agency 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 (Fish & G. Code, §§ 1801 & 1802). 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 Trustee and Responsible Agency pursuant to the California Environmental Quality Act (CEQA; Pub. Resources Code, §21000 et seq.). These comments are intended to minimize Project impacts on public trust resources.

Project Description

The Project is located in an unincorporated area northeast of Crescent City, in Del Norte County, California. The Project site consists of two undeveloped, forested parcels containing wetlands and a perennial tributary to Elk Creek. The smaller one-acre parcel (APN 112-172-013) is currently zoned Resource Conservation Area-1 (RCA-1), and the 10-acre parcel (APN 112-172-014) is a combination of RCA-1 and Rural Residential Agriculture – 2 acre minimum (RRA-2). The RCA-1 designation is a placeholder intended to identify environmentally

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sensitive areas until more detailed mapping can be completed. The Project would rezone the RCA-1 portions of both parcels to RCA-2 Wetland (w) and RCA-2 Wetland Buffer (wb), classifying any remaining areas suitable for development as RRA-2. The current Project does not entail development, but the ultimate intent is to develop each parcel with a single-family residence, which may necessitate a future boundary adjustment to conform to RRA-2 zoning standards.

CDFW Consultation History

CDFW provided preliminary feedback in 2023 in response to a referral from the County. Staff also visited the property in 2024 as part of an approved Timber Harvest Plan (THP).

Biological Significance

The Elk Creek Watershed contains intact coastal wetlands, estuarine habitat, and freshwater streams that provide highly productive habitat for coho salmon (*Oncorhynchus kisutch*; ST, FT¹) and several other special status fish and wildlife species. Coho salmon are widely distributed throughout the watershed; although spawning is limited to higher gradient tributaries in the northeastern portion of the basin, rearing occurs throughout lower gradient streams and wetlands in the lower basin and estuary (Garwood 2019, Smith River Alliance and Stillwater Sciences 2021). Chinook salmon (*O. tshawytscha*; SSC) have been captured in the estuary (Garwood 2019), and spawner surveys indicate they are reproducing in the watershed (Burgess 1999). Resident coastal cutthroat trout (*O. clarkii clarkii*; SSC) are the most abundant and widespread salmonid, accessing a range of habitats from the estuary to small headwater streams (Garwood 2019). In addition to supporting all life stages of salmonids, lower gradient portions of the mainstem and tributaries provide rearing habitat for western brook lamprey (*Lampetra richardsoni*; SSC) and Pacific lamprey (*Entosphenus tridentatus*; SSC) (Smith River Alliance and Stillwater Sciences 2021). The watershed also contains extensive aquatic and terrestrial habitat for amphibians and reptiles, including northern red-legged frog (*Rana aurora*; SSC), southern torrent salamander (*Rhyacotriton variegatus*; SSC), Pacific tailed frog (*Ascaphus truei*; SSC), and northwestern pond turtle (*Actinemys marmorata*;

¹ Abbreviations: ST – State listed, threatened; FT – federally listed, threatened; SSC – CDFW Species of Special Concern

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SSC). The Elk Valley's matrix of wetlands, riparian forest, and dense conifer forest represent largely intact, high-value habitat and movement corridors for wildlife, such as Roosevelt elk (*Cervus canadensis roosevelti*), black-tailed deer (*Odocoileus hemionus columbianus*), American beaver (*Castor canadensis*), and a variety of resident and migratory birds.

Comments and Recommendations

CDFW would like to offer the following comments and recommendations on this Project in our role as a Trustee and Responsible Agency pursuant to CEQA (Pub. Resources Code, §21000 et seq.).

After a thorough review of the IS/MND and associated records, CDFW does not believe the document provides sufficient detail to enable meaningful review or substantiate the finding that this Project as revised will not have a significant effect on the environment. According to CEQA Guidelines, an Initial Study must consider "all phases of project planning, implementation, and operation" to "facilitate environmental assessment" and provide a factual basis for its findings (Cal. Code Regs., tit. 14, § 15063). Moreover, "project" refers to the "whole of the action," including "reasonably foreseeable indirect physical change in the environment" (Cal. Code Regs., tit. 14, § 15378). Rezoning the RCA-1 portions of both parcels would expand development potential along a tributary to a regionally significant wetland, as acknowledged by the "Special Study Area" designation in the County's Local Coastal Plan (LCP). Roughly 40 percent of the Elk Creek basin has already been developed for urban, residential, and commercial use, and development is identified as a key limiting threat to the recovery of coho salmon in Elk Creek (NMFS 2014). Development impacts include habitat fragmentation, edge effects, and threats to water quality associated with increased urban runoff and loss of riparian shade.

Although the IS/MND mentions the intent to develop both parcels, it provides little to no information about the scope and potential impacts of those activities. For example, it does not identify potential building sites, nor does it disclose the water source or locations for onsite wastewater treatment systems, details which are critical to understanding potential adverse impacts to biological resources. The document also relies on vague and unenforceable LCP policies as the only form of mitigation. Without adequate details about future development, CDFW cannot evaluate the potential significance of environmental impacts, nor can it consider the efficacy of minimization and mitigation measures. CDFW therefore recommends the County provide more substantive analysis that discloses the whole of the action, with sufficient information to permit meaningful review by

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agencies and the public (**Recommendation 1**). Based on the information provided thus far, CDFW is particularly concerned about the proposed reduction to the standard wetland buffer and access to the parcels, which requires crossing the unnamed tributary to Elk Creek. The Department would also like an evaluation of the potential increase in elk conflicts with the proposed development. Any future development should incorporate wildlife friendly designs including fencing.

Wetlands

As part of rezoning RCA-1 areas, the County's LCP requires site-specific resource mapping to identify the boundaries of Environmentally Sensitive Habitat Areas (ESHA) and to establish appropriate buffer zones. The Biological Assessment provides a cursory description of wetlands and other biological resources but underestimates the ecological significance of the area and discounts potential environmental impacts associated with future development. The wetland delineation that would be used to define new zoning boundaries contains several glaring deficiencies that compromise its validity, the most consequential of which is the absence of any meaningful spatial data, which is necessary to relocate or verify wetland boundaries. The map shows few landmarks or other reference points that could be used for orientation, and the only spatial data provided appears to reference a single point. To fully characterize the extent of wetland habitat and site future development, CDFW recommends requiring a more thorough wetland delineation, following methods described in the *Corps of Engineers Wetlands Delineation Manual and Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region, Version 2.0* (**Recommendation 2**).

According to the LCP, wetland buffers are typically 100 feet, though a smaller buffer may be used "where it can be determined that there is no adverse impact to the wetland." The Biological Assessment proposes a wetland buffer of only 50 feet and offers a cursory and internally contradictory justification for the reduction. CDFW does not agree with the report's unsubstantiated conclusion that a reduced buffer would have no impact on the environment. Despite the well-documented anadromy of Elk Creek and without conducting targeted surveys or habitat assessments, the Biological Assessment concludes "there are no known sensitive species in or near the project site." The unnamed tributary is a perennial fish-bearing stream with uninterrupted connectivity to Elk Creek and several indicators of high-quality rearing habitat. Juvenile coastal cutthroat trout were observed at the culverted crossing on the property (N. Simpson, Senior

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Environmental Scientist, pers. comm., 2024), and opportunistic surveys detected a redd farther upstream at Parkway Drive (Smith River Alliance and Stillwater Sciences 2021). Stream gradient, vegetative cover, and other habitat characteristics suggest the tributary may also serve as rearing habitat for coho salmon and lamprey, which have been documented in similar low-gradient streams in the lower basin.

In addition to mischaracterizing the biological significance of the Project area, the Biological Assessment is predicated on a fundamental misunderstanding of the consequences of rezoning. The Biological Assessment claims the Project will have no impact on the environment because no development is proposed; however, they also refer to the potential scale of development and propose several vague measures to reduce impacts associated with construction. Although the current Project contains no explicit details about future development, rezoning would increase development potential in sensitive habitat while simultaneously encroaching into buffer areas intended to temper the effects of urbanization. As part of the justification for a reduced buffer, the Biological Assessment describes the property as "well wooded" with sufficient screening between potential development areas and the wetland. However, a buffer reduction would expand the development footprint and allow for the removal of these very trees. Aside from generic LCP policies, the IS/MND does not incorporate revisions to the project that would minimize or mitigate the effects of development to a less-than-significant level. The LCP policies are broad concepts rather than site-specific practices, including goals such as "new development adjacent to the Elk Creek wetlands shall not result in adverse levels of additional sediment, runoff, noise, wastewater, or other disturbances." However, there are no clear standards or performance criteria to implement and enforce these policies, nor does the IS/MND propose any project-specific mitigation measures.

As previously mentioned, development near streams tends to increase stormwater runoff, with resultant increases in erosion and sediment and pollutant discharge. The removal of riparian vegetation tends to result in warmer stream temperatures and reduced habitat complexity and connectivity (CDFW 2004, Tockner et al. 2008, CDFW 2014). In addition to providing habitat benefits, wetlands and riparian areas serve important ecological functions, from bank stabilization and sediment control to water temperature regulation, floodwater attenuation, and groundwater recharge (Novitzki et al. 1996, Tockner et al. 2008). No-disturbance buffers are a well-established means of mitigating for land use impacts in adjacent areas. CDFW generally recommends buffer widths of at

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least 100 feet on fish-bearing streams (**Recommendation 3**), as the capacity to trap and filter sediment and pollutants increases with buffer width (Castelle et al. 1992, Castelle et al. 1994, Wenger 1999, CDFW 2014, King et al. 2016, Cole et al. 2020). In this case, where braided channels meander through wetland floodplain, the 100-foot buffer should start at the wetland boundary or the edge of the riparian dripline, whichever is greater.

Stream Crossing

The IS/MND indicates the existing stream crossing will be delineated as RCA-2(wb) to allow for road development within the access route serving the parcels. CDFW disagrees with this designation, as the road prism passes through the stream corridor and conveys the stream itself through a series of culverts. The crossing consists of two 48-inch culverts set wall-to-wall with a 36-inch overflow culvert. A triangular gap in the fill between the two larger culverts accommodates baseflow. Staff in CDFW's Timber Program evaluated the crossing as part of the most recent THP but did not require immediate replacement. However, standards for timber harvest are different from those for development and residential use. The crossing may be sufficient to support limited seasonal use associated with logging, which typically occurs every few decades at most; however, year-round residential traffic places additional strain on roads and associated structures, particularly during the rainy season. CDFW is not aware of plans to upgrade the crossing prior to development.

The crossing is already showing signs of failure, evident in the very gap that allows for fish passage. The culvert inlets are elevated above the stream bed, allowing water to pass beneath the pipes and through fill rather than through the structure itself. It is the erosion of fill material between the two culverts that maintains connectivity for fish passage during summer baseflow, not the structure itself. Moreover, the structure has already contributed and continues to discharge fine sediment to a fish-bearing stream, which is a violation of Fish and Game Code section 5650. Although CDFW permitted the crossing almost twenty years ago as part of a previous THP, this configuration is not consistent with current design standards for fish-bearing streams and would not be permitted today. The wall-to-wall installation and depth of the crossing are unusual, raising questions about load-bearing capacity and whether the structures were installed according to the manufacturer's specifications. CDFW has not received documentation to suggest the crossing meets current standards for rural roads, as described by Del Norte County Code Standards for Private Rural

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Roads (Chapter 12.05) and State Minimum Fire Safe Regulations (Cal. Code Regs., tit. 14, § 1273.07).

To protect the biological integrity and habitat value of the tributary, CDFW recommends requiring the Project proponent to replace the culverted crossing with a full-span bridge, pipe arch culvert, or similar open-bottom design (**Recommendation 4**). The crossing should be designed by an engineer to accommodate 100-year flow and associated debris and sediment while maintaining the native stream substrate. Activities that may substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel or bank of any river, stream, or lake require notification from CDFW pursuant to Fish and Game Code section 1602 et seq. (Lake and Streambed Alteration Agreement; LSAA) and may be subject to the permitting authority of other state and federal agencies (i.e., U.S. Army Corps of Engineers and the North Coast Regional Water Quality Control Board). Given the well-documented presence of anadromous fish in Elk Creek and its tributaries, CDFW recommends conducting appropriately timed, targeted surveys (e.g., minnow trapping, snorkel surveys, etc.) to evaluate the potential for coho and other salmonids (**Recommendation 5**). Take of species designated as endangered, threatened or candidate species pursuant to the California Endangered Species Act (CESA) (Fish & G. Code § 2050 et seq.) is unauthorized without a Consistency Determination (CD) or Incidental Take Permit issued by CDFW (Fish & G. Code, §§ 2080 et seq., 2081 et seq.; see Cal. Code Regs., tit. 14, § 783 et seq.).

Summary of Recommendations

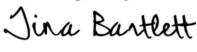
- 1) Provide more substantive analysis that discloses the whole of the action, with sufficient information to permit meaningful review by agencies and the public.
- 2) To fully characterize the extent of wetland habitat and site future development, CDFW recommends requiring a more thorough wetland delineation, following methods described in the *Corps of Engineers Wetlands Delineation Manual* and *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region, Version 2.0*.
- 3) Require a minimum buffer of at least 100 feet, starting at the wetland boundary or the edge of the riparian dripline, whichever is greater.

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- 4) Require the Project proponent to replace the culverted crossing with a full-span bridge, pipe arch culvert, or similar open-bottom design. The crossing should be designed by an engineer to accommodate 100-year flow and associated debris and sediment while maintaining the native stream substrate.
- 5) Conduct appropriately timed, targeted surveys (e.g., snorkel, dip net, etc.) to evaluate the potential for coho and other salmonids in the unnamed tributary.

Thank you for the opportunity to comment on this IS/MND. Please contact Kathryn Rian, Environmental Scientist, with any questions or comments.

Sincerely,

DocuSigned by:


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