

Project: FEIR Walt Ranch, Napa County, California

TO Mr. Thomas N. Lippe
LIPPE, GAFFNEY, AND WAGNER LLP
329 Bryant Street, Suite 3D
San Francisco, California 94107

August 25, 2016

RE: My Response to Comments on my Comments to Reponses Addressed in the Final Environmental Impact Report (FEIR) prepared for Walt Ranch, Napa County, California

Dear Mr. Lippe,

I have thoroughly and comprehensively reviewed the responses to my comments on the FEIR prepared for the proposed vineyard development at Walt Ranch located in Napa County, California. What is most striking about the responses provided (I assume) by Analytical Environmental Services to my comments on the FEIR, is that - as with their previous responses to my comments on the DEIR – there is no true response. As with all previous responses, the authors merely point me back to the original text in the DEIR and their non-responses to my original comments on the DEIR.

Throughout this CEQA process, the project proponent has taken the stand of “we stated XYZ therefore XYZ is true”. The authors consistently respond to my comments by directing me to go back and read what they wrote in the DEIR. The authors made statements and reached conclusions in the DEIR that they did not have the data to support and their analyses are not in fact analyses, but are opinions unsupported by the facts. In some cases, conclusions in the DEIR and FEIR are clearly made by individuals that are not qualified to be rendering opinions. Their responses to my comments on the DEIR did not address the issues I raised, but instead simply directed me back to the very comments that I found to be unsupported. The authors have done exactly the same thing relative to my comments on the FEIR. No new information was provided and in fact, the issues I raised early in this CEQA process were trivialized and have never been adequately addressed.

Only one item was microscopically modified in the Updated MMRP based on my comments and that was to require that a qualified biologist be involved during bullfrog eradication efforts for eggs, larvae, and sub-adult bullfrogs: (Page 20 of Responses to Final ERI Comments) *“As such, Mitigation Measure 4.2-11 has been revised to restrict egg, larva, and sub-adult removal to qualified biologists only;”* **however, even this compromise was rendered inadequate by adding the language** (Page 20 of Responses to Final EIR Comments): *“Adult bullfrogs are easily distinguishable from CRLF and FYLF....”* *Mitigation Measure 4.2-11 continues to allow persons knowledgeable in the identification of the species (i.e. a worker who has been trained by a qualified biologist and has obtained the appropriate fishing license) to capture and remove adult bullfrogs.*

In this portion of the Responses to Final EIR Comments, the authors demonstrate their lack of knowledge regarding the species of which they are writing. Differentiating between bullfrogs,

foothill yellow-legged frogs, and California red-legged frogs *of any lifestage* is NOT easy. I have been conducting published research on these species for over 20 years and was mentored by some of the most highly respected and renowned herpetologists in the state. Dr. Norman Scott, who is now almost 80, has spent over 50 years working with these species and was the senior petitioner for the federal listing of CRLF. His colleague, Dr. Galen Rathbun, has a similar record - I have been present on surveys with these two very senior herpetologists and listened to them argue over whether the sighting was a CRLF or a bullfrog. Therefore, the arrogance of the authors in deciding that a manual laborer or unidentified "worker" can be trained to differentiate between two species is astounding. With this logic, I assume that I can be trained in one day to run a large excavator and put out my shingle as a heavy equipment operator the next day. I would like to know the qualifications of the individuals writing that "*adult bullfrogs are easily distinguishable from CRLF and FYLF,*" because no qualified herpetologist would make that statement as it is patently false.

The consistently inadequate responses to the comments and issues I repeatedly raised has fatally undermined the CEQA process, which was enacted to identify the significant environmental impacts of state and local agencies' actions and to avoid or mitigate those impacts. Many of these issues are listed again below and have not been rectified or addressed. Data collection, survey methods, reports, and data interpretation relative to biological resources were wholly inadequate and conducted by personnel whose qualifications in most cases were not available for review, but a review of their written reports demonstrates they were patently unqualified.

1. Surveys for biological resources were completely inadequate and do not provide sufficient nor comprehensive data that support the conclusions in the DEIR and FEIR.
2. The DEIR and FEIR did not identify and address all potential impacts to special-status species and their habitats.
3. The mitigation measures are entirely inadequate and pay lip service at best to mitigating the very few impacts identified.
4. There is a distinct lack of treatment of the special-status amphibian species, particularly as the MMRP contains no monitoring measures for CRLF and FYLF, and in fact, these species are not even mentioned in that document. There is no plan to manage for these species.
5. The DEIR and FEIR do not represent good faith efforts, do not use the best available science, and in general, make conclusory statements that are not supported by the peer-reviewed literature or in fact, even the small amount of data they did collect.
6. The written responses did not describe the disposition of the significant environmental issues that I raised other than to indicate that - with the exception of the poorly written and dangerous bullfrog control measure - there have been no changes to the DEIR or FEIR. The respondent did not offer additional factual information or analyses to support the decision to disregard the points I have raised.
7. The major environmental issues I raised were not addressed in detail nor were reasons articulated as to why specific comments and suggestions were rejected.

Signed,



Dr. Gretchen E. Padgett-Flohr

Herpetologist and *Certified Wildlife Biologist*

Peer Reviewed Publications

- Wilcox, J.T., **G.E. Padgett-Flohr**, J.A. Alvarez, and J.R. Johnson. 2015. Possible Phenotypic Influence of Superinvasive Alleles on Larval California Tiger Salamanders (*Ambystoma californiense*). *American Midland Naturalist* 173(1):168-175.
- Brem, F.M.R., M.J. Parris, and **G.E. Padgett-Flohr**. 2013. Re-Isolating *Batrachochytrium dendrobatidis* from an Amphibian Host Increases Pathogenicity in a Subsequent Exposure. *PLoS One* 8(5): e61260. DOI: 10.1371/journal.pone.0061260.
- Alvarez, J.A., M.A. Shea, J.T. Wilcox, M.L. Allaback, S.M. Foster, **G.E. Padgett-Flohr**, and J.L. Haire. 2013. Sympatry in California tiger salamander and California red-legged frog breeding habitat within their overlapping range. *California Fish and Game* 99(1): 42-48.
- Conlon, J.M., L. K. Reinert, M. Mechkarska, M. Prajeep, M. A. Meetani, L. Coquet, T. Jouenne, M.P. Hayes, **G. Padgett-Flohr**, and L. A. Rollins-Smith. 2013. Evaluation of the skin peptide defenses of the Oregon spotted frog *Rana pretiosa* against infection by the chytrid fungus *Batrachochytrium dendrobatidis*. *Chemical Ecology* 39: 797–805. DOI 10.1007/s10886-013-0294-z.
- Padgett-Flohr, G.E.** and M.P. Hayes. 2011. Assessment of the Vulnerability of the Oregon spotted frog (*Rana pretiosa*) to the amphibian chytrid fungus (*Batrachochytrium dendrobatidis*). *Herpetological Conservation and Biology* 6(2): 99-106.
- Conlon, J.M., M. Mechkarska, E. Ahmed, L. Coquet, T. Jouenne, J. Leprince, H. Vaudry, M. P. Hayes, **G. Padgett-Flohr**. 2011. Host defense peptides in skin secretions of the Oregon spotted frog *Rana pretiosa*: implications for species resistance to chytridiomycosis. *Developmental and Comparative Immunology* 35: 644-649.
- Bowerman, J., C. Rombough, S. Petrakis, and **G.E. Padgett-Flohr**. 2011. Terbinafine hydrochloride as a treatment for *Batrachochytrium dendrobatidis* infection. *Journal of Herpetological Medicine and Surgery*, 20(1): 24-28.
- Padgett-Flohr, G.E.** and R.L. Hopkins, II. 2010. Landscape epidemiology of *Batrachochytrium dendrobatidis* in Central California. *Ecography*, 33: 1-10.
- Hayes, M.P., C.J. Rombough, **G.E. Padgett-Flohr**, L.A. Hallock, J.E. Johnson, R.S. Wagner, and J.D. Engler. 2009. Detection of *Batrachochytrium dendrobatidis* in a wild population of *Rana pretiosa*. *Northwestern Naturalist*, 90: 148-151.
- Padgett-Flohr, G.E.** and R.L. Hopkins, II. 2009. *Batrachochytrium dendrobatidis*: A Novel Pathogen Approaching Endemism in Central California. *Diseases of Aquatic Organisms*, 83(1): 1-9.

- Kolby, J.E., **G.E. Padgett-Flohr**, and R. Field. 2009. Amphibian Chytrid Fungus (*Batrachochytrium dendrobatidis*) in Cusuco National Park, Honduras. *Diseases of Aquatic Organisms* Special Issue 4:pp3; DOI: 10-3354/dao02055.
- Kolby, J.E. and **G.E. Padgett-Flohr**. 2009. Amphibian Chytrid Fungus (*Batrachochytrium dendrobatidis*) in Honduras: Historical Exposure in *Plectrohyla dasypus* and Subsequent Decline. *Herpetological Review*, 40(3): 307-308.
- Padgett-Flohr, G.E.** 2008. Pathogenicity of *Batrachochytrium dendrobatidis* in two threatened California amphibians: *Rana draytonii* and *Ambystoma californiense*. *Herpetological Conservation and Biology* 3(2): 182-191.
- Padgett-Flohr, G.E.** and M.E. Goble. 2007. Evaluation of Tadpole Mouthparts Depigmentation as a Diagnostic Test for Infection by *Batrachochytrium dendrobatidis* for Four California Anurans. *Journal of Wildlife Diseases*, 43(4): 600-699.
- Padgett-Flohr, G.E.** and J.E. Longcore. 2007. Detection of *Batrachochytrium dendrobatidis* in a wild population of *Taricha torosa*. *Herpetological Review*, 38(2): 176-177.
- Padgett-Flohr, G.E.** 2007. Chytridiomycosis: An Informational Brochure for the Field Biologist. Peer-reviewed by Rick Speare, Lee Berger and Joyce Longcore. Used in workshops on sensitive amphibians; distributed amongst the agencies for internal use.
- Padgett-Flohr, G.E.**, T. Bommarito, and D. Sparling. 2007. Amphibian Chytridiomycosis in Commercially Purchased Research Amphibians. *Herpetological Review*, 38(4): 390-393.
- Padgett-Flohr, G.E.** 2006. A Field Biologist's Guide to Amphibian Diseases. Chapter in: Guide to Amphibians and Reptiles of San Diego County. U.C Press, Berkeley, CA.
- Padgett-Flohr, G.E.** and J.E. Longcore. 2005. Detection of *Batrachochytrium dendrobatidis* in a wild population of *Ambystoma californiense*. *Herpetological Review*, 36(1): 50-51.
- Padgett-Flohr, G.E.** and L. Isakson. 2003. A Random Sampling of Salt Marsh Harvest Mice in a Muted Tidal Marsh. *Journal of Wildlife Management*, 67(3): 646-653.
- Padgett-Flohr, G.E.** and M.R. Jennings. 2002. An economical safe house for small mammals in pitfall traps. *California Fish and Game*, 87(2): 72-7.
- Padgett-Flohr, G.E.** 2002. Survey Protocol for Salt Marsh Harvest Mice and Other Small Mammals. For: P.R. Olofson (ed). Baylands Ecosystem Species Protocols for Key Plants, Fish and Wildlife. San Francisco Bay Area Wetland Goals Project, San Francisco Bay Regional Water Quality Control Board, Oakland, California.
- Padgett-Flohr, G.E.** and M.R. Jennings. 2002. Survey Protocol for California Red-legged Frog, *Rana aurora draytonii*. For: P. R. Olofson (ed). Baylands Ecosystem Species Protocols for Key Plants, Fish and Wildlife. San Francisco Bay Area Wetland Goals Project, San Francisco Bay Regional Water Quality Control Board, Oakland, California.
- Padgett-Flohr, G.E.** and J.D. Reeve. *In prep.* Modeling pathogen geo-diffusion for *Batrachochytrium dendrobatidis* in Central California.