PC 12-11-14
#6
35 pages

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Distributed at hearing

TO:	Planning Commission	Agenda of:	December 11, 2014
FROM:	Mel Pabalinas, Senior Planner	Item No.:	6
DATE:	December 9, 2014		

RE: A14-0005/Z14-0009/TM14-1514/El Dorado Springs 23; Agency Comments

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Staff has received several project comments from various agencies including Air Quality Management District (AQMD), Caltrans, and California Department of Fish and Wildlife (CADFW). The following is summary of each agency comment and staff response to the comments:

1) **Comments from Air Quality Management District (Exhibit 1)**: AQMD identified narrative corrections under Section III (Air Quality) of the Initial Study/Mitigated Negative Declaration. AQMD re-emphasized the requirements for reducing pollutant emissions.

   County Response: The corrections identified by AQMD are hereby noted and will be incorporated in the revised Initial Study/Mitigated Negative Declaration. The requirements involving prohibiting wood-burning fireplace or stoves, and incorporating electric vehicle outlets are already included as Conditions of Approval Nos. 43 through 45.

2) **Comments from Caltrans (Exhibit 2):** Caltrans posed concerns regarding the project Traffic Impact Analysis (TIA) of the metering at the El Dorado Hills Boulevard westbound ramp, the HOV volumes on the US Highway 50, and the Cumulative Impacts analysis. The Department also inquired further clarification on the Traffic Area Zone (TAZ) of the site and the density of the proposed project and suggested that traffic count collection be conducted on specific durations. The department requested a meeting with County staff to discuss traffic modeling factors.

   County Response: Based on coordination with the traffic consultant (T.Kear Transportation Planning and Management, Inc), the Department of Transportation and Long Range Planning Division- Transportation, staff provides the following responses:

Comments 1 and 2 (First and Second Bullet): US 50 Mainline Analysis

No revisions to the Traffic Impact Analysis (TIA) are necessary. The TIA documents that project traffic does not worsen US Highway 50 per General Plan Policy TC-Xe, which defines worsening as:

- A two percent increase in traffic during the AM peak hour, PM peak hour, or daily; or
- The addition of 100 or more daily trips; or
- The addition of 10 or more trips during the AM peak hour, PM peak hour, or daily.

The project traffic contributions to US Highway 50 segments are below these thresholds and revisions to the Caltrans PeMS data and/or metering assumptions will not affect the study findings. Future analysis will be based on direct traffic counts rather than the Caltrans loop data to alleviate concerns over the HOV percentages on other projects affecting this segment of US Highway 50.

Comment 3 (Third Bullet): Cumulative Analysis

Cumulative analysis requirements were addressed in December 3, 2014 letter and December 8, 2014 email.

Comment 4 (Fourth Bullet): TAZ 165 Land Use

The General Plan land use designation and current zoning for the project area assume medium density apartments, and the Cumulative scenario in the General Plan travel demand model assumes 225 dwelling units for the project location. The reduced limit of 52 dwelling units, and the proposed project at 49 dwelling units, would both generate substantially less traffic than what was envisioned in the General Plan.

Comment 5 (Fifth Bullet): Traffic Counts

Consistent with El Dorado County guidance and industry standards, traffic counts for this project were collected mid-week, non-holiday, when school was in session.

Comment 6 (Sixth Bullet): Coordination on Mainline analysis

El Dorado County will continue to work with Caltrans to analyze US Highway 50 and appreciates opportunities to discuss all questions. The County is aware of the concern over traffic on westbound US Highway 50 between El Dorado Hills Boulevard and Scott Road. Improvements to the El Dorado Hills Boulevard interchange and a new interchange at Silva Valley are currently under construction that will help to manage traffic operations on US Highway 50. Additional parallel capacity is being planned with the Saratoga Way extension, the Capital South East Connector Project, and the Empire Ranch interchange.

No changes are needed on the Initial Study/Mitigated Negative Declaration.

3) **Comments from California Department of Fish and Wildlife (Exhibit 3):** The Department recommended revisions to the Initial Study/Mitigation Negative Declaration to include an expanded search and survey area of potential sensitive species and habitat on-site and off-site and suggested edits to mitigation measures under Section III (Biological Resources) accordingly.

County Response: Staff and project applicants have reviewed the comments and met with representative of the agency on December 4, 2014. The applicant's biologist prepared an update to the Biological Resource Assessments (BRA) and Delineation of Water of the United States, which are included as Attachment 6 of the Initial Study/Mitigated Negative Declaration (Exhibit 4). Specifically, the addendum details the expanded resource search which identified 19 additional special status plant species. Given the lack of suitable habitat, 17 species were identified not to occur on site or in the immediate area while two, big-scale balsamroot (*Balsamorhiza macrolepis*) and dwarf downingia (*Downingia pusilla*) were found to have low potential to occur on the site. However, these species are not State or Federally-listed species, were not observed on site, and no recorded occurrences within five miles of the project.

The Biologist also evaluated the specific special status animal species identified by the agency including the Burrowing Owl, Tricolored Bird, Swainson's Hawk, Western Pond Turtle and Vernal Pool Invertebrates. As previously evaluated in the (BRA), the project site is identified to provide marginal to suitable habitat to these species.

To adequately address these concerns, staff, in coordination with the project biologist, is proposing edits in the Initial Study/MND (Exhibit 5). These edits do not identify any new environmental effects that were not previously analyzed in the circulated document but enhances the framework of the impact analysis and improve the recommended mitigation measures. The edits to Mitigation Measures MM BIO-1 and MM BIO-2, which are reflected as Conditions of Approval Nos. 2 and 3, are shown below with strikethroughs (deletion) and underlines (addition).

MM BIO-1 Pre-construction Surveys Required: MM BIO-1 Pre-construction Surveys Required: ~~A~~ Pre-construction surveys ~~(~~for species listed in Table 1 of the Biological Resources Assessment prepared by Foothill Associates, dated February 12, 2014 and updated in the letter dated December 8, 2014,~~)~~ shall be conducted on the project site and adjacent properties, as access allows, by a qualified biologist(s) no more than ~~30~~ 14 days prior to the onset of construction activities. To maximize the potential for locating ~~to determine if~~ burrowing owls on or adjacent to the site, the survey shall be conducted before 10 AM or within 2 hours prior to dusk and a final survey will be conducted within 24 hours prior to the start of construction. If construction will take place during the nesting season (March 15- September 15), potential Swainson's hawk nest trees within ¼-mile of the project site should be surveyed, as access allows. If construction is scheduled to begin outside the bloom period (March – June), then an additional focused survey for special-status plant species shall be conducted during the bloom period. The

results of pre-construction surveys should be submitted to the County and regulatory agencies as appropriate. ~~or other migratory birds occupy the site.~~

If non-listed special-status plant species are identified on the site in an area that will not be disturbed, the population should be preserved in place and protected with high-visibility fencing. If impacts are unavoidable, then a mitigation plan documenting the procedures for relocating the population to the on-site open space should be prepared and submitted to the County for approval. If State or federally-listed plant species are identified during the pre-construction surveys, then the CDFW and USFWS should be consulted, as appropriate, for applicable avoidance and mitigation measures.

If special-status species or active avian nests ~~of burrowing owls or other migratory birds~~ are identified on or adjacent to the site during the pre-construction survey, a buffer zone shall be established as recommended by the project biologist. ~~The~~ Active nests should be monitored until the young have fledged and the nest is no longer in active use. If any special-status species is found on site during construction, work in the immediate vicinity will cease until a qualified biologist provides take avoidance measures. If relocation of a special-status species is required, the project biologist will coordinate with the County and regulatory agencies as required, for approval of the relocation methods and procedures prior to relocation.

~~California Department of Fish and Wildlife (CDFW) shall be consulted for current guidelines and methods for passive relocation of any raptor found on the site. For example, if an active owl burrows are located during the pre-construction survey, it is recommended a 250-foot buffer zone may be established around each burrow with an active nest until the young have fledged, and are able to exit the burrow. If occupied burrows are found with no nesting occurring, or if active burrows are found after the young have fledged, or if development commences after the breeding season (typically February-August), passive relocation of the birds involving installation of a one-way door at the burrow entrance should be performed.~~

If construction activities are delayed by a period of one year or more, a qualified biologist(s) shall conduct additional surveys for any new, previously unidentified special status species that may occur on the project site, which are listed by CDFW and/or USFWS.

If the additional surveys identify new and/or previously unidentified special status species, informal Consultation must be initiated with California Department of Fish and Wildlife (CDFW) and/or United States Fish and Wildlife Service (USFWS) to determine appropriate avoidance measures.

The applicant shall follow the appropriate avoidance measures issued by CDFW and/or USFWS, and no construction activities shall occur on the project site until the avoidance measures are issued and implemented. If no species or active nests are found, then no further action is required, and construction activities may proceed upon approval by Planning Services.

MM BIO-2: Wetland Permit. ~~A wetland delineation performed on the site shall be submitted to the Corps for verification and the~~ The appropriate Section 404 permit shall be acquired for any project-related impacts to jurisdictional features. If a Section 404 permit is required for the proposed project, water quality concerns during construction would be addressed with a Section 401 water quality certification from the Regional Water Quality Control Board.

Aquatic features to be preserved on or adjacent to the project site will be protected during construction using best management practices, including but not limited to, erosion control measures, soil stabilization, and spill prevention and handling procedures. Post-construction impacts to aquatic features will be minimized or avoided through project design and in accordance with County General Plan policies.

Mitigation for permanent loss of aquatic features will be mitigated through off-site replacement at an approved mitigation bank to ensure no net loss of wetland or riparian habitat. Temporary impacts to aquatic features will be mitigated by restoration to pre-project conditions.

Monitoring Responsibility: Planning Services

Monitoring Requirement: Prior to issuance of Grading Permit, the applicant shall provide proof of acquisition of Section 404 and 401 permits and appropriate mitigation credits to ensure no net loss of aquatic features.

Attachments to Staff Memo:

Exhibit 1.....Comment from Air Quality Management District
Exhibit 2.....Comment Caltrans
Exhibit 3.....Comment from CA Department of Fish and Wildlife
Exhibit 4.....Addendum to Biological Resource Assessment
Exhibit 5.....Excerpt of Initial Study for El Dorado Springs 23- Edits to Section III. Biological Resources

County of El Dorado
Air Quality Management District

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Dave Johnston
Air Pollution Control Officer

December 8, 2014

Rommel Pabalinas, Project Planner
El Dorado County Planning Services
2850 Fairlane Court
Placerville, CA 95667

RE: TM 14-1514 – El Dorado Springs 23, APN 117-010-05
Negative Declaration – AQMD Comments

Dear Mr. Pabalinas:

The El Dorado County Air Quality Management District (AQMD) has reviewed the proposed Negative Declaration for the proposed 49 lot residential subdivision project known as El Dorado Springs 23 and has the following comments regarding potential air quality impacts:

Comments:

Page 9: Makes reference to the Ozone Attainment Plan revision in 2011. The OAP has been revised again in 2013 and currently noticed in the federal register as a proposed rule. You may want to update your template to reference the 2013 revision instead of 2011.

Page 19: A more current set of statistics concerning California's GHG emissions and it's rank among the world can be found in the 2014 California Greenhouse Gas Emission Inventory 2000-2012 published May 2014 by the California Air Resources Board[1]. In short, in 2010, California would have ranked 20th highest in CO2 emissions worldwide emitting 451.6 MMTCO2eq. California was considered to be the 9th largest economy in the world at that time.

Page 19: The statement that "No air district in California, including El Dorado County APCD, has identified significance threshold for GHG emissions..." is incorrect. There are several California air districts that have adopted GHG thresholds, including San Luis Obispo APCD, which you reference on the same page, and Sacramento Air Quality Management District. Additionally, El Dorado County is an Air Quality Management District, not an Air Pollution Control District.

The western portion of El Dorado County (where the project is located) is in non-attainment of the state Ambient Air Quality Standard (AAQS) for Particulate Matter, 10 micrometers (PM_{10}) and the federal AAQS for $PM_{2.5}$ (2.5 micrometers) in size. Additionally, the western portion of the County is also in

[1] http://www.arb.ca.gov/cc/inventory/pubs/reports/ghg_inventory_00-12_report.pdf

non-attainment of both the 1-hour and 8-hour state AAQS for ozone, and in severe non-attainment of the 8-hour federal AAQS for ozone. The two ozone precursor pollutants most responsible for ozone generated by this project are Volatile Organic Compounds (VOC, also known as Reactive Organic Gases or ROG) and Nitrogen Oxides (NOx)

As stated in AQMD's June 12, 2014 comment letter, while the project does not exceed project-specific thresholds for criteria pollutants and GHG emissions, AQMD still recommends the inclusion of the requirements identified in that letter to significantly reduce pollutant emissions. Summarily, they are:

- No wood-burning fireplaces or stoves,
- Electric vehicle outlets in garages (separate circuit),
- Exterior electric outlets for landscaping equipment.

These measures should drastically reduce both criteria pollutant and GHG pollutant emissions from the project. These measures are not overly burdensome on the applicant, especially since new construction practices in the El Dorado Hills area typically include natural gas burning fireplaces (if fireplaces are installed at all), electrical outlets (separate circuit) in garages, and outlets on the exterior of the homes.

These measures are also consistent with General Plan Policies 6.7.4.6 and 6.7.2.5.

AQMD thanks you for the opportunity to comment on this proposed project. If you have any questions regarding this letter, please contact our office at (530) 621-7501.

Respectfully,

Adam Baughman
Air Quality Engineer
Air Quality Management District

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DEPARTMENT OF TRANSPORTATION
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December 8, 2014

032014-ELD-0033
03-ED-50 / PM 16.50
SCH# 2014112018

Mr. Rommel Pabalinas
Senior Planner
County of El Dorado
2850 Fairlane Court
Placerville, CA 95667

El Dorado Springs 23 – Initial Study (IS)/Mitigated Negative Declaration (MND)

Dear Mr. Pabalinas:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the project referenced above. The proposed project consists of a proposed tentative subdivision map to construct a total of 49 single-family homes within the Carson Creek Specific Plan area. The proposed project is located in El Dorado Hills, abutting the El Dorado/Sacramento County Line, on the north side of White Rock Road, and southwest of the intersection with Stonebriar Drive. The project is located approximately one mile south of United States (US) 50. Access to the site would be via White Rock Road, and access to US 50 from the site would be at the Latrobe Road interchange or possibly the US 50/Scott Road interchange in Sacramento County. The following comments are based upon the IS/MND.

State Highway System Impacts

- The average speed increases and volume increases from the Highway Capacity Manual (HCM) due to metering a ramp does not represent the ramp at El Dorado Hills Boulevard, as the AM peak ramp volumes are very high. The ramp metering team will have to use an arrival rate program to judge the metering rate as to not allow any vehicles to back-up onto El Dorado Hills Blvd. It is possible the increases will be much lower.
- The 22 percent High Occupancy Vehicle (HOV) volumes utilizing the HOV lane on US 50 is high for the existing scenario. Please revise in your analysis.
- The Traffic Impact Analysis needs to incorporate cumulative conditions analysis that includes with and without project scenarios in order to properly evaluate any traffic impacts to the State Highway System from the proposed project. Cumulative analysis is required because of substantial changes to the traffic volumes, population and growth assumptions, future land use assumptions, and roadway network between the original 2004 General Plan analysis and 2014

conditions. The existing conditions analysis, which is the basis of the cumulative conditions analysis, will have substantial changes from 2004 to 2014, which will impact the cumulative conditions analysis. We agree with the use and methodology of the updated El Dorado County Travel Demand Model to interpolate traffic volumes from 2014 to 2019 conditions. This methodology should be expanded to include 2035 cumulative conditions.

- Page 4 of the TIA states: "The El Dorado Springs 23 project is located in TAZ 165 (County of El Dorado Travel Demand Model "EDC_CAT_110713"), and is the only remaining undeveloped land in the TAZ. The land use assumptions in the travel demand model include the addition of 225 apartments and no new single-family units within TAZ 165 between 2010 and 2035. This project would build 49 single-family units in lieu of those 225 apartments." This statement appears to be inaccurate because as part of the Carson Creek Specific Plan, El Dorado County and the Developer agreed to limit development of this parcel to no more than 52 residential units. Therefore, the 225 apartments in TAZ 165 cannot be attributed to his project. Please clarify in a revised analysis.
- The traffic counts for this project in were collected in December 2013. Traffic counts should be collected non-holiday weekdays during the spring and fall to fully capture recurrent traffic congestion/patterns.
- Caltrans would like to meet with El Dorado County staff to discuss the off-model adjustment factors and ensure the State Highway System is being properly measured for its effectiveness.

Please provide our office with copies of any further actions regarding this project. We appreciate the opportunity to review and comment on any changes related to this development.

If you have any questions regarding these comments or require additional information, please contact Eileen Cunningham, Intergovernmental Review Coordinator for El Dorado County at (916) 274-0639 or by email at: eileen.cunningham@dot.ca.gov.

Sincerely,

ERIC FREDERICKS, Chief
Office of Transportation Planning – South

State of California -The Natural Resources Agency
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EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director

December 4, 2014

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Subject: Comments on the Initial Study/Mitigated Negative Declaration for the El Dorado Hills 23 Project (SCH No. 2014112018)

Dear Mr. Pabalinas:

The California Department of Fish and Wildlife (Department) received an Initial Study/Mitigated Negative Declaration (IS/MND) for the El Dorado Hills 23 Project (project). The Department reviewed the IS/MND as both a trustee agency and responsible agency under the California Environmental Quality Act (CEQA). As trustee for the State's fish and wildlife resources, the Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and the habitat necessary for biologically sustainable populations of such species (Guidelines § 15386). The Department may also be a responsible agency for a project affecting biological resources where we will exercise our discretion after the lead agency to approve or carry out a proposed project or some facet thereof (CEQA Guidelines § 15096).

The project would amend the general plan to change the land use designation from Multifamily Residential to High Density Residential and change the zoning designation from Multifamily Residential-Design Control District to One-family Residential District. The project would subdivide approximately 21.65 acres into 58 lots, consisting of 49 residential lots, one private road lot/future Right-of-Way lot, and seven (7) open space/landscape lots.

The Department provides the following comments. The Department recommends the IS/MND be revised in accordance with the recommendations below and be recirculated for comment through the State Clearinghouse, per CEQA guidelines (CEQA Guidelines § 15088.5). The IS/MND does not adequately analyze potential impacts to biological resources and for some impacts, does not provide avoidance, minimization and/or mitigation measures that would reduce these impacts to a less-than-significant level.

Methods for Special-status Species Determination
Although the supporting biological reports identified suitable habitat for some raptors and migratory bird species, the IS/MND fails to analyze impacts to these species nor does it provide avoidance, minimization or mitigation measures to reduce potential impacts to a less-than-significant level.

The Department recommends that each project identify and analyze potential impacts to sensitive species and habitats beginning with adequate scoping, followed by surveys, and feasible avoidance, minimization and mitigation development. The initial scoping that was completed is inadequate; the biological consultant only used a one-quad search in the California

Natural Diversity Database (CNDDB) to identify special-status species that may occur on the site (Foothill Associates 2014). Although CNDDB is one tool that may identify potential sensitive resources in the area, the dataset should not be regarded as complete for the elements or resources with the potential to be impacted by the project. Other sources for identification of species and habitats near or adjacent to the project site should include, but may not be limited to, State and federal resource agency lists, California Wildlife Habitat Relationship (CWHR) System, California Native Plant Society (CNPS) Inventory, agency contacts, environmental documents for other projects in the vicinity, academics, professional or scientific organizations, and species-specific or protocol-level surveys of the project site and surrounding area.

CNDDB is not a comprehensive database. It is a positive detection database. Records in the database exist only where species were detected and reported. This means there is a bias in the database towards locations that have had more development pressures, and thus more survey work. Places that are empty or have limited information in the database often signify that little survey work has been completed there. A nine United States Geologic Survey (USGS) 7.5-minute quadrangle search is recommended by the Department and traditionally used to determine what sensitive resources may occur in the region. The results of the nine-quadrangle search centered on the *Clarksville* quad are provided as **Attachment A**.

The Biological Resources Assessment (Foothill Associates 2014) determined that suitable habitat for raptors and migratory bird species is located on the project site, including burrowing owl (a California species of special concern, *Athene cunicularia*) and the State-listed Swainson's hawk (*Buteo swainsonii*), among others. The Department identified several additional special-status species from in the CNDDB nine-quadrangle search and associated Biogeographic Information and Observation System (BIOS) map (**Attachments A and B**; CDFW 2014) that may occur on the project site or otherwise have the potential to be impacted by the proposed project. On November 25, 2014, Senior Environmental Scientist (Specialist), Angela Calderaro visited the site and surrounding area by accessing public roads to assess the habitat on-site and in the surrounding area (see **Attachment C** for photos of the project site and surrounding area). The database searches and site visit provide the basis for the comments outlined below.

Impact Analysis and Mitigation for Special-status Species

The IS/MND lacks detail and does not analyze the potential impacts to burrowing owls or loss of foraging habitat for other raptors and migratory birds that were determined to have habitat present on the project site. Instead, the CEQA document relies on pre-construction surveys on the project site and consultation to mitigate the potential impacts. As stated in a meeting between El Dorado County and the Department, surveys that only search for resources that are on the project site do not identify resources that may be directly or indirectly impacted by project activities (i.e., increase in noise, dust, vibration, and human presence during construction and implementation of the project) that may adversely affect resources located offsite but in proximity to the proposed project. The Department recommends that an impact analysis for each special-status species that may be impacted by the proposed project be developed, including the additional species identified below as well as others that may be identified during a proper scoping process.

The impact assessment should include the reasonably foreseeable direct and indirect effects (temporary and permanent) that may occur with implementation of the project. Mitigation measures that avoid, minimize, and mitigate the direct and indirect impacts need to be identified in the IS/MND. Per CEQA Guidelines 15088.5, a lead agency is required to recirculate an IS/MND when a new significant impact would result from the project. The following are several examples of species that may be impacted by the project that were not analyzed in the IS/MND.

- Tricolored blackbird (*Agelaius tricolor*) has recently received emergency adoption to endangered status under California Endangered Species Act (CESA). The IS/MND should be amended to reflect this species' change in status. Tricolored blackbirds breed in different substrates that provide protection from predators including freshwater wetlands, with tall dense vegetation including tule and cattail or dense vegetation with thorns like blackberry, thistle and rose, but may also breed in agricultural fields. They are a resident year-round and forage in grasslands and croplands. They generally breed from April to July. The annual grassland on the project site may provide suitable foraging habitat for this species. A tricolored blackbird occurrence is located 1.5 miles to the northwest of the project site (CDFW 2014). In addition, the cattails and dense vegetation surrounding a tributary to Carson Creek located adjacent to the project site may provide suitable nesting habitat. The IS/MND fails to analyze potential impacts to this species and does not provide adequate measures to avoid, minimize and mitigate impacts to this listed species.
- Western pond turtle (*Emys marmorata*) is a California species of special concern. An occurrence record is located less than a mile from the project site along Carson Creek which is hydrologically connected to the project site. The tributary to Carson Creek and the surrounding uplands may provide suitable nesting, basking and foraging habitat. The Biological Resource Assessment (Foothill Associates 2014) states that the "site does not support suitable aquatic or upland habitat for this species).
- Although the biologist noted that the site is suitable foraging habitat for the State-listed Swainson's hawk (*Buteo swainsonii*) and "determination of foraging habitat and any required mitigation strategies will be made in coordination with CDFW", the IS/MND does not propose mitigation for the loss of foraging habitat. In addition to the loss of foraging habitat to Swainson's hawk, the IS/MND does not analyze impacts to golden eagles (*Aquila chrysaetos*), which are a California fully protected species, a California species of special concern, and protected under the Bald and Golden Eagle Protection Act. A golden eagle nest is located two miles to the north of the project site. The loss of approximately 22 acres of foraging habitat is a cumulatively significant impact. The IS/MND does not analyze the impacts nor provide mitigation for the loss of this habitat.
- Burrowing owl is a California species of special concern. There are two recent records of burrowing owl occurrences within a one-mile radius of the project site (CDFW 2014). Protocol-level surveys for burrowing owl were not conducted on or adjacent to the project site. The pre-construction surveys outlined in MM BIO-1 are not sufficient to detect burrowing owl. In addition, the *Staff Report on Burrowing Owl Mitigation* (CDFG 2012) states that passive relocation is an impact to the species. So, although mitigation measure MM BIO-1 states that if an active burrow is found, passive relocation using one-way doors "should be performed", this may result in death and may constitute a significant impact under CEQA.. The Staff Report recommends avoidance or minimization include site-specific buffer zones and visual screens. The Staff Report also recommends that mitigation for permanent habitat loss necessitates replacement with an equivalent or greater habitat area. The mitigation outlined in the IS/MND is not consistent with published guidance from the Department and may result in additional impacts to the species.

CEQA Guidelines §15126.4 (a)(1)(B) state that formulation of mitigation measures should not be deferred until some future time. The IS/MND lists two mitigation measures for biological resources (i.e., MM BIO-1 and MM BIO-2), that rely on future surveys, approvals or agreements with CDFW, United States Fish and Wildlife Service (USFWS), United States Army Corps of Engineers (USACE), and the Regional Water Quality control Board (RWQCB) as a means to

bring identified significant environmental effects to below a level that is significant. Because there is no guarantee that these approvals or cooperation with all of the above entities will ultimately occur, the Department believes that the above mitigation measures are unenforceable and do not bring the impacts to biological resources to below a level that is significant.

Rare Plants
Rare plant surveys were not conducted for the project. Several rare plants were identified in CNDDB and California Native Plant Society (CNPS) online inventory nine USGS 7.5-minute quadrangle searches around the project site (**Attachments A and D**; CDFW 2014; CNPS, Rare Plant Program 2014). The Biological Resources Assessment (Foothill Associates 2014) did not adequately scope the project as outlined above. Although Foothill Associates conducted surveys on the project site on June 30, July 5 and July 7, 2006, protocol-level surveys were not conducted per the Department's *Protocol for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (CDFG 2009). In addition, these surveys were conducted over eight years ago. Although Foothill Associates conducted a follow-up survey on November 8, 2013, this is outside the blooming period for rare plant species that may occur on the project site.

In addition, the Department's protocol states that the "failure to locate a known special status plant occurrence during one field season does not constitute evidence that this plant occurrence no longer exists at this location, particularly if adverse conditions are present. For example, surveys over a number of years may be necessary if the species is an annual plant having a persistent, long-lived seed bank and is known not to germinate every year."

Drought and other adverse conditions may mean that some plant taxa will not be evident or identifiable. This may be particularly true for annual and short-lived perennial plant taxa and plants with persistent long-lived seed banks that are known not to germinate every year. Because of these conditions, the failure to locate a plant during the floristic surveys of one field season does not constitute evidence that the plant is absent from the surveyed location. The timing and number of visits necessary to conduct a floristic survey should be determined by geographic location, the natural communities present and the weather patterns of the year, with the understanding that more than one field visit or field season may be necessary to accurately survey the floristic diversity of a site and detect the presence of special status plant taxa.

To make the most out of this field season the Department recommends that:

- Botanical surveys be floristic in nature (every plant taxon that occurs on a site is identified to the taxonomic level necessary to determine rarity and listing status);

- Surveys be conducted in the field at the time of year when target plant taxa are both evident and identifiable (usually during flowering or fruiting), and multiple visits to a site be made (e.g. in early, mid, and late-season) to accurately survey the floristic diversity of the site and detect the presence of all special status plant taxa that are evident and identifiable;

- Nearby reference populations be visited whenever possible to determine if known special status plant populations are evident and identifiable this year, and to obtain a visual image of the target species, associated habitat, and associated natural community. Reference populations may be particularly important this year to ensure that the timing of surveys is appropriate and to help substantiate negative findings in adverse conditions caused by drought.

Again, additional field seasons of surveys may be necessary to accurately survey the floristic diversity of a site and substantiate negative findings. This may be particularly true when surveying for annual or short-lived perennial plant taxa during drought conditions, and in years where an evident and identifiable reference population could not be referenced.

Reports for surveys that are conducted this year should include a discussion of how the drought affects the comprehensiveness of the surveys, and the potential for false negative surveys. The size, condition, and phenological development of any special-status plant reference populations that were visited should also be described.

If suitable habitat is present, the Department recommends that surveys are conducted in accordance with the protocol identified above to determine whether any rare plants which are either State or federally listed, or meet the criteria pursuant to Guidelines Section 15380(b) are present. A full discussion of the determination and timing of species-specific mitigation to avoid impacts to sensitive plant species present within the vicinity of project site should be included in the CEQA analysis. CEQA guidelines Section 15021 establishes a duty for public agencies to avoid or minimize environmental damage where feasible. CEQA also requires that lead agencies give major consideration to preventing environmental damage, and should not approve a project as proposed if there are feasible alternatives or mitigation measures available that would substantially lessen any significant effects that the project would have on the environment. The Department recommends that the lead agency evaluate and demonstrate the project's ability to avoid and minimize both direct and indirect impacts to rare plants and their habitat, and require project modifications as necessary to accomplish these tasks. For those locations of the project site where impacts to sensitive plants are unavoidable, mitigation for this project should be established off-site in accordance with the off-site mitigation program elements. A mitigation plan should be developed that demonstrates specific details designed to accomplish these off-site mitigation program elements. The Department recommends that the lead agency condition the project to require Department's review and approval of a mitigation plan, as necessary.

California Endangered Species Act
The Department has regulatory authority pursuant to California Endangered Species Act (CESA) over projects that have the potential to result in the take[1] of any species of wildlife designated by the California Fish and Game Commission as an endangered, threatened, or candidate species. Take of species protected pursuant to CESA is prohibited (Fish and Game Code [FGC] § 2080). However, the Department, may authorize the take of these species by permit if the conditions set forth in FGC Section 2081, subdivisions (b) and (c) are met (See also Cal. Code Regs., title 14, § 783.4).

The Department has concern that the project may adversely affect and may have the potential to take or otherwise impact a State-listed tricolored blackbird, Swainson's hawk, and Boggs Lake hedge-hyssop (*Gratiola heterosepala*) as there is potential for listed species to occur on or adjacent to the site. If the project may result in the take of any species protected pursuant to CESA, an incidental take permit, issued by the Department, should be obtained before the take occurs. If the Department issues an incidental take permit, the Department must rely on the CEQA document to prepare and issue its own findings regarding the project (CEQA Guidelines §§15096 and 15381). The Department will only use the CEQA document if it adequately addresses the effects of those project activities, including all avoidance, minimization and the mitigation required for the take authorization.

[1] Take is defined in Section 86 of the Fish and Game Code as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill."

Any activity resulting in loss of habitat, decreased reproductive success, or other negative effects on population levels of species protected pursuant to CESA should be analyzed. Project activities should be designed to avoid and minimize the potential for take of CESA species. If the project has the potential to take CESA species, those impacts will need to be fully mitigated.

Nesting Birds and Raptors
The project has the potential to disturb bird species or nests protected under the Migratory Bird Treaty Act (MBTA), FGC §3503 and 3503.5 as stated above and in the IS/MND. Since project activities may occur during the nesting season (determined by region, species, and climate), construction activities could result in disturbance to nesting raptors and other migratory birds. Raptors and other migratory birds are protected under the MBTA and FGC §3503.5; therefore, potential impacts may be considered potentially significant unless adequate avoidance, minimization and/or mitigation is incorporated. If nests are identified on or adjacent to the project site, implementation of the project may adversely impact the success of the nest site and/or take a bird, their eggs, and/or nest.

Mitigation measure MM BIO-1 states that a buffer zone will be established as recommended by the project biologist; however, the survey will only identify nests or birds if they "occupy the site." Several large trees, shrubs and other nesting substrate is located immediately adjacent to the project site (**Attachment C**). Protocol-level surveys and avoidance of impacts necessitate that surveys include the area surrounding the project site. Construction activities increase noise, dust and visual disturbance in an area larger than the project site that may adversely affect the nesting and other habits of the surrounding wildlife and sensitive resources. All measures to protect birds should be performance-based. While some birds may tolerate disturbance within 50 or 300 feet of construction activities, other birds may have a different disturbance threshold and "take" (FGC §86) could occur if the delineated exclusion zone are not designed to reduce stress to that individual pair. The Department recommends including performance-based protection measures for avoiding all nests protected under the Migratory Bird Treaty Act and FGC §3503 and 3503.5. Below is an example of a performance-based protection measure:

Should construction activities cause the nesting bird to vocalize, make defensive flights at intruders, get up from a brooding position, or fly off the nest, then the exclusionary buffer will be increased such that activities are far enough from the nest to stop this agitated behavior. The exclusionary buffer will remain in place until the chicks have fledged or as otherwise determined by a qualified biologist.

In addition, a survey conducted "no more than 30 days" prior to the start of construction activities may miss the birds that begin nesting after the survey is conducted. The Department recommends that this survey window is reduced to "no more than 3 days" prior to the start of construction activities. Also, the Department recommends that if there is a break in construction for more than 7 days, another survey should be conducted. Survey results should be submitted to the Department for review and approval prior to the start of construction activities including but not limited to grading, disking, vegetation removal, and mowing. Mitigation measure MM BIO-1 also does not address nests that may occur adjacent to the project site, on or in the ground, or on existing human structures like the culvert located adjacent to the project site under White Rock Road.

Riparian Habitat
The California streams layer in BIOS shows a tributary to Carson Creek adjacent to the project site to the north. The associated wetlands and riparian habitat are under the jurisdiction of the Department. Other drainages located on the project site may be under the jurisdiction of the Department. The IS/MND does not provide sufficient maps of the riparian corridor, edge of the

stream-bank, and does not delineate the outer edge of riparian vegetation. The figures are necessary for visual aids in order to analyze the impacts to biological resources. The IS/MND does not analyze potentially significant impacts associated with these features. Although the impact analysis for riparian habitat (question *c*) indicates that "a total of 0.193 acres of wetland on- and off-site is anticipated to be impacted by the project", it is unknown which features will be impacted and which features are located off-site. Impacts are occurring off-site as a result of the project activities and they are not adequately described or analyzed in the CEQA document. The analysis states that the features are under the jurisdiction of the USACE but does not show or state to what extent of the riparian habitat will impacted and if it is under the Department's jurisdiction. In addition, the verified delineation from the USACE identified additional features that were not analyzed in the IS/MND.

The project has the potential to impact the hydrology of the system and these impacts are not discussed in the IS/MND. The drainage which runs through the center of the project site flows into the tributary to Carson Creek. Mitigation Measure MM-BIO-2 states that a permit will mitigate for impacts to wetlands. This is not an enforceable mitigation measure and therefore is not adequate as outlined above. The Department recommends including a mitigation measure that outlines a no-net-loss of wetland features by restoring at no less than a 1:1 mitigation ratio. In addition, the project is located within the Carson Creek HUC-12 (180400130501). The project is increasing the amount of impervious surface in the watershed, which can in turn increase the flooding events and have significant effects on water quality and groundwater recharge (http://water.usgs.gov/edu/impervious.html). On a regional scale, this may be cumulatively significant given the amount of development in this area of El Dorado County. This in turn can negatively affect the sensitive habitats that occur downstream and in the same watershed as the proposed project.

An entity (any person, State, local government agency, or public utility) should consider and analyze whether implementation of the proposed project will result in reasonably foreseeable potentially significant impacts subject to regulation by the Department under Section 1600 et seq. of the FGC. In general, such impacts result whenever a proposed project involves work undertaken in or near a river, stream, or lake that flows at least intermittently through a bed or channel, including ephemeral streams and watercourses.

The Department recommends that a Notification of Lake or Streambed Alteration Agreement (LSAA) be submitted by the project applicant to the Department (pursuant to FGC §1602). This agreement would include measures to minimize and restore riparian habitat. As a responsible agency under CEQA, the Department must rely on the CEQA analysis for the project when exercising our discretion after the lead agency to approve or carry out some facet of a proposed project, such as the issuance of a LSAA. Therefore, the IS/MND should include specific, enforceable measures to be carried out onsite or within the same stream system that will avoid, minimize and/or mitigate for project impacts to the natural resources. These measures may include, but are not limited to, the following:

1. Protection and maintenance of the riparian, wetland, stream or lake systems to ensure a "no-net-loss" of habitat value and acreage. Vegetation removal should not exceed the minimum necessary to complete operations.

2. Provisions for the protection of fish and wildlife resources at risk that consider various life stages, maintain migration and dispersal corridors, and protect essential breeding (i.e. spawning, nesting) habitats.

3. Delineation of buffers along streams and wetlands to provided adequate protection to the aquatic resource. No grading or construction activities should be allowed within these buffers.

4. Placement of construction materials, spoils or fill, so that they cannot be washed into a stream or lake.

5. Prevention of downstream sedimentation and pollution. Provisions may include but not be limited to oil/grit separators, detention ponds, buffering filter strips, silt barriers, etc., to prevent downstream sedimentation and pollution.

6. Restoration plans must include performance standards such as the types of vegetation to be used, the timing of implementation, and contingency plans if the replanting is not successful. Restoration of disturbed areas should utilize native vegetation.

The use of products with plastic monofilament or cross-joints in the netting that are bound/stitched (such as found in straw wattles/fiber rolls and some erosion control blankets) which may cause entrapment of wildlife, should not be used for erosion control. Additionally, any non-biodegradable materials used for erosion control, such as silt fencing, should be removed upon project completion.

Summary
In summary, the Department finds that the IS/MND may not adequately analyze the impacts to biological resources from the proposed project. An adequate impact analysis and formulation of any necessary mitigation measures should be provided prior to project approval.

Thank you for considering our comments. Department personnel are available for consultation regarding biological resources and strategies to minimize impacts. If you have questions please contact Angela Calderaro, Senior Environmental Scientist (Specialist), by e-mail at Angela.Calderaro@wildlife.ca.gov or by phone at (916) 358-2920.

Sincerely,

Tina Bartlett
Regional Manager

ec: Jeff Drongesen, Jeff.Drongesen@wildlife.ca.gov
Jennifer Nguyen, Jennifer.Nguyen@wildlife.ca.gov
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Shelly Blair, Shelly.Blair@wildlife.ca.gov
Bob Hosea, Bob.Hosea@wildlife.ca.gov

State Clearinghouse

Attachments:

Attachment A - Nine-quad search of the California Natural Diversity Database (CNDDB) Centered on *Clarksville, California* USGS 7.5-minute quadrangle.

Attachment B – BIOS map.

Attachment C – Photos of the Project Site.

Attachment D - Nine-quad search of the California Native Plant Society (CNPS) online inventory Centered on *Clarksville, California* USGS 7.5-minute quadrangle.

References:

California Department of Fish and Game (CDFG). 2009. *Protocol for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities.* Accessed online at: http://www.dfg.ca.gov/wildlife/nongame/survey_monitor.html

California Department of Fish and Game (CDFG). 2012. Staff Report on Burrowing Owl Mitigation. State of California, Natural Resources Agency, Department of Fish and Game. March 7, 2012. Accessed online at: http://www.dfg.ca.gov/wildlife/nongame/survey_monitor.html

California Department of Fish and Wildlife (CDFW). 2014. Nine-quad search of the California Natural Diversity Database (CNDDB) Centered on *Clarksville, California* USGS 7.5-minute quadrangle. Wildlife and Habitat Data Analysis Branch, Rarefind Version 3.1.1. Government version dated August 1, 2014. Data expires February 1, 2015.

California Native Plant Society (CNPS), Rare Plant Program. 2014. Nine-quad search of the CNPS Online Inventory Centered on *Clarksville, California* USGS 7.5-minute quadrangle. Inventory of Rare and Endangered Plants (online edition, v8-02). California Native Plant Society, Sacramento, CA. Website http://www.rareplants.cnps.org [accessed 18 November 2014].

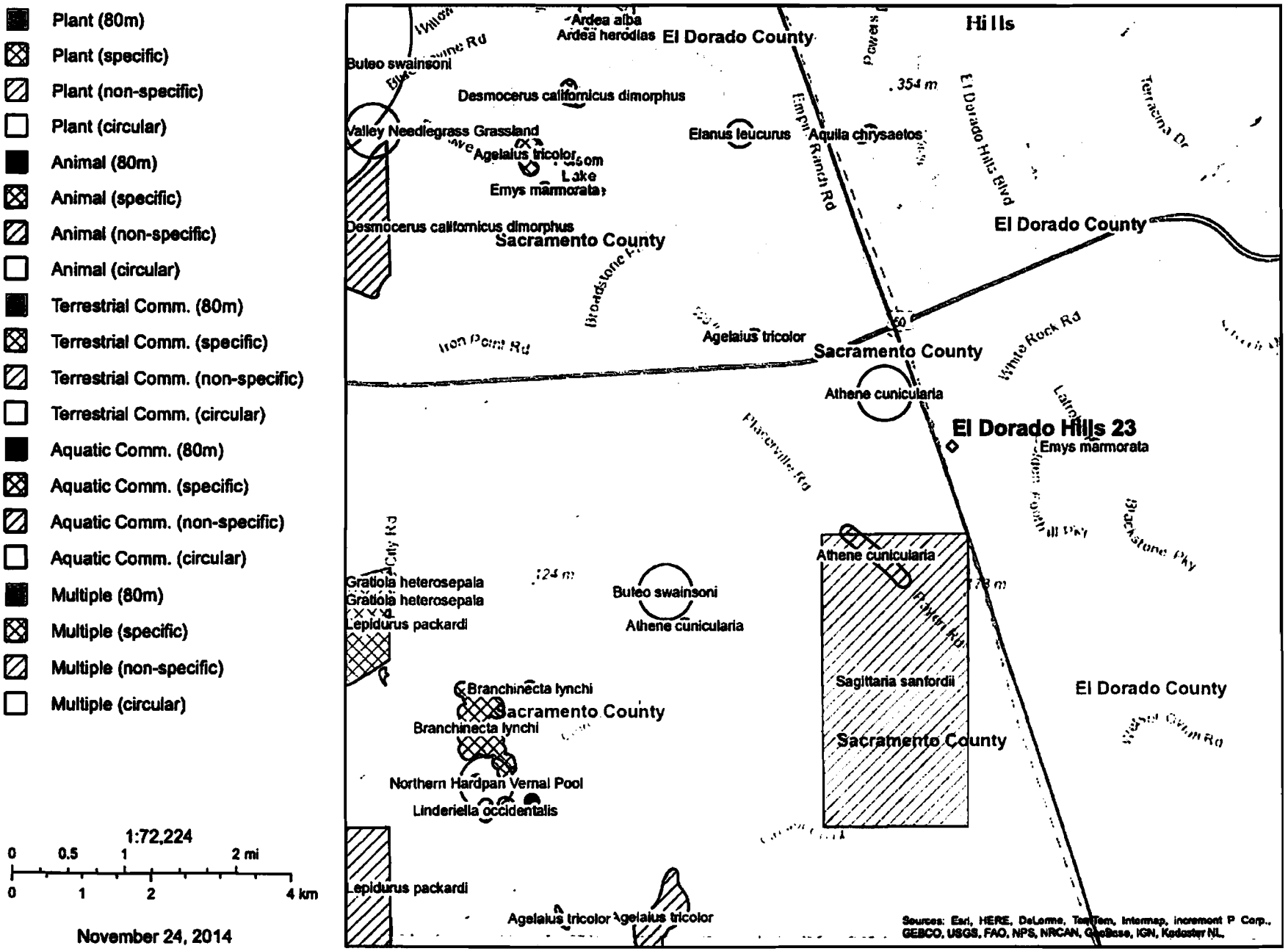
Foothill Associates. 2014. Biological Resource Assessment: El Dorado Springs 23-Acre Site, El Dorado County, California. Prepared for Standard Pacific Homes. February 12, 2014.

ATTACHMENT A California Department of Fish and Game
Natural Diversity Database
Selected Elements by Scientific Name - Landscape
El Dorado Springs 23 Subdivision
Nine-quad search centered around the Clarksville quad

	Scientific Name	Common Name	Element Code	Federal Status	State Status	Global Rank	State Rank	CNPS	CDFG
1	Accipiter cooperii	Cooper's hawk	ABNKC12040			G5	S3		
2	Agelaius tricolor	tricolored blackbird	ABPBXB0020			G2G3	S1S2		SC
3	Allium jepsonii	Jepson's onion	PMLIL022V0			G1	S1	1B.2	
4	Ammodramus savannarum	grasshopper sparrow	ABPBXA0020			G5	S2		SC
5	Andrena blennospermatis	Blennosperma vernal pool andrenid bee	IIHYM35030			G2	S2		
6	Antrozous pallidus	pallid bat	AMACC10010			G5	S3		SC
7	Aquila chrysaetos	golden eagle	ABNKC22010			G5	S3		
8	Ardea alba	great egret	ABNGA04040			G5	S4		
9	Ardea herodias	great blue heron	ABNGA04010			G5	S4		
10	Athene cunicularia	burrowing owl	ABNSB10010			G4	S3		SC
11	Balsamorhiza macrolepis	big-scale balsamroot	PDAST11061			G2	S2	1B.2	
12	Banksula californica	Alabaster Cave harvestman	ILARA14020			GH	SH		
13	Branchinecta lynchi	vernal pool fairy shrimp	ICBRA03030	Threatened		G3	S2S3		
14	Branchinecta mesovallensis	midvalley fairy shrimp	ICBRA03150			G2	S2		
15	Buteo swainsoni	Swainson's hawk	ABNKC19070		Threatened	G5	S3		
16	Calystegia stebbinsii	Stebbins' morning-glory	PDCON040H0	Endangered	Endangered	G1	S1	1B.1	
17	Ceanothus roderickii	Pine Hill ceanothus	PDRHA04190	Endangered	Rare	G1	S1	1B.2	
18	Central Valley Drainage Hardhead/Squawfish Stream	Central Valley Drainage Hardhead/Squawfish Stream	CARA2443CA			GNR	SNR		
19	Chlorogalum grandiflorum	Red Hills soaproot	PMLIL0G020			G3	S3	1B.2	
20	Clarkia biloba ssp. brandegeeae	Brandegee's clarkia	PDONA05053			G4G5T4	S4	4.2	
21	Cosumnoperla hypocrena	Cosumnes stripetail	IIPLE23020			G2	S2		
22	Crocanthemum suffrutescens	Bisbee Peak rush-rose	PDCIS020F0			G2Q	S2	3.2	
23	Desmocerus californicus dimorphus	valley elderberry longhorn beetle	IICOL48011	Threatened		G3T2	S2		
24	Downingia pusilla	dwarf downingia	PDCAM060C0			GU	S2	2B.2	
25	Dumontia oregonensis	hairy water flea	ICBRA23010			G1G3	S1		
26	Elanus leucurus	white-tailed kite	ABNKC06010			G5	S3		
27	Emys marmorata	western pond turtle	ARAAD02030			G3G4	S3		SC
28	Eryngium pinnatisectum	Tuolumne button-celery	PDAPI0Z0P0			G2	S2	1B.2	
29	Falco columbarius	merlin	ABNKD06030			G5	S3		
30	Fremontodendron decumbens	Pine Hill flannelbush	PDSTE03030	Endangered	Rare	G1	S1	1B.2	
31	Galium californicum ssp. sierrae	El Dorado bedstraw	PDRUB0N0E7	Endangered	Rare	G5T1	S1	1B.2	

	Scientific Name	Common Name	Element Code	Federal Status	State Status	Global Rank	State Rank	CNPS	CDFG
32	Gratiola heterosepala	Boggs Lake hedge-hyssop	PDSCR0R060		Endangered	G2	S2	1B.2	
33	Haliaeetus leucocephalus	bald eagle	ABNKC10010	Delisted	Endangered	G5	S2		
34	Hydrochara ricksecker	Ricksecker's water scavenger beetle	IICOL5V010			G2?	S2?		
35	Juncus leiospermus var. ahartii	Ahart's dwarf rush	PMJUN011L1			G2T1	S1	1B.2	
36	Lasionycteris noctivagans	silver-haired bat	AMACC02010			G5	S3S4		
37	Laterallus jamaicensis coturniculus	California black rail	ABNME03041		Threatened	G4T1	S1		
38	Legenere limosa	legenere	PDCAM0C010			G2	S2	1B.1	
39	Lepidurus packardi	vernal pool tadpole shrimp	ICBRA10010	Endangered		G3	S2S3		
40	Linderiella occidentalis	California linderiella	ICBRA06010			G2G3	S2S3		
41	Navarretia myersii ssp. myersii	pincushion navarretia	PDPLM0C0X1			G1T1	S1	1B.1	
42	Northern Hardpan Vernal Pool	Northern Hardpan Vernal Pool	CTT44110CA			G3	S3.1		
43	Northern Volcanic Mud Flow Vernal Pool	Northern Volcanic Mud Flow Vernal Pool	CTT44132CA			G1	S1.1		
44	Oncorhynchus mykiss irideus	steelhead - Central Valley DPS	AFCHA0209K	Threatened		G5T2	S2		
45	Orcuttia tenuis	slender Orcutt grass	PMPOA4G050	Threatened	Endangered	G2	S2	1B.1	
46	Orcuttia viscida	Sacramento Orcutt grass	PMPOA4G070	Endangered	Endangered	G1	S1	1B.1	
47	Packera layneae	Layne's ragwort	PDAST8H1V0	Threatened	Rare	G2	S2	1B.2	
48	Pandion haliaetus	osprey	ABNKC01010			G5	S3		
49	Pekania pennanti	fisher - West Coast DPS	AMAJF01021	Candidate	Candidate Threatened	G5T2T3Q	S2S3		SC
50	Phalacrocorax auritus	double-crested cormorant	ABNFD01020			G5	S3		
51	Phrynosoma blainvillii	coast horned lizard	ARACF12100			G3G4	S3S4		SC
52	Progne subis	purple martin	ABPAU01010			G5	S3		SC
53	Rana boylii	foothill yellow-legged frog	AAABH01050			G3	S2S3		SC
54	Rana draytonii	California red-legged frog	AAABH01022	Threatened		G2G3	S2S3		SC
55	Riparia riparia	bank swallow	ABPAU08010		Threatened	G5	S2S3		
56	Sagittaria sanfordii	Sanford's arrowhead	PMALI040Q0			G3	S3	1B.2	
57	Spea hammondii	western spadefoot	AAABF02020			G3	S3		SC
58	Taxidea taxus	American badger	AMAJF04010			G5	S4		SC
59	Valley Needlegrass Grassland	Valley Needlegrass Grassland	CTT42110CA			G3	S3.1		
60	Wyethia reticulata	El Dorado County mule ears	PDAST9X0D0			G2	S2	1B.2	

ATTACHMENT B El Dorado Hills 23 Project



Attachment C – Photos of the Project Site

CDFW Comment Letter on the Initial Study/Mitigated Negative Declaration for the El Dorado Hills 23 Project

Photo 1: Tributary to Carson Creek

Photo 2 – Annual Grassland within the Project Site

CNPS California Native Plant Society

Rare and Endangered Plant Inventory

Plant List

29 matches found. *Click on scientific name for details*

Search Criteria

Found in 9 Quads around 38121F1

Scientific Name	Common Name	Family	Lifeform	Rare Plant Rank	State Rank	Global Rank
Allium jepsonii	Jepson's onion	Alliaceae	perennial bulbiferous herb	1B.2	S1	G1
Allium sanbornii var. sanbornii	Sanborn's onion	Alliaceae	perennial bulbiferous herb	4.2	S4?	G3T4?
Balsamorhiza macrolepis	big-scale balsamroot	Asteraceae	perennial herb	1B.2	S2	G2
Calandrinia breweri	Brewer's calandrinia	Montiaceae	annual herb	4.2	S34	G4
Calystegia stebbinsii	Stebbins' morning-glory	Convolvulaceae	perennial rhizomatous herb	1B.1	S1	G1
Ceanothus fresnensis	Fresno ceanothus	Rhamnaceae	perennial evergreen shrub	4.3	S3.3	G3
Ceanothus roderickii	Pine Hill ceanothus	Rhamnaceae	perennial evergreen shrub	1B.1	S1	G1
Chlorogalum grandiflorum	Red Hills soaproot	Agavaceae	perennial bulbiferous herb	1B.2	S3	G3
Clarkia biloba ssp. brandegeeae	Brandegee's clarkia	Onagraceae	annual herb	4.2	S4	G4G5T4
Claytonia parviflora ssp. grandiflora	streambank spring beauty	Montiaceae	annual herb	4.2	S3	G5T3
Crocanthemum suffrutescens	Bisbee Peak rush-rose	Cistaceae	perennial evergreen shrub	3.2	S2	G2Q
Downingia pusilla	dwarf downingia	Campanulaceae	annual herb	2B.2	S2	GU
Erigeron miser	starved daisy	Asteraceae	perennial herb	1B.3	S2	G2
Eriophyllum jepsonii	Jepson's woolly sunflower	Asteraceae	perennial herb	4.3	S3	G3
Eryngium pinnatisectum	Tuolumne button-celery	Apiaceae	annual / perennial herb	1B.2	S2	G2
Fremontodendron decumbens	Pine Hill flannelbush	Malvaceae	perennial evergreen shrub	1B.2	S1	G1
Galium californicum ssp. sierrae	El Dorado bedstraw	Rubiaceae	perennial herb	1B.2	S1	G5T1
Gratiola heterosepala	Boggs Lake hedge-hyssop	Plantaginaceae	annual herb	1B.2	S2	G2
Horkelia parryi	Parry's horkelia	Rosaceae	perennial herb	1B.2	S2	G2
Juncus leiospermus var. ahartii	Ahart's dwarf rush	Juncaceae	annual herb	1B.2	S1	G2T1

Legenere limosa	legenere	Campanulaceae	annual herb	1B.1	S2	G2
Lilium humboldtii ssp. humboldtii	Humboldt lily	Liliaceae	perennial bulbiferous herb	4.2	S3	G4T3
Navarretia myersii ssp. myersii	pincushion navarretia	Polemoniaceae	annual herb	1B.1	S1	G1T1
Orcuttia tenuis	slender Orcutt grass	Poaceae	annual herb	1B.1	S2	G2
Orcuttia viscida	Sacramento Orcutt grass	Poaceae	annual herb	1B.1	S1	G1
Packera layneae	Layne's ragwort	Asteraceae	perennial herb	1B.2	S2	G2
Sagittaria sanfordii	Sanford's arrowhead	Alismataceae	perennial rhizomatous herb	1B.2	S3	G3
Trichostema rubisepalum	Hernandez bluecurls	Lamiaceae	annual herb	4.3	S3.3	G3
Wyethia reticulata	El Dorado County mule ears	Asteraceae	perennial herb	1B.2	S2	G2

Suggested Citation

CNPS, Rare Plant Program. 2014. Inventory of Rare and Endangered Plants (online edition, v8-02). California Native Plant Society, Sacramento, CA. Website http://www.rareplants.cnps.org [accessed 02 December 2014].

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FOOTHILL ASSOCIATES

ENVIRONMENTAL CONSULTING • PLANNING • LANDSCAPE ARCHITECTURE

December 8, 2014

Mr. Rommel Pabalinas
County of El Dorado
2850 Fairlane Court, Building C
Placerville, CA 95667

RE: El Dorado Springs 23 Biological Resource Assessment Update

Dear Mr. Pabalinas:

The purpose of this letter is to update the Biological Resource Assessment report for the El Dorado Springs 23 Project, dated February 12, 2014, to reflect the final wetland delineation, current biological and regulatory conditions, per our meeting on December 4, 2014. The project site is located south of Highway 50 and immediately southwest of the intersection of White Rock Road and Stonebriar Drive in El Dorado County.

The U.S. Army Corps of Engineers issued a Preliminary Jurisdictional Determination on May 13, 2014 concurring with the 0.155 acres of wetlands delineated on the project site (**Figure 4**). Jurisdictional aquatic features on the project site include: two seeps totaling 0.016 acres, a depressional seasonal wetland totaling 0.063 acres, riverine seasonal wetlands totaling 0.036 acres, and ephemeral drainages totaling 0.040 acres. In addition, there are small areas of off-site riverine seasonal wetlands and ephemeral drainages. Additional site visits were conducted on March 17 and April 4, 2014.

Special-Status Plants

During the preparation of the Biological Resources Assessment, a search was conducted of the California Natural Diversity Database (CNDDB), California Native Plant Society (CNPS) records, and the U.S. Fish and Wildlife Service (USFWS) for special-status species with the potential to be found in the *Clarksville* quadrangle and El Dorado County. Due to the location of the project at the interface of valley and foothill habitats, a search of the surrounding nine-quadrangles was not deemed necessary since this would result primarily in the addition of vernal pool endemic and gabbro soil dependent species, for which there is no suitable habitat on the project site or in the immediate vicinity. A review of the nine-quad CNPS list identified an additional 19 special-status plant species for consideration. There is no suitable habitat for 17 of these species on or adjacent to the project site. Two species, big-scale balsamroot (*Balsamorhiza macrolepis*) and dwarf downingia (*Downingia pusilla*), have low potential to occur on the project site.

Big-scale balsamroot is a perennial herb that is ranked 1B by the CNPS but not State or federally-listed. It grows on open grassy or rocky slopes in grassland, woodland, and chaparral between 300 and 5,100 feet in elevation. Yellow flowers bloom between March and June. The project site is densely vegetated and thus provides marginal habitat for this species. Dwarf downingia is a CNPS rank 2B species with no State or federal status that is found in moist grasslands and vernal pools. It blooms between March and May. The seasonal wetlands on site provide potential habitat for this species.

Neither of these species has been observed on the project site and there are no occurrences within five miles of the site. Two site visits were conducted during the bloom season in 2014, but they both occurred at the beginning of the bloom season. Therefore, prior to construction, a focused pre-construction survey should be conducted. If State or federally-listed plant species are identified during the pre-construction surveys, then the CDFW and USFWS should be consulted, as appropriate, for avoidance and mitigation measures. If non-listed species are identified on the project site, the population will be relocated to the project open space area under the supervision of a qualified biologist.

Special-Status Animals

Burrowing Owl

As discussed in the Biological Resource Assessment, the site provides potential habitat for burrowing owl and there are three recorded occurrences within five miles of the site (**Figure 3**), the most recent of which was in 2010. According to the 2012 CDFW guidelines occupancy of a territory is confirmed when a burrowing owl or its signs at a burrow entrance at detected within the past three years. No suitable burrows or rock outcroppings or evidence of burrowing owl habitation on or immediately surrounding the site has been identified on the site during any of the six site surveys and the most recent records in the area are more than three years old, therefore the potential for this species to occur on the site is low. Take avoidance surveys are deemed to be effective if conducted at least 14 days prior to initiating ground disturbing activities, with the final survey conducted within 24 hours prior to ground disturbance.

Although there has been no evidence of burrowing owl activity on the site and no suitable nest locations have been identified, a pre-construction survey should be conducted on the project site and adjacent properties as access allows, in accordance with current CDFW guidelines. If burrowing owls are detected on or nearby the site such that development of the property might impact the owl, CDFW should be consulted for avoidance and mitigation requirements. Active burrows should be protected in place and a buffer should be established as recommended by a qualified biologist depending on site conditions until a relocation or mitigation plan is developed in coordination with CDFW.

Tricolored Blackbird

The tricolored blackbird (*Agelaius tricolor*) was previously identified as a State species of concern and nesting colonies were protected under the MBTA. On December 3, 2014, the

California Fish and Wildlife Commission granted temporary protection of the species for 180 days and the CDFW will consider permanent listing. Tricolored blackbird is a colonial species that occurs in pastures, dry seasonal pools, and agricultural fields in the Central Valley and the foothills surrounding the valley. This species usually nests with dense cattails or tules (*Scirpus* sp.) in emergent wetlands. Tricolored blackbird also nests in thickets of blackberry (*Rubus* sp.), wild rose (*Rosa* sp.), willows, and tall herbs. Nesting locations typically must be large enough to support a minimum colony of approximately 50 pairs. Tricolored blackbirds eat insects, grains, and seeds and may forage up to 4 miles from the nesting colony (CWHR, 2008).

A colony of approximately 1000 birds was recorded nesting in a blackberry thicket approximately 1 mile north of the site in 2013. There is no suitable nesting habitat on the project site. Although there are small stands of cattails in the adjacent creek corridor, it is unlikely to be large or dense enough to support a nesting colony. The annual grassland on the project site may be used as foraging habitat.

Swainson's Hawk

As discussed in the Biological Resource Assessment, the site may provide foraging habitat for Swainson's hawk. Nevertheless, the project site and El Dorado County are considered to be on the fringe of Swainson's Hawk habitat area. There is no El Dorado County policy on habitat mitigation for this species. CDFW guidelines recommend avoiding disturbance that may cause nest abandonment within ¼-mile of an active nest during the nesting season (March 1 to September 15). Pre-construction nest surveys should be conducted to identify active nests within ¼-mile of the project site, as access allows, in order to determine if construction activities need to be monitored.

Western Pond Turtle

Western pond turtles (*Emys marmorata*) require slow moving perennial aquatic habitats with suitable basking sites. Suitable aquatic habitat typically has a muddy or rocky bottom and has emergent aquatic vegetation for cover (Stebbins 2003) and prefer areas of deep water with low velocity and high temperatures (Reese and Hartwell, 1997a). Upland habitats adjacent to creeks and ponds are used throughout the year for nesting and overwintering. Although studies have shown that the typical terrestrial use area can extend up to 500 meters from the edge of the aquatic habitat, the weighted average of recorded terrestrial use is 94 meters, or approximately 300 feet. Western pond turtles prefer to overwinter in areas with moderate woody vegetation and leaf litter and are unlikely to use annual grasslands (Reese and Hartwell, 1997b, Davis, 1998, Pilliod, *et al.*, 2013, and Rathbun *et al.*, 2002). Nests are generally found within 30 meters (100 feet) of water in areas with little vegetative cover and good sun exposure (Rathbun et al. 2002). Little is known about dispersal patterns of western pond turtles, but genetic analysis shows most movement is along drainages (Riensche *et al.*, 2013).

There is no suitable aquatic habitat on the project site. The adjacent drainage provides marginal habitat and western pond turtles are known from other locations in the Carson Creek watershed. However, the project site is located 2.5 river miles from the closest other known occurrence and separated by a number of large culverts and development. There is no

woodland or other high quality over-wintering habitat on the project site and the site is heavily vegetated with annual grasses. Therefore, western pond turtle is not expected to be found on the project site. A pre-construction survey should be conducted for western pond turtle. If western pond turtle or nest is found on or adjacent to the project site during construction, work in the area should cease and CDFW should be consulted regarding relocation or other mitigation measures.

Vernal Pool Invertebrates

The depressional seasonal wetland may provide marginal habitat for listed vernal pool branchiopods, including California linderiella (*Linderiella occidentalis*), a State species of concern, the federally-threatened vernal pool fairy shrimp (*Branchinecta lynchi*), and the federally-endangered vernal pool tadpole shrimp (*Lepidurus packardi*), all of which are known to occur within five miles of the project site (CDFW 2014). All of these species require continuous inundation typically ranging from six to eight weeks to complete their life cycle (NatureServe Explorer 2014). The depressional seasonal wetland may provide marginal habitat for these species, but based on the vegetation observed is unlikely to consistently remain inundated for periods sufficient to support these species. The hydrological regime of the riverine seasonal wetlands and seeps are dominated by saturation rather than inundation and therefore do not provide suitable habitat for these species. The nearest recorded occurrence of these species is approximately 3 miles to the west (**Figure 3**). Wet and dry-season surveys were conducted on the majority of the intervening land and none of these species were found (Foothill Associates 2007 and 2009, EcoAnalysts, Inc., 2007). Since the on-site habitat is marginal and none of these species have been found on adjoining properties, the potential for occurrence on the project site is very low. The project will have no significant impact on these species and no further studies are recommended at this time.

Please do not hesitate to contact me at (916) 435-1202 or mbranstad@foothill.com if you have any questions about this report.

Sincerely,

Meredith Branstad

Biologist

CC: Rachel Corona, Standard Pacific Homes
Larry Ito, Ardor Consulting
Mike McDougall, MJM Properties, LLC

Enclosures: Figure 3 — CNDDB (revised 12/3/14)
Figure 4 — Biological Constraints (revised 12/3/14)

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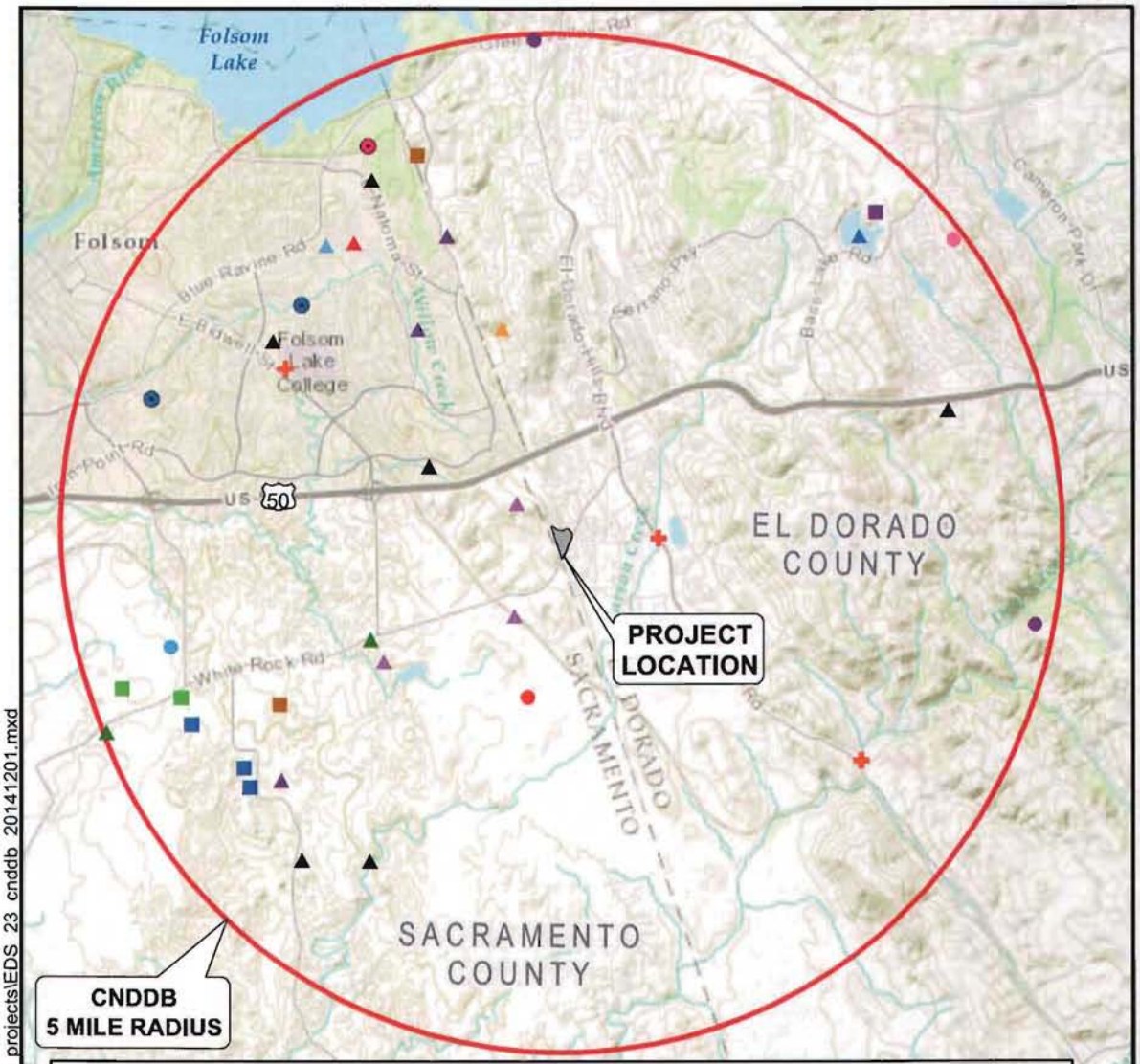

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SOURCE: CNDDB, 11/05/2014
CNDDB points are centroids of polygon occurrences. These points do not represent actual point locations of occurrence.

increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, and the GIS User Community

AMADOR

CNDDB Occurrences

FOOTHILL ASSOCIATES
ENVIRONMENTAL CONSULTING • PLANNING • LANDSCAPE ARCHITECTURE

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SCALE IN MILES

Drawn By: MUB
Date: 12/01/2014

FIGURE 3

EL DORADO SPRINGS 23

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BIOLOGICAL CONSTRAINTS

FOOTHILL ASSOCIATES
ENVIRONMENTAL CONSULTING • PLANNING • LANDSCAPE ARCHITECTURE

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SCALE IN FEET

Drawn By: ETA/MUB
Date: 07/14/2006
Rev: 12/03/2014

FIGURE 4

EL DORADO SPRINGS 23

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IV. BIOLOGICAL RESOURCES. *Would the project:*	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
such as a tree preservation policy or ordinance?				
f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?			X	

Discussion:

A substantial adverse effect on Biological Resources would occur if the implementation of the project would:

- Substantially reduce or diminish habitat for native fish, wildlife or plants;
- Cause a fish or wildlife population to drop below self-sustaining levels;
- Threaten to eliminate a native plant or animal community;
- Reduce the number or restrict the range of a rare or endangered plant or animal;
- Substantially affect a rare or endangered species of animal or plant or the habitat of the species; or
- Interfere substantially with the movement of any resident or migratory fish or wildlife species.

A Biological Resource Assessment and Delineation of Waters of the U.S. have been prepared for the project by Foothills Associates evaluating the biological resource and riparian habitat on the property and the effects of the proposed subdivision to these resources (Attachment 6). The report was updated in a letter dated December 8, 2014. The analysis includes the results of the biologists' field surveys conducted on the site on June 30, July 5, and July 7, 2006, and November 8, 2013 and March 17 and April 4, 2014. The responses below include a summary of the analysis and its results.

a-b. **Special Status Species.** The analysis identified a variety of special status species that has~~ve~~ a low to high potential of occurring on the property. There is low potential for big-scale balsamroot, dwarf downingia, and listed vernal pool branchiopods to occur on the property. ~~and therefore could provide suitable habitat for nesting or foraging.~~ The property could provide suitable foraging habitat for ~~hese~~ a number of species including~~e a~~ burrowing ~~o~~Owl, Swainson's hawk, ~~w~~White-tailed kite, and tricolored blackbird, ~~and~~ as well as other raptor and migratory bird species. ~~However, t~~There ~~are no trees on the site to~~is no suitable nesting habitat for ~~provide nesting habitat for~~ raptor species on the site, but trees on adjacent properties may provide nesting habitat for migratory birds and small raptors. There is low potential for the site to be used for nesting by western pond turtles. ~~Consequently, raptor species, with the exception of Burrowing owls, which are further discussed below, would not be expected to nest on the site due to a lack of suitable nesting habitat. Raptors and other protected migratory birds have a high potential to occur on the site~~

The following Mitigation Measures shall be implemented to reduce potentially significant impacts to a less than significant level.

MM BIO-1 Pre-construction Surveys Required: MM BIO-1 Pre-construction Surveys Required: ~~A p~~Pre-construction surveys (for species listed in Table 1 of the Biological Resources Assessment prepared by Foothill Associates, dated February 12, 2014 and updated in the letter dated December 8, 2014,) shall be conducted on the project site and adjacent properties, as access allows, by a qualified biologist(s) no more than ~~30~~ 14 days prior to the onset of construction activities. To maximize the potential for locating ~~to determine if~~ burrowing owls on or adjacent to the site, the survey shall be conducted before 10 AM or within 2 hours prior to dusk and a final survey will be conducted within 24 hours prior to the start of construction. If construction will take place during the nesting season (March 15- September 15), potential Swainson's hawk nest trees within ¼-mile of the project site should be surveyed, as access allows. If construction is scheduled to begin outside the bloom period (March – June), then an additional focused survey for special-status plant species shall be conducted during the bloom period. The results of pre-construction surveys should be submitted to the County and regulatory agencies as appropriate. ~~or other migratory birds occupy the site.~~

EXHIBIT 5

Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact

If non-listed special-status plant species are identified on the site in an area that will not be disturbed, the population should be preserved in place and protected with high-visibility fencing. If impacts are unavoidable, then a mitigation plan documenting the procedures for relocating the population to the on-site open space should be prepared and submitted to the County for approval. If State or federally-listed plant species are identified during the pre-construction surveys, then the CDFW and USFWS should be consulted, as appropriate, for applicable avoidance and mitigation measures.

If special-status species or active avian nests ~~of burrowing owls or other migratory birds~~ are identified on or adjacent to the site during the pre-construction survey, a buffer zone shall be established as recommended by the project biologist. ~~The~~ Active nests should be monitored until the young have fledged and the nest is no longer in active use. If any special-status species is found on site during construction, work in the immediate vicinity will cease until a qualified biologist provides take avoidance measures. If relocation of a special-status species is required, the project biologist will coordinate with the County and regulatory agencies as required, for approval of the relocation methods and procedures prior to relocation.

~~California Department of Fish and Wildlife (CDFW) shall be consulted for current guidelines and methods for passive relocation of any raptor found on the site. For example, if an active owl burrows are located during the pre-construction survey, it is recommended a 250-foot buffer zone may be established around each burrow with an active nest until the young have fledged, and are able to exit the burrow. If occupied burrows are found with no nesting occurring, or if active burrows are found after the young have fledged, or if development commences after the breeding season (typically February-August), passive relocation of the birds involving installation of a one-way door at the burrow entrance should be performed.~~

If construction activities are delayed by a period of one year or more, a qualified biologist(s) shall conduct additional surveys for any new, previously unidentified special status species that may occur on the project site, which are listed by CDFW and/or USFWS.

If the additional surveys identify new and/or previously unidentified special status species, informal Consultation must be initiated with California Department of Fish and Wildlife (CDFW) and/or United States Fish and Wildlife Service (USFWS) to determine appropriate avoidance measures.

The applicant shall follow the appropriate avoidance measures issued by CDFW and/or USFWS, and no construction activities shall occur on the project site until the avoidance measures are issued and implemented. If no species or active nests are found, then no further action is required, and construction activities may proceed upon approval by Planning Services.

Monitoring Responsibility: Planning Services

Monitoring Requirement: A survey shall be submitted for review and verification by CDFW, USFWS, and Planning Services prior to initiation of construction activities.

Impacts would be reduced to Less Than Significant.

c. **Riparian Habitat.** A total of 0.193 acres of wetland on- and off- site is anticipated to be impacted by the project. As analyzed, potential impacts to these wetlands are would require a formal delineation and 404 permit through the United States Army Corp of Engineers.

MM BIO-2: Wetland Permit. ~~A wetland delineation performed on the site shall be submitted to the Corps for verification and the~~The appropriate Section 404 permit shall be acquired for any project-related impacts to jurisdictional features.~~——~~ If a Section 404 permit is required for the proposed project, water quality concerns

Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact

during construction would be addressed with a Section 401 water quality certification from the Regional Water Quality Control Board.

Aquatic features to be preserved on or adjacent to the project site will be protected during construction using best management practices, including but not limited to, erosion control measures, soil stabilization, and spill prevention and handling procedures. Post-construction impacts to aquatic features will be minimized or avoided through project design and in accordance with County General Plan policies.

Mitigation for permanent loss of aquatic features will be mitigated through off-site replacement at an approved mitigation bank to ensure no net loss of wetland or riparian habitat. Temporary impacts to aquatic features will be mitigated by restoration to pre-project conditions.

Monitoring Responsibility: Planning Services

Monitoring Requirement: Prior to issuance of Grading Permit, the applicant shall provide proof of acquisition of Section 404 and 401 permits and appropriate mitigation credits to ensure no net loss of aquatic features.

Impacts would be reduced to Less Than Significant.

d. **Migration Corridors.** The project is not a part of a major or local wildlife or migration corridors/travel routes because it does not connect two significant habitats. As analyzed, the existence of annual grassland setting would potentially support breeding, foraging, and shelter habitat for several species of wildlife including Swainson's hawk and Burrowing owls. Implementation of MM BIO-1 would reduce the impact to Less Than Significant.

e. **Local Policies.** Applicable El Dorado County Code and General Plan Policies pertaining to the protection of biological resources including mitigation for impacted wetland are met. Impacts would be Less Than Significant.

FINDING: The site contains sensitive species and riparian habitat that would be affected by project implementation. Mitigation measures have been identified for implementation that would minimize the impacts to less than significant. For this 'Biological Resources' category, there would be less than significant impact with implementation of mitigation measures.

V. CULTURAL RESOURCES. *Would the project:*				
a. Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?			X	
b. Cause a substantial adverse change in the significance of archaeological resource pursuant to Section 15064.5?			X	
c. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?			X	
d. Disturb any human remains, including those interred outside of formal cemeteries?			X	

Discussion:

In general, significant impacts are those that diminish the integrity, research potential, or other characteristics that make a historical or cultural resource significant or important. A substantial adverse effect on Cultural Resources would occur if the implementation of the project would: