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↑ dedication of the land? Why should citizens have to pay if a fire station is required for the proposed development?

43-242

Parks: A special use park/open space area should be specified which includes all 33 prehistoric sites identified in the cultural report. The park would have limited access similar to the Maidu park in Roseville with designated walk ways and viewing decks that avoid desecration of historical and cultural resources. The park should also include the creek watershed and 200 feet on both sides. This would be consistent with General Plan policies 7, 8, 17, and 18 of the Open Space, Conservation and Recreation element.

43-243

Energy Conservation: Nothing was stated in the DEIR regarding electrical or gas conservation measures. The developer should be required to incorporate solar panels in the plans. This would be consistent with General Plan policy 5 of the Open Space Conservation element.

43-244

4.12-41, I-10—Long -term impacts relating to the City's public service contribution are claimed to be less than significant, but that conclusion is based on short term MM. The cost of building a new fire station, the costs of staffing that station, the additional public services and utility maintenance and infrastructure costs for the long term are not given. After the developer fees have been used and infrastructure begins to depreciate and deteriorate, the long-term cumulative economic impacts to the City could be quite significant. They may be less than significant for the short term, but long-term analysis is not provided for this long-term impact. Thus, to arbitrarily equate short-term MM as adequate for long term is illogical and unwarranted. Please analyze long-term impacts to the City, provide MM, and allow public review.

43-245

As seen in these comments and in many others that will be received by the City of Rocklin, this Recirculated Draft EIR contains significant flaws and fails to comply with CEQA. We strongly urge the City of Rocklin to substantially revise this DEIR and recirculate it. The health and safety of humans and the protection of the environment take priority over any desire for speedy approvals of a proposed project that Rocklin and the entire region will have to live with forever.

Sincerely,



Marilyn Jasper, Chair
Sierra Club Placer Group



Ed Pandolfino, Ph.D.
Sierra Foothills Audubon Society

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Appendix L - ~~James Clu~~
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Federal Register/Vol. 70, No. 170/Friday, September 2, 2005/Rules and Regulations 52519

IV. Methods and Criteria Used To Designate Critical Habitat

The following sections describe the relevant definitions and guidance found in the ESA and our implementing regulations, and the key methods and criteria we used to make these final critical habitat designations after incorporating, as appropriate, comments and information received on the proposed rule. Section 4 of the ESA (16 U.S.C. 1533(b)(2)) and our regulations at 50 CFR 424.12(a) require that we designate critical habitat, and make revisions thereto, "on the basis of the best scientific data available."

Section 3 of the ESA (16 U.S.C. 1532(5)) defines critical habitat as "(i) the specific areas within the geographical area occupied by the species, at the time it is listed * * * on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed upon a determination by the Secretary that such areas are essential for the conservation of the species." Section 3 of the ESA (16 U.S.C. 1532(3)) also defines the terms "conserve," "conserving," and "conservation" to mean "to use, and the use of, all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this chapter are no longer necessary."

Pursuant to our regulations, when designating critical habitat we consider the following requirements of the species: (1) Space for individual and population growth, and for normal behavior; (2) food, water, air, light, minerals, or other nutritional or physiological requirements; (3) cover or shelter; (4) sites for breeding, reproduction, or rearing of offspring; and, generally, (5) habitats that are protected from disturbance or are representative of the historical geographical and ecological distributions of the species (see 50 CFR 424.12(b)). In addition to these factors, we also focus on the known physical and biological features (primary constituent elements or PCEs) within the occupied areas that are essential to the conservation of the species and that may require special management considerations or protection. Both the ESA and our regulations, in recognition of the divergent biological needs of species, establish criteria that are fact specific rather than "one size fits all."

Our regulations state that, "The Secretary shall designate as critical habitat areas outside the geographic area presently occupied by the species only when a designation limited to its present range would be inadequate to ensure the conservation of the species" (50 CFR 424.12(e)). Accordingly, when the best available scientific and commercial data do not demonstrate that the conservation needs of the species so require, we will not designate critical habitat in areas outside the geographic area occupied by the species.

Section 4 of the ESA requires that before designating critical habitat we must consider the economic impacts, impacts on national security, and other relevant impacts of specifying any particular area as critical habitat, and the Secretary may exclude any area from critical habitat if the benefits of exclusion outweigh the benefits of inclusion, unless excluding an area from critical habitat will result in the extinction of the species concerned. Once critical habitat for a salmon or steelhead ESU is designated, section 7(a)(2) of the ESA requires that each Federal agency shall, in consultation with and with the assistance of NMFS, ensure that any action authorized, funded or carried out by such agency is not likely to result in the destruction or adverse modification of critical habitat.

Salmon Life History

Pacific salmon are anadromous fish, meaning adults migrate from the ocean to spawn in freshwater lakes and streams where their offspring hatch and rear prior to migrating back to the ocean to forage until maturity. The migration and spawning times vary considerably across and within species and populations (Groot and Margolis, 1991). At spawning, adults pair to lay and fertilize thousands of eggs in freshwater gravel nests or "redds" excavated by females. Depending on lake/stream temperatures, eggs incubate for several weeks to months before hatching as "alevins" (a larval life stage dependent on food stored in a yolk sac). Following yolk sac absorption, alevins emerge from the gravel as young juveniles called "fry" and begin actively feeding. Depending on the species and location, juveniles may spend from a few hours to several years in freshwater areas before migrating to the ocean. The physiological and behavioral changes required for the transition to salt water result in a distinct "smolt" stage in most species. On their journey juveniles must migrate downstream through every riverine and estuarine corridor between their natal lake or stream and the ocean. For example, smolts from Idaho will

travel as far as 900 miles (1,448 km) from the inland spawning grounds. En route to the ocean the juveniles may spend from a few days to several weeks in the estuary, depending on the species. The highly productive estuarine environment is an important feeding and acclimation area for juveniles preparing to enter marine waters.

Juveniles and subadults typically spend from 1 to 5 years foraging over thousands of miles in the North Pacific Ocean before returning to spawn. Some species, such as coho and Chinook salmon, have precocious life history types (primarily male fish known as "jacks") that mature and spawn after only several months in the ocean. Spawning migrations known as "runs" occur throughout the year, varying by species and location. Most adult fish return or "home" with great fidelity to spawn in their natal stream, although some do stray to non-natal streams. Salmon species die after spawning, except anadromous *O. mykiss* (steelhead), which may return to the ocean and make one or more repeat spawning migrations. This complex life cycle gives rise to complex habitat needs, particularly during the freshwater phase (see review by Spence *et al.*, 1996). Spawning gravels must be of a certain size and free of sediment to allow successful incubation of the eggs. Eggs also require cool, clean, and well-oxygenated waters for proper development. Juveniles need abundant food sources, including insects, crustaceans, and other small fish. They need places to hide from predators (mostly birds and bigger fish), such as under logs, root wads and boulders in the stream, and beneath overhanging vegetation. They also need places to seek refuge from periodic high flows (side channels and off channel areas) and from warm summer water temperatures (coldwater springs and deep pools). Returning adults generally do not feed in fresh water but instead rely on limited energy stores to migrate, mature, and spawn. Like juveniles, they also require cool water and places to rest and hide from predators. During all life stages salmon require cool water that is free of contaminants. They also require rearing and migration corridors with adequate passage conditions (water quality and quantity available at specific times) to allow access to the various habitats required to complete their life cycle.

The homing fidelity of salmon has created a metapopulation structure with distinct populations distributed among watersheds (McElhany *et al.*, 2000). Low levels of straying result in regular genetic exchange among populations,

creating genetic similarities among populations in adjacent watersheds. Maintenance of the metapopulation structure requires a distribution of populations among watersheds where environmental risks (e.g., from landslides or floods) are likely to vary. It also requires migratory connections among the watersheds to allow for periodic genetic exchange and alternate spawning sites in the case that natal streams are inaccessible due to natural events such as a drought or landslide. More detailed information describing habitat and life history characteristics of the ESUs is contained in the proposed rule (69 FR 71880; December 10, 2004), agency status reviews for each ESU, technical recovery team products, and in a biological report supporting these designations (NMFS, 2005a).

Identifying the Geographical Area Occupied by the Species and Specific Areas Within the Geographical Area

In past critical habitat designations, we had concluded that the limited availability of species distribution data prevented mapping salmonid critical habitat at a scale finer than occupied river basins (65 FR 7764; February 16, 2000). Therefore, the 2000 designations defined the "geographical area occupied by the species, at the time of listing" as all accessible river reaches within the current range of the listed species.

In the proposed rule we described in greater detail that since the previous designations in 2000, we can now be somewhat more precise about the "geographical area occupied by the species" because of efforts by agency biologists, in coordination with Federal and state co-managers, to compile information and map actual species distribution at the level of stream reaches. Moreover, much of the available data can now be accessed and analyzed using geographic information systems (GIS) to produce consistent and fine-scale maps. The current mapping effort for these ESUs documents fish presence and identifies occupied stream reaches where the species has been observed. It also identifies stream reaches where the species is presumed to occur based on the professional judgment of biologists familiar with the watershed. We made use of these finer-scale data for the current critical habitat designations, and we now believe that they enable a more accurate delineation of the "geographical area occupied by the species" referred to in the ESA definition of critical habitat.

We are now also able to identify "specific areas" (ESA section 3(5)(a)) and "particular areas" (ESA section 4(b)(2)) at a finer scale than in 2000. As

described in the proposed rule, we have used the State of California's CALWATER watershed classification system, which is similar to the USGS watershed classification system that was used for salmonid critical habitat designations in the Northwest. This information is now generally available via the internet, and we have expanded our GIS resources to use these data. We used the CALWATER Hydrologic Subarea (HSA) unit (which is generally similar in size to USGS HUC5s) to organize critical habitat information systematically and at a scale that, while somewhat broad geographically, is applicable to the spatial distribution of salmon. Organizing information at this scale is especially relevant to salmonids, since their innate homing ability allows them to return to the watersheds where they were born. Such site fidelity results in spatial aggregations of salmonid populations that generally correspond to the area encompassed by HSA watersheds or aggregations of these watersheds.

The CALWATER system maps watershed units as polygons, bounding a drainage area from ridge-top to ridge-top, encompassing streams, riparian areas and uplands. Within the boundaries of any HSA watershed, there are stream reaches not occupied by the species. Land areas within the CALWATER HSA boundaries are also generally not "occupied" by the species (though certain areas such as flood plains or side channels may be occupied at some times of some years). We used the watershed boundaries as a basis for aggregating occupied stream reaches, for purposes of delineating "specific" areas at a scale that often corresponds well to salmonid population structure and ecological processes. This designation refers to the occupied stream reaches within the watershed boundary as the "habitat area" to distinguish it from the entire area encompassed by the watershed boundary. Each habitat area was reviewed by the CHARTs to verify occupation, PCEs, and special management considerations (see "Critical Habitat Analytical Review Teams" section below).

The watershed-scale aggregation of stream reaches also allowed us to analyze the impacts of designating a "particular area," as required by ESA section 4(b)(2). As a result of watershed processes, many activities occurring in riparian or upland areas and in non-fish-bearing streams may affect the physical or biological features essential to conservation in the occupied stream reaches. The watershed boundary thus describes an area in which Federal activities have the potential to affect

critical habitat (Spence *et al.*, 1996). Using watershed boundaries for the economic analysis ensured that all potential economic impacts were considered. Section 3(5) defines critical habitat in terms of "specific areas," and section 4(b)(2) requires the agency to consider certain factors before designating "particular areas." In the case of Pacific salmonids, the biology of the species, the characteristics of its habitat, the nature of the impacts and the limited information currently available at finer geographic scales made it appropriate to consider "specific areas" and "particular areas" as the same unit.

Occupied estuarine areas were also considered in the context of defining "specific areas." In our proposed rule we noted that estuarine areas are crucial for juvenile salmonids, given their multiple functions as areas for rearing/feeding, freshwater-saltwater acclimation, and migration (Simenstad *et al.*, 1982; Marriott *et al.*, 2002). The San Francisco Bay estuary complex consists of five CALWATER HSA watershed units that are separate from upstream freshwater habitats that drain into the estuarine complex, and these units were analyzed separately. Some other small estuaries did not correspond to HSA watershed units nor were they part of defined HSA watershed units, and so we defined specific polygons which were analyzed separately. In all occupied estuarine areas we were able to identify physical or biological features essential to the conservation of the species, and that may require special management considerations or protection. For those estuarine areas designated as critical habitat we are again delineating them in similar terms to our past designations, as being defined by a line connecting the furthest land points at the estuary mouth.

In previous designations of salmonid critical habitat we did not designate offshore marine areas. In the Pacific Ocean, we concluded that there may be essential habitat features, but we could not identify any special management considerations or protection associated with them as required under section 3(5)(A)(i) of the ESA (65 FR 7776; February 16, 2000). Since that time we have carefully considered the best available scientific information, and related agency actions, such as the designation of Essential Fish Habitat under the Magnuson-Stevens Fishery Conservation and Management Act. In contrast to estuarine areas, we conclude that it is not possible to identify "specific areas" in the Pacific Ocean that contain essential features for salmonids. Also, links between human

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activity, habitat conditions and impacts to listed salmonids are less direct in offshore marine areas. Perhaps the closest linkage exists for salmon prey species that are harvested commercially (e.g., Pacific herring) and, therefore, may require special management considerations or protection. However, because salmonids are opportunistic feeders we could not identify "specific areas" where these or other essential features are found within this vast geographic area occupied by salmon and steelhead. Moreover, prey species move or drift great distances throughout the ocean and would be difficult to link to any "specific" areas. Therefore, we are not designating critical habitat in offshore marine areas. We requested comment on this issue in our proposed rule but did not receive comments or information that would change our conclusion.

Primary Constituent Elements

In determining what areas are critical habitat, agency regulations at 50 CFR 424.12(b) require that we must "consider those physical or biological features that are essential to the conservation of a given species * * *, including space for individual and population growth and for normal behavior; food, water, air, light, minerals, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, and rearing of offspring; and habitats that are protected from disturbance or are representative of the historical geographical and ecological distribution of a species." The regulations further direct us to "focus on the principal biological or physical constituent elements * * * that are essential to the conservation of the species," and specify that the "known primary constituent elements shall be listed with the critical habitat description." The regulations identify primary constituent elements (PCEs) as including, but not limited to: "roost sites, nesting grounds, spawning sites, feeding sites, seasonal wetland or dryland, water quality or quantity, host species or plant pollinator, geological formation, vegetation type, tide, and specific soil types."

NMFS biologists developed a list of PCEs that are essential to the species' conservation and based on the unique life history of salmon and steelhead and their biological needs (Hart, 1973; Beauchamp *et al.*, 1983; Laufle *et al.*, 1986; Pavley *et al.*, 1986, 1988, and 1989; Groot and Margolis, 1991; Spence *et al.*, 1996). Guiding the identification of PCEs was a decision matrix we developed for use in ESA section 7

consultations (NMFS, 1996) which describes general parameters and characteristics of most of the essential features under consideration in this critical habitat designation. We identified these PCEs and requested comment on them in the ANPR (68 FR 55931; September 29, 2003) and proposed rule (69 FR 74636; December 14, 2005) but did not receive information to support changing them. The ESUs addressed in this final rule share many of the same rivers and estuaries and have similar life history characteristics and, therefore, many of the same PCEs. These PCEs include sites essential to support one or more life stages of the ESU (sites for spawning, rearing, migration and foraging). These sites in turn contain physical or biological features essential to the conservation of the ESU (for example, spawning gravels, water quality and quantity, side channels, forage species). The specific PCEs include:

1. Freshwater spawning sites with water quantity and quality conditions and substrate supporting spawning, incubation and larval development. These features are essential to conservation because without them the species cannot successfully spawn and produce offspring.
2. Freshwater rearing sites with water quantity and floodplain connectivity to form and maintain physical habitat conditions and support juvenile growth and mobility; water quality and forage supporting juvenile development; and natural cover such as shade, submerged and overhanging large wood, log jams and beaver dams, aquatic vegetation, large rocks and boulders, side channels, and undercut banks. These features are essential to conservation because without them juveniles cannot access and use the areas needed to forage, grow, and develop behaviors (e.g., predator avoidance, competition) that help ensure their survival.
3. Freshwater migration corridors free of obstruction with water quantity and quality conditions and natural cover such as submerged and overhanging large wood, aquatic vegetation, large rocks and boulders, side channels, and undercut banks supporting juvenile and adult mobility and survival. These features are essential to conservation because without them juveniles cannot use the variety of habitats that allow them to avoid high flows, avoid predators, successfully compete, begin the behavioral and physiological changes needed for life in the ocean, and reach the ocean in a timely manner. Similarly, these features are essential for adults because they allow fish in a non-feeding condition to successfully swim

upstream, avoid predators, and reach spawning areas on limited energy stores.

4. Estuarine areas free of obstruction with water quality, water quantity, and salinity conditions supporting juvenile and adult physiological transitions between fresh- and saltwater; natural cover such as submerged and overhanging large wood, aquatic vegetation, large rocks and boulders, and side channels; and juvenile and adult forage, including aquatic invertebrates and fishes, supporting growth and maturation. These features are essential to conservation because without them juveniles cannot reach the ocean in a timely manner and use the variety of habitats that allow them to avoid predators, compete successfully, and complete the behavioral and physiological changes needed for life in the ocean. Similarly, these features are essential to the conservation of adults because they provide a final source of abundant forage that will provide the energy stores needed to make the physiological transition to fresh water, migrate upstream, avoid predators, and develop to maturity upon reaching spawning areas.

5. Nearshore marine areas free of obstruction with water quality and quantity conditions and forage, including aquatic invertebrates and fishes, supporting growth and maturation; and natural cover such as submerged and overhanging large wood, aquatic vegetation, large rocks and boulders, and side channels. As in the case with freshwater migration corridors and estuarine areas, nearshore marine features are essential to conservation because without them juveniles cannot successfully transition from natal streams to offshore marine areas.

6. Offshore marine areas with water quality conditions and forage, including aquatic invertebrates and fishes, supporting growth and maturation. These features are essential for conservation because without them juveniles cannot forage and grow to adulthood. However, for the reasons stated previously in this document, it is difficult to identify specific areas containing this PCE as well as human activities that may affect the PCE condition in those areas. Therefore, we have not designated any specific areas based on this PCE but instead have identified it because it is essential to the species' conservation and specific offshore areas may be identified in the future (in which case any designation would be subject to separate rulemaking).

The occupied habitat areas designated in this final rule contain PCEs required to support the biological processes for

which the species use the habitat. The CHARTs verified this for each watershed/nearshore zone by relying on the best available scientific data (including species distribution maps, watershed analyses, and habitat surveys) during their review of occupied areas and resultant assessment of area conservation values (NMFS, 2005a). The contribution of the PCEs varies by site and biological function such that the quality of the elements may vary within a range of acceptable conditions. The CHARTs took this variation into account when they assessed the conservation value of an area.

Special Management Considerations or Protections

An occupied area cannot be designated as critical habitat unless it contains physical and biological features that "may require special management considerations or protection." Agency regulations at 424.02(j) define "special management considerations or protection" to mean "any methods or procedures useful in protecting physical and biological features of the environment for the conservation of listed species."

As part of the biological assessment described below under "Critical Habitat Analytical Review Teams," teams of biologists examined each habitat area to determine whether the physical or biological features may require special management consideration. These determinations are identified for each area in the CHART report (NMFS, 2005a). In the case of salmon and steelhead, the CHARTs identified a variety of activities that threaten the physical and biological features essential to listed salmon and steelhead (see review by Spence *et al.*, 1996), including: (1) forestry; (2) grazing and other-associated rangeland activities; (3) agriculture; (4) road building/maintenance; (5) channel modifications/diking/stream bank stabilization; (6) urbanization; (7) sand and gravel mining; (8) mineral mining; (9) dams; (10) irrigation impoundments and withdrawals; (11) wetland loss/removal; (12) exotic/invasive species introductions; and (13) impediments to migration. In addition to these, the harvest of salmonid prey species (e.g., forage fishes such as herring, anchovy, and sardines) may present another potential habitat-related management activity (Pacific Fishery Management Council, 1999).

Unoccupied Areas

ESA section 3(5)(A)(ii) defines critical habitat to include "specific areas outside the geographical area occupied"

if the areas are determined by the Secretary to be "essential for the conservation of the species." NMFS regulations at 50 CFR 424.12(e) emphasize that we "shall designate as critical habitat areas outside the geographical area presently occupied by a species only when a designation limited to its present range would be inadequate to ensure the conservation of the species." The CHARTs did identify several unoccupied areas above dams that may be essential for the conservation of specific ESUs, primarily within the historical range of the Central Valley spring run Chinook, Central Valley steelhead, and Southern California steelhead ESUs (see proposed rule: 69 FR 71880; December 10, 2004); however, we are not designating unoccupied areas at this time. Though it is not possible to conclude at this time that any of these historically occupied areas warrant designation, we believe it is useful to signal to the public that these specific areas may be considered for possible designation in the future. However, any designation of unoccupied areas would be based on the required determination that such area is essential for the conservation of an ESU and would be subject to separate rulemaking with the opportunity for notice and comment.

Lateral Extent of Critical Habitat

In past designations we have described the lateral extent of critical habitat in various ways ranging from fixed distances to "functional" zones defined by important riparian functions (65 FR 7764; February 16, 2000). Both approaches presented difficulties, and this was highlighted in several comments (most of which requested that we focus on aquatic areas only) received in response to the ANPR (68 FR 55926; September 29, 2003). Designating a set riparian zone width will (in some places) accurately reflect the distance from the stream on which PCEs might be found, but in other cases may over- or understate the distance. Designating a functional buffer avoids that problem, but makes it difficult for Federal agencies to know in advance what areas are critical habitat. To address these issues we are proposing to define the lateral extent of designated critical habitat as the width of the stream channel defined by the ordinary high-water line as defined by the COE in 33 CFR 329.11. This approach is consistent with the specific mapping requirements described in agency regulations at 50 CFR 424.12(c). In areas for which ordinary high-water has not been defined pursuant to 33 CFR 329.11, the width of the stream channel shall be

defined by its bankfull elevation. Bankfull elevation is the level at which water begins to leave the channel and move into the floodplain (Rosgen, 1996) and is reached at a discharge which generally has a recurrence interval of 1 to 2 years on the annual flood series (Leopold *et al.*, 1992). Such an interval is commensurate with nearly all of the juvenile freshwater life phases of most salmon and steelhead ESUs. Therefore, it is reasonable to assert that for an occupied stream reach this lateral extent is regularly "occupied". Moreover, the bankfull elevation can be readily discerned for a variety of stream reaches and stream types using recognizable water lines (e.g., marks on rocks) or vegetation boundaries (Rosgen, 1996).

As underscored in previous critical habitat designations, the quality of aquatic habitat within stream channels is intrinsically related to the adjacent riparian zones and floodplain, to surrounding wetlands and uplands, and to non-fish-bearing streams above occupied stream reaches. Human activities that occur outside the stream can modify or destroy physical and biological features of the stream. In addition, human activities that occur within and adjacent to reaches upstream (e.g., road failures) or downstream (e.g., dams) of designated stream reaches can also have demonstrable effects on physical and biological features of designated reaches.

In estuarine areas we believe that extreme high water is the best descriptor of lateral extent. We are designating the area inundated by extreme high tide because it encompasses habitat areas typically inundated and regularly occupied during the spring and summer when juvenile salmon are migrating in the nearshore zone and relying heavily on forage, cover, and refuge qualities provided by these occupied habitats. As noted above for stream habitat areas, human activities that occur outside the area inundated by extreme or ordinary high water can modify or destroy physical and biological features of the nearshore habitat areas, and Federal agencies must be aware of these important habitat linkages as well.

Military Lands

The Sikes Act of 1997 (Sikes Act) [16 U.S.C. 670a] required each military installation that includes land and water suitable for the conservation and management of natural resources to complete, by November 17, 2001, an INRMP. An INRMP integrates implementation of the military mission of the installation with stewardship of the natural resources found there. Each INRMP includes: an assessment of the

ecological needs on the installation, including the need to provide for the conservation of listed species; a statement of goals and priorities; a detailed description of management actions to be implemented to provide for these ecological needs; and a monitoring and adaptive management plan. Among other things, each INRMP must, to the extent appropriate and applicable, provide for fish and wildlife management, fish and wildlife habitat enhancement or modification, wetland protection, enhancement, and restoration where necessary to support fish and wildlife and enforcement of applicable natural resource laws.

The National Defense Authorization Act for Fiscal Year 2004 (Pub. L. No. 108-136) amended the ESA to address designation of military lands as critical habitat. Specifically, section 4(a)(3)(B)(i) of the ESA (16 U.S.C. 1533(a)(3)(B)(i)) now provides: "The Secretary shall not designate as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an integrated natural resources management plan prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation."

To address this new provision we contacted the DOD and requested information on all INRMPs that might benefit Pacific salmon. In response to the ANPR (68 FR 55926; September 29, 2003) we had already received a letter from the U.S. Marine Corps regarding this and other issues associated with a possible critical habitat designation on its facilities in the range of the Southern California Steelhead ESU. In response to our request, the military services identified 25 installations in California with INRMPs in place or under development. Based on information provided by the military, as well as GIS analysis of fish distributional information compiled by NMFS' Southwest Region (NMFS, 2004b; NMFS, 2005a) and land use data, we determined that the following facilities with INRMPs overlap with habitat areas under consideration for critical habitat designation in California: (1) Camp Pendleton Marine Corps Base; (2) Vandenberg Air Force Base; (3) Camp San Luis Obispo; (4) Camp Roberts; and (5) Mare Island Army Reserve Center. Two additional facilities are adjacent to, but do not overlap with, habitat areas under consideration for critical habitat in California: (1) Naval Weapons Station, Seal Beach/Concord Detachment; and (2) Point Mugu Naval

Air Station. None of the remaining facilities with INRMPs in place overlapped with or were adjacent to habitat under consideration for critical habitat based on the information available to us. All of these INRMPs are final except for the Vandenberg Air Force Base INRMP, which is expected to be finalized in the near term.

We identified habitat of value to listed salmonids in each INRMP and reviewed these plans, as well as other information available regarding the management of these military lands. Our review indicates that each of these INRMPs addresses habitat for salmonids, and all contain measures that provide benefits to ESA-listed salmon and steelhead. Examples of the types of benefits include actions that control erosion, protect riparian zones, minimize stormwater and construction impacts, reduce contaminants, and monitor listed species and their habitats. As a result of our review, we have determined that the final INRMPs and the draft INRMP for Vandenberg Air Force Base provide a benefit to the species for which critical habitat is proposed for designation, and, therefore, we are not designating critical habitat in those areas. Also, we have received information from the Vandenberg Air Force Base and Camp Pendleton Marine Corps Base identifying national security impacts to their operations from critical habitat designation. Our consideration of such impacts is separate from our assessment of INRMPs, but serves as an independent and sufficient basis for our determination not to designate those areas as critical habitat.

Critical Habitat Analytical Review Teams

To assist in the designation of critical habitat, we convened several CHARTs organized by major geographic domains that roughly correspond to salmon recovery planning domains in California. The CHARTs consisted of NMFS fishery biologists from the Southwest Region with demonstrated expertise regarding salmonid habitat and related protective efforts within the domain. The CHARTs were tasked with compiling and assessing biological information pertaining to areas under consideration for designation as critical habitat. Each CHART worked closely with GIS specialists to develop maps depicting the spatial distribution of habitat occupied by each ESU and the use of occupied habitat on stream hydrography at a scale of 1:100,000. The CHARTs also reconvened to review the public comments and any new information regarding the ESUs and habitat in their domain.

The CHARTs examined each habitat area within the watershed to determine whether the stream reaches or lakes occupied by the species contain the physical or biological features essential to conservation. As noted previously, the CHARTs also relied on their experience conducting ESA section 7 consultations and existing management plans and protective measures to determine whether these features may require special management considerations or protection.

In addition to occupied areas, the definition of critical habitat also includes unoccupied areas if we determine that area is essential for conservation of a species. Accordingly the CHARTs were also asked whether there were any unoccupied areas within the historical range of the ESUs that may be essential for conservation. For the seven ESUs addressed in this rulemaking, the CHARTs did not have sufficient information that would allow them to conclude that specific unoccupied areas were essential for conservation; however, in many cases they were able to identify areas they believed may be determined essential through future recovery planning efforts. These were described in the proposed critical habitat designation rule (69 FR 71880).

The CHARTs were next asked to determine the relative conservation value of each occupied HSA watershed area for each ESU. The CHARTs scored each habitat area based on several factors related to the quantity and quality of the physical and biological features. They next considered each area in relation to other areas and with respect to the population occupying that area. Based on a consideration of the raw scores for each area, and a consideration of that area's contribution in relation to other areas and in relation to the overall population structure of the ESU, the CHARTs rated each habitat area as having a "high," "medium," or "low" conservation value. The preliminary CHART ratings were reviewed by several state and tribal co-managers in advance of the proposed rule and the CHARTs made needed changes prior to that rule. State co-managers also evaluated our proposed rule and provided comments and new information which were also reviewed and incorporated as needed by the CHARTs in the preparation of the final designations.

The rating of habitat areas as having a high, medium, or low conservation value provided information useful to inform the Secretary's exercise of discretion in balancing whether the benefits of exclusion outweigh the

Letter 43: Marilyn Jasper, Sierra Club Placer Group and Sierra Foothills Audubon Society (March 15, 2006)

Response to Comment 43-1

This is an introductory comment that explains the methodology behind the comment letter and does not address the adequacy of the EIR.

Response to Comment 43-2

The comments on the 2002 DEIR are publicly available through the City of Rocklin. Additionally, this FEIR and the associated DEIR is not a revised version of the previous 2002 DEIR. The design and scope of the proposed project has changed significantly when compared to the development associated with the 2002 DEIR, as have the impacts associated with its development. As stated on page 1-3 of the DEIR, the current project takes into account concerns which were brought up during the 2002 DEIR, these concerns and comments resulted in substantial changes to the project design, and are addressed throughout the context of the current DEIR.

Response to Comment 43-3

See Impact discussion 4.9-1 and associated mitigation measures for a discussion of impacts related to grading on the proposed project site. Mitigation measures include the approval of improvement plans as well as slope protection measures. In addition, the project will be required to comply with the City's Stormwater Runoff Pollution Control Ordinance and the Grading, Erosion and Sedimentation Control Ordinance.

Response to Comment 43-4

The comment refers to page 3-25 of the RDEIR, which briefly describes the Development Agreement for the project dated December 9, 1997, which the City approved on January 13, 1998. The RDEIR states as follows: "The major points are the developer's vested right to develop, subsequent approvals, timing of construction, financing, oak tree preservation and open space trail system, and operating memorandum." The comment asks "What is the operating memorandum and what are its impacts."

Section 5.7 of the Development Agreement provides that the City and the developer may, in the implementation of the Development Agreement, make clarifications, minor changes, or minor adjustments to "be stated in a written operating memorandum agreed to and approved by Developer and the City Manager acting on behalf of City." To date, the City and the developer have not entered into any such "Operating Memoranda," nor do they contemplate doing so. There are thus no impacts relating to any operating memorandum.

Response to Comment 43-5

As part of the project application, the developer is requesting an extension of the Development Agreement. The City's approval of such an extension would not have any additional or separate environmental impacts beyond those already analyzed in the RDEIR. The extension would merely help facilitate development of the Project, with all environmental impacts as identified in the RDEIR. It should be noted that the extension of the Development Agreement is not really a "necessary" component of the Project, contrary to the reference in the RDEIR. The City can consider approval of the Project with or without approving the extension of the Development Agreement.

Response to Comment 43-6

The extension of the current DA would not be expected to create any new environmental impacts, as it would be an extension of an agreement that is already in place. Other comments relating to processes associated with the extension of the DA do not address the adequacy of the DEIR. These comments will be forwarded to the appropriate decision-making bodies.

Response to Comment 43-7

The plans are still in progress, and will not be completed and approved until after completion of the CEQA document. As the plans will be reviewed and approved by federal and state cultural resource professionals, the public can be assured that every effort is being made to preserve and protect resources. See Section 7 of Master Response 8 – Biological Resources. Also, see and Master Response 7 – Cultural Resources.

Response to Comment 43-8

As stated on page 4.1-1, the proposed project area is not included in the Housing Element as being designated for affordable housing. Issues related to adequate affordable housing is a city-wide issue, which is governed by the City of Rocklin General Plan Housing Element. The Housing Element designates different areas in and around the City of Rocklin for different levels of residential development, which reduces impacts associated with disparities in available housing. Also note that the issue of housing impacts was already addressed in the 1995 EIR prepared for the Clover Valley Lakes project. The proposed project is consistent with the General Plan Housing Element.

Response to Comment 43-9

The section of General Plan Policy 6 that is quoted by the commenter is from the Land Use element of the City of Rocklin General Plan under the subheading "Policies for New Residential Land Use." This policy applies to the designation of new residential land uses within the City of Rocklin. The proposed project area is already zoned Planned Development. As stated in the DEIR on page 4.2-11, the Planned Development zoning designation is adopted to encourage a creative and more flexible approach to the use of

land and to maximize the choice of types of living environment available to the people of the City. Policy 6 of the Land Use element of the City of Rocklin General plan does not imply that each development would be required to provide condominiums, high density, and smaller homes in addition to larger more expensive homes. The proposed project is within the guidelines set forth for land zoned Planned Development and is in compliance with the City of Rocklin General Plan.

Response to Comment 43-10

The City disagrees with the commenter's contention that wetlands, sloped areas and setbacks would not qualify as open space. The City of Rocklin General Plan defines Open Space as "lands and waters that are unimproved and are to be devoted to natural uses" (See Section B. Open Space, Conservation and Recreation Element on page 51 of the General Plan.) The open space areas specified by the proposed project include heavily wooded areas, wetlands, and other important ecological areas that qualify as Open Space. See Section 3 of Master Response 2 – Land Use.

Response to Comment 43-11

The comment misunderstands the RDEIR's discussion of the maintenance of open space. The RDEIR makes the point that private open space will be maintained more efficiently when it is placed under *common* ownership. The project has been designed to have relatively smaller lots with large amounts of open space in common ownership, rather than having larger lots with less common open space. The project could have been designed with larger lots, some or all with its own open space areas, with each lot-owner responsible for maintenance of its own open space. Obviously, having the private open space under common ownership will allow for more efficient maintenance than would result from each home-owner being separately responsible for its own open space.

The open space will be preserved via permanent open space and conservation easements. Open space shall be maintained in accordance with all requirements of the Development Agreement, adopted mitigation measures, and the various applicable management plans referenced throughout the RDEIR (including the Historic Properties Management Plan, open space management plan, on-site wetlands mitigation plan, etc . . .). Such maintenance shall be performed either by the developer, the home owners association to be formed as part of the project, and/or future owners of the property.

Response to Comment 43-12

The commenter is correct in that the Springfield development is a smaller lot development than the proposed project. However, the development of the Clover Valley project includes single-family residential units and a commercial center. The development of the proposed project would not create a land use that would be considered incompatible with the existing Springfield development as it is placing single-family residential units next to an existing single-family residential development. A

development does not have to be “identical” in design in order to be deemed “compatible.” See Section 2 of Master Response 2 – Land Use.

Response to Comment 43-13

The project complies with Land Use Policy 16. The streets interconnect with surrounding streets. In fact, the project includes development of Valley View Parkway, a major east-west connector identified in the City’s General Plan which will promote the efficient movement of traffic within the project and the surrounding areas. It also includes an open space trail system throughout the entire length of the project, open to all members of the public. Policy 16 does not prohibit or even discourage the use of cul-de-sacs within a development project. Such cul-de-sacs can serve important neighborhood design and safety functions.

Response to Comment 43-14

The DEIR identifies several specific significant and unavoidable impacts related to several of the issues identified by the commenter. These impacts include aesthetic impacts to wooded hillsides, the overall visual character of the site and views from Sierra College Boulevard and in the Loomis area. Additionally, the biological resources chapter recognizes a significant and unavoidable impact regarding the loss of trees and habitat, and finally, the geology chapter identifies that the proposed project would have significant and unavoidable impacts in regard to the alteration of topography. These significant and unavoidable impacts would require a statement of overriding consideration be drafted by the City of Rocklin. However, the presence of significant and unavoidable impacts does not equate with inconsistency with the General Plan Policy 1, which “encourage[s] the protection of natural resource areas, scenic areas, hilltops, open space area and parks.” As discussed on page 4.2-11, the proposed project would include the preservation of approximately 366 acres of open space in the 622-acre valley. These open space areas include wetlands, wooded hillsides and other natural areas. The City considers the preservation of these natural areas to be consistent with General Plan Policy 1.

Response to Comment 43-15

Impact 4.8I-7 includes a discussion of impacts related to the proposed construction of bridges crossing the Clover Valley Creek. The mitigation measures associated with this impact would reduce impacts to riparian and aquatic habitats during construction to a less-than-significant level. It should be noted that, while Open Space Policy 2 identifies the City’s policy to “encourage” protection of wetlands, it does not mandate such protection in all instances. Nonetheless, the project avoids or fully mitigates all impacts to wetlands. See discussion of impacts 4.8I-4 and 4.8I-5.

Impact 4.8I-8, which discusses the long-term operational impacts to riparian and aquatic habitat found that the proposed project would result in a significant and unavoidable impact after the implementation of suggested mitigation measures. This impact would

require the City to submit a Statement of Overriding Consideration regarding these impacts.

Response to Comment 43-16

General Plan Policies 1, 2 and 4 are intended to encourage future development within the City of Rocklin to protect natural resources. While the policies do not encourage “any destruction under the guise of providing open space elsewhere” they do encourage a balance between development and preservation. The proposed project includes 366 acres set-aside for open space, which satisfies the requirements of General Plan Policies 1, 2 and 4. Again, Policies 1, 2 and 4 use the word “encourage,” not “mandate.”

Response to Comment 43-17

Impact 4.12I-8 specifically notes that the proposed project would be required to provide a total of 7.255 acres of parkland and that the proposed project would provide only 5.3 acres of parkland. Therefore, the applicant shall pay the appropriate in-lieu fees required by the Rocklin Municipal Code to mitigate potential impacts related to adequate parkland facilities. With respect to the Project’s compliance with Open Space Policies 7, 8, and 9, it should also be noted that, in addition to the public park, the Project also includes an open space trail system, fully funded and maintained as part of the development.

Response to Comment 43-18

See Section 1 of Master Response 2 – Land Use

Response to Comment 43-19

See Section 1 of Master Response 2 – Land Use. BMPs and BATs are not the only measures in the RDEIR that address water quality. See RDEIR section 4.11I-5 for a discussion of impacts involving degradation of water quality. Corresponding mitigation measures are included at RDEIR pages 4.11-24 ff.

Response to Comment 43-20

The commenter suggests that the “compact residential design” of the Springfield development would be incompatible with the larger lot layout of the proposed project. However, General Plan Open Space Policy 20 directs new developments to be visually compatible with surrounding areas, not identical in scale and scope. The City does not believe that the differences between these two developments would result in incompatibility, as both are primarily residential developments. As suggested in the text of Policy 20, the compatibility of land uses is based upon a comparison of urbanized versus rural or semi-rural areas, rather than larger and smaller residential lot developments.

In regard to consistency with undeveloped areas, see the discussion of Open Space Policy 20 on page 4.2-12 of the DEIR and the proposed project's consistency with the General Development Plan Guidelines.

Response to Comment 43-21

Consistency is determined by the types of land uses in and around the proposed project. Inconsistent land uses would include industrial development, high-intensity farming or other land uses which would be considered to be incompatible with residential neighborhoods. The City does not consider the Clover Valley Woods development to the south to be an incompatible land use, as it is a single-family residential development.

Response to Comment 43-22

The discussion of Impact 4.2I-1 clearly states that "should the City Council Approve the requested General Plan Amendment and Rezone, the proposed project would be consistent with General Plan and City zoning designations." This statement does not assume approval; the qualifier "should" indicates that these approvals would be necessary.

Response to Comment 43-23

The RDEIR identifies alternative alignments for the sewer line and identifies potential environmental impacts associated with the different alignments. This approach complies with the requirements of CEQA.

Response to Comment 43-24

The RDEIR identifies and examines potential impacts to Clover Valley Park resulting from construction of the sewer line. The creek crossings are limited to two crossings, both of which will be a bore and jack type of construction, which technique is designed to limit or eliminate impacts to the creek.

Impacts relating to the construction of the sewer line are addressed as applicable in each of the RDEIR's chapters, throughout the RDEIR. Any construction impacts relating to the sewer line will be short term in nature.

Response to Comment 43-25

The RDEIR identifies potential tree impacts for each of the alternative alignments, including the alignment through Clover Valley Park. All tree losses will be mitigated in accordance with the City's current Oak Tree Ordinance. Should the park alignment be selected, construction within this area is estimated at 2 to 3 weeks. Any interference with public use of the park will only occur during this limited time frame

Response to Comment 43-26

The description of the environmental setting included in the DEIR is accompanied by a series of pictures of the proposed project site on page 4.3-3 through 4.3-9. These pictures, in combination with the textual description of the proposed project site as well as the region, present an accurate depiction of the proposed project site.

Response to Comment 43-27

See response to comment 43-26. Contrary to the statements made in this comment, the RDEIR does address the visual impacts of development of the site, both impacts within the site itself and impacts to off-site viewers from a variety of locations. For example, Impact 4.3I-1 identifies the degradation of the visual character within the site itself as a significant and unavoidable impact. To the extent that the comment is referring to impacts to views of off-site locations from within the project area, those views of off-site locations will still exist, and, with development of the project, more people will be able to enjoy those views from within the site itself (which is currently private property inaccessible to the general public.)

Response to Comment 43-28

See response to comments 43-27. Views from the project site of Mt. Diablo, the City of Sacramento, and other surrounding flatlands, hills, and mountain peaks will continue to exist following development of the project. Such development will open significant portions of the project site to the public, who will then be able to enjoy such views from multiple vantage points.

Response to Comment 43-29

The comment questions reliance upon the earlier EIR prepared in 1995 when the project site was annexed into the City. The comment is correct that the intended development plans for the site have changed significantly since 1995. In particular, the amount of development proposed has significantly decreased, and the amount of open space has significantly increased. The purpose of the present RDEIR is to update the information provided in the earlier, 1995 EIR. However, it is still appropriate under CEQA to rely upon and tier from the earlier EIR, to the extent that the earlier EIR adequately addresses some of the environmental issues. See, for example, CEQA Guidelines section 15152 and 15162

Response to Comment 43-30

See Master Response 3 – Aesthetics. Impact 4.3-1 includes a discussion of impacts to the visual character of the project site as a result of construction activities in general. The DEIR found that this impact would be significant and unavoidable after the implementation of suggested mitigation measures and that no feasible mitigation

measures exist that would fully mitigate this impact. Should the proposed project be approved, the City would be required to submit a Statement of Overriding Consideration regarding these impacts.

Response to Comment 43-31

The commenter is correct that revegetation is not considered to be an adequate mitigation to reduce the impact to a less-than-significant level. As stated in the DEIR, the mitigation would reduce the magnitude of the impact, but this impact would remain significant and unavoidable.

Response to Comment 43-32

The comment proposes a mitigation measure of imposing a 300-foot setback from Sierra College Boulevard. Such a measure would require a substantial redesign of the project, which proposes development of over 50 residential lots within 300 feet of Sierra College Boulevard. Such a measure could be accomplished by either eliminating the lots in question or relocating those lots to other portions of the site.

To the extent that the suggested mitigation measure would require the elimination of lots, the measure is consistent with one of the project alternatives already identified in the RDEIR, the so-called “Maximum of 180 Units Alternative.” While this particular alternative proposes reduction of the project size to 180 units, there are many variations of this alternative the Council could consider which would involve reducing the size of the project to some other number of units, in order to leave certain areas of the project site undeveloped. There are, of course, significant questions regarding the feasibility of any such “reduced project” alternatives, in light of the legal commitments the City previously made to the applicant in the Development Agreement the City approved in 1997. The City will need to consider and make findings as to the feasibility of a reduced project alternative when it acts upon the project application.

To the extent that the suggested mitigation measure would require the relocation of the lots in question to areas currently proposed as open space, such a measure would result in an overall increase in the adverse environmental effects of the project. The project has been designed to preserve as open space those areas of the project site which are more environmentally sensitive. For example, the project leaves undeveloped many areas proximate to the creek, areas containing large contiguous stands of oak trees, and areas with significant cultural resources. Indeed, from an environmental standpoint, the area of the site which is near Sierra College Boulevard is considered to be one of better areas of the project site to develop because of the comparative lack of environmentally sensitive resources (due, in significant part, to the fact that this area *is* near a major arterial roadway). Thus, while such development of this portion of the site will result in a significant aesthetic impact, to the extent that it will interfere with views from Sierra College Boulevard, such an impact is preferable to an alternative which would relocate the homes in question to more environmentally sensitive portions of the site.

Response to Comment 43-33

See Master Response 3 – Aesthetics. As explained in the RDEIR, aesthetic impacts to viewers from western Loomis are not considered to be significant, due to the visual consistency of project development with surrounding off-site homes and the incorporation of a visual buffer of 250-280 feet at the crest of the hill. Contrary to the statement made in the comment, the EIR does not state that homes in the development site will be “invisible” to Loomis residents. To the contrary, the RDEIR acknowledges that development will be visible. The natural buffer will nonetheless provide some visual relief to Loomis residents, and the overall aesthetic impact, in terms of views from western Loomis, has been determined to be less than significant.

It should nonetheless be stressed that the RDEIR identifies the overall aesthetic impact resulting from development of the project, Impact 4.3I-1, as being significant and unavoidable. Impact 4.3I-3 focuses on the consistency of the project development with surrounding homes. See also Master Response 3 – Aesthetics.

Response to Comment 43-34

See Response to Comment 43-33.

Response to Comment 43-35

Impact 4.3I-3 states that “the project’s low-density residential units and park/open space corridor would be visually consistent with the off-site homes.” See Master Response 3 – Aesthetics.

Response to Comment 43-36

See Master Response 3 – Aesthetics.

Response to Comment 43-37

See Master Response 3 – Aesthetics. The commenter states that the proposed project should not have any impacts at all to the scenic vistas. The impacts that would result from the development of the proposed project were found to be less-than-significant because the proposed project is designated for development by the City of Rocklin General Plan and because the proposed project would be consistent with neighboring developments.

Response to Comment 43-38

Though the Clover Valley Creek riparian corridor and the Antelope Creek riparian corridor would be impacted as a result of the off-site sewer line extension, these two impacts are considered to be very similar for the sake of environmental review of aesthetic impacts from construction of sewer infrastructure, and were therefore considered under a single impact discussion (4.3I-7). The mitigation measures associated

with this discussion were determined to reduce the impacts to a less-than-significant level and shall apply to both Clover Valley Creek and Antelope Creek. This comment does not address the adequacy of the conclusions or the mitigation measures.

Response to Comment 43-39

See Master Response 3 – Aesthetics. The mitigation measures associated with Impact 4.11-1 includes the provision for the creation for a master drainage plan, which would include the maintenance of detention basins and associated bridges. This includes provisions that would ensure that silt buildup is removed from the detention basins. As stated on page 4.11-9 of the DEIR, the two drainage basins would be located at Valley Clover Way and Natural Trail Way bridge crossings of Clover Valley Creek.

Response to Comment 43-40

See Master Response 1 for clarifying discussion of the terms culvert, arched culvert, and bridge as used throughout the DEIR and FEIR. The City recognizes using full creek spanning road crossings would reduce impact to fish, wildlife and wetlands. Nevertheless, full creek spanning would not provide stream flow retention necessary during storm events. (See RDEIR 4.11 Hydrology and Water Quality) Final road crossing design will reflect a balance between impact to fish and wildlife and the need to control downstream flow velocities. For these reasons, the City will require the use of bottomless arch culverts that span the active creek channel to mitigate project impacts on fish and wildlife. (See 4.8MM-15(a) and Response to Comment 26-13) In addition, the City has considered environmental impacts to riparian and aquatic habitat, and will require mitigation measure 4.8MM-7 which reduces the impact to a less than significant level.

Response to Comment 43-41

The proposed conceptual road crossing design is shown on Sheet SP-3 of the tentative map packet. Such project application materials are available for viewing by members of the public upon request. The RDEIR includes as a mitigation measure a requirement that the walls be constructed and finished to match the simulated bridge road crossings, in order to avoid any significant aesthetic impact.

Response to Comment 43-42

As stated on page 4.11-9 of the DEIR, the two drainage basins would be located at the roadway creek crossings of Valley Clover Way and Natural Trail Way.

Response to Comment 43-43

Preservation of trees in developed areas is a significant City goal. The City has adopted both a comprehensive Urban Forest Plan and specific guidelines for preservation of oak trees in the City's Oak Tree Preservation Ordinance. The mitigation measure addresses an obligation of the developer to distribute the Preservation Guidelines, and does not

imply it is the exclusive source of availability of the information. Both the City's Urban Forest Plan and the City's Oak Tree Preservation Guidelines are public documents available at any time at the City Community Development Department.

Response to Comment 43-44

Field inspections of grading are conducted by the City Of Rocklin. The standard penalty for non-compliance is restoration of the land illegally graded. The comment does not address the adequacy of the DEIR.

Response to Comment 43-45

The text which precedes the excerpt provided by the commenter specifies that site plans "shall be reviewed to determine where sidewalks or on-street parking could be restricted to allow for narrowed streets." The statement identified by the commenter is not a mitigation measure on its own, it simply states that the effects of narrow road widths and terraced retaining walls would be a factor to consider when assessing roadway grading plans during the site plan review.

Response to Comment 43-46

See Response to Comment 43-42.

Response to Comment 43-47 through 43-57

The rock walls are early remnant fencing, sometimes evidence of property boundaries and at other times designed to keep animals from overgrazing near water sources. They cannot be absolutely dated, they cannot be tied to individuals or groups of importance in history, and have no further research value. They are not a significant cultural resource under either State or federal standards. It is always better to avoid impacts to any resources if possible; but the sites are not important or significant in the context of thresholds of significance for environmental review under CEQA, and nothing further need be done with these features. See Section 3 of Master Response 7 – Cultural Resources.

Response to Comment 43-58

Impacts related to light and glare on the proposed project are discussed in Impact 4.3I-10. As noted by the impact discussion, impacts related to the introduction of new sources of light and glare on the proposed project site would be potentially significant. This impact would be reduced to less-than-significant after the implementation of suggested mitigation measures which include provisions to reduce glare from the commercial portion of the site as well as roadway light and glare, which would be the primary sources of light and glare generated by the proposed project. See Master Response 3 – Aesthetics.

Response to Comment 43-59

As part of the City's development review process, design review objectives would be applied to the project which would require that lighting standards and fixtures shall be of a design and size compatible with the building in adjacent areas, and lighting shall be restrained in brilliance and glare shall be avoided.

Response to Comment 43-60

The proposed mitigation measure, together with the need for future commercial development on the site to obtain a design review entitlement from the City, and adherence to the City's goals, policies, and regulations related to signage are deemed adequate to reduce impacts related to signage to a less than significant level.

Response to Comment 43-61

The comment supports a reduced buildout alternative, which would not develop the central portion of the valley. This comment does not address the adequacy of the EIR and will be forwarded to the appropriate decision-making bodies.

Response to Comment 43-62

See response to comment 43-61.

Response to Comment 43-63

As set forth in Mitigation Measure 4.5 MM-2(a), the location of bus turnouts and any park-and-ride lots will be determined by the City Engineer in coordination with the Placer County Transit Authority. General Development Plan section IX.C.1 notes that bus stops are required. Likely stops will be the Park Drive and Sierra College Boulevard intersections with Valley View Parkway. Condition IX.C.3 in Exhibit B of the General Development Plan (Ord. 754) requires a park and ride be incorporated into the commercial site.

Response to Comment 43-64

See Master Response 4 - Traffic

Response to Comment 43-65

The traffic model remains valid, despite normal fluctuations in planned housing densities which periodically occur. Current development plans for Bickford Ranch are consistent with projections used in the traffic model. The model takes into account development of all residentially-designated areas in the City's General Plan, including up to 500 homes at the north end of Clover Valley. There is no basis for concluding that overall residential growth rates are currently different from what was projected just five years ago. Indeed,

the residential housing market in the area appears to be cooling. See Master Response 13 – Growth Inducing Impacts

Response to Comment 43-66

The section of the DEIR quoted by the commenter states that over the next 25 years the traffic patterns are expected to vary significantly in the proposed project area and that the trip distribution tables are based upon the projected traffic patterns for 2025, which differ from the 2001 model.

Response to Comment 43-67

Though the commenter is correct in that the bike lanes along connected roadways are not optimal, the proposed project is not obligated to develop, repair or maintain these off-site bikeways. Therefore, this comment does not address the adequacy of the DEIR. However, the commenter's concerns regarding the adequacy of these bike lanes is noted and will be forwarded to the appropriate design-making bodies.

Response to Comment 43-68

Figure 4.4-3 was added to provide additional information regarding the total volumes at the study intersections. The principal measurement of performance for road segments and intersections is the Level of Service (LOS), which is a function of the total delay associated with peak-hour traffic along the study roadways and intersections. Discussions of the LOS of study intersections and road segments is included throughout chapter 4.4 and explained in Table 4.4-3. See Appendix D in Volume II of the DEIR for the full traffic report by DKS Associates.

Response to Comment 43-69

The traffic analysis was conducted by a qualified traffic engineer employing standard practices and accepted methodologies utilizing a gravity computer model for traffic distribution. Inherent in the traffic model are assumptions that when congestion at any given intersection increases, drivers will use alternate routes and minor connecting roadways. Traffic "assignment" is an iterative process and uses a gravity model to assign vehicles to the roadway network based on speed-flow relationships. The purpose of using sophisticated computer modeling is to test those assumptions. The City is aware of no basis or evidence to support a conclusion that its retained expert did not adequately consider impacts to all of the roadways in question, including the so-called "minor" roads referenced in the comment.

Response to Comment 43-70

See response to comment 24-40.

Response to Comment 43-71

See response to comments 24-40.

Response to Comment 43-72

There is currently no local, state or federal emission factors that would allow calculation of air quality impacts related to removal of trees. While trees are generally considered to have air quality benefits in highly polluted urban environments, these benefits are primarily related to ameliorating heat island effects, a situation totally unlike that at Clover Lakes. Trees are also considered as removing pollutants, particularly large particulates, and planting trees has been suggested as a means of improving air quality along major highways. Trees are also considered a biogenic source of ozone precursors, releasing Volatile Organic Gases into the atmosphere.

The major air quality impacts of a development proposal are related to vehicles and area sources associated with human activity. Removal of trees may have some minor benefits or additional impacts, depending on the pollutant considered. Current state-wide air quality impact evaluation programs neither identify removal of trees as a potential impact of development, nor identify planting of trees as a means of mitigating air quality impacts.

Response to Comment 43-73

Penalties for non-compliance with air district rules are defined in Regulation 8 of the Placer County Air Pollutant Control District Rules and Regulations. Funding for monitoring would be the responsibility of the applicant. The measures identified for “on- and off-site project components that would not be constructed/developed immediately following mass-grading phase” are additional measures reflecting that these areas would be inactive for a significant amount of time and would be need of longer-acting controls than active areas. These areas would still be subject to the monitoring requirements of Mitigation Measure 4.5MM-(a).

Response to Comment 43-74

See Response to Comment 43-63.

Response to Comment 43-75

See Response to Comment 2-10.

Response to Comment 43-76

The commenter’s question is unclear. Noise levels related to rail traffic near residential sites on the proposed project area would be considered to be less-than-significant due to

the natural mitigation provided by the topography and distance that would separate the proposed development from existing railways.

Response to Comment 43-77

The City believes that the analysis noise analysis conducted for the proposed project is adequate and does not consider additional studies to be necessary.

Response to Comment 43-78 and 43-79

See Master Response 6 – Noise

Response to Comment 43-80

See Master Response 6 – Noise. In response to several railroad noise-related comments received on the DEIR, additional railroad noise level monitoring was conducted by the noise section authors. The supplemental measurements were conducted at the location of the nearest proposed residences in Clover Valley to the railroad tracks (proposed Lot # 211). The railroad noise level measurements were conducted from 5 pm April 24 through 12 pm April 26. The measurement site was 205 feet from the tracks. During the measurement period, a total of 33 railroad events were registered, for an average of approximately 18 trains per 24 hour period. The City of Rocklin Noise Element reports approximately 15 trains per day on these tracks, so the number of apparent railroad events logged during the noise survey appears reasonable. The results of the railroad noise level measurements were used to compute noise exposure in terms of L_{dn} , which computed as 51 dB. This predicted level is consistent with values reported in the RDEIR based on noise level data contained within the City of Rocklin General Plan Noise Element. Following site grading, portions of the top of the bluff will be leveled, which may result in a reduction in natural shielding of railroad noise. Nonetheless, the railroad tracks will continue to be depressed at least 80 feet relative to the project site, with the natural terrain continuing to provide substantial shielding. As noted on page 4.6-6, at-grade crossings are not proposed in the immediate project area. As a result, warning horns would be typically utilized in this area although train engineers can sound their horns whenever they feel safety dictates that they do so. As a result, the RDEIR noise assessment assumed levels without warning horns.

Response to Comment 43-81

The commenter is referring to a General Plan policy that is part of the City's proposed General Plan update. Because the General Plan update has not been adopted the referenced policy is not currently in effect. Nonetheless, the City generally accepts wall heights of 6-8 feet as being necessary to reduce noise levels. If a noise wall needs to go higher than that, the City will typically require the use of a combination of berms/landscaping and then a wall on top of that to minimize potential aesthetic impacts associated with high walls. The noise walls are being proposed at such heights because that is what the acoustical study found was necessary to allow the City "to protect

residents from health hazards and annoyance associated with excessive noise levels, consistent with the General Plan Noise Element Goal, and to maintain noise levels consistent with the City's Noise Compatibility Guidelines. Additionally, it should be noted that the area along Park Drive is not a recorded or recognized scenic view or vista. In terms of why homes are not being set back along Park Drive, the EIR evaluates what is being proposed by the project applicant, including siting homes at those locations. Because those homes were proposed at such location, the City required an acoustical study, per City policy, to determine what mitigation measures were necessary to reduce noise levels on the proposed residences to less than significant levels.

Response to Comment 43-82

The commenter is generally correct in that passing trains can generate noise levels that interfere with normal conversation. However, the supplemental noise level measurements conducted at a position overlooking the tracks (see Response to Comment 64-21) clearly indicate that measured railroad noise levels were 51 dB at the nearest proposed residential areas. The railroad tracks are set approximately 80+ feet below the project site, and the embankment between the tracks and the project site has been tested to reduce railroad noise exposure. As noted in a previous response, this 80 foot depression will continue to provide substantial shielding to the nearest proposed residences following site grading.

Response to Comment 43-83

The RDEIR notes that train noise is audible within the project environs during passages. However, audibility is not a test of significance under CEQA. Under certain atmospheric conditions, railroad passages can be heard for miles, whereas under other, may not be audible at all.

Response to Comment 43-84

The supplemental railroad noise survey monitored trains traveling in the "uphill" direction, with measured noise levels well within compliance of City of Rocklin noise standards.

Response to Comment 43-85

Traffic noise impacts upon the future residents of the project, those whom will be living on the valley floor, were assessed in Tables 4.6-4 and 4.6-5. The commenter is referred to those tables and to impact statements 4.6I-2 through 4.6I-4, which specifically address noise impacts upon future residents of the valley floor.

Response to Comment 43-86

The language of the RDEIR referenced in this comment is incorrectly recited. The complete statement does not state that noise from Sierra College defines the ambient

conditions on the *entire* project site as asserted by the commenter. The actual language contained in the 3rd sentence of paragraph 1 on page 4.6-4 states; “At the *northeastern portion of the project area*, noise from Sierra College Boulevard defines the ambient conditions”. Both topography and distance influence the decibel level of noise heard by the receiver. The noise analysis was based on the City’s adopted noise threshold standards.

Response to Comment 43-87

The supplemental railroad noise monitoring results indicate that the testing was conducted during a period of heavy rail activity. The commenter is referred to the Response to Comment 64-21 for additional information pertaining to railroad noise impacts and the supplemental railroad noise survey conducted overlooking the tracks.

Response to Comment 43-88

Because the source of the commenter’s information is not provided, it is difficult to provide a quantitative response. Regarding concerns over truck engine “Jake” brake usage along Sierra College Boulevard, Bollard Acoustical Consultants (BAC) staff conducted a 24-hour noise measurement survey (April 24-26, 2006) at the eastern boundary of the project site. The noise measurement site location overlooked Sierra College Boulevard just north of the Clover Valley Road intersection. At the time of setup, BAC staff noted that traffic noise from Sierra College Boulevard was clearly visible and audible from the measurement site. BAC staff observations indicated that some of the trucks traveling down the grade, south on Sierra College Boulevard, were using “Jake” brakes to slow down. Therefore, the noise measurement results at this location, which spanned over a two-day period, included “Jake” brake noise.

While the use of engine (Jake) brakes does result in higher noise levels during truck passby’s, they are not systematically used by every truck operator on Sierra College, and heavy trucks make up a relatively small percentage of overall traffic flow when compared to automobiles. Nonetheless, given the proposed setbacks, natural and man-made barriers between the Sierra College Boulevard and the project site, the effects of periodic engine brake usage are not anticipated to be significant.

Response to Comment 43-89

The passage of groups of motorcycles on rural roadways is not unique to Sierra College Boulevard. Nonetheless, it is recognized that such groups of motorcycles or automobiles (with modified exhaust systems) can result in brief periods of elevated noise levels during passage. The noise generation of individual vehicles on public roadways is regulated by the State of California Motor Vehicle Code and subject to enforcement by local law enforcement agencies or the California Highway Patrol. Acoustical analyses prepared for any residential development typically utilize annual average traffic conditions as inputs to the traffic noise prediction model. Clearly some day’s conditions will be louder than the annual average, while others they will be quieter. If the standard for acoustical analyses

were to mitigate noise from loud (and potentially unlawful) exhaust systems, then every residential community adjacent to rural roadways utilized by such vehicles would be enclosed within very tall noise barriers.

Response to Comment 43-90

As noted within Impact 4.6I-7, the City of Rocklin (Lead Agency for the RDEIR), considers noise increases significant only if they cause the City's noise standards to be exceeded or if the City's noise standards are already exceeded. As explained in this impact, Park Drive traffic noise levels are not predicted to exceed the City's standards, so the increases in traffic noise resulting from the project are not considered to be significant.

Response to Comment 43-91

The project would not be consistent with the policies of the General Plan if noise could not be mitigated to a state of compliance with the Noise Element standards. However, because traffic noise levels can be mitigated to a less than significant level at proposed residential uses, the project is consistent with the City's relevant General Plan policies.

The reference to General Plan Policy N-2 of Goal 3 is to a proposed, yet to be adopted, policy to be considered as part of the City's General Plan update process.

Response to Comment 43-92

Sound walls may temporarily block wind on the immediate opposite side of the sound wall from the direction the wind is coming from, but the breezes would continue to go over and around the noise walls. Wind and breezes are not limited to 6-8 feet tall and the sound walls would not have a noticeable effect on winds and cooling delta breezes. See also Master Response 3 – Aesthetics.

Also, see Response to Comment 43-81.

Response to Comment 43-93

The sound walls proposed along Park Drive will be parallel to roadways in most cases; the sound walls will work to deter wildlife from traveling across roadways and concentrate them into the project site where there are habitat opportunities.

Response to Comment 43-94

The supplemental railroad noise monitoring results indicate that the testing was conducted during a period of heavy rail activity. The commenter is referred to the Response to Comment 64-21 for additional information pertaining to railroad noise impacts and the supplemental railroad noise survey conducted overlooking the tracks.

The railroad noise monitoring was conducted using a Larson Davis Laboratories Model 820 precision integrating sound level meter meeting Type 1 ANSI requirements. The meter was calibrated before and after use with an LDL Model CA-250 acoustical calibrator to ensure the accuracy of the measurements.

Response to Comment 43-95

No unusual weather conditions were encountered that would adversely affect the integrity of the measured noise levels. The weather conditions during the time of the 24-hour ambient noise measurement survey conducted from December 7, 2005 to December 9, 2005 were recorded in the Bollard Acoustical Consultants (BAC) field notes for this analysis. The BAC field notes indicate that there was light rain during the initial setup of the noise measurement equipment, however the rain did not continue throughout the duration of the 24-hour noise measurement survey. BAC staff notes from a short-term noise measurement survey conducted in the project area on December 8, 2005 indicated that weather conditions were clear during that additional short-term survey. The data was not indicative of any anomalous “heavy rain/downpour” weather events which would have affected the ambient noise survey.

Response to Comment 43-96

Earthen berms are similar to noise barriers in terms of effectiveness. Space providing, they can be used as an alternative to solid noise walls provided the top of the berm would be the same height as the top of a solid barrier. In either case, the sound that reaches the shielded receiver passes over the berm or wall, rather than through it. As a result, they are interchangeable (again space providing). As noted in the mitigation measure, future CEQA review of the development of the commercial site will require an evaluation of potential noise impacts.

Response to Comment 43-97

Construction noise is inherent in any project, whether the project be residential, commercial, industrial, or public facilities, recreation facilities, etc. The comment is noted, but noise impact and associated noise mitigation measures, including the possibility of blasting, contained in the RDEIR are considered to be appropriate for this short-term project.

Response to Comment 43-98

See Response to Comment 43-93.

Response to Comment 43-99

The commenter is referred to the response to comment 19-28 for a discussion of noise barrier effectiveness. See also Master Response 3 – Aesthetics.

Response to Comment 43-100

The predicted project-related noise level increase on Park Drive will range from 5 to 7 dB. The increase is not considered significant because the City of Rocklin does not consider traffic noise level increases significant if absolute noise levels are below the City's noise thresholds, per the standards of significance cited on page 4.6-7 of the RDEIR. Such is the case with Park Drive.

Response to Comment 43-101

The traffic noise analysis utilized data and forecasts provided by the project transportation consultant for the future Valley View Parkway. The cumulative traffic analysis took into account traffic volumes from existing and proposed projects in the area (see page 4.4-17 through 4.4-19 of the Transportation and Circulation chapter of the DEIR.) The cumulative noise analysis utilized the cumulative traffic information to predict future noise levels, discussed in Impacts 4.6I-7 and 4.6I-8 in the RDEIR.

Response to Comment 43-102

This comment is similar to others raised by this commenter. The commenter is referred to the Response to Comment 64-21 for additional information pertaining to railroad noise impacts and the supplemental railroad noise survey conducted overlooking the tracks.

Response to Comment 43-103

Elevated or depressed roadways can and do have a pronounced effect on the transmission of sound between the roadway and receiver insofar as the elevation or depression results in an interruption of line of sight of the sound transmission path.

Response to Comment 43-104

The comment is noted. Often times construction blasting is believed to consist of fiery Hollywood-style explosions when blasting for construction or aggregate extraction is quite the opposite. Blasting is a very scientifically controlled event that is typically designed to prevent high peak over-pressures and venting of rock into the air. In many areas, blasting is required for swimming pool construction with residential neighbors on either side. This illustrates the level of control that is possible. The DEIR anticipated blasting and identified mitigation measures to reduce impacts to a less than significant level.

Response to Comment 43-105

The sound level meters utilized for the ambient noise surveys do not differentiate between distinct sound sources when logging data. Thus the data presented is inclusive of all sources of noise that affect existing ambient noise conditions. Distinct discussions of traffic, rail, and commercial noise sources are provided in the RDEIR.

Response to Comment 43-106

The excavations conducted are limited in nature, allowing the preservation of the major portion of sites. This is the goal of all modern cultural resource work: to undertake the least possible amount of damage through excavations, allowing preservation of the resource for the future. There is no need for additional archeological surveys at this time, nor is there a need of additional test excavation work. Results cannot be provided for public review: the sensitivity of the resources limits the release of information to the public.

Response to Comment 43-107

This comment does not include a correct interpretation of what was stated. If the commenter is referring to the OPR document on SB 18, that document did not exist at the time this project was undertaken. The cultural studies did include solicitation of listed organizations and other interested persons.

Response to Comment 43-108

Neither the UAIC nor its representatives are drafting the management plan. RDEIR 4.7-33 notes that Tribe Representatives are in contact with Clover Valley Partners with regard to development of specific measures to reduce project effects to and increase protection of cultural resources, i.e., the management plan. "Tribe Representatives" as used at RDEIR 4.7-31 refers to Analytical Environmental Services ("AES") a consulting group employed by the Tribe since 2005. As noted in Master Response CR-1, the management plan is product of the federal NHPA Section 106 process and must be approved by the U.S. Army Corps of Engineers and the State Office of Historic Preservation.

Response to Comment 43-109

Sam Starkey was a member of the UAIC and was appointed by the NAHC to serve as MLD, and reported back to the UAIC. Since then, the UAIC has become more actively involved in the project. Mr. Starkey is no longer involved. Until the recent addition of SB 18, formal Native American consultation is required in the federal process; but not required under CEQA except in dealing with human remains. There was no State statute requiring consultation with the Native Americans except when human remains were found. According to Larry Myers of the NAHC, consultation initiated prior to the enactment of SB 18 may be continued with the same groups or groups, at the discretion of the local agency.

A single person with no group affiliation may be designated the "most likely descendent" by the NAHC, so a "one-man MLD" is entirely acceptable. Any confusion that may have existed as to Native American representation before 2005 has since been resolved. Please see Response to Comment 43-108. Management measures will be developed pursuant to

the federal NHPA Section 106 process. (Please see Master Response 7 – Cultural Resources) The RDEIR at 4.7-27 acknowledges that the City will contact the NAHC before adoption of changes associated with the project in accordance with SB 18.

Response to Comment 43-110

These issues are covered in the Historic Properties Management Plan, see Master Response 7 – Cultural Resources.

Response to Comment 43-111

These issues are covered in the HPMP, see Master Response 7 – Cultural Resources. Some of the suggestions here could actually result in damage/desecration of sites. If portions of sites exist under blackberry bushes, they are protected from vandalism. Vegetation clearance is not a desirable measure. Inadvertent discoveries are covered in the HPMP.

Response to Comment 43-112

The management plans are still in development. They will be reviewed and approved by cultural resource professionals at the Corps of Engineers and the Office of Historic Preservation. As the commenter recognizes, some information, for example, location of resources, must be kept from public disclosure to protect the integrity of resources. The City is unable to disclose management measures developed in the HPMP and HPTP because, at the time of this writing, the federal NHPA Section 106 process has not been completed. CEQA allows for mitigation measures to be developed in the future so long as the EIR includes performance standards for the mitigation to be developed. (CEQA Guidelines 15126.4(a)(1)(B)) The federal NHPA Section 106 process is the mitigation performance standard to which the applicant will be held.

Response to Comment 43-113

The conclusions included in Impact 4.7I-5 of the DEIR tier off of the 1991 City of Rocklin General Plan EIR. This General Plan EIR is a program-level document, which was certified by the City of Rocklin. The impact in question is a discussion of the cumulative impacts and how the implementation of the proposed project would affect the Rocklin Area. The City disagrees with the commenter's assertion that the Rocklin General Plan EIR is inadequate. Additionally, the 2002 Peaks and Associates Cultural Report did not find the cumulative impacts related to the development of the proposed project to be significant.

Response to Comment 43-114

Each cup is not evaluated individually, and the information on the cups in the various outcrops has been completely recorded for future researchers. Clearing blackberries would not yield significant results, and would potentially cause damage to other

resources. Bedrock mortars are not significant resources by themselves; they have no resource potential once they are recorded.

Response to Comment 43-115

Previous biological studies and 2002 DEIR comments have at all times been available to the public at the City of Rocklin Community Development Department.

Response to Comment 43-116

See Section 1 of Master Response 8 – Biological Resources.

Response to Comment 43-117

The commenter does not identify the “repeated” quotations from the previous 1995 Draft EIR and, therefore, it is difficult to find and address any specific points of concern. The Biological Resources chapter of the DEIR was built upon a comprehensive review of existing materials related to the proposed project site and for this FEIR, that material has been augmented by a number of additional biological surveys (also, see Section 1 of Master Response 8 – Biological Resources). Because the current studies have been expanded upon, the City finds that the depth of the biological studies for this FEIR to be adequate.

Response to Comment 43-118

See Master Response 8 – Biological Resources.

Response to Comment 43-119

See Section 7 of Master Response 8 – Biological Resources.

Response to Comment 43-120

See response to comment 43-119.

Response to Comment 43-121

A number of additional site surveys were conducted prior to the release of this FEIR. See Section 1 of Master Response 8 – Biological Resources.

Response to Comment 43-122

See Section 1 of Master Response 8 – Biological Resources. Commenter’s concerns respecting grading in proximity to sensitive natural and cultural resources are addressed by mitigation measures 4.8MM-2 (temporary construction fencing of oak trees), 4.8MM-4(d) (temporary construction fencing for riparian areas), 4.8MM-8 (BMPs and inspection

during construction for riparian areas), and 4.7MM-1(b) (temporary construction fencing for cultural resources). Recirculation of a new RDEIR is not warranted.

Response to Comment 43-123

See response to comment 43-122.

Response to Comment 43-124

See Sections 2 and 3 of Master Response 8 – Biology for discussion of project impacts to oak woodland.

Response to Comment 43-125

The detention basin system is discussed at RDEIR sections 4.11I-1, 2. These sections explain that two on-line detention basins are planned to be located at road crossings. The crossings are designed to allow the creek to flow unrestricted. However, during large storm events, the crossings, by design, will restrict creek flow by causing water to back up within the 100-year flood plain. Development is restricted from occurring in the 100-year flood zone. The detention basins will be left in their natural state without grading or landscaping. Thus, the riparian vegetation in which the detention will take place will remain unchanged.

Response to Comment 43-126

Updated biological surveys were performed in 2006 for foothill yellow-legged frog (ECORP 2006a), California black rail (Tecklin 2006), resident fish populations (ECORP 2006b), and several special-status plant species (Dittes & Guardino 2006) following standardized protocols and procedures. No foothill yellow-legged frogs or special-status fish or plant species were found during these surveys. However, California black rail was detected in wetland habitat within Clover Valley (Tecklin 2006).

The primary purpose of the creek investigation was to provide a general assessment of the creek relative to upstream fish passage. The assessment was initiated at the confluence of Clover Valley Creek with Antelope Creek, and preceded upstream through Clover Valley. During this site visit, numerous barriers to upstream migration were documented between Clover Valley and Antelope Creek. See also Section 1 of Master Response 8 – Biological Resources.

Response to Comment 43-127

See Section 1 of Master Response 8 – Biological Resources.

Response to Comment 43-128

In June 2006, Jerry Tecklin conducted surveys for California black rails at five wetland sites within Clover Valley (Tecklin 2006). Surveys followed standard protocols consisting of broadcasting taped black rail calls to elicit a response. Surveys were conducted in early morning and early evening hours. A California black rail was detected in wetland habitat within Clover Valley during Mr. Tecklin's survey. See Section 1 of Master Response 8 – Biological Resources.

Response to Comment 43-129

See Response to Comment 43-128. Impacts to migratory birds protected by the Migratory Bird Treaty Act are addressed under Impact 4.8I-10 of the RDEIR.

Response to Comment 43-130

The Davis report contained a typographical error when it referred to the 1995 Holland Vegetation survey. The Holland survey was dated 1992 and has at all times been available to the public at Rocklin City Hall.

Response to Comment 43-131

Commenter notes that there is no consideration of other fish (besides salmon and steelhead) that occur in Clover Valley Creek.

The City is aware other fish occur in Clover Valley Creek. (RDEIR p. 4.8-4) However, CEQA requires an EIR only examine potentially significant environmental effects. The project does not present potentially significant environmental effects to the fish species noted by the Commenter.

The Commenter requests clarification concerning the date cited for the NMFS BO.

References to the National Oceanic and Atmospheric Administration ("NOAA") Fisheries Biological Opinion dated May 9, 2002 at pages 4.8-13, 4.8-54 and Vol. 2, Appendix I, p. 37 are incorrect. The NOAA Fisheries Biological Opinion was issued October 22, 2002. The May 9, 2002 date refers to a California Department of Fish and Game letter that indicated, among other things, that downstream impediments would likely prohibit upstream migration of protected salmonids.

Additionally, the commenter notes that the ECORP report (RDEIR Vol. 2, Append I, p. 24) advocates undeveloped setback from Clover Valley Creek of seventy-five feet in accordance with the NMFS BO. The ECORP report includes a statement that the setback between the proposed roads and Clover Valley Creek shall be increased from fifty to seventy-five feet per the conservation recommendation of NMFS BO dated October 22, 2002. A discussion of the discretionary nature of the recommended seventy-five foot

setback is included in the RDEIR at section 4.8I-5. Commenter asks for access to the NMFS BO. The NMFS BO is a public record available at the NOAA Fisheries website.

Response to Comment 43-132

See Section 1 of Master Response 8 – Biological Resources.

Response to Comment 43-133

The following were confirmed through an October 5, 2006 email from Madelyn Martinez at the NOAA:

The October 22, 2002, biological opinion (BO), particularly part VII.D.2.d. on page 18 includes both mandatory and discretionary language, differentiated by the verbs “shall” for mandatory and “should” for discretionary portions.

The following two provisions: that the design “should include maintaining a setback from riparian vegetation of 50’,” and that trail layout and construction “should avoid disturbance and removal of riparian vegetation to the maximum extent possible” allow discretion where specific site conditions do not allow complete adherence to the requested standard.

Response to Comment 43-134

The mitigation measure to which commenter refers is the biological consultant’s recommended measure. (See Vol. II, Appendix I, p. 25 of the DEIR) The substance of the measure, i.e., implementation of a permanent riparian setback and annual monitoring reports per the Open Space Management Plan distributed to City of Rocklin Community Development Department, the Corps and CDFG, are items that will be addressed by the Clean Water Act Section 404 permit required by Mitigation Measures 4.8MM-4(a – c). Funding and repercussions for non-compliance will similarly be addressed by the CWA Section 404 permit.

Response to Comment 43-135

The 1996 EIR referenced in the comments was certified in 1997, and was the EIR relied upon for the General Plan Amendment GPA 91-07. The City then prepared a negative declaration for the Development Agreement, which addressed the removal of 25% of the oak trees. The negative declaration concluded that this removal would be mitigated with the creation of the Oak Tree Preserve Area and constructing a publicly-accessible pedestrian trail.

This RDEIR at 4.8I-1, 2, 9 takes a hard look at the environmental impact of loss of oak trees and oak woodland habitat. The loss of oak trees was determined significant. In developing mitigation, the City reexamined the 1997 Development Agreement in light of the Rocklin Oak Tree Preservation Ordinance and determined the oak tree preserve and

trail system required by the DA (4.8MM-1(a, b)) would reduce the impact somewhat, but that the impact to trees was unavoidable and will remain significant. Pursuant to CEQA, the City will make findings and adopt a statement of overriding consideration. Further, the applicant has submitted a Registered Forester's Evaluation of the oak woodlands in which the author concludes that the project impact to oak woodland is less-than-significant which was the same determination reached by the RDEIR (4.8I-9). This RDEIR and the Forester's evaluation comprise a thorough consideration of impacts and mitigation measures satisfies CEQA with respect to loss of oak trees and oak woodlands. See Master Response 8 – Biological Resources

Response to Comment 43-136

See Master Response 8 – Biological Resources.

Response to Comment 43-137

Minimization of impact to resources and establishment of preserves by conservation easement are common forms of mitigation under CEQA. (See CEQA Guidelines 15370) Notwithstanding the mitigation required by the 1997 development agreement (establishment of oak preserve and creation of a trail system) the City determined the impact to oak trees is significant and unavoidable. Therefore the City will make findings and adopt a statement of overriding consideration respecting the loss of oak trees. The City excluded public streets from the total oak tree removal count because public streets will be used by motorists in addition to the residents of Clover Valley. The RDEIR notes that the Oak Tree Ordinance does not apply to commercial space. See Response to Comment 43-135 and Master Response 8.

Response to Comment 43-138 through 43-141

See Master Response 8 – Biological Resources.

Response to Comment 43-142

The RDEIR shall be amended to include the Tree Summary – Phase 4a. Recirculation of the RDEIR is not warranted because the information summarized in the Phase 4a Tree Summary was included in the January 2006 RDEIR.

Response to Comment 43-143

Because the development balances cut and fill, soil must be transported throughout the valley. Because heavy equipment is used to transport soil, moving the soil must occur before roads are paved. Similarly, water and sewer must be installed under roadways from the north end of the valley to the south before roads are paved. Consequently, all oak trees designated for removal will be removed during the first two-year period.

Response to Comment 43-144

The 1997 Development Agreement included Appendix C, a copy of General Plan Amendment Resolution 97-49. The amendment provides the basis for excluding the oak trees removed for public streets. An exhibit included with the amendment indicated it applies to the cross-valley parkway, the circulation loop and the southern connecting road. Trees removed as part of these general-plan-approved public streets are not counted toward the oak tree loss total for purposes of determining compliance with the developer's tree loss mitigation obligation set forth in the Development Agreement. See Sections 2, 3 & 4 of Master Response 8 – Biological Resources

Response to Comment 43-145

The November 2005 Tree Removal Summary, attached as Exhibit J to the RDEIR, identifies in great detail the tree removal count, including tables identifying each individual tree which is assumed to be removed as a result of the project development.

Response to Comment 43-146

The City agrees that the possibility that unintended impacts related to trees could result from the development and construction phases of the proposed project. This impact is identified in Impact 4.8I-2 and found to be potentially significant. However, the mitigation measure provided in 4.8MM-2 would be expected to reduce this impact to a less-than-significant level.

Response to Comment 43-147

Mitigation for loss of oak trees removed for the off-site sewer line (4.8MM-1(b)) is adequate under CEQA because the mitigation strategy is mandatory, assigned to a definite party (applicant), must be accomplished by a certain time (before recording of final map) and subject to established guidelines (City of Rocklin Oak Tree Ordinance).

Response to Comment 43-148

See Section 1 of Master Response 8 – Biological Resources.

Response to Comment 43-149

See Section 1 of Master Response 8 – Biological Resources.

Response to Comment 43-150

Impacts related to drainage throughout the proposed project were taken into account in the West Yost Hydrological Analysis. See impact 4.11I-1 for further discussion of changes in peak stormwater flows, which would include the area in question.

Response to Comment 43-151

Mitigation measure 4.8MM-4(c) requires applicant to replace jurisdictional wetland habitat on a “no-net-loss” basis. This measure, coupled with the requirement that applicant obtain a Clean Water Act Section 404 permit, reduces the potentially significant impact to riparian and seasonal wetlands to a less-than-significant level. CEQA does not require mitigation to reduce impacts beyond that point. The U.S. Army Corps of Engineers Section 404 permitting process will dictate mitigation requirements for the project at ratios determined by that agency to result in “no net loss” of wetlands.

Response to Comment 43-152

See Section 7 of Master Response 8 – Biological Resources.

Response to Comment 43-153

Mitigation Measure 4.8MM-4(c) is a valid mitigation measure. In accordance with CEQA guidelines, the measure offers performance standards in lieu of choosing a specific measure. The standards applicant must meet include obtaining a Corps CWA Section 404 permit and replacing jurisdictional wetland area on a “no-net-loss” basis. The City is unable to report specific mitigation measures, including the means of funding ongoing maintenance, because the Corps has not yet issued the Section 404 permit. The mitigation measure complies with CEQA. Recirculation of the RDEIR is not warranted.

Response to Comment 43-154

The Community Development Department Engineering Inspectors (or the contract project inspector if a consultant is used) would monitor fencing as stated in Mitigation Measure 4.8MM-4(d).

Response to Comment 43-155

Section 1 of Master Response 2 - Land Use

Response to Comment 43-156

Section 1 of Master Response 2 - Land Use

Response to Comment 43-157

The incense cedar was not addressed because it is not a federal or state protected species. If it is removed during construction, no mitigation will be required. See Response to Comment 43-142

Response to Comment 43-158

The applicant has agreed to adjust lot sizes to eliminate encroachment of residential fencing within the fifty-foot riparian buffer. RDEIR section 4.8I-5, second paragraph, shall be amended to read:

Project development could result in trampling of vegetation by pedestrians accessing the areas near Clover Valley Creek. The proposed project currently incorporates an undeveloped setback of a minimum of 50 feet from the edge of Clover Valley Creek in most places to prevent disturbance to wetland areas. ~~Although the project applicant has proposed fencing around residential units adjacent to the creek this fencing occurs within 50 feet of the riparian area in a few locations along Nature Trail Way; additionally, In a few locations~~ project roadways occur within 50 feet of the riparian area, not outside the 75-foot buffer recommended by NOAA Fisheries.

With respect to residential lot run-off, all lots are graded to drain to the street. Street run-off is collected in storm drains and treated by filters as explained in RDEIR section 4.11 *Hydrology and Water Quality*.

Response to Comment 43-159

Because the NOAA Fisheries Biological Opinion is a document available to the public, CEQA does not require its inclusion in the EIR. The document may be obtained by calling NOAA fisheries or consulting its website. Recirculation of the RDEIR is not warranted.

Response to Comment 43-160

The commenter states support for the suggestions included in the NOAA's opinion. However, as stated in the letter from the NOAA, the suggested distances are suggestions and not mandates. The proposed project has been developed in accordance with City of Rocklin standards. For more information, see Section 1 of Master Response 2 - Land Use.

Response to Comment 43-161 through 43-164

See Section 1 of Master Response 2 - Land Use and Section 1 of Master Response 8 - Biological Resources.

Response to Comment 43-165

The commenter's citation to a 12-acre impact to seasonal wetlands is erroneous. The RDEIR clearly indicates impact to wetlands is 2.56 acres. (RDEIR p. 4.8-31) Also, the RDEIR notes that biologist Davis confirmed the most recent delineation reflects current conditions. (RDEIR p. 4.8-29) Moreover, the on-line detention basins are a recruitment of

the existing flood plain. Use of the seasonal wetland at road crossings for detention during large storm events will not change the character of the wetlands.

As stated on page 4.11-9 in the DEIR, the two detention basins would be “located at the Valley Clover Way and Natural Trail Way bridge crossings” over the Clover Valley Creek. The biological analysis was conducted prior to the final determination of the location of the detention basins, however, the commenter’s conclusion that this would imply that the studies and analysis included within the Biological Resources chapter in regard to impacts related to the loss of seasonal wetlands are invalid is erroneous. As recognized by the commenter, the DEIR notes that impacts related to the loss of seasonal wetlands would result in a potentially significant impact (see Impact 4.8I-4.) The DEIR includes five mitigation measures, which would reduce short-term impacts related to the loss of wetlands to a less-than-significant level. Therefore, because the DEIR found this impact to be potentially significant, the City does not agree with the commenter that additional studies would be required.

Response to Comment 43-166

The commenter is correct in stating that impacts related to the construction of creek-crossings and related detention basins is not included in the long-term impacts (Impact 4.8I-8), this is because this impact is discussed in Impact 4.8I-7, which discusses construction-related impacts to riparian and aquatic habitats.

In addition, impacts related to sedimentation and excavation within the Clover Valley Creek (Impacts 4.11I-6 through 4.11I-8) are addressed as hydrologic impact. These impacts include mitigation measures that would reduce these impacts to a less-than-significant level. The mitigation of sedimentary impacts would then also mitigate biological impacts that would result from the sediment.

Response to Comment 43-167

For discussions related to the creek crossings and seasonal wetlands see Responses to Comments 43-165 and 43-166. The commenter also raises concerns regarding flooding. For a discussion of impacts related to flooding see Impact 4.11I-1 and 4.11I-2. Section 1 of Master Response 2 - Land Use.

Response to Comment 43-168

Comment noted. Commenter expresses concern for loss of grassland habitat and recommends fee-based or replacement mitigation. Commenter also requests consideration of an alternative development plan that would cluster homes in the extreme north and south ends of the property thereby avoiding more of the grassland impact. The RDEIR includes a Maximum 180-Unit Alternative that addresses commenter’s request. Although grasslands were not specifically identified as a biological resource to avoid, the 180-unit alternative leaves open the placement of the homes to provide flexibility in

prioritizing the reduction of environmental impacts. (See Chapter 6, Alternatives Analysis, p. 6-8 *ff.*)

The grassland at this project site is unique for its location, not its composition. The grasses provide cover for the prey base of raptors and other predators, but as noted in Master Response BR-4, “on-site floristic surveys did not find any special-status plant species.” No action agency has designated the grassland at Clover Valley as critical habitat. The impacts to species that would be affected by conversion of the grassland habitat are mitigated by measures 4.8MM-10 and 4.8MM-12. Mitigation for grassland by payment of a fee or replacement would not serve to reduce the impact to *this property*. Finally, the Rocklin General Plan EIR (p. 18) found the impact of regional growth would have a significant and unmitigable impact to wildlife habitat. For that reason, the City of Rocklin made findings and developed a statement of overriding consideration that determined the provision of homes to meet housing demand, infrastructure to enable growth and the addition of jobs, together with the increase in tax base were all reasons the significant and unavoidable impact to wildlife resources was deemed acceptable. Before the City of Rocklin may approve the project it must make findings and a statement of overriding consideration explaining why the benefits of the project outweigh the loss of grassland.

Response to Comment 43-169

The opinions set forth in this comment are noted. The City believes the mitigation measure is adequate. The City Engineering Department is responsible for ensuring that the applicant complies with the erosion control program. See also Master Response 11 – Hydrology and Water Quality

Response to Comment 43-170

Mitigation and monitoring measures to reduce potential impacts to valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*) and their habitat are described in the RDEIR for on-site [4.8MM-11(a), pages 4.8-47 through 4.8-49] and off-site (4.8MM-11(b), page 4.8-49] activities. These measures follow guidelines stipulated in the Biological Opinion issued by the U.S. Fish and Wildlife Service for Clover Valley (USFWS 2005), which is based on the Service’s *Conservation Guidelines for the Valley Elderberry Longhorn Beetle* (USFWS 1999a).

Under the Beetle Conservation Guidelines, specified management and monitoring activities must either occur for 10 consecutive years or for seven years over a 15-year period. One of these alternative approaches will be selected, in accordance with those Guidelines. The conservation area will be protected in perpetuity, in accordance with the requirements set forth in the Guidelines.

Response to Comment 43-171

See Section 1 of Master Response 8 – Biological Resources. It should be noted that CEQA requires analysis of how this project will affect the *existing* environment. Contrary to the suggestion in the comment, the RDEIR does not and need not analyze how the project would effect the environment in a hypothetical future scenario in which structural changes are made to Clover Valley Creek.

Response to Comment 43-172

See Section 1 of Master Response 8 - Biological Resources.

Response to Comment 43-173 through 43-176

See Section 1 of Master Response 8 - Biological Resources and Section 1 of Master Response 2 – Land Use.

Response to Comment 43-177

The referenced permit is the permit issued by the U.S. Army Corps of Engineers pursuant to Section 404 of the Clean Water Act, as is further discussed on page 4.8-20 of the RDEIR. The current permit has expired as described below, therefore it is inappropriate to rely on the statements set forth explicitly or impliedly in that permit as to this project's effect on fisheries. The RDEIR is modified to eliminate that sentence. The elimination of that sentence does not change the analysis or conclusions set forth in the RDEIR.

~~RDEIR Page 4.8-54: "In addition, the U.S. Army Corps of Engineers permit issued for the construction in and around the streams indicates that the project would have no effect on fisheries."~~

The following information is provided as to the current status of the project's Section 404 Permit. The Clean Water Act of 1972 requires projects that propose filling "waters of the U.S." to obtain authorization or a permit from the U.S. Army Corps of Engineers. To quantify a project's impact to waters of the U.S., the Corps requires project proponents submit a delineation of Waters of the U.S., which the Corps then verifies or requests changes. The Applicant submitted a delineation of waters that the Corps verified in 1990. The verification expired in 1992. In 1998, wetland biologist Sid Davis conducted a site visit with the Corps to update the delineation. As a result of the field visit the Corps requested the Applicant increase the total delineated Waters of the U.S. to 42 acres. The Applicant made the requested increase and submitted to the Corps Pre-Construction Notice for authorization to fill 2.56 acres of jurisdictional waters under Nationwide Permit ("NWP") 26 for Residential Developments. On March 9, 1999, the Corps authorized fill of 2.56 acres of jurisdictional wetlands pursuant to NWP 26 on the condition that Applicant satisfy all associated general conditions before commencing work. One of the general conditions requires the Applicant to secure water quality certification pursuant to Clean Water Act section 401. All authorizations under NWP 26

expired April 14, 2000, except for projects under contract where work commenced before February 2002 and was completed by February 2003. The Applicant entered into a construction contract qualifying the Project for the extension. No work was performed, however, and the Project's authorization under NWP 26 expired.

The Corps subsequently reissued and renumbered the Nationwide Permits. NWP 39 replaced the expired NWP 26 for residential developments and reduced the maximum area of wetland fill an NWP could authorize from three acres to ½ acre, thereby making the Clover Valley project ineligible for authorization under an NWP. Accordingly, on August 22, 2002, Clover Valley Partners submitted to the Corps an application for an Individual Permit by Letter of Permission. The application for an Individual Permit included an updated wetland impact exhibit despite there being no change to total jurisdictional wetland acreage or the proposed 2.56 acre impact to jurisdictional waters. To confirm the accuracy of the RDEIR, biological consultant Sid Davis conducted a field visit and determined that the wetland delineation map sufficiently represented current conditions; the Corps will re-verify the delineation before it issues the Individual Permit.

The City recognizes that the expiration and reissuance of the Clean Water Act Nationwide Permits has contributed to the public's confusion regarding impact to wetlands. Nevertheless, the City has carefully followed the Applicant's progress and will require the Applicant obtain the required Clean Water Act permit before commencing work. (See Mitigation Measure 4.8MM-4(a)) Recirculation of the RDEIR is not required because the RDEIR accurately discloses the extent of, and impact to, Waters of the U.S. and no new impacts or mitigation measures are proposed.

Response to Comment 43-178

Mitigation Measure 4.8MM-15(b) has been revised to replace the Corps with the City of Rocklin as the agency responsible to ensure the Vortechincs filtration system is maintained in perpetuity.

Commenter's observation that the Vortechincs filtration system required by Mitigation Measure 4.8MM-15(b) does not remove sediments finer than approximately 60 microns is correct. However, the RDEIR includes further discussion of impacts to water quality at 4.11I-5 Impacts involving the degradation of water quality. Here, the RDEIR discusses the limitations of the Vortechincs filtration system and proposes use of a supplemental filter (StormFilter) that removes sediment to 10 microns. Mitigation Measure 4.11MM-5(a) requires installation of the StormFilter storm water treatment system (or its equivalent) thereby further reducing the downstream impact of sediment generated by the project.

Details of implementation are included in the Mitigation, Monitoring and Reporting Plan.

Response to Comment 43-179

Mitigation Measure 4.8MM-15(a), second bullet, requiring a report at project construction completion was a term and condition required by the NOAA Fisheries Biological Opinion, October 22, 2002

Response to Comment 43-180

The purpose of CEQA is to analyze and mitigate the impacts of a proposed project, not remedy existing conditions. Mitigation Measure 4.8MM-15(a), third bullet, requiring water quality monitoring before construction to establish a baseline was a term and condition required by the NOAA Fisheries Biological Opinion, October 22, 2002. Water quality is further addressed in RDEIR Chapter 4.11 *Hydrology and Water Quality*. Water quality monitoring protocol and standards are imposed by Mitigation Measures 4.11MM-5(a-e).

Response to Comment 43-181

The species appearing in Vol. II, Appendix I are those with *potential* to occur at Clover Valley. All listed plants were addressed by updated studies. See Section 1 of Master Response 8 – Biological Resources. Yellow-legged frog was covered by an updated study, which confirmed the absence of red-legged frog and western spadefoot toad. See Section 1 of Master Response 8 – Biological Resources. Impacts to and mitigation for Northwestern Pond turtle were discussed in the RDEIR at page 4.8-49 *ff.* Valley Elderberry Longhorn Beetle was addressed in the RDEIR at page 4.8-46 *ff.* All birds listed in Appendix I fall into three categories, raptor (White-tailed kite, Northern harrier, Sharp-shinned hawk, Cooper’s hawk, Ferruginous hawk, Golden eagle, Merlin, Burrowing owl) migratory (Loggerhead shrike, California thrasher, Yellow-breasted chat, Lark sparrow) or marsh occupying (Black rail and tri-colored blackbird). The RDEIR, without listing the species individually, proposes mitigation in the form of pre-construction surveys and other measures for the three bird categories thereby addressing impacts to all birds listed in Vol. II, Appendix I. Mitigation for all bats with potential to occur appears in the RDEIR page 4.8-51 *ff.* Follow-up consultation with biological consultant ECORP confirmed that although the potential for coast horned lizard, ring-tailed cat and American badger to occur, the lack of sightings and absence of preferred habitat make their actual presence at Clover Valley *unlikely*.

Response to Comment 43-182

The commenter is correct in that the DEIR includes a typographical error on page 4.9-5 in the last sentence in the first paragraph under the heading “Chapter 8.30 – Stormwater Runoff Pollution Control Ordinance.” That sentence is hereby changed as follows:

Examples of materials that are ~~not~~ prohibited under this ordinance include the following:

This change is for clarification purposes and does not change any conclusions made within the DEIR.

Response to Comment 43-183

The Rocklin General Plan does not contain policies specifically applicable to development on slopes greater than 20%. The RDEIR discusses relevant General Plan policies on pages 4.9-4 and 4.9-5. Grading of the 558 lots within the project area will be designed by a professional engineer and be incorporated into the improvement plans for the project. All improvement plans, including grading plans, will be subject to review and approval by responsible City staff. See RDEIR pages 4.9-6 through 4.9-12 (Impact 4.9I-1) for extensive discussion of grading and slope stability issues.

Response to Comment 43-184

The plans in question have not yet been drafted in their final form and will be reviewed by the City prior to approval. The City will review these plans to ensure that the proposed project comply with all existing City policies and building standards.

Response to Comment 43-185

In preparing preliminary grading plans, estimates of quantities of excavated materials (cut) and materials to be placed in low areas (fill) have been made. Engineering studies and earthwork models were used to generate the amount of cut and fill for the various components of the project. The 20,000 cubic yard of excess material alluded to represents a raw number (cut minus fill) and does not provide for the potential shrinkage or swell of the soils. As with any grading operation there will be a need to refine earthwork numbers to account for these factors. The goal will be to create a balanced earthwork design based on actual field encountered soil parameters of shrinkage and swell factors. Any true surplus that may result can easily be accommodated by slight adjustment to lot pad elevations throughout the project site. If that proves impractical, any stockpile will be a temporary construction impact which will be managed per the City Of Rocklin Grading, Erosion and Sedimentation Control Ordinance and the Stormwater Runoff Pollution Control Ordinance, then removed from the site.

Response to Comment 43-186

Groundwater being noted in borings located along the valley floor is obviously anticipated. This issue is not minimized or over looked; it is a factor that will be incorporated into final design of any improvements where groundwater is known or can be assumed to be a factor. Design of improvements in areas of groundwater is nothing new and can be accomplished through well-established engineering practices.. There are a number of cost effective and environmentally sound techniques to address this situation. It should be noted that along the creek, most improvements would be a result of fill being placed and thereby reduce if not eliminate groundwater as an issue. Placing fills in areas of groundwater can be accomplished for example with the use of a

mechanically stabilized earth treatment consisting of a series of geotextile grids and/or fabrics in the various layers or lifts of soil being placed and compacted.

The improvement plan review and approval process will require submission of geotechnical reports in conjunction with the improvement plans. The project specific geotechnical reports are analyzed by City engineering staff to ensure all recommendations for construction details and techniques are incorporated into the final approved improvement plans.

Response to Comment 43-187

The referenced analysis in the DEIR discusses the potential erosion impacts which could result from development of the project site, primarily as a result of exposure of unprotected construction and grading sites during the course of development. As explained in the DEIR, these potential impacts will be mitigated through implementation of Mitigation Measure 4.11MM-3 (discussed in the chapter on Hydrology and Water Quality), compliance with the City's grading ordinances, and preparation of an Erosion Control Plan in accordance with Mitigation Measure 4.9MM-7 prior to development.

Response to Comment 43-188 and 43-189

Page 13 of the Wallace Kuhl and Associates letter, appendix L refers to site preparation and prefaces the benching comment above by "Sloping ground steeper than six horizontal to one vertical (6:1) should be benched prior to receiving engineered fill." One of the forms of engineered fill is the Rockery Retaining Wall depicted on sheet 4.9-9, which is designed separately from the Wallace Kuhl and Associates report. The callout on 4.9-9 for 2:1 slope max. between terraces was a drafting error and will be corrected to 2% typical for the EIR. The only unknowns are the location of underground springs and shrinkage factors for the site, which cannot be accurately determined prior to grading of the site.

Response to Comment 43-190

Comment noted. There is no reason to believe that the site inspection conducted in 2001 to assess potential hazards on the site is no longer valid. As the comment appears to acknowledge, there is no reason to think that there have been any changes on site in terms of such hazards. During the last five (now six) years, there have been no activities on site which would result in any new hazards. There is no basis for the speculation set forth in the comment regarding unspecified "greater understanding and technological advances" over the last five years which would result in any difference in how the evaluation of hazards on site would be conducted. Given the historical lack of any significant human activity on the site, the one-day site assessment was appropriate.

Response to Comment 43-191

See Response to Comment 43-190. Pages 4.10-5 through 4.10-7 of the RDEIR adequately document the potential for hazards on the project site.

Response to Comment 43-192

The comment is incorrect in asserting that the entire site supported grazing and orchard activities. Furthermore, grazing activities do not suggest historical use of pesticides. See page 4.10-13 (Impact 4.10I-1) of the DEIR for a discussion of the limited agricultural activities which have historically occurred on the project site

Response to Comment 43-193

Mitigation Measure 4.10MM-3(a) (page 4.10-15) of the RDEIR requires an additional assessment of the project site prior to any ground disturbance.

Response to Comment 43-194

As stated on page 4.10-5 of the RDEIR, the site has been adequately investigated and it has been determined that no mining activities have historically occurred on the site. Further investigation is not warranted.

Response to Comment 43-195

The commenter is correct that the Environmental Assessment conducted by Wallace Kuhl and Associates Inc. does identify foundations for more than one building on the proposed project site. However, the additional foundations are clearly recognized as part of the “homestead site” on the north side of the valley (see page 6 of Appendix M of the DEIR.) These foundations are also identified in the “1954 Map” section on page 10 of that report. The environmental site assessment identified these areas, considered potential impacts related to these past land uses and found that they would not result in any significant impacts beyond those identified in the DEIR.

Response to Comment 43-196

Though tank failures are possible, the possibility is remote enough that the chances of such an event occurring are not considered to be high enough to create a reasonable level of concern. Therefore, the analysis of such a speculative rare occurrence was not considered in this DEIR.

Response to Comment 43-197

Impacts related to the presence of mosquitoes currently on site and the potential increase of the mosquito population as a result of development are addressed in Impact 4.10I-6. The mitigation measures set forth in Impact 4.10I-6 would be expected to reduce the

potential impact to a less-than-significant level, most importantly by requiring access for the Placer Mosquito and Vector Control District. The Placer Mosquito and Vector Control District is a special district that serves all of Placer County providing a uniform and regional approach to mosquito abatement and control. The District's mosquito technicians are certified by the State of California Health Services in pesticide usage, mosquito and vector identification. The District conducts constant surveillance to locate mosquito breeding sources and to solve mosquito problems using physical, biological and chemical means along with public education. Sources such as creeks, wetlands, vernal pools and other naturally-occurring habitats, along with man-made sources are inspected by the District for mosquito production. Agricultural, industrial, and residential sources are also routinely inspected and treated as needed.

The methods used by the District are described on their website as follows: "The materials we use to control the mosquito larvae and adults are the safest and least toxic materials available for public health mosquito control. Larvicides are used to kill mosquito larvae. Larvicides include biological insecticides, such as *Bacillus thuringiensis israelensis* (B.t.i.) and *Bacillus sphaericus* which are naturally-occurring bacteria. Only mosquitoes, black flies and some midges are susceptible. Other aquatic invertebrates and non-target insects are unaffected by these products. Larviciding oils and monomolecular films (MMFs) are used to drown mosquito larvae and pupae in their later aquatic stages when they do not feed by forming a thin coating on the surface of the water. Methoprene is an insect growth regulator which is a target specific material that does not harm mammals, waterfowl, or beneficial predatory insects. The District uses pyrethrins and pyrethroids for our adult mosquito control program. Pyrethrins are insecticides that are derived from the extract of chrysanthemum flowers and pyrethroids are synthetic forms of pyrethrins. These are generally applied as an ultra-low volume (ULV) mist by truck mounted or hand-held foggers in populated areas and by aircraft over the agricultural areas of the District."

Response to Comment 43-198

Under CEQA, the RDEIR was required to analyze environmental impacts resulting from changes in the environment due to development of the project. To the extent that existing wetlands have historically provided a potential breeding ground for mosquitoes, they may continue to do so following development of the project. However, implementation of Mitigation Measures 4.10MM-6(a) and 4.10MM-6(b) will ensure that the project will not increase the risk of breeding mosquitoes, and will also, to some degree, provide additional mitigation of existing conditions. Indeed, development of portions of the project site will reduce the existing potential for standing water on those portions of the site, providing an improvement over existing conditions with respect to mosquito breeding (and notwithstanding the other environmental impacts which will result from development of the project).

Response to Comment 43-199

As noted in the comment, there was a significant storm event that day, and detention was taking place in Clover Valley Park just upstream of Midas Avenue. The system performed as it was designed. Sediment transport did and will continue to take place with any significant storm event. However, there was no major ponding after 72 hours. Furthermore, it is noted that mosquitoes need areas of still water (non-moving pools) and temperatures which are higher than what typically occurs during wintertime rains. It is feasible to design the detention basins to drain within 72 hours, as required in Mitigation Measure 4.10MM-6(b).

Response to Comment 43-200

See Response to Comment 43-199. The project applicant will be required to demonstrate and document compliance with Mitigation Measure 4.10MM-6(b) as part of its improvement plans, prior to approval of a final subdivision map. On-going maintenance will be funded through a homeowners association or a special assessment district.

Response to Comment 43-201

See Responses to Comments 43-197 through 43-200.

Response to Comment 43-202

See Section 1 of Master Response 11 – Hydrology and Water Quality.

Response to Comment 43-203

As explained in the RDEIR, “the Rocklin Fire Department has an Emergency Operation Plan with specific measures which would be implemented in the event of a train accident.” See RDEIR pages 4.10-16 and 4.10-17 (Impact 4.10I-5), 4.12-12 and 4.12-13, and 4.12-37 and 4.12-38 (Impact 4.12I-5) for additional discussion of mitigation for exposure of the development to the risk of fires. Finally, it should be noted that development near train tracks is extremely common. As stated in the RDEIR (page 4.10-8), “the ridge creates a physical barrier between the proposed development and the rail lines.”

Response to Comment 43-204

See Response to Comment 43-203.

Response to Comment 43-205

See Response to Comment 43-203.

Response to Comment 43-206

See Response to Comment 43-192.

Response to Comment 43-207

The RDEIR analyzes impacts and mitigation measures relating to urban runoff and its effects on riparian and aquatic habitats at pages 4.8-34 to 4.8-35 (Impact 4.8I-7), and 4.11-21 to 4.11-26 (Impact 4.11I-5). See also Master Response 11- Hydrology and Water Quality.

Response to Comment 43-208

The Clean Water Act NPDES Phase 2 program is discussed in Appendix P of the RDEIR.

Response to Comment 43-209

The comment is correct. The language in question is a typo. See Response to Comment 43-182.

Response to Comment 43-210

The consulting hydrologists, West Yost & Associates, verified several of the pipe sizes by checking the calculations, and they were correct. We did not reproduce every calculation in the drainage report tables. Consequently we stated that the calculations “appear” to be correct. This level of evaluation is reasonable for an environmental impact evaluation. A final drainage report will be submitted to the City by the developer and will receive an additional round of review and evaluation.

Response to Comment 43-211

The impervious coverage of 21 percent was derived as shown in Table 1. The density of the single-family residential units is 2.8 units per acre. The Sacramento City/County Drainage Manual, Volume 2, Hydrology Standards (Table 5-2) indicates an impervious coverage of 25 percent for this housing density. The 25 percent includes the roads within the neighborhood so the impervious coverage of just the lots is actually lower than 25 percent. As shown in Table 1, the lots were assumed to be 40 percent impervious, which represents a conservative impervious coverage assumption for this analysis.

| Table 3.3-3 Development of Impervious Coverage | | | |
|---|----------------|---|---------------------------|
| Land Use | Area, acres | Approximate Impervious Percentage | Impervious Area, acres |
| Single Family Residential (558 units) | 198.6 | 40 | 79.4 |
| Open Space (including roadway landscape lost) | 366 | 1 | 3.7 |
| Core Roadways | 46.4 | 95 | 44.1 |
| Neighborhood Parks | 5.3 | 10 | 0.5 |
| Neighborhood Commercial | 5 | 90 | 4.5 |
| Fire Station | 1 | 90 | 0.9 |
| Total | 622.3 | | 133.1 |
| Average Impervious Percent (impervious area/total area) | | | 21.4 |

Response to Comment 43-212

The road crossing culvert sizing will be finalized with preparation of the final improvement drawings. The parameters of the culverts will follow those established with the hydraulic studies completed as part of the CLOMR. Those studies indicate a required flow capacity based on a nominal culvert size. Notwithstanding the general sizing contained in the CLOMR studies, the final design has to provide compatible hydraulic capacity and flow characteristics rather than having any exact conformance with the CLOMR hydraulic studies. No additional modeling is required at this time.

The O&M issues are to be included as part of the final master drainage plan (see MM 4.11I-1). There are no proposed lot pads in the 100-year flood plain. All pads are currently proposed, and will be constructed, with adequate freeboard above the 100-year flood elevation. See also Master Response 11- Hydrology and Water Quality

Response to Comment 43-213

See Master Response 11- Hydrology and Water Quality for a further discussion of the hydrologic issues relating to the detention basin. The other issues referenced in this comment are discussed, as appropriate, in various places throughout the RDEIR – see prior responses relating to impacts on wetlands, fish resources, sediment, mosquitoes, etc. The design of the detention basins will not impact any historic resources. The comment is incorrect in suggesting that over 11 acres of wetlands will be lost.

Response to Comment 43-214

The comment is without merit. Mitigation Measure MM-1(a) and the related discussion preceding it provides adequate information for public comment regarding the design of the detention basin and the plans to mitigate impacts relating to peak stormwater flows. It is appropriate to defer development of detailed engineering designs to the time for preparation of the improvement plans.

Response to Comment 43-215

Ditches will be located either outside property lines or at the periphery within the individual lots, but outside fenced areas of the lots, so as to ensure adequate access for maintenance purposes.

Response to Comment 43-216

Geotextiles and mats will only be located on steep slopes and are a commonly used erosion control method. They are not expected to impair wildlife movement since they will be overgrown eventually with vegetation after completion of construction. See Section 6 of Master Response 8 – Biological Resources for additional discussion of wildlife movement issues.

Response to Comment 43-217

All requirements incorporated into the Stormwater Pollution Prevention Plan (SWPPP), including requirements for hazardous spills notification and concrete washout procedures, are incorporated into the Waste Discharge Requirements/NPDES permit requirements under the State General Construction Activity Permit. They are thus enforceable in accordance with the provisions of the state Porter-Cologne Water Quality Act and the federal Clean Water Act, which provide substantial penalties for non-compliance and multiple alternative enforcement regimes (including the potential for enforcement action by local, state, and/or federal authorities and via citizen suits). Such penalties can be in excess of \$27,500 per day per violation.

Response to Comment 43-218

The comment is without merit. It is appropriate to defer development of detailed engineering designs to the time for preparation of improvement plans. Mitigation Measure 4.11MM-4 requires the storm drain systems to be re-designed to meet applicable erosion control and water quality standards, and there is no question that it is feasible for a qualified engineer to design a system which complies with this requirement. See also Response to Comments 41-9, 64-37.

To convey stormwater flows from the upper areas to the lower areas, the project shall either extend the storm drain pipe system down the face of the hill to a stilling basin or construct a rock lined ditch down the face of the hill to a stilling basin. The stilling basins

shall be either rock or concrete lined to prevent erosion of the basin. The outlet of the stilling basins will be a pipe under the adjacent road. The pipes shall be sized to pass the 100-year flow rates so that the pipes do not become pressurized.

Response to Comment 43-219

Mitigation Measure 4.11MM-5(a) requires the use of the Stormwater 360 StormFilter treatment units (or another unit that provides equivalent treatment). Also, Low Impact Development (LID) measures and water quality BMPs will be used throughout the project (see Master Response 11- Hydrology and Water Quality).

Response to Comment 43-220

The general discussion of the impacts uses language like “should be” or “could be.” However, the specific mitigation measures use enforceable language like “shall be.” The mitigation measures are enforceable, while the general discussion is intended to be informational and is not intended to be enforceable.

Response to Comment 43-221

See Master Response 11-Hydrology and Water Quality

Response to Comment 43-222

See Section 2 of Master Response 11-Hydrology and Water Quality

Response to Comment 43-223

See Master Response 11- Hydrology and Water Quality. Mitigation Measure 4.11MM-5(d) requires the water quality monitoring plan to be implemented and established the frequency of monitoring. Mitigation Measure 4.11MM-5(e) requires that long-term funding be established for the monitoring program.

Response to Comment 43-224

Monitoring shall be funded through a special assessment or other equivalent mechanism, which will suffice to ensure funding in perpetuity. Any monitoring results submitted to the City will be public documents which any member of the public will be entitled to see under the Public Records Act. See Mitigation Measure 4.11MM-5(e) for further details.

Response to Comment 43-225

Construction of the off-site sewer will simply involve digging a trench and laying pipe. The duration of this construction activity will be too brief to have any significant impact on wildlife movement, especially with the implementation of Mitigation Measure 4.11MM-9(d).

Response to Comment 43-226

This comment is without merit. The project does not have an obligation, nor control, of the removal of off-site pre-existing fish barriers. Removal of pre-existing fish barriers will not mitigate any impact of development of the project.

Response to Comment 43-227

See Section 2 of Master Response 11 – Hydrology and Water Quality

Response to Comment 43-228 and 229

See Section 1 of Master Response 11 – Hydrology and Water Quality

Response to Comment 43-230

The comment is incorrect, the City Of Rocklin does not use recycled or reclaimed water. The non-potable water system along Crest Drive is untreated water and is available to the City for park and public landscaping uses only by way of a cooperative public/private partnership with the Whitney Oaks Golf Course, the Whitney Oaks Homeowners Association and the City.

Response to Comment 43-231

The RDEIR addresses the growth inducing impacts of the sewer line extension on page 5-2. The site of the 501 potential units to the north has already been designated for such development in the City's General Plan, and the EIR the City prepared for its General Plan already addresses, at a programmatic level, this proposed level of development. The extension of the sewer line will not induce any more growth than what the City has already planned for. Project-specific environmental review in compliance with CEQA will be required before any of the 501 units to the north can be approved for development. See Master Response 13.

Response to Comment 43-232

The sewer system is gravity fed throughout Clover Valley and plans for the sewer lines have been submitted to the City with the tentative map application. Any member of the public can request review of the tentative map application materials. See Sheets TS-1 through TS-6 on pages 3-5 to 3-10 of the RDEIR.

Response to Comment 43-233

The sewer lines will not be operating under pressure, and proper velocity-reducing elements will be incorporated into the design at the base of steep pipes, in accordance with standard engineering practices. All sewer infrastructure plans will be reviewed for

compliance with the South Placer Municipal Utility District rules and regulations. There will be no homes utilizing septic systems and leach fields.

Response to Comment 43-234

The electric lines constructed by this project will be underground. As stated in the RDEIR on page 4-12.20, “The City of Rocklin generally has control of how and where lines under 50 kilovolts are constructed and currently requires undergrounding of such lines in new developments.”

Response to Comment 43-235

Appendix P of the RDEIR includes a discussion of the Clean Water Act NPDES Phase II regulations and how they are being applied to this project. All stormwater runoff from the site will be treated, and other best management practices will be implemented, as discussed in greater detail at pages 4.11-21 through 4.11-26. See also Master Response 11 – Hydrology and Water Quality.

Response to Comment 43-236

The “Defensible Space” regulations require elimination of low lying brush and quick burning fuels, the removal of which will give oak trees and homes a better chance of survival from a fire. The project’s Open Space Management Plan, following review and approval by the Rocklin Fire Department, would require appropriate defensible fire spaces and access points. The Rocklin Fire Department is, and has been, very proactive in requiring new residential development to incorporate fire prevention measures into the project design. Throughout the city we have implemented measures to assist in the protection of residential structures from the ravages of wildfires. Examples of preventive measures are:

- Increasing structure setbacks from Open Space;
- Installing non-combustible masonry retaining walls between the residential lots and the Open space that act as a fire break;
- non-combustible fencing along the Open Space;
- maintaining fuel modification zones in conjunction with the retaining walls and structure setbacks;
- Installation of residential sprinkler systems; and
- Limited or non combustible construction (i.e. tile roofs and stucco siding).

Not all of the above measures are needed for every project. Appropriate measures are incorporated into the project’s Open Space Management Plan.

Page 12 of the current Draft Clover Valley Open Space Management Plan Reads as follows:

“The Preserve Manager will make all reasonable efforts to ensure that the risk of a wildfire is minimized. The Rocklin City Fire Department is the responsible agency for responding to fires in the Clover Valley area. The Preserve Manager will consult with the City of Rocklin Fire Department and understand their guidelines for fire response and suppression activities. The Preserve Manager will not engage in fire suppression that would threaten the health and well being of its employees or agents.

Mowing will be one of the primary management tools to reduce fuel load and minimize fire hazard. Other management tools will include a fuel modification zone that will be installed along the interface between the development and open space parcels. The Preserve Manager will ensure that this zone is maintained properly twice per year, once during the spring growing season and once during early summer. The fuel modification zone will be designed, installed, and maintained to meet the requirements of Section 4290 of the Public Resources Code and the City of Rocklin Fire Department standards. This fuel modification zone will also be constructed and maintained to maximize the benefits for wildlife habitat and control non-native, invasive and noxious plant species. Typically, a 30-foot wide mowed buffer is installed adjacent to residential lots. When residential lots are located uphill of open space lands, a 50-foot buffer will be required. A 15-foot wide mowed buffer will be installed where open space abuts a public road or park. Existing trees within this zone must be pruned with foliage removed up to 6 feet above grade. New native tree plantings are allowed, but all new trees must be irrigated with a drip-type irrigation system. Wetland areas under the jurisdiction of other agencies are excluded from this requirement. No cutting or removal of trees or vegetation shall occur in the riparian zone as shown in Figure 3. The fuel modification zone will be maintained by the Preserve Manager. Estimated quantities of area for the fuel modification zones used to develop the OSMP are recommendations, and may change as part of the development plans. Fire management activities described in this section will not take place on archeological resources sites.”

This current Draft of the Clover Valley Open Space Management Plan addresses the Public Resources Code 4290 Standards by creating a fuel modification zone in the Open Space adjacent to the residential development of between 30 and 50 feet, it does not take into consideration the structure set backs that are required. Typically these set backs are between 20 to 40 feet, thus creating a defensible space of 50 to 90 feet for structures that are situated up slope from an Open Space. Using the defensible space in conjunction with limited or non combustible construction of tile roofs with stucco siding, noncombustible fencing and residential sprinkler systems, it is our opinion the intent of the Public Resources Code and the Government Code are being met.

The impacts on the environment of Fuel Modification zones that are in compliance with current codes assist in creating a healthy forest and Open Space. Modifying the fuel load by pruning, thinning and mowing reduces the risk of complete destruction from wildfire and provides for a healthier environment for vegetation as over crowding is eliminated.

By reducing the competition the trees become healthier and less likely for disease or bug infestation thus creating a healthier forest setting.

Response to Comment 43-237

See Response to Comment 19-31

Response to Comment 43-238

The construction of the proposed offsite sewer extension would be considered part of the proposed project and would therefore be the responsibility of the project applicant. The possible sewer extension plans are discussed on page 4.12-9 of the DEIR.

Response to Comment 43-239

The City of Rocklin Police Department has agreed that the mitigation measures associated with radio reception in the Clover Valley area are adequate and would reduce any potential negative impacts to a less-than-significant level. As stated in the mitigation, the applicant would be responsible for expanding the range of the radio system, which would reduce in a less-than-significant impact.

Response to Comment 43-240

Emergency services are a core city function paid from the City's General Fund. Impact 4.12I-5 includes provisions for the construction and operational costs of the fire station that would be constructed on the proposed project site. The project will be required to annex into the City of Rocklin City-wide Community Facility District (CFD) No. 1 and pay yearly City-wide Fire Department impact fees.

Response to Comment 43-241

Rocklin's 4th Fire Station scheduled for construction on this site will provide service for the project area, Whitney Oaks, as well as the eastern portion of Whitney Ranch. The fire station is not being constructed to serve only the project. Mitigation Measure 4.12MM-5(b) states that the City would determine the timing surrounding the construction of the fire station so that adequate services will be provided. Additionally, for more information regarding the funding mechanisms of the proposed fire station, see Response to Comment 43-240.

Response to Comment 43-242

The commenter states that they would like a special-use park/open space area included on the proposed project site to include the 33 prehistoric sites identified in the cultural report. This comment does not address the adequacy of the DEIR.

Response to Comment 43-243

The commenter's statement that the DEIR does not include any mitigation measures intended to improve energy conservation for the proposed project is incorrect. Please see Impact 4.5I-2 and associated mitigation measures. Additionally, the construction of solar panels may not be cost feasible, is not mandated by state or local statutes and therefore the comment does not address the adequacy of the DEIR. This comment will be forwarded to the appropriate decision-making bodies.

Response to Comment 43-244

Emergency services are a core city function paid from the City's General Fund.

Response to Comment 43-245

See the above responses to comments regarding specific issues raised by the commenter.