

LAW OFFICE OF  
**J. WILLIAM YEATES**

**Letter 23**

3400 COTTAGE WAY, SUITE K  
SACRAMENTO, CALIFORNIA 95825  
TELEPHONE: (916) 609-5000  
FACSIMILE: (916) 609-5001  
www.enviroqualitylaw.com

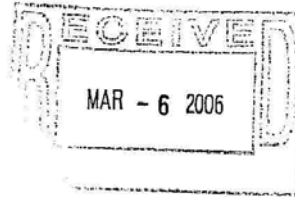
J. WILLIAM YEATES

JASON R. FLANDERS  
KEITH G. WAGNER

March 2, 2006

Via Facsimile and U.S. Mail

Ms. Sherri Abbas  
Planning Services Manager  
Rocklin Planning Department  
City of Rocklin  
3970 Rocklin Rd.  
Rocklin, CA 95677-2720  
Fax: (916) 625-5195



Re: Request for Extension of Comment Period for Clover Valley Large and Small Lot  
Tentative Subdivision Maps Recirculated Draft Environmental Impact Report – Project #  
SD-98-05

Dear Ms. Abbas:

23-1

We are writing on behalf of our client, the Clover Valley Foundation, to request an extension of the public comment period on the Clover Valley Large and Small Lot Tentative Subdivision Maps Recirculated Draft EIR (“Recirculated Draft EIR”). Currently, comments on the Recirculated Draft EIR are due on Monday, March 6, 2006. We hereby request the comment due date be extended to *close of business Monday, March 27, 2006*, for the following reasons.

23-2

The City of Rocklin (“City”) must maintain a complete record available for public review of the documents referenced by the Recirculated Draft EIR including all reports, studies and communications used in the CEQA process. Public Resources Code section 21092.1 states the public notice that was issued by the City informing the public of the comment period on the Recirculated Draft EIR must provide the address where “all documents referenced in the draft environmental impact report . . . are available for review.”

First, it must be noted that the Recirculated Draft EIR relies on the 1995 Clover Valley Lakes Annexation EIR (“1995 EIR”) for relevant information.<sup>1</sup> For the public to make an informed decision on the adequacy of the Recirculated Draft EIR, all relevant information referenced in the 1995 EIR, which forms some of the basis for the review undertaken in the Recirculated Draft EIR, must be available for public review. Referenced in the 1995 EIR – making it relevant information – is a separately bound Appendix.<sup>2</sup> Unfortunately, when a representative of Clover Valley Foundation went to the City to review a full copy of the Appendix the City was not able

<sup>1</sup> Recirculated Draft EIR, p. 1-5.

<sup>2</sup> See Attachment.

Letter 23  
cont'd

Ms. Sherri Abbas  
July 11, 2005  
Page 2 of 3

23-2  
cont'd

to make the Appendix available for review. It is unclear what is contained in the Appendix, what technical or field documents support the 1995 EIR's text, and how that information relates to the Recirculated Draft EIR that is under review. Pursuant to subdivision (b)(1) of section 21092 of the Public Resources Code, the City must provide the public with a complete copy of the referenced Appendix. Accordingly, the Clover Valley Foundation requests that the City extend the comment period to allow the City the opportunity to make the Appendix to the 1995 EIR available, or to revise the Recirculated Draft EIR to include the information from the Appendix where this information is relevant to the environmental evaluation of the proposed project, and then make the revised document available for the required public review period for a revised draft EIR.

The Biological Resources section of the Recirculated Draft EIR specifically states that "The information presented in this section is based on biological research incorporated into the 1995 Clover Valley Lakes Annexation EIR..."<sup>3</sup> Incorporated as Appendix I of the Recirculated Draft EIR is the December 2005 ECORP Consulting, Inc. *Biological Impact Evaluation*. The purpose of ECORP's report "is to evaluate the findings of previous biological studies for the Clover Valley lakes Project..."<sup>4</sup> On the list of previous biological surveys that the ECORP report claims to evaluate is a 1992 Wildlife Survey Report, prepared by Susan Sanders, with the notation that the report is "not available for review."<sup>5</sup> Since the City of Rocklin must maintain a complete administrative record for the Recirculated Draft EIR including all reports, studies and communications used in the CEQA process, it is insufficient to simply state that a study referenced in preparing the Recirculated Draft EIR is "not available for review." At her request, the City recently provided this report to Ms. Marilyn Jasper, a member of the Clover Valley Foundation. However, *all members of the public* must be given the opportunity to review the relevant information in this document and it should be available for public review consistent with Section 21092 of the Public Resources Code.

"Public participation is an essential part of the CEQA process."<sup>6</sup> An EIR may incorporate by reference all or a portion of another document which is 1) a public record and 2) generally available to the public.<sup>7</sup> However,

where part of another document is incorporated by reference, such other document shall be made available to the public for inspection at a public place or public building. The EIR or negative declaration shall state where the incorporated documents will be available for inspection. At a minimum, the incorporated documents shall be made available to the public in an office of the lead agency in the county where the project would be carried out or in one or more public buildings such as county offices or public libraries if the lead agency does not have an office in the County.<sup>8</sup>

<sup>3</sup> Recirculated Draft EIR, p. 4.8-1.

<sup>4</sup> Recirculated Draft EIR, Appendix I, p. 1.

<sup>5</sup> Recirculated Draft EIR, Appendix I, p. 2.

<sup>6</sup> CEQA Guidelines, § 15201.

<sup>7</sup> CEQA Guidelines, § 15150, subd. (a).

<sup>8</sup> CEQA Guidelines, § 15150, subd. (b).

Ms. Sherri Abbas  
July 11, 2005  
Page 3 of 3

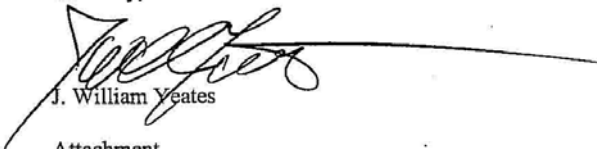
23-2  
cont'd

↑  
It is clear that the Appendix to the 1995 EIR, and the Sanders' survey, are referenced in the Recirculated Draft EIR, and *have not* been available to the public for inspection during the CEQA comment period. Therefore, we are requesting an immediate extension of the public comment period until the close of business on Monday March 27, 2006, so that the interested members of my client organization, and those other interested members of the public not represented by this firm, have a meaningful opportunity to review the information that forms the basis of the City's environmental evaluation of the significant environmental effects of the proposed project.

23-3

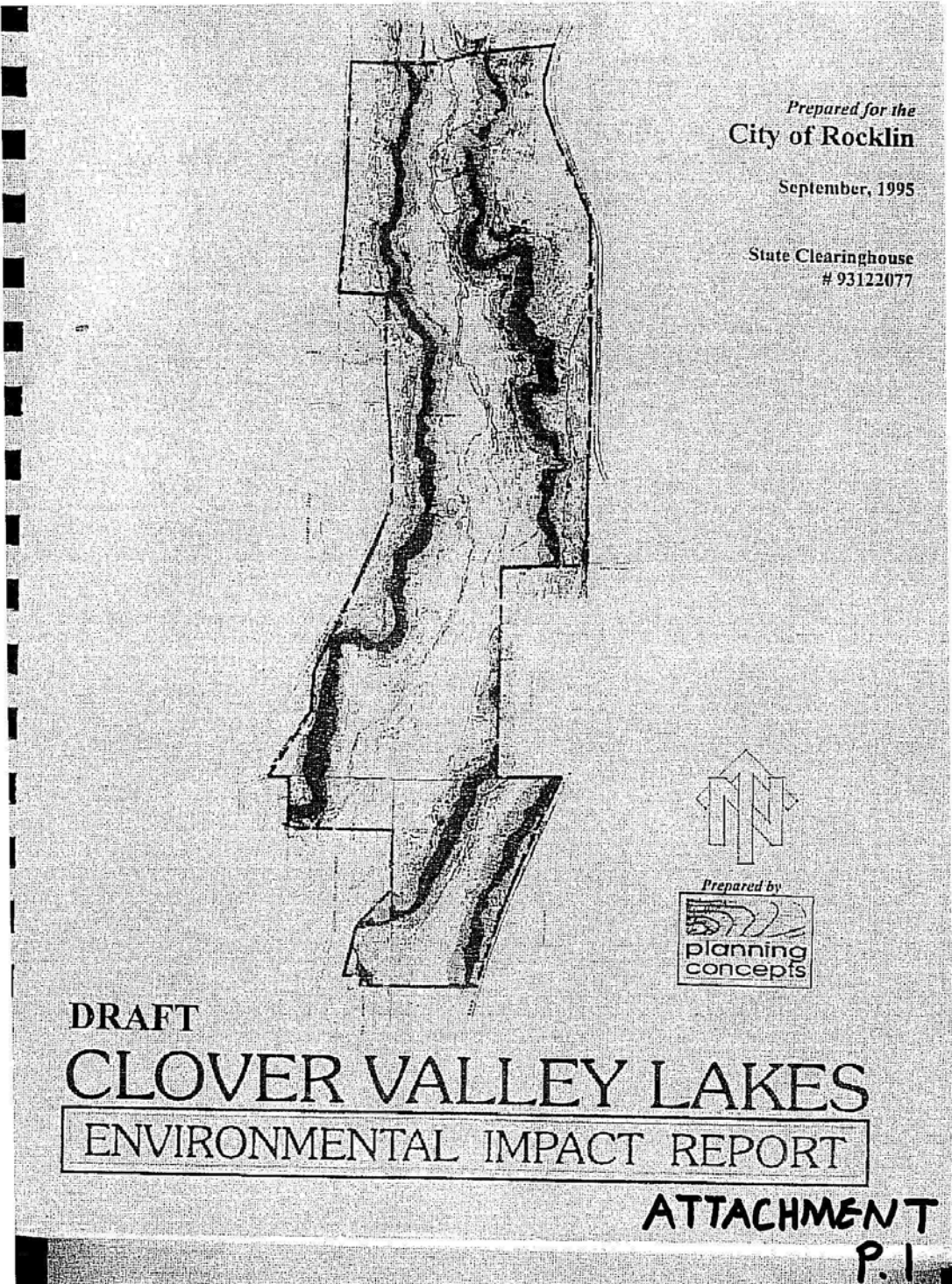
Please advise me by the close of business Friday, March 3, 2006, as to whether the City will grant the Clover Valley Foundation's request. Thank you in advance for your consideration of this matter.

Sincerely,

  
J. William Yeates

Attachment

cc: Client



Prepared for the  
City of Rocklin

September, 1995

State Clearinghouse  
# 93122077



Prepared by



DRAFT  
**CLOVER VALLEY LAKES**  
ENVIRONMENTAL IMPACT REPORT

ATTACHMENT  
P.1

Table of Contents

	Page #
A. Introduction	A-1
B. Project Description	B-1
C. Summary	C-1
D. Impact Analysis	D-1
E. Land Use / General Plan Consistency	E-1
F. Transportation	F-1
G. Air	G-1
H. Noise	H-1
I. Population	I-1
J. Housing	J-1
K. Employment	K-1
L. Law Enforcement	L-1
M. Fire Protection	M-1
N. Schools	N-1
O. Parks	O-1
P. Water	P-1
Q. Wastewater	Q-1
R. Solid Waste	R-1
S. Electricity	S-1
T. Gas	T-1
U. Telephone	U-1
V. Cable	V-1
W. Cultural	W-1
X. Geology	X-1
Y. Hydrology / Water Quality	Y-1
Z. Plant Life	Z-1
AA. Wildlife	AA-1
BB. Visual Resources / Aesthetic	BB-1
CC. Fiscal	CC-1
DD. Alternatives	DD-1
EE. Cumulative Impacts	EE-1
FF. CEQA Consideration	FF-1
GG. Report Preparation and Sources	GG-1

Appendix 1 - Draft EIR Distribution List

List of Tables

<u>Project Description</u>	Figure / Page #
Proposed Project	B-5
General Plan Amendment Request	B-6

**ATTACHMENT**  
**P. 21**

## AA. Wildlife

### Scope and Methodology

The site was surveyed for wildlife by Susan D. Sanders, Ph.D. This report is contained within the separately bound Appendix of this EIR.

### Setting

The Wildlife Survey Report describes the annual species typically found in each of the plant communities found on the site:

**Grassland.** The annual grasslands are likely to support nesting birds such as western meadowlark and horned lark, particularly in areas where grass growth is thickest. This plant community also provides foraging grounds for lark sparrows, savannah sparrows, rufous-crowned sparrows, lesser goldfinches, American pipits, and other grassland species.

The soils and plants in the annual grassland provide habitat for California voles, California deer mice, pocket gophers, California ground squirrels, and other small mammals. Small mammal burrows and runways in the thick grass of the toe slopes were particularly apparent during the field surveys, indicating an abundant rodent population. The sandy soil of the toe slopes also makes inviting habitat for these small borrowing mammals because it is easy to dig. Rodents in the grasslands are prey items for red-tailed and red-shouldered hawks, great horned owls, coyotes, bobcats, rattlesnakes, gopher snakes, and other predators.

**Oak Woodland.** Oak woodland provides a number of important wildlife resources, including food, cover, roosting, and breeding sites. Oak acorns are preferred or essential food items in the diets of western gray squirrel, mule deer, turkeys, and other game species. Acorn woodpeckers, northern flickers, scrub jays, raccoons, deer mice, and woodrats also rely on oak acorns. Acorns are not the only food items supplied by oaks; oak foliage and bark insects attract birds such as bushtits, ash-throated flycatchers, white-breasted nuthatches, and western kingbirds. In addition, oak-dependent fungi, lichen, mistletoe, and galls provide food for species such as northern mockingbird, gray squirrels, and raccoon.

Oak trees offer shade, shelter, and breeding substrate for many animals. Woodpeckers excavate nest-holes in snags or in dead oak limbs. These cavities are subsequently used by other hole-nesting birds, including western bluebirds and American Kestrels. Species that use the open grassland for foraging in the day return to oaks at night to roost, and many

AA-1

ATTACHMENT  
D 3

**LETTER 23: CLOVER VALLEY FOUNDATION – YEATES, J. WILLIAM, ATTORNEY,  
MARCH 2, 2006**

**Response to Comment 23-1**

The comment does not address the adequacy of the RDEIR.

**Response to Comment 23-2**

In response to the commenter's request, the City of Rocklin extended the public comment period on the RDEIR by nine (9) days to March 15, 2006.

**Response to Comment 23-3**

Please see Response to Comment 23-2.

LAW OFFICE OF  
**J. WILLIAM YEATES**

3400 COTTAGE WAY, SUITE K  
SACRAMENTO, CALIFORNIA 95825  
TELEPHONE: (916) 609-5000  
FACSIMILE: (916) 609-5001  
www.enviroqualitylaw.com

**Letter 24**

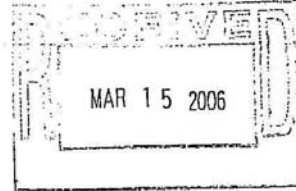
J. WILLIAM YEATES

KEITH G. WAGNER  
JASON R. FLANDERS

March 15, 2006

**VIA HAND DELIVERY**

Ms. Sherri Abbas  
Planning Services Manager  
Rocklin Planning Department  
City of Rocklin  
3970 Rocklin Rd.  
Rocklin, CA 95677-2720



Re: Comments – Clover Valley Large and Small Lot Tentative Subdivision Maps  
Recirculated Draft Environmental Impact Report – Project # SD-98-05

Dear Ms. Abbas:

24-1

On behalf of our client, Clover Valley Foundation, we submit the following comments, prepared by myself with the help of my land use professional Matthew Coldwell, on the above-referenced Recirculated Draft Environmental Impact Report (“Recirculated Draft DEIR” or “RDEIR”). On behalf of our client we appreciate the City extending the comment period to March 15, 2006, due to the inadvertent omission of figures that identified options for the location of an offsite sewer line.

24-2

**I. INTRODUCTION**

The Recirculated Draft DEIR evaluates the significant adverse environmental impacts of the proposed Large and Small Lot Tentative Subdivision Maps (“LSLTSM”) to subdivide approximately 622 vacant acres into 33 large lots, which will be further subdivided into 558 single family residential lots. Additionally, the proposed project provides for the construction of an off-site sewer expansion. A General Plan Amendment and Rezone is also being requested by the project applicant in order to address modifications to the open space and residential component of the proposed project. The amendments propose to “modify some residential lot size and development standards, increase the amount dedicated open space and decrease the area for residential development.”<sup>1</sup> For the purpose of these comments, the LSLTSM and General Plan Amendment and Rezone will be collectively referred to as the “proposed project” or “Clover Valley.”

<sup>1</sup> Notice of Availability of Recirculated Draft EIR



**Letter 24  
cont'd**

Ms. Sherri Abbas  
March 15, 2006  
Page 2 of 23

24-3 Clover Valley Foundation has been an active participant during the City of Rocklin's ("City") planning process for the Clover Valley area. Our office submitted comments on behalf of the Clover Valley Foundation in November of 2002 on the then proposed Clover Valley Lakes Large Lot Tentative Subdivision Map Draft Environmental Impact Report. The prior EIR and this RDEIR acknowledge many negative, unmitigable and irreversible environmental impacts that the urbanization of Clover Valley will have on the existing environment.

24-4 We appreciate the opportunity to comment on the Recirculated Draft EIR and ask that while reviewing the submitted comments the City consider the unique location and characteristics of the proposed project site. The existing environment of Clover Valley consists of high ridges, steep slopes and a meandering Clover Valley Creek in the low valley. Oak woodland habitat covers the hillsides and riparian habitat and wetlands surround Clover Valley Creek. The proposed project site is abutted by Sierra College Boulevard and Union Pacific Railroad tracks to the east and Whitney Oaks residential community and golf course to the west. Additionally, the presently developing Bickford Ranch project is being constructed off of Sierra College Boulevard just north of the proposed project site. Although the previously adopted Development

24-5 Agreement gives the developer entitlements to develop the proposed project site, those entitlements do not constitute the existing environment and should not be considered as the baseline to gauge the proposed project's potential adverse impacts on the environment.

**II. DISCUSSION**

**A. THE RECIRCULATED DRAFT EIR FAILS TO ADEQUATELY ADDRESS THE GROWTH INDUCING IMPACTS OF THE ON & OFF-SITE SEWER EXPANSION COMPONENT OF THE PROPOSED PROJECT**

24-6 CEQA defines a "Project" as "the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or reasonably foreseeable indirect change in the environment..."<sup>2</sup> CEQA requires that "All phases of a project must be considered when evaluating its impact on the environment: planning, acquisition, development, and operation."<sup>3</sup> An EIR must discuss in a meaningful manner the growth-inducing impacts of the Proposed Project.<sup>4</sup> The discussion must address "the ways in which the proposed project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment."<sup>5</sup>

Growth-Inducing Impacts of the whole of the proposed Clover Valley project have not been adequately analyzed. The Recirculated Draft EIR dedicates approximately one and a half pages to the discussion of growth-inducing impacts related to the construction of the proposed Clover Valley project, however, only one paragraph of the page and a half

<sup>2</sup> CEQA, § 15378, subd. (a).

<sup>3</sup> CEQA, § 15126.

<sup>4</sup> CEQA, § 15126, subd. (d).

<sup>5</sup> CEQA, § 15126.2, subd. (d).

## Letter 24 cont'd

Ms. Sherri Abbas  
March 15, 2006  
Page 3 of 23

24-6  
cont'd

↑ actually consists of a discussion of the growth-inducing impacts.<sup>6</sup>

Within the one paragraph dedicated to growth-inducing impacts, it specifically states “The proposed infrastructure has been sized to meet both the needs of the proposed level of development and future growth areas to the north and south.”<sup>7</sup> The on-site and off-site sewer expansion has “been designed to serve an additional 501 equivalent dwelling units (edu) to the north of the project site and 23 edu to the south.”<sup>8</sup> “(P)rojects which would remove obstacles to population growth” are determined to have growth-inducing impacts that require discussion in an EIR.<sup>9</sup>

The Recirculated Draft EIR identifies the sewer construction associated with the proposed project as a growth-inducing impact. However, the Recirculated Draft EIR fails to adequately analyze the significance of this identified impact. Furthermore, the RDEIR defers mitigation by claiming “any development would be required to undergo discretionary approval by the City, including but not limited to annexation and tentative maps.”<sup>10</sup>

The Recirculated Draft EIR must at the very least, evaluate the growth-inducing consequences of the sewer extension, determine the significance of any growth-inducing effects, and, if it is determined that these growth inducing effects are significant, identify and discuss feasible mitigation measures. At a minimum the RDEIR must include a statement that explains why the sewer extension will not have significant growth inducing impacts.<sup>11</sup>

24-7

B. THE RECIRCULATED DRAFT EIR FAILS TO ADEQUATELY ADDRESS THE CUMULATIVE IMPACTS OF THE PROPOSED PROJECT

“Cumulative considerable means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.”<sup>12</sup> CEQA requires that “An EIR shall discuss cumulative impacts of a project when the project’s incremental effect is cumulatively considerable...”<sup>13</sup> An adequate discussion of significant environmental impacts may include “A list of past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency...”<sup>14</sup>

↓ The Recirculated Draft EIR fails to adequately address the cumulative impacts of the

<sup>6</sup> Recirculated Draft EIR, pp. 5-1 – 5-2.

<sup>7</sup> Recirculated Draft EIR, p. 5-2.

<sup>8</sup> Recirculated Draft EIR, p. 5-2.

<sup>9</sup> CEQA, § 15126.2, subd. (d).

<sup>10</sup> Recirculated Draft EIR, p. 5-2.

<sup>11</sup> *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4<sup>th</sup> 1099, 1109, 1111-1112.

<sup>12</sup> CEQA, § 15065, subd. (a)(3).

<sup>13</sup> CEQA, § 15130, subd. (a).

<sup>14</sup> CEQA, § 15130, subd. (b)(1)(A).