



Ag Consultants International

January 25, 2010

Matt Walsh, Senior Planner
 Solano County Department of Resource Management
 675 Texas Street, Suite 5500
 Fairfield, CA 94533

Dear Matt:

At the request of several landowners in Green Valley, I was asked to independently review the Draft Environmental Impact Report and the Middle Green Valley Specific Area Plan. I am doing this *pro bono* as an interested individual in the Solano County General Plan process.

As a former member of the Solano County General Plan Advisory Committee and the Chairman of the Agricultural Sub-Committee, I am acutely aware of the necessity to provide specific plans to areas on concern within the general plan framework. As you know I am also aware of the issues facing agriculture in the county and the political issues facing the several specific area plans your department is undertaking.

After reading the two documents, my general conclusion is that both are well done and cover practically all the bases necessary for a quality plan. In some cases in far too much detail and in others not enough or unwarranted assumptions made. This is especially true with the Draft Environmental Impact Report. 13.01

I found the Draft Middle Green Valley Specific Plan to be well done and a model for other similar developments. The isolation and concentration of the communities is a unique idea for the valley. Ironically, it is not unlike the original plans brought forth during the general plan discussions in 2006. Providing the open space trails can be a potential problem that is not well addressed in the Draft Environmental Impact Report. Consideration needs to be given to impact non-agricultural individuals will have on the rangeland and ag preservation areas. It is a known fact that people and farms are not always a good mix. Some access controls would be advisable such as fencing. For the younger people living in the communities this could be an attractive nuisance issue. 13.02

Concerning the DEIR, I feel many of the mitigations are achievable, but stating that all will have a severe impact on the environment is a bit of an over statement. The transfer of development rights and the creation of a conservation easement should go a long way to mitigation many of the perceived negative environmental impacts. 13.03

I would encourage the Planning Commission to approve the plans as satisfying the needs of all parties concerned with Middle Green Valley development. 13.04

Sincerely,

Lawrence Clement,
 Principal

13. Lawrence Clement, Principal, Ag Consultants International, on behalf of "several landowners" in Green Valley; January 25, 2010

13.01 Agriculture--Both plan and DEIR "well done."

Response: Comment acknowledged.

13.02 Agriculture--consideration needs to be given to impact of non.-ag. individuals on rangeland and ag. preservation areas; some access controls would be advisable such as fencing.

Response: Comment acknowledged. Please see DEIR Impact 4-2 and Mitigation 4-2. The Specific Plan does not preclude continued standard use of fencing to protect agricultural lands.

13.03 Agriculture--many of the DEIR mitigations are achievable, but stating that, all will have severe impact on environment = "overstatement"; TDR and creation of conserv. easement should go long way to mit. of many of the perceived neg. environ. impacts.

Response: Comment acknowledged. Please see Master Response A.

13.04 Agriculture--Advocates PC approval of "the plans."

Response: Comment acknowledged. See Master Response A.

Matt Walsh
Solano County Department of Resource Management
Fairfield, CA 94533

February 25, 2010

Comments on the Draft Environmental Impact Report for the Middle Green Valley
Specific Plan

Mr. Walsh

Thank you for the opportunity to comment on the Draft Environmental Impact Report for
the Middle Green Valley Specific Plan.

General Comments

I commend the compromise process that generated this plan, and in general the “cluster”
approach used to try to minimize impacts. I have been reviewing EIRs for two decades,
and I found this to be one of the better documents that I have reviewed recently. 14.01
Nonetheless, I found significant errors and omissions that I hope that the Final
Environmental Impact Report will correct.

As a general comment, the document depends too much on future analyses: this 14.02
“deferred analysis” is specifically prohibited by the California Environmental Quality Act
and subsequent case law. When this deferred analysis is used to address the way that an
impact will be mitigated, then the impact must remain “significant and unavoidable” until
the specifics of the mitigation are identified. In other words, the document cannot say “a
mitigation plan will be prepared” and then count that as a mitigation.

Since the document identifies many traffic impacts as significant and unavoidable, and 14.03
honestly identifies the impact on aesthetics to be significant and unavoidable (not all
EIRs are honest about this), then the major problems in this Draft EIR that must be fixed
in the Final EIR are in the areas of Public Services and Utilities and biological resources.

Public Services and Utilities

Schools

The document is very weak in this area. It does not emphasize that the elementary school 14.04
and high school, Nelda Mundy and Rodriguez High School, servicing this area are
beyond their capacity, with no prospect of remedying this deficiency in sight.

16.5.3 Significance Criteria

Based on the CEQA Guidelines, the proposed Specific Plan would be considered in this
EIR to have a potentially significant impact on public education if it would:

- (a) result in substantial adverse physical impacts associated with the need for or
provision of new or physically altered school facilities, the construction of which

could cause significant environmental impacts, in order to maintain acceptable performance objectives.

No reasonable person would conclude that this will not happen. While I recognize that Proposition 1A and the accompanying SB 50 prevent the lack of school facilities from preventing development, the EIR should admit that students that this development will generate cannot be accommodated at the local schools without creating additional overcrowding. The EIR should identify the planned capacities of these schools, and identify that the development adds students to schools over their capacity. The payment of a fee by the developer does not remove this fact.

Solid Waste

The generation of solid waste should currently be listed as significant and unavoidable.

14.05

Impact 16-12: Project Construction-Period and Long-Term Solid Waste Impact on Landfills. Construction and operation of land uses proposed by the Specific Plan would generate solid waste that would require disposal at a landfill. While landfill capacity is currently expected to be adequate to serve this development, the situation could change over the life of the Specific Plan, particularly if the currently pending Potrero Hills Landfill expansion proposal is not approved before the scheduled landfill closure date of January 1, 2011. Any potential for inadequate landfill capacity or the potential need for new facilities would represent a *potentially significant impact*.

The expansion of the landfill for this area, Potrero Hills Landfill, is currently tied up in court. If the court rules against this expansion, then the landfill only has capacity until 2011, as the document states. Until the appeals process is exhausted, the document should assume that this expansion will not go forward. What happens if the expansion does not occur? And what is the impact if the courts rule in favor of the applicability of Solano County's Measure E limiting the amount of solid waste from out of county?

Water

In the verbiage that accompanied this discussion, the options of a water supply were laid out, but it appeared that there hadn't been a firm commitment to supply water the Fairfield system (Option A). If it is an option, then what happens if the commitment is not made? Without a firm commitment, then the provision of water is a significant and unavoidable impact. For Option B, the fact that the location of the wells and water supply will be determined later represents the prohibited "deferred analysis" and likewise for this option then the impact is significant and unavoidable. Where will the water come from? What are the specifics?

14.06

Biological Resources

Most analyses of the impact of this project on biological resources has been deferred. The Draft EIR justifies this by saying:

14.07

“As described in chapter 1 (Introduction), this EIR is a program EIR. Biological resources are evaluated to the level of detail appropriate for a program-level document. Because specific designs for buildout in the plan area would be developed at a later date by individual project proponents, potential impacts on biological resources are discussed in a broader sense related to the zoning and development standards described in the Specific Plan. Corresponding mitigation measures include descriptions of more detailed survey actions, best management practices (BMPs), permitting requirements that would need to be met, and examples of design measures that can be incorporated into future project-level designs as mitigation.”

This statement concedes that adequate analysis of biological resources has not been accomplished at the Specific Plan Draft EIR level.

It seemed like the mitigation plan for the impact on every species was deferred until later. I did not see a formal wetlands delineation – that seemed to be deferred.

I believe that this deferred analysis violates the spirit and the letter of CEQA. At the very least, the document should acknowledge that this is not “best practices.” Planning for mitigation is best when it is done in a comprehensive manner that covers the widest possible area. Does this mean, since the Specific Plan Draft EIR in this statement concedes that an adequate analysis is not in this document, that the County commits to demanding a full EIR, or at the very least a mitigated negative declaration that contains a detailed analysis of biological resources and mitigation measures, at the project level for each and every phase of building?

Conclusion

This Specific Plan Environmental Impact Report seemed to be premature. This is a project where:

14.08

1. students are generated and placed in schools that are already over-capacity
2. the water source has not been specifically identified
3. the landfill capacity has not been identified
4. analysis of the impact on biological resources is deferred

I believe that the Final EIR should specifically address these issues. It should admit that the projects proposed within this specific plan will create these unavoidable significant impacts, and it should identify specific mitigation plans rather than putting them off.

Thank you,

James D. DeKloe
655 Oakbrook Drive
Fairfield, CA 94534

14. James D. Dekloe, 665 Oakbrook Drive, Fairfield, CA 94534; January 25, 2010

- 14.01 General Comment on DEIR Adequacy--comparatively good document but significant errors and omissions found that Final EIR should correct--see below.

Response: See responses below to remaining letter 14 comments.

- 14.02 General Comment on DEIR Adequacy--mitigation deferral--DEIR depends too much on future analysis; deferral analysis prohibited by CEQA and case law; when mitigation analysis is deferred, impact must remain "significant and unavoidable" until mitigation specifics are identified; document cannot say mitigation plan will be prepared, and then count that as mitigation.

Response: See Master Response C.

- 14.03 General Comment on DEIR Adequacy--major DEIR problems that must be fixed in Final EIR are in areas of Public Services and Utilities and Biological Resources; see below.

Response: See responses to related remaining letter 14 comments below.

- 14.04 Public Services and Utilities--Public Education--DEIR weak in this area; does not emphasize that Nelda Mundy elementary school and Rodriguez High School serving this area are beyond capacity, with no prospect of remedying in sight. No reasonable person can conclude that significance criterion 16.5.3(a) will not happen. EIR should "admit" that project students cannot be accommodated without overcrowding, identify planned capacities at affected schools, and identify that project adds students to over-capacity schools. Fee payments do not remove this fact.

Response: The comment indicates that the DEIR should declare that certain schools are beyond capacity and that the project will create additional overcrowding. The local School District may or may not declare certain schools to be in a condition of overcrowding and beyond capacity. DEIR p. 16-56 does state that, according to the school district, these schools are at or near capacity.

The comment states that the DEIR should identify planned capacities and the students added by the project over their capacity. DEIR pp. 16-58 to 16-59 indicate the number of students likely to be added by the project, based on School District student generation rates. DEIR Table 16.4 provides enrollment numbers. The commenter does not indicate what definition the commenter would use to define conditions of over capacity or overcrowding. Otherwise, the DEIR includes the information requested by the commenter.

Please also see Master Response D.

- 14.05 Public Services and Utilities--Solid Waste Management--Impact 16-12--what happens if Potrero Hills Landfill expansion does not occur? What is impact if courts rule that Measure E limits the amount of solid waste from out of county?

Response: This issue is specifically addressed in the DEIR under Impact 16-12 and Mitigation 16-12 on DEIR pp. 16-63 and 16-64. The litigation concerning the Potrero

Hills Landfill resulted in the court upholding the approvals. Therefore, although there is an appeal pending, the appropriate presumption for planning purposes is that the entitlements validly allow for expansion to occur. The principal issue in the Measure E litigation concerns the validity of a limit on importation of waste into the County. If it were held that Measure E imposes a valid limit, less waste would come into the County, and the entitlements for Potrero Hills to receive certain amounts of waste would provide more capacity for in-County waste. If it were held that Measure E does not impose a valid limit on out-of-county waste, then the capacity at the landfill would not be reduced as a result but would be as stated in their approvals.

- 14.06 Public Services and Utilities--Water--appears in DEIR that there hasn't been firm Fairfield commitment to supply water (Option A). Without commitment, provision of water is a significant and unavoidable impact. For Option B, future determination of location of wells and water supply represents "deferred analysis" and significant unavoidable impact. Where will water come from? What are specifics?

Response: The DEIR indicates that the City may provide water to the project. The DEIR complies with CEQA-required demonstration of adequate source of water supply for water supply Option A, pursuant to SB 610, if the City of Fairfield decides to provide municipal water to the project, as explained in response to comment 7.29. The question of whether the City will ultimately decide to provide water to the project under water supply Option A is a City rather than Lead Agency (County) decision.

Future phases of the project could not proceed under water supply Option A until the City of Fairfield formally approves delivery of the verified available water supply to the project. The City of Fairfield has not yet firmly committed to supply water. If the City ultimately decides not to commit to this approach, Specific Plan Option B for water supply would be pursued.

The comment states that without a firm commitment, the provision of water is a significant and unavoidable impact. While provision of water would have to occur in order for the project to be built out, and while some other means of supplying water would have to be implemented if Option A did not proceed, the provision of water in general is not itself an "impact" per se under CEQA. An "impact" is "a change in any of the physical conditions within the area affected by the project." (CEQA Guidelines, § 15382.)

The comment suggests that the EIR has improperly deferred analysis by leaving the location of wells and water supply to be determined later.

Under Option A, the location of water supply is described. As indicated in the DEIR, the water will come from the City under Option A, using a water supply contracted through the Solano County Water Agency, including water from the North Bay Aqueduct, the Solano Project, and recycled water, and after going through treatment at one of the City's two treatment plants (DEIR, p. 16-4), going through an existing 24-inch water main flange located at the corner of Green Valley Road and East Ridge Road near the southeast corner of the plan area. (DEIR, p. 16-15.) The location of water supply is described therefore, for Option A.

Under Option B, the groundwater would come from the Suisun-Fairfield Groundwater Basin, a map of which is provided. (DEIR, p. 16-1, fig. 16-1.) The location of specific

new wells is not provided. However, the DEIR says that there would be three groundwater wells which would draw water from the Green Valley-Suisun aquifer of the Suisun Fairfield Groundwater basin. In addition, as noted in the DEIR, a detailed hydrological study and Water Master Plan would be required before recordation of the first final subdivision map associated with the project, which would be required to include engineering specifications regarding well locations and depths, as well as other matters. (DEIR, p. 16-18.)

The comment asks what the specifics are. The level of detail with which the DEIR presents this information is appropriate to the present Specific Plan tier of the planning process (see Master Response B). CEQA does not require that all specifics of the supply of water be known at the first-tier stage. Instead, the DEIR acknowledges the degree of uncertainty involved, discusses alternative water sources, and appropriately discusses anticipated impacts of each alternative.

If Option B is used, a hydrological study and Water Master Plan will be required at the time of subsequent subdivision approval providing detail appropriate to that tier of the planning process. Under either Option A or Option B, at the time of subsequent subdivision approval, it will be necessary to consider whether anything significant regarding the water supply source has changed or if significant further information has become known concerning the impacts of utilizing the source, and additional CEQA analysis would then be required to the extent consistent with Public Resources Code section 21166. Implementation of subsequent site-specific development will not occur until adequate water service is verified.

Please also see Master Responses L and C.

- 14.07 Biological Resources--most impact analysis deferred--quoted DEIR statement concedes that adequate analysis of biological resources impacts has not been accomplished at Specific Plan EIR level. Mitigation plan for every species and wetlands delineation deferred--violates spirit and letter of CEQA--does deferred analysis mean that County commits to a full EIR or mitigated negative declaration, with detailed analysis of biological resource impact and mitigations, at project level for each and every phase of building?

Response: Please see Master Responses B and C.

The first-tier Specific Plan and first-tier Specific Plan EIR are not intended to provide the level of detail regarding construction techniques, extent of grading, exact location of developed areas, and other factors that are necessary to fully evaluate specific impacts and develop specific mitigation measures for biological resources. Therefore, the DEIR has included mitigation measures that establish a first tier mitigation program sufficient to ensure full evaluation of biological resources for individual projects carried out under the Specific Plan. The program will ultimately require a second tier, more detailed evaluation for each individual discretionary development application to determine potential impacts and mitigation measures based on the development location, biological resources that may be present at that location, and the potential effects the specific development activities may have on those biological resources. Examples of suitable mitigation measures are given in the DEIR to provide guidance for "second tier" specific mitigation measures that may be implemented for each development as determined by site-specific biological evaluation. In this way, the

County does commit to separate, tiered environmental review for each individual development's impacts to biological resources. The type of subsequent CEQA documentation, if required, will depend on the specifics of the proposed development and the biological resources evaluation program described in this first-tier program level EIR.

- 14.08 General Comment on DEIR Adequacy--Specific Plan EIR premature--students generated for over-capacity schools, water source has not specifically identified, landfill capacity has not been identified, biological resource impacts have been deferred. FEIR should specifically address these issues, should admit unavoidable significant impacts, and should identify rather than defer specific mitigation plans.

Response: Please see Master Response D (regarding the issue of over-capacity schools), K (regarding the water supply options approach), and C (regarding mitigation deferral).



915 L Street, C-425
 Sacramento, Ca. 95814
 916-447-4956
www.swainsonshawk.org

February 25, 2010

Mr. Michael Yankovich
 County of Solano, Department of Resource Management
 675 Texas St., 5500
 Fairfield, Ca 94633

Re: Middle Green Valley Specific Plan, DEIR, SCH #2009062048, Solano County

Dear Mr. Yankovich:

Friends of the Swainson's Hawk (FOSH) is a non-profit charitable organization concerned with the conservation of wildlife, and particularly raptors, in California. We are dedicated to seeing the California population of Swainson's Hawks flourish for all generations to come. Swainson's Hawks are listed as threatened under state law and afforded protections through California Endangered Species Act (CESA) and California Environmental Quality Act (CEQA).

Please include us in any notice of recirculation, the distribution of the FEIR, and any notice of public hearing on the EIR.

The majority of Swainson's hawks in California nest in Sacramento, San Joaquin, and Yolo Counties with Solano, Merced, Stanislaus, Sutter, Glenn, and Colusa Counties all important to the central range of the bird. Throughout their range in California they are found using alfalfa and other hay crops as well as many row crops that are also important foraging habitat at specific times of the year. Swainson's hawks are also found using grassland habitats, but in much lower densities than are supported by the active agricultural uses described here.

California Department of Fish and Game's most recent inventory of Swainson's hawks in California estimated that 95 percent nest in the Central Valley. The highest nesting densities were also found in this area. Sixty percent of the nesting pairs were found in the four-county region of San Joaquin, Sacramento, Yolo and Solano, which is why this is considered the core breeding area for Swainson's hawks in California. (Anderson, Richard et al. (2007) California Swainson's Hawk Inventory: 2005-2006 DFG Staff Report Final Report Contract P0485902. UC Davis Wildlife Health Center Department of Fish and Game Resource Assessment Program.)

The purpose of the MGV plan is to

“establish a land use and circulation layout, and associated land use tools such as development clustering, a Transfer of Development Rights (TDR)/conservation easement program, and a land conservation trust, which are intended to limit the effects of residential development on the rural character of the valley, including the valley's views, wildlife habitat, wildlife movement corridors, and agricultural activities.”

15.01

The Plan’s purpose is clearly consistent with the conservation of Swainson’s Hawk. The Plan and EIR pertain to 1,905 acres of mostly agricultural lands with oak woodlands, and is an area which would be expected to support nesting and foraging Swainson’s Hawks as well as other raptors. However, the EIR is notably lacking in the assessment of impacts on and description of mitigation measures for impacts on Swainson’s Hawks. We do not agree with the conclusion that such impacts are mitigated to less than significant.

We have reviewed the Middle Green Valley Specific Plan draft EIR, and submit the following comments. Please accept our apology in advance should our comments show a lack of understanding of your plan and EIR. We’re not very familiar with your planning process in Solano County and ask that you put us on your mailing list so we can become better educated.

We support and incorporate by reference any comments made by California Department of Fish and Game.

15.02

1. Mitigation for Loss of Prime Agricultural Land. The Swainson’s Hawk population in California is highly interdependent with an agricultural economy. Nesting density is associated with a landscape of alfalfa and hay production, grazing using irrigated pasture, and row crops. The DEIR says there is no feasible mitigation for loss of prime agricultural land. We find the reasoning faulty and not supported by substantial evidence. In Yolo, San Joaquin and Sacramento Counties, local governments typically require projects removing agricultural land uses to do 1:1 mitigation, with permanent agricultural conservation easements, held by third party conservation organization in nearby agricultural areas within the county. The net result of this policy is to permanently conserve farmland and to avoid some of the negative cumulative impacts on agriculture of urban sprawl. Therefore we do not understand the DEIR statement that there is no feasible mitigation for loss of prime agricultural land. The highly acclaimed Solano County Land Trust would be an ideal third party to hold agricultural conservation easements to mitigate for loss of prime farmland due to this project. It currently hold over 19,000 acres for habitat and/or agricultural mitigation, in either fee title or agricultural or conservation easements, much of it dedicated as mitigation for development projects like Middle Green Valley. There is a plentiful supply of farmland in Solano County whose owners would be glad to sell a permanent agricultural easement, to be held by the Solano County Land Trust. The assertion that there is no feasible mitigation for loss of prime farmland has no basis in fact and, if carried into the certified EIR for this project, would make this EIR vulnerable to CEQA litigation.

15.03

2. Implementation Guarantees. The specific plan calls for approximately 1500 acres of the plan area to be permanently under conservation easement as open space but does not indicate how this policy will be implemented and financed.

"Approximately 1,490 acres (about 78 percent) of the plan area is designated as permanent open land, of which approximately 440 acres would be preserved as working agriculture. Approximately 23 percent of the planning area is designated for development, in a "neighborhood framework," each neighborhood having a designated informal pattern of rural roads, residential building types, and community buildings. "

What is the implementation guarantee for this aspect of the plan? Any board of supervisors could rezone the land "permanently designated open space" unless conservation easements were recorded. These easements could prove to be expensive; how would they be financed? Who would hold title to the permanent open space land and the conservation easement? What measures would prevent the grantor and holder of the conservation easement from subsequently rescinding the conservation easements? The draft conservation easements, or at minimum a statement of key provisions, needs to be included in the EIR so that the decision-maker and

public can form an opinion about what the easement will accomplish and how permanence is assured. Without the guarantees, the cumulative future impacts to the wildlife would be significantly greater than assessed in the EIR.

15

3. **Assessment of Impacts on Swainson's Hawks.** The DEIR relies on the NDDB, which is poorly kept database to identify nesting Swainson's Hawks. In the absence of a thorough document search and field survey, it is safe to assume that there are nesting Swainson's Hawks at this location since the habitat is consistent with nesting activity and Swainson's Hawks are known to nest in eastern Solano County. The DEIR should not assume that the closest nesting activity is 2 miles from the project area, and should instead provide assessment and mitigation with the assumption that there are several nesting territories active in the area.

15.04

4. **Mitigation for Impacts on Swainson's Hawk.** The language of the EIR is very non-specific regarding what measures will be required of each project to mitigate for impacts to the Swainson's Hawk. Reference to a "work in progress" HCP that has neither been adopted or approved by the wildlife agencies is legally faulty. Reliance on this non-existent HCP as a mitigation measure constitutes deferred mitigation which Courts have repeatedly ruled as unlawful under CEQA. At minimum the specific plan should have included the existing language of the current HCP draft - not just a vague reference to a future document. We have no idea from this EIR what mitigation will be required. In other parts of Swainson's Hawk range, there are specific Swainson's Hawk mitigation requirements in all EIRs and one of the options given is to use an HCP if an adopted HCP exists at the time a project is specifically approved. Reference to a future mitigation plan is called "deferred mitigation" and is not permitted under CEQA.

15.05

5. **Minimum 1:1 mitigation for foraging loss required.** At least 1:1 mitigation for Swainson's Hawk foraging loss is the minimum standard for loss of SWH foraging habitat in a number of local land use jurisdictions, Yolo, Sacramento County, City of Elk Grove, San Joaquin County, and others, and is the standard used by DFG. If Solano County envisions developing 440 acres (23 percent of 1905 acres), then there should be guaranteed 440 acres under conservation easement and managed for Swainson's Hawk foraging habitat (irrigated row crops, alfalfa or pasture).

15.06

6. **Mitigation for nesting habitat loss.** There also needs to be a requirement that any project level loss of nesting habitat be mitigated beyond the 1:1 foraging habitat mitigation.

15.07

7. **Details needed for mitigation requirements.** Mitigation should include identification of criteria for mitigation lands, and the terms and conditions of conservation easements acquired, including endowment for perpetual monitoring and management, and that these first be approved by California Department of Fish and Game as appropriate mitigation. No mitigation land should be located more than 5 miles from the project site. The easements or title should be held by qualified non profit conservation organization(s), with third party easement held by CDFG (or in fee title). Ensure that all mitigation measures for the Swainson's Hawk are enforceable. Even with the best available choice of lands, without management and enforcement fees and designation of an entity to manage and to enforce compliance with the easement in perpetuity, the permanent maintenance of the dedicated land to Swainson's Hawk foraging cannot be assured, and the project would not be compliant with CEQA's requirement that mitigation measures be enforceable.

15.08

CDFG is the trustee agency capable of judging the suitability of mitigation lands and conservation easements. CDFG has been performing this role for other mitigation (such as City

of Elk Grove), and has been working with other nearby jurisdictions on making such determinations. Other jurisdictions do require CDFG approval. There are several important functions that CDFG performs in this regard, including:

- standardization of easement requirements;
- assurance that no incompatible “double counting” or multiple sales of the same easement are taking place;
- biologically qualified judgment on habitat suitability and contiguity with nesting sites;
- assurance that better alternative sites have not been rejected by the local jurisdiction or applicant unreasonably.

7. Measures to Avoid and Reduce Take Inadequate. Regarding the DEIR’s measures to avoid and minimize take, they are inadequate to protect the Swainson’s Hawk against nest disturbance and reproductive disruption as well as interference with fledging. We disagree with the DEIR statement that Mitigation Measures 6-8 through 6-10 reduce potential impacts to less than significant. Each project should be required to do multiple nesting site surveys between April 1 and June 30 to determine nesting activity within a half mile radius. If any nesting activity is underway, CDFG should be consulted and the site should be managed per CDFG direction.

15.09

We strongly disagree with the policy of removing Swainson’s Hawk nesting trees during the non breeding period because there is high nesting site loyalty, and the removal of nesting sites can result in loss of breeding. At minimum any nesting site removal should be fully mitigated through agreement with California Department of Fish and Game. Many Swainson’s Hawks have retained nesting sites after urbanization if suitable foraging habitat is close by and human disturbance is minimized. We recommend every effort be made to identify, monitor, buffer and maintain known nesting trees.

Thank you for this opportunity to comment.

Sincerely,



Jude Lamare, President, Friends of the Swainson's Hawk

Cc: Ryan Ohal, USFWS
Charles Armor, CDFG

15. Jude Lamare, President, Friends of the Swainson's Hawk; January 25, 2010

- 15.01 Biological Resources--swainson's hawk--general--DEIR lacking in identification of impacts and mitigations for Swainson's hawk--disagree with conclusion that impacts are mitigated impacts are mitigated to less than significant.

Response: Swainson's Hawk is a State Threatened species that was identified in the DEIR as a species with potential to occur in the plan area. Therefore, in response to this comment, Impact 6-9 has been amended to read:

"Impact 6-9: Impacts on Special-Status Wildlife Species with Potential Habitat in the Plan Area. Development undertaken in accordance with the Specific Plan may also result in direct, temporary or indirect impacts on special-status species that have not yet been observed or are not yet known to occur, but could potentially occur, based on habitat conditions in the plan area, including CDFG Species of Special Concern (Pallid Bat, various Western Bat species, American Badger, and Northern Harrier), CDFG Fully Protected Species (Golden Eagle and White-Tailed Kite), State Threatened Species (Swainson's Hawk), and a USFWS Bird of Conservation Concern (Golden Eagle). This possibility represents a potentially significant impact (see criteria [a], [b], [f], and [g] under subsection 6.3.1, "Significance Criteria," above)."

Please see the edited version of this impact description on p. 6-71 in section 3, Revisions to the draft EIR. Please also see responses below to comments 15.04 through 15.09 for further details.

- 15.02 Agricultural and Mineral Resources--mitigation for loss of prime agricultural land--Swainson's hawk highly interdependent with agricultural economy--disagree with DEIR conclusion that there is no feasible mitigation for loss of prime ag. land. Replacement ratio of 1:1 typically required. Solano Co. Land Trust would be ideal third party to hold agricultural conservation easements to mitigate for loss of ag. land. Plentiful supply of ag. land in county whose owners would be glad to sell to permanent ag. easement.

Response: As indicated on DEIR pp. 4-2 and 4-11, the plan area includes approximately 700 acres of designated Prime Farmland, concentrated along the flat, alluvial valley floor. A principal goal of the draft Specific Plan is to return a substantial portion of this 700-acre total that has not been in recent cultivation back to cultivated agricultural use, to be implemented through the proposed Green Valley Conservancy, Agricultural Business Plan, Resource Management Plan, and Transfer of Development Rights program, which would more than offset the 123-acre loss identified under Impact 4-1.

- 15.03 Agricultural and Mineral Resources--conservation easement questions--how will conservation easement open space policy be implemented and financed? What is implementation guarantee for this plan aspect? "Permanent Open Space" can be rezoned unless conservation easement is recorded. Conservation easements could be expensive; how would they be financed? Who would hold title to permanent open space land under conservation easement? What measures would prevent grantor and holder from subsequently rescinding easements? EIR should include draft easement or, at minimum, state key easement provisions to demonstrate how permanence is assured.

Response: Please see Master Responses A and H. The SP-proposed Conservancy is required to be established prior to the recordation of the first Final Map within the plan area (see SP p. 4-14, section 4.2.1) (The Green Valley Agricultural Conservancy). Financing for the Conservancy would be funded by a transfer tax (see SP p. 4-7). Other Conservancy funding sources are described beginning on SP p. 4-13 (Conservancy Fees and Revenue Mechanisms). The timing and granting of conservation easements to the "Conservation Easement Holder" is described on SP p. 4-18 (Transfer of Development Rights Program).

- 15.04 Biological Resources--Swainson's hawk impact assessment--DEIR Swainson's hawk conclusions questioned--DEIR relies on NDDDB, which is poorly kept. In absence of thorough document search and field survey, should assume hawk is nesting at this location since habitat is consistent with nesting activity and hawk is known to nest in eastern Solano Co., etc. Several nesting territories active in area.

Response: Impact 6-9 has been amended to include Swainson's Hawk as a special status wildlife species with potential to occur in the plan area. Per DEIR Mitigation Measure 6-8, which provides mitigation for Impact 6-9, the biological resources assessment report required for project level plans submitted under the Specific Plan shall include an evaluation of special status wildlife species with the potential to occur as identified in the DEIR, including Swainson's Hawk. Mitigation Measure 6-8 also refers to the Solano ADHCP for avoidance and minimization measures for special status wildlife species with the potential to occur in the plan area. The avoidance and minimization measures described in the HCP include pre-construction survey and other avoidance measures that have been developed in coordination with CDFG. These measures include field surveys to identify Swainson's Hawk nesting activity (for examples, see ADHCP sections 5.2.7, 5.3.8, and 10.4.1). Regardless of the status of the HCP, the measures identified in that document provide guidance on approved CDFG measures for surveys, avoidance, minimization, and mitigation for Swainson's Hawk to be used by future project applicants in preparation of biological resources assessment reports.

- 15.05 Biological Resources--Swainson's hawk mitigation deferred--EIR language very non-specific; reliance on non-existent HCP constitutes deferred mitigation which is unlawful under CEQA. At minimum, specific plan should have included existing language from current HCP draft rather than vague reference. In other parts of hawk's range, there are specific mitigation requirements in all EIRs, including option of using an adopted HCP if one exists at time project is approved. Reference to future mitigation represents deferred mitigation and is not permitted under CEQA.

Response: Please see Master Responses B and C.

The purpose of this "first tier" program level DEIR is to establish procedures for the evaluation of impacts and mitigation measures for future specific project level developments undertaken in accordance with the Specific Plan. Applications for future development will be required to complete individual "second tier" biological assessment reports to evaluate potential impacts and suitable mitigation measures for those impacts in more detail. Specific impacts and mitigation for Swainson's Hawk will be evaluated as part of each individual project's application to Solano County. This "first tier" approach to mitigation in relation to future project specific analysis under a program level EIR is allowable as described in Title 14, California Code of Regulations,

Chapter 3, Section 15168, parts (c) and (d). For construction related impacts, impacts are identified and specific mitigation measures from the ADHCP are referenced under existing DEIR Mitigation 6-10.

- 15.06 Biological Resources--Swainson's hawk mitigation for foraging loss required--at least 1:1 minimum mitigation for Swainson's hawk foraging loss is standard. Should be guarantee that 440 acres designated for development (23 of 1905 acres) should be mitigated with 440 acres under conservation easement managed for Swainson's hawk foraging habitat (irrigated row crops, alfalfa or pasture).

Response: The "first tier" program level analysis in the DEIR allowed examination of the total area of land preserved compared to the total amount of land zoned for development under the proposed Specific Plan. The Project Description and Executive Summary of the DEIR explain that the Specific Plan includes approximately 1,490 acres of permanently preserved land (including 440 acres of agricultural land), compared with approximately 415 acres of land zoned for development. This level of Specific Plan-proposed land preservation would be more than adequate to provide a minimum 1:1 preservation ratio for Swainson's Hawk habitat, if required, based on results of the future "second tier" surveys performed for the required project-level biological resources assessment reports. As stated in Mitigation Measure 6-10, "The Specific Plan provides for sufficient avoided and preserved habitat to mitigate for potential impacts on foraging habitat for breeding bird species. The final acreage of avoided and preserved land can only be determined based on project-level plans to be developed by land owners." In addition, Mitigation Measure 6-8 references the Solano HCP as a source for suitable mitigation if Swainson's Hawk habitat is impacted by a proposed project. The HCP measures include specific ratios for preservation of Swainson's Hawk habitat based on the distance of impact from a given nest site.

- 15.07 Biological Resources--Swainson's hawk nesting habitat loss--also needs to be requirement that any project-level loss of nesting habitat be mitigated beyond 1:1 foraging habitat mitigation.

Response: Please see response to comment 15.06.

- 15.08 Biological Resources--Swainson's hawk--mitigation details needed--numerous specific mitigation details, terms, conditions suggested by commenter, and CDFG role as judging suitability of mitigations (mitigation lands and conservation easements) described/advocated.

Response: Policies governing the use of conservation easements and establishment/identification of a Conservancy to manage those easements are detailed in the Specific Plan (see Master Response H). As described in the draft Specific Plan, conservation easements would be a key tool used for land preserved in the plan area. The local Conservancy would be responsible for managing conservation easements that are recorded on preserved lands. The proposed Specific Plan implementation aspects are consistent with the mitigation details listed in this comment. Identification of impacted and preserved areas that are suitable for Swainson's Hawk would be completed as part of the "second tier" project level biological assessments. Per Mitigation Measure 6-8, these assessment reports would be required to reference the Solano HCP measures for special status wildlife species, which include specific ratios

for preservation of Swainson's Hawk habitat based on the distance of impact from a given nest site.

- 15.09 Biological Resources--Swainson's hawk--mitigation to avoid or reduce take inadequate--reasons explained why DEIR measures to minimize take are inadequate for Swainson's hawk; Mitigations 6-8 and 6-10 inadequate; project-specific multiple nesting surveys managed per CDFG direction are advocated; strong disagreement with policy of removing nesting trees during non-breeding season--CDFG agreement for nesting site removal should be required at a minimum; etc.

Response: As described above, the DEIR requires an evaluation of Swainson's Hawk as part of the "second tier" biological resources assessment report prepared for each individual project. The EIR also specifically references the Solano HCP for measures to avoid, minimize, and mitigate for impacts to Swainson's Hawk. These measures include survey protocols and preservation requirements that were developed in coordination with CDFG. If a project undertaken in accordance with this Specific Plan could result in impacts to Swainson's Hawk, the applicant would be required to consult with CDFG under the California Endangered Species Act. This requirement to consult with CDFG under CESA is applicable to nesting site removal as well as impacts to foraging habitat.

From: Roberto Valdez [roberto58valdez@hotmail.com]
Sent: Thursday, February 25, 2010 5:01 PM
To: mwalsh@olanocounty.com
Subject: Individual Report re: MGVDEIR (12/2009).
 February 25, 2010

Matt Walsh – Principal Planner
 Solano County
 Department of Resource Management
 Planning Services Division
 675 Texas Street
 Suite 5500
 Fairfield, CA 94533

Subject: **Individual Comments to Middle Green Valley Specific Plan DEIR
 (December 2009).**

Dear Mr. Walsh:

Responding to Sections 6.1-6.5 and Section 8, I am very concern the adverse impacts that the 400 additional residential units will have on both the Suisun Valley corridor (No. 2) and Rockville Hills corridor (No. 6) of the proposed Multi-Species Habitat Conservation Plan of Solano County, resulting in piecemeal conservation efforts for 15 (34 total) threatened/endangered/species of concern that I have identified during past 11 years in Solano County. While this project plan identifies the presence of Loggerhead Shrike and Western Pond Turtle, it only anticipates potentially the presence of 13 species based on their potential habitat, disregarding 13 other species involving known birds, insects, mammals, plants, trees, fish, and invertebraes in Solano County (Please refer to Table 6.3).

16.01

Also, based on Oak Woodland Conservation Act, I am very concern that this project has only cited the acreage for the known Mixed, Coast Live, and blue Oak Woodland, but it has not specified the exact conditions, locations, and possible removal/ replacement plans to known oak trees within the project area.

16.02

In addition, as a supporter of the Vallejo Inter-Tribal Council, I am very concerned that this project will impact at least 5 known Native American sacred sites within the project area

16.03

Thank you very much.

Roberto Valdez – Solano Resident.

Hotmail: Trusted email with Microsoft's powerful SPAM protection. [Sign up now.](#)

16. Roberto Valdez, Solano Resident; January 25, 2010

- 16.01 Biological Resources--Solano County Multi-Species Habitat Conservation Plan implications--400 additional residential units may adversely affect both Suisun Valley corridor (No. 2) and Rockville Hills corridor (No. 6) of plan resulting in piecemeal conservation efforts for 15 of 34 total species of special concern identified by commenter during past 11 years in County. Plan disregards 13 other species known in Solano County (Table 6.3).

Response: Potential impacts to habitat corridors are evaluated as part of Impact 6-13 and associated mitigation is described under Mitigation Measure 6-13. The DEIR also discusses the minimization of impacts to habitat corridors through the use of a cluster development model. The Suisun Valley corridor identified as part of the draft HCP is located outside of the Specific Plan Area, but maintaining a linkage between the plan area and Suisun Marsh is discussed in the DEIR.

The evaluation of species with the potential to occur in the plan area was based on a plan area biological assessment completed by the Specific Plan consulting biologists, WRA, Inc. The WRA assessment included site inspections. Determination of species' potentials to occur was based on the type of habitat present in the plan area as well as species known to occur within the proximity based on the CNDDDB and local knowledge of species ranges. The species determined to be unlikely or with no potential to occur were based on specific habitat requirements of those species and lack of suitable habitat within the plan area. Though these species may occur in Solano County, specific habitat requirements vary from species to species and regional distribution of those species.

- 16.02 Biological Resources--oak woodland impacts--based on Oak Woodland Conservation Act, concern that project has only cited acreage totals for the three known oak types, but has not specified exact conditions, locations, and possible removal/replacement plans for known oak trees within project area.

Response: The "first tier" Specific Plan is not intended to identify specific locations and tree species for removal, nor specific removal and replacement plans for oak trees. These "second tier" project level details will be evaluated separately for each project-specific development plan as required by Mitigation Measure 6-3.

- 16.03 Cultural, Historic and Paleontological Resources--concerned that project will impact at least five known Native American sites within project area.

Response: Comment acknowledged. The comment expresses concern about the DEIR finding that Specific Plan implementation could impact at least five known Native American sites within the plan area. The DEIR does not definitively conclude the Specific Plan buildout will adversely impact the five recorded Native American archaeological sites in the plan area (four of these sites are located east of Green Valley Road, away from the Specific Plan development areas).

The DEIR acknowledges under Impact 8-1 that the Specific Plan land use policies and associated environmental stewardship objectives have been formulated with the intent to preserve and protect plan area archaeological resources, but nevertheless, also concludes that development in accordance with the Specific Plan may disturb existing

unrecorded sensitive archaeological resources in the plan area. Mitigation 8-1 has been formulated to supplement existing County General Plan policies and implementation programs formulated to reduce such impacts with onsite archaeological field inspection requirements for projects involving substantial ground disturbance.

DEPARTMENT OF TRANSPORTATION

111 GRAND AVENUE
P. O. BOX 23660
OAKLAND, CA 94623-0660
PHONE (510) 622-5491
FAX (510) 286-5559
TTY 711



*Flex your power!
Be energy efficient!*

RECEIVED
Solano County
Revenue

JAN 26 2010

AM 7 8 9 10 11 12 1 2 3 4 5 6 PM

January 25, 2009

SOL080444
SCH#2009062048
SOL-80-12.84

Mr. Matt Walsh
Solano County Department of Resource Management
675 Texas Street, # 5500
Fairfield, CA 94533

Dear Mr. Walsh:

Middle Green Valley Specific Plan- Draft Environmental Impact Report (DEIR)

Thank you for including the California Department of Transportation (Department) in the environmental review process for the Middle Green Valley Specific Plan. The following comments are based on the DEIR. Our previous comments in our letter to you dated June 24, 2009 in response to the Notice of Preparation still apply. We have reviewed the DEIR and have the following comments to offer:

Traffic Operations

The project generated traffic would exacerbate already unacceptable baseline operations of level of service F at the Green Valley Road Interstate 80 westbound on-ramp and eastbound on-ramp during the weekday AM and PM peak hours (pages 17-25 to 17-26). Close coordination of the various phases of construction of the Interstate 80, Interstate 680, and State Route 12 interchange project will be necessary to properly mitigate the impacts of the Middle Green Valley Specific Plan Project. 17.01

Please provide the Department with a copy of the Traffic Analysis Appendix mentioned on page 17-1. 17.02

Please explain why the existing intersection at the Westbound I-80 off-ramp and Neitzel Road was excluded from this study. 17.03

Mr. Matt Walsh/ Solano County Department of Resource Management
January 25, 2010
Page 2

Should you have any questions regarding this letter, please call me at (510) 622-5491.

Sincerely,

Handwritten signature of Lisa Carboni in cursive script.

LISA CARBONI
District Branch Chief
Local Development - Intergovernmental Review

c: State Clearinghouse

17. Lisa Carboni, District Branch Chief, Local Development-Intergovernmental Review, State of California Department of Transportation; January 25, 2010

17.01 Transportation and Circulation--Copy of Traffic Analysis Appendix requested.

Response: A copy of the Transportation Analysis Appendix has been forwarded by County staff to Caltrans.

17.02 Transportation and Circulation--Explain why WB I-80 off-ramp/Neitzel Rd. was excluded from study.

Response: For all practical purposes, Neitzel Road serves as an extension of the I-80 westbound off-ramp. The intersection of Neitzel Road (the I-80 westbound off-ramp) and Business Center Drive was included as a "study intersection" in the analysis, but a detailed analysis at the location where the I-80 westbound ramp splits off to terminate at both Business Center Drive (via Neitzel Road) and Suisun Valley Road was not conducted--i.e., was considered beyond the scope of this EIR. This split is not controlled by stop signs or a traffic signal. This location is actually considered a ramp "diverge" and it was concluded (in coordination with the City of Fairfield) that the project would not result in any significant effects on traffic operations at this location.



State of California – The Natural Resources Agency
DEPARTMENT OF FISH AND GAME
Bay Delta Region
Post Office Box 47
Yountville, California 94599
(707) 944-5500
www.dfg.ca.gov

ARNOLD SCHWARZENEGGER, Governor
John McCamman, Director



18

February 9, 2010

Mr. Michael Yankovich
County of Solano
Department of Resource Management
675 Texas Street, Suite 5500
Fairfield, CA 94533

Dear Mr. Yankovich:

Subject: Middle Green Valley Specific Plan, Draft Environmental Impact Report,
SCH #2009062048, Solano County

The Department of Fish and Game (DFG) has reviewed the Middle Green Valley Specific Plan (Plan) draft Environmental Impact Report (EIR), and we have the following comments.

The proposed 1,905-acre Plan area is located north of the City of Fairfield along Green Valley Road at the east edge of the western hills. The Plan area includes the valley floor with two drainage corridors, Green Valley Creek and Hennessey Creek, surrounded by foothills with steep slope areas and oak woodlands. Agricultural, residential and commercial uses within the Plan area include grazing, livestock barns and stock ponds, vineyard development and building infrastructure, housing units, power and communication lines, and a Solano County Water Agency-operated reservoir. The Plan is intended to carry out the goals and policies identified by the Solano County 2008 General Plan for the Middle Green Valley "special study area."

Approximately 1,490 acres (78 percent) of the Plan area is proposed to be designated as permanent open land including approximately 440 acres for agricultural use. Lands designated for development would include a maximum of 400 and 100 new primary and secondary residential units, respectively. The Plan proposes to establish a land use and circulation layout, and associated land use tools such as development clustering and a transfer of development rights program while incorporating conservation easements to limit the impacts of development on the rural and agricultural character, and biological resources of the area.

DFG is providing comments on the draft EIR as a Trustee Agency and Responsible Agency. As Trustee for the State's fish and wildlife resources, DFG has jurisdiction over the conservation, protection, and management of the fish, wildlife, native plants, and the habitat necessary for biologically sustainable populations of such species for the benefit and use by the people of California.

Conserving California's Wildlife Since 1870

Mr. Michael Yankovich
February 9, 2010
Page 2

Botanical Resources

Mitigation 6-3

The proposed Plan states that an Oak Woodlands Management Plan (OWMP) will be submitted prior to approval of individual development projects within the Plan area. At a minimum, the management and protection of oak woodlands should be consistent with "The Oak Woodlands Conservation Act 2001" (see http://www.wcb.ca.gov/Applications/pdf/Oak_Program.pdf). The draft EIR for the proposed Plan should specify that a detailed adaptive management plan for oak woodlands shall be prepared which is supported by scientific studies, ecological expertise, and a funding budget at a minimum. The draft EIR should describe restoration efforts such as conifer encroachment and include a timeline for restoration work.

18.01

Pursuant to the California Environmental Quality Act (CEQA) Section 21083.4, the draft EIR should state that in subsequent CEQA documents, any loss of oak woodlands shall be effectively mitigated. Oak woodlands are important for mast production and provide habitat for cavity nesters and hunting and resting perch sites for diurnal and nocturnal raptor species. The draft EIR states that any removal of heritage oaks will be mitigated by replanting at a ratio of 1:1. DFG considers this mitigation measure inadequate to avoid or reduce impacts to below a level of significance. If impacts to oak woodlands cannot be fully mitigated by permanent conservation and management, then effective mitigation should include planting replacement oaks at a minimum 1:1 ratio of trunk basal area.

Mitigations 6-6 and 6-7

The proposed Plan states that protocol-level surveys for special-status plant species will be conducted prior to approval of future individual project-level development plans. Botanical surveys were conducted within the proposed Plan area on April 22 and 23, 2009. However, future botanical surveys should be conducted throughout the blooming period for plant species potentially occurring within the proposed project site. Please refer to the recently revised DFG protocols for surveying and evaluating impacts to rare plants available at <http://dfg.ca.gov/habcon/plant/plants.html>. The draft EIR should specify that rare, threatened and endangered plant species to be addressed should include all those which meet CEQA definition (see CEQA Guidelines, Section 15380). If project impacts to sensitive plant species cannot be avoided, then off-site conservation should be included as part of a mitigation and monitoring plan. DFG should be consulted to review and approve the mitigation and monitoring plan.

18.02

Biological Resources

The draft EIR should provide a complete assessment of potential habitat for special-status wildlife species within the proposed Plan area and surrounding lands. Sources should not be limited to positive occurrence databases, such as the California Natural Diversity Data Base (CNDDDB). The CNDDDB contains only records of species and natural communities which have been observed and documented. Absence of data in such sources does not confirm that the species is absent from the proposed Plan area. Sources should be predictive in nature, discussing occurrence on the basis of habitat type and geographic area.

18.03

Mr. Michael Yankovich
 February 9, 2010
 Page 3

Mitigations 6-4, 6-5 and 6-12

Development projects within the proposed Plan area may result in adverse impacts to aquatic and riparian habitats. Steelhead (*Oncorhynchus mykiss*) has been documented within the Green Valley Creek watershed. Riparian forests maintain shade, protect against windthrow, produce litterfall, provide important migratory routes for wildlife, and serve to recruit in-stream small and large woody debris, which provides habitats, food and shelter for invertebrates and fish. Aquatic habitat could be affected by the alteration of stream flow as a result of filling-in and grading operations of upstream drainages and swales, and groundwater withdrawal. Riparian buffers also act as a filter strip for sedimentation from erosion sources located further upslope. Sediment delivery to streams could adversely affect spawning and juvenile rearing habitat conditions for steelhead as well as habitat for other aquatic species. The draft EIR should provide adequate protection and maintenance of the beneficial functions of aquatic and riparian habitats. DFG considers a 250-foot riparian buffer as adequate to protect anadromous salmonids and maintain aquatic habitat. The draft EIR should include enhanced protective and restoration measures on Green Valley Creek and other fish-bearing streams.

18.04

Lake and Streambed Alteration Agreement

For any activity that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of a river or stream, or use material from a streambed, DFG may require a Lake and Streambed Alteration Agreement (LSAA), pursuant to Section 1600 et seq. of the Fish and Game Code, with the applicant. Issuance of an LSAA is subject to CEQA. DFG, as a responsible agency under CEQA, will consider the CEQA document for the project. The CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for completion of the agreement. To obtain information about the LSAA notification process, please access our website at <http://www.dfg.ca.gov/habcon/1600/>; or to request a notification package, contact the Lake and Streambed Alteration Program at (707) 944-5520.

18.05

Mitigations 6-8, 6-9 and 6-10

Future land uses within the proposed Plan area may adversely affect the long-term functionality of wildlife habitat and viability of dispersal for several special-status wildlife species. In order to adequately assess these impacts, protocol-level wildlife surveys should be conducted prior to each future site-specific development plans. Surveys to be conducted should include, but are not limited to, California red-legged frog (*Rana draytonii*), Swainson's hawk (*Buteo swainsoni*), western burrowing owl (*Athene cunicularia*), and western pond turtle (*Actinemys marmorata*; see Mitigation 6-11). The suitability of habitat within the proposed Plan area for California tiger salamander (*Ambystoma californiense*) should also be assessed. DFG-recommended wildlife survey and monitoring protocols and guidelines are available at http://www.dfg.ca.gov/wildlife/nongame/survey_monitor.html.

18.06

Suitable habitat is present within the proposed Plan area for the California red-legged frog (CRLF), which is federally-listed as Threatened and is a State Species of Special Concern (SSC). CRLF may be adversely affected by the filling-in of streams and ponds, and changes in hydrology due to urban runoff of creeks and ponds, and development of adjacent land. The draft EIR should provide protection measures to avoid "take" of CRLF

18.07

and significant impacts to CRLF dispersal, breeding and foraging habitat. DFG recommends that a minimum 300-foot buffer be established surrounding suitable breeding habitat for CRLF.

Birds in the order of Falconiformes and Strigiformes and their nests are protected under Fish and Game Code Section 3503.5. Migratory raptors are also protected under the Migratory Bird Treaty Act. It is also unlawful to take, possess, or destroy the nest or eggs of any bird pursuant to Fish and Game Code Section 3503. Burrowing owls are considered a State SSC. If burrowing owls are documented within the proposed Plan area or within 250 feet of Plan boundaries, survey results should be submitted to DFG staff according to the guidelines identified in the DFG "Staff Report on Burrowing Owl Mitigation" (1995). If burrowing owls are documented on the Project site, DFG views this as a significant impact and recommends the conservation of extant burrowing owl habitat. DFG is available to provide guidance on compensatory mitigation based on site-specific factors.

The Swainson's hawk is listed as threatened under the California Endangered Species Act (CESA). To avoid adverse impacts to Swainson's hawk, project activities are prohibited within 0.5 miles of a nesting Swainson's hawk between March 1 and September 15 without consultation with DFG. The draft EIR should include measures to avoid or minimize loss of Swainson's hawk foraging habitat. Lands should be protected in perpetuity and provide for long-term management of Swainson's hawk habitat. DFG recommends mitigation for loss of Swainson's hawk foraging habitat based on the following ratios:

18.09

- For projects within one mile of an active nest tree - shall provide one acre of land for each acre of development authorized (1:1 ratio).
- For projects within 5 miles of an active nest tree but greater than 1 mile from the nest tree - shall provide 0.75 acres of land for each acre of urban development authorized (0.75:1 ratio).
- For projects within 10 miles of an active nest tree but greater than 5 miles from an active nest tree - shall provide 0.5 acres of land for each acre of urban development authorized (0.5:1 ratio).

Mitigation requirements for special-status species should be determined in consultation with the U.S. Fish and Wildlife Service and DFG, and fully disclosed in the CEQA document prior to certification of the EIR. Please be advised that a CESA Permit must be obtained if the project has the potential to result in take of species of plants or animals listed under CESA, either during construction or over the life of the project. Issuance of a CESA Permit is subject to CEQA documentation; therefore, the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the project will impact CESA listed species, early consultation is encouraged, as significant modification to the project and mitigation measures may be required in order to obtain a CESA Permit.

18.10

Mitigation 6-11

The western pond turtle (WPT), which is a State SSC, is known to occur in several ponds within the proposed Plan area. WPT nests are very difficult to detect and may be located

18.11

Mr. Michael Yankovich
February 9, 2010
Page 5

up to 600 feet away from aquatic habitat. The draft EIR should specify that if an individual WPT is observed, mitigation shall be provided through preservation of occupied habitat that also provides nesting sites.

Land Conservation

The Plan proposes to establish a Green Valley Conservancy (Conservancy) as part of the Conservation Easement Program. The Conservancy would oversee the protection and management of the approximately 1,590 acres of agricultural and open lands within the proposed Plan area. The Conservancy would use a Resource Management Plan (RMP) which would specify long-term sustainability and management programs for resources protection and restoration. Wetland and riparian habitat restoration and improvement, and oak woodland preservation are also proposed in the Plan.

The draft EIR should include a detailed adaptive management and monitoring plan for each habitat type including oak woodlands, wetlands, riparian forests, streams, ponds and grasslands. Non-native invasive plant species used as erosion control and landscaping ornamentals may spread to native habitats and be difficult if not impossible to control. Therefore, the RMP should include effective techniques to eradicate or control invasive non-native plants in natural and protected areas. The draft EIR should provide detailed information on the location and extent of habitat types which will receive protection in perpetuity under a conservation easement. The draft EIR should state that protected lands will include an endowment fund for long-term resource management.

18.12

If you have any questions, please contact Ms. Brenda Blinn, Environmental Scientist, at (707) 944-5541; or Mr. Liam Davis, Habitat Conservation Supervisor, at (707) 944-5529.

Sincerely,



Charles Armor
Regional Manager
Bay Delta Region

cc: State Clearinghouse

Mr. Ryan Olah
U.S. Fish and Wildlife Service
2800 Cottage Way, Room W2605
Sacramento, CA 95825-1888

18. Charles Armor, Regional Manager, Bay Delta Region, State of California Department of Fish and Game; February 9, 2010

- 18.01 Biological Resources--Impacts on Oak Woodlands--Mitigation 6-3, DEIR should specify detailed adaptive management plan for oak woodlands shall be prepared, DEIR should describe restoration efforts; DEIR should state that in subsequent CEQA documents, any oak woodlands loss shall be mitigated, EIR recommended 1:1 replanting ratio inadequate, if impacts cannot be otherwise mitigated w/perm. conserv. and mgmnt., replacement ratio should be 1:1 ratio of trunk-basal area.

Response: The required contents of a project-specific oak woodland management plan described in the DEIR text are consistent with the Oak Woodlands Conservation Act of 2001. These requirements include replacement of native oaks at a minimum of a 1:1 ratio. Other recommendations for oak woodland mitigation provided by DFG in the comment would need to be considered by individual future applicants for potential significant impacts at the "second tier" project-level environmental evaluation phase to be completed as part of the DEIR-required project-specific biological assessment reports.

- 18.02 Biological Resources--Impacts on Oak Woodlands--Mitigation 6-6, Impact on Special Status Plant Species Observed, and Mitigation 6-7, Impacts on Special Status Plant Species w/ Occurrence Potential: required future botanical surveys should be conducted throughout blooming period for species potentially occurring (revised DFG protocols cited), DEIR should specify CEQA sec. 15380 definition of special status plant species; if onsite impacts cannot be avoided, offsite conservation should be included in mitigation; DFG should be consulted to review and approve MMP.

Response: The DEIR does not exclude rare plant species from the survey requirements detailed in Mitigation Measures 6-6 and 6-7. The botanical surveys conducted by the EIR biologist as part of this "first tier" DEIR preparation program provided appropriate reconnaissance level information regarding habitat types present in order to predict potential special status plant species that may need to be further considered as part of future protocol level "second tier" botanical surveys. The "second tier" biological resources assessment reports for future specific land development projects will evaluate the potential for special status plant species to occur on a given property in more detail, including those that meet the CEQA definition of special status species, and if determined necessary, a protocol level rare plant survey will be performed.

- 18.03 Biological Resources--Impacts on Special Status Species--DEIR should provide complete assessment of special status wildlife species, not just positive occurrence databases, CNDDDB alone not adequate; should discuss possible occurrence based on habitat type and geographic area.

Response: The habitat mapping shown on DEIR Figures 6.1, 6.3, 6.7, and 6.8 was used in concert with the CNDDDB-identified resources listed in DEIR section 6.1.2(c), as well as other documents, databases, and expert knowledge in evaluating species range and habitats. The DEIR evaluation of special status wildlife species utilized these sources to evaluate the potential for occurrence of species.

- 18.04 Biological Resources--Mitigations 6-4, Impact on Riparian Communities and 6-12, Impacts on Steelhead: more reasons described in support of finding that project may result in adverse impacts on aquatic and riparian habitats; DEIR should provide adequate protection and maintenance of beneficial functions of these two habitats; DFG considers 250 foot riparian buffer as adequate to protect anadromous salmonoids and maintain aquatic habitat [Mit C-4 says 50 to 100 feet); DEIR should include enhanced protective and restoration measures for Green Valley Creek and other fish-bearing streams.

Response: The specific buffer required by the DEIR is also the minimum buffer designated for Green Valley Creek in the draft Specific Plan. This proposed buffer varies in width, and in most areas exceeds 250 feet. The 100 foot buffer minimum requirement would improve existing conditions in Middle Green Valley, where the current riparian condition in most areas is a vegetative buffer of less than 100 feet. Specific Plan Policy OL-2 establishes restoration as a priority within avoided and preserved lands in the Plan Area, with conceptual plans for riparian habitat restoration and buffers provided as part of the Specific Plan.

- 18.05 Biological Resources--Lake and Streambed Alteration Agreement; CEQA document should fully identify potential impacts on stream or riparian resources and provide adequate avoidance, mit. monitoring and reporting commitments for completion of LSAA under sec. 1600--See CDFG website for sec 1600.

Response: The purpose of the biological resources analysis in this first-tier DEIR is to establish an effective program for second-tier evaluation of potential project-specific impacts occurring as a result of development undertaken in accordance with the Specific Plan. As required by law, a Lake and Streambed Alteration Agreement would need to be submitted for both the plan creek restoration activities as well as specific development. Full identification of potential impacts to stream and riparian resources is only possible during the second-tier project level planning process, as individual detailed project development plans and specifications are developed in accordance with the Specific Plan.

- 18.06 Biological Resources--Mitigations 6-8, Impacts on Known Special-Status Wildlife Species Observed or Known to Occur, 6-9, Impacts on Special-Status Wildlife species w/ Potential Habitat in Area, and 6-10, Impact on Loggerhead Shrike, Lewis's Woodpecker, Grasshopper Sparrow and Other Protected Bird Species: protocol-level wildlife surveys should be conducted prior to ea. future site-specific development for, but not limited to, CRLF, SwHk, WeBuOw, and WPT; suitability of habitat for CTS should also be addressed; web reference to DFG-recommended wildlife survey and monitoring protocols and guidelines provided.

Response: The surveys recommended in the comment will be undertaken as appropriate, based on the results of each individual second tier project-level biological resources assessment report. The biological resources assessment report will be required for each application to Solano County under the Specific Plan, and specific measures will be implemented for species found to be present or presumed to be present within a given development area.

- 18.07 Biological Resources--Mitigations 6-8, 6-9 and 6-10--DFG recommends min. 300-ft. buffer surrounding suitable breeding habitat for CRLF; DFG code secs. protecting

raptors and migratory birds cited; if BuOw is documented, incl. w/in 250 ft. of plan area boundary, survey results should be submitted to DFG; if BuOw are documented in project site, DFG views this as sign. impact and recommends conservation of extant BuOw habitat; DFG available to provide guidance on compensatory mitigation.

Response: DEIR Mitigation Measures 6-8 through 6-10 include requirements for mitigation of potential special status wildlife species impacts, including CRLF, migratory raptors, and Burrowing Owl, to be included in the required second-tier assessment required in order to prepare each individual project's required biological resources assessment report. Potential impacts, avoidance, and mitigation, including specific survey requirements for these species will need to be addressed in each individual project biological resources assessment report. Therefore, Mitigation Measure 6-1 has been amended in response to this comment to read:

"Mitigation 6-1. The County shall encourage avoidance, minimization and compensatory mitigation of identified biological resources, including careful consideration by prospective individual project applicants of the biological resource constraint information provided in this EIR during the pre-application project design phase. In addition, prior to County approval of any future plan area subdivision or other discretionary development application, the project proponent shall submit a biological resources assessment report prepared by a qualified biologist for County review and approval. The biological resources assessment report shall contain a focused evaluation of project-specific impacts on biological resources, including any protocol level surveys for biological resources that have been performed or may be necessary, for temporary and indirect impacts, as well as all related biological impact avoidance, minimization, and compensatory mitigation measures included in the project. If the assessment results in a determination that: (a) no oak woodland area, potentially jurisdictional wetland area, or riparian habitat or other stream features would be affected; and (b) no special-status plant or animal species habitat known to occur or potentially occur on or in the vicinity of the project would be affected; no further mitigation would be necessary. If the assessment results in a determination that one or more of these features would be affected, the assessment shall identify associated avoidance, minimization, and/or compensatory mitigation measures shall be consistent with the requirements of corresponding Mitigation 6-2 through 6-13 which follow in this EIR chapter, as well as all other applicable state and federal laws and regulations.

Prior to project approval, the County shall also confirm that project-level development has received the necessary permits, approvals, and determinations from applicable biological resource agencies as identified under Mitigations 6-2 through 6-13 which follow.

Implementation of these measures would reduce the potential impact to a less-than significant level."

- 18.09 Biological Resources--Swainson's Hawk listed as State Threatened (CESA); project activities prohibited within 0.5 miles of nesting SwHk btwn Mar 1 and Sept 15 w/o DFG consultation; DEIR should include measures to avoid or min. loss of SwHk foraging habitat; lands should be protected in perpetuity and provide for long-term management of SwHk habitat--very substantive individual project land provisions suggested--1.0 to 0.5 acres of land for projects w/in 1 to 10 miles of active nest tree.

Response: See response to comments 15.01, 15.04, 15.05, 15.06, and 15.08.

- 18.10 Biological Resources--Mit. for special-status species should be determined in consultation w/ USFWS and DFG and fully disclosed in CEQA document prior to cert. of EIR; CESA Permit must be obtained if project has potential to result in take of CESA-listed plant or animal species during constr. or over life of project; issuance of CESA Permit subject to CEQA; therefore, CEQA doc. must specify impacts and mit. measures, and MMRP; early consultation encouraged.

Response: The Specific Plan is not intended to provide details regarding specific future land development activities, but rather provides a first-tier framework to guide those future second-tier plans. Therefore, the action being evaluated under this DEIR is not actual land development, but instead the change in zoning for allowable land use that would be adopted under the Specific Plan. The responsibility of Solano County and the purpose of this program level DEIR, as established in Title 14, California Code of Regulations, Chapter 3, Section 15168, parts (c) and (d), is to establish a program for evaluation of impacts and mitigation measures for future specific project level developments undertaken in accordance with the Specific Plan. Pursuant to Mitigation Measure 6-1, specific proposals for land development activities will be required to complete second-tier individual biological assessment reports and to demonstrate adherence to all applicable local, state and federal laws. The second-tier biological resource assessment reports will evaluate potential impacts and suitable mitigation measures for each detailed project. Impacts to all species identified in this first-tier EIR may or may not be applicable to every second-tier project, and specific mitigation measures may or may not be appropriate for a given project undertaken as part of the Specific Plan, depending on the project location and results of surveys in the site-specific project area. Therefore, the evaluation of more detailed impacts and identification of more specific required mitigation measures is appropriate at the second-tier project level rather than the first-tier program level. It will be the responsibility of the applicant for each individual project to consult with applicable resource agencies as appropriate to the species identified for that property and specific impacts of the proposed activity.

Please also see Master Responses B and C herein.

- 18.11 Biological Resources--Mitigation 6-11, Impact on WPT: DEIR should specify that individual WPT is observed and mit. shall be provided through preservation of occupied habitat that also provide nesting areas.

Response: The potential for impacts to Western Pond Turtle is disclosed under Impact 6-8 of the DEIR. Specific impacts and appropriate avoidance, minimization, and mitigation measures will be provided as part of the second-tier individual project biological resources assessment report, as described above for comment 18.10.

- 18.12 Biological Resources--Land Conservation: DEIR should include detailed adaptive management and monitoring plan (RMP) for each habitat type including oak woodlands, wetlands, riparian forests, streams, ponds and grasslands. RMP "should include" effective techniques to eradicate or control invasive non-native plants in natural and protected area; DEIR should provide detailed information on location and extent of habitat types which will receive protection in perpetuity under conservation

easements DEIR should state that protected lands will include endowment fund for long-term resource management.

Response: Policies governing the use of conservation easements, establishment/identification of a Conservancy to manage those easements, and establishment of an endowment, are detailed as part of the Specific Plan. As described in the draft Specific Plan, conservation easements will be a key tool used for preservation of land in Middle Green Valley. A local Conservancy would be responsible for managing conservation easements that are recorded on preserved lands. It is not the intent of the first-tier Specific Plan to establish the specific locations and habitats contained within all of the preserved lands to be covered under conservation easement and managed by the Conservancy under the Resource Management Plan. Identification of preserved land will only be possible after development of second-tier detailed development plans in accordance with the Specific Plan; however, they will be subject to the mitigation requirements for conservation lands identified in the DEIR.

RECEIVED
 Solano County
 Resources
 FEB 16 2010
 7:34:56 PM

Mimi Fleige
 1401 Rockville Road
 Green Valley, Ca. 94534
 November 12, 2010

Solano County Planning Commission
 675 Texas St., Suite 5500
 Fairfield, Ca. 94533

Dear Planners:

Upon reading your DEIR for Middle Green valley I noticed several discrepancies in your Biological Resources sections:

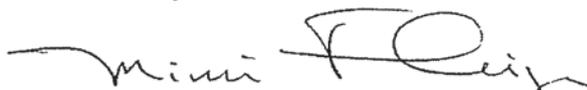
1. Per page 6-60 you state "where possible existing trees....may be spaded &transplanted to other locations." As a trained horticulturist , botanist & Vice President of a wholesale Horticultural supply company for 35 years, in my opinion this sort of transplanting produces a very high death rate; especially for native Oak trees. 19.01
2. Your mitigation 6-3 states "Transplanting of existing oaks would not require compensatory mitigation." This is totally unacceptable as the transplanting is basically a death sentence to most Oaks. 19.02
3. Page 6-60 states: " The removal of any tree, regardless of size, is to be approved." This is also unacceptable. Any oak with a diameter of 6 inches or more should not be removed. 19.03
4. On page 6-60 it says: "The removal of any Heritage Tree...is to be mitigated with a planting of a native tree." This needs to specify species for species. I would hate to see a California Bay Tree planted to mitigate the loss of a heritage Oak for example. 19.04
5. Page 6-61: "All affected heritage oaks...shall be replaced by a minimum ratio of 1:1." Again this is not acceptable. SB 1334 mitigation requires a minimum 5:1 replacement ratio. 19.05
6. These statements are also repeated on pages 5-59 as follows:
 a) Direct impacts on oak woodlands...minimum of 1:1 replacement ratio by acreage and
 b) replanting of removed heritage oaks at a 1:1 ratio.
 As I mentioned above both a) and b) need to be changed to a minimum of 5:1 replacement ratio. 19.06
7. Page 6-46 section 6.2.1 says: "protect oak woodlands and heritage trees by planting native tree species in new developments and along road right of ways." This needs to be amended to "by planting native OAK tree species in new developments..."
 Also keep in mind the possibility of SOD (Sudden Oak Death). Some natives like California Bay, California Hazelnut, and Rhododendrons are carriers of SOD and should not be planted. 19.07
8. On page 6-61 you specify a 20% replacement of removed oaks via seedlings. However, the mortality of young oak seedlings is extremely high. It needs to be specified that the hired 7 year certified biologist must continue replacing the seedlings that die with new viable ones until they are all of size enough to survive. 19.08
9. At least 330 different species depend on Oaks to survive. By removing these oaks the county is destroying habitat for these dependant plants, animals and insects. Nebulous attempts at replacing mature oak trees with a few seedlings is a disaster environmentally. The mitigation remedies need to be specific; not vague by using generalities like "we will make an attempt". Attempts are not viable; specifics, exact demands and recommendations are. I want to see a specific plan in the DEIR, something with clear cut language, exact and precise rules which will allow for the continued domiciles of the affected species. 19.09

10. A typical example of this sort of vague language is on page 6-53:
"County shall encourage avoidance, minimization and compensatory mitigation..."
Not the word ENCOURAGE. This needs to be replaced with ENFORCE.

19.10

Thank you for your time.

Sincerely,

A handwritten signature in black ink, appearing to read "Mimi Fleige". The signature is written in a cursive style with a large, stylized "F" and "E".

Mimi Fleige M.S.
CNPS
CHS

19. Mimi Fleige, 1401 Rockville Road, Green Valley, CA 94534; February 16, 2010

- 19.01 Biological Resources--general comments re: chapter 6, Biological Resources ("trained horticulturist, botanist, and VP of horticultural supply company for 35 years):
Transplanting proposed on DEIR p. 6-60 produces very high death rate, esp. for native oaks.

Response: The potential applicability of spaded and transplanted oaks will need to be evaluated by a trained arborist or forester as part of the Oak Woodland Management Plan required by DEIR Mitigation Measure 6-3. Therefore, Mitigation Measure 6-3 is amended in response to this comment to read:

"Mitigation 6-3. Prior to approval of future individual, site-specific development projects within the plan area, the project proponent shall submit an oak woodland management plan, prepared by a trained arborist or forester and consistent with the requirements of the Specific Plan and this EIR (see below). The oak woodland management plan may be integrated into the biological resources assessment report (see Mitigation 6-1).

Direct impacts on oak woodland shall be mitigated by (a) conservation of oak woodland through the proposed Transfer of Development Rights program (or other method if necessary) at a minimum of a 1:1 ratio by acreage, and (b) replanting of removed heritage oaks at a 1:1 ratio. Transplantation of existing oaks would not require compensatory mitigation, unless subsequent monitoring shows that the transplanted oak has not survived the process.

Implementation of this measure, combined with the detailed mitigation provisions included in the Specific Plan (see below), would reduce the potential impact to a less-than-significant level."

- 19.02 Biological Resources--Impacts on Oak Woodlands: Mitigation 6-3, transplanting mitigation unacceptable; transplanting is death sentence to most oaks.

Response: Please see response to comment 19.01.

- 19.03 Biological Resources--Impacts on Oak Woodlands: DEIR p. 6-60 statement that removal of any tree, regardless of size, is to be approved, is unacceptable; any oak with a diameter of 6 inches or more should not be removed.

Response: The subject measures included as part of the first-tier Specific Plan and DEIR are consistent with applicable local, state, and federal laws and regulations governing the removal and replacement of trees, including native oaks. Avoidance and preservation of oak woodlands would be discussed as part of the second-tier oak woodland management plan prepared for each individual development application.

- 19.04 Biological Resources--Impacts on Oak Woodlands--DEIR p. 6-60--mitigation language on re-planting needs to specify species for species.

Response: The first bullet on page 6-61 is amended in response to this comment to read:

- "• All affected heritage oaks (as defined by Solano County) shall be replaced with native oaks at a minimum ratio of 1:1."

19.05 Biological Resources--Impacts on Oak Woodlands--DEIR p. 6-61: proposed replacement ratio (1:1) inadequate; should be 5:1 min., as required by SB 1334 (Kuehl, oak woodlands conversion).

Response: SB 1334 contains a suggested 5:1 mitigation ratio (up to 10 acres) for oak woodland impacts, but this mitigation ratio is not a statutory requirement. The replacement and other mitigation measures included as part of the Specific Plan and DEIR are consistent with SB 1334, as well as local laws and regulations governing impacts to oaks.

19.06 Same.

Response: See response to comment 19.05.

19.07 Biological Resources--Impacts on Oak Woodlands--DEIR p. 6-46, section 6.2.1, Solano Co. General Plan policies, policy language needs to be amended to specify planting of native oak species.

Response: The referenced section contains a summary of the existing adopted Solano County General Plan. The quoted section is an excerpt from that previously adopted plan. The Solano County General Plan is not being evaluated as part of this EIR.

19.08 Biological Resources--DEIR-recommended heritage oak replacement ratio of 1:1 not acceptable; SB 1334 mitigation requires minimum 5:1 replacement ratio.

Response: Please see response to comment 19.05.

19.09 Biological Resources--Impacts on Oak Woodlands--general mitigation comments--mitigation replanting remedies need to specify mature oak trees, not seedlings; mitigations vague--e.g., "we will make an attempt"; attempts not viable; need specific mitigation plan in the DEIR, exact and precise rules allowing continued domiciles for affected species.

Response: Potential project-level impacts on oak woodlands and species that inhabit oak woodlands will be examined as part of the second-tier, project-level biological resources assessment reports required by this first-tier program level EIR. Each of these individual reports is required to evaluate project-specific impacts, avoidance, minimization, and mitigation measures for oak woodlands and special status species that inhabit them. The intent of this first-tier EIR document is to establish a program for the second-tier evaluation of project specific impacts to biological resources. The specific language requested as part of this comment will be developed as part of the planning application and subsequent review by Solano County for each individual project level plan proposed in accordance with the Specific Plan.

Please also see Master Responses B and C.

- 19.10 Biological Resources--Mitigation 6-1, General Areawide Impacts on Wildlife Resources, DEIR p. 6-53, includes another example of vague mitigation language: "County shall encourage avoidance...". "encourage" should be replaced with "enforce."

Response: Impacts, avoidance, minimization and mitigation for biological resources will be evaluated for each second-tier individual project application consistent with applicable local, state, and federal laws and regulations, as required by the quoted mitigation measure.

2.4 RESPONSES TO JANUARY 28, 2010 PLANNING COMMISSION PUBLIC HEARING COMMENTS

The following section includes the minutes for the January 28, 2010 Solano County Planning Commission-conducted special meeting and public hearing on the Middle Green Valley Specific Plan Draft EIR, immediately followed by the EIR authors' response to public hearing comments therein pertaining to the adequacy of the EIR. CEQA Guidelines sec. 15132 (Contents of final Environmental Impact Report) states that the Final EIR shall include "Comments and recommendations received on the Draft EIR either verbatim or in summary" (sec. 15132[b]) and "The responses of the Lead Agency to significant environmental points raised in the review and consultation process" (sec. 15132[d]). Pursuant to these requirements, this section of the Final EIR document includes both: (a) the verbatim minutes of the January 28, 2010 Planning Commission public hearing; and (b) a written summary or paraphrasing by the EIR authors of each environmental point raised by each commenter, with each summarized environmental point followed by the written response of the EIR authors to the summarized point.

Each public hearing commenter is assigned a number code (PC 1, PC 2, PC 3, etc.), and each environmental point raised by the commenter is coded in the right-hand margin of the minutes (e.g., PC 1.01, PC 1.02, etc.). The verbatim minutes are immediately followed by the EIR authors' summary listing of each coded environmental point raised, and each summarized environmental point is followed by the written response of the EIR authors to each coded and summarized environmental point. The environmental point summaries are intended to generally indicate the gist of the comment. Please refer to the corresponding verbatim version of the minutes for the full comment.

MINUTES OF THE SOLANO COUNTY PLANNING COMMISSION

Meeting of January 28, 2010

The special meeting of the Solano County Planning Commission was called to order at 7:00 p.m. in the Board of Supervisors' Chambers, Fairfield, California.

PRESENT: Commissioners Mahoney, Boschee and Chairman Barnes

EXCUSED: _____

STAFF PRESENT: Birgitta Corsello, Director; Mike Yankovich, Planning Program Manager; Matt Walsh, Principal Planner; Ken Solomon, Contract Planner; David Cliché, Building Official; Jim Laughlin, Deputy County Counsel; Kristine Letterman, Planning Commission Clerk

Items from the floor - none

1. **PUBLIC HEARING** to review the Draft Environmental Impact Report (DEIR) and receive public comments for the proposed **Middle Green Valley Specific Plan**. The plan comprises development of 400 residential units on approximately 1,900 acres of land in the Middle Green Valley area of unincorporated Solano County. (Project Planner: Matt Walsh) **Staff Recommendation:** Accept public comments on the DEIR. (*Draft EIR previously distributed to the Commission*)

Mr. Walsh stated that the intent of this meeting is for the Planning Commission to take public comments on the DEIR. He stated that the public comment period ends on February 25, 2010. Mr. Walsh explained that this project is the result of an implementation program from the 2008 General Plan. He stated that staff will note the comments made at this hearing and respond to them in writing which will come before the Planning Commission at a later date as part of the Final Environmental Impact Report (FEIR).

Brendan Kelly, Project Consultant, Hart Howerton, provided a brief summary of the Plan. He stated that the project consists of approximately 2,000 acres on the edge of the City of Fairfield, and includes about 400 homes. The DEIR calls for the transfer of development rights over all of the lands which include 15 different landowners. The exchange will be conservation and open space easements on the remaining lands. He stated that this project, even though there is a lot of focus on the 400 homes, is really a project based on and about small scale viable agriculture.

Chairman Barnes referred to pages 7 & 8 of the DEIR and inquired as to who will be the Middle Green Valley Conservancy Design Review Committee. Mr. Kelly stated that the Conservancy would nominate a design review committee. He stated that the conservancy is not required to be in place until the tentative map is recorded, so it is not currently known who those members will be.

Chairman Barnes stated that in his opinion the design review committee should conduct public hearings and the hearings should be held in the County Government Center. He believed that the members should be appointed by the Solano County Board of Supervisors with one member from the Board, and one member from the Planning Commission serving on the committee. He also

believed that the County Architect along with planning staff should be involved in the process. Mr. Barnes stated that there should also be an appeal process. He stated that he would like to see this included in the Plan.

Mr. Yankovich stated that staff will respond to this comment as part of the FEIR.

Chairman Barnes referred to pages 11 & 12 regarding Impact on Prime Farmland and wanted to know if the owners of the 123 acres of ag land have agreed to this proposal. Mr. Kelly stated that a majority of the landowners who sit on prime farmland support the plan.

Chairman Barnes referred to pages 13 & 14 regarding Indirect Impacts on Prime Farmland and asked what procedure the county would use to insure that the development applicant provides notification in writing to purchasers of property. Mr. Yankovich stated that this would be a condition of approval. He stated that it still needs to be worked out as to the recordable instrument that would be used to put that into effect. Mr. Barnes stated that he would like to know by what method this is going to be accomplished.

Chairman Barnes referred to page 63 regarding the wastewater treatment, and wanted to know how the City of Fairfield feels about the plan. Mr. Kelly noted that the City of Fairfield and the Fairfield-Suisun Sewer District attended a majority of the public meetings where infrastructure was discussed. He stated that the intent of the plan is to have a wastewater treatment plant on site after the 150th home is built, but in any event, whether it is the 1st home or the 400th home that is built, there will always be a connection. Mr. Kelly stated that staff has met with the city and it is agreed that there is capacity with regard to water. He stated that many of the infrastructure issues have yet to be negotiated as part of the process.

Chairman Barnes referred to page 64 with regard to the Membrane Bioreactor package wastewater treatment plant. Mr. Kelly stated that he has not received any negative feedback regarding this technology. He stated that this is a known technology that has been used all across the State of California whether it is used on crops, for irrigation, or other beneficial second uses. He said that no landowner has spoke up against the reactor, and a number of them have stated that it is a really efficient forward looking idea for water reuse.

Chairman Barnes commented that he appreciates hearing this positive feedback because when the Rockville Trails Estates project was before the commission there was a lot of resistance and a number of residents were against it. Mr. Kelly stated that the two systems could not be any more different, and that it is a very different level of treatment in this proposal than the one proposed in Rockville Trails.

Chairman Barnes referred to page 66 with regard to fire protection. He stated that if Rockville Trails Estates and the Woodcreek subdivision project do not come into fruition, he wanted to know where the fire station will be located. Mr. Kelly stated that the Cordelia Fire District fire station is located on the Falls School site, and the station has been at that location for a very long time. He said that a fire station is not actually planned for the study area although the DEIR calls for some future developer supporting an enlargement or a contribution to the improvement of that building at the Falls School site.

Since there were no further questions, Chairman Barnes opened the public hearing.

Larry Burch, 6 Spring Lane, Fairfield, stated that he supports the DEIR. He stated that he believes there are concerns about aesthetics in Green Valley, but the locations of the homes are planned in a way that they are out of the view of people traveling up and down Green Valley Road. He stated that the formation of the design review committee and the conservancy are very important, and that the Board of Supervisors has a great position in making that formation. Mr. Burch stated that the development agreement should be done through an open process for everyone to see. He stated that under the Mitigation Monitoring Report Program the county is listed many times, and he felt that it would be a good idea to have a list of where and when the design review board and conservancy fits in. With regard to the proposed community services agency, he stated that he would like to see some of those items further spelled out because there are a lot of activities that need follow up. Mr. Burch commented to the green program. He stated that in his experience with solar panels, trees will grow tall and could shade the system, and so there needs to be a way to monitor this. Mr. Burch mentioned that he read what he thought was a conflicting statement with regard to water runoff and the water that is suppose to be retained on each lot so that there is no net outflow, but that he would need to read the text a second time before commenting. He complimented county staff and the project consultants on producing a good document.

PC 1.01
PC 1.02
PC 1.03
PC 1.04
PC 1.05
PC 1.06
PC 1.07
PC 2.01

Herbert Hughes, 4317 Green Valley Road, Fairfield, stated that he is a member of the Green Valley Landowners Association (GVLA) Board of Directors, and a member of the Citizens Advisory Committee (CAC). He expressed his support for the Specific Plan and DEIR. He stated that these documents have been derived by an exemplary planning process with extraordinary professional planning effort and skill. He stated that these documents provide a very comprehensive framework that will protect open space, rural character, and agricultural soils from over development or creeping parcel by parcel exploitation. He said agriculture is encouraged and supported, open space is protected by conservation easements in perpetuity, and the landowners may benefit from development of appropriate areas with very specific development standards and guidelines. Mr. Hughes stated that while this may not be a perfect plan, he thoroughly believed that this is really an outstanding achievement and provides the best possible future for the Middle Green Valley planning area and surrounding hills, park lands, and the communities that surround the project area. Mr. Hughes stated that his greatest concern is to assure that this specific plan is executed according to the defined conservation objectives and the potential of the plan. He believed that the non-profit agricultural conservancy as described in the specific plan needs to be established as soon as possible. He said the idea of the committee is essentially like a typical homeowners association only much more sophisticated and professional with possible outside architects to support it.

Bob Berman, 250 West K Street, Benicia, stated that his first comment relates to the issue of future environmental review. He stated that there is an issue of inconsistency between DEIR Section 1.4 that discusses CEQA requirements for Subsequent Actions and Section 4.4.2 Subsequent Entitlement Process that is included in the Specific Plan. He stated that the specific plan mentions subsequent conformity review process. He believes those two sections are inconsistent and need to be reviewed. In terms of the project description, he stated that the Specific Plan mentions a Development Agreement, however he has not seen the agreement and it is not included in the DEIR project description. He believed this to be a problem. He said the project description needs to include all decisions that Solano County will be making on the Green Valley Specific Plan and he requested that a copy of the development agreement be made available to the public, and for it to be analyzed in the EIR.

PC 3.01

Bob Berman stated that his main focus is on issues of open space and trails. He referred to Figure 3.3 in the DEIR and stated that the subsequent discussion in the specific plan shows a potential trail connection to Skyline County Park, the Vallejo Lakes watershed to the north, and Lynch Canyon to the south. He inquired as to who will construct these trails and when will they be completed. He wanted know if the Middle Green Valley developers will be responsible to construct the potential connections. Mr. Berman stated that both the specific plan and the DEIR need to be more specific as to which trails will be constructed, and when they will be constructed. He referred to page 2-3 in the DEIR which provides only minimal discussion of the trail system and the implementation of the trials. He stated that there is no meaningful discussion in the DEIR regarding issues related to trails and open space. He stated that Impact 4-2 which is called Indirect Impacts on Prime Farmland does not mention trails. He stated that Section 16.4 which is Parks and Recreation is simply inadequate.

PC 3.02

Mr. Berman stated that other than a brief mention of the Bay Area Ridge Impact 16-11 in the DEIR, there is no discussion of the timing and the adequacy of the proposed trail system. In the Transportation Chapter, he stated that there is the briefest mention of Pedestrian Impacts, Impact 17.3.8, and Bicycle Impacts, Impact 17.3.9. He stated that there is no analysis. He asked if all trails will be available to hikers, horses, and bicyclists. He inquired as to how the emergency access will be incorporated into the trail system. With reference to Figure 5-75 in the Specific Plan, Mr. Berman asked why some trails are referred to as "potential" trail connections. On pages 5-102 and 103, it discusses what is called the Ramble and the Emergency Access. He wanted to know how these fit into the trail system and who can use them. Mr. Berman stated that he believed the bicycle system is incomplete and inadequate. He said it is not clear from the Specific Plan and there is no discussion in the DEIR about which roads will be designed for bicyclists. He noted that Green Valley Road is shown as a rural collector with 11 foot travel lanes. He commented that 11 foot travel lanes are not adequate for automobiles and bicyclists. He stated that there is some mention of a multi-use trail, but he did not believe that is a good solution. Mr. Berman stated that he has specific concerns about the Green Valley conservancy, especially related to the issue of governance. Mr. Berman made note that his comments with regard to the Specific Plan were based on the Draft October 2009 Plan.

PC 3.03

PC 3.04

PC 3.05

PC 3.06

Duane Kromm, Coventry Lane, Fairfield, stated that this has been a very different project from many of those that have come through the county. He stated that there is good work that has been done, but there are still some issues to be resolved. He stated that two issues are the provision of water and sewer services. He stated that on page 16-8 of the DEIR there is a comment about the Solano County Local Agency Formation Commission (LAFCO), and how a city or district may provide new or extended services by contract or agreement outside its boundaries through written approval from LAFCO. He stated that this is accurate as far as it goes, but as a former LAFCO Commissioner he said it is not nearly far enough for what the rules are. He provided the commission with a copy of Government Code Section 56133. Mr. Kromm stated that in the Section, Point A talks about the process is of what needs to be done by a local city or district if they want to provide service outside of their jurisdiction or boundaries, which is included in the DEIR. He indicated that Point B of that Section talks about what LAFCO needs to look at as to whether or not a jurisdiction can provide service to an area outside of its boundaries, but within the sphere of influence of that district, and that has to do essentially with whether or not that piece of property at some point may likely be annexed. He stated that if this particular area is governed by a voter approved urban growth boundary, and without going through a vote of the City of Fairfield, there is no chance that this property can be annexed, so the criteria set forth in Subsection B has not been met.

PC 4.01

PC 4.02

Mr. Kromm stated that Subsection C speaks to how service may be provided when it is outside of the sphere of influence or outside the jurisdiction of the city when there is a health and public safety issue at hand. He stated that there have been issues around the county from time to time where there have been failing septic systems or wells in areas adjacent to city lines, and in those cases to take care of a health and safety issue for the existing residents it could be approved for LAFCO to allow a local city or district to provide service to those houses. He said that there is no provision in LAFCO to allow cities or districts to provide service to spur development outside of their jurisdiction. He stated that this is fundamental to the Orderly Growth Initiative in Solano County. He said the concept of what is urban shall be municipal is directly at play here if water and sewer services are readily available through traditional county sources which mean wells for water, and onsite sewage treatment either through package type plants and/or septic systems.

PC 4.03

Mr. Kromm stated that this gets to the heart of the problem with the DEIR. It is provided in both cases of water and sewer a two-pronged approach; it could either be City of Fairfield water or it could be wells. It could either be Fairfield-Suisun Sewer District providing the sewage system or it could be some other kind of system. He stated that under CEQA law the project has to be defined. Using water as an example, he inquired about the hydrological conditions in Green Valley, if there will be a reservoir or a tank, and where that reservoir or tank will be located, and how the location fits vis-a-vis the Green Valley fault line. He stated that there are issues that have to be looked at to have a complete and adequate EIR, and he believed that by having this two-pronged approach to providing the two toughest public utilities in the area that the DEIR fails. He stated that right now the project is not being defined. He said that alternatives are being defined with an alternative being picked at a later date, and he did not believe that CEQA allows this. He stated that he would hope that things could be resolved and a service provider could be selected and fully analyzed. Mr. Kromm complimented everyone on the work that has been done on this project.

PC 4.04

PC 4.05
PC 4.06

Sarah Lindemann, 1744 Mason Road, Fairfield, stated that the release of the DEIR marks the culmination of a year long process between many interested parties, and together they have produced a plan for Middle Green Valley that meets and exceeds the goals and policies for this area as set forth in the General Plan. She stated that this plan provides the property owners the assurance of maintaining their agricultural practices and heritage while allowing them the opportunity to develop some of their property in order to recognize its economic benefits. Ms. Lindemann stated that the total acreage in the study area is approximately 1,900 acres and of these approximately 495 will be developed. She said some or all of the remaining land may become part of the proposed Green Valley Conservancy as provided for in the specific plan. She said this will allow families who have farmed for generations to continue to do so. She said the conservancy is something that is actively being discussed although it is not something that is required at this time, but there are benefits to beginning the process now. She said it will ensure that the basic organization of the conservancy reflects the needs and wants of the landowners and what the specific plan calls for. Ms. Lindemann stated that its organization now instead of later ensures that a vehicle will be in place when the transfer of development rights occurs.

PC 5.01

Ms. Lindemann stated that she believed the plan is comprehensive and sensitive to the environment. The clustering along with the isolation of its communities makes it unique to the area and should serve as a model for other similar developments. Ms. Lindemann stated that all issues concerning perceived negative impacts have been addressed and most negative environmental impacts will be self mitigating. She asked the commission to appreciate and approve this plan based

on its long term benefit of the whole area recognizing the commitment and compromise of the landowners, neighbors, and county agencies involved.

Nancy Nelson, 1800 Cravea Lane, Fairfield, stated that she is a member of the CAC and GVLA Board of Directors. She stated that Green Valley is a special place and a big part of this process has been to preserve that special place while still recognizing property owner rights, and she believed that the cooperative effort that has been put forth has been remarkable at achieving that goal. She stated that watching this specific plan unfold has been remarkable, it grew very naturally and logically and almost poetically between the conditions and the goals that were set forth from the beginning. She said this plan evolved into something that really satisfied all of the goals from the beginning. She stated that by applying extraordinary planning tools such as clustering and trading development rights they are able to create this atmosphere that will protect the agriculture and the natural habitats. She commented that if individual landowners developed their parcels without this cooperative there would be none of those protections or incentives in place to maintain the agriculture. She stated that a lot of people have pointed out aspects of the project and details that need to be worked out, but as a member of the GVLA whose motto always has been to protect the rural character of the valley, it turns out they were not that far off from wanting to protect the same things the Middle Green Valley landowners did. She said it has been an amazing process that to find this kind of solidarity in a group that has been traditionally embattled was a very positive experience. She shared much appreciation to the staff of Hart Howerton.

PC 6.01

Reed Onate, 5180 Lakeshore Drive, Fairfield, stated that his parents live in Green Valley. He questioned if the implementation of the project will create an environmental impact relative to the implementation of either the septic system or the connection to the City of Fairfield. He stated that as long as either option was analyzed in the study and does not result in a significant environmental impact, it would seem like the plan was well thought out and could be implemented. He believed that the plan has evolved very well and is true to the agricultural roots of the valley.

PC 7.01

Since there were no further speakers, Chairman Barnes closed the public hearing.

Commissioner Boschee stated that it is nice to see how the landowners, both those within the project area and those surrounding it, have been able to come together and work out their differences and develop a good plan. Mr. Boschee spoke to the agricultural development. He stated that a big part of this project and its success will require that the ag area that is going to be set aside in easements will need to be successful. He said people farming that land are going to have to be able to sell their products and make a profit in order for those lands to continue to be used for agriculture. He stated that if the land goes fallow there is going to be a lot of pressure to do something with it. He believed that it is important in looking at this project that it is determined how the county can insure or help make those agricultural lands successful into the future, and provide a market for those products that are going to be grown in those areas. He stated that one item of discussion has been the ag-tourism and developing a facility where products that are grown within the valley can be retailed. He stated that while this is a good idea, the problem is that it will bring a lot of traffic into the valley, and it will be hard to promote. He stated that he believes this is an issue that needs to be addressed countywide. He said that there are a number of other valleys and farmers struggling to produce products and get them to market. He stated that staff needs to look at how to bring all of these people together, develop an ag-tourism concept for the entire area that will take advantage of not just Green Valley farmers, but those in Suisun, Wooden Valley and southern Vacaville. He stated that farmers markets are very successful. He believes that people want this, they are interested in it, and he felt that it should be looked at in order to help those farmers come

together. He stated that he believed this could be successful not only in Green Valley, but the entire agricultural area of the county. He stated that the county needs to look beyond Green Valley's boundaries and look much broader at the whole opportunity that will continue agriculture as a primary industry for Solano County.

Chairman Barnes stated that he agreed with Commissioner Boschee's comments. He also asked staff to address Bob Berman's concerns regarding trails and Duane Kromm's comments with regard to CEQA.

2. **PUBLIC HEARING** to consider Use Permit Application No. U-06-06 and Final Environmental Impact Report for the **Montezuma Wind Project**, as sponsored by FPL Energy Montezuma Wind LLC, and to certify the Final Environmental Impact Report, as amended, adopt the Statement of Overriding Considerations and to approve the Use Permit and Mitigation Monitoring & Reporting Program to construct a 37-megawatt (MW) wind power project with 16 to 23 wind turbines on about 1,466 acres of land in the Montezuma Hills area. Review of this project had been suspended by the Planning Commission on October 4, 2007, at the request of the project applicant, due to radar interference issues at Travis Air Force Base, and has been reactivated at the request of the project applicant due to progress on resolving the radar issues. (Project Planner: Ken Solomon) **Staff Recommendation:** Approval. (*Draft and Final EIR previously distributed to the Commission*)

Ken Solomon stated that the purpose of this hearing is to accept public comments and to take action on the Final Environmental Impact Report (FEIR) as amended, and the use permit for the Montezuma Wind energy project. He provided some background on the project. He explained that this project was previously reviewed by the commission at three public hearings, one in 2006, and two in 2007. At the first meeting, the Draft EIR (DEIR) was reviewed, at the second meeting the FEIR and use permit were scheduled for certification and approval, but due exclusively to the ongoing radar issues at Travis AFB at that time, the project was continued at the request of the applicant for a period of approximately 6 months. At the third meeting which was on October 4, 2007, due to still unresolved radar issues the project was suspended indefinitely by the planning commission at the request of the applicant to allow them an opportunity to resolve the issues with TAFB. He stated that since then significant progress has been made and the potential affects of the project on the radar at TAFB have been studied and resolved to the extent that Travis has rescinded its prior concerns with the project. Mr. Solomon noted that the details are provided in staff's report including the amendment to the FEIR.

EIR consultants Nick Figone and Lauren Eisele of Ecology and Environment provided a brief overview of the project including minor changes that have occurred since the FEIR was released in 2007, and a brief discussion of the CEQA process and the Statement of Overriding Considerations.

Ken Solomon further explained that the three significant impacts that are unavoidable are aesthetic visual, air quality, and biological resources. He stated that while mitigation measures are being proposed there is no mitigation available to reduce these impacts to a level of environmental insignificance, and as such a Statement of Overriding Considerations is proposed which would recognize that the combined benefits of the project would outweigh any such environmental consequences and the anticipated impacts would be deemed reasonably acceptable. He noted that the impacts are described in greater detail in the FEIR and the benefits are described in the staff report and related attachments. He mentioned that one of the greatest benefits of the project is the wind powers renewable resource that is non-polluting and reduces the need for electricity generated

PC1 Larry Burch, 6 Spring Lane, Fairfield

PC 1.01 General Comment on DEIR Adequacy--supports DEIR.

Response: Comment acknowledged.

PC 1.02 Aesthetics--notes that homes are planned to be out of view from Green Valley Rd; formation of Design Review Committee and Conservancy very important.

Response: Comment acknowledged. Please see Master Response H.

PC 1.03 General EIR comment--development agreement--development agreement should be done through an open process; need list where list of where and when design review board and conservancy fit in.

Response: See Master Responses F and H.

PC 1.04 General EIR comment--community services agency (CSA)--would like to see item further spelled out; lots of activities that need follow up.

Response: See Master Response G.

PC 1.05 Climate change--trees could shade solar panels; needs to be way of monitoring this.

Response: See response to similar comment 12.11

PC 1.06 Hydrology and Water Quality--conflicting statement in EIR regarding water runoff and water to be retained on site.

Response: Not enough specificity in comment to permit adequate response.

PC 1.07 General comment on DEIR Adequacy--good document.

Response: Comment acknowledged.

PC2 Herbert Hughes, 4317 Green Valley Road, Fairfield

PC 2.01 General comment--support for Specific Plan and DEIR expressed; exemplary planning process; no specific comments on DEIR.

Response: Comment acknowledged.

PC3 Bob Berman, 250 West K Street, Benicia

PC 3.01 General EIR comment--inconsistency between DEIR section 1.4 regarding subsequent actions and section 4.4.2 regarding subsequent entitlement process in Specific Plan; two sections are inconsistent and need to be reviewed

Response: Please see response to similar comment 7.01.

Project Description--Development Agreement--Specific Plan mentions Development Agreement; commenter has not seen Development Agreement; Development Agreement not included in the DEIR project description; project description needs to include all decisions County will be making on Specific Plan; requests that copy of Development Agreement be made available to public.

Response: Please see Master Response F.

PC 3.02 Parks and Recreation--open space and trails--DEIR Figure 3.3 and Specific Plan show potential trail connection to Skyline County Park, Vallejo Lakes Watershed, and Lynch Canyon; who will construct these trails, when will they be completed, will MGCV developers be responsible for construction of these potential connections? Both Specific Plan and EIR need to be more specific regarding which trails will be constructed and when. DEIR p. 2-3 provides only minimal discussion of trail system and trail implementation; no meaningful discussion in DEIR regarding trail issues and open space; DEIR Impact 4-2, Indirect Impacts on Farmland, does not mention trails; DEIR section 16.4, Parks and Recreation, simply inadequate with regard to trails.

Response: Please see Master Response E

PC 3.03 Transportation and Circulation--pedestrian and bicycle impacts--only the briefest mention in the DEIR of pedestrian impacts, section 17.3.8, and bicycle impacts, section 17.3.9, in DEIR; no analysis.

Response: The adequacy and merits of proposed Specific Plan provisions for pedestrian and bicycle circulation are not “environmental issues” warranting evaluation under CEQA. CEQA Guidelines-identified environmental factors that are relevant to project pedestrian and bicycle system adequacy and impacts include the following (from CEQA Guidelines Appendix G, Environmental Checklist Form):

- does the project conflict with any applicable land use plan, policy or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect? (section IX[b]);
- would the project increase the use of existing neighborhood or regional...recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? (section XIV[a]);
- would the project substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (section XV[d]); or
- would the project conflict with adopted policies, plans or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks, etc.)?

These criteria were applied by the EIR authors in evaluating the potential environmental impacts of the Specific Plan proposed pedestrian and bicycle provisions, and were also applied by the EIR authors in evaluating the potential impact of Specific Plan buildout, including related vehicular traffic increases, on existing and planned pedestrian and bicycle circulation in the project vicinity. No significant adverse impact was identified.

PC 3.04 Parks and Recreation--trails--will trails be available to hikers, horses and bicyclists?; how will emergency access be incorporated into trail system?; on Specific Plan Figure 5-75, why are some trails referenced as "potential" trail connections? How do "Ramble" and "Emergency Access" provisions on Specific Plan pp. 5-102 and 5-103 fit into the trail system and who can use them.

Response: Please see Master Responses A and E.

PC 3.05 Specific Plan and EIR--bicycle system--Specific Plan bicycle system is incomplete and inadequate. Not clear in Specific Plan and no discussion in DEIR regarding which roads will be used for bicyclists; some mention of multi-use trail, but this is not a good solution.

Response: Please see Master Response E.

PC 3.06 Specific Plan--Green Valley Conservancy--commenter has specific concerns regarding conservancy, especially related to issue of governance (comments regarding Specific Plan based on October 29 version).

Response: Please see Master Response H.

PC4 Duane Kromm, Coventry Lane, Fairfield

PC 4.01 General comments on project--good work done but still some issues to be resolved regarding provision of water and sewer; commenter is former LAFCO Commissioner.

Response: See specific comments and responses below.

PC 4.02 Public Services and Utilities--Water and Sewer--DEIR p. 16-8--LAFCO--DEIR accurate, but does not provide enough information--Government Code Section 56133 describes process that needs to be followed by city or district in order to provide service outside their jurisdiction or boundaries; commenter states that if the plan area is governed by voter-approved urban growth boundary, no chance that this property can be annexed without going through City vote, so criteria set forth in GCS 56133, Section B has not been met.

Response: Please see Master Response M.

PC 4.03 Public Services and Utilities--Water and Sewer--LAFCO and County Orderly Growth Initiative--GCS 56133--Section C--code section addresses how service may be provided outside sphere of influence or jurisdiction of city when there is a health and safety issue; LAFCO can approve such service extensions where there are failing septic systems or wells; otherwise, there is no provision in LAFCO to allow city or district to provide service to spur development outside their jurisdiction; this is fundamental to County Orderly Growth Initiative.

Response: Please see Master Response M.

PC 4.04 Public Services and Utilities--Water and Sewer--key DEIR problem--for both water and sewer DEIR describes two-pronged approach--under CEQA, project must be

defined; commenter does not believe CEQA allows alternatives to be picked at a later date; project must be defined.

Response: Please see Master Response K.

PC 4.05 Public Services and Utilities--Water--what are hydrological conditions in the valley?

Response: Please see Master Response I.

PC 4.06 Public Services and Utilities--water and sewer--geotechnical factors--will there be a reservoir or tank?--and has the system location relationship to the Green Valley fault been evaluated?

Response: Please see response to comment 7.34.

PC5 Sarah Lindemann, 1744 Mason Road, Fairfield

PC 5.01 Support for Specific Plan expressed--comprehensive and sensitive to the environment; all issues pertaining to perceived negative impacts have been addressed; plan will be self-mitigating for most negative environmental impacts.

Response: Comment acknowledged.

PC6 Nancy Nelson, 1800 Craven Lane, Fairfield

PC 6.01 Support for Specific Plan expressed--member of CAC and GVLA Board of Directors--successful cooperative effort.

Response: Comment acknowledged. No specific comments on DEIR adequacy.

PC7 Reed Onate, 5180 Lakeshore Drive, Fairfield

PC 7.01 Comments on Specific Plan--either the septic system or connection to City of Fairfield may have environmental impact. As long as either option is analyzed in study and does not result in significant environmental impact, plan could be implemented.

Response: See Master Response K.

