

Biological Resources Subchapter 2.5 1

DEIR Public Comment to the Proposed Accretive Lilac Hills Ranch General Plan Amendment and Specific Plan PDS2012-3800-12-001(GPA),PDS2012-3810-12-001 (SP)

2.5 Biological Resources - Comments

2.5.1.2 Vegetation Communities

The Biological Resources Report [the Report] identifies three sensitive plant species present on-site: Engelmann oak, prostrate spineflower, and southwestern spiny rush. All three are on the County's List D of sensitive plant species and all three are reported as relatively small numbers of individuals. Do listed plants have to be represented on-site in large numbers to gain significance?

Is there quantitative data available to know whether the population sizes found on-site are significant within the region?

If not, how is it determined that a local population is insignificant?

Aren't rare, threatened or species of concern logically less numerous in most plant formations?

C1m-1

2.5.2 Analysis of Project Impacts and Determination of Significance

2.5.2.1 - Special Status Species

The Biological Resources Report [the Report] of the DEIR lists 13 federal/state species of special concern or Group 1 species of animals that would be impacted by the development of the Lilac Hills Ranch project [the Project] ranging from orange-throated whiptail lizards to southern mule deer. Reptiles and small mammals are judged to be at greatest risk for direct impact because they move more slowly and likely would suffer greater losses during construction activities, while larger mammals and birds are more mobile and could possibly escape to somewhere else more easily. Is the DEIR saying that reptiles, amphibians and small mammals would likely be sacrificed for this Project given their relative immobility?

What are the population densities of amphibians, reptiles and small mammals that are likely to be extirpated by construction operations?

To where would birds and larger mammals be dispersed?

What are the territorial ramifications and chances of survival for these displaced species?

For some of the anticipated species that were not observed during the directed surveys, e.g. the coastal California gnatcatcher, it appears that the timing of the directed surveys took place during the less than optimum periods of July and August, the extreme end of the season. Although still within the survey guidelines, they were conducted during a very dry year, which minimizes the chance of sighting such species on-site.

C1m-2

C1m-1 Plant species on the County's List D are considered plants of limited distribution and are uncommon, but not presently rare or endangered. Therefore, significance of impacts is based on the estimated population size found on-site compared to the estimated regional population (the entire range of the particular species). A larger population in relation to the regional population would generally indicate a greater significance. While there is not quantitative data available on the population sizes of these species within the region, the FEIR relies on the best available scientific literature available that defines the species range and occurrence. The County agrees that "rare, threatened or species of concern are less numerous in most plant formations." The three subject plant species are not considered rare or threatened, and the current concern for these species is not at a level that warrants significance for the project's impact to these species.

More specifically, development of the project would not directly impact any on-site Engelmann oak or southwest spiny rush because the on-site species would be protected within the project's biological open space. The project would result in impacts to prostrate spineflower. These impacts were evaluated and were determined to be less than significant because (1) the number of individuals being affected is low, and (2) available data indicate this plant is relatively abundant in its range. In addition, the prostrate spineflower observed on-site was located within southern mixed chaparral habitat and 26 acres of this appropriate habitat for the species would be preserved on-site within biological open space easements, with another 24.5 acres of off-site habitat preservation required as a condition of the project.

C1m-2 Due to the mobility of reptiles, amphibians, and small mammals, the FEIR discloses that these lower mobility species have a greater chance of being impacted by construction activities. The population densities of amphibians, reptiles, and small mammals that may be impacted by construction operations are not known, but based on population estimates for these species, founded on observations made during numerous site surveys, and the potential for animals to escape impact, losses are anticipated to be relatively low numbers.

LETTER

RESPONSE

Biological Resources Subchapter 2.5 **2**

The surveys were also compressed into a two-week period [3 surveys on three consecutive Tuesdays], which minimizes the chance of observing the gnatcatchers. Why were such directed surveys conducted so late during a dry year? Why were the surveys scheduled in such a compressed time period at the end of the season?

While reviewing the Attachment 1, Post-Survey Notification of Focused Surveys for Least Bell's Vireo [LBV] for the I-15/395 Master-Planned Community MPA, it was noticed that Figures 1, 2, & 3 indicate a much reduced Project area and boundary for the least Bell's vireo survey than is expected for the present Project. This seems to indicate that the survey was completed on a Project site that significantly differs from the present Project. How can the cited survey be appropriate and complete for the present Project?

The addition of considerable acreage since the May, June, & July 2011 LBV surveys means that the additional areas were not properly or adequately surveyed for least Bell's vireo. Will the applicant re-survey these new areas included in the present Project during the appropriate breeding season? The wetlands that are appropriate habitat for this species extend into the subsequently acquired acreage not represented on the submitted map.

Further, the Project boundaries shown to include the survey areas mapped in the Biological Resources Report for the coastal California gnatcatcher do not match the present Project boundaries. The survey maps [Figures 1, 2, & 3 of Attachment 2, Post-survey Notification of Focused Survey for Coastal California Gnatcatcher, I-15/395 Master Planned Community MPA] indicate a much reduced Project area and boundary for the gnatcatcher survey than is expected for the present Project. This seems to indicate that the survey was completed on a Project site that significantly differs from the present Project. How can the cited survey be appropriate and complete for the present Project?

The addition of considerable acreage since the July/August 2011 gnatcatcher surveys means that the additional areas were not properly or adequately surveyed for gnatcatchers. Will the applicant re-survey these new areas included in the present Project?

The Report suggests that although these anticipated species, and others not listed in the Report, would be impacted by habitat loss caused by grading, construction, and human occupation, it finds that the impacts would be:

"...less than significant given the wide ranges of the species and the fact that the project does not contain a regionally significant population of these species."

The analysis fails to:

1. Demonstrate with data or suggest what a regionally significant population for any of the cited species is;
2. Does not estimate the on-site population density of any of the cited species to allow a comparison of the site to the region;
3. And, does not explain how the scope of a species' range can exempt the loss of a local population. The loss of local populations or portions of local populations within a species' range does not affect the notional range of the species necessarily, but does

C1m-2
cont.

C1m-3

C1m-2 (cont.)

Birds and larger mammals would disperse to adjacent undisturbed areas. The chances for survival of birds, reptiles, amphibians, and small mammals displaced by the construction activities is anticipated to be high as they are mobile enough to find habitat to support them. The chances for survival of larger mammals (e.g., deer, coyote, etc.) displaced by construction activities depends on their ability to find suitable areas adjacent to the project site large enough to support them. Currently, there is enough undisturbed area adjacent the project site that survivorship of larger mammals displaced would be considered moderate to high.

The coastal California gnatcatcher is a resident species and detectable at any time of the year. Additional surveys for this species will be required as part of other Wildlife Agency approvals. Although the surveys were conducted in early summer, they were well within the breeding season. The current approved survey protocol for the coastal California gnatcatcher requires a minimum of seven days between surveys. The surveys conducted for the project meet the current Wildlife Agency protocol guidelines. In addition, although the maps included in Attachment 2 of the Biological Resources Report do not include the current project area, it was determined that the additional areas added to the project do not include the resources to warrant further survey.

The least Bell's vireo survey was conducted on the project area at the time of the surveys. The survey did not cover all suitable habitats now within the current project area. An updated survey for least Bell's vireo was conducted in 2014 to cover areas not within the project boundary at the time of the initial surveys. The results of these additional surveys were negative. The survey report is included in the FEIR, Appendix G. It is also expected that updated surveys for the least Bell's vireo will be required as part of future Wildlife Agency approvals for the project.

C1m-3 A regionally significant population, as referenced in the FEIR is generally used to describe the fact that the numbers of observed sensitive species on the project site were considered small in comparison to the regional population of the species as understood from scientific literature. For example, some of the species identified on-site are widespread in the region. When comparing a small on-site

LETTER

RESPONSE

	<p>C1m-3</p> <p>population to the larger, widespread, and commonly occurring population, the small on-site population would not be described as regionally significant.</p> <p>Regarding estimates of on-site population densities, the FEIR documents the results of various biological resource surveys conducted over 31 individual days from 2011 through 2012. The dates and type of survey are documented in Table 1 of Appendix G of the FEIR. The numbers of individual species documented on-site represent the population observed during surveys and are not intended to capture the complete number of individuals that may be present on-site. The FEIR recognizes that the habitats on-site may support additional individuals of the species. A complete population count of the sensitive species on-site is not required because a significant portion of the native habitat on-site would be retained in biological open space which would continue to provide habitat for sensitive species.</p> <p>It is not only range, but also the frequency of occurrence and prevalence of habitat to support the species that is considered when determining the significance of a local population. The County agrees that the loss of local populations can ultimately reduce regional populations of a species; however, species specific significance determinations are made based on the extent of the impact to the species, its habitat, and its frequency of occurrence in the region. Loss of a sensitive species in itself does not represent a significant impact; rather it requires consideration of these various factors.</p>
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LETTER

RESPONSE

<p style="text-align: center;">Biological Resources Subchapter 2.5 3</p> <p>have significance in reducing the regional population of a species within the range boundaries.</p> <p>Do the ranges they refer to include urban as well as undeveloped areas, agricultural as well as natural areas, and what is their extent and density?</p> <p>Within cismontane San Diego County, most habitats and wildlife populations have a mosaic distribution as a result of human occupation and transportation corridors. To what extent has the historical range of any of these species already been diminished, making even small, local populations, like those on-site, significant?</p> <p>On what basis was the determination made that on-site populations of the 13 species were not consistent with other significant local or regional populations?</p> <p>Given the mosaic distribution of those 13 species within the county and southern California, how does the Report distinguish the Project's on-site populations as being insignificant compared to other off-site populations that may be deemed significant?</p> <p>There was no data presented that showed any quantitative or qualitative measure of the significance of the on-site population sizes of the 13 species, or their relationship or linkage to nearby off-site populations. The fact of their presence suggests that there is some significance. With the paucity of data presented can we reasonably conclude that 'on-site populations' are not a significant part of a larger regional population?</p> <p>The edge effect impacts noted by the DEIR (i.e., noise, lighting, invasive plants, grading encroachments, proximal human presence, etc.) to these 13 sensitive species are stated to:</p> <p><i>"...be less than significant considering the number of individuals of each species to remain after implementation of the project would be low."</i></p> <p>However, since the Report has not quantified:</p> <ol style="list-style-type: none"> 1. The existing on-site population densities; 2. The population density thresholds that are deemed significant; 3. Or, the expected on-site population densities after construction of the Project, How can the Report establish that the impacts are "less than significant?" <p>Are there data that have not been reported?</p> <p>Should not the Report have presented an objective basis for the threshold of significance?</p> <p>The Project would directly impact eucalyptus woodland, orchards, and oak woodlands. This would result in the direct loss of functional nesting habitat for raptors. The Project could also indirectly impact nesting raptors that remain on-site or adjacent to the Project through edge effects, such as close human occupation, noise and lighting.</p> <p>Further, construction operations also have the potential to disrupt nesting and breeding among raptors. Raptors are protected, as a group, by California Fish and</p>	<p>C1m-4 Ranges for species do include all areas and types of habitats within their boundaries. The extent and density of the different types of habitat are not known specifically for each species range. See response to comment C1m-3.</p> <p>C1m-5 Historical ranges for every species have likely diminished. Those species that have lost the most historical range and/or the most individuals are those species listed as endangered or threatened by federal and state resource agencies. The draft North County MSCP focuses on the preservation of the larger, higher quality habitat blocks that are considered to contain the largest populations of sensitive species, allowing smaller less viable and fragmented habitat areas that support smaller populations of species outside of these core resource areas to be considered for development. The project site's draft designation under the draft North County MSCP is "Outside of Pre-Approved Mitigation Area." Refer to response to comment C1m-3 for additional detail as to how the determination of significance is made.</p> <p>C1m-6 The FEIR conclusions for impacts to sensitive species are based on site specific surveys for sensitive species as documented in Table 1 of Appendix G of the FEIR. Attachments 9 and 11 of Appendix G document the sensitive plant and wildlife species with the potential to occur on-site, their likelihood of occurrence and the factual basis for this determination. Significance conclusions consider their occurrence on-site, the suitability of the on-site habitat to support sensitive species, their relative abundance in the region, and the regional abundance of their preferred habitat. As most of the project site (approximately 76 percent) is marginal habitat (agricultural land, disturbed land, currently developed land) and the sensitive biological resource areas would be preserved on-site and off-site in conservation easements, the project would not result in a significant loss of habitat for the studied species. In addition, of the species with the potential to occur on-site, the FEIR demonstrates that a combination of the preservation of habitats suitable for these species, on-site or within draft PAMA lands, in combination with the abundance of species as documented in scientific literature, would result in less than significant sensitive species impacts.</p> <p>The determination was made using the draft North County MSCP which focuses on the preservation of the larger, higher quality habitat blocks that are considered to contain the largest populations of</p>

LETTER

RESPONSE

	<p>C1m-6 (cont.) sensitive species, allowing smaller less viable and fragmented habitat areas that support smaller populations of species outside of these core resource areas to be considered for development. The project site is outside of the draft North County MSCP PAMA areas, which are the most important locations for preservation of habitat and species.</p> <p>C1m-7 The Biological Resources Report relies on the regional MSCP planning efforts within the county and southern California as the basis for the determination of where the highest quality habitats and regionally significant populations of sensitive species occur in relation to the project. For example, under section 3.2.5 Preserve Components for the PAMA, the Draft North County Plan states, "This concept (PAMA) develops the preferred preserve configuration around large contiguous area of habitat, areas supporting important species populations or habitat areas, and important functional linkages and movement corridors between them." The project is not within a high priority area for habitat conservation. Refer also to response to comment C1m-6.</p> <p>C1m-8 Please see response to comment C1m-7.</p> <p>C1m-9 The FEIR includes observed numbers of sensitive species based on observations occurring during the course of numerous site visits occurring on suitable habitat. The dates and type of surveys completed are documented in Table 1 of Appendix G of the FEIR. Refer to Attachments 9 and 11 of Appendix G of the FEIR for a list of sensitive plant and wildlife species, with the potential to occur on-site. These attachments document whether or not the species were observed on-site and in what numbers. The numbers of individuals documented on-site represent the population observed during surveys and are not intended to capture the complete number of individuals that may be present on-site and the FEIR recognizes that habitats on-site may support additional individuals of the species.</p> <p>The significance of an on-site population is dependent on various factors, further detailed in response to comment C1m-6. It is reasonable to assume that the on-site populations of wildlife would be smaller after the project is built given that there would be less available suitable habitat. However, the report concludes impacts would be less</p>
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LETTER

RESPONSE

	<p>C1m-9 (cont.)</p> <p>than significant based on the low numbers of species observed on-site in comparison to their regional distribution. Other factors support this conclusion such as the fact that a majority of the site is agricultural land. For example, of the 505 acres to be affected by the project, 425.3 acres – more than 84 percent – are located on land that is currently being used for agriculture, is disturbed, or is already developed. (See Biology Report, Appendix G, Table 8.)</p> <p>Project thresholds of significance were based on the County guidance available for the preparation of CEQA documents, Project impacts to the remaining habitat (approximately 79 acres) will be mitigated off-site as necessary, pursuant to ratios established by the County and/or the resource agency with jurisdiction over the impact (e.g., California Department of Fish and Wildlife). (Ibid.) As stated in the County Report Format and Content Requirements for Biological Resources, “for sensitive species, mitigation must consist of compensatory habitat that provides equal or greater benefit to the species. For low-level sensitive species (C- and D-listed plants, Group II animals), this is generally done concurrently with habitat-based mitigation”. The off-site mitigation will contain similar habitat to the impacted habitat and will therefore have a similar potential to host the same species as occur on-site consistent with the County Report Format and Content Requirements. In addition, the site does not provide habitat for all 50 special status species evaluated for the potential to occur. The potential for these special status species to occur on the site was considered in light of the ecological and distributional characteristics for each; only those species that had a reasonably high potential to occur on the site were evaluated in detail.</p> <p>C1m-10 Section 3.2.6 of the Biological Resources Report and FEIR subchapter 2.5 address impacts to nesting and functional foraging habitat for raptors. Although these woodland habitats are not referred to directly by name, these habitats are contained within the native vegetation and agricultural lands discussed. These sections also state that indirect impacts as a result of edge effects may be considered significant. The proposed mitigation measures to avoid direct and indirect impacts to raptors during the breeding season would be implemented through conditions placed on the project that restrict construction activities during the breeding season, if raptor nests are found to be within the impact area. Pre-construction surveys by qualified biologists would be</p>
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Biological Resources Subchapter 2.5 4

Wildlife codes. The DEIR suggests that this disruption could be mitigated by scheduling construction outside of raptor breeding season, implementing some sort of noise attenuation measures or conducting surveys to impose construction avoidance measures.

Would the applicant, or the County, seriously consider limiting construction to the August to December portion of the year? What are the limits of effectiveness of the hinted at attenuation measures? And, since phase one of the Project surrounds the principle open space and raptor nesting corridor being proposed for the Project, would the applicant actually limit construction near that nesting area? Or, would the applicant mitigate the mitigation by trying to survey the potential impact out of existence?

The DEIR asks the reader to "Refer to Table 1-3, Project Design Considerations, in subchapter 1.2.2 for more details" about preconstruction nesting raptor surveys and complete avoidance measures. The Table of Contents directs the reader to "Table 1-3, Summary of Additional Project Design Considerations, page 1-34," however, the table is missing from that page and every other page in section 1.2. Is this information available somewhere else? And, if so, where?

Does this missing table information address the effects on nesting raptors from blasting?

Will the blasting component of the grading be timed to avoid nesting periods of raptors?

Blasting activities are likely to have a much more dramatic affect on nesting birds at a much greater distance than the apparently less significant rumbling of bulldozers and earthmovers. Despite a lack of data to inform the public on the decibel contours that raptors find irritating enough to preclude breeding, the DEIR reaches the conclusion that, "raptor nesting impacts would be **less than significant**. This is incongruent with the information presented. How is this done?

The DEIR addresses raptor foraging areas saying,

"Almost all of the on-site habitats are suitable for raptor foraging. The project would directly impact 538.29 acres of the 610.76-acre site [reportedly, it is 608-acres], which is 88% of the raptor foraging habitat on-site. This would result in the direct loss of foraging habitat for raptors. The project could also indirectly impact foraging habitat that remains on-site or adjacent to the project through edge effects..." [underline added]

The DEIR goes on to say that the impact of the Project to the raptor foraging area is more than 5% of that foraging habitat on-site. And yet, this declared significant impact to 538-acres of forage area would be mitigated by phasing the purchase or designation on-site of mitigation acreage based only on the native vegetation lost to the Project [about 81-acres or 15% of the total], not the agricultural lands to be sacrificed to the Project.

C1m-10 cont.

C1m-11

C1m-12

C1m-10 (cont.)

required prior to any clearing or removal of vegetation/trees to ensure that nests are discovered before impacts occur. If active raptor nests are discovered the nest and vegetation within 300-500 feet of it would be avoided until the young have fledged.

Nesting raptors, if discovered during construction activities, will be protected from edge effects as detailed in the FEIR, subchapter 2.5 and Table 1-3. Restrictions would be a condition of project approval. If the attenuation measures are properly implemented then their effectiveness is quite high. Finally, the comment regarding the location of Table 1-3 is referencing information from the Draft EIR that was circulated for Public Review in 2013. The Draft REIR circulated for review in 2014 included Table 1-3 of Chapter 1.0.

See also response to comment C1d-98 relating to construction restrictions applicable to project phasing.

C1m-11 If possible, the blasting component of the grading would be timed to avoid the raptor nesting period. If an active raptor nest is within 500 feet of a blasting location then the blasting activity would have to occur after the young have fledged. If possible, the blasting component of the grading would be timed to avoid the raptor nesting period. Any blasting that must occur during the raptor breeding season must comply with the raptor breeding season restrictions if an active nest is discovered within 500 feet of the construction activity. Implementation of the measures designed to avoid impacts to active raptor nests would reduce any impacts on raptors to a level below significant. See also response to comment C1d-96.

C1m-12 County Guidelines for Determining Significance do not require biological mitigation for the conversion of agricultural land. Native habitat areas and grasslands provide the highest quality raptor foraging land and the project would mitigate the loss of these types of habitats. Raptors in the area would adjust their foraging area to include un-disturbed lands surrounding the project site.

Biological Resources Subchapter 2.5 5

As the DEIR says, raptors make significant, and productive use of the orchards, vineyards and row crops present on the Project site for foraging. Why would the applicants not have to mitigate the loss of forage area represented by the agricultural lands on-site as well?

Is the applicant saying that raptors, with 608-acres on which to forage, can 'get by' with a small percentage of the present foraging acreage at a new mitigation site?

Will the edge effects caused by the presence of the Project on-site (i.e., noise, lighting, proximal human presence, dogs, cats, etc.) render any attempted on-site mitigation of foraging area loss within the planned 102-acres of open space less than significant?

The DEIR says such edge effects may compromise on-site mitigation. And if that is true, how will such effects be monitored and mitigated?

And, do these types of edge effects render the planned designated open spaces ineffective for the purposes they are being set aside?

The on-site restoration of wetlands may be seen as possible and acceptable mitigation by the applicant and the county, but since the entire 608-acres has been functioning as raptor foraging area heretofore, the idea that any of the 608-acre Project site could be used to mitigate the loss of that same foraging area is an exercise in double-counting.

Table 1-2 in Chapter one of the DEIR shows the grading quantities by phase to be cut and filled. According to this table, the first two phases will have deficits of fill compared to the amount to be cut in each those phases. Since the applicant claims that the 4-Million cubic yards of earth to be moved on the Project site will not require import or export to or from the site, borrowing from future phases will be necessary. Will the applicant adjust the timing and purchase of mitigation acreage to accommodate the borrowing of fill from future phases that will prematurely impact raptor foraging during the earlier phases?

Will that grading activity in future phases adversely affect raptor nesting in the earlier phases as well as the future phase that is to make up the fill deficit?

Black-tailed jackrabbits were observed on-site. While a 'species of concern', the DEIR suggests that the impact to this species is less than significant, largely because it is judged [without data] to have a less than significant local population. Finding a black-tailed jackrabbit anywhere in northern San Diego County is becoming exceedingly rare. To suggest insignificance for this species, the authors of the DEIR should cite census data showing that the individuals observed on the Project site are not the last remaining members of the species in the north county region. It is possible that the population on the Project site is the last within the region.

It is noted that the Project will be pumping ground water from existing wells on-site. Since the open space riparian woodlands that run nearly the length of the Project and transect it at several points are dependent on adequate ground water to support the oaks, willows and other riparian species, how will the applicant manage the long term ground water levels in the open spaces?

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C1m-13

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C1m-15

C1m-16

C1m-17

C1m-13 Potential edge effects to biological open space areas preserved on the site shall be reduced through by providing buffers and limited building zone setbacks from the boundaries of the conserved native habitats, These setbacks in conjunction with project design features, such as barriers to dampen noise and restrict encroachment by humans and pets, lighting restrictions (shielding, directing away from open space). Long-term management of the buffers, fences, and signage adjacent to open space areas as approved in the Resource Management Plan shall ensure that these features function to reduce potential edge effects in the future. The FEIR, M-BIO-2, requires preparation of a Resource Management Plan (RMP). As detailed in M-BIO-2, the RMP shall address site preparation, irrigation system requirements, on-site culvert maintenance to allow for wildlife passage, plant palettes, installation procedure, and describe the maintenance and monitoring program for both the establishment of mitigation areas and the enhancement of mitigation areas per the project conceptual wetland revegetation plan (FEIR Appendix G, Attachment 16) or requirements for habitat selection contained in the conceptual resource management plans (FEIR Appendix G, Attachments 17 and 18). The RMP will include success criteria for the creation, restoration, and/or enhancement of native habitats. In addition, the RMP would be required to achieve the following goals:

1. Preserve and manage the open space lands to the benefit of the flora, fauna, and native ecosystem functions reflected in the natural communities occurring within the RMP land.
2. Manage the land for the benefit of sensitive plant and wildlife species and existing natural communities, without substantive efforts to alter or restrict the natural course of habitat development and dynamics.
3. Reduce, control, and where feasible, eradicate non-native, invasive flora and/or fauna known to be detrimental to native species and/or the local ecosystem.
4. Maintain the character and function of certain agricultural areas within the wetland buffer and open space area. (Refer to MM-BIO-2)

Implementation of the RMP will ensure that the features designed to reduce edge effects would not compromise the on-site mitigation. The RMP will identify the entity that will be responsible for its implementation in perpetuity.

LETTER

RESPONSE

	<p>C1m-14 The loss of raptor foraging habitat is being mitigated through the avoidance of the habitat within the on-site open space and the purchase and preservation of off-site native habitats. The proposed on-site open space is not counted as mitigation, but rather as impact neutral areas set aside for avoidance of Resource Protection Ordinance (RPO) wetlands. The proposed creation and/or restoration of wetlands are required by the RPO, which requires that all impacts to wetlands include a creation/restoration component.</p> <p>C1m-15 If mitigation land to cover the impact area to be graded has not already been purchased, then the applicant would be required to purchase mitigation acreage for the areas to be graded in future phases before the grading in those phases could begin. See mitigation measure M-BIO-1. In accordance with CEQA, implementation of mitigation must occur prior to the occurrence of the impacts. Implementation of the measures designed to avoid impacts to nesting raptors would reduce any adverse effects on raptor nesting during construction.</p> <p>C1m-16 The black-tailed jackrabbit is a County Group 2 species. County Guidelines for Determining Significance for Biological Resources identify habitat mitigation as adequate to offset impacts to group 2 species. In addition, as discussed in the FEIR, it is likely that the black-tailed jackrabbits would avoid direct impacts by moving to adjacent undisturbed lands within the biological open space on-site or to off-site areas of habitat. The commenter states that it is possible that the black-tailed jackrabbit population on the project site is the last within the region. However, the comment provides no evidence to support this statement. As stated on page 12 of the County Guidelines for Determining Significance for Biological Resources, "Groups C and D Plants and Group II Animals" include those species that are becoming less common, but are not yet so rare that extirpation or extinction is imminent without immediate action. These species tend to be prolific within their suitable habitat types." Therefore, it is unlikely that the on-site black-tailed jackrabbit population is the last in the region as the species is widespread throughout the southwest and midwestern United States and Mexico.</p>
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The applicant is proposing to hand off those riparian open spaces to another agency of some sort [still unnamed]. Will that eventual agency share responsibility and authority over the wells that will have a direct impact on the ground water availability for the riparian habitats?

In the event of a drought, will the managing agency be able to restrict ground water pumping for the benefit of the open spaces?

What will be the mechanism of implementing such a restriction?

Will the managing agency have priority on ground water for irrigation to benefit the created and restored wetlands being offered as mitigation for the destruction of other wetland areas after the five-year establishment period?

2.5.2.2 – Issue 2: Riparian Habitat or Sensitive Natural Community [M-Bio-2]

The DEIR’s analysis of the impacts to riparian habitat or sensitive natural communities concludes that there will be significant impact and recommends that a Resource Management Plan [RMP] be prepared before the issuance of grading permits.

Are there unknown factors that prevent the RMP from being prepared for release along with the DEIR and related documents beyond a conceptual treatment? So much of what is presented in the Specific Plan for this Project is conceptual or a possible, but undeclared, choice among several alternatives that it is difficult to consider a conceptual RMP as anything more than a suggestion.

The wetland restoration and development areas [= open spaces] are biologically surveyed and mapped. Why is the plan not already developed?

The applicant has a penchant for putting off the preparation of necessary plans until some time after the Project is approved and out of the reach of the public and the entitlements are awarded. This is like buying a pig in a poke.

The DEIR is to relate meaningful, specific information in a way that the public can understand and to which it can respond. Delaying the development of the RMP until after Project approval hides the resolution of a significant impact from the public until there is much less, if any, chance of commenting meaningfully.

Further, the DEIR is not clear on what entity will own and manage the proposed open space easements on which important habitat creation or restoration will take place, suggesting the possibility of a private conservancy, the County, or some other experienced entity. Which is it?

How will these easements be financed into the future? The DEIR is indefinite about endowments or Community Facility District formation or some other finance mechanism.

How will the applicant ensure the financial stability of the open space easements in perpetuity without burdening County taxpayers?

C1m-17 cont.

C1m -18

C1m-17 As noted in the Hydrogeological Assessment for Lilac Hills Ranch, six existing wells on the property have been pumping groundwater for at least five years with no evidence of groundwater table drawdown. Since the project is not anticipated to result in pumping at rates greater than existing conditions, no significant impact is anticipated. The estimated production of these wells is 191 acre-feet per year. The HOA will own and operate the groundwater wells and would be responsible for any restrictions imposed on groundwater pumping as a result of project approval. As a result, a less than significant impact to groundwater dependent habitat is anticipated. Should the wells be accepted and used by VCMWD, it would up to that agency to determine the safe yield and operate the wells in a manner that would not be detrimental to the groundwater basin. The water district would also be responsible for implementing any water use restrictions, as they do today. The goal of the wetland mitigation is to create and restore self-sustaining wetlands that do not rely on supplemental irrigation water. Therefore, there should not be a need to provide groundwater irrigation to the mitigation areas after the five year establishment period.

C1m-18 It is County practice to require preparation of a Conceptual Resource Management Plan (CRMP) during this planning phase of the project. A CRMP was prepared for the on-site open space and off-site mitigation areas and is included as Attachments 16 and 17 to the Biological Technical Report, Appendix G. These attachments were prepared in accordance with the requirements of the “County of San Diego Report Format and Content Requirements – Conceptual Biological Resources Management Plan” (2010). At this time there are several unknown factors that prevent the preparation of the final resource management plan, including the identification of a management entity, and a detailed costs analysis. In addition, the location of the off-site habitat preservation area has not been determined at this time. Once an appropriate habitat area is identified, a biological resource survey will be required to document the condition of the biological resources on-site and evaluate the consistency of these resources with the required mitigation. The details of the CRMP for on-site and off-site areas may be modified when the Final Resource Management Plans (RMPs) are prepared and submitted to the County for approval. The County will review the Final RMPs to ensure that the plans meet the specified purpose and objectives and meet the mitigation requirements for the project.

LETTER

RESPONSE

	<p>C1m-18 (cont.)</p> <p>A description of the mitigation strategies, performance standards and management goals and actions are described in the CRMPs (Attachments 16 and 17 of Appendix G) and in M-BIO-2. The existing CRMP contains the details of the information needed to prepare the Final Resource Management Plan. Once this information is available the Final Resource Management Plan can be prepared and approved.</p> <p>The specific resource management entity for the open space areas has not yet been determined, but will likely be a private entity or conservancy type entity and must be approved by the County. The easements will be funded by one of the following financial mechanisms: Special District (e.g., Community Facility District), a non-wasting endowment, annual fees, or transfer of ownership to an existing entity for management as outlined in the Conceptual Resource Management Plan. The Final Resource Management Plan would identify the specific financial mechanism to be implemented and the final conditions of approval will identify when the financial mechanism will need to be in place.</p>
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Biological Resources Subchapter 2.5 **7**

2.5.5.2 Jurisdictional Waters and Waterways [M-BIO-3 and M-BIO-4]

The DEIR identifies significant impacts to jurisdictional waters caused by the Project and proposes to mitigate that loss with restoration of degraded wetlands and creation of new wetlands adjacent to the existing wetlands on-site in open space areas.

The arcane formula that establishes how each jurisdiction determines how sacrificed wetlands will be mitigated and to what extent, apparently results in a straw drawing contest, and the agency that presents the longest straw sets the required acreage for mitigation, they are not additive.

The re-vegetation plan presented as M-BIO-4 is not clear regarding its success criteria. That plan requires 80% transplant/container plant survival in year 1. Is the allowance of 20% plant failure in year 1 made up in year 2 with replanting?

Is the required native plant cover percentage in year 2 based on percentage of total plant cover, including non-native species? Or, is it a requirement that 50% of the total surface area must be covered with native species?

Similarly, is the 50% diversity requirement in year 2, diversity of native species versus non-native species? Perhaps a better question is how does one arrive at a percentage of diversity?

And, what is the meaning of the density percentage compared to the cover percentage?

What is the proposed methodology for determining these parameters? Quadrats? Transects? Estimation? The Biological Resources Report is uncertain which would be employed.

Shouldn't this plan be presented in a more complete and understandable form?

The Report acknowledges that the open space areas within the Project would be largely confined to the drainage courses that the Project will avoid [Biological Resources Report 3.2.8, p. 81]. The Report describes the open space areas as "...narrow and mostly surrounded by development except along the western and southern boundary of the project." The Report also suggests that significant edge effect impacts on the proposed open space areas of the Project would result from increased human access, potential increases in predation/competition on native wildlife from domestic animals, potential increases in invasive plant species or other domestic pests, alterations to natural drainage patterns, potential noise effects and potential effects on wildlife species due to increases in night time lighting. These significant impacts would most affect sensitive riparian birds, but, the DEIR says,

"...habitat quality, functions and values would likely decrease also."

So, shouldn't the Report and DEIR also conclude that species other than birds [rodents, reptiles, amphibians, etc.] would suffer from the degraded habitat quality and propose mitigations directed at those other species?

C1m-19

C1m-20

C1m-19 Impacts to riparian habitat and/or sensitive natural communities are mitigated through the preservation of on-site biological open space and the purchase and preservation of native habitats off-site. RMPs are required for these open space areas to ensure their success and provide for long-term management as biological preserves. Regarding success criteria for the RMPs, all yearly goals are calculated as a percentage when the mitigation site is compared with similar values at a reference site. The yearly diversity goal is based on the comparison of native species plant diversity at the mitigation site with the reference site, calculated as a percentage. Density refers to the number of individuals in a given area while cover refers to vegetative canopy cover. If the year 1 goals for plant cover are not met, then the addition of new container stock in year 2 would make up the deficit. Natural recruitment may also make up some of the plant loss from year to year. The yearly vegetation cover goals are based entirely on native species only.

M-BIO-4 sets forth the success criteria/performance standards. The specific methodology used to calculate the success goal parameters can be any or a combination of sampling methods (i.e., quadrats, transects, estimation, etc.) and will be decided by the specific restoration monitor chosen. If the success criteria/performance standards are not achieved the applicant will consult with the County to develop appropriate remedial measures. The Conceptual Wetland Revegetation Plan has been prepared to the current County standards and is a technical document used by restoration experts.

C1m-20 The discussion of potential edge effects on the biological open space habitats encompasses all wildlife species that use those habitats. Project design considerations incorporated into the project (e.g., buffers, limited building zones, barriers, etc.) would reduce these potential edge effects and mitigate these effects below a level of significance.

Biological Resources Subchapter 2.5 **8**

Surprisingly, the Report asserts, that these significant edge effects can be mitigated by a 50-foot buffer around the preserved wetlands in the on-site biological open spaces. A 50-foot buffer poses little challenge to domestic animals, children or adults, night lighting, invasive plant species or other domestic pests. Adding fencing and signage is only marginally helpful. How will the applicant ensure the integrity of the preserved wetlands and open space in the face of these significant impacts?

How will the mitigation of these impacts be monitored and adequately enforced?

Why is there no definitive plan described in the DEIR or the Report that addresses how these preserved wetlands will be secure from the reported threats?

What was the basis for dismissing the significant impacts by simply adopting a 50-foot buffer?

There will be trails within the limited building zone [LBZ]. How will the LBZ address the edge effects cited?

C1m-21

2.5.5.3 Wildlife Movement and Nursery Sites

The DEIR says that the impacts to wildlife movement and wildlife nursery sites would be less than significant and no mitigation is required. However, riparian woodland and wetland corridors are the conduits for movement of many animal species. The principal drainage for the Project and its surrounding area runs along the western edge of the Project site with multiple tributary drainages running through the Project in southwesterly directions toward the principal drainage. This drainage system, and its associated wetlands and riparian woodlands, offers transit corridors for the animals inhabiting the Project site as well as neighboring properties.

However, the Project is proposing culvert pipes under the roads that transect the wetland corridors that will range from 18-inches to 54-inches in diameter. Six of the seven wetland crossings are proposed to have culverts of 18- to 30-inches diameter. These culverts are too small to allow effective transit by wildlife and will impose barriers to movement. To be effective transit elements under the roads crossing the wetlands and to encourage wildlife to avoid crossing the surface of the roads, such culverts should be a minimum of 54-inches to accommodate larger mammals. What is the basis for proposing smaller pipes? Bridging should be considered for several of the crossings.

While these corridors have not been 'designated' in the draft MSCP/PAMA plans for the County, they perform the same function in the area of the Project site as the corridors delineated in the MSCP/PAMA plan, only on a more local, or secondary scale. To say that their destruction is less than significant must depend on whether the on-site and nearby off-site populations can be quantified as significant or not. That has not been done. The significance of these on-site corridors remains to be determined.

However, given the scope of the Project, likely any local value of these drainage wetlands as transit corridors will be compromised by the edge effects caused by the Project and the direct impacts caused by road crossings within the Project. What objective assessment has been done to determine the significance of these impacts, if any?

C1m-22

C1m-21 The determination that the impacts have been reduced to less than significant for indirect impacts on the biological open space involves more than just the 50-foot buffer. The buffer in combination with the limited building zone, barriers, educational signage, and management of the open space are all factors considered in the determination of significance. In addition to those project features designed to reduce potential edge effects, the open space area would be managed to oversee the effectiveness of these project features in accordance with the Final RMP. The open space would be managed by a resource manager whose duties would include the monitoring and enforcement of the potential effects of encroachment into the open space areas.

Attachments 16 and 17 of the Biological Resources Report contain a Conceptual Wetland Revegetation Plan and Conceptual RMP for On-site Biological Open Space, respectively. The Conceptual Wetland Revegetation Plan describes how the preserved wetland would be managed to reduce any potential indirect edge effects, while the Conceptual RMP for On-site Biological Open Space addresses overall management of the on-site open space including implementation responsibilities and management goals. A Final RMP would be prepared that would contain the specifics of the resource management of the biological open space area on-site. Please also see response to comment C1m-18.

The LBZ is outside of and in addition to the proposed 50-foot habitat buffer. These two zones create horizontal separation of at least 150-feet to reduce potential edge effects on the preserved habitats. Any trails that traverse LBZs near open space would be appropriately managed and designed with consideration of protection of open space.

C1m-22 Animal movement is discussed in detail in FEIR subchapter 2.5. Specifically, FEIR subchapter 2.5.2.4 finds that while the project would reduce existing blocks of native vegetation, the local wildlife corridors identified on-site are not recognized as important regional linkages in the draft North County MSCP. Nonetheless, no barriers would be created that would isolate portions of the riparian habitat within the local wildlife movement corridors from breeding or foraging habitat, or prevent access to water sources necessary for reproduction. The 50-foot buffers would be in addition to LBZ areas along these areas have been determined to be ample to protect the native habitat from edge effects, in some places spanning 100-feet total separation.

LETTER

RESPONSE

	<p>C1m-22 (cont.)</p> <p>Additionally, the movement of wildlife would continue through the project site via culverts. The culverts would function as wildlife corridors and be sufficient to allow small terrestrial animals to avoid roads, while the larger terrestrial animals could not use some of the smaller culverts. While the larger terrestrial animals could not use some of the smaller culverts, large mammals are not anticipated to occur on the site. Avian movement through the site would be minimally affected, as birds would be able to continue to use the riparian woodlands by flying along the habitat corridor and over road crossings. The term nursery sites in this context refers to areas where migratory species use areas along their migration routes for breeding activities. Surveys and habitat assessments for the least Bell's vireo and southwestern willow flycatcher, both migratory avian species with the potential to occur on the site, concluded that these species are not using habitat on the site for breeding purposes. No other migratory species have been identified as having the potential to use habitat on the site for breeding activities. Thus, it was concluded that the project site does not support nursery sites for migratory wildlife and would have no impact to nursery sites.</p>
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Biological Resources Subchapter 2.5 **9**

As for nursery sites, of the 13 Group 1 species observed on-site, 6 are reptiles or mammals. The seven bird species would likely nest in the riparian woodland or orchard areas. Why is this not significant?

C1m-23

2.5.5.4 Local Policies, Ordinances, Adopted Plans

The DEIR suggests that the Project would comply with several County, State and Federal policies and laws relating to biological resources. However, the DEIR notes that under the Natural Community Conservation Plan [NCCP] for coastal sage scrub [CSS] vegetation, there is no *de minimis* limit for significance. Yet, there is no data to support the conclusion that the 17-acres of CSS to be removed by the Project is insignificant, even in the face of the California Department of Fish and Wildlife's estimate that in the five county southern California region covered by NCCP, approximately 85 to 90 percent of the historically occurring CSS has been extirpated. The DEIR seems overly casual about designating this 17-acres of CSS as insignificant. And, interestingly, the NCCP plan for San Diego County will be manifested in the still draft MSCP/PAMA.

C1m-24

So, what are the ramifications for mitigation if the draft MSCP/PAMA is not approved?

Will there be a significance threshold established in the MSCP/PAMA for CSS if it is approved?

Doesn't the nibbling away of CSS, even when in small stands, inexorably work against the principles of the NCCP CSS program?

At what acreage does a stand of CSS become significant without a delineated animal species observed on-site?

Cumulative Effects

The Report and DEIR pay little attention to the cumulative effects of the Project on regional biological resources. The Report and DEIR focus on effects within the boundaries of the Project with little acknowledgement of the ramifications of this Project on the County as a whole or the Valley Center Planning Area. The Report cites 8 projects that were compared and evaluated against the proposed Project. The review asserts that the majority of the impacts generated by this collection of historic, current and planned projects were to agricultural lands, with little to no impacts to native upland or riparian habitats.

C1m-25

Of course, the Report makes that statement with some satisfaction, apparently not realizing that the loss of agricultural land is contrary to one of the County's General Plan Guiding Principles, as well. Further, all eight of the referenced properties in Table 7 [p.84] are much smaller than the proposed Project, the largest being 44.2-acres and the smallest 5-acres. All are within a few miles of the proposed Project and all are planning parcels larger than 2-acres, some as large as 4-acres in compliance with the present county General Plan and the Valley Center Community Plan. The proposed

C1m-23 The County of San Diego Guidelines for Determining Significance for Biological Resources defines Native Wildlife Nursery Sites as sites where wildlife concentrate for hatching and/or raising young, such as rookeries, spawning areas and bat colonies. The project site does not contain any areas that meet this definition. Although 13 Group 1 species were observed on-site, the population estimates based on observations made in the field concluded that the site does not support large numbers of individuals of any of these species. Habitat being preserved in biological open space would continue to support these species.

C1m-24 FEIR subchapter 2.5.2.2 and subchapter 2.5.4 both acknowledge that impacts to coastal sage scrub habitat would be considered significant. Mitigation for coastal sage scrub impacts would be required at the designated ratio whether or not the draft MSCP/PAMA is approved. The Draft Habitat Loss Permit contains the necessary findings in support of the habitat loss per the NCCP guidelines in the absence of an adopted MSCP document/plan. All impacts to coastal sage scrub are considered significant and require mitigation with or without the MSCP/PAMA per the County Guidelines for Determining Significance and Wildlife Agency requirements. While the loss of small stands of coastal sage scrub (CSS) contribute to cumulative losses of this habitat type, the NCCP CSS programs focus on the more important task of preserving larger blocks of CSS habitat that have been shown to be more beneficial for the preservation of CSS and the diverse assemblage of organisms supported by this habitat type. In general, the larger the acreage the more significant the patch becomes, however, other factors such as presence of sensitive species may make smaller patches of habitat significant.

C1m-25 Cumulative impacts to agricultural and biological resources are addressed in FEIR subchapters 2.4.3 and 2.5.3, respectively. The selected cumulative project area represents those projects surrounding the project site with similar resources, habitats and within the same watershed as a means to analyze potential cumulative loss of these resources. The cumulative impacts analyses were completed in compliance with County Guidelines and the California Environmental Quality Act. The FEIR also includes an analysis of consistency with General Plan policies. Refer to subchapter 3.1.4 and in Appendix W of the FEIR for this analysis.

Biological Resources Subchapter 2.5

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Project does not comply with the county's General Plan or the Valley Center Community Plan in this regard.

The comparison doesn't seem an apt one for analyzing regional cumulative effects. If we take San Diego County as the 'region' or even North San Diego County as the region, we should be looking at the historic extent of coastal sage scrub, southern mixed chaparral, southern coast live oak riparian woodland, coast live oak woodland, southern willow scrub, southern willow riparian woodland, and wetlands within that area compared to what exists today. We should then ask to what extent have these vegetation communities been extirpated and to what extent the remaining examples of those communities have significance. Comparing proposed destruction in one project with destruction that has or will result in a handful of other smaller projects isn't an effective measurement of cumulative effects. Will the county examine meaningful cumulative effects within the entire county or, at least, within the northern part of the county?

C1m-25
cont.