

Hingtgen, Robert J

From: Hingtgen, Robert J
Sent: Wednesday, February 19, 2014 3:04 PM
To: Megan Lawson (mlawson@dudek.com)
Cc: Fogg, Mindy; Gungler, Ashley
Subject: Responses to Comments

Megan,

This is the format in which we're used to seeing Responses to Comments placed in a Final EIR.

Thanks,

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COMMENTS

RESPONSES

Eric Gibson, Director
November 30, 2009
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3. *The final HLP and final EIR shall be conditioned to prohibit all brushing, clearing, and grading during the gnatcatcher breeding season (February 15- August 30). In addition, the following condition should be included in the final HLP and final EIR to address potential indirect impacts to the gnatcatcher: if construction is necessary adjacent to preserved habitat during the breeding season, pre-construction protocol surveys shall be conducted in the adjacent habitat to determine the location of any nesting birds. The Wildlife Agencies will be notified if any nesting birds are found. If construction activities are not completed prior to the breeding season and noise levels exceed this threshold, noise barriers shall be erected to reduce noise impacts to occupied habitat to below 50 dBA hourly L_{eq} and/or the culpable activities shall be suspended.
4. *A management and monitoring plan (MMP), including a funding commitment and Property Analysis Record (PAR) or an equivalent method to, should be developed for the on-site biological open space easement, and implemented in perpetuity to protect the existing biological functions and values. The applicant should identify an appropriate natural lands management organization, subject to approval by the County and Wildlife Agencies. The organization should prepare a management plan which must be reviewed and approved by the County and Wildlife Agencies.
5. *Conditions that require a monitoring biologist to be on-site during initial clearing and grubbing of habitat within 500 feet of native habitat should be included in the final HLP to minimize project related impacts to on- and off-site native habitats.
6. To ensure that the habitat loss has been minimized and mitigated to the maximum extent practicable in accordance with Section 4.3 of the NCCP Process Guidelines, and that the habitat loss will not preclude or prevent the preparation of the subregional NCCP (e.g., NC-MSCP), we recommend that the Reduced Project Alternative be duly considered as the proposed project, if feasible, by the applicant and County. The Reduced Project identified in the draft EIR would better achieve the required HLP findings by further reducing impacts to CSS in an area occupied by gnatcatcher by stemming off a single street as well as further minimizing impacts to the draft PAMA as envisioned in the NC-MSCP. If this alternative is selected, it should also include the block wall on the easterly side (as is currently included with the proposed project) to reduce brush clearing in conserved open space and to avoid indirect impacts to occupied gnatcatcher habitat. Moreover, it should be noted that this alternative provides two access points, which could result in the need NOT to have the proposed road that cuts across and bisects conserved open space. As identified in our past letter and current letter (See comment No. 2 above), access from the south is preferred by the Wildlife Agencies.
- If the Reduced Project Alternative identified in the draft EIR (with a block wall on the easterly side) is not feasible, we request that the final HLP and MND should fully discuss why it is infeasible. In short, the proposed design (with the block wall to limit brush clearing) is a positive step forward in having clustering/consolidating development as an available tool to help achieve compliance with HLPs and to implement the NC-MSCP; however, there is still room for improvement. Considering the history of the project, its location and current resources on-site this proposed project would be appropriate in this instance, however, it is not necessarily the template to be used in all areas of north County.

A3. This comment was originally made in a joint United States Fish and Wildlife Service (USFWS)/CDFG letter submitted on the Project on January 30, 2006. The County agreed with the comment. As a result, the EIR contains Mitigation Measure M-BI-8, stating that no grading or clearing would occur within 300 feet of nesting activity during gnatcatcher breeding season unless no gnatcatchers are found during pre-construction surveys performed by a qualified biologist. The draft HLP (item B4) also states that the following restriction will be on the grading and/or improvement plans and on the Final Map: "Restrict all brushing, clearing, and/or grading such that none will be allowed during the breeding season of the California gnatcatcher. This is defined as occurring between February 15th and August 30th. The Director of Planning and Land Use, may waive this condition, through written concurrence from the U.S. Fish and Wildlife Service and CA Department of Fish and Game, that no California gnatcatchers are present in the vicinity of the brushing, clearing, or grading." In addition, Mitigation Measure M-BI-10 states that no construction activities are allowed near an active gnatcatcher nest if noise levels at the nest would exceed 60 dB(A) Leq. No changes to the EIR text are required; however, staff will ensure the above mentioned noise measure is specified on the final HLP (item A8).

A4. This comment also was originally made in a joint USFWS/CDFG letter of January 30, 2006. The County agreed with the comment. As a result, the second bullet of Mitigation Measure M-BI-3 on page 2.2-21 of the EIR discusses the requirement to implement a Habitat Management Plan (HMP), which would include habitat monitoring and management. The proposed on-site biological open space would be preserved in perpetuity and managed by an appropriate natural lands management organization. Approval of the HMP by the County and Wildlife Agencies would occur prior to finalization of the map or approval of other discretionary permits. No changes to the EIR text are required.

A5. This comment also was originally made in a joint USFWS/CDFG letter of January 30, 2006. The County agreed with the comment. As a result, the fourth bullet of Mitigation Measure M-BI-4 on page 2.2-21 of the EIR requires that a qualified biologist monitor clearing, grubbing, and grading activities, as well as trenching within Cleveland Trail and excavation of jacking pits for installation of the sewer line between Cleveland Trail and Buena Creek Road. No restriction on location is included within this mitigation measure. Since the biologist would be present on a daily basis for clearing, grubbing and grading, s/he would be present for activities within 500 feet of native habitat. As part of routine County procedure, this mitigation measure would become a Project condition and will be included in the final HLP. (As part of the HLP process, the contract for biological monitoring shall also be submitted to the wildlife agencies for review and approval.) No changes to the EIR text are required.

A6. Comment noted. The issue of whether to select a project alternative will be before the decision makers during Project deliberations. As a matter of clarification,

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