

COMMENTS

RESPONSES

A Review of the Biological Findings from the Draft EIR Study for the Proposed Valiano Development in Eden Valley California.

Dear Sir/Madam

June 8, 2015

Below are my comments to the draft EIR for the Valiano Draft Environmental Impact Report: PDS2013-SP-13-001, PDS2013-GPA-13-001, PDS2013-REZ-13-001, PDS2013-TM-5575, PDS2014-MUP-14-019, PDS2013-STP-13-003, PDS2013-ER-13-08-002.

As an ecologist it is always difficult reading documents such as this where the developer spends a great deal of time outlining all of the damage their project is going to do and then dismissing it through mitigation or other assumptions. Many assumptions are made using very small sample size investigations which are not indicative of true wildlife activity. After review of the document I have many points to bring forth questioning the validity of the assumptions and mitigation.

1) Section 2.4.2.1 Special Species status

The developer states there are no listed species in the project area. This is inaccurate as the Least Bells Vireo, the Coastal California Gnatcatcher and horned lizard are listed species and are present in the Elfin Forrest, Harmony Grove and Eden Valley areas. The destruction of any habitat for these listed species is unacceptable. I believe this is a huge oversight or omission in this study.

Mitigation of any habitat destruction from an ecological standpoint is unacceptable as there is still a net loss of habitat and thus a net loss of required resources and ultimately a reduction in the number of individuals that can be supported. When dealing with listed species we must be thinking in an alternate direction as with habitat restoration and conservation, not destruction. In fact there is some riparian areas that are being rehabilitated to Southern Willow Scrub (SWS) on the Harmony Village project adjacent to the proposed Valiano site. The SWS is the preferred habitat for the Least Bells Vireo and it is most likely these bird do or will exist here. The Valiant project has indicated a 0.04 acre loss of SWS and would most likely have an impact on this listed species. Why is this not brought to attention in this EIR. It is very disappointing that an omission like this is made and makes on suspicious about the rest of the document and the validity of the studies.

The Coastal California Gnatcatcher and the Horned Lizard are similarly missing from the study and as with the Vireo, their habitat loss will have similar impacts. Again any loss of habitat for a listed species is unacceptable.

I have been working with local groups and agencies on trying to rebuild the listed Southern Steelhead in Southern California. As the Escondido Creek drains into the ocean it is considered an anadromous stream and a possible habitat for steelhead. With this, there are strict regulations as to what can happen in on and around the stream. Even though there are no known steelhead, the habitat is conserved. The same should hold for terrestrial habitat for listed

AI-1 Comment noted. Project surveys were completed in accordance with County and Resource Agency requirements.

AI-2 Focused surveys for least Bell's vireo and coastal California gnatcatcher were conducted according to USFWS protocol by biologists qualified to conduct surveys for these species. Protocol surveys have been scientifically designed by the wildlife agencies to determine whether listed species occupy certain areas and if those areas have the habitat requirements for their occupation. The surveys determined that the species were not present on the Project site and the Project would not impact occupied habitat. The survey results are presented in EIR Appendix E. Coast horned lizard is not a listed species.

AI-3 The willow scrub that would be impacted by the Project is not occupied by least Bell's vireo (it is also not associated with the occupied portion of Escondido Creek, as the Harmony Grove Village site is). Mitigation is proposed in accordance with County and Resource Agency requirements. As stated in Response AI-2 and in EIR Appendix E, least Bell's vireo has not been detected on the Project site and the site is not considered occupied by this species or other listed species. Least Bell's vireo is not present on site because the habitat is not suitable because it occurs in small stands with little to no understory, thus making it low quality for this species. There would be no net loss of southern willow scrub since at least 1:1 creation/establishment is required for jurisdictional wetland impacts.

AI-4 As stated in Response AI-2 and in EIR Appendix E, coastal California gnatcatcher was not been detected on the Project site and, therefore, the site is not considered occupied by this species. Furthermore, sage scrub habitat on site occurs in small, isolated patches, and is considered low

COMMENTS

RESPONSES

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| Al-4<br>cont. | quality for this species. Coast horned lizard is not a federal or state listed species, but is a California Species of Special Concern. The Project would not impact habitat occupied by listed species.   |
| Al-5a         | Escondido Creek is located approximately 0.5 mile east and 0.75 mile south of the Project site. Habitat for steelhead is not present on the Project site. Strict water quality measures that are enforced during construction and operation would protect Escondido Creek water quality. |

COMMENTS

RESPONSES

AI-5b cont. species. The EIR has ignored this and appears to have either accidentally or purposely committed these two species from the study.

AI-6 There is so much conservation activity going on in these neighborhoods and it seems counter productive with the destruction of more sensitive habitat. We have compromised with development in or communities and do not want to compromise for any more extended habitat destruction.

Burrowing Owls 2.4-22

AI-7 Again the study assumes that as there was no burrowing owls utilizing the habitat resources that they never will and that there is no impact. As I have already stated the habitat that exists that is suitable for a species, the assumption needs to be that they will return given the opportunity in conjunction with other conservation activities. If we keep eliminating crucial habitat the species will cease to exist. The EIR does not seem to address the amount of suitable habitat that exists locally and in the range of the species being considered. I think this would be a valuable component when looking at species and habitat loss. I still find it hard to believe that the loss of any sensitive habitat is potentially allowed.

Indirect Impacts/ Edge Effects 2.4-21 2.4-22

AI-8 As the EIR has not done a good job at addressing the real impacts of the project on listed species as well as other species, their determination on edge effects is inaccurate. All of the species that are outlined and those listed species that were ignored are going to be impacted. The long term edge effect will have an impact. How can it not? Any alteration of the surrounding environment will affect the local resources. It is well known that the diversity and types of species will change due to edge effects. There will most definitely be an impact on the cross section of species inhabiting the surrounding resources. These impacts are from noise, dogs and cats, human intrusion, dumping, domestic chemical use, drainage from homes etc. etc etc.....

AI-9 Fragmentation is also an issue that has not been addressed. The EIR presents some habitats that are considered salvaged yet they are completely surrounded by development. Soule (1991) provided evidence at how fragmentation will destroy the habitat over time due to the isolation. The smaller the habitat that is fragmented, the extinction rate is increased. These fragmented areas will need to be considered as destroyed and evaluated as such. As these were considered sensitive they will need to be conserved for the benefit of the species impacted and the development altered to conform to the General Plan to allow its conservation. Again the omission of the listed species that will potentially re-inhabit the sensitive habitats of Elfin Forest, Harmony Grove and Eden Valley seems to have been used to make the impact seem less serious. I feel the the ecological impact to the other sensitive species has been understated as any loss of habitat equates to a loss of resources and a diminishment of the population. See the section on mitigation.

AI-10 The loss of sage is of huge concern. As of 1991 the USFWS reported that 70% to 90% of the sage scrub is gone and we can not afford to lose more. This habitat loss is critical and is a main contributor to the decline of species dependent on this resource.

AI-5b This response assumes that commenter is referring to least Bell's vireo and coastal California gnatcatcher in his statement about "these two species." See Responses AI-2, AI-3, and AI-4, which address this comment.

AI-6 The opinion of the commenter is included as part of the record and available to the decision makers prior to the final decision on the Project.

AI-7 Burrowing owl has not been observed on site. All records of burrowing owl in northwestern San Diego County are prior to 1997. Impacts to sensitive habitats are allowed when consistent with County and Resource Agency requirements and mitigated accordingly.

AI-8 The Project addresses edge effects through implementation of several measures, including permanent signs and fencing around biological open space, avoiding use of invasive species in landscaping, directing lighting away from biological open space, and seasonal restrictions on clearing and grading during the bird nesting season. These measures are considered sufficient to address edge effects on biological open space for the Project. Furthermore, impacts to sensitive habitats would be mitigated in accordance with County and Resource Agency requirements, and mitigation areas would be of equivalent or superior biological value. Surveys for listed species were negative and none have been documented on site. Although adverse impacts to non-listed sensitive species may occur, proposed mitigation and design features would reduce these impacts to less than significant. See Responses K-42 and O-8 regarding pets and K-44 regarding chemical usage.

AI-9 Biological open space on site is for avoidance, not mitigation, and as such is not required to be connected. Mitigation for Project impacts would occur off site in areas with superior habitat connectivity and long-term value. Additionally, surveys for listed species were negative and none have been documented on site.

AI-10 A total of 1.8 acres of sage scrub occurs on site in small, isolated patches. As stated in Response AI-2 and in EIR Appendix E, coastal California gnatcatcher has not been detected on the Project site and the site is not considered occupied by this species or other listed species. Impacts to

COMMENTS

RESPONSES

AI-10  
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sage scrub from Project development would not impact coastal California gnatcatcher. The Project is required to obtain a Habitat Loss Permit from the County, with concurrence from the Resource Agencies, for impacts to sage scrub. Mitigation would occur in accordance with County and Resource Agency requirements.

COMMENTS

RESPONSES

Wildlife Access 2.4-27

AI-11

How is the study sure that the habitat is not supporting foraging, breeding etc? Any habitat provides resources and will contribute to the success of a species or population. The study sample sizes are very small and making conclusions such as this is impossible. There was already a statement saying that there is foraging by raptors. These would surely be impacted. How is this no significant affect.

GP2020, What Happened?

AI-12

As a resident of Elfin Forrest and a biologist/ecologist i have reviewed many EIR's and spent a great deal of time involved in the development of the General Plan 2020. We believed that this was going to give the residents of Elfin Forrest, Harmony Grove and Eden Valley some security in how development would proceed. There was a great deal of sacrifice and compromise made by the residents of these communities in order to come to an agreement. Over 10 years was spent on this process and now we are asking why did we do this? Even before the ink has dried on the document we are now faced with developers trying to get the rules changed to facilitate their grossly nonconforming projects and destruction of crucial habitat.

I feel betrayed in the fact that after we thought we had some security in out communities, we are right back where we started. Why did we waste all that time (10 plus years) and money on the General Plan when groups with money can come in a try to dictate the rules? This and other non-conforming projects should just be told NO. I, and I am sure many in the community, believe this is how it should be. Adherence to the GP would save a lot of money and community stress.

On page 2.4-35 there is a statement that there is "NO IMPACT WOULD OCCUR ASSOCIATED WITH LOCAL POLICIES< ORDINANCES AND ADOPTED PLANS". This is an outright lie as the entire project does not conform to the GP20202 general plan and this entire document is an attempt to change the general plan for their project.

AI-13

I am just commenting on the biological portion and has found many errors, and inconsistencies. It is very disconcerting that this biological portion is even being considered as accurate. These errors and omissions should have been identified by other reviewers and particularly the consultants doing the work. I think this again highlights the need for third party reporting and not having a company hired by the developer to do the analysis and studies. The bias and omissions written into this portion of the report is offensive as this whole project is. The complete disregard of the general plan and all of us that live in this community that have helped develop the general plan and are living by it, including the undesirable portions which we compromised on like Harmony Grove Village. We are done with more compromise.

The Use of Mitigation to Justify Habitat Destruction

AI-14

Ecologically the use of mitigation for to "offset" the loss of habitat during development debilitating to species. The ability of a species to exist is solely based on the availability of resources. These resources are composed of everything from food and water to availability of

AI-11

Project impacts were analyzed relative to the County's CEQA Guidelines for the Determination of Significance. The EIR acknowledges that the Project would impede wildlife access to on-site areas that may be used for foraging, breeding, or obtaining water; however, these areas do not support critical populations of species. Project implementation would retain adequate access to areas that may be used for foraging, breeding, and water sources, particularly in the northwest portion of the site where 47.5 acres of lands conserved as a combination of biological open space and agricultural easement provide direct connection to off-site lands along 2,900 linear feet of the Project site's western boundary. Loss of raptor foraging habitat was identified as a significant impact, and mitigation is proposed per County Guidelines.

AI-12

The opinion of the commenter is included as part of the record and available to the decision makers prior to the final decision on the Project. See the second paragraph of Response AD-3 regarding community involvement with planning documents and the balance with the rights of property owners to propose alternative uses on their own properties. The statement on page 2.4-35 of the EIR specifically relates to cumulative effects associated with plans affecting biological resources. As detailed in Subchapter 2.4, the Project would be expected to conform to all local policies, ordinances and adopted plans relevant to biological resources evaluation. The commenter is correct that the Project does not comply with the existing General Plan land use designation. For that reason, a GPA is proposed. The policies stated in the General Plan would not change. The specific land uses on the Project only would be affected. If the GPA is approved as part of the Project, the inconsistency with the land use designation would be resolved, as the General Plan would be amended to incorporate the Project as proposed.

AI-13

All of the commenter's specific comments on the biology section of the EIR are addressed above. No response is required. The opinion of the commenter is included as part of the record and available to the decision makers prior to the final decision on the Project.

AI-14

The County Guidelines and CEQA recognize off-site mitigation as a legitimate measure to mitigate project impacts to habitats and for sensitive species. Note that mitigation for listed species require special permitting by the listing agency.

COMMENTS

RESPONSES

AI-14  
cont. other reproductive individuals. All of these resources are available with in the habitat available. As we continue to destroy more habitat, the level of resources declines, few individuals can exist and we push species closer to being endangered. Of course some species are much more adaptable and can cope but others are not and thus decline more rapidly in population. We have two examples her with the Least Bells Vireo and the Coastal California Gnatcatcher. They have been driven to endangered status by urban sprawl and habitat loss. The Elfin Forrest, Harmony Grove and Eden Valley areas are a few of last vestiges of appropriate habitat for these animals and we cannot afford to lose more. If fact, more restoration projects are needed to try and help provide more resources and thus increase resident populations.

AI-15 The misnomer of Mitigation is that something is being conserved when in actual fact there is a loss. The mitigation of small plot here and small plot there causes fragmentation and Soule (1991) demonstrated how detrimental that is to the survival of a species. We need to reevaluate the use of mitigation and the negative impacts it has on species. With this, the following paragraph is inaccurate. The use of mitigation has not worked and needs reevaluation. Why is the assumption that existing habitat is slated for destruction and only through the destruction of some habitat is other habitat conserved? This is not conserving species or ensuring that they "thrive". These are sensitive species and have become threatened or listed because of habitat destruction and the destruction of more habitat will equate a loss of individuals and a reduction of the population. The loss of habitat not only affects the absolute number of individuals it also decrease the potential diversity of the species. With loss of specific areas and territories there will be less intermingling of individuals between territories or somewhat isolated areas of habitat and/or territories. It is this intermingling of different populations of the same species that maintain or expand genetic diversity. When eliminating any of these areas or territories we are reducing the ability to maintain or are diminishing diversity. From an ecological standpoint, this does not equate to a thriving population or allowing a population to thrive.

"The specified habitat mitigation ratios take into consideration the importance of preserving areas necessary to ensure the continued survival of the more sensitive raptors and the grasshopper sparrow. The habitat preservation ratio is effective because through retention of sustainable habitat, sensitive species can continue to thrive. The mitigation would preserve species habitat and foraging grounds, and thus, help ensure survival of these species within the Project site (open space) and within the County. The mitigation ratios utilized for impacts to these species' habitats were developed based upon NCCP Guidelines (CDFW and California Resources Agency 1997) intended to accomplish preservation of sensitive species, and the wildlife agencies have reviewed and approved these mitigation ratios."

AI-16 Throughout this section the authors are stressing how little impact there will be and all is glowing. How can this be when there are 17 significant biological impacts! Harmony Grove, Elfin Forest and Eden Valley have some of the last vestiges of the habitats being destroyed west of interstate 15. With this these areas have been valued for mitigation from other developments. We should be conserving what we have and not fragmenting and destroying some of these essential and/or critical habitats.

Ignoring MSCP?

AI-15 Contrary to the commenter's assertion, mitigation in accordance with the Multiple Species Conservation Program (MSCP) regional planning effort is not a misnomer. The MSCP provides for a network of preserve areas and linkages to protect the County's native plants and wildlife. Providing mitigation for impacts to habitat is a means to help establish the regional network of preserved lands. Targeting preservation in areas with superior habitat value and connectivity leads to a more functional preserve system with wildlife corridors and linkages promoting genetic diversity, as opposed to requiring smaller plots of on-site open space on every project. While the North County MSCP (NCMSCP) is draft and analysis is not yet complete for coverage of listed species, its preserve design has achieved high value and connectivity. The Project conforms to the draft NCMSCP preserve design.

AI-16 The Project site is not considered a priority area for conservation under the draft NCMSCP (i.e. not identified as proposed Pre-Approved Mitigation Areas [PAMA]). The Project's significant impacts to biological resources are mitigated to less than significant.

COMMENTS

RESPONSES

- AI-17 Why is the MSCP being ignored and the standards from older requirements. Although the original MSCP was developed for south San Diego county, there are new guidelines being established for North County and should be implemented for this document  
  
From the MSCP document "The overall MSCP goal is to maintain and enhance biological diversity in the region and conserve viable populations of endangered, threatened, and key sensitive species and their habitats, thereby preventing local extirpation and ultimate extinction. This is intended to minimize the need for future listings, while enabling economic growth in the region. Where land is preserved as part of the MSCP Preserve through acquisition, regulation, mitigation or other means, management is necessary to ensure that the biological values are maintained over time and remain viable."
- AI-18 This study is very weak and is obviously prepared by a company that was paid by the developer. It would be far more appropriate for the developed to provide funds to an independent group or the county to then hire the companies to do the studies. This EIR reads like a pretty picture of how this is such a wonderful project and is going to have such little effect on the local environment. In reality there will be significant impact on several endangered and listed species not to mention the lives of other wildlife species and those of us living in these communities.
- AI-19 I chose to focus on biological aspects but there are also many concerns with traffic and fire safety which I know are being commented on in more detail by others in the community. With the road infrastructure now in place for Harmony Grove Village which appears inadequate to carry the density being built and then add another development the area is going to be overrun. It is a fire evacuation hazard as well as a daily hazard for residents of the existing communities. The impacts on Harmony Grove road and Elfin Forrest Road were not even addressed. These roads are considered scenic drives and are to remain 2 lane. The developers projects will do nothing but make them more hazardous than they are now.
- AI-20 We as community members worked very diligently on identify areas where we would compromise in the development of the GP2020 general plan in order to attain some security for our communities against the types of development proposed by Valiano. Here we are after all the work and oney spent with the ink barely dry on the General Plan and we are again fighting for our rural way of life. This is unfair to us and any developer whose plan does not comply to the General Plan should just be told NO!

- AI-17 The Project is consistent with the draft NCMSCP. As stated above, the Project site is not considered a priority area for conservation under the draft NCMSCP. Until the plan is adopted, the EIR analysis must discuss the applicability of the plan, but also apply the County standards in the Format and Content Requirements for Biological Resources.
- AI-18 As previously stated, survey results for listed species were negative and the Project site is not considered occupied by listed species. The Project would not impact listed species. Mitigation for impacts to habitat and non-listed species is consistent with County and Resource Agency requirements.
- AI-19 Traffic impacts are analyzed in Subchapter 2.8, including cumulative analysis that included the Harmony Grove Village project (Phase 1 HGV traffic was considered part of the existing traffic). Mitigation would be implemented to reduce the impacts that are found to be potentially significant. Regarding traffic on Harmony Grove Road and Elfin Forest Road, see Responses K-165, AD-14, and AE-2. Regarding fire evacuations, see Topical Response: Fire/Evacuations.
- AI-20 The County appreciates the time spent by community members to contribute to the General Plan Update. The opinion of the commenter is included as part of the record and available to the decision makers prior to the final decision on the Project. Other portions of the comment do not raise a specific issue related to the adequacy of the EIR. Therefore no further response can be provided.

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