

Supplemental Material

For

City of Sacramento

City Council
Financing Authority
Housing Authority
Redevelopment Agency

Agenda Packet

Submitted: January 12, 2009

For the Meeting of: January 13, 2009

- X Additional Material
- X Revised Material

TITLE: DELTA SHORES (P06-197)

Contact Information: Greg Bitter, Principal Planner, 808-7816

The following items are included, and numbered, with this Supplemental Packet:

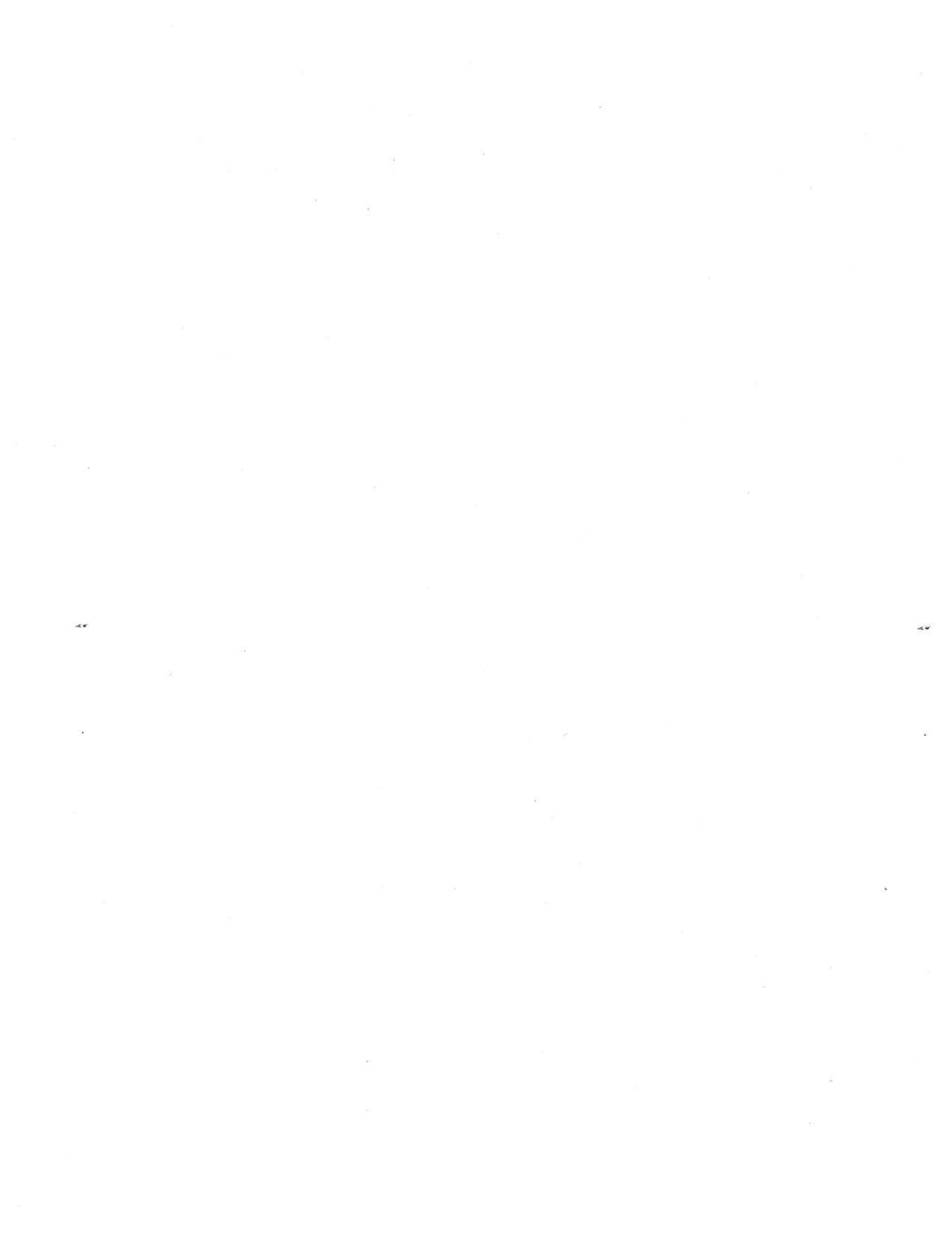
1. Delta Shores EIR Errata #3
2. Revised CEQA Findings and Mitigation Monitoring Plan (red-line format)
3. Swainson's Hawk Correspondence from Applicant
4. Economic Impact Memo from Staff
5. Revised Development Agreement sections (red-line format)
6. Additional correspondence received after publication of original staff report
7. Additional Condition of Approval from SRCSD

Please include this supplemental material in your agenda packet. This material will also be published to the City's Internet. For additional information, contact the City Clerk Department at Historic City Hall, 915 I Street, First Floor, Sacramento, CA 95814-2604, (916) 808-7200.

Supplemental 17-1 **Attachment 1**

Delta Shores

EIR Errata #3





DEVELOPMENT SERVICES
DEPARTMENT

CITY OF SACRAMENTO
CALIFORNIA

300 Richards Boulevard
3RD FLOOR
SACRAMENTO, CA
95811

DELTA SHORES FINAL ENVIRONMENTAL IMPACT REPORT

SCH No. 2007042070

ERRATA No. 3: January 9, 2009

The Delta Shores Final Environmental Impact Report (Final EIR) has been released for public review. The City has provided copies of responses to written comments on the Draft EIR to persons and agencies submitting such comments. The City issued Errata No. 1 to the Final EIR dated December 10, 2008, and Errata No. 2 on December 17, 2008.

The following additional changes are being made to the Final EIR as circulated. The discussion below identifies the changes and the affected sections of the Final EIR.

1. Discussion re: Mitigation Measure 5.4-3 (Final EIR page 2-15 et seq.)

Impact 5.4-3 (DEIR, page 5.4-30 et seq.) identified project impacts on foraging habitat for Swainson's hawk and other raptors. The impact was identified as less than significant based on mitigation that included preservation of suitable raptor foraging habitat at a ration of 1:1.

Comments received regarding the impact and proposed mitigation resulted in a re-examination of the mitigation. The Final EIR included revisions to Mitigation Measure 5.4-3 that more specifically identified the proposed mitigation areas, identified performance standards for selection of such lands, and confirmed the need for a written mitigation plan that would identify the specific mitigation components. The revised mitigation measure was as follows:

- 5.4-3 *Prior to the issuance of grading permits, the project applicant shall preserve an equal amount of suitable raptor foraging habitat, at a 1:1 ratio or greater, ~~or a ratio acceptable to GDFG.~~³⁹ Suitable foraging habitat includes alfalfa or other low growing row crops. The applicant shall preserve approximately 100 acres of suitable Swainson's hawk habitat closest to within a five mile radius of the project site. An additional approximately 800 acres at the Brannon Farms location shall be actively farmed and maintained with a crop rotation that is known to support high quality foraging habitat (e.g., alfalfa) in perpetuity. The Brannon Island Farms site is currently located within close proximity to several active*





Swainson's hawk nests, according to the CNDDDB. Any habitat identified by the applicant shall be evaluated using the following five criteria in consultation with the CDFG:

- i. Does the mitigation parcel provide suitable foraging habitat?
- ii. Is the parcel located in close proximity to the impacted foraging habitat?
- iii. Is the parcel occupied or adjacent to active Swainson's hawk nests?
- iv. Is the parcel adjacent to other protected habitat thereby contributing to a larger habitat preserve?
- v. Is the parcel outside of areas identified for urban growth?

Preservation ~~could~~ shall occur through the purchase of conservation easements or fee title of lands with suitable foraging habitat. A mitigation plan shall be established and submitted to the City for approval prior to the issuance of grading permits and, at a minimum, shall include confirmation of title and encumbrances, details on mitigation site location, development, maintenance and monitoring. Any easements shall be in compliance with Government Code Section 65965. Land and easements shall be approved by the City in consultation with CDFG.

30. — CDFG, *Staff Report Regarding Mitigation for Impacts to Swainson's Hawks (Buteo swainsoni) in the Central Valley of California*, November 8, 1994.

Additional comments regarding mitigation for impacts to Swainson's hawk and raptor foraging habitat were received after distribution of the Final EIR. These comments criticized the selection of the Brannan Island Farm as replacement habitat because of its distance from the project site. In a letter to the applicant and copied to City staff, the Friends of the Swainson's Hawk, for example, stated that locating replacement habitat twenty miles away would harm the Swainson's hawks "...because distance of quality foraging from nesting sites is a critical variable in reproductive success. Studies have shown that reproductive success varies with distance foraged by parenting hawks. Beyond 10 miles, the energy efficiency of serving the nest site drops significantly." The commenter noted: "Five miles would be best, but 10 miles is much better than 20 miles distant, which would be useless to the local SWH population presently using the Delta Shores site." (Correspondence to staff, December 29, 2008; See Staff Report for hearing on January 13, 2009, Attachment 7).

The California Department of Fish and Game also criticized the selection of the Brannan Island Farm site. The Department indicated, in part:

"Mitigation lands designed to offset the impact to SWH foraging habitat should be biologically based. Providing these mitigation lands as close to the impacted nesting hawks as possible is necessary, as discussed in our previous letters to the City. If the City is ultimately unable to locate viable mitigation lands within the distance identified as





necessary in the DEIR (within five miles), then mitigation lands should be identified within as close proximity to the proposed project site as possible. The FEIR does not and should provide a discussion of the properties available between the identified five mile distance and the distant Brannon Island Farms. " (Correspondence to staff, December 18, 2008; See Staff Report for hearing on January 13, 2009, Attachment 7).

The Final EIR acknowledges concerns that have been raised by the applicant regarding the feasibility of acquiring sufficient and appropriate mitigation land within five miles of the project site. There is, based on the correspondence received by the City, disagreement regarding the availability of such lands and the feasibility of acquiring such land or easements if the project is approved. There is also recognition that land within ten miles of the project site could provide adequate mitigation if other required components of habitat were met.

Based on these comments and a review of the Draft EIR and Final EIR discussions, the City has determined that the mitigation for loss of foraging habitat should be revised to require that mitigation be provided through the purchase of credits at a CDFG-approved mitigation bank which has the project within its service area or with conservation easements or fee title to lands located within ten miles of the project site, or a combination thereof. This would ensure that land identified for replacement habitat would respond to the species requirements relating to energy efficiency, survival of nesting chicks and reproductive success. In addition, the description of suitable foraging habitat will be revised to include fallow land, which also provides suitable foraging habitat.

Mitigation Measure 5.4-3 will, therefore, be revised as follows. The text below identifies the text of the mitigation measure as revised in the Final EIR, with proposed changes from that text show with additions in underline and deletions in ~~strikethrough~~.

(CHANGES TO CURRENT TEXT IN FINAL EIR) MM 5.4-3: *Prior to the issuance of grading permits, the project applicant shall preserve an equal amount of suitable raptor foraging habitat, at a 1:1 ratio. ~~or greater.~~ Suitable foraging habitat includes fallow land, alfalfa or other low growing crops. ~~The applicant shall preserve approximately 100 acres of suitable Swainson's hawk habitat closest to within a five mile radius of the project site. An additional approximately 800 acres at the Brannan Farms location shall be actively farmed and maintained with a crop rotation that is known to support high quality foraging habitat (e.g. alfalfa) in perpetuity. The Brannan Island Farms site is currently located within close proximity to several active Swainson's hawk nests according to the GNDDB. Preservation shall occur through the purchase of credits at a CDFG-approved mitigation bank which has the project within its service area, or through the purchase of conservation easements or fee title of lands with suitable foraging habitat no further than a ten (10) mile radius of the perimeter of the project site, or through any combination of the foregoing. Any habitat identified by the applicant shall be evaluated using the following five criteria in consultation with the CDFG:~~*

- i. *Does the mitigation parcel provide suitable foraging habitat?*
- ii. *Is the parcel located in close proximity to the impacted foraging habitat?*





- iii. *Is the parcel occupied or adjacent to active Swainson's hawk nests?*
- iv. *Is the parcel adjacent to other protected habitat thereby contributing to a larger habitat preserve?*
- v. *Is the parcel outside of areas identified for urban growth?*

~~Preservation shall occur through the purchase of conservation easements or fee title of lands with suitable foraging habitat.~~ A mitigation plan shall be established and submitted to the City for approval prior to the issuance of grading permits and, at a minimum, shall include confirmation of title and encumbrances, details on mitigation site location, development, maintenance and monitoring. Any easements shall be in compliance with Government Code Section 65965. Land and easements shall be approved by the City in consultation with CDFG.

These revisions to the mitigation measure would ensure that adequate replacement habitat is located within a proximity to the project site that will support reproduction of the species and provide effective habitat. The impact would remain **less than significant**.

2. Discussion re: Off-Site Improvements (Final EIR page 2-1)

The Final EIR confirmed that the project would require construction of an 18-inch sewer force main that would connect the project site to the SRCSD Central Interceptor located in Franklin Boulevard. Such a connection would be required in Phase Three of the project that calls for residential construction east of Interstate 5. See, e.g., Draft EIR Figure 5.8-1; Final EIR Comment 6-2 and Response)

As noted in the Final EIR discussion, the sewer force main pipeline would be constructed within the Cosumnes River Boulevard right-of-way, and micro-tunneling at Morrison Creek would maintain a 200-foot buffer from the creek. Any land area disrupted through construction would be previously disturbed, and it is likely that installation of the pipeline would occur in conjunction with roadway projects, thus minimizing potential impacts. Any impact would be less than significant.

3. Discussion re: Mitigation Measure 5.2-1 (Final EIR page 2-1 et seq.)

The Final EIR set forth mitigation for Impact 5.2-1. While the Draft EIR concluded that the impact was less than significant, the applicant had identified voluntary mitigation that would be implemented as part of the project. The mitigation measure as set forth in the Final EIR requires the applicant to preserve five hundred (500) acres at the Brannan Island Farms site. As confirmed in the Final EIR, the same site was to be used for mitigation for impacts for loss of Swainson's hawk foraging habitat.

As set forth above, Mitigation Measure 5.4-3, which relates to Swainson's hawk foraging habitat, has been modified. The Brannan Island Farms site will not be utilized for such mitigation, and instead the applicant will be required to preserve land within ten miles of the project site for such purposes.





As noted in Mitigation Measure 5.4-3, farmland may provide foraging habitat for Swainson's hawks and other raptors. In cases in which impacts for agricultural resources and foraging habitat occur with respect to the same project on the same site, mitigation for both impacts is allowed on another site, if that site meets the requirements for both farmland and foraging habitat. The mitigation for farmland has, therefore, been revised to allow the applicant to utilize, when appropriate, the same site(s) identified in MM 5.4-3 to satisfy the requirements of Mitigation Measure 5.2-1. The revised text of Mitigation Measure 5.2-1 is as follows:

(CHANGES TO CURRENT TEXT IN FINAL EIR): MM 5.2-1: The Development Agreement shall include a special condition requiring the preservation of farmland at a 1:1 mitigation ratio by preserving an equal amount of farmland approximately five hundred (500) acres at the Brannan Island Farms site and approximately two hundred eighty two (282) acres elsewhere in Sacramento County at a site location(s) approved by the City comprised of Prime Farmland and Farmland of Statewide Importance, prior to the issuance of any grading permit, in order to reduce any impacts arising from the conversion of the current agricultural uses at the project site to urban development. Where mitigation provided pursuant to Mitigation Measure 5.4-3 for the loss of Swainson's hawk foraging habitat also meets the requirements for farmland mitigation, it shall be applied in satisfaction of the foregoing requirement.

Impact 5.2-1 remains, with the identified mitigation, ***less than significant.***

Supplemental 17-1 Attachment 2

Delta Shores

Revised CEQA Findings & Mitigation Monitoring Plan (red-lined format)

Please note that staff is providing only those pages with changes. Only pages 13, 14, 26 and 27 of the CEQA findings and pages 3 and 12 of the Mitigation Monitoring Plan have been changed.

production or transmission facilities.

nn) **Public Utilities:** 5.8-8. The proposed project would increase the demand for natural gas that could require the construction of new gas production or transmission facilities.

oo) **Public Utilities:** 5.8-9. The proposed project, in combination with other development in the City of Sacramento, could exceed the electrical or natural gas supply and transmission capabilities.

pp) **Transportation and Circulation:** 5.9-11. Under Baseline Plus Project conditions, the project would not adversely affect existing bicycle or pedestrian facilities.

qq) **Transportation and Circulation:** 5.9-25. Under Cumulative Plus Project conditions, the project would not adversely affect existing bicycle or pedestrian facilities resulting in a less-than-significant cumulative impact.

B. LESS THAN SIGNIFICANT IMPACTS FOR WHICH MITIGATION IS RECOMMENDED

The following less than significant environmental impacts of the Project, including cumulative impacts, are being further mitigated and are set out below. Pursuant to section 21081(a)(1) of CEQA and section 15091(a)(1) of the CEQA Guidelines, as to each such impact, the City Council, based on the evidence in the record before it, finds that changes or alterations incorporated into the Project by means of conditions or otherwise, mitigate, avoid or substantially lessen these less than significant environmental impacts of the Project. The basis for the finding for each identified impact is set forth below.

Agricultural Resources

Impact 5.2-1: Development of the proposed project would not have a significant adverse effect on agricultural resources or operations (e.g., impacts to soils or farmlands, or impacts from incompatible uses).

Mitigation Measure (from MMP): The following mitigation measure(s) has been voluntarily adopted by the project applicant to address this impact:

MM 5.2-1: The Development Agreement shall include a special condition requiring the preservation of farmland at a 1:1 mitigation ratio by preserving an equal amount of farmland ~~approximately five hundred (500)~~

~~acres at the Brannan Island Farms site and approximately two hundred eighty-two (282) acres elsewhere in Sacramento County at location(s) a site approved by the City comprised of Prime Farmland and Farmland of Statewide Importance, prior to the issuance of any grading permit, in order to reduce any impacts arising from the conversion of the current agricultural uses at the project site to urban development. Where mitigation provided pursuant to Mitigation Measure 5.4-3 for the loss of Swainson's hawk foraging habitat also meets the requirements for farmland mitigation, it shall be applied in satisfaction of the foregoing requirement.~~

Finding: Impacts of the project on agricultural resources would result in the loss of 782 acres of farmland. By requiring the preservation of an equal amount total of 782 acres of farmland in Sacramento County, it will be assured that the impacts will remain less than significant. For these reasons, the impact remains *less than significant*.

Biological Resources

Impact 5.4-10: Development of the proposed project would not result in the loss of individual giant garter snakes and their upland habitat.

Mitigation Measure (from MMP): The following mitigation measure(s) has been adopted to address this impact:

MM 5.4-10: The project applicant shall consult with the USFWS to address potential impacts on giant garter snake (GGS). Due to the minimal area of potential impact, it is likely that the proposed project could be covered under the Programmatic Formal Consultation for U.S. Army Corps of Engineers 404 Permitted Projects with Relatively Small Effects on the Giant Garter Snake within Butte, Colusa, Fresno, Merced, Sacramento, San Joaquin, Solano, Stanislaus, Sutter and Yolo Counties, California. For construction activities within the vicinity of Morrison Creek or the ditch north of the project site, the following avoidance measures shall be implemented consistent with the USFWS-Standard Avoidance and Minimization Measures During Construction Activities in Giant Garter Snake Habitat:

- *Confine movement of heavy equipment to existing roadways to minimize habitat disturbance.*

portions of the proposed project area they may be found in) and their legal status and protection. The program shall also cover all mitigation measures, environmental permits and proposed project plans, such as the SWPPP, BMPs, erosion control and sediment plan, and any other required plans. During WEAP training, construction personnel shall be informed of the importance of avoiding ground-disturbing activities outside of the designated work area. The designated biological monitor shall be responsible for ensuring that construction personnel adhere to the guidelines and restrictions. WEAP training sessions shall be conducted as needed for new personnel brought onto the job during the construction period.

- The project proponent shall ensure that activities that are inconsistent with the maintenance of the suitability of the remaining wetland habitat and associated watershed on-site are prohibited.

Finding: Impacts of the project relating to its potential impacts on the loss of federally-listed branchiopods and their habitat at the project site would be reduced to a *less than significant* level because the mitigation measures would provide procedures to avoid impacts to the branchiopods and their habitat and provide compensatory mitigation under the auspices of the USFWS and City for any branchiopods and their habitat lost due to development of the project.

Biological Resources

Impact 5.4-3: Development of the proposed project could result in the loss of foraging habitat for Swainson's hawk and other raptors.

Mitigation Measure (from MMP): The following mitigation measure(s) has been adopted to address this impact:

MM 5.4-3: Prior to the issuance of grading permits, the project applicant shall preserve an equal amount of suitable raptor foraging habitat, at a 1:1 ratio or greater. Suitable foraging habitat includes fallow land, alfalfa or other low growing crops. The applicant shall preserve approximately 100 acres of suitable Swainson's hawk habitat closest to within a five mile radius of the project site. An additional approximately 800 acres at the Brannan Farms location shall be actively farmed and maintained with a crop rotation that is known to support high quality foraging habitat (e.g. alfalfa) in perpetuity. The Brannan Island Farms site is currently located within close proximity to several active Swainson's hawk nests according to the CNDDDB. Preservation shall occur through the purchase of credits at a CDFG-approved mitigation bank which has the project within its service

area, or through the purchase of conservation easements or fee title of lands with suitable foraging habitat within no further than a ten (10) mile radius of the perimeter of the project site, or through any combination of the foregoing. Any habitat identified by the applicant shall be evaluated using the following five criteria in consultation with the CDFG:

- i. Does the mitigation parcel provide suitable foraging habitat?
- ii. Is the parcel located in close proximity to the impacted foraging habitat?
- iii. Is the parcel occupied or adjacent to active Swainson's hawk nests?
- iv. Is the parcel adjacent to other protected habitat thereby contributing to a larger habitat preserve?
- v. Is the parcel outside of areas identified for urban growth?

~~Preservation shall occur through the purchase of conservation easements or fee title of lands with suitable foraging habitat.~~ A mitigation plan shall be established and submitted to the City for approval prior to the issuance of grading permits and, at a minimum, shall include confirmation of title and encumbrances, details on mitigation site location, development, maintenance and monitoring. Any easements shall be in compliance with Government Code Section 65965. Land and easements shall be approved by the City in consultation with CDFG.

Finding: Implementation of this mitigation measure would avoid and reduce the impacts to the Swainson's hawk, white tailed kite, burrowing owls and other raptors from the loss of foraging habitat at the project site to a *less than significant* level because it would preserve an equal amount of foraging habitat at a CDFG-approved mitigation bank which has the project within its service area or with conservation easements or fee title of lands within no further than a ten (10) mile radius of the perimeter of the project boundary, or a combination thereof. ~~a large 800 acre contiguous block of Swainson's hawk and other raptor habitat at the Brannan Island Farms location and preserve an additional 100 acres of suitable foraging habitat within a five mile radius of the project site.~~

Impact 5.4-4: Implementation of the proposed project could result in the disturbance of nesting habitat for birds protected by the MBTA.

Mitigation Measure (from MMP): The following mitigation measure(s) has been

DELTA SHORES PROJECT

MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
5.2 Agricultural Resources					
5.2-1 The Development Agreement shall include a special condition requiring the preservation of farmland at a 1:1 mitigation ratio by preserving an equal amount of farmland approximately five hundred (500) acres at the Branran Island Farms site and approximately two hundred eighty-two (282) acres elsewhere in Sacramento County at location(s) a site approved by the City comprised of Prime Farmland and Farmland of Statewide Importance, prior to the issuance of any grading permit, in order to reduce any impacts arising from the conversion of the current agricultural uses at the project site to urban development. Where mitigation provided pursuant to Mitigation Measure 5.4-3 for the loss of Swainson's hawk foraging habitat also meets the requirements for farmland mitigation, it shall be applied in satisfaction of the foregoing requirement.	Verify that this condition is included in the DA.	Project Applicant	Prior to project approval.	Development Services	
5.2-2 The project applicant or developer shall provide all future homeowners with a copy of the Right-to-Farm in California included in the California Code of Regulations (CCR), Title 3, Sections 3482.5 and 3482.6 that outline allowable farming and agricultural operations.	Verify that homeowners received a copy of the Right-to-Farm Act included in the CCR.	Project Applicant	Prior to issuance of occupancy permits.	Development Services	
5.2-4 Implement Mitigation Measure 5.2-2.	See MM 5.2-2	See MM 5.2-2	See MM 5.2-2	See MM 5.2-2	
5.3 Air Quality					
5.3-1 a) The project shall provide a plan, for approval by the lead agency in consultation with the SMAQMD, demonstrating that the heavy-duty (>50 horsepower) off-road vehicles to be used in the construction project, including owned, leased and subcontractor vehicles, would achieve a project wide fleet-average 20% NO _x reduction and 45% particulate reduction compared to the most recent CARB fleet average at time of construction. The SMAQMD shall make the final decision on the emission control technologies to be used by the project construction equipment; however, acceptable options for reducing emissions may include use of late model engines, low-emission diesel products,	Verify that construction bid documents include required measures to minimize ozone precursor emissions.	Project Applicant and/or contractor	Prior to issuance of grading permits or building permits.	Development Services	

1 In the event the Project Applicant sells, assigns or transfers its interests in the Property or in any portion of the Property pursuant to the terms and conditions of the Development Agreement between the Project Applicant and City, the purchaser, assignee or transferee shall observe and fully perform all of the duties and obligations of Project Applicant, as such duties and obligations pertain to the portion of the Property sold, assigned or transferred.

DELTA SHORES PROJECT

MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
<p>5.4-3 Prior to the issuance of grading permits, the project applicant shall preserve an equal amount of suitable raptor foraging habitat at a 1:1 ratio or greater. Suitable foraging habitat includes fallow land, alfalfa or other low growing crops. The applicant shall preserve approximately 100 acres of suitable Swainson's hawk habitat closest to within a five-mile radius of the project site. An additional approximately 800 acres at the Brannon Farms location shall be actively farmed and maintained with a crop rotation that is known to support high quality foraging habitat (e.g., alfalfa) in perpetuity. The Brannon Island Farms site is currently located within close proximity to several active Swainson's hawk nests, according to the CNDDB. Preservation shall occur through the purchase of credits at a CDFG-approved mitigation bank which has the project within its service area or through the purchase of conservation easements or fee title of lands with suitable foraging habitat within no further than a ten (10) mile radius of the perimeter of the project site, or through any combination of the foregoing. Any habitat identified by the applicant shall be evaluated using the following five criteria in consultation with the CDFG:</p> <ul style="list-style-type: none"> i. Does the mitigation parcel provide suitable foraging habitat? ii. Is the parcel located in close proximity to the impacted foraging habitat? iii. Is the parcel occupied or adjacent to active Swainson's hawk nests? iv. Is the parcel adjacent to other protected habitat thereby contributing to a larger habitat preserve? v. Is the parcel outside of areas identified for urban growth? <p>Preservation shall occur through the purchase of conservation easements or fee title of lands with suitable foraging habitat. A mitigation plan shall be established and submitted to the City for approval prior to the issuance of grading permits and, at a minimum, shall include confirmation of title and encumbrances, details on mitigation site location, development, maintenance and monitoring. Any easements shall be in compliance with Government Code Section 65965. Land and easements shall be approved by the City in consultation with CDFG.</p>	<p>Verify that suitable raptor foraging habitat has been preserved.</p>		<p>Prior to issuance of grading permits.</p>	<p>Development Services/Public Works/CDFG</p>	

Supplemental 17-1

Attachment 3

Delta Shores

Correspondence from
Applicant related to
Swainson's Hawk
Mitigation



**CITY OF SACRAMENTO
CALIFORNIA**

MEMORANDUM

Date: January 12, 2009

To: Honorable Mayor Kevin Johnson and Members of the City Council

From: Greg Bitter, Principal Planner

Re: Delta Shores Project (P06-197)
Hearing Date: January 13, 2009
Agenda Item #17

One of the issues raised in the Delta Shores Project (P06-197) concerns impacts to Swainson's hawk foraging habitat, and the mitigation that should be required. The Draft EIR, Final EIR and Final EIR Errata #3 each include discussions of the issue.

The applicant has submitted additional information regarding mitigation for the identified impacts. The submitted materials are attached to this Memorandum.

LAW OFFICES OF
GREGORY D. THATCH

1730 I Street, Suite 220
SACRAMENTO, CA 95811-3017
Telephone (916) 443-6956
Facsimile (916) 443-4632
E-mail: thatchlaw.com

GREGORY D. THATCH
LARRY C. LARSEN
MICHAEL DEVEREAUX
RYAN M. HOOPER

WASHINGTON, DC OFFICE
1225 I Street, Suite 250
WASHINGTON, DC 20005-3914
Telephone (202) 289-3912
Facsimile (202) 289-8683

January 9, 2009

Mr. Greg Bitter
Planning Department
City of Sacramento
300 Richard Boulevard, 3rd floor
Sacramento, California 95814

Mr. Tom Buford
Development Services
City of Sacramento
300 Richards Boulevard
Sacramento, California 95814

Re: Delta Shores Project – Swainson’s Hawk Issue
Final Environmental Impact Report
Project #P06-197

Dear Mr. Bitter and Mr. Buford:

Our office represents M&H Realty Partners VI, L.P., the owner and project applicant for the Delta Shores Project (#P06-197). In connection with the Delta Shores Project, the City has recently received letters from the State of California’s Department of Fish and Game and from the Friends of the Swainson’s Hawk concerning the proposed mitigation in the Final Environmental Impact Report for the Project’s impacts on Swainson’s hawk foraging habitat.

Department of Fish and Game Letter dated December 18, 2008

In a letter dated December 18, 2008, Mr. Kent Smith, a Habitat Conservation Program Manager with the California Department of Fish and Game (“CDFG”) expressed concerns with the analysis in the Final Environmental Impact Report and the City’s conclusion that there was not sufficient habitat within a five mile radius of the Delta Shores Project site to mitigate for the impacts to Swainson’s hawk foraging habitat. In support of its position, the CDFG enclosed a map which highlighted lands the CDFG considered to be suitable Swainson’s hawk mitigation habitat which could be obtained within that five mile radius of the Delta Shores Project.

Kevin Knowles, President of the Conservation Land Group, was retained by the project applicant to evaluate the mitigation lands suggested by the CDFG’s map and determine their availability for mitigation purposes. Mr. Knowles took the CDFG map

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and outlined the current ownerships on the lands proposed by CDFG. A diagram showing the results of Mr. Knowles research is enclosed which notes the land ownerships for the areas highlighted by the CDFG as suitable habitat. He determined that much of the land in the southeast corner of the CDFG map was within the City of Elk Grove and already developed, held by developers with development applications pending, or subject to existing conservation easements, thus it is not available for use as mitigation. In addition, a large amount of the acreage in the unincorporated area that the CDFG had proposed for mitigation is owned by Sacramento County or the Regional Sanitation District, also making it unavailable for mitigation use by a private developer.

As a result, Mr. Knowles narrowed down the search for mitigation land to the private owners that were within the CDFG identified mitigation area. The private owners he identified were:

Edgar F. Betts, APN 119-0230-017 (41.52 acres)
Kenneth and Nancy Evans, APN 119-0230-019 (128 acres)
Ethel M. Serpa Family, APN 119-230-045 (51.8 acres)
Arthur and Janelle Spinella, APN 119-0230-003 (49.1 acres)
Arika Komoorian APN 119-0020-015 (45.72 acres)
Mark & Lorraine Scribner, APNs 119-0230-014 & 096 & 097 (140 acres)
Margaret & Lisa Ann Kimball, APNs 119-0230-021 & 043 (196.47 acres)
Russ Van Loben Sels, APNs 119-0230-016 & 018 (255.39 acres)

The total acreage held by those eight private owners is 908 acres. Consequently, it would not be possible to fully mitigate with 765 acres of Swainson's hawk foraging habitat within the five mile radius on lands the CDFG has identified unless virtually all of the lands remaining in private ownership were acquired. That would be a nearly impossible task under any circumstances.

Long before the CDFG sent its letter and map, the project applicant had Mr. Knowles contact landowners within a five mile radius beginning in September 2007. Attached are copies of all the letters sent by Mr. Knowles in September 2007 to all private landowners in a five mile radius, not just those identified by CDFG's recent letter. The project applicant then had Mr. Knowles follow up with additional letters and telephone calls in December 2008 and January 2009 in response to CDFG's December 18th letter identifying those lands the CDFG considered suitable mitigation for the loss of Swainson's hawk foraging habitat. A spread sheet detailing Mr. Knowles' efforts to contact landowners and their response to his inquiries about their willingness to sell is enclosed. In light of the foregoing evidence, it is fair to conclude that it simply would not be practical to mitigate for the loss of 765 acres of Swainson's hawk foraging habitat by purchasing an equal amount of land within a five mile radius of the Project in Sacramento County.

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In an earlier letter to the City dated February 21, 2008, the CDFG stated that one of the five criteria to be used for evaluating the value of lands proposed for mitigation was whether the land had a mixture of agricultural crops that included hay crops, pasture, grain crops, and row crops. In the December 18th letter, the CDFG stated that the lands it had identified on its map within the five (5) mile radius of the project satisfied all of the "biologically firm criteria" for mitigation lands. As part of the project applicant's independent efforts to find mitigation lands within a five mile radius of the project site, it had Ecorp Consulting identify lands with high quality habitat within that five (5) mile radius. (See enclosed letter from Keith Kwan of Ecorp Consulting) Good, medium and low quality foraging habitat was defined by Ecorp Consulting consistent with the *Staff Report regarding Mitigation for Impacts to Swainson's Hawks (Buteo swainsoni) in the Central Valley of California* (Staff Report) (GDFG 1994). As noted in Mr. Kwan's letter, only 256 acres of the privately owned lands identified in the CDFG's December 18th letter would satisfy the criteria of providing good quality habitat using CDFG's criteria. We point this out not to disparage the CDFG, but to illustrate and reinforce the difficulty in finding sufficient mitigation lands with good quality habitat within a five mile radius of the Project site in Sacramento County.

While there have been many assertions made by third parties that there is a significant quantity of Swainson's hawk foraging habitat available within a five (5) mile radius of the Project site, upon closer examination those assertions are found not to have a factual base. Only two of the private landowners (Mr. Sylva and Mr. Van Loben Sels) contacted by the project applicant's real estate broker within a five mile radius have expressed any interest in selling their land or selling a conservation easement, and one of them (Mr. Sylva) owns land that was not within the area designated as suitable habitat in CDFG's letter. While one of the owners (Mr. Van Loben Sels) said that he thought several other owners might be interested in selling, that has not been confirmed. Moreover, very little of the land identified by the CDFG as suitable foraging habitat fits the definition of good quality foraging habitat composed of annual grasslands, irrigated pastures, fallow fields, and low growing crops such as alfalfa, wheat, row crops, etc. Land farmed in rice is generally considered low quality habitat, because it represents habitat only when they are not flooded. In addition, virtually every piece of available land in private ownership within the five mile radius which the CDFG's letter identified as foraging habit would have to be acquired in order to mitigate for the project's impacts. It is simply not reasonable or practical to expect a project applicant to acquire nearly all of the remaining privately held Swainson's hawk foraging habitat within the five mile radius as mitigation for this Project. The project applicant would have to pay extortionate prices to the private landowners who knew that the applicant had no choice but to acquire their land.

Friends of the Swainson's Hawk Letter dated December 29, 2008

Ms. Judith Lamare, President of the Friends of the Swainson's Hawk (the "FSH"), sent the City a letter dated December 29, 2008, which took issue with use of the Brannan

Mr. Greg Bitter
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January 9, 2009
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Island Farm location as mitigation for the loss of Swainson's hawk foraging habitat. Insofar as the mitigation for the loss of Swainson's hawk habitat has been revised in response to comments and it has been determined not to use the Brannan Island Farm location, her objections to that site are now moot.

Similar to the CDFG, FSH asserted that there was plentiful land available within a five mile radius of the project site which could serve as mitigation for the loss of Swainson's hawk foraging habitat. As noted above, not all lands within that area are good quality foraging habitat, and the availability of that land for purchase is insufficient. Only two of the private landowners contacted by the project applicant's real estate broker have shown any interest in selling their land or a conservation easement.

FSH's letter also recognized that Yolo County does not want the farmlands in Yolo County used as Swainson's hawk mitigation for projects in Sacramento. Once again, this factor demonstrates how impossible it would be to mitigate within a five (5) mile radius of the Delta Shores project site, since virtually all of the farmland within that radius is located to the west of the project in Yolo County, as are many of the Swainson's hawk nesting trees for which the project site provides potential foraging habitat.

Other comments made by FSH questioned the City's ability to implement its role under CEQA as the lead agency responsible for monitoring and enforcing its mitigation measures, and suggested that the CDFG should be given responsibility for doing so. Suffice it to say, the mitigation measure for the loss of Swainson's hawk foraging habitat requires any land and easements to be approved by the City, in consultation with the CDFG. Thus, the City will be able to utilize the expertise of the CDFG in reviewing the lands proposed for mitigation and in reviewing and approving the terms of the easements to be used for the protection of those lands in perpetuity. Moreover, the mitigation measure incorporates the requirement for a mitigation plan that would include details concerning title and encumbrances, site location, development, maintenance and monitoring, as suggested by the CDFG in a comment letter it provided to the City on October 28, 2008.

Ten Mile Radius

In a letter dated October 28, 2008 addressed by CDFG to the City, the CDFG acknowledged that Swainson's hawk foraging habitat located up to ten miles from nest sites was an energetically efficient distance and could provide suitable hawk mitigation habitat. The December 29th letter from FSH also recognized this principle. In Mr. Kwan's letter, he includes a diagram entitled Figure 4. "Parcel Quality between 5 and 10 miles from Project" showing the habitat quality of lands within a ten mile radius of the Project, in five mile increments. As shown on the diagram, there is approximately 16,236 acres of good quality habitat in the radius zone between five and ten miles from the Project site. Also enclosed is a spreadsheet analysis prepared by Ecorp Consulting showing the APNs and ownerships of land with good quality foraging habitat in the five

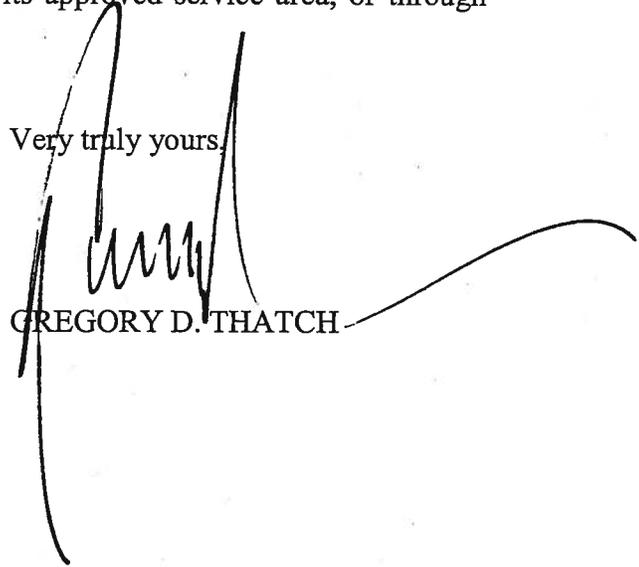
Mr. Greg Bitter
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January 9, 2009
Page 5 of 5

to ten mile radius zone showing a significant number of private owners from whom mitigation land or conservation easements might be acquired. Consequently, it is certainly more reasonable and practical for the mitigation measure in question to require the preservation of Swainson's hawk foraging habitat within a radius of ten miles of the Project site, rather than restricting it to a five mile radius.

Conclusion

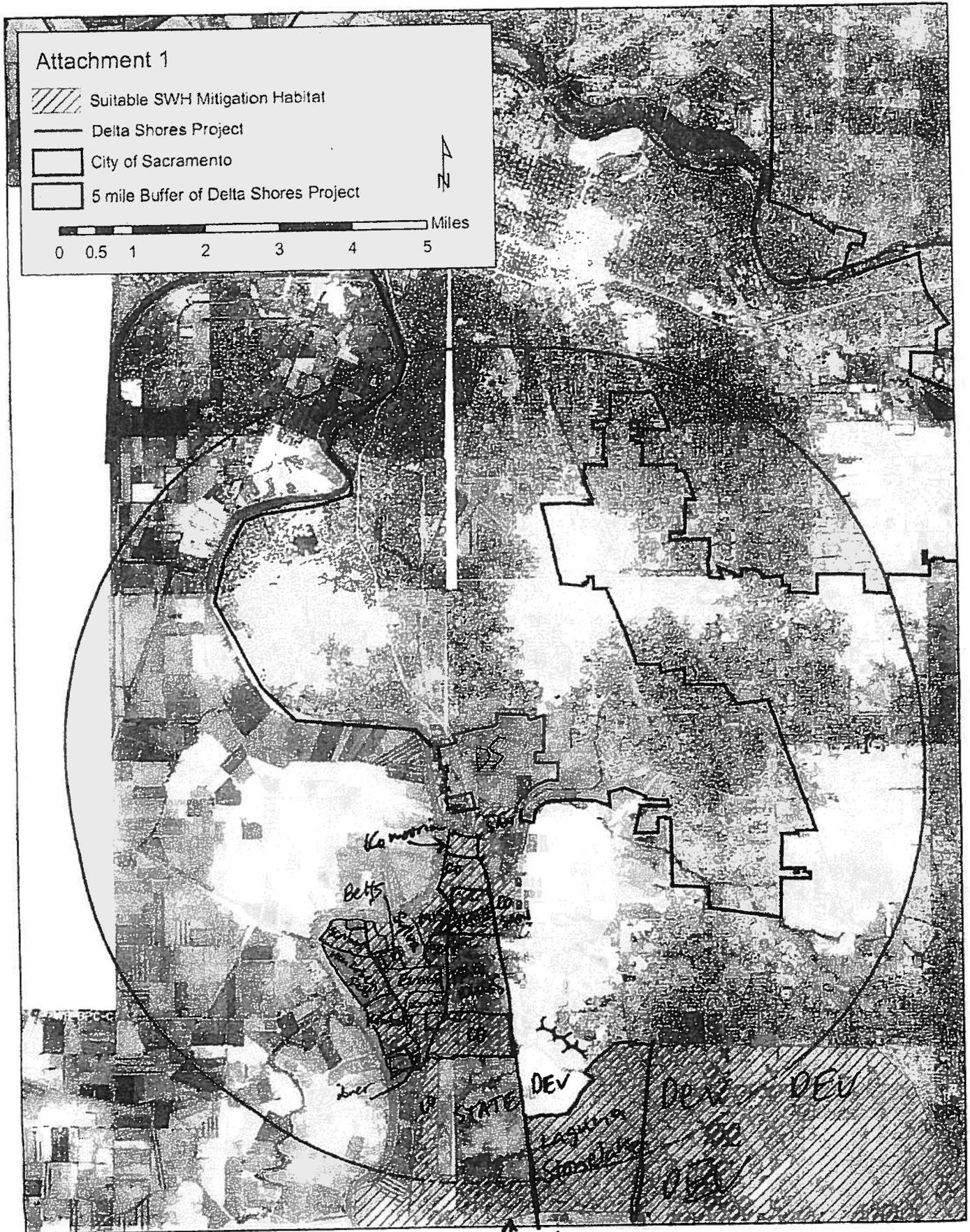
The proposition that the mitigation measure for the loss of Swainson's hawk foraging habitat should require the project applicant to effectively acquire all mitigation land within a five mile radius of the project site is unworkable. As demonstrated by the analyses performed both by Mr. Knowles and by Mr. Kwan, much of the land in the area proposed by the CDFG as suitable foraging habitat is already developed, in the process of being developed, or owned by a government entity. Of the lands remaining in private ownership, only two of the private owners have evidenced any significant willingness to sell their property or a conservation easement. Requiring the project applicant to acquire 765 acres out of the 908 acres left in private ownership within a five mile radius would be untenable. Moreover, the quality of the habitat on the lands identified by the CDFG in the five mile radius is questionable, as shown by the analysis performed by Ecorp Consulting. Consequently, it is reasonable for the City to require mitigation for the loss of Swainson's hawk foraging habitat at lands within a ten mile radius of the Project site, at a mitigation bank which has the Project site within its approved service area, or through any combination thereof.

Very truly yours,


GREGORY D. THATCH

MD/kr
D6954.doc
Enclosures

cc: Scott McPherson, M & H Realty Partners
Mike Grehl, M & H Realty Partners



Hood Franklin

September 20, 2007

McCormack Williamson Co.
P.O. Box 849
Rio Vista, CA 94571

Re: APN: 132-0200-029,030,031 (± 140 acres), Sacramento County

Dear Landowner:

My company, Conservation Land Group (CLG), is currently looking for Swainson's hawk foraging habitat in your area on behalf of a client in need of mitigation property. I am writing to determine if you would consider selling an agricultural conservation easement ("ACE") for mitigation purposes over the above-referenced property. Such an easement would preclude future development/subdivision of the land (other than a single family residence, associated outbuildings and agricultural structures) and prohibit the planting of vineyards or orchards in perpetuity. All other agricultural uses would be permitted under the terms of the ACE. A third party, such as an agricultural land trust, would hold and monitor the ACE.

If you are interested in selling a conservation easement over your property, please give me a call at your earliest convenience. I can be reached at (415) 331-3130 or at the address shown below.

Thank you for your consideration and I look forward to speaking with you soon.

Sincerely,

Kevin Knowles
President

September 20, 2007

Meyers Land Co. LLC
1114 State St. Suite 232
Santa Barbara, CA 93101

Re: APN: 132-0200-001 (± 192.7 acres), Sacramento County

Dear Landowner:

My company, Conservation Land Group (CLG), is currently looking for Swainson's hawk foraging habitat in your area on behalf of a client in need of mitigation property. I am writing to determine if you would consider selling an agricultural conservation easement ("ACE") for mitigation purposes over the above-referenced property. Such an easement would preclude future development/subdivision of the land (other than a single family residence, associated outbuildings and agricultural structures) and prohibit the planting of vineyards or orchards in perpetuity. All other agricultural uses would be permitted under the terms of the ACE. A third party, such as an agricultural land trust, would hold and monitor the ACE.

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Thank you for your consideration and I look forward to speaking with you soon.

Sincerely,

Kevin Knowles
President

September 20, 2007

Wurster Ranches
9375 Wellington Way
Granite Bay, CA 95746

Re: APN: 132-0210-032,054 (± 639 acres), Sacramento County

Dear Landowner:

My company, Conservation Land Group (CLG), is currently looking for Swainson's hawk foraging habitat in your area on behalf of a client in need of mitigation property. I am writing to determine if you would consider selling an agricultural conservation easement ("ACE") for mitigation purposes over the above-referenced property. Such an easement would preclude future development/subdivision of the land (other than a single family residence, associated outbuildings and agricultural structures) and prohibit the planting of vineyards or orchards in perpetuity. All other agricultural uses would be permitted under the terms of the ACE. A third party, such as an agricultural land trust, would hold and monitor the ACE.

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Thank you for your consideration and I look forward to speaking with you soon.

Sincerely,

Kevin Knowles
President

September 20, 2007

Samra Family
P.O. Box 74
Hood, CA 95639

Re: APN: 132-0210- 012,013(± 386 acres), Sacramento County

Dear Landowner:

My company, Conservation Land Group (CLG), is currently looking for Swainson's hawk foraging habitat in your area on behalf of a client in need of mitigation property. I am writing to determine if you would consider selling an agricultural conservation easement ("ACE") for mitigation purposes over the above-referenced property. Such an easement would preclude future development/subdivision of the land (other than a single family residence, associated outbuildings and agricultural structures) and prohibit the planting of vineyards or orchards in perpetuity. All other agricultural uses would be permitted under the terms of the ACE. A third party, such as an agricultural land trust, would hold and monitor the ACE.

If you are interested in selling a conservation easement over your property, please give me a call at your earliest convenience. I can be reached at (415) 331-3130 or at the address shown below.

Thank you for your consideration and I look forward to speaking with you soon.

Sincerely,

Kevin Knowles
President

September 20, 2007

Mark and Lorraine Scribner
9181 River Rd.
Sacramento, CA95832

Re: APN: 119-0230-014, 096, 097 (84.11 acres), Sacramento County

Dear Mr. and Mrs. Scribner:

My company, Conservation Land Group (CLG), is currently looking for Swainson's hawk foraging habitat in your area on behalf of a client in need of mitigation property. I am writing to determine if you would consider selling an agricultural conservation easement ("ACE") for mitigation purposes over the above-referenced property. Such an easement would preclude future development/subdivision of the land (other than a single family residence, associated outbuildings and agricultural structures) and prohibit the planting of vineyards or orchards in perpetuity. All other agricultural uses would be permitted under the terms of the ACE. A third party, such as an agricultural land trust, would hold and monitor the ACE.

If you are interested in selling a conservation easement over your property, please give me a call at your earliest convenience. I can be reached at (415) 331-3130 or at the address shown below.

Thank you for your consideration and I look forward to speaking with you soon.

Sincerely,

Kevin Knowles
President

September 20, 2007

Frank and Patricia Loretz
10884 Franklin Blvd.
Elk Grove, CA 95757

Re: APN: 132-0120-051,077 (± 253.7 acres), Sacramento County

Dear Mr. and Mrs. Loretz:

My company, Conservation Land Group (CLG), is currently looking for Swainson's hawk foraging habitat in your area on behalf of a client in need of mitigation property. I am writing to determine if you would consider selling an agricultural conservation easement ("ACE") for mitigation purposes over the above-referenced property. Such an easement would preclude future development/subdivision of the land (other than a single family residence, associated outbuildings and agricultural structures) and prohibit the planting of vineyards or orchards in perpetuity. All other agricultural uses would be permitted under the terms of the ACE. A third party, such as an agricultural land trust, would hold and monitor the ACE.

If you are interested in selling a conservation easement over your property, please give me a call at your earliest convenience. I can be reached at (415) 331-3130 or at the address shown below.

Thank you for your consideration and I look forward to speaking with you soon.

Sincerely,

Kevin Knowles
President

September 20, 2007

Lisa Ann Kimball
3203 Tyrol Dr.
Laguna Beach, CA 92651

Re: APN: 119-0230-043 (122.6 acres), Sacramento County

Dear Landowner:

My company, Conservation Land Group (CLG), is currently looking for Swainson's hawk foraging habitat in your area on behalf of a client in need of mitigation property. I am writing to determine if you would consider selling an agricultural conservation easement ("ACE") for mitigation purposes over the above-referenced property. Such an easement would preclude future development/subdivision of the land (other than a single family residence, associated outbuildings and agricultural structures) and prohibit the planting of vineyards or orchards in perpetuity. All other agricultural uses would be permitted under the terms of the ACE. A third party, such as an agricultural land trust, would hold and monitor the ACE.

If you are interested in selling a conservation easement over your property, please give me a call at your earliest convenience. I can be reached at (415) 331-3130 or at the address shown below.

Thank you for your consideration and I look forward to speaking with you soon.

Sincerely,

Kevin Knowles
President

September 20, 2007

J.H. Johnson and Sons Inc.
575 Lambert Rd.
Courtland, Ca 95615

Re: APN: 132-0200-016,018,037 (± 420 acres), Sacramento County

Dear Landowner:

My company, Conservation Land Group (CLG), is currently looking for Swainson's hawk foraging habitat in your area on behalf of a client in need of mitigation property. I am writing to determine if you would consider selling an agricultural conservation easement ("ACE") for mitigation purposes over the above-referenced property. Such an easement would preclude future development/subdivision of the land (other than a single family residence, associated outbuildings and agricultural structures) and prohibit the planting of vineyards or orchards in perpetuity. All other agricultural uses would be permitted under the terms of the ACE. A third party, such as an agricultural land trust, would hold and monitor the ACE.

If you are interested in selling a conservation easement over your property, please give me a call at your earliest convenience. I can be reached at (415) 331-3130 or at the address shown below.

Thank you for your consideration and I look forward to speaking with you soon.

Sincerely,

Kevin Knowles
President

September 20, 2007

Greene and Hemly Inc.
11275 Hwy 160
Courtland, CA95615

Re: APN: 132-0210-005,044 (± 85.4 acres), Sacramento County

Dear Landowner:

My company, Conservation Land Group (CLG), is currently looking for Swainson's hawk foraging habitat in your area on behalf of a client in need of mitigation property. I am writing to determine if you would consider selling an agricultural conservation easement ("ACE") for mitigation purposes over the above-referenced property. Such an easement would preclude future development/subdivision of the land (other than a single family residence, associated outbuildings and agricultural structures) and prohibit the planting of vineyards or orchards in perpetuity. All other agricultural uses would be permitted under the terms of the ACE. A third party, such as an agricultural land trust, would hold and monitor the ACE.

If you are interested in selling a conservation easement over your property, please give me a call at your earliest convenience. I can be reached at (415) 331-3130 or at the address shown below.

Thank you for your consideration and I look forward to speaking with you soon.

Sincerely,

Kevin Knowles
President

September 20, 2007

Van Loben Sels Family
P.O. Box 7
Walnut Grove, CA 95690

Re: APN: 119-0230-016,018 (255.39 acres), Sacramento County

Dear Landowner:

My company, Conservation Land Group (CLG), is currently looking for Swainson's hawk foraging habitat in your area on behalf of a client in need of mitigation property. I am writing to determine if you would consider selling an agricultural conservation easement ("ACE") for mitigation purposes over the above-referenced property. Such an easement would preclude future development/subdivision of the land (other than a single family residence, associated outbuildings and agricultural structures) and prohibit the planting of vineyards or orchards in perpetuity. All other agricultural uses would be permitted under the terms of the ACE. A third party, such as an agricultural land trust, would hold and monitor the ACE.

If you are interested in selling a conservation easement over your property, please give me a call at your earliest convenience. I can be reached at (415) 331-3130 or at the address shown below.

Thank you for your consideration and I look forward to speaking with you soon.

Sincerely,

Kevin Knowles
President

September 20, 2007

Eliot Family
P.O. Box 425
Courtland, CA 95615

Re: APN: 132-0190-052,076,079,080,086,087,088 (± 148 acres), Sacramento County

Dear Landowner:

My company, Conservation Land Group (CLG), is currently looking for Swainson's hawk foraging habitat in your area on behalf of a client in need of mitigation property. I am writing to determine if you would consider selling an agricultural conservation easement ("ACE") for mitigation purposes over the above-referenced property. Such an easement would preclude future development/subdivision of the land (other than a single family residence, associated outbuildings and agricultural structures) and prohibit the planting of vineyards or orchards in perpetuity. All other agricultural uses would be permitted under the terms of the ACE. A third party, such as an agricultural land trust, would hold and monitor the ACE.

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Thank you for your consideration and I look forward to speaking with you soon.

Sincerely,

Kevin Knowles
President

September 20, 2007

John Ceccarelli
59 Shoreline Cir
Sacramento, CA 95831

Re: APN: 132-0010-011,013 (140.76 acres), Sacramento County

Dear Mr. Ceccarelli:

My company, Conservation Land Group (CLG), is currently looking for Swainson's hawk foraging habitat in your area on behalf of a client in need of mitigation property. I am writing to determine if you would consider selling an agricultural conservation easement ("ACE") for mitigation purposes over the above-referenced property. Such an easement would preclude future development/subdivision of the land (other than a single family residence, associated outbuildings and agricultural structures) and prohibit the planting of vineyards or orchards in perpetuity. All other agricultural uses would be permitted under the terms of the ACE. A third party, such as an agricultural land trust, would hold and monitor the ACE.

If you are interested in selling a conservation easement over your property, please give me a call at your earliest convenience. I can be reached at (415) 331-3130 or at the address shown below.

Thank you for your consideration and I look forward to speaking with you soon.

Sincerely,

Kevin Knowles
President

September 20, 2007

Syndy Cunninham
And Lana G. Cox
2436 Encinal Ave.
Sacramento, CA 95822

Re: APN: 132-0210-006 (66.09 acres), Sacramento County

Dear Ms. Cunninham and Ms. Cox:

My company, Conservation Land Group (CLG), is currently looking for Swainson's hawk foraging habitat in your area on behalf of a client in need of mitigation property. I am writing to determine if you would consider selling an agricultural conservation easement ("ACE") for mitigation purposes over the above-referenced property. Such an easement would preclude future development/subdivision of the land (other than a single family residence, associated outbuildings and agricultural structures) and prohibit the planting of vineyards or orchards in perpetuity. All other agricultural uses would be permitted under the terms of the ACE. A third party, such as an agricultural land trust, would hold and monitor the ACE.

If you are interested in selling a conservation easement over your property, please give me a call at your earliest convenience. I can be reached at (415) 331-3130 or at the address shown below.

Thank you for your consideration and I look forward to speaking with you soon.

Sincerely,

Kevin Knowles
President

Delta Shores Potential Swainson's Hawk Mitigation Parcels (Sacramento Co)

Properties w/in 5 mile of Delta Shores and 1 mile of Swainson's Hawk occurrences

Owner	APN	Acres	Status	Letter sent?	Phone
Edgar Betts	119-0230-017	41.52	sent letter 12/31; have another 21 acres contiguous	yes	
Arthur/Jannelle Spinella	119-0230-003	49	sent letter 12/31; have house on property	yes	
Mark/Lorraine Scribner	119-0230-014, 096, 097	140	is speaking with Russel VanLobensSels - is interested	yes	(916) 744-1804
Kenneth E. Evans	119-0230-019	128.1	sent letter 12/31	yes	
Margaret J Kimball	119-0230-021	73.87	is speaking with Russel VanLobensSels - is interested	yes	(650) 854-8575
Lisa Ann Kimball	119-0230-043	122.6	is speaking with Russel VanLobensSels - is interested	yes	
Ethel Serpa Family	119-0230-045	52	sent letter 12/31; contiguous APN's may have vines	yes	
Chuck Sylva	119-0230-100	138.7	is speaking with Russel VanLobensSels - is interested	yes	
Russel Van Loben Sels	119-0230-016, 018	255.39	Spoke on 1/8/09 - is interested in sale - no price given	yes 9/08	(916) 439-3290
Seebeck	119-0230-44	58.35	Letter to be sent	no	
Borges	119-0230-42	46	Letter to be sent	no	
Ariza	119-0230-101,102,103	100	Letter to be sent	no	
WR Cave	132-0010-005	49.1	Outside of 5 miles	no	
Arceo	132-0010-02	45	Outside of 5 miles	no	
Alvarado	132-0010-71, 72		Outside of 5 miles	no	
Samra Family	132-0210-012, 013	386	Outside of 5 miles	yes 9/08	
John Ceccarelli	132-0010-011, 013	140.76	Outside of 5 miles	yes 9/08	(916) 428-6762

Conservation Land Group

CONSERVATION LAND GROUP

December 31, 2008

Edgar F. Betts
P.O. Box 22574
Sacramento, CA 95822

Re: Sacramento County APN 119-0230-017 (41.52 acres)

Dear Mr. Betts:

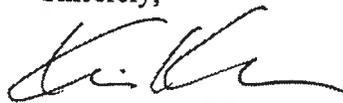
My company, Conservation Land Group (CLG), is currently looking for Swainson's hawk foraging habitat in your area on behalf of a client in need of mitigation property. I am writing to determine if you would consider selling either fee title to your land or an agricultural conservation easement ("ACE") for Swainson's hawk mitigation (you would retain fee title to your property but it would be encumbered with an ACE).

An ACE would preclude future development/subdivision of the land (other than a single family residence, associated outbuildings and agricultural structures) and prohibit the planting of vineyards or orchards in perpetuity. Other agricultural uses, such as the cultivation of field crops, would be permitted under the terms of the ACE. A third party agricultural land trust would hold and monitor the ACE.

If you are interested in selling either fee title or a conservation easement over your property, please give me a call at your earliest convenience. I can be reached at (415) 331-3130 or at the address shown below.

Thank you for your consideration and I look forward to speaking with you soon.

Sincerely,



Kevin Knowles
President



CONSERVATION LAND GROUP

December 31, 2008

Edgar F. Betts
P.O. Box 22574
Sacramento, CA 95822

Re: Sacramento County APN 119-0230-017 (41.52 acres)

Dear Mr. Betts:

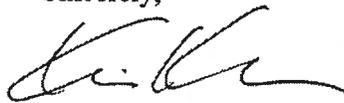
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Thank you for your consideration and I look forward to speaking with you soon.

Sincerely,



Kevin Knowles
President

CONSERVATION LAND GROUP

December 31, 2008

Kenneth and Nancy Evans
14 Down River Ct.
Sacramento, CA 95831

Re: Sacramento County APN 119-0230-019 (128 acres)

Dear Evans Family:

My company, Conservation Land Group (CLG), is currently looking for Swainson's hawk foraging habitat in your area on behalf of a client in need of mitigation property. I am writing to determine if you would consider selling either fee title to your land or an agricultural conservation easement ("ACE") for Swainson's hawk mitigation (you would retain fee title to your property but it would be encumbered with an ACE).

An ACE would preclude future development/subdivision of the land (other than a single family residence, associated outbuildings and agricultural structures) and prohibit the planting of vineyards or orchards in perpetuity. Other agricultural uses, such as the cultivation of field crops, would be permitted under the terms of the ACE. A third party agricultural land trust would hold and monitor the ACE.

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Thank you for your consideration and I look forward to speaking with you soon.

Sincerely,



Kevin Knowles
President



CONSERVATION LAND GROUP

December 31, 2008

Ethel M. Serpa Family
3245 Sailors Ravine Rd
Auburn, CA 95603

Re: Sacramento County APN 119-0230-045 (51.8 acres)

Dear Serpa Family:

My company, Conservation Land Group (CLG), is currently looking for Swainson's hawk foraging habitat in your area on behalf of a client in need of mitigation property. I am writing to determine if you would consider selling either fee title to your land or an agricultural conservation easement ("ACE") for Swainson's hawk mitigation (you would retain fee title to your property but it would be encumbered with an ACE).

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Thank you for your consideration and I look forward to speaking with you soon.

Sincerely,



Kevin Knowles
President

CONSERVATION LAND GROUP

December 31, 2008

Arthur and Jannelle Spinella
P.O. Box 508
Clarksburg, CA 95612

Re: Sacramento County APN 119-0230-003 (49.1 acres)

Dear Spinella Family:

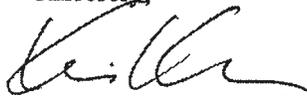
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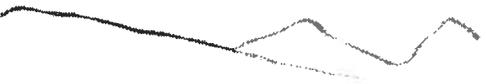
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Thank you for your consideration and I look forward to speaking with you soon.

Sincerely,



Kevin Knowles
President



CONSERVATION LAND GROUP

December 30, 2008

Arika Komoorian
44444 El Macero Drive
El Macero, CA 95618

Re: Sacramento County APN 119-0020-015 (45.72 acres)

Dear Ms. Komoorian:

My company, Conservation Land Group (CLG), is currently looking for Swainson's hawk foraging habitat in your area on behalf of a client in need of mitigation property. I am writing to determine if you would consider selling either fee title to your property or an agricultural conservation easement ("ACE") for Swainson's hawk mitigation (you would retain fee title to your land but it would be encumbered with an ACE).

An ACE would preclude future development/subdivision of the land (other than a single family residence, associated outbuildings and agricultural structures) and prohibit the planting of vineyards or orchards in perpetuity. All other agricultural uses would be permitted under the terms of the ACE. A third party, such as an agricultural land trust, would hold and monitor the ACE.

If you are interested in selling either fee title or a conservation easement over your property, please give me a call at your earliest convenience. I can be reached at (415) 331-3130 or at the address shown below.

Thank you for your consideration and I look forward to speaking with you soon.

Sincerely,



Kevin Knowles
President



9 January 2009

Mr. Greg Bitter
Planning Department
City of Sacramento
300 Richard Boulevard, 3rd floor
Sacramento, California 95814

Mr. Tom Buford
Development Services
City of Sacramento
300 Richards Boulevard
Sacramento, California 95814

**RE: *Delta Shores Project – Swainson’s Hawk Foraging Suitability Analysis
Project #P06-197***

Dear Mr. Bitter and Mr. Buford:

We have conducted a Swainson’s Hawk foraging suitability analysis to identify and evaluate potential lands for Swainson’s Hawk (SWHA) mitigation for the Delta Shore project. The analysis was designed to address the comments provided by California Department of Fish and Game (CDFG) 18 December 2008 stating that it would be preferable to locate mitigation within five miles of the Project. This analysis attempts to identify the availability of “high quality” Swainson’s Hawk mitigation that is within five miles of the Project. It is important to note that the site specific land-use or agricultural crop types are based upon aerial photograph interpretation, on photographs produced between 1999 and 2006. No field surveys or ground-truthing were conducted as part of this analysis.

The framework for completing this analysis entailed establishing a study area boundary, acquiring the extents and ownership information of all of the parcels within the study area, and then identifying parcels that meet the criteria for developing a mitigation site, namely large parcels/parcel groups (>100 acres) in private ownership with “high quality” SWHA habitat. These parcels were then sorted by their distance from the project site.

The study area for this analysis was all lands within 5 miles of the project boundary. This area encompasses lands in Sacramento and Yolo Counties. Experience has shown that impacts to habitat within a particular county are not mitigated with land in an adjacent county. Therefore, our analysis was limited to Sacramento County. The Sacramento County boundary and Project buffer can be seen in Figure 1. *Parcel Classification in Study Area*. The established study area was then overlaid on the Sacramento County GIS Parcel database (Updated, 12/12/2008) and all parcels within the study area were extracted for analysis and joined to an ownership table developed from the November 2008 DataQuick parcel ownership database. These parcels

became the base data for the analysis. In addition, the CDFG comment letter indicated areas deemed suitable foraging habitat. This analysis addresses those CDFG areas within approximately five miles of the Project site.

Once the base data set was established, parcels that did not meet the criteria for establishing a mitigation site were identified. Parcels were excluded based on their size (<5 acres), their current ownership (Government/Utilities/Railroad), existing conservation status, Existing/On-going Entitlements, previous development, and lands less than 100 acres in contiguous private single ownership. The result of this analysis was the identification of 9 parcels in private ownership to be reviewed for Swainson's Hawk habitat quality. These results were overlaid on the CDFG suitable foraging habitat boundary (4,485 acres within five miles of project) and it was determined that approximately 89% (3,973 acres) of those lands are unavailable for Swainson's Hawk mitigation due to ownership and/or parcel size constraints. Of the areas determined to be potentially available 510 acres fell within the CDFG boundary.

The 9 extracted potentially available non-development parcels were isolated and overlaid on aerial imagery to evaluate the quality of foraging habitat. Multiple aerial images were available at different spatial and temporal scales. The most recent image with the clearest representation of habitat type was used to evaluate each parcel. Parcels were classified by crop type as shown on Figure 2. *Parcel Crop Types within 5 miles of Project*. Each crop type was assigned a habitat quality classification. All classifications were based on foraging habitat quality for Swainson's Hawk. If a parcel only contained a small amount of a different quality, that was considered negligible (i.e., a house on a fallow rural parcel). The three categories are defined as:

1. High Quality – All habitat types identified as suitable Swainson's Hawk foraging habitat in the *Staff Report regarding Mitigation for Impacts to Swainson's Hawks (Buteo swainsoni) in the Central Valley of California* (Staff Report) (CDFG 1994). These include annual grasslands, irrigated pastures, fallow fields, and low growing crops – alfalfa, wheat, row crops, etc. Rice fields were excluded from this category due to the fact that they only represent good foraging habitat when they are not flooded.
2. Medium – A parcel with a vegetation type that would normally be considered high quality, but occurs in a highly fragmented landscape. All medium categories were parcels that were mostly comprised of high quality habitat, but included substantial portions of lower quality/non-habitat types.
3. Low – Habitat types that are rarely used for Swainson's Hawk foraging, as identified in the Staff Report (CDFG 1994) and *Biology, Movements, and Habitat Relationships of the Swainson's Hawk in the Central Valley of California* (Estep 1989). These include orchards, vineyards, dense vegetation, rice, large expanses of water, and urban areas.

In reviewing aerial photographs from different years, it was evident that rice fields are being converted to other crops, and vice versa, on a regular basis as product market trends shift. Therefore, the assessment of habitat or crop types is based upon the best available aerial photograph for any particular area in any given season and does not account for crop rotation or land use changes before or since the photograph was produced.

Each potentially available non-development parcel was individually assessed for habitat quality. Results of this assessment are shown in Figure 3. *Parcel Quality within 5 miles of Project.* Within five mile of the Project boundary it was determined that there are five parcels (APN #s 119-0230-100-0000, 119-0230-043-0000, 132-0010-013-0000, 119-0230-016-0000, 132-0010-011-0000) totaling approximately 381 acres that support high quality foraging habitat. Within the area identified by CDFG, a total of 256 acres (portions of APN #s 119-0230-100-0000, 119-0230-043-0000, 132-0010-013-0000, 119-0230-016-0000) were determined to support high quality foraging habitat. In conclusion, the area within five miles of the project does not appear to contain enough available high quality foraging habitat to mitigate at a 1:1 ratio for impacts to Swainson's hawk foraging for the Delta Shores Project.

In addition, we analyzed the presence of high, medium and low quality foraging habitat within a five to ten mile radius of the Project in Sacramento County. Our analysis led us to conclude that within the five to ten mile radius area there are approximately 16,236 acres of high quality foraging habitat; approximately 2,080 acres of medium quality foraging habitat; and approximately 6,890 acres of low quality habitat. A diagram showing the locations of those habitat types is enclosed as Figure 4. *Parcel Quality between 5 and 10 miles from Project.*

Please feel free to call me or Jim Stewart at 916-782-9100 if you have any questions regarding this issue.

Sincerely,



Keith C. Kwan
Biology Department Manager

Cc: Michael Devereaux / Law Offices of Gregory D. Thatch
Greg Thatch / Law Offices of Gregory D. Thatch
Jim Stewart / ECORP Consulting, inc.

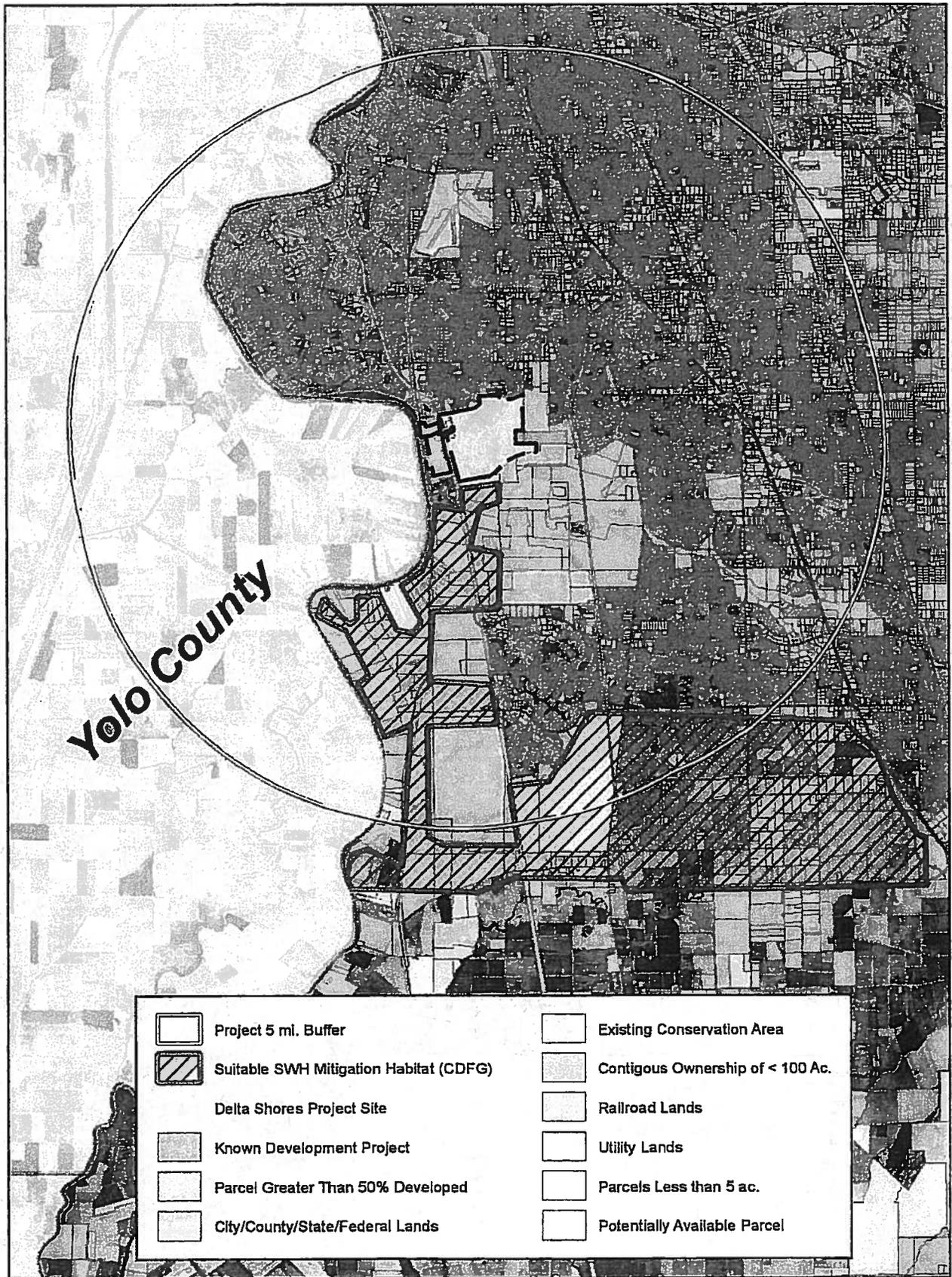
LIST OF FIGURES

Figure 1. Parcel Classification in Study Area

Figure 2. Parcel Crop Types within 5 miles of Project

Figure 3. Parcel Quality within 5 miles of Project

Figure 4. Parcel Quality between 5 and 10 miles from Project

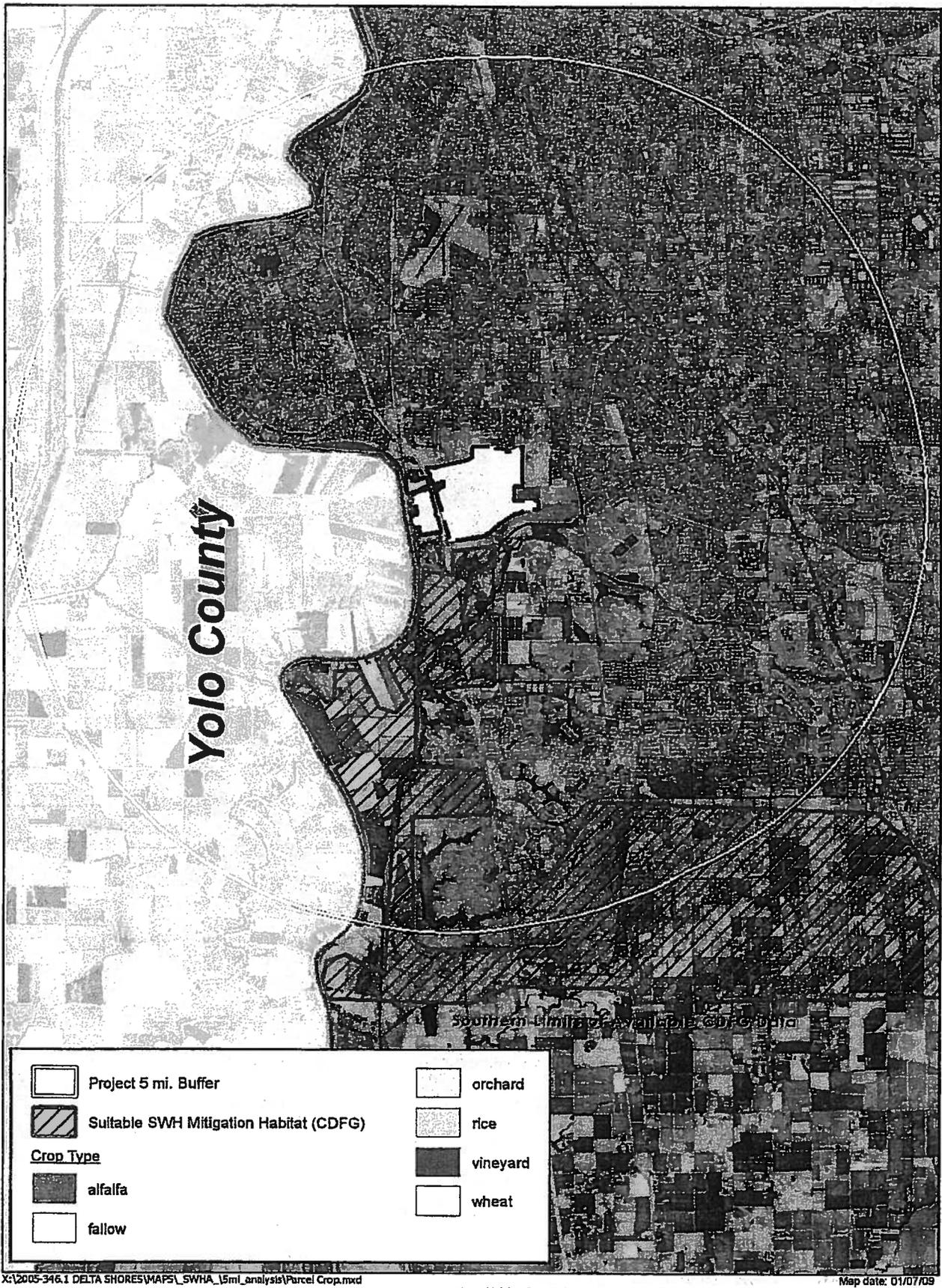


X:\2005-346.1 DELTA SHORES\MAPS\5WHA_15mi_analysis\Parcel Class.mxd

Map date: 01/07/09

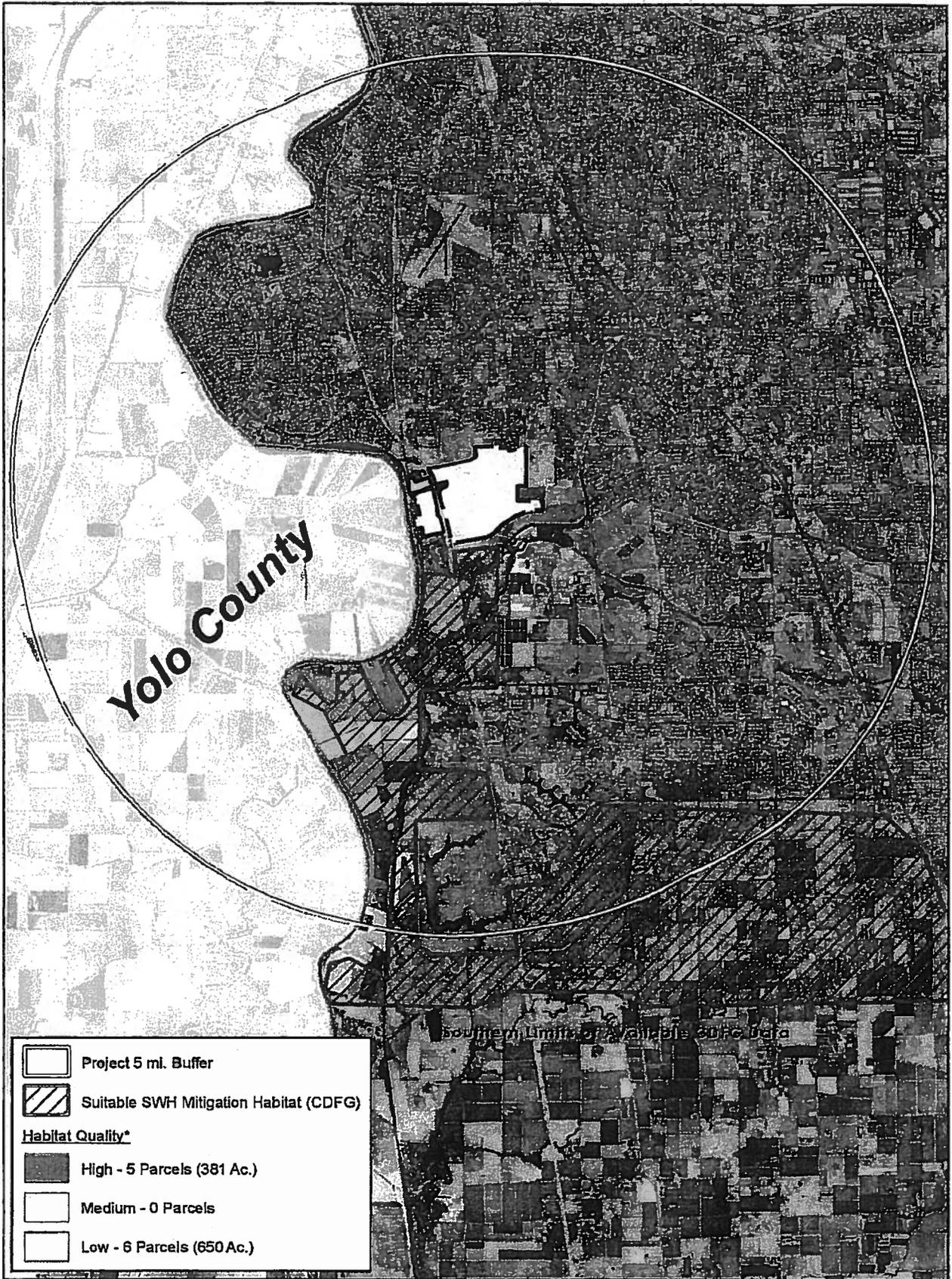
Figure 1. Parcel Classification in Study Area

2005-346.1 DELTA SHORES



*Note: Habitat Quality is based on Aerial Photo Interpretation, no ground truthing was performed

Figure 2. Parcel Crop Types within 5 miles of Project



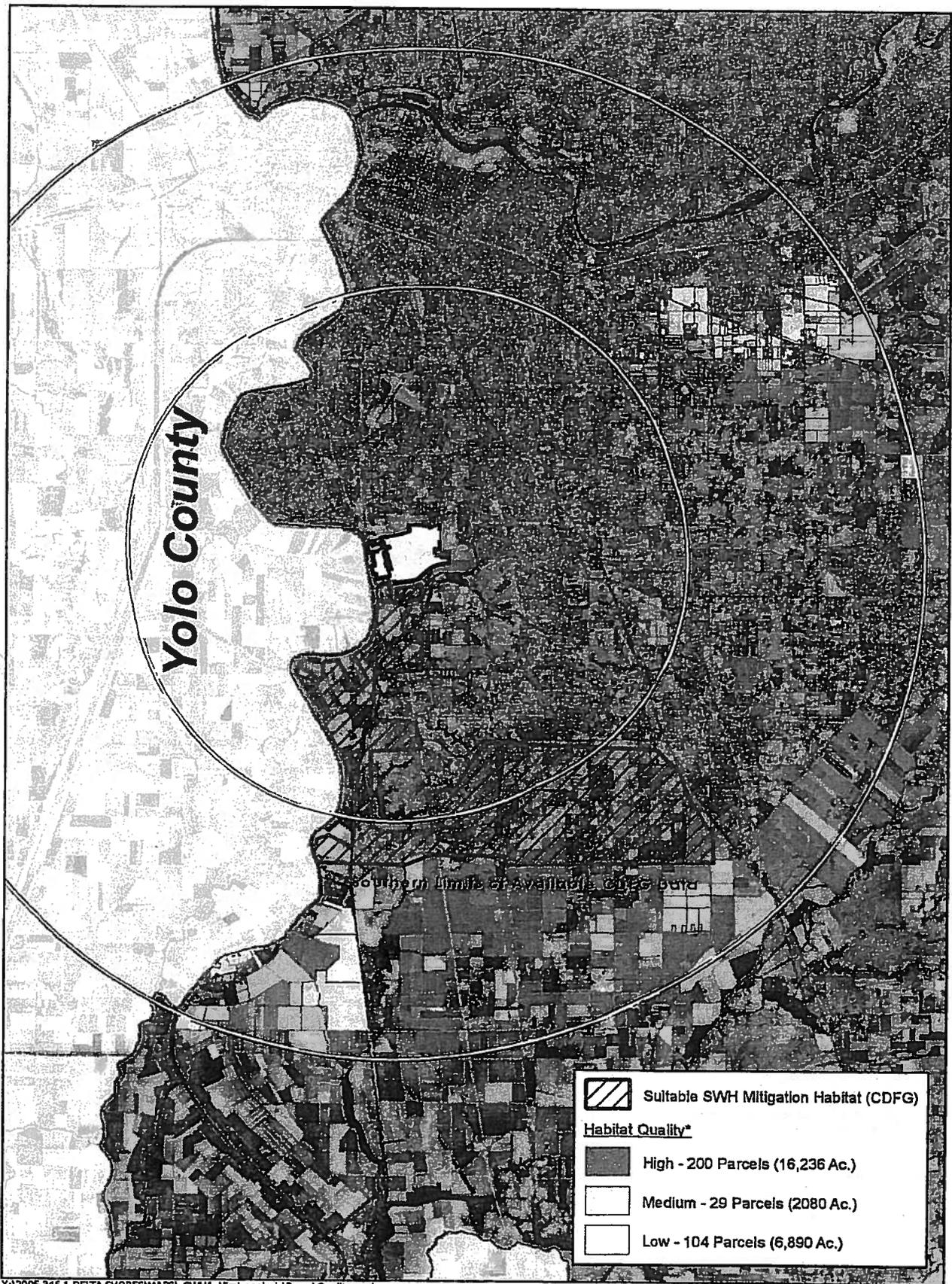
X:\2005-346.1 DELTA SHORES\MAPS_SWHA_5mi_analysis\Parcel Quality.mxd

Map date: 01/07/09

*Note: Habitat Quality is based on Aerial Photo Interpretation, no ground truthing was performed. Medium Parcels within 5mi are split and classified into High and Low sections.

Figure 3. Parcel Quality within 5 miles of Project

2005-346.1 DELTA SHORES



*Note: Habitat Quality is based on Aerial Photo Interpretation, no ground truthing was performed

Figure 4. Parcel Quality between 5 and 10 miles from Project

APN	DISTANCE HABITAT VALUE	ACREAGE	FIRST OWNER FULL NAME
13202610030000	5.6 GOOD		
06400200450000	5.7 GOOD	26	LAGUNA STONELAKE LLC
06400200090000	5.7 GOOD	46	U A LOCAL NO 447 PENSION PLAN
13201310240000	5.9 GOOD	19	U A LOCAL NO 447 PENSION FUND
06400200210000	5.9 GOOD	27	JOHN & JEAN CAMPBELL
06400200480000	6.0 GOOD	15	U A LOCAL NO 447 PENSION FUND
13201310180000	6.0 GOOD	17	U A LOCAL NO 447 PENSION FUND
13201201010000	6.1 GOOD	86	JOHN & JEAN CAMPBELL
13201200310000	6.1 GOOD	7	GALEN & MARYN WHITNEY
13202800340000	6.2 GOOD	61	GALEN & MARYN WHITNEY
13201310200000	6.3 GOOD	112	REYNEN & BARDIS LAGUNA RIDGE
13201310070000	6.3 GOOD	41	JOHN & JEAN CAMPBELL
13201310190000	6.4 GOOD	112	FRANK LORETZ
13201310050000	6.5 GOOD	53	JOHN & JEAN CAMPBELL
13201320070000	6.5 GOOD	44	JOHN & JEAN CAMPBELL
13200500610000	6.5 GOOD	476	JOHN & JEAN CAMPBELL
13201310090000	6.6 GOOD	84	SB & RBLL LAND CO ARBOR RANCH LL
13201201110000	6.6 GOOD	350	FRANK LORETZ
13200500620000	6.7 GOOD	95	LARUE & CAROLYN SCHOCK
13201200770000	6.8 GOOD	80	SB & RBLL LAND CO ARBOR RANCH LL
06301100280000	6.9 GOOD	11	PATRICIA A LORETZ
06301100290000	6.9 GOOD	10	GRANITE CONSTRUCTION COMPANY
06301100010000	6.9 GOOD	9	GRANITE CONSTRUCTION
06300900010000	7.0 GOOD	112	GRANITE CONSTRUCTION
13201310210000	7.0 GOOD	40	GRANITE CONSTRUCTION
06301100120000	7.1 GOOD	237	FRANK LORETZ
13201200510000	7.1 GOOD	465	FRANK LORETZ
06300900020000	7.2 GOOD	16	GRANITE CONSTRUCTION
13201320080000	7.2 GOOD	237	FRANK LORETZ
06300800100000	7.3 GOOD	15	GRANITE CONSTRUCTION
06300900170000	7.3 GOOD	163	JOHN & JEAN CAMPBELL
06301100020000	7.3 GOOD	10	GRANITE CONSTRUCTION
06300800110000	7.3 GOOD	25	GRANITE CONSTRUCTION
06301100030000	7.3 GOOD	17	GRANITE CONSTRUCTION
06300800120000	7.4 GOOD	10	GRANITE CONSTRUCTION
		17	GRANITE CONSTRUCTION
		10	GRANITE CONSTRUCTION

06300900060000	7.4	GOOD
13203000490000	7.4	GOOD
13201320280000	7.4	GOOD
13201310110000	7.4	GOOD
06301100040000	7.4	GOOD
06300800130000	7.4	GOOD
06300900190000	7.5	GOOD
06301100060000	7.5	GOOD
06300900100000	7.6	GOOD
13202210010000	7.6	GOOD
06301100050000	7.6	GOOD
13201520010000	7.7	GOOD
13201320410000	7.7	GOOD
13202210190000	7.7	GOOD
06300900160000	7.7	GOOD
13202210230000	7.7	GOOD
06301300100000	7.7	GOOD
13202230010000	7.8	GOOD
06301300090000	7.8	GOOD
13202210180000	7.8	GOOD
063013000010000	7.9	GOOD
13201510210000	7.9	GOOD
06301000140000	7.9	GOOD
13202100130000	7.9	GOOD
06301000150000	7.9	GOOD
13202100540000	7.9	GOOD
06301000160000	8.0	GOOD
13202210110000	8.1	GOOD
06301300020000	8.1	GOOD
13201510220000	8.1	GOOD
06301000110000	8.1	GOOD
13202100120000	8.2	GOOD
13201510200000	8.2	GOOD
06301000190000	8.2	GOOD
13201510190000	8.4	GOOD
13203310050000	8.4	GOOD
06301900250000	8.4	GOOD

9	GRANITE CONSTRUCTION
105	JAMES & ELIZABETH GRUNDMAN
51	JOHN & JEAN CAMPBELL
40	JOHN & JEAN CAMPBELL
17	GRANITE CONSTRUCTION
11	GRANITE CONSTRUCTION
5	GRANITE CONSTRUCTION COMPANY
49	GRANITE CONSTRUCTION
9	GRANITE CONSTRUCTION
139	FRANK LORETZ
10	GRANITE CONSTRUCTION
198	FIRST AMERICAN TITLE GUARANTY CO
129	M4 INVESTMENT GROUP LLC
97	GEORGE POPESCU
7	GRANITE CONSTRUCTION
31	FRANK LORETZ
35	TEICHERT LAND CO
23	JOHN & JEAN CAMPBELL
30	TEICHERT LAND CO
12	GEORGE POPESCU
10	TEICHERT LAND CO
79	HOWARD P & MICHAEL WACKMAN
20	TEICHERT LAND CO
234	SAMRA
21	TEICHERT LAND CO
419	WURSTER RANCHES
8	TEICHERT LAND CO
25	SAUNDERS
9	TEICHERT LAND CO
82	HOWARD P & MICHAEL WACKMAN
18	TEICHERT LAND CO
158	SAMRA
73	HOWARD & MICHAEL WACKMAN
25	TEICHERT LAND CO
78	WACKMAN & HOWARD P
68	SAUNDERS
11	TEICHERT LAND CO

13203310060000 8.4 GOOD
 13402200660000 8.4 GOOD
 06302000090000 8.5 GOOD
 06301900210000 8.5 GOOD
 06301900330000 8.5 GOOD
 13202400150000 8.5 GOOD
 06302000080000 8.5 GOOD
 13202400620000 8.5 GOOD
 06302000070000 8.6 GOOD
 06600500030000 8.6 GOOD
 06301800290000 8.6 GOOD
 13402200620000 8.6 GOOD - mixed
 13401900280000 8.6 GOOD
 06301900400000 8.6 GOOD
 06301800050000 8.7 GOOD
 13203320530000 8.7 GOOD
 06600200060000 8.7 GOOD
 06302000100000 8.7 GOOD
 06302000110000 8.7 GOOD
 13401900290000 8.7 GOOD
 13202400070000 8.7 GOOD
 13202100140000 8.8 GOOD
 06301800060000 8.8 GOOD
 13401900300000 8.8 GOOD
 13203310010000 8.8 GOOD
 06301900140000 8.8 GOOD
 13401900090000 8.8 GOOD
 13401900100000 8.8 GOOD
 13401200140000 8.8 GOOD
 06301900150000 8.9 GOOD
 13203320210000 8.9 GOOD
 13203320280000 8.9 GOOD
 06301900280000 8.9 GOOD
 13202400640000 8.9 GOOD
 13402200630000 8.9 GOOD
 06301900290000 9.0 GOOD
 13401200220000 9.0 GOOD

112 SAUNDERS
 7 ALAN C & PATRICIA WACKMAN
 11 TEICHERT LAND CO
 49 TRIANGLE PROPERTIES INC
 17 TRIANGLE PROPERTIES INC
 61 GEORGE POPECU
 9 TEICHERT LAND CO
 117 R WALLACE
 15 TEICHERT LAND CO
 80 TEICHERT LAND COMPANY
 9 SLAVIC MISSIONARY CHURCH INC
 144 ALAN C & PATRICIA WACKMAN
 19 CYPRESS ABBEY COMPANY
 47 TEICHERT LAND CO
 34 TEICHERT LAND CO
 90 AVIS
 157 TRIANGLE PROPERTIES INC
 9 TEICHERT LAND CO
 5 SLAVIC MISSIONARY CHURCH INC
 8 CYPRESS ABBEY COMPANY
 40 EDWARD J & LUIS PIMENTEL
 71 MANUEL & ROSEMARY CORREIA
 38 TEICHERT LAND COMPANY
 10 CYPRESS ABBEY COMPANY
 85 MANUEL & ROSEMARY CORREIA
 21 TRIANGLE PROPERTIES INC
 104 NOREEN E & RODNEY BLONIEN
 101 LEONARD & BETSY KENDRICK
 79 ELLA E MAHON
 20 TRIANGLE PROPERTIES INC
 38 AVIS
 80 MANUEL & DIANE CARMO
 20 TRIANGLE PROPERTIES INC
 77 EDWARD J & LUIS PIMENTEL
 128 ALAN C & PATRICIA WACKMAN
 19 TRIANGLE PROPERTIES INC
 40 WILLIAM E HANSEN

13202100150000 9.0 GOOD
 13401200120000 9.0 GOOD
 06301900270000 9.0 GOOD
 13202400180000 9.0 GOOD
 13203310110000 9.1 GOOD
 13401900130000 9.1 GOOD
 06600300010000 9.1 GOOD
 13202000180000 9.1 GOOD
 06600600020000 9.2 GOOD
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 06301700230000 9.2 GOOD
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 13203310320000 9.3 GOOD
 13202400720000 9.4 GOOD
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 13401900250000 9.4 GOOD
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 06600600120000 9.5 GOOD
 14603800110000 9.5 GOOD
 14603800120000 9.5 GOOD
 14603800100000 9.6 GOOD
 13202400750000 9.6 GOOD
 13401900240000 9.6 GOOD
 14603800010000 9.6 GOOD
 13202400760000 9.6 GOOD
 13202000310000 9.6 GOOD
 14600400010000 9.6 GOOD

70 AVIS
 38 DANIEL R LANG
 20 TRIANGLE PROPERTIES INC
 150 ROD MCLELLAN CO
 90 AVIS
 158 CYPRESS ABBEY COMPANY
 119 TRIANGLE PROPERTIES INC
 237 JONSON J H & SONS INC
 80 FLORIN EXCELSIOR 235 LLC & GIBSO
 116 MANUEL & DIANE CARMO
 76 THOMAS W BACKER
 246 TEICHERT LAND COMPANY
 83 TEICHERT LAND COMPANY
 62 CUNHA F L P
 79 ALAN C & PATRICIA WACKMAN
 71 KIDCO 11 L P
 49 ELVAL CARLI
 85 VAN STEYN CASE A & CHRISTINE L
 160 TOLLENAAR
 50 DAVID & ELVA CARLI
 136 KIDCO 11 L P
 84 RICHARD L & LILA BACKER
 322 FRANK G STATHOS
 57 CYPRESS ABBEY COMPANY
 10 CYPRESS ABBEY COMPANY
 39 FLORIN EXCELSIOR 235 LLC & GIBSO
 41 FLORIN EXCELSIOR 235 LLC & GIBSO
 23 KENNETH & REGINA AMBROSE
 18 KENNETH & REGINA AMBROSE
 16 KENNETH & REGINA AMBROSE
 184 DEBORA D GOEHRING
 86 CYPRESS ABBEY COMPANY
 18 JONATHAN & MARK AMBROSE GENERATI
 79 TOLLENAAR
 526 THOMAS & CYNTHIA HARRY
 118 MCCORMACK WILLIAMSON COMPANY
 149 DELTA RANCH

13203320540000 9.6 GOOD
14603800130000 9.7 GOOD
14600400270000 9.7 GOOD
14603800070000 9.7 GOOD
13202400680000 9.7 GOOD
12300200010000 9.7 GOOD
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14603800140000 9.8 GOOD
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14603800060000 9.9 GOOD
13202400610000 9.9 GOOD
14600200170000 10.0 GOOD

80 VAN STEYN CASE A & CHRISTINE L
21 HERZOG COMPANY
46 DELTA RANCH
15 HERZOG CO
159 DUARTE
159 PAC CAP LLC
6 HERZOG COMPANY
96 DELTA RANCH
457 LEWIS
65 DANIEL R LANG
20 KENNETH AMBROSE
33 TEICHERT LAND CO
361 CHRISTO D BARDIS
20 HERZOG COMPANY
7 HERZOG COMPANY
16 HERZOG CO
156 MACHADO
40 JONSON J H & SONS INC

Supplemental 17-1

Attachment 4

Delta Shores

Economic Impact Memo



DEVELOPMENT SERVICES
DEPARTMENT

CITY OF SACRAMENTO
CALIFORNIA

300 RICHARDS BLVD.
3RD FLOOR
SACRAMENTO, CA 95811

MEMORANDUM

DATE: January 12, 2009

TO: Mayor Kevin Johnson
Councilmember Raymond L. Tretheway III, District 1
Councilmember Sandy Sheedy, District 2
Councilmember Steve Cohn, District 3
Councilmember Robert King Fong, District 4
Councilmember Lauren Hammond, District 5
Councilmember Kevin McCarty, District 6
Councilmember Robbie Waters, District 7
Councilmember Bonnie Pannell, District 8

FROM: Greg Bitter, Principal Planner

RE: Economic Information regarding the Delta Shores Project (P06-197)

In February of 2007, Bay Area Economics prepared a report, titled "Delta Shores Economic Analysis", for the project applicants M&H Realty Partners. This memo provides a summary of the economic impact the Delta Shores project will have on the City of Sacramento.

The report included an analysis of job creation for both the construction and operational phases of the project. The analysis looked at the following job creation for both phases of the project; direct jobs, indirect jobs (architects, engineering consultants, real estate agents, real estate management etc.) and induced jobs (food services, medical services, management companies, etc.). The following table summarizes the job creation for Delta Shores:



	Construction Phase (spread over lifetime of construction)	Operational Phase
Direct Jobs	8,200 jobs	5,800 jobs
Indirect Jobs	3,800 jobs	1,000 jobs
Induced Jobs	3,500 jobs	1,300 jobs
Total Jobs	15,500 jobs over project lifetime	8,100 permanent jobs

The study also analyzed projected annual revenues and costs for the City's General Fund. Major General Fund revenues included property tax, payments from the State property tax in lieu of vehicle license fees (ILVLF), sales tax and transient occupancy tax. Major expenditure categories in the General Fund included Fire, Police, Parks and Recreation, along with other smaller departments. **The study concluded the projected annual net fiscal impact of the project in 2006 dollars is \$6.3 million.** Therefore, once completed, the proposed project could be expected to generate annual revenues which exceed service costs by \$6.3 million.

If you have any questions, please call me at 808-7816, or on my cell phone at 508-6871.

cc: Shirley Concolino, City Clerk



Supplemental 17-1 **Attachment 5**

Delta Shores

Revised Development Agreement page (red-lined format)

Please note that staff is providing only the page with changes (page 63 of the Development Agreement and page 246 of the Council staff report).

are less than the required dedications for those maps, LANDOWNER shall provide the City with a letter of credit or other authorized security in a form approved by the City Attorney, in an amount equal in value to the balance of parkland due, to secure the dedication of parkland for the Final Map. The Letter of Credit shall be released by CITY upon acceptance of the IOD for the balance of the parkland dedication that is due. The dedication of excess parkland does not obligate CITY to reimburse the LANDOWNER for the value of the land dedicated.

- 3. **Park Funding Requirement.** As required by subsection 9C of the Development Agreement, LANDOWNER shall transfer four million dollars (\$4,000,000) to CITY for purposes of future development of a regional park to be located on or adjacent to the Property (the "Regional Park Fee") upon or before issuance of the 3,375th residential building permit at the Property.

F. **Global Climate Change Mitigation Conditions.** LANDOWNER shall implement the voluntary mitigation measures identified as Mitigation Measures 5 10-1(a) through and including 5.10-1(cc) in the Final Environmental Impact Report for the Project.

G. **Agricultural Impact Mitigation Condition:** LANDOWNER shall undertake preservation of farmland at a 1:1 mitigation ratio by preserving approximately five hundred (500) acres at the Brannan Island Farms site and approximately two hundred eighty two (282) acres elsewhere in an equal amount of farmland in Sacramento County at a site approved by the City comprised of Prime Farmland and Farmland of Statewide Importance, prior to the issuance of any grading permit, in order to reduce any impacts arising from the conversion of the current agricultural uses at the project site to urban development. Where mitigation provided pursuant to Mitigation Measure 5.4-3 for the loss of Swainson's hawk foraging habitat also meets the requirements for farmland mitigation, it shall be applied in satisfaction of the foregoing requirement.

III. **CONDITIONS OF DEVELOPMENT; SPECIAL FINDINGS REQUIRED**

- A. In addition to other findings and conditions as may be deemed applicable, no special permit, subdivision map or other land use entitlement for the Property shall be approved unless the approving body either: (1) makes the following findings; or (2) expressly waives such findings, in whole or in part, as not applicable to the Property and stating the reasons therefor with such waiver and

FOR CITY CLERK USE ONLY

ORDINANCE NO. _____

CITY AGREEMENT NO _____

DATE ADOPTED: _____



Supplemental 17-1 Attachment 6

Delta Shores

Additional Correspondence

January 3, 2009	Thomas C. Reavey, Jr.
January 5, 2009	Peter A. Cross, Deputy Assistant Field Supervisor, Sacramento Fish and Wildlife Office, and Bart McDermott, Project Leader, Stone Lakes National Wildlife Refuge
January 6, 2009	Maxine Clark (via email)
January 8, 2009	Jodi Samuels (via email)

THOMAS C REAVEY, JR.

January 3, 2009

Ablog, Antonio and Buford, Tom
Environmental Planning Services
City of Sacramento
Development Services Department
300 Richards Blvd, 3rd Floor
Sacramento, CA 95811

RE: Proposed Swainson's Hawk Habitat Mitigation Program For the City of Sacramento's Delta Shores Project Is Insufficient

Dear Mr. Ablog and Mr. Buford,

I have been involved with Swainson's Hawk issues for several years. I have volunteered in the "hawk booth" at events like Earth Day, testified on issues affecting them, and helped to promote general awareness and understanding of this vital raptor in our region. These hawks maintain the ecological balance of our region by keeping "pest" bird populations like pigeons down, and by reducing the number of mice and other rodents which are harmful to human health. They are also a potent symbol of our dwindling open space and our area's beautiful natural heritage.

Which is why I am writing to express my concern that the City of Sacramento's Delta Shores Project Swainson's Hawk proposed mitigation program is insufficient for many reasons. The project removes 745 acres of Swainson's Hawk foraging habitat along the Sacramento River just north of the town of Freeport and mitigates for that by preserving a farmland tract 20 miles away in the Delta, just south of the town of Isleton, at Brannan Island Farms, in an area where Swainson's Hawks nests are sparse. According to biologists familiar with these issues, this distance exceeds what is acceptable for mitigation.

Furthermore, the nesting hawk pairs near the Delta Shores site will not benefit from the mitigation. Swainson's Hawk mitigation land should preferably be within 5 miles of the project site but no more than 10 miles distant for the affected nesting pairs to benefit from the mitigation.

I note from these biologists that there is adequate land available within 10 miles of the project site in the County of Sacramento that, if protected, would expand the protected area for Swainson's Hawks in South Sacramento County, south of Elk Grove, and north of the Delta. The City of Elk Grove and the County of Sacramento are acquiring land for mitigation in this area and it is targeted by the South County Habitat Conservation Plan for habitat lands to protect threatened species.

Additionally, the California Department of Fish and Game has filed a letter commenting on the Draft Environmental Impact Report (EIR) that identifies a variety of problems with the mitigation program including the location of mitigation lands at too great a distance from the project impacts. The City of Sacramento should comply with Fish and Game guidance in defining mitigation for Swainson's Hawks before approving the Final EIR.

Finally, these same biologists also note that mitigating for impacts on species outside the Delta with Delta land is not an acceptable mitigation practice, and that most of Brannan Island Farms -proposed for mitigation habitat- is 17 feet below sea level, vulnerable to flooding, and has inappropriate soils for the crops most valuable for Swainson's Hawk foraging.

THOMAS C REAVEY, JR.

I therefore urge you to reconsider your proposed Swainson's Hawk mitigation program for Delta Shores and redraft and implement an adequate program better suited to the needs of this threatened species. Thank you for your consideration.

Sincerely,



Thomas Reavey
170 Vista Cove Circle
Sacramento, CA 95835

Cc: Councilmember Ray Tretheway
Sacramento City Hall
915 I Street, Room 205
Sacramento, CA. 95814



United States Department of the Interior



FISH AND WILDLIFE SERVICE

Sacramento Fish and Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, California 95825-1846

Stone Lakes National Wildlife Refuge
1624 Hood-Franklin Road
Elk Grove, California 95757

In reply refer to:
81420-2009-TA-0257-1

JAN 5 2009

Ms. Kristine Hansen, Project Manager
U.S. Army Corps of Engineers, Sacramento District
Sacramento Office
1325 J Street, Room 1480
Sacramento, California 95814-2922

Subject: Public Notice Number SPK-2006-311, Delta Shores Project,
Sacramento County, California

Dear Ms. Hansen:

This responds to the request for written comments by the U.S. Army Corps of Engineers (Corps) on the Delta Shores project (proposed project) (SPK-2006-311) in Sacramento County, California. The proposed project consists of mixed-use development on approximately 379 acres of land east of Interstate 5, north of Morrison Creek, and south of Meadowview Road. The U.S. Fish & Wildlife Service (Service) comments are provided as assistance for compliance with the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act).

The Service's Sacramento Fish and Wildlife Office staff attended the April 6, 2006, pre-application meeting with the Corps on the proposed East Delta Shores project. The Service expressed concern that construction activities may impact potential habitat for the federally-listed as threatened giant garter snake (*Thamnophis gigas*) (snake). The Corps should consider effects to both upland and aquatic habitat, as well as permanent and temporary effects, to the snake as a result of the proposed project. Other species of concern to the Service include the threatened vernal pool fairy shrimp (*Branchinecta lynchi*) and the endangered vernal pool tadpole shrimp (*Lepidurus packardii*) and state listed species such as greater sandhill cranes (*Grus canadensis*), white-faced ibis (*Plegadis chihi*), long-billed curlew (*Numenius americanus*) and burrowing owl (*Speotyto cunicularia*). We understand that vernal pool species surveys have been conducted on the proposed project site. Prior to initiation of section 7 consultation, we encourage the Corps to work with the Service to review the results of these surveys to make a determination of effects to these listed species.

TAKE PRIDE
IN AMERICA 

The proposed project site is located directly to the north of a National Wildlife Refuge administered by the Service. Stone Lakes National Wildlife Refuge (Refuge) was established in 1994 with a goal of protecting 18,000 acres of valuable agricultural lands and natural habitats for the benefit of a wide variety of migratory birds and special status species. The Refuge Project Boundary lies east of the former Southern Pacific Railroad line and extends from approximately Freeport and straddles I-5 south to about Twin Cities Road and encompasses the Bufferlands area around the Sacramento Regional Wastewater Treatment Plant, adjacent to the project.

The conversion of agricultural lands, wetlands and open space areas to urban uses directly impacts populations of migratory waterbirds and threatened and endangered species in southern Sacramento County. Since the Service has been conducting active management of refuge wetland and grassland habitats during the last 14 years, we have monitored local movements of migratory waterbirds which utilize the Refuge and the Bufferlands, particularly white-fronted geese, black-bellied plovers, sandhill cranes, long-billed curlews, and white-faced ibis; the last three species being candidates for Federal listing. Our observations indicate these species regularly feed and roost in winter wheat, tomatoes, corn, clover, and pasture on private lands outside the Refuge boundary. The Refuge and other protected lands alone cannot support the habitat requirements of these species; these species are dependent on surrounding agricultural lands as well. These upland agricultural areas also play an important role in providing habitat for these and other species during periods of extended flooding.

Specifically in the case of the greater sandhill crane, the Refuge and surrounding agricultural lands are critically important. These birds have a wintering range between one and three square miles and require wetlands for night roosting and loafing sites and a mix of agricultural fields such as alfalfa, corn and irrigated and dry pastures and wetlands for foraging. Sandhill cranes are easily displaced by any kind of disturbance and will abandon a site after just one or two disturbances by people, dogs, hunting and changes in night lighting. Already, the cranes have been displaced from traditional feeding grounds because of developments around the city of Elk Grove. Recently, greater sandhill cranes have been documented in increasing numbers on the Bufferlands and northern reaches of the Refuge in habitat similar to the project site. We are concerned about the impacts that the Project may have on crane usage and other wetland dependent species.

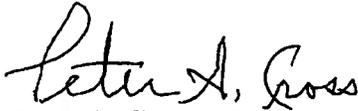
In summary, the Service is concerned about the Federal and State special status species that could be affected by the loss of wetlands and associated uplands and agriculture. The Service recommends that the Corps consider effects to these resources when making the permit determination for this project, and work with the applicant to reduce negative effects to natural resources as much as possible.

Ms. Kristine Hansen

3

Please contact Jana Milliken at the Service's Sacramento Fish and Wildlife Office (916-414-6645) or Bart McDermott at the Stone Lakes National Wildlife Refuge (916-775-4421) if you have any questions or concerns regarding these comments.

Sincerely,



Peter A. Cross
Deputy Assistant Field Supervisor
Sacramento Fish and Wildlife Office



Bart McDermott
Project Leader
Stone Lakes National Wildlife Refuge

cc:

Ms. Cynthia Herzog, ECORP Consulting, Inc., Rocklin, California
Ms. Shelly Amrhein, City of Sacramento, Sacramento, California
Mr. Antonio Ablog, City of Sacramento, Sacramento, California

Antonio Ablog - Swainsons's Hawk mitigation for Delta Shores

From: <Baltzie@aol.com>
To: <bpannell@cityofsacramento.org>
Date: 01/06/2009 9:02 AM
Subject: Swainsons's Hawk mitigation for Delta Shores

Dear Councilpersons:

I wish to express my concern for Swainson's Hawks, their habitat, and our community's support of these important components of the Valley's ecosystem. It is my opinion that the Swainson's Hawk Mitigation Program for Delta Shores is inadequate for the following reasons:

The mitigation land is too far from the area the hawks prefer. To be truly useful, the mitigation land should be within 10 miles of the area from which the hawks are being dispossessed;

Such land is available, currently being acquired by the City of Elk Grove and the County of Sacramento, land which is targeted by the South County Habitat Conservation Plan;

California Fish & Game has commented on the DEIR, including the location of remote mitigation lands;

The City has no expertise to judge what is needed for survival of Swainson's Hawk. Therefore, approval by California Fish & Game regarding acceptable mitigation measures should be required.

I appreciate your attention to my comments.

Maxine Clark
34 River Bluff Lane
Carmichael, CA 95608
916.486.0243

New year...new news. Be the first to know what is making headlines.

From: Jodi Samuels <planning.samuels@yahoo.com>
To: <rtretheway@cityofsacramento.org>, <rkfong@cityofsacramento.org>, <sshee...
CC: <gbitter@cityofsacramento.org>, <aablog@cityofsacramento.org>, <kmerchan...
Date: 1/8/2009 2:09 PM
Subject: Comments on Delta Shores (P06-197)

Good afternoon,

Attached and copied below are comments related to the proposal for Delta Shores, which is agendized to be heard before the City Council on January 13th, 2009.

Jodi Samuels, PhD
Commissioner
City Planning Commission
915 I Street
Sacramento, CA 95814

Comments on Delta Shores Proposal (P06-197)
Submitted by Jodi Samuels, Planning Commission
8 January 2009

As an individual Planning Commissioner, I urge the City Council to deny the proposed Delta Shores application for the following reasons:

General

1. Lack of Vision

Delta Shores offers the City of Sacramento an amazing opportunity to create an innovative and cutting-edge new community to showcase development based on the principles of Smart Growth and true sustainability. However, the current proposal falls far short of this goal, instead presenting the City with a project that adheres to the traditional model of suburban development and risks falling into the same traps and pitfalls as have already been demonstrated and lamented in many portions of Natomas.

The proposal focuses on traditional residential and large commercial products by amending the current land use designations to lessen potential office space and increase regional retail space, resulting in a development that will not provide a balance of jobs and housing, especially since most of the new retail jobs will be of lower quality and compensation than new office jobs would have been.

Delta Shores could have been a proposal to provide an incubator for new businesses related to clean energy field or other emerging technologies (perhaps even a campus-like setting for a larger environmental corporation or a cluster of environmental small businesses and research/development firms), but instead, the application proposes to leave the City of Sacramento with a wide swath of residential development dwarfed by regional retail to greet visitors and residents alike as they enter the southern "gateway" to the City.

2. Climate Change

The project does not adequately address issues related to Climate Change, despite the applicant's testimony about the voluntary mitigation measures included in the FEIR. The majority of these voluntary agreements are simply restatements of legal codes and ordinances that any development would be mandated to meet under current law, so the applicant has not done anything to go above and beyond the minimum requirements. Several projects in other jurisdictions have shown commitment to implementing additional measures that will truly reduce some of the environmental effects of new development, but

Delta Shores does not follow suit.

3. Phasing

The proposed phasing plan indicates that the first sites to be constructed will be regional retail and some higher density residential on the east side of I-5 followed by residential on the west side of I-5. This phasing plan creates a huge gap in the development and does absolutely nothing to link the existing Meadowview neighborhood in the northeast to the new community. The applicant claims that a goal of the project is to provide retail and connections for the Meadowview community, but current residents in that area will still have to drive long distances to reach this new retail site. The new development will, in effect, create an island of regional retail and residential in the midst of undeveloped farmland until the final phases of the project. This type of staggered (leap-frog) development does not promote Smart Growth or encourage residents to establish a community, as they will be separated from each other with minimal access to the surrounding areas except via car on the few connecting roads that will be constructed or improved.

4. Not Infill

Although the application claims that Delta Shores is an infill site, this is not true. An infill site is one that is surrounded on all sides by existing development and usually has the basic infrastructure in place for new development. Delta Shores is fully adjacent to existing development only on the west (Town of Freeport) and the southwest (Bing Maloney golf course). On the north, only the northwestern portion of the site has some immediately-adjacent development, but the majority of the northeastern portion is bounded by agricultural land, as is all of the eastern side as well as the southeastern portion, which is proximate to a watershed and habitat area. Although the entire site is within the City limits, that fact, in itself, does not automatically make this an infill site. According to the City's new General Plan, development in infill sites should be prioritized prior to development in greenfield areas. Delta Shores does not fit this priority and thus violates one of the goals of the new General Plan.

West of I-5

1. Town of Freeport

The proposal for residential development on the west side of I-5 is inappropriate and inconsistent with the stated goal in the PUD Guidelines of maintaining and respecting the historic rural Delta character of the adjacent Town of Freeport. The Tentative Map for this portion of the site does not provide a sufficient buffer for the existing town, and the new lots closest to Freeport Boulevard should be moved farther away from the street, increasing the green space between the road, the existing town, and any new development. In addition, if residential units are developed in this area, the lots should be lower density (e.g. Rural Residential) in order to achieve consistency with the residential development in the Town of Freeport.

2. Freeway Buffer

The Tentative Map for the residential development on the west of I-5 does not provide a sufficient buffer between the residential lots and the freeway. Instead of forcing residential development into a portion of the site that is at risk for potential impacts related to noise and air quality effects of the freeway, the areas closest to I-5 should be dedicated to non-residential development or left undeveloped.

3. Access & Circulation

This portion of the site has restricted vehicular access and minimal circulation for pedestrians and bikes. No neighborhood-serving retail is proposed for this part of the development, meaning that residents will be forced to drive to access services. Only one freeway overpass at the north of the site is proposed, so anyone in the southern area will have to drive all the way to the north, then east across the overpass, then all the way to the south to access the proposed retail component of the project.

4. Residential-Only Zoning

As mentioned above, no services are provided in this part of the development, since the Tentative Map only proposes a variety of residential zoning. This type of single-use zoning violates Smart Growth policies that aim to create communities where people can live in proximity to retail and/or jobs in order to reduce the number of vehicle miles traveled and develop complete and fully livable neighborhoods. At a minimum, the lots on this site should be zoned as mixed use (RMX) to allow for the eventual possibility of small live-work units or neighborhood businesses that could serve some of the daily needs of the new residents in addition to the existing residents of the Town of Freeport.

East of I-5

1. Transit-Oriented Development

The application claims to offer transit-oriented development based on the future construction of a Light Rail station to the east, outside the boundary of Delta Shores. However, the timeline for construction of this station is unknown, and even when (if) the new station is opened, the majority of the new residents will not be within easy walking distance of the transit stop. If Delta Shores were truly transit-oriented, the proposal would include a plan (and financing) to provide frequent bus and/or shuttle service immediately upon reaching a critical mass of either residential or retail occupancy.

2. Regional Retail Center

The proposed regional retail center is a mass of buildings surrounded by a sea of parking – no different from any other large suburban retail center. The application claims that this retail development is unique because the backs of the buildings that face I-5 will be treated with as much detail as the building facades that face the parking lots. The proposal also claims that residents will treat this retail center as a community gathering area, but few people will choose to gather at a small cluster of tables and benches surrounded by large parking areas, no matter how attractive the paving and landscaping may be. This flaw has been clearly demonstrated in the developments on Truxel Road in Natōmas, where people drive from place to place despite the fountain, landscaping, and decorative pavement, supposedly designed to provide pedestrian pathways and amenities.

No matter how this regional retail area is designed architecturally or prettied up with superficial aesthetic details, it is still just another large retail development that does absolutely nothing to create community or distinguish itself from scores of other similar developments. From north to south, the surface parking lots cover almost four City blocks, and few pedestrians will actually walk from one end to the other, as they will have no incentive to do so. The application does not even propose to include solar panels on the buildings or over the parking stalls to help mitigate the heat island effect and lessen the impact of this construction on the environment.

If Delta Shores must contain this much regional retail space, than at the very least, the retail center should be extensively redesigned with clusters of stores to create a pedestrian-friendly shopping environment and parking underneath or on top of the buildings so that the land space itself can truly be used by people (as a large community green or plaza) rather than by their cars.

3. Lack of Mixed Use

As with the proposal for the residential sites on the west of I-5, the majority of the residential component of the eastern area is slated for single-use zoning. Again, this does not allow for the potential of small neighborhood-serving businesses for residents, so the Tentative Map should include mixed-use zoning in order to truly create a livable and walkable community.

Supplemental 17-1 Attachment 7

Delta Shores

Additional SRCSD Condition of Approval

On January 9, 2009, the Sacramento Regional County Sanitation District (SRCSD) requested a new condition be added to the conditions of approval for all three Tentative Subdivision Map entitlements. The applicant and SRCSD have agreed to incorporate the following condition:

The applicant shall provide SRCSD with the necessary provisions (i.e. electrical and communications link conduits) required to install a flow meter into the lateral manhole that connects to the SRCSD City Interceptor. Improvement plans shall be submitted to SRCSD for review and approval to ensure that the required provisions meet the needs of SRCSD.

This condition will be added after conditions A71 (page 561 of the staff report), B54 (page 585 of the staff report), and C47 (page 607 of the staff report).