

**DEER VALLEY ESTATES PROJECT
RESPONSE TO COMMENTS DOCUMENT**

STATE CLEARINGHOUSE NO. 2020120352

ANTIOCH, CALIFORNIA

LSA

May 2021

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RESPONSE TO COMMENTS DOCUMENT**

STATE CLEARINGHOUSE NO. 2020120352

ANTIOCH, CALIFORNIA

Submitted to:

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Project No. CAN2002



May 2021

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1.0 INTRODUCTION

1.1 PURPOSE OF THE RESPONSE TO COMMENTS DOCUMENT

This document has been prepared to respond to comments received on the Draft Environmental Impact Report (Draft EIR) prepared for the proposed Deer Valley Estates Project (proposed project). The Draft EIR identifies the likely environmental consequences associated with development of the proposed project and recommends mitigation measures to reduce potentially significant impacts. This Response to Comments (RTC) Document provides responses to comments on the Draft EIR and makes revisions to the Draft EIR, as necessary, resulting from those comments or to make clarifications to material in the Draft EIR. This document, together with the Draft EIR, constitutes the Final EIR for the proposed project.

1.2 ENVIRONMENTAL REVIEW PROCESS

According to the California Environmental Quality Act (CEQA), lead agencies are required to consult with public agencies having jurisdiction over a proposed project and to provide the general public with an opportunity to comment on the Draft EIR.

On December 16, 2020, the City of Antioch (City) circulated a Notice of Preparation (NOP) informing responsible agencies and interested parties that an EIR would be prepared for the proposed project and indicated the environmental topics anticipated to be addressed in the EIR. An Initial Study was circulated with the NOP. The NOP was mailed to public agencies, organizations, and individuals likely to be interested in the potential impacts of the proposed project. Comments received by the City on the NOP were considered during preparation of the Draft EIR.

The Draft EIR was made available for public review on January 29, 2021 and was distributed to local and State responsible and trustee agencies. The Draft EIR and an announcement of its availability were posted electronically on the City's website at: www.antiochca.gov/community-development-department/planning-division/environmental-documents/ and a paper copy was also made available upon request. The Notice of Availability (NOA) for the Draft EIR was provided to all individuals and organizations who made a written request for notice, filed with the Contra Costa County Clerk, and posted at the project site.

The CEQA-mandated 45-day public comment period ended on March 15, 2021. The City received a total of two comment letters from one State and one local agency. Copies of all written comments received during the comment period are included in Chapter 3.0, Comments and Responses, of this document.

1.3 DOCUMENT ORGANIZATION

This RTC Document consists of the following chapters:

- **Chapter 1.0: Introduction.** This chapter discusses the purpose and organization of this RTC Document, and the Final EIR, and summarizes the environmental review process for the project.

- **Chapter 2.0: List of Commenters.** This chapter contains a list of agencies and individuals who submitted written comments during the public review period.
- **Chapter 3.0: Comments and Responses.** This chapter contains reproductions of all comment letters received on the Draft EIR. A written response for each CEQA-related comment received during the public review period is provided. Each response is keyed to the corresponding comment.
- **Chapter 4.0: Draft EIR Text Revisions.** Corrections to the Draft EIR that are necessary in light of the comments received and responses provided, or necessary to amplify or clarify material in the Draft EIR, are contained in this chapter. Double underlined text represents language that has been added to the Draft EIR; text with strikethrough has been deleted from the Draft EIR.

2.0 LIST OF COMMENTERS

This chapter presents a list of comment letters received during the public review period and describes the organization of the letters and comments that are provided in Chapter 3.0, Comments and Responses, of this document.

2.1 ORGANIZATION OF COMMENT LETTERS AND RESPONSES

Chapter 3.0 includes a reproduction of each comment letter received on the Draft EIR. The written comments are grouped by the affiliation of the commenter, as follows: State and local agencies (A). The comment letters are numbered consecutively following the A designation defined below:

State and Local Agencies A#-#

The letters are numbered and comments within each letter are numbered consecutively after the hyphen.

2.2 LIST OF AGENCIES COMMENTING ON THE DRAFT EIR

The following comment letters were submitted to the City during the public review period.

- A1 California Department of Fish and Wildlife, Bay Delta Region, Gregg Erickson, Regional Manager, March 12, 2021

- A2 Contra Costa Water District, Christine Schneider, Senior Planner, February 1, 2021

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3.0 COMMENTS AND RESPONSES

Written responses to each comment letter received on the Draft EIR are provided in this chapter. All letters received during the public review period on the Draft EIR are provided in their entirety. Each letter is immediately followed by responses keyed to the specific comments. The letters are grouped by the affiliation of the commenting entity as follows: State and local agencies (A).

Please note that text within individual letters that has not been numbered does not raise environmental issues or relate to the adequacy of the information or analysis within the Draft EIR, and therefore no comment is enumerated nor is a response required, per CEQA Guidelines Sections 15088 and 15132. In addition, when general support or opposition is given for the project, that comment is noted but no further analysis is provided in the response, as the commenter is not questioning the adequacy of the information or analysis within the Draft EIR. However, comments related to the merits of the proposed project will be considered by decision makers taking action on the project.

Where comments on the Draft EIR concern issues requiring technical expertise, the responses to comments, like the initial analysis in the Draft EIR, rely on the knowledge and professional analysis of qualified experts.

Where revisions to the Draft EIR text are called for, the page is set forth followed by the appropriate revision. Added text is indicated with double underlined text, and deleted text is shown in ~~strikeout~~. Text revisions to the Draft EIR are summarized in Chapter 4.0 of this Response to Comments Document.

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State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
(707) 428-2002
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



March 12, 2021

Ms. Zoe Merideth
City of Antioch
Post Office Box 5007
Antioch, CA 94531
zmerideth@antiochca.gov

Subject: Deer Valley Estates Project, Draft Environmental Impact Report,
SCH No. 2020120352, City of Antioch, Contra Costa County

Dear Ms. Merideth:

The California Department of Fish and Wildlife (CDFW) received a draft Environmental Impact Report (EIR) from the City of Antioch (City) for the Deer Valley Estates Project (Project) pursuant the California Environmental Quality Act (CEQA).

CDFW is submitting comments on the draft EIR to inform the City, as the Lead Agency, of our concerns regarding potentially significant impacts to sensitive resources associated with the proposed Project. CDFW is providing these comments and recommendations regarding those activities involved in the Project that are within CDFW's area of expertise and relevant to its statutory responsibilities (Fish and Game Code, § 1802), and/or which are required to be approved by CDFW (CEQA Guidelines, §§ 15086, 15096 and 15204).

CDFW ROLE

CDFW is a Trustee Agency with responsibility under CEQA (Pub. Resources Code, § 21000 et seq.) pursuant to CEQA Guidelines section 15386 for commenting on projects that could impact fish, plant, and wildlife resources. CDFW is also considered a Responsible Agency if a project would require discretionary approval, such as a California Endangered Species Act (CESA) Permit, a Lake and Streambed Alteration (LSA) Agreement, or other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources.

REGULATORY REQUIREMENTS

California Endangered Species Act

Please be advised that a CESA Incidental Take Permit (ITP) must be obtained if the Project has the potential to result in "take" of plants or animals listed under CESA, either during construction or over the life of the Project. Issuance of a CESA Permit is subject

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to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA Permit.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially restrict the range or reduce the population of a threatened or endangered species. (Pub. Resources Code, §§ 21001, subd. (c), 21083; CEQA Guidelines, §§ 15380, 15064, and 15065). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency's FOC does not eliminate the Project proponent's obligation to comply with Fish and Game Code section 2080.

Lake and Streambed Alteration

CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et. seq., for Project activities affecting lakes or streams and associated riparian habitat. Notification is required for any activity that may substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland resources; or deposit or dispose of material where it may pass into a river, lake or stream. Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. CDFW will consider the CEQA document for the Project and may issue an LSA Agreement. CDFW may not execute the final LSA Agreement (or ITP) until it has complied with CEQA as a Responsible Agency.

PROJECT DESCRIPTION SUMMARY

Proponent: Blue Mountain Communities

Description and Location: The Project is located at 6100 Deer Valley Road in the southern portion of the City of Antioch, Contra Costa County, Assessor's Parcel Numbers (APN) 055-071-026 and 057-022-013. The Project involves the construction of 121 new single-family homes on the Project site, as well as open space, roadway, and utility improvements. The Project is a phase of the Deer Valley Estates Master Development Plan Project, for which an Initial Study/Mitigated Negative Declaration was adopted in 2008 (2008 IS/MND; SCH No. 2007112021).

COMMENTS AND RECOMMENDATIONS

CDFW offers the below comments and recommendations to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

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California Tiger Salamander (*Ambystoma californiense*)

California tiger salamander (CTS) is both federally listed and state listed as threatened. The draft EIR identifies suitable habitat for CTS within the Project site but determined that there would be no new impacts relative to the 2008 IS/MND and thus defers to the mitigation measures of the 2008 IS/MND. The 2008 IS/MND identified Mitigation Measures BIO-1a through 1c—which propose protocol surveys, compensatory mitigation at a ratio of 1:1 (loss:mitigation) and permits from the U.S. Fish and Wildlife Service (USFWS) for incidental take—as sufficient to reduce impacts to less-than-significant. If CTS have the potential to be on-site and take cannot be avoided, CDFW advises that the Project proponent obtain a CESA Permit (pursuant to Fish and Game Code Section 2080 et seq.) in advance of Project implementation. Issuance of a CESA Permit is subject to CEQA documentation; therefore, the CEQA document should specify impacts, mitigation measures, and fully describe a mitigation, monitoring and reporting program. If the proposed Project will impact any CESA-listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA Permit. More information on the CESA permitting process can be found on the CDFW website at <https://www.wildlife.ca.gov/Conservation/CESA>. CDFW recommends that the City, as the Lead Agency, require the Project proponent to apply for an ITP for CTS as a condition of Project approval.

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Western Burrowing Owl (*Athene cunicularia*)

Western burrowing owl is designated as a California Bird Species of Special Concern. The draft EIR states that burrowing owls are known to be present within and adjacent to the Project area but determined that there would be no new impacts relative to the 2008 IS/MND and thus defers to the mitigation measures of the 2008 IS/MND. The 2008 IS/MND identified Mitigation Measures BIO-2a through 2d—which propose protocol surveys and passive relocation to mitigate impacts to occupied burrows within the Project site—as sufficient to reduce impacts to less-than-significant. Please be advised that CDFW does not consider exclusion of burrowing owls or “passive relocation” in and of itself sufficient to reduce the permanent loss of habitat to a level of less-than-significant. The long-term demographic consequences of exclusion techniques have not been thoroughly evaluated, and the survival rate of evicted or excluded owls is unknown. All possible avoidance and minimization measures should be considered before temporary or permanent exclusion and closure of burrows is implemented in order to avoid “take”. If temporary or permanent exclusion and closure of burrows cannot be avoided, the Project proponent should ensure that suitable, conserved burrowing owl habitat of equal or greater value is present within 100 meters of the destroyed burrows for all exclusions. If no such habitat exists, CDFW recommends that the Project proponent be required to obtain written approval of a Burrowing Owl Exclusion and Mitigation Plan from both CDFW and USFWS as a condition of Project approval.

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The CEQA document for the Project should also include quantifiable and enforceable measures to avoid or minimize loss of burrowing owl foraging habitat, and mitigation for loss of habitat that cannot be fully avoided. The permanent loss of habitat for this species is considered significant in and of itself, and the draft EIR should require compensatory mitigation regardless of current level of disturbance or reconnaissance survey results. To offset this significant permanent impact to a level of less-than-significant, the Project proponent should be required to purchase and protect in perpetuity compensatory mitigation lands at a minimum of a 1:1 mitigation ratio (or a minimum mitigation ratio of 3:1 if active burrows or winter roosts are identified on-site and take cannot be avoided) as a condition of Project approval. Mitigation lands shall be within 210 meters of an active breeding colony at minimum and shall have an active breeding colony if burrowing owls will be evicted from the Project site. Mitigation lands should be protected in perpetuity under a conservation easement and be managed in perpetuity through an endowment with an appointed land manager. The easement should be held by a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended. As the state's trustee for fish and wildlife resources, CDFW should be named as a third-party beneficiary under the conservation easement.

3
cont.

San Joaquin Kit Fox (*Vulpes macrotis mutica*)

San Joaquin Kit Fox (SJKF) is state listed as threatened. The draft EIR identifies suitable habitat for SJKF within the Project site but determined that there would be no new impacts relative to the 2008 IS/MND and thus defers to the mitigation measures of the 2008 IS/MND. The 2008 IS/MND identified Mitigation Measures BIO-3a through 3c—which propose protocol surveys, compensatory mitigation at a ratio of 1:1 (loss:mitigation) and permits from the USFWS for incidental take—as sufficient to reduce impacts to less-than-significant.

If SJKF are identified on-site and take cannot be avoided, CDFW advises that the Project proponent obtain a CESA Permit (pursuant to Fish and Game Code Section 2080 et seq.) in advance of Project implementation. Issuance of a CESA Permit is subject to CEQA documentation; therefore, the CEQA document should specify impacts, mitigation measures, and fully describe a mitigation, monitoring and reporting program. If the proposed Project will impact any CESA-listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA Permit. More information on the CESA permitting process can be found on the CDFW website at <https://www.wildlife.ca.gov/Conservation/CESA>.

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Swainson's Hawk (*Buteo swainsoni*)

Swainson's Hawk is state listed as threatened and known to nest near and forage on the Project site. The draft EIR identifies suitable habitat for Swainson's Hawk within the Project site that was not contemplated in the 2008 IS/MND. The proposed Mitigation Measure BIO-5 prescribes a nesting bird survey of suitable nesting habitat within 250 feet of the Project site no more than 14 days prior to the start of work if construction activities will occur during the bird nesting season. If raptor nests are found, Mitigation Measure BIO-5 prescribes a 250-foot protective buffer around the nest. A single nesting bird survey with a 250-foot radius around the Project site is insufficient to detect and fully mitigate impacts to Swainson's hawk nests. CDFW recommends that prior to the initiation of construction activities, the Project proponent should have a qualified biologist conduct surveys for Swainson's hawk in accordance with the Swainson's Hawk Technical Advisory Committee's (TAC) *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley* (2000), available on CDFW's webpage at <https://www.wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds>. Survey methods should be closely followed by starting early in the nesting season to maximize the likelihood of detecting an active nest (nests, adults, and chicks are more difficult to detect later in the growing season because trees become less transparent as vegetation increases). Surveys should be conducted within a minimum 0.25-mile radius of the Project area or a larger area, if necessary, to identify potentially impacted active nests. Surveys should occur annually for the duration of the Project. The qualified biologist should have a minimum of two years of experience implementing the TAC survey methodology. If an active nest is identified, a 0.25-mile protective buffer should be maintained around the nest until the young fledge. The protective buffer should be clearly marked and be an area where no Project-related activities or personnel are allowed while in place. If the 0.5-mile buffer must be reduced the Project proponent should be required to obtain a CESA ITP as a condition of Project approval.

If Swainson's hawk activity (foraging, not just nests) is identified on or near the Project site, the Project proponent should mitigate for the permanent loss of foraging habitat at a minimum of a 1:1 mitigation ratio (mitigation:loss). Mitigation lands should be protected in perpetuity under a conservation easement and be managed in perpetuity through an endowment with an appointed land manager. The easement should be held by a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended. As the state's trustee for fish and wildlife resources, CDFW should be named as a third-party beneficiary under the conservation easement.

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Nesting Bird Surveys

Mitigation Measure BIO-5 indicates nesting bird surveys will be conducted no more than 14 days prior to the initiation of construction activities. For many birds, 14 days is more than enough time to establish a nest and begin rearing young. Therefore, CDFW recommends that nesting bird surveys are conducted no more than **5 days** prior to the initiation of construction. If construction activities lapse for a period of 7 days or more during the nesting bird season, another nesting bird survey should be conducted no more than 5 days prior to the re-initiation of construction activities.

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FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs., tit. 14, § 753.5; Fish and Game Code, § 711.4; Pub. Resources Code, § 21089).

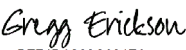
CONCLUSION

To ensure significant impacts are adequately mitigated to a level less-than-significant, the feasible mitigation measures described above should be incorporated as enforceable conditions into the final CEQA document for the Project. CDFW appreciates the opportunity to comment on the draft EIR to assist the City in identifying and mitigating Project impacts on biological resources.

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Questions regarding this letter or further coordination should be directed to Ms. Jennifer Rippert, Environmental Scientist, at (707) 428-2069 or Jennifer.Rippert@wildlife.ca.gov; or Ms. Melissa Farinha, Acting Environmental Program Manager, at (707) 944-5579 or Melissa.Farinha@wildlife.ca.gov.

Sincerely,

DocuSigned by:

BE74D4C93C604EA...
Gregg ERICKSON
Regional Manager
Bay Delta Region

ec: State Clearinghouse
Ryan Olah, U.S. Fish and Wildlife Service – Ryan.Olah@fws.gov
Eric Tattersall, U.S. Fish and Wildlife Service – Eric.Tattersall@fws.gov
Regional Water Quality Control Board – info5@waterboards.ca.gov

LETTER A1

California Department of Fish and Wildlife, Bay Delta Region
Gregg Erickson, Regional Manager
March 12, 2021

Response A1-1: This introductory comment acknowledges receipt of the Draft EIR, describes the California Department of Fish and Wildlife's (CDFW) role under CEQA, and provides an overview of the regulatory requirements applicable to the proposed project. In addition to a federal Incidental Take Permit (ITP), the commenter notes that a California Endangered Species Act (CESA) ITP may also be required for project implementation. There are no watercourses, wetlands, or riparian habitat present on the site, and a Lake and Streambed Alteration Agreement is not applicable. The remainder of the comment summarizes the proposed project as detailed in the Draft EIR and introduces the more detailed comments included in the letter, which are responded to in Responses A1-2 through A1-7, below.

The commenter generally provides recommendations related to the identification of and mitigation for the project's potentially significant impacts on biological resources as identified in the Biological Resources Assessment (BRA), on which the CEQA evaluation is partially based. Impacts to biological resources are addressed in the Initial Study, which is included as Appendix B to the Draft EIR. Mitigation measures are identified in the Initial Study and are included in Attachment A to the Initial Study. The BRA is included as Attachment D to the Initial Study.

It should be noted that mitigation for this project is driven largely by the mitigation requirements for the listed species that have been documented onsite or those that find suitable habitat onsite. Those species include the jointly listed California tiger salamander (CTS; State and federal Threatened) and San Joaquin kit fox (State Endangered and federal Threatened), and State listed Swainson's hawk. All other special-status wildlife species that potentially occur on the site (i.e., Burrowing Owls, species of special concern) fall under the umbrella of the listed grassland species, mitigation for which is typically 3:1 (created/preserved: impacted). State listed species will require ITPs for impacts to these species and can be applied for directly from CDFW. Federally listed species will also require ITPs for impacts to federally listed species, the authorization being obtained through stand-alone HCPs, as there is no federal nexus such as fill of jurisdictional wetlands that would allow for a Section 7 consultation. Therefore, in response to the general comments provided in this letter, Mitigation Measure BIO-6 is added to make this clarification, as follows:

Mitigation Measure BIO-6: The project applicant shall obtain the appropriate federal and State ITPs authorizing incidental take of State and federal listed species that may be killed or injured during

project development. The applicant shall provide proof to the City of Antioch Community Development Department of compliance with the terms and conditions of any required permits or ITPs prior to issuance of the grading permit. All work onsite shall be in compliance with the terms and conditions of the federal and State permits.

The addition of Mitigation Measure BIO-6 does not change the significance of the environmental issue conclusions within the Draft EIR or Initial Study and does not represent significant new information such that recirculation of the Draft EIR is required.

Response A1-2:

This comment addresses impacts to CTS and recommends additional measures to address these impacts, beyond the measures identified in the Initial Study (2008 IS/MND Mitigation Measures BIO-1a through BIO-1c, identified in Appendix A to the Initial Study and also Table 2.A in Chapter 2.0, Summary of the Draft EIR). The commenter recommends that the City require the project applicant to apply for an ITP for CTS, as a condition of project approval.

The ITPs are typical permits for projects that may impact State or federal listed species and should be required for the State listed species such as CTS, which has potential to occur on the site. The Initial Study analysis concluded that in the absence of survey data proving otherwise, CTS should be considered present on the site and a federal ITP should be obtained (refer to Mitigation Measure BIO-1c). Although CDFW states that the ITP should be completed prior to project implementation, it is up to the permitting agency to issue the permit, and the City is not required to make this a condition of project approval. The commenter also notes that the ITP process is subject to CEQA documentation. This will occur during the CESA application review.

Mitigation Measure BIO-4 is revised below, to address CDFW requirements. It should be noted that if mitigation is provided for at a mitigation bank as identified in Mitigation Measure BIO-4, the bank will handle details such as the preparation and funding of the monitoring plan, grazing plan, etc. Due to the time and expense of establishing a private mitigation site, mitigation is expected to occur at an established bank. If the project applicant were to buy a site with the intention of making it a mitigation site, the applicant would need to provide detailed mitigation, monitoring, and operation plans along with a funding mechanism for managing the site. If such a site is approved by the agencies, the City may approve the site as suitable mitigation habitat for impacts to CTS at this development site. CDFW's permit application outlines the various items required. This detail is

required for CDFW approval.¹ Mitigation Measure BIO-4 is therefore revised as follows:

Mitigation Measure BIO-4: If mitigation lands are purchased through conservation easements or in fee-title, the project applicant shall implement the Resource Management Plan prepared for the proposed project. The plan shall include a monitoring protocol for the listed species, performance criteria to document success of the mitigation, and identification of the funding mechanism for plan implementation.

The revision to Mitigation Measure BIO-4 does not change the significance of the environmental issue conclusions within the Draft EIR or Initial Study and does not represent significant new information such that recirculation of the Draft EIR is required.

Response A1-3:

This comment addresses impacts to burrowing owls and recommends additional measures to address these impacts, beyond the measures identified in the Initial Study (2008 IS/MND Mitigation Measures BIO-2a through BIO-2d, identified in Appendix A to the Initial Study and also Table 2.A in Chapter 2.0, Summary of the Draft EIR). Burrowing owl mitigation is typically of two forms: 1) “take” avoidance and 2) compensatory mitigation. Mitigation Measures BIO-2a through BIO-2d are suitable for take avoidance (avoiding mortality or injury of owls); however, the commenter suggests higher compensatory mitigation of 3:1 is recommended for all suitable habitat impacted. This recommendation is consistent with current requirements for burrowing owl mitigation and would likely be required for any subsequent approval by CDFW for burrowing owl mitigation such as approval of relocation or mitigation plans. Such plans and approvals are likely as this species was previously documented as occurring on the site. Mitigation Measure BIO-2d is therefore revised as follows:

~~**Mitigation Measure BIO-2d:** Removal of burrowing owls at the project site shall conform to the requirements of CDFG’s Staff Report on Burrowing Owl Mitigation. This shall entail establishing 6.5 acres of suitable habitat for each individual or pair of burrowing owls displaced from the project site. This may be accomplished through the purchase of credits at an established mitigation bank approved for this species or preservation of grassland habitat (through conservation easement, fee title, or other applicable measure) at another suitable location within eastern Contra Costa County that currently supports a burrowing owl population. Habitat~~

¹ It should be noted that the bank credit prices may be higher than those stated in the EIR and the City is not approving a specific amount for mitigation. Credit prices at mitigation banks are subject to market forces and may rise or fall depending on demand.

~~used for burrowing owl mitigation may also accommodate the potential loss of estivation habitat for California tiger salamander and San Joaquin kit fox habitat, as applicable.~~

Mitigation Measure BIO-2d: The project applicant shall comply with all take avoidance measures contained in the Staff Report on Burrowing Owl Mitigation. Compensatory mitigation for loss of burrowing owl habitat shall be consistent with CDFW mitigation guidance for burrowing owls. Prior to issuance of grading or construction permits, the project applicant shall be required to purchase and protect in perpetuity compensatory mitigation lands at a minimum of a 1:1 mitigation ratio (or a minimum mitigation ratio of 3:1 if active burrows or winter roosts are identified on-site and take cannot be avoided). Mitigation lands shall be within 210 meters of an active breeding colony at minimum and shall have an active breeding colony if burrowing owls are be evicted from the project site. Mitigation lands shall be protected in perpetuity under a conservation easement and be managed in perpetuity through an endowment with an appointed land manager. Mitigation for burrowing owls may take place on California tiger salamander, kit fox, or Swainson's hawk (grassland) habitat provided it is suitable for this species.

The revision to Mitigation Measure BIO-2d does not change the significance of the environmental issue conclusions within the Draft EIR or Initial Study and does not represent significant new information such that recirculation of the Draft EIR is required.

Response A1-4:

This comment addresses impacts to San Joaquin Kit Fox and recommends additional measures to address these impacts, beyond the measures identified in the Initial Study (2008 IS/MND Mitigation Measures BIO-3a through BIO-3b, identified in Appendix A to the Initial Study and also Table 2.A in Chapter 2.0, Summary of the Draft EIR). Specifically, this comment suggests that protocol surveys, compensatory mitigation at a ratio of 1:1 (loss:mitigation), and permits from the USFWS for incidental take, are insufficient to reduce impacts kit fox to a less-than-significant level. Instead, the commenter recommends additional compensatory mitigation to mitigate for kit fox impacts. Since kit fox is a State and federal listed species, a CESA 2081 Permit (State ITP) is also recommended. These recommendations assume that the habitat is suitable for kit foxes and potentially occupied by the species, although they have never been observed on the site. As with other State-listed species that would potentially be impacted by the project, CDFW will review CEQA documentation as part of the ITP process. Compensatory mitigation shall be made consistent with amounts specified in

CDFW's comment; therefore, Mitigation Measure BIO-3c is revised as follows:

Mitigation Measure BIO-3c: If active dens are identified within (or immediately adjacent to) the construction area, the project applicant shall mitigate for the loss of San Joaquin Kit Fox habitat at a mitigation to loss ratio of 31:1 (38114 acres). The project applicant shall obtain Incidental Take Permits (ITPs) from CDFW and the USFW and shall provide evidence of compliance with the permits to the City prior to project implementation. Issuance of a CESA Permit is subject to CEQA documentation; therefore, the CEQA document should specify impacts, mitigation measures, and fully describe a mitigation, monitoring and reporting program. These 38114 acres may also accommodate the potential loss of estivation habitat for California tiger salamander, and grassland habitats for and burrowing owl, California tiger salamander, and Swainson's hawk habitat, as applicable. An equivalent number of credits at a mitigation bank approved for grassland species may be substituted for purchase of land provided the purchase is approved by the City, CDFW, and USFWS.

The revision to Mitigation Measure BIO-3c does not change the significance of the environmental issue conclusions within the Draft EIR or Initial Study and does not represent significant new information such that recirculation of the Draft EIR is required.

Response A1-5:

This comment recommends that the project applicant conduct surveys for Swainson's hawk in accordance with the Swainson's Hawk Technical Advisory Committee's (TAC) *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California Central Valley* (2000). The commenter also recommends that if Swainson's hawk activity (foraging, not just nests) is identified on or near the project site, that the project applicant should mitigate for the permanent loss of foraging habitat at a minimum of 1:1 mitigation ratio (mitigation: loss).

The Initial Study analysis determined that there is some potential for Swainson's hawk to forage on the site. The nearest known hawk nest site is located over 2 miles to the east, although during the breeding season, Swainson's hawks may travel up to 18 miles to forage. Like kit fox, the proposed project may impact Swainson's hawk habitat, requiring a CESA 2081 Permit (State ITP). In response to this comment, Mitigation Measure BIO-5b is added to further ensure that impacts to this species are reduced to a less-than-significant level, as follows:

Mitigation Measure BIO-5b: Prior to the initiation of construction activities, the project applicant should have a qualified biologist conduct surveys for Swainson's hawk in accordance with the Swainson's Hawk Technical Advisory Committee's (TAC) Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (2000). If an active nest is identified, a 0.25-mile protective buffer shall be maintained around the nest until the young fledge. If the 0.25-mile buffer must be reduced the project applicant shall obtain a California Endangered Species Act (CESA) ITP prior to ground disturbance.

If Swainson's hawk activity (foraging, not just nests) is identified on or within 0.25 mile of the project site, the project applicant shall mitigate for the permanent loss of foraging habitat at a minimum of a 1:1 mitigation ratio (mitigation:loss). Mitigation lands should be protected in perpetuity under a conservation easement and be managed in perpetuity through an endowment with an appointed land manager. A comprehensive plan should be prepared to specify how the mitigation land will be managed, funded, and monitored. The easement should be held by a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property. Mitigation for Swainson's hawk may take place on California tiger salamander, burrowing owl, or kit fox habitat provided it is suitable for this species.

The addition of Mitigation Measure BIO-5b does not change the significance of the environmental issue conclusions within the Draft EIR or Initial Study and does not represent significant new information such that recirculation of the Draft EIR is required.

Response A1-6:

The commenter states that conducting nesting bird surveys 15 days prior to initiation of construction activities does not provide sufficient protection to nesting birds because some species can establish a nest and begin rearing young within that 14-day window. The commenter recommends conducting the surveys no more than five days prior to the initiation of construction. The commenter also recommends resurveying the site no more than five days prior to the re-initiation of construction if construction activities lapse for a period of seven days or more during the nesting bird season.

In response to this comment, Mitigation Measure BIO-5 is revised to require that a qualified biologist conduct a preconstruction nesting survey of the work site within five days of construction activities commencing (if they occur during nesting season) to determine if nesting birds are present. Any active bird nests found would be buffered appropriately and the construction team informed. If there is a pause in construction activities of

seven days or more during the nesting season, an additional nesting bird survey will be conducted to ensure that there are no new nests that need buffering. These revisions are incorporated into Mitigation Measure BIO-5, as follows:

Mitigation Measure BIO-5a: The proposed project shall avoid any construction activities that result in vegetation removal, including grading and other ground-disturbing activities, during the bird nesting season (February 1 through August 31). If construction activities are scheduled during the nesting season, the project applicant shall retain a qualified biologist to conduct a pre-construction survey of all suitable nesting habitat (i.e., field, trees) within 250 feet of the project site (where accessible). The pre-construction survey shall be conducted no more than ~~514~~ days prior to the start of work. If the survey indicates the presence of nesting birds, protective buffer zones should be established around the nests as follows: for raptor nests, the size of the buffer zone should be a 250-foot radius centered on the nest; for other birds, the size of the buffer zone should be a 50- to 100-foot radius centered on the nest. In some cases, these buffers may be increased or decreased depending on the bird species and the level of disturbance that will occur near the nest.

If there is a pause in construction activities of 7 days or more during the nesting season, an additional nesting bird survey shall be conducted to ensure that there are no new nests that require buffering.

The revision to Mitigation Measure BIO-5 does not change the significance of the environmental issue conclusions within the Draft EIR or Initial Study and does not represent significant new information such that recirculation of the Draft EIR is required.

Response A1-7:

The commenter notes the filing fees that would be required for filing of a Notice of Determination and provides closing remarks and contact information for questions and further coordination. The comments provided in the letter have been responded to in Responses A1-1 through A1-6, above. No further response is required.

From: Christine Schneider <cschneider@ccwater.com>
Sent: Monday, February 1, 2021 8:21 AM
To: Brown, Hilary <hbrown@antiochca.gov>; Merideth, Zoe <zmerideth@antiochca.gov>
Cc: Colleen Knutson <cknutson@ccwater.com>
Subject: RE: Notice of Availability (NOA) of a Draft Environmental Impact Report (DEIR) for Deer Valley Estates

Hello Hilary—good morning, and thank you for this email. As the project site is not within 0.25 miles of any of CCWD’s pipelines, canals or appurtenances, CCWD does not have any comments on this project.

CCWD appreciates the opportunity to comment on projects within the City of Antioch. Please continue to send me Notices and Requests for comments on all new projects involving ground-disturbing activities.

Thank you, Christine

Christine Schneider, MS, RLA
Senior Planner

P 925-688-8118
C 510-406-1889
W cschneider@ccwater.com

From: Brown, Hilary <hbrown@antiochca.gov>

Sent: Friday, January 29, 2021 4:00 PM

To: Merideth, Zoe <zmerideth@antiochca.gov>

Subject: Notice of Availability (NOA) of a Draft Environmental Impact Report (DEIR) for Deer Valley Estates

Notice is hereby given that the City of Antioch, as the Lead Agency, has prepared a Draft Environmental Impact Report (EIR) for the proposed Deer Valley Estates Project.

DOCUMENT AVAILABILITY: The Draft EIR is available for review online at the links provided below. In response to the ongoing COVID-19 pandemic, paper copies are available for review by pre-scheduled appointment only. If you'd like to make an appointment, or if you require additional assistance, please contact Zoe Merideth at zmerideth@antiochca.gov

- [**Deer Valley Estates Notice of Availability \(NOA\)**](#)
- [**Deer Valley Estates Draft Environmental Impact Report \(DEIR\)**](#)

PROJECT DESCRIPTION: The proposed project involves the construction of 121 new single-family homes on the project site and associated open space, roadway, and utility improvements. The single-family residential units would range in size from approximately 2,252 square feet to approximately 3,445 square feet and would be located on individual lots that would be a minimum of 7,000 square feet. All of the residential units would front onto internal streets within the project site, discussed below, and none would front onto either Deer Valley Road or Wellness Way.

PROJECT LOCATION: The project site is located within the Sand Creek Focus Area of the General Plan, which is generally bounded by existing residential neighborhoods to the north, Black Diamond Mines Regional Preserves to the west, the city limits to the south, and the City of Brentwood to the east. The Sand Creek Focus Area is intended to function as a large-scale planned community, providing needed housing and employment Page 2 Deer Valley Estates Project opportunities. The project site is identified by Assessor's Parcel Number (APN) 055-071-026 and 057- 022-013.

Looking to add a recipient or update your contact information?

Please confirm your information by completing our quick [Contact Form by clicking here.](#)

or SCAN this code from your Mobile Device or Tablet:



SENT TO:

State Water Resources Control Board
U.S. Fish and Wildlife Service
Bay Area Air Quality Mgmt District (BAAQMD)
Contra Costa Water District
Contra Costa Transportation Authority
Regional Water Quality Control Board
County Clerk-Recorder
Carpenters 46 Counties
Library
Contra Costa County Flood Control and Water Conservation
CDFW (CA Dept Fish & Wildlife)
Southern Pacific Pipelines (DBA Santa Fe Pacific Pipelines LP)
City Clerk
Delta Diablo Sanitation District
CA Dept of Conservation (CalGEM)

Additional Recipients / Requested Notice:

Adams Broadwell Joseph Cardozo Attorneys at Law
Association of Bay Area Governments / Wally Charles
Chairman Raymond Hitchcock, Ralph Hatch Wilton Rancheria
Lozeau Drury LLP
MTC / Craig Goldblatt
Mike Evans, DeNova Homes
Richard Jensen, Dirt Brokers, Inc.

LETTER A2

Contra Costa Water District
Christine Schneider, Senior Planner
February 1, 2021

Response A2-1: This comment, which states that the Contra Costa Water District (CCWD) does not have any comments on the project, is noted. No further response is required.

4.0 DRAFT EIR TEXT REVISIONS

This chapter presents specific changes to the text of the Draft EIR that are being made to clarify and supplement materials in the Draft EIR in response to comments received during the public review period or as initiated by the City of Antioch. In no case do these revisions result in a greater number of impacts or impacts of a greater severity than those set forth in the Draft EIR. Where revisions to the main text are called for, the page and paragraph are set forth, followed by the appropriate revision. Added text is indicated with double underlined text. Text deleted is shown in ~~strikeout~~.

Mitigation Measure BIO-1b is deleted from page 3 of Appendix A to the Initial Study, as follows:

~~**Mitigation Measure BIO-1b:** If vernal pool fairy shrimp and/or vernal pool tadpole shrimp are identified on the project site, or are assumed present due to the absence of protocol level surveys, the seasonal wetland located on the site shall be avoided. If the seasonal wetland is avoided, all development shall be setback at least 250 feet from the edges of the wetland. Siltation fencing should be erected between the wetland and the development area.~~

Mitigation Measure BIO-1b on page 4 of Appendix A to the Initial Study is revised, as follows:

Mitigation Measure BIO-1b**:** If vernal pool fairy shrimp, vernal pool tadpole shrimp, California red-legged frog or California tiger salamander are identified on the project site, or are assumed present due to the absence of protocol level surveys, and avoidance is not feasible, the project applicant shall mitigate for the loss of habitat. Authorized take permits may be required by the U.S. Fish and Wildlife Service (USFWS) for incidental take of individuals that may be present.

~~If avoidance of the seasonal wetland is not feasible, t~~The project applicant shall purchase lands credits at an approved off-site mitigation bank or other lands approved by the applicable resources agencies and the City of Antioch (e.g., in fee-title or through conservation easement). Mitigation would be required at a replacement to loss ratio of 2:1 and a creation to loss ratio of 1:1 (a total mitigation ratio of 3:1) for vernal pool fairy shrimp and/or vernal pool tadpole shrimp (these are standard mitigation ratios ~~accepted~~ used by the USFWS for impacts to these species).

~~The project applicant shall preserve 0.74 acres of known vernal pool fairy shrimp and/or vernal pool tadpole shrimp habitat and create another 0.37 acres of suitable habitat for each species, as applicable. These acreages are based on an estimated 0.37 acres of seasonal wetland habitat located on the project site; verification of the correct acreage is required by Mitigation Measure BIO-5a. The Elsie Gridley Multi-Species Conservation Bank includes Antioch within its service area and offers preservation habitat for \$140,000 per acre, and creation habitat for \$165,000 per acre. Loss of California red-legged frog or California tiger salamander habitat should be mitigated at a 1:1 mitigation to loss ratio (38 acres) at a suitable site that is known to support a breeding population. Because the project site supports low value California tiger salamander habitat, purchasing the preservation of high quality, known breeding habitat would duly compensate for the loss of low quality habitat, especially if the site acquired is either in fee-title or via a conservation easement that preserves and enhances breeding and estivation habitat or~~

preserves and enhances suitable estivation habitat adjacent to a known, protected breeding site.

Enhancement shall include a controlled grazing regime, limited public access, fencing, or other appropriate measures to be implemented by the bank using funds from the sale of credits. The Elsie Gridley Multi-Species Conservation Bank. An authorized bank may offers California tiger salamander habitat and burrowing owl credits on the same acres if authorized. for \$8,500 per acre. These 38 acres may also accommodate the potential loss of burrowing owl and Swainson's hawk habitat.

Mitigation Measure BIO-2b on page 5 of Appendix A to the Initial Study is revised, as follows:

Mitigation Measure BIO-2b: For grading and construction activities occurring during the non-breeding season (September 1 through January 31), burrowing owls may be evicted from the entire construction area using passive relocation techniques. One-way doors shall be installed in all suitable burrows (approximately 4 inches in diameter), left in place for a minimum of 48 hours, and monitored daily to evaluate the exclusion of owls from burrows and to maintain the one-way doors in good repair. Burrows shall then be excavated, using hand tools. Sections of flexible plastic pipe shall also be inserted into burrows during excavation to maintain an escape route for any animals inside the burrow. Once excavation is completed and no owls remain on-site, burrows shall be refilled to prevent reoccupation, or the entire site shall be ~~disced and~~ managed until construction activities begin.

Mitigation Measure BIO-2c on page 5 of Appendix A to the Initial Study is revised, as follows:

Mitigation Measure BIO-2c: For grading and construction activities occurring during the breeding season (February 1 through August 31), a 75-meter (250-foot) radius circular buffer shall be erected around each active burrow and a qualified biologist shall monitor construction activities to ensure effectiveness of the buffer area for breeding activities. Construction-related activity (e.g., site grading, staking, surveying) shall not occur within the exclusion zone until the burrows are confirmed to be unoccupied and/or juveniles from the nest are foraging independently and capable of independent survival. Only biologists familiar with burrowing owl behavior shall be permitted to determine whether juveniles are capable of independent survival. Once the burrows are unoccupied or the young are capable of independent survival, passive relocation techniques (as described above in Mitigation Measure BIO-2a) shall be implemented to evict the owls from the burrows. Burrows shall be excavated, using hand tools, and re-filled to prevent reoccupation prior to allowing construction within the exclusion zone, ~~or the site shall be discd.~~ Sections of flexible plastic pipe shall also be inserted into burrows during excavation to maintain an escape route for any animals inside the burrow. Due to the density of the burrowing owl population on the project site, it is possible that construction activities may not be able to avoid active burrows; in this case, construction activities shall not be permitted during the breeding season.

Mitigation Measure BIO-2d is deleted from page 6 of Appendix A to the Initial Study, as follows:

~~**Mitigation Measure BIO-2d:** Removal of burrowing owls at the project site shall conform to the requirements of CDFG's Staff Report on Burrowing Owl Mitigation. This shall entail establishing 6.5 acres of suitable habitat for each individual or pair of burrowing owls displaced from the project site. This may be accomplished through the purchase of credits at an established mitigation bank approved for this species or preservation of grassland habitat (through conservation easement, fee title, or other applicable measure) at another suitable location within eastern Contra Costa County that currently supports a burrowing owl population. Habitat used for burrowing owl mitigation may also accommodate the potential loss of estivation habitat for California tiger salamander and San Joaquin kit fox habitat, as applicable.~~

Mitigation Measure BIO-2d is added to page 6 of Appendix A to the Initial Study, as follows:

Mitigation Measure BIO-2d: The project applicant shall comply with all take avoidance measures contained in the Staff Report on Burrowing Owl Mitigation. Compensatory mitigation for loss of burrowing owl habitat shall be consistent with CDFW mitigation guidance for burrowing owls. Prior to issuance of grading or construction permits, the project applicant shall be required to purchase and protect in perpetuity compensatory mitigation lands at a minimum of a 1:1 mitigation ratio (or a minimum mitigation ratio of 3:1 if active burrows or winter roosts are identified on-site and take cannot be avoided). Mitigation lands shall be within 210 meters of an active breeding colony at minimum and shall have an active breeding colony if burrowing owls are be evicted from the project site. Mitigation lands shall be protected in perpetuity under a conservation easement and be managed in perpetuity through an endowment with an appointed land manager. Mitigation for burrowing owls may take place on California tiger salamander, kit fox, or Swainson's hawk (grassland) habitat provided it is suitable for this species.

Mitigation Measure BIO-3b on page 6 of Appendix A to the Initial Study is revised, as follows:

Mitigation Measure BIO-3b: If active dens are identified within (or immediately adjacent to) the construction area, the project applicant shall follow the USFWS's Standardized Recommendations for Protection of the Kit Fox Prior to or During Ground Disturbance throughout the construction period. ~~Specific measures are detailed in the Biological Evaluation prepared for the project site (see Appendix A).~~

Mitigation Measure BIO-3c on page 7 of Appendix A to the Initial Study is revised, as follows:

Mitigation Measure BIO-3c: If active dens are identified within (or immediately adjacent to) the construction area, the project applicant shall mitigate for the loss of San Joaquin Kit Fox habitat at a mitigation to loss ratio of 31:1 (38114 acres). The project applicant shall obtain Incidental Take Permits (ITPs) from CDFW and the USFW and shall provide evidence of compliance with the permits to the City prior to project implementation. Issuance of a CESA Permit is subject to CEQA documentation; therefore, the CEQA document should specify impacts, mitigation measures, and fully describe a mitigation, monitoring and reporting program. These 38114 acres may also accommodate the potential loss of estivation habitat for California tiger salamander, and grassland habitats for and burrowing owl, California tiger salamander, and Swainson's hawk habitat, as applicable. An equivalent number of credits at a mitigation bank approved for

grassland species may be substituted for purchase of land provided the purchase is approved by the City, CDFW, and USFWS.

Mitigation Measure BIO-4 on page 7 of Appendix A to the Initial Study is revised, as follows:

Mitigation Measure BIO-4: If mitigation lands are purchased through conservation easements or in fee-title, the project applicant shall implement the Resource Management Plan prepared for the proposed project. The plan shall include a monitoring protocol for the listed species, performance criteria to document success of the mitigation, and identification of the funding mechanism for plan implementation.

Mitigation Measure BIO-5 on page 7 of Appendix A to the Initial Study is revised, as follows:

Mitigation Measure BIO-5a: The proposed project shall avoid any construction activities that result in vegetation removal, including grading and other ground-disturbing activities, during the bird nesting season (February 1 through August 31). If construction activities are scheduled during the nesting season, the project applicant shall retain a qualified biologist to conduct a pre-construction survey of all suitable nesting habitat (i.e., field, trees) within 250 feet of the project site (where accessible). The pre-construction survey shall be conducted no more than 514 days prior to the start of work. If the survey indicates the presence of nesting birds, protective buffer zones should be established around the nests as follows: for raptor nests, the size of the buffer zone should be a 250-foot radius centered on the nest; for other birds, the size of the buffer zone should be a 50- to 100-foot radius centered on the nest. In some cases, these buffers may be increased or decreased depending on the bird species and the level of disturbance that will occur near the nest.

If there is a pause in construction activities of 7 days or more during the nesting season, an additional nesting bird survey shall be conducted to ensure that there are no new nests that require buffering.

Mitigation Measure BIO-5b is added to page 8 of Appendix A to the Initial Study, as follows:

Mitigation Measure BIO-5b: Prior to the initiation of construction activities, the project applicant should have a qualified biologist conduct surveys for Swainson's hawk in accordance with the Swainson's Hawk Technical Advisory Committee's (TAC) Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (2000). If an active nest is identified, a 0.25-mile protective buffer shall be maintained around the nest until the young fledge. If the 0.25-mile buffer must be reduced the project applicant shall obtain a California Endangered Species Act (CESA) ITP prior to ground disturbance.

If Swainson's hawk activity (foraging, not just nests) is identified on or within 0.25 mile of the project site, the project applicant shall mitigate for the permanent loss of foraging habitat at a minimum of a 1:1 mitigation ratio (mitigation:loss). Mitigation lands should be protected in perpetuity under a conservation easement and be managed in perpetuity through an endowment with an appointed land manager. A comprehensive plan should be prepared to specify how the mitigation land will be managed, funded, and monitored. The easement should

be held by a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property. Mitigation for Swainson's hawk may take place on California tiger salamander, burrowing owl, or kit fox habitat provided it is suitable for this species.

Mitigation Measure BIO-6 is added to page 8 of Appendix A to the Initial Study, as follows:

Mitigation Measure BIO-6: The project applicant shall obtain the appropriate federal and State ITPs authorizing incidental take of State and federal listed species that may be killed or injured during project development. The applicant shall provide proof to the City of Antioch Community Development Department of compliance with the terms and conditions of any required permits or ITPs prior to issuance of the grading permit. All work onsite shall be in compliance with the terms and conditions of the federal and State permits.

Table 2.A on pages 2-8 through 2-11 of the Draft EIR is revised to reflect the above revisions to Mitigation Measures BIO-1a through BIO-6, as follows:

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Table 4.A: Summary of Impacts and Mitigation Measures from the Initial Study

Environmental Impacts	Level of Significance without Mitigation	Mitigation Measures	Level of Significance with Mitigation
3.4 BIOLOGICAL RESOURCES			
Project construction could result in substantial adverse impacts to vernal pool fairy shrimp, vernal pool tadpole shrimp, California red-legged frog, and California tiger salamander.	S	2008 IS/MND Modified Mitigation Measure BIO-1a: Prior to issuance of grading or construction permits for the proposed project, a qualified biologist shall conduct protocol level surveys to determine the presence or absence of vernal pool fairy shrimp, vernal pool tadpole shrimp, California red-legged frog, and California tiger salamander on the project site. These surveys shall be conducted in consultation with the appropriate regulatory agencies to determine under what conditions surveys could occur. Some protocol level surveys may take up to two years to conduct. If these species are determined to be absent from the site, no further mitigation would be required. If suitable conditions do not exist for protocol level surveys prior to grading or construction activities, these species must be assumed present on the project site.	LTS
	S	2008 IS/MND Mitigation Measure BIO-1b: If vernal pool fairy shrimp and/or vernal pool tadpole shrimp are identified on the project site, or are assumed present due to the absence of protocol level surveys, the seasonal wetland located on the site shall be avoided. If the seasonal wetland is avoided, all development shall be setback at least 250 feet from the edges of the wetland. Siltation fencing should be erected between the wetland and the development area.	LTS
	S	2008 IS/MND Modified Mitigation Measure BIO-1eb: If vernal pool fairy shrimp, vernal pool tadpole shrimp, California red-legged frog or California tiger salamander are identified on the project site, or are assumed present due to the absence of protocol level surveys, and avoidance is not feasible, the project applicant shall mitigate for the loss of habitat. Authorized take permits may be required by the U.S. Fish and Wildlife Service (USFWS) for incidental take of individuals that may be present. If avoidance of the seasonal wetland is not feasible, t The project applicant shall purchase <u>lands credits</u> at an approved off-site mitigation bank or other lands approved by the applicable resources agencies and the City of Antioch (e.g., in fee-title or through conservation easement). Mitigation would be required at a replacement to loss ratio of 2:1 and a creation to loss ratio of 1:1 (a total mitigation ratio of 3:1) for vernal pool fairy shrimp and/or vernal pool tadpole shrimp (these are standard mitigation ratios accepted <u>used</u> by the USFWS for impacts to these species). The project applicant shall preserve 0.74 acres of known vernal pool fairy shrimp and/or vernal pool tadpole shrimp habitat and create another 0.37 acres of suitable habitat for each species, as applicable. These acreages are based on an estimated 0.37 acres of seasonal wetland habitat located on the project site; verification of the correct acreage is required by Mitigation Measure BIO-5a. The Elsie Gridley Multi-Species Conservation Bank includes Antioch within its service area and offers preservation habitat for \$140,000 per acre, and creation habitat for \$165,000 per acre. Loss of California red-legged frog or California tiger salamander habitat should be mitigated at a 1:1 mitigation to loss ratio (38 acres) at a	LTS

Table 4.A: Summary of Impacts and Mitigation Measures from the Initial Study

Environmental Impacts	Level of Significance without Mitigation	Mitigation Measures	Level of Significance with Mitigation
		<p>suitable site that is known to support a breeding population. Because the project site supports low value California tiger salamander habitat, purchasing the preservation of high quality, known breeding habitat would duly compensate for the loss of low quality habitat, especially if the site acquired is either in fee-title or via a conservation easement that preserves and enhances breeding and estivation habitat or preserves and enhances suitable estivation habitat adjacent to a known, protected breeding site.</p> <p>Enhancement shall include a controlled grazing regime, limited public access, fencing, or other appropriate measures to be implemented by the bank using funds from the sale of credits. The Elsie Gridley Multi-Species Conservation Bank An authorized bank may offers California tiger salamander habitat and burrowing owl credits on the same acres if authorized, for \$9,500 per acre. These 38 acres may also accommodate the potential loss of burrowing owl and Swainson's hawk habitat.</p>	
Project construction could result in substantial adverse impacts to burrowing owls.	S	2008 IS/MND Mitigation Measure BIO-2a: Protocol level burrowing owl surveys shall be conducted during the height of the breeding season (April 15 to July 15) to determine the number of both individuals and breeding pairs present on the site. Preconstruction surveys shall also be conducted for burrowing owls prior to site preparation, grading, and construction. All surveys shall conform to the survey protocol established by the California Burrowing Owl Consortium. Preconstruction surveys shall be conducted no more than 30 days prior to the initiation of construction activities and at 30-day intervals if construction activities have not been initiated in an area.	LTS
	S	2008 IS/MND Modified Mitigation Measure BIO-2b: For grading and construction activities occurring during the non-breeding season (September 1 through January 31), burrowing owls may be evicted from the entire construction area using passive relocation techniques. One-way doors shall be installed in all suitable burrows (approximately 4 inches in diameter), left in place for a minimum of 48 hours, and monitored daily to evaluate the exclusion of owls from burrows and to maintain the one-way doors in good repair. Burrows shall then be excavated, using hand tools. Sections of flexible plastic pipe shall also be inserted into burrows during excavation to maintain an escape route for any animals inside the burrow. Once excavation is completed and no owls remain on-site, burrows shall be refilled to prevent reoccupation, or the entire site shall be disced and managed until construction activities begin.	LTS
	S	2008 IS/MND Modified Mitigation Measure BIO-2c: For grading and construction activities occurring during the breeding season (February 1 through August 31), a 75-meter (250-foot) radius circular buffer shall be erected around each active burrow and a qualified biologist shall monitor construction activities to ensure effectiveness of the buffer area for breeding activities. Construction-related activity (e.g., site grading, staking, surveying) shall not occur within the exclusion zone until the burrows are confirmed to be unoccupied and/or juveniles from the nest are foraging independently and capable of independent survival.	LTS

Table 4.A: Summary of Impacts and Mitigation Measures from the Initial Study

Environmental Impacts	Level of Significance without Mitigation	Mitigation Measures	Level of Significance with Mitigation
		Only biologists familiar with burrowing owl behavior shall be permitted to determine whether juveniles are capable of independent survival. Once the burrows are unoccupied or the young are capable of independent survival, passive relocation techniques (as described above in Mitigation Measure BIO-2a) shall be implemented to evict the owls from the burrows. Burrows shall be excavated, using hand tools, and re-filled to prevent reoccupation prior to allowing construction within the exclusion zone, or the site shall be dissected. Sections of flexible plastic pipe shall also be inserted into burrows during excavation to maintain an escape route for any animals inside the burrow. Due to the density of the burrowing owl population on the project site, it is possible that construction activities may not be able to avoid active burrows; in this case, construction activities shall not be permitted during the breeding season.	
	S	2008 IS/MND Mitigation Measure BIO-2d: Removal of burrowing owls at the project site shall conform to the requirements of CDFG's Staff Report on Burrowing Owl Mitigation. This shall entail establishing 6.5 acres of suitable habitat for each individual or pair of burrowing owls displaced from the project site. This may be accomplished through the purchase of credits at an established mitigation bank approved for this species or preservation of grassland habitat (through conservation easement, fee title, or other applicable measure) at another suitable location within eastern Contra Costa County that currently supports a burrowing owl population. Habitat used for burrowing owl mitigation may also accommodate the potential loss of estivation habitat for California tiger salamander and San Joaquin kit fox habitat, as applicable.	LTS
	<u>S</u>	<u>2008 IS/MND Modified Mitigation Measure BIO-2d: The project applicant shall comply with all take avoidance measures contained in the Staff Report on Burrowing Owl Mitigation. Compensatory mitigation for loss of burrowing owl habitat shall be consistent with CDFW mitigation guidance for burrowing owls. Prior to issuance of grading or construction permits, the project applicant shall be required to purchase and protect in perpetuity compensatory mitigation lands at a minimum of a 1:1 mitigation ratio (or a minimum mitigation ratio of 3:1 if active burrows or winter roosts are identified on-site and take cannot be avoided). Mitigation lands shall be within 210 meters of an active breeding colony at minimum and shall have an active breeding colony if burrowing owls are be evicted from the project site. Mitigation lands shall be protected in perpetuity under a conservation easement and be managed in perpetuity through an endowment with an appointed land manager. Mitigation for burrowing owls may take place on California tiger salamander, kit fox, or Swainson's hawk (grassland) habitat provided it is suitable for this species.</u>	<u>LTS</u>

Table 4.A: Summary of Impacts and Mitigation Measures from the Initial Study

Environmental Impacts	Level of Significance without Mitigation	Mitigation Measures	Level of Significance with Mitigation
Project construction could result in substantial adverse impacts to San Joaquin kit fox.	S	2008 IS/MND Mitigation Measure BIO-3a: Pre-construction surveys for kit fox dens shall be conducted by a qualified biologist no less than 14 days or more than 30 days prior to any grading or construction activities on the project site. If an active den is detected within (or immediately adjacent to) the construction area, the USFWS shall be immediately contacted to determine the best course of action. If no kit fox activity is detected, a written report shall be submitted to the USFWS within 5 days of survey completion.	LTS
	S	2008 IS/MND Modified Mitigation Measure BIO-3b: If active dens are identified within (or immediately adjacent to) the construction area, the project applicant shall follow the USFWS's Standardized Recommendations for Protection of the Kit Fox Prior to or During Ground Disturbance throughout the construction period. Specific measures are detailed in the Biological Evaluation prepared for the project site (see Appendix A).	LTS
	S	2008 IS/MND Modified Mitigation Measure BIO-3c: If active dens are identified within (or immediately adjacent to) the construction area, the project applicant shall mitigate for the loss of San Joaquin Kit Fox habitat at a mitigation to loss ratio of 34:1 <u>38:1</u> (38114 acres). <u>The project applicant shall obtain Incidental Take Permits (ITPs) from CDFW and the USFW and shall provide evidence of compliance with the permits to the City prior to project implementation. Issuance of a CESA Permit is subject to CEQA documentation; therefore, the CEQA document should specify impacts, mitigation measures, and fully describe a mitigation, monitoring and reporting program. These 38114 acres may also accommodate the potential loss of estivation habitat for California tiger salamander, and grassland habitats for and burrowing owl, California tiger salamander, and Swainson's hawk habitat, as applicable. An equivalent number of credits at a mitigation bank approved for grassland species may be substituted for purchase of land provided the purchase is approved by the City, CDFW, and USFWS.</u>	LTS
Mismanagement of off-site mitigation lands would result in the loss of habitat for special status species.	S	2008 IS/MND Modified Mitigation Measure BIO-4: If mitigation lands are purchased through conservation easements or in fee-title, the project applicant shall implement the Resource Management Plan prepared for the proposed project. <u>The plan shall include a monitoring protocol for the listed species, performance criteria to document success of the mitigation, and identification of the funding mechanism for plan implementation.</u>	LTS

Table 4.A: Summary of Impacts and Mitigation Measures from the Initial Study

Environmental Impacts	Level of Significance without Mitigation	Mitigation Measures	Level of Significance with Mitigation
<p>Project construction would result in the removal of suitable habitat for Swainson’s hawk, Loggerhead shrike, and white-tailed kite.</p>	<p>S</p>	<p>Mitigation Measure BIO-5a: The proposed project shall avoid any construction activities that result in vegetation removal, including grading and other ground-disturbing activities, during the bird nesting season (February 1 through August 31). If construction activities are scheduled during the nesting season, the project applicant shall retain a qualified biologist to conduct a pre-construction survey of all suitable nesting habitat (i.e., field, trees) within 250 feet of the project site (where accessible). The pre-construction survey shall be conducted no more than 514 14 days prior to the start of work. If the survey indicates the presence of nesting birds, protective buffer zones should be established around the nests as follows: for raptor nests, the size of the buffer zone should be a 250-foot radius centered on the nest; for other birds, the size of the buffer zone should be a 50- to 100-foot radius centered on the nest. In some cases, these buffers may be increased or decreased depending on the bird species and the level of disturbance that will occur near the nest.</p> <p><u>If there is a pause in construction activities of 7 days or more during the nesting season, an additional nesting bird survey shall be conducted to ensure that there are no new nests that require buffering.</u></p>	<p>LTS</p>
		<p>Mitigation Measure BIO-5b: <u>Prior to the initiation of construction activities, the project applicant should have a qualified biologist conduct surveys for Swainson’s hawk in accordance with the Swainson’s Hawk Technical Advisory Committee’s (TAC) Recommended Timing and Methodology for Swainson’s Hawk Nesting Surveys in California’s Central Valley (2000). If an active nest is identified, a 0.25-mile protective buffer shall be maintained around the nest until the young fledge. If the 0.25-mile buffer must be reduced the project applicant shall obtain a California Endangered Species Act (CESA) ITP prior to ground disturbance.</u></p> <p><u>If Swainson’s hawk activity (foraging, not just nests) is identified on or within 0.25 mile of the project site, the project applicant shall mitigate for the permanent loss of foraging habitat at a minimum of a 1:1 mitigation ratio (mitigation:loss). Mitigation lands should be protected in perpetuity under a conservation easement and be managed in perpetuity through an endowment with an appointed land manager. A comprehensive plan should be prepared to specify how the mitigation land will be managed, funded, and monitored. The easement should be held by a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property. Mitigation for Swainson’s hawk may take place on California tiger salamander, burrowing owl, or kit fox habitat provided it is suitable for this species.</u></p>	

Table 4.A: Summary of Impacts and Mitigation Measures from the Initial Study

Environmental Impacts	Level of Significance without Mitigation	Mitigation Measures	Level of Significance with Mitigation
<p><u>Construction and operation of the proposed project would result in the incidental take of federal and State listed species.</u></p>	<p><u>S</u></p>	<p>Mitigation Measure BIO-6: <u>The project applicant shall obtain the appropriate federal and State ITPs authorizing incidental take of State and federal listed species that may be killed or injured during project development. The applicant shall provide proof to the City of Antioch Community Development Department of compliance with the terms and conditions of any required permits or ITPs prior to issuance of the grading permit. All work onsite shall be in compliance with the terms and conditions of the federal and State permits.</u></p>	<p><u>LTS</u></p>